NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

SPECIAL MEETING AGENDA

Wednesday, July 3, 2024, 5:00 P.M.

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

Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor or Chair may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17.

PACIFIC GROVE MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

PLEASE NOTE THE MEETING WILL PROCEED AS NORMAL EVEN IF THERE ARE TECHNICAL DIFFICULTIES ACCESSING ZOOM.
THE CITY WILL DO ITS BEST TO RESOLVE ANY TECHNICAL ISSUES AS QUICKLY AS POSSIBLE.

Join the Zoom Meeting to participate live at:
https://www.cityofpacificgrove.org/Zoom_Closed

Please click here for directions to dial into the meeting audio.

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

1. Written Public Comment

A. Conference with Labor Negotiators (Government Code Section 54957.6)
City Negotiators: Matthew Mogensen, City Manager, Leticia Livian, Human Resources Director, and Monica McQueen, Burke, Williams & Sorensen, LLP
Employee Organization: Police Officers Association

B. Conference with Legal Counsel - Existing Litigation (Government Code Section 54956.9)
Richard B. Fox v. City of Pacific Grove, California, Bill Peake, Mayor, City of Pacific Grove, California; City of Pacific Grove Council Members Joe Amelio, Debby Beck, Luke Coletti, Lori McDonnell, Chaps Poduri, and Nick Smith.
U.S. District Court Case No. C 24 03686 NC

ADJOURNMENT

NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

REGULAR MEETING AGENDA

Wednesday, July 3, 2024, 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.

Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor or Chair may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17.

PACIFIC GROVE COUNCIL MEETINGS ARE CONDUCTED IN PERSON AT CITY HALL COUNCIL CHAMBER AND VIRTUALLY.

PLEASE NOTE THE MEETING WILL PROCEED AS NORMAL EVEN IF THERE ARE TECHNICAL DIFFICULTIES ACCESSING ZOOM.
THE CITY WILL DO ITS BEST TO RESOLVE ANY TECHNICAL ISSUES AS QUICKLY AS POSSIBLE.

THE PUBLIC MAY ALSO VIEW THE MEETING ON PENINSULA CHANNEL 25.

JOIN THE ZOOM WEBINAR TO PARTICIPATE LIVE AT:
https://www.cityofpacificgrove.org/Zoom_CC

Please click here for directions to dial into the meeting audio.

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE: Mayor Peake

1. **APPROVAL OF AGENDA**

2. **PRESENTATIONS**

A. Central Coast Community Energy (3CE) Annual Presentation **PAGE 10**
Reference: Judi Young, Senior Customer Accounts Manager 3CE
Recommended Action: Receive presentation.
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.

A. Written General Public Comment

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

A. Minutes of the June 19, 2024 City Council Closed Session and Regular Meetings
Reference: Staphany Arriola, Management Analyst **PAGE 23**

Recommended Action: Approve minutes.

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

6. **RESOLUTIONS**

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

A. Acceptance of Conservation Easement Deeds for 1335 and 1353 Arena Avenue, Pacific Grove (APNs 007-061-046 and 007-061-048) to Satisfy Condition of Approval No. 5 of Coastal Development Permit No. 22-0296 **PAGE 31**

Reference: Joseph Sidor, Contract Planner

Recommended Action: Staff recommends the City Council:

1. Find that accepting the Conservation Easement Deeds is categorically exempt per Section 15305 of the CEQA Guidelines;
2. Accept the Conservation Easement Deeds to satisfy Condition of Approval No. 5 of Coastal Development Permit No. 22-0296;
3. Adopt the resolution authorizing the City Manager to accept the deeds or grants conveying an interest in or easement upon the subject real property or real estate; and
4. Direct the City Manager to accept and submit the Conservation Easement Deeds to the County Recorder for recordation with all applicable recording fees paid by the applicant.

CEQA: Categorical Exemption, CEQA Guidelines Section 15305, Class 5, Minor Alterations in Land Use Limitations

7. **ORDINANCES**

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

A. Ordinance Amending the Salary Classification Schedule **PAGE 84**

Reference: Leticia Livian, Human Resources Director

Recommended Action: Hold second reading of an ordinance amending the salary classification schedule.

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

8. **REPORTS – INFORMATION ONLY**

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

9. **REPORTS – REQUIRING ACTION**

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

A. Appointment to Library Board **PAGE 91**

Reference: Bill Peake, Mayor

Recommended Action: Motion to approve appointment of Lucy Moore to Library Board ending January 31, 2028.

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

B. Arborist Services **PAGE 93**

Reference: Daniel Gho, Public Works Director/Deputy City Manager

Recommended Action:

1. Authorize an agreement with Monterey Bay Treeworks for Professional Arborist Services for FY 24/25 in an amount not to exceed $104,000.
2. Alternatively, discuss and take other action on this item.

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

C. Maintenance Services Agreement with The Don Chapin Co., Inc DBA Greenline Liquid Waste Haulers for Sanitary Sewer Maintenance Services **PAGE 96**

Reference: Joyce Halabi, Deputy Public Works Director

Recommended Action:

1. Authorize Mayor to sign extensions of the Maintenance Service Agreement with The Don Chapin Co., Inc DBA Greenline Liquid Waste Haulers
2. Alternatively, discuss and take other action related to this item

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

D. Maintenance Services Agreement with Accent Clean and Sweep Inc. For Street Sweeping Services **PAGE 186**

Reference: Joyce Halabi, Deputy Public Works Director

Recommended Action:

1. Authorize Mayor to sign extensions of the Maintenance Services Agreement with Accent Clean and Sweep Inc.
2. Alternatively, discuss and take other action related to this item

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

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.

A. Waste Water Collection Service Fees on the Tax Bill Protest Public Hearing **PAGE 260**

Reference: Matt Mogensen, City Manager

Recommended Action: Staff recommends the City Council:

1. Continue a Public Hearing on the collection of annual sewer service fees on the property tax roll by the County of Monterey to a date certain;
2. Continue a Public Hearing on the collection of annual sewer service fees on the property tax roll by the County of Monterey to a date uncertain.

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

B. Resolution of the City Council Of The City Of Pacific Grove Submitting A Ballot Measure To Voters To Amend The Pacific Grove City Charter To Change The Number Of Elected City Council Members From Six To Four and related changes to the City Charter

Reference: Matt Mogensen, City Manager **PAGE 268**

Recommended Action:

1. Motion to adopt a Resolution of the City Council Of The City Of Pacific Grove Submitting A Ballot Measure To Voters To Amend The Pacific Grove City Charter To Change The Number Of Elected City Council Members From Six To Four and related changes to the City Charter.
2. Other action related to this item.

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

C. Resolution of the City Council of the City of Pacific Grove submitting a ballot measure to voters amending Chapter 23.45 of the Pacific Grove Municipal code to add a definition of timeshare project and prohibit advertising and sale thereof and other changes

Reference: Matt Mogensen, City Manager **PAGE 288**

Recommended Action:

1. Motion to adopt a Resolution of the City Council of the City of Pacific Grove submitting a ballot measure to voters amending Chapter 23.45 of the Pacific Grove Municipal code to add a definition of timeshare project and prohibit advertising and sale thereof and other changes (Attachment 1).
2. Motion finding that Resolution and Proposed Ordinance are not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the enactment of this Proposed Ordinance: (1) does not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably

foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3); and (4) involves regulatory actions to assure protection of the environment pursuant to Section 15308.

3. Other action related to this item.

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

D. Lovers Point Grill Lease Agreement **PAGE 303**

Reference: Matt Mogensen, City Manager

Recommended Action:

1. Request the City Attorney to read the title of the ordinance;
2. Motion to waive further reading and introduce an Ordinance of the City Council of the Pacific Grove approving a five-year lease between Sunset Hospitality Group, Inc., a California corporation, and the City of Pacific Grove for the use of City owned property including approximately 270 square feet of building space located at Lover's Point Park and Beach in the City of Pacific Grove, and authorizing and directing the City Manager to execute the same.
3. Direct that publication of the Ordinance will be satisfied by publication of a summary approved by the City Attorney.
4. Motion to approve the form of a Lease with Sunset Hospitality Group.
5. Motion to approve a License Agreement with Sunset Hospitality Group.
6. Motion finding the License Agreement and Lease Agreement are exempt from the California Environmental Quality Act (CEQA) per Section 15301 of the CEQA Guidelines which allows for the leasing, licensing, repair, and maintenance of public or private structures.

CEQA: Categorical Exemption, CEQA Guidelines Section 15301, Class I, Existing Facilities

12. UNFINISHED AND ONGOING BUSINESS

A. Resolution Amending Council Policy 000-17 'Order of Agenda' **PAGE 363**

Reference: Brian Pierik, City Attorney

Recommended Action:

1. Motion to adopt a Resolution Amending Council Policy 000-17 'Order of Agenda'.
2. Alternative, discuss and take other action related to this item.

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

13. NEW BUSINESS

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.

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: George Fuerst, Environmental Program Manager

MEETING DATE: July 03, 2024

SUBJECT: Central Coast Community Energy (3CE) Annual Presentation

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

RECOMMENDATION

Receive presentation.

Attachments

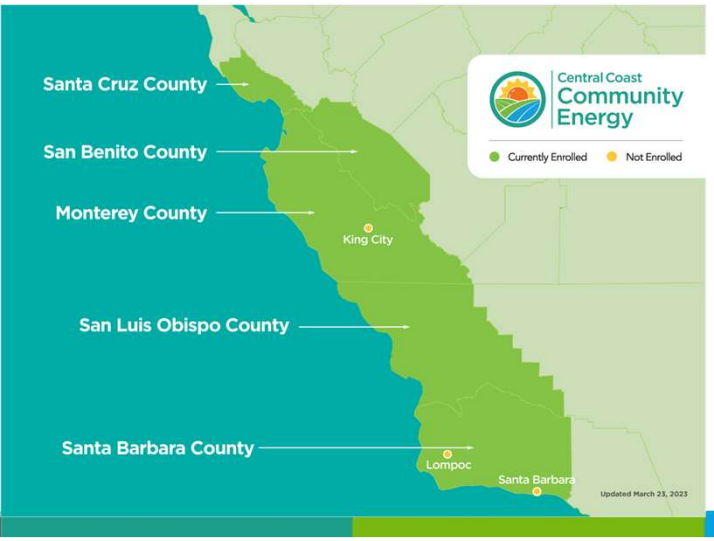
PPT

CITY OF PACIFIC GROVE
3CE Annual Presentation

Judith Young
Senior Account Manager, Member Agencies
July 3, 2024

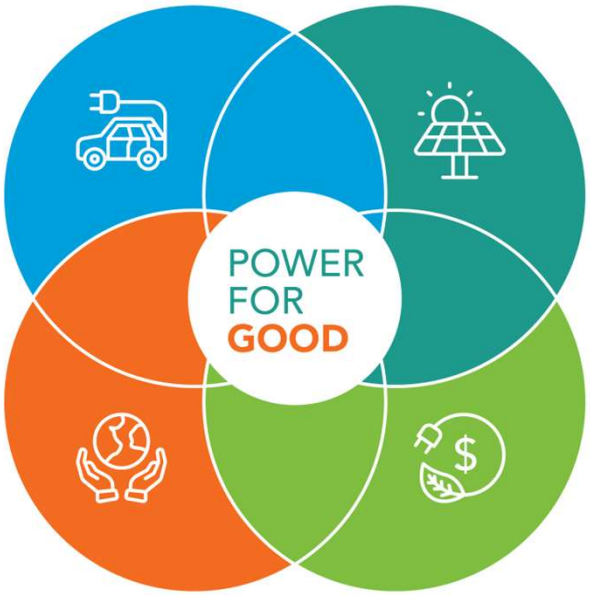
Central Coast Community Energy

A PARTNERSHIP TO SUPPORT SHARED CUSTOMERS



Central Coast Community Energy

2023 YEAR IN REVIEW



- Lower emissions
- Cleaner more reliable grid
- Community investment
- Stable and responsible rates

Central Coast Community Energy

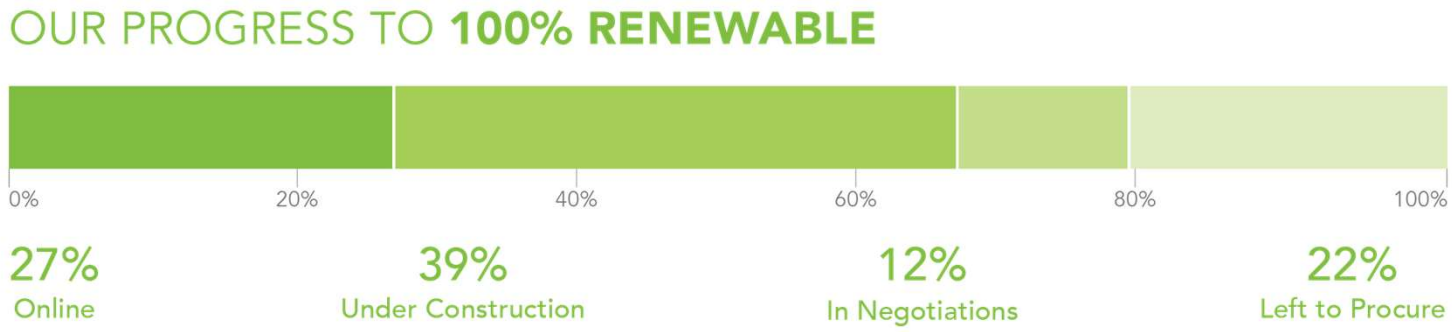
3CE PRIORITIZES INNOVATION

- *One of California's first solar + storage projects*
- *The state's first new geothermal project in three decades*
- *The largest compressed air battery storage in the world*

Central Coast Community Energy

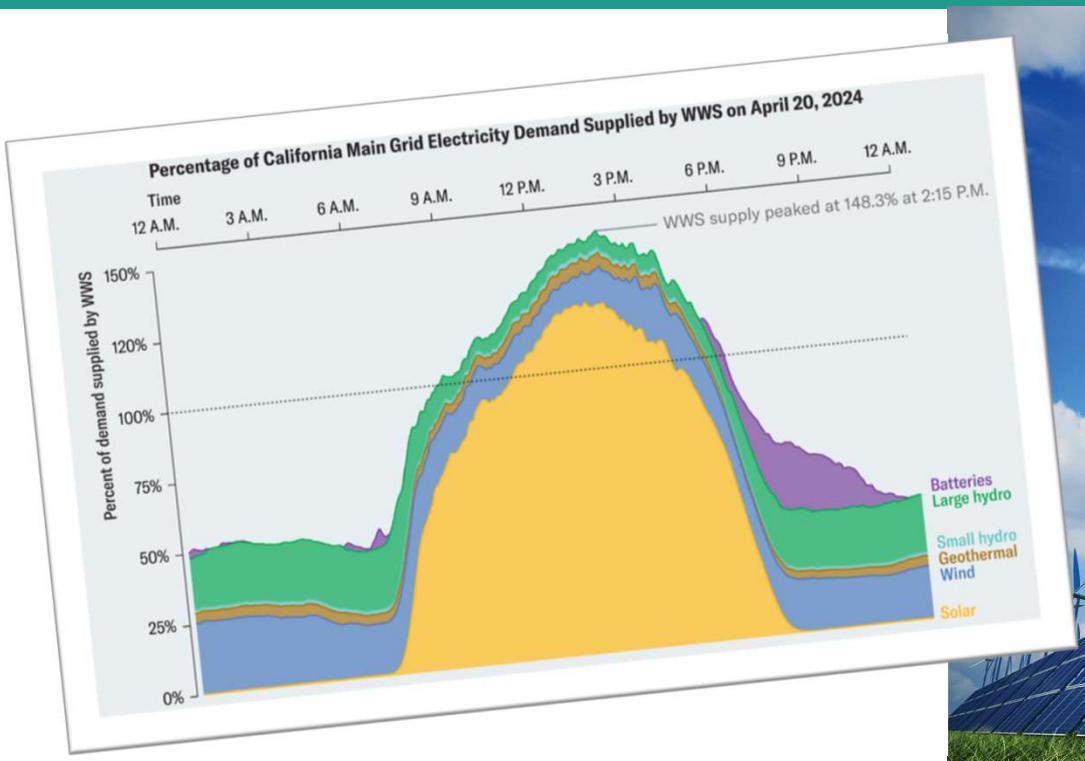
ADDITIONALITY – THE KEY TO OUR PROCUREMENT STRATEGY

Investing in a diverse portfolio of renewables coupled with innovative energy storage capacity



Central Coast Community Energy

CALIFORNIA BREAKS RENEWABLE ENERGY RECORDS





Central Coast Community Energy

3CE DELIVERS POWER FOR GOOD

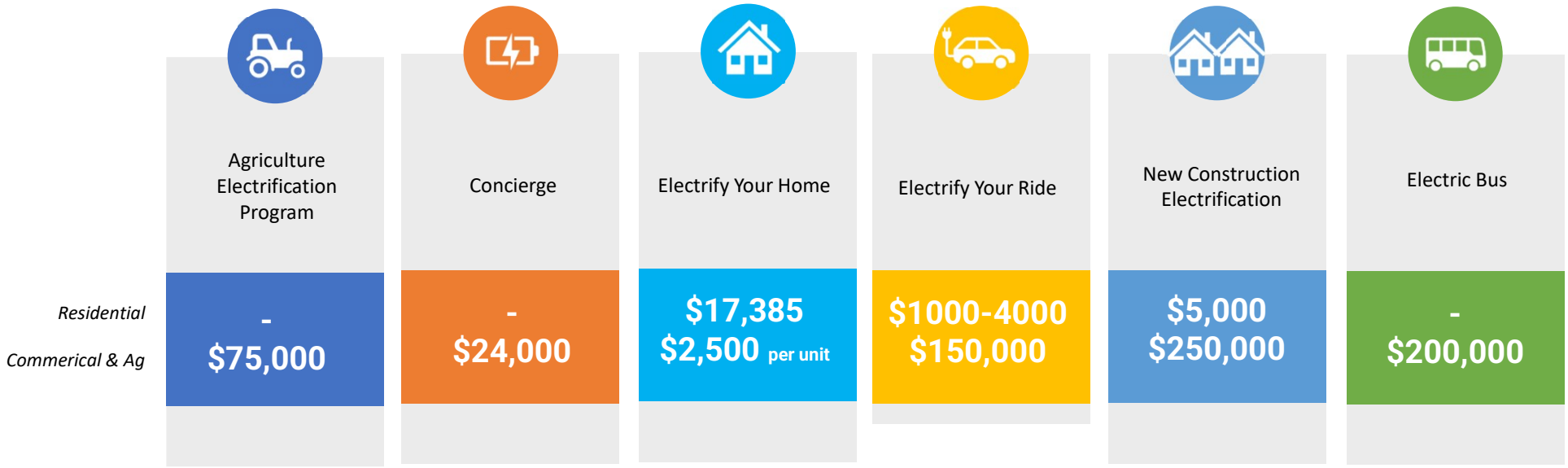
- *Affordable Rates*
- *Project Selection Criteria*
- *Rebates & Incentives*



Central Coast Community Energy

INVESTING IN YOUR COMMUNITY

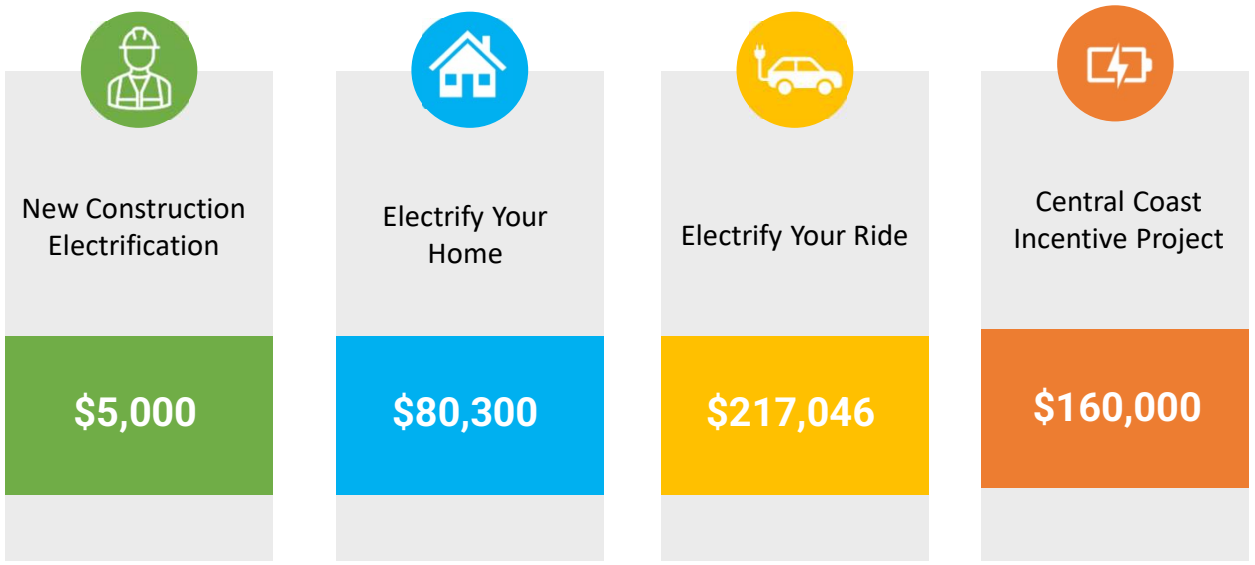
Residential, Commercial, & Agriculture Rebates Available



Central Coast Community Energy

INVESTING IN YOUR COMMUNITY

Total Investment **Over $462,000**



Central Coast Community Energy

INVESTING IN YOUR CITY'S ENERGY TRANSITION

Member Agency Programs:

Plan Your Fleet

Electrify Your Fleet

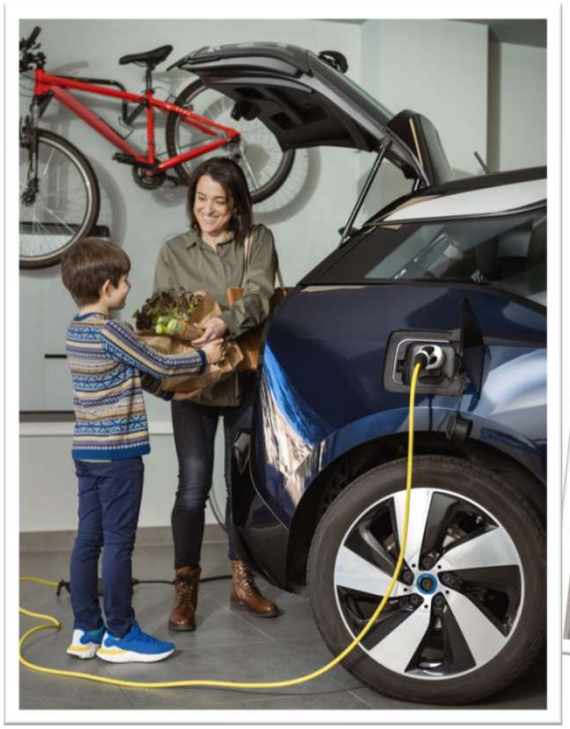
Charge Your Fleet



Central Coast Community Energy

INVESTING IN YOUR CITY'S ENERGY TRANSITION

- *Reach Code Program*
- *Charging Stations/Charge-ready*
- *Member Agency Communications*





Central Coast Community Energy

Thank You

3CE.org



877-455-2223

info@3CE.org

Judith Young **jyoung@3ce.org**
Senior Account Manager **(805) 693-2000**

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Staphany Arriola, Management Analyst (Confidential)

MEETING DATE: July 03, 2024

SUBJECT: Minutes of the June 19, 2024 City Council Closed Session and Regular Meetings

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

RECOMMENDATION

Approve minutes.

Attachments

Draft Minutes 6-19-24

DRAFT MEETING MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

AMENDED SPECIAL MEETING

Wednesday, June 19, 2024, 5:00 P.M.
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

Join the Zoom Meeting to participate live at:
https://www.cityofpacificgrove.org/Zoom_Closed

CALL TO ORDER
Mayor Peake called the meeting to order at 5:00 p.m. Present in Chamber: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, Coletti, and McDonnell. Absent: Councilmember Poduri.

APPROVAL OF AGENDA

Action: Upon motion by Councilmember Amelio and seconded by Councilmember Coletti, Council voted 6-0-1, Councilmember Poduri absent, to approve the agenda.

CLOSED SESSION

PUBLIC COMMENT ON CLOSED SESSION MATTERS
No public comment received.

1. Written Public Comment

A. Conference with Real Property Negotiators (Government Code § 54956.8) Property: The Grill at Lovers Point, 628 Ocean View Boulevard
Agency Negotiator(s): Matthew Mogensen, City Manager, Jessie Catacutan, Interim Administrative Services Director, Director
Negotiating Party(ies): ~~N/A~~ ***Sunset Hospitality Group, Inc.***
Under negotiation: Price and terms of payment

B. Public Employment, (Government Code § 54957)
Title: City Attorney Performance Evaluation

DRAFT

DRAFT MEETING MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

REGULAR MEETING

Wednesday, June 19, 2024, 6:00 P.M.
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

JOIN THE ZOOM WEBINAR TO PARTICIPATE LIVE AT:
https://www.cityofpacificgrove.org/Zoom_CC

CALL TO ORDER
Mayor Peake called the meeting to order at 6:00 p.m. Present in Chamber: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Beck, Coletti, McDonnell, and Poduri.

PLEDGE OF ALLEGIANCE
Councilmember Amelio led the pledge of allegiance.

1. **APPROVAL OF AGENDA**
Action: Upon motion by Councilmember Beck and seconded by Councilmember Coletti, Council voted 7-0, to approve the agenda.

2. **PRESENTATIONS**

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

A. Report on Closed Session by City Attorney

Conference with Real Property Negotiators (Government Code § 54956.8) Property: The Grill at Lovers Point, 628 Ocean View Boulevard
Agency Negotiator(s): Matthew Mogensen, City Manager, Jessie Catacutan, Interim Administrative Services Director, Director
Negotiating Party(ies): Sunset Hospitality Group, Inc.
Under negotiation: Price and terms of payment

Public Employment, (Government Code § 54957)
Title: City Attorney Performance Evaluation

City Attorney Brian Pierik stated no reportable action was taken.

B. Council and staff made general announcements.

4. **GENERAL PUBLIC COMMENT**

General public comment received from Keith Rootsaert, unnamed speaker, Marsha, and Inge Lorentzen Daumer.

DRAFT

A. Written General Public Comment

CONSENT AGENDA

Action: Consent Agenda item 7A, 9B, and 9C were pulled and considered immediately following the Consent Agenda.

Action: Upon motion by Councilmember Beck and seconded by Mayor Pro Tem Smith, Council voted 7-0, to approve the Consent Agenda as modified.

5. **APPROVAL OF CITY COUNCIL MEETING MINUTES**

A. Minutes of the June 5, 2024 City Council Special and Regular Meetings
Action: Approved minutes.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

6. **RESOLUTIONS**

A. Employment of Retired Annuitant
Action: Approved Resolution No. 24-025 appointing Diana Godwin as a Retired Annuitant to temporarily fill the Library Director vacancy.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

B. Certification of Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments and Property Related Fees and Charges for FY 2024-25.
Action: Adopted Resolution No. 24-026 Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property Related Fees and Charges.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

7. **ORDINANCES**

A. Ordinance to Adopt the Fiscal Year 24/25 Operating and Capital Improvement Budget; and Amend the Fiscal Year 23/24 Operating and Capital Improvement Budget ***This item pulled and considered immediately following the Consent Agenda.***
Reference: Tori Hannah, Administrative Services Director/Assistant City Manager
Recommended Action: Hold second reading of an ordinance adopting the Fiscal Year 24/25 Operating and Capital Improvement Budget and amending the Fiscal Year 23/24 Operating and Capital Improvement Budget.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

8. **REPORTS – INFORMATION ONLY**

A. Core Revenue Report for May
Action: Received the report.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

DRAFT

B. May 2024 Check Register
Action: Received the Check Register.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

C. Monterey-Salinas Transit Minutes for May 13, 2024
Action: Received minutes.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

D. Community Goals and Work Plan Review for FY 24-25
Action: Received the Goals and Work Plan Update.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

9. **REPORTS – REQUIRING ACTION**

A. Agreement for Services with Pacific Grove Unified School District for School Resource Officer
Reference: Brian Anderson, Commander
Recommended Action: Motion to authorize the Mayor to sign Agreement For Services with Pacific Grove Unified School District for services of a School Resource Officer ("SRO").
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

B. Amended Agreement with HdL Companies for Sales Tax, Business Licenses, and TOT Collection and Compliance Services. ***This item pulled and considered immediately following the Consent Agenda.***
Reference: Lori Frati, Finance Manager
Recommended Action: 1. Authorize the Mayor to amend the existing agreement with HdL companies for a 1-year extension to June 30, 2025 (renewable for an additional 1 year thereafter) in the amount not to exceed $60,000 for the following:

- Sales, Use and Transactions Tax Auditing and Information Services;
- Business License Tax Operations and Compliance Services; and
- Transient Occupancy Tax Operations Management Services.

2. Alternatively, discuss and take other action related to this item.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

C. Agreement with Johnson Electronics for Door Access Control Implementation at City Hall. ***This item pulled and considered immediately following the Consent Agenda***
Action: Authorized the **Mayor/City Manager** to execute an agreement with Johnson Electronics for implementation of Door Access Controls at City Hall in the amount not to exceed $87,000.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

DRAFT

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

A. Beautification and Natural Resources Commission Minutes: March 19, 2024 and April 16, 2024
Action: Received the minutes.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

B. Climate Action and Adaptation Planning Committee Minutes: May 18, 2023, August 17, 2023, February 15, 2024, and April 18, 2024
Action: Received the minutes.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

C. Diversity, Equity and Inclusion Task Force Minutes: May 13, 2024
Action: Received the minutes.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

*****

7.A. Ordinance to Adopt the Fiscal Year 24/25 Operating and Capital Improvement Budget; and Amend the Fiscal Year 23/24 Operating and Capital Improvement Budget ***This item was pulled from the Consent Agenda.***
Public comment received from Marsha, and Carmelita Garcia.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Mayor Peake, Council voted 7-0 to hold second reading of Ordinance No. 24-009 adopting the Fiscal Year 24/25 Operating and Capital Improvement Budget and amending the Fiscal Year 23/24 Operating and Capital Improvement Budget.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

9.B. Amended Agreement with HdL Companies for Sales Tax, Business Licenses, and TOT Collection and Compliance Services. ***This item pulled from the Consent Agenda.***
Public comment received by Inge Lorentzen Daumer.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Mayor Peake, Council voted 7-0 to authorize the Mayor to amend the existing agreement with HdL companies for a 1-year extension to June 30, 2025 (renewable for an additional 1 year thereafter) in the amount not to exceed $60,000 for the following: Sales, Use and Transactions Tax Auditing and Information Services; Business License Tax Operations and Compliance Services; and Transient Occupancy Tax Operations Management Services.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

9.C. Agreement with Johnson Electronics for Door Access Control Implementation at City Hall. ***This item pulled from the Consent Agenda.***

DRAFT

Public comment received by Inge Lorentzen Daumer and Marsha.

Action: Upon motion by Councilmember Poduri and seconded by Mayor Pro Tem Smith, Council voted 7-0 to authorize the City Manager to execute an agreement with Johnson Electronics for implementation of Door Access Controls at City Hall in an amount not to exceed $87,000.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

11. **PUBLIC HEARINGS**

A. Ordinance Amending the Salary Classification Schedule
No public comment received.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Beck, Council voted 7-0 to

1. Request the City Attorney read the title of the ordinance;
2. Waive further reading of the ordinance;
3. Introduce and hold first reading of an ordinance to amend the salary classification schedule; and approve the amendment; and
4. Direct that a summary of a proposed ordinance be published as approved by the City Attorney

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

12. **UNFINISHED AND ONGOING BUSINESS**

A. Direction to City Manager regarding Outside Dining/Parklets
Public comment received from Kelly Chateau, Liz Jacobs, Inge Lorentzen Daumer and Lisa Ciani.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Amelio, Council voted 7-0 to direct City Manager in regard to applications for a Coastal Development Permit (CDP) for three parklets in the Coastal Zone based on the following options:

(1) Owner applies for a no-fee CDP since there is a public benefit to the parklets which are open for public use, and in such circumstances a fee waiver is authorized; and direct City Manager in regard to retaining consultant to draft Manual for Outside Dining.
(2) Proceed with extended "bulb out" sidewalks on the intersection and existing sidewalk configuration.

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

B. Lighthouse Avenue Sidewalk Widening Project
Public comment received from Liz Jacobs, Dixie Layne, and Marabee.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember Coletti, Council voted 4-2-1, Councilmembers Amelio and Poduri dissenting, Councilmember Beck

DRAFT

recusing, to authorize the City Manager to go out to bid for the construction of the Lighthouse Avenue Sidewalk Widening Project.
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

13. **NEW BUSINESS**

14. **FULL PRESENTATIONS**

15. **CLOSED SESSION**

ADJOURNMENT
Council adjourned the regular meeting at 8:39 p.m.

Respectfully Submitted,

Staphany Arriola
Management Analyst

Approved by Mayor: _____Date_____

Attest by City Manager : _____Date_____

DRAFT

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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Joseph Sidor, Contract Planner

MEETING DATE: July 03, 2024

SUBJECT: Acceptance of Conservation Easement Deeds for 1335 and 1353 Arena Avenue, Pacific Grove (APNs 007-061-046 and 007-061-048) to Satisfy Condition of Approval No. 5 of Coastal Development Permit No. 22-0296

CEQA: Categorical Exemption, CEQA Guidelines Section 15305, Class 5, Minor Alterations in Land Use Limitations

RECOMMENDATION

Staff recommends the City Council:

1. Find that accepting the Conservation Easement Deeds is categorically exempt per Section 15305 of the CEQA Guidelines;
2. Accept the Conservation Easement Deeds to satisfy Condition of Approval No. 5 of Coastal Development Permit No. 22-0296;
3. Adopt the resolution authorizing the City Manager to accept the deeds or grants conveying an interest in or easement upon the subject real property or real estate; and
4. Direct the City Manager to accept and submit the Conservation Easement Deeds to the County Recorder for recordation with all applicable recording fees paid by the applicant.applicant.

DISCUSSION

Pursuant to the City's certified Local Coastal Program, the Planning Commission required the proposed conservation easements (attached) as a condition of approval of a Coastal Development Permit (CDP) for a lot line adjustment approved by the Planning Commission on December 14, 2023 (CDP No. 22-0296, attached as Exhibit B to the proposed conservation easement deeds). The proposed conservation easements satisfy Condition of Approval No. 5, and are consistent with Land Use Plan Policy BIO-24(d), which states the following:

> "As a condition of coastal development permit approval, all other areas of the lot outside of the Residential Development Envelope shall be restored/enhanced and maintained in a natural dune condition within which the only allowed development, use, and activities are those associated with dune restoration/enhancement and protection. All dune restoration, enhancement, and protection areas shall be covered by both a dune restoration, enhancement and protection plan prepared by a qualified dune restoration professional, as well as a deed restriction or other similar legal restriction adhering to the property (i.e., a conservation easement, etc.) designed to limit allowed development, use, and activities in perpetuity to those associated with dune restoration, enhancement and protection."

The Applicant has submitted the conservation easement metes and bounds legal descriptions and maps showing the general location of the easements on the properties (attached as Exhibits C1 and C2 to the proposed conservation easement deeds). The City would hold the easement in perpetuity for the benefit of the people of the State of California; however, per the terms of the deeds, the public would not have physical access to the private property.

Per the terms of the Conservation Easement Deeds, all costs and expenses for maintenance or improvement of the conservation easement areas would be the responsibility of the property owner (i.e., the Grantor). The City (i.e., the Grantee) would not be obligated to maintain, improve, or otherwise expend any funds in connection with the conservation easement areas. Potentially, the City could incur costs associated with monitoring the terms of compliance of the deeds if the property owner fails to maintain the conservation areas. If the conservation areas are not maintained per the terms of the conservation easement deeds, then compliance monitoring would be a function of code enforcement, and costs incurred could be recouped via the levying of fines or other enforcement mechanism.

California Environmental Quality Act (CEQA)
In reviewing this action, the City has followed the CEQA statute adopted by the State of California as published in the California Public Resources Code, Division 13, §21000, et seq., and the associated guidelines as published in the California Code of Regulations, Title 14, §15000, et seq. (i.e., CEQA Guidelines). The proposed acceptance of the conservation easement deeds to satisfy a condition of approval under CDP 22-0296 is found to be consistent with the parameters of the categorical exemption determination for the approval of the CDP per Section 15305, Class 5, Minor Alterations in Land Use Limitations. No further environmental analysis is required.

OPTIONS

1. Accept the Conservation Easement Deeds to satisfy Condition of Approval No. 5 of Coastal Development Permit No. 22-0296 and adopt the resolution authorizing the City Manager to accept the deeds or grants conveying an interest in or easement upon the subject real property or real estate; or
2. Discuss and take other action related to this item.

FINANCIAL IMPACT:
All costs associated with maintenance of and/or improvement to the conservation easement areas will be borne by the property owner, not the City.

FOCUSED PRIORITY AREA: Environmental Stewardship

Attachments

Proposed Resolution
Conservation Easement Deed, including Exhibits - 1335 Arena Avenue
Conservation Easement Deed, including Exhibits - 1353 Arena Avenue

RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE AUTHORIZING THE CITY MANAGER TO ACCEPT THE CONSERVATION EASEMENT DEEDS TO SATISFY CONDITION NO. 5 OF COASTAL DEVELOPMENT PERMIT NO. 22-0296 CONVEYING AN INTEREST IN REAL ESTATE OR REAL PROPERTY TO SAID CITY AND TO CONSENT TO THE RECORDATION THEREOF

FINDINGS

WHEREAS, the City of Pacific Grove is a charter city and municipal corporation organized and existing pursuant to the Constitution and laws of the State of California; and

WHEREAS, Section 27281 of the Government Code of the State of California provides that deeds or grants conveying any interest in or easements upon real estate or real property to a political corporation or governmental agency for public purposes shall not be accepted for recordation without the consent of the grantee evidenced by its resolution of acceptance or certificate of acceptance pursuant to its resolution authorizing an officer or agent to accept and consent to the recordation of such deeds and grants, attached to or printed on the deed or grant; and

WHEREAS, the City of Pacific Grove is a governmental agency within the purview of Section 27281 of the Government Code of the State of California;

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

SECTION 1. The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2. The City Manager of the City of Pacific Grove is hereby authorized to accept deeds or grants conveying an interest in or easement upon real property or real estate at 1335 Arena Avenue and 1353 Arena Avenue to the said City.

SECTION 3. The City Manager of the City of Pacific Grove is hereby authorized to consent to the recordation of deeds or grants conveying an interest in or easement upon real estate or real property at 1335 Arena Avenue and 1353 Arena Avenue to the said City, on behalf of the City Council of said City.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 3rd day of July, 2024 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:
DATED:_____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN A. PIERIK, City Attorney

When recorded return to:
CITY OF PACIFIC GROVE
COMMUNITY DEVELOPMENT DEPT.
Attn: Garrett McCown
300 Forest Avenue
Pacific Grove, CA 93950
(831) 648-3199

Space above for Recorder's Use

Permit No.:	**CDP 22-0296**
Resolution No.:	**Planning Commission Permit No. CDP 22-0296**
Owner Name:	**Richard E. Loehr, Successor Trustee of the Gertrude M. Loehr Living Trust**
Project Planner:	**Garrett McCown**
APN:	**007-061-048-000**

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF $ 0
[ ] computed on the consideration or full value of property conveyed, OR
[ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
[ ] unincorporated area; and
[X] Exempt from transfer tax,
Reason: Transfer to a governmental entity

CONSERVATION EASEMENT DEED (COASTAL)

THIS CONSERVATION EASEMENT DEED (this "Easement Deed") is made this _____ day of _____, 2024, by and between RICHARD E. LOEHR, SUCCESSOR TRUSTEE OF THE GERTRUDE M. LOEHR LIVING TRUST, as Grantor, and the CITY OF PACIFIC GROVE, a political subdivision of the State of California, as Grantee.

WITNESSETH:

WHEREAS, Grantor is the owner in fee of the real property more particularly described and depicted in Exhibits "A1" and "A2" attached hereto and made a part hereof, situated in the City of Pacific Grove, County of Monterey, State of California (hereinafter the "Property"); and

WHEREAS, a portion of the Property comprises the Conservation Easement, and includes environmentally sensitive area and environmentally sensitive habitat area , as those terms are defined under the California Coastal Act of 1976 (the "Act") and the City of Pacific Grove Local Coastal Program ("LCP"), (referred to herein, collectively, as "ESHA"), and also provides natural scenic beauty and open space values; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the Conservation Easement area, including for its ESHA, its great natural scenic beauty, and its open space values, in such a way as to ensure enhancement, protection, and management of such areas as protected and self-functioning habitat areas in perpetuity; and including because such ESHA protection is essential to the health and well-being of the Asilomar Dunes, not only in terms of the value of the resources themselves, but also in terms of fostering a natural environment within which the Dune's residential and visitor-serving commercial uses can thrive; and

WHEREAS, the Act requires that any coastal development permit approved by the City must be consistent with the provisions of the certified LCP; and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the City for a permit to undertake development as defined in the LCP; and

WHEREAS, a Coastal Development Permit was granted (Community Development Department File Number 22-0296, hereinafter referred to as the "Permit") on December 14, 2023, by the City of Pacific Grove Planning Commission pursuant to the Findings, Evidence, and Conditions contained in Permit No. 22-0296, attached hereto as Exhibit "B" and hereby incorporated by this reference in its entirety (hereinafter the "Permit"), subject to the following condition:

> "Condition of Approval No. 5 – CONSERVATION EASEMENT – Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall dedicate a conservation easement to the City for all areas of the properties outside of the Residential Development Envelope and Outdoor Use Area. The conservation easement shall contain specific restrictive language that permanently prohibits all future development in the preservation area, with the following exception: existing utility uses and their maintenance. The Owner(s) shall

submit a signed and notarized Subordination Agreement, if required, to the Community Development Department ("CDD") for review and approval. The easement legal description and map shall be developed in consultation with a certified professional, and the Owner(s) shall submit the draft legal description and map of the easement area to the CDD for review. The easement deed shall be approved by the CDD Director and accepted by the City Council.

WHEREAS, the areas being protected include natural, scenic, and open space qualities and features valuable for plant and wildlife habitat; and

WHEREAS, the City, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Permit, granted the Permit to the Grantor upon the condition described above (hereinafter the "Condition") requiring, inter alia, that the Grantor record a conservation easement affecting the Conservation Easement and agree to restrict development on and use of the Conservation Easement so as to enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource values present in the Conservation Easement as protected and self-functioning habitat areas in perpetuity, including to prevent any adverse direct and cumulative effects on these resources; and

WHEREAS, the City has placed the Condition on the Permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified LCP and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, Grantor has elected to comply with the Condition and execute this Easement Deed so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this Easement Deed be irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that this Easement Deed shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the Grantor is willing to execute this Easement Deed for the conservation and scenic use as herein expressed of the Conservation Easement, and thereby enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource value by the restricted use and enjoyment of the Conservation Easement by the Grantor through the imposition of the restrictions hereinafter expressed; and

WHEREAS, the recitals set forth above are hereby incorporated in and made a part of this Easement Deed by this reference.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant and convey unto Grantee for the benefit of the People of the State of California, an estate, interest, and conservation easement in perpetuity for the purpose of habitat protection and resource conservation over the Conservation Easement area in accordance with the following provisions (the "Conservation Easement"); and to that end and for the purposes of accomplishing the intent of the parties hereto, Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Conservation Easement the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the City of Pacific Grove, County of Monterey, State of California, and is particularly described and depicted in Exhibits "C1" and "C2"", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation Easement".

B. RESTRICTIONS, EXCEPTIONS, AND RESERVATIONS. Upon recordation of this Easement Deed and thereafter in perpetuity, the use of the Conservation Easement shall be limited to natural open space for habitat protection and resource conservation uses. No "development" (as defined in Land Use Plan Section 1.10 of the LCP), including, but not limited to, removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc., and no grazing or agricultural activities shall occur or be allowed on the Conservation

Easement with the exception of the following (subject to compliance with any applicable governmental regulatory requirements):

1. The right to maintain, repair, and use all existing roads, trails, public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, upon the Conservation Easement area.

2. The right to the construction, maintenance, repair, and use of new public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, when such public service, utility, and drainage pipes and facilities are found to be infeasible to be located outside of such conservation areas, and, if infeasible, when such facilities are the minimum necessary.

3. Conduct of public and private scientific study, consistent with the intent of this Conservation Easement.

4. The use and occupancy of the Conservation Easement area not inconsistent with the conditions and restrictions herein imposed, such as public and private visitation, hiking, and similar passive or low-impact outdoor recreational uses.

5. Management of resources within the Conservation Easement area in accordance with a Habitat Restoration Plan dated March 12, 2024 (incorporated herein by reference and a copy of which is maintained in the Community Development Department of the City).

For any allowable use and development, Grantor shall provide Grantee with copies of all Site and Construction Plans (e.g. Site, Grading, Utility, Drainage, Erosion Control, and Landscape plans, etc.) showing the location of existing and proposed facilities and the materials and specifications for proposed grading and construction within the Conservation Easement area. Grantor shall give advance notice to Grantee whenever maintenance or construction activities will occur within the Conservation Easement area.

C. SUBJECT TO APPLICABLE LAWS. Land uses and development permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

D. BENEFIT AND BURDEN. This Conservation Easement shall run with and burden the Conservation Easement area, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Conservation Easement from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This Conservation Easement shall benefit Grantee and its successors and assigns on behalf of the People of the State of California forever.

E. RIGHT OF ENTRY. The Grantee, the Coastal Commission, or their agents may enter onto the Conservation Easement area to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

F. ENFORCEMENT. Any act or any conveyance, contract, or authorization, whether written or oral, by the Grantor which uses or would cause to be used or would permit use of the Conservation Easement area contrary to the terms of this Easement Deed will be deemed a breach hereof. The Grantee or the Coastal Commission may bring any action in court necessary to enforce this Easement Deed, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee or the Coastal Commission may pursue any appropriate legal and equitable remedies. The Grantee or the Coastal Commission shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Easement Deed shall be brought in law or in equity. Any forbearance on the part of the Grantee or the Coastal Commission to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's or the Coastal Commission's rights regarding any subsequent breach.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Easement or any interest or easement created by this Easement Deed. All costs and expenses for such maintenance, improvement, use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this

Easement Deed. Grantor and its successors and assigns shall manage and maintain the Conservation Easement area in accordance with the standards of a Habitat Restoration Plan dated March 12, 2024, as well as any other standards and requirements of whatever kind that may from time to time be legitimately imposed on the Conservation Easement subject to all required approvals, including entitlement approvals for any development, including changes in intensity of use.

H. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, the Coastal Commission, and their agencies, departments, officers, directors, agents, employees, and authorized volunteers are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence or intentional misconduct of the Grantee or the Coastal Commission while in, upon, or in any way connected with the Conservation Easement, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, the Coastal Commission, and their agencies, departments, officers, directors, agents, employees, and authorized volunteers from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring, except to the extent caused by the sole negligence or intentional misconduct of such entities or persons. The Grantee and the Coastal Commission shall have no right of control over, nor duties and responsibilities with respect to, the Conservation Easement which would subject the Grantee or the Coastal Commission to any liability occurring upon the Conservation Easement area by virtue of the fact that the Grantee and the Coastal Commission have the right to enter the Conservation Easement area, as such right is strictly limited to preventing uses inconsistent with the interest granted. The parties acknowledge and agree that the Conservation Easement area is not "property of a public entity" or "public property", and Grantee's and Coastal Commission's rights herein do not include the right to enter the Conservation Easement area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

I. TRANSFER OF TITLE. Grantor shall have the absolute right to transfer its right, title, and interest in and to all or any portion of the Conservation Easement area and upon such a transfer the transferee, by acceptance of the deed (whether or not so stated in the deed), shall have assumed and shall be obligated to perform all of the covenants of Grantor under this Easement Deed and shall have all of the rights and obligations of and be deemed to stand in the place of the Grantor for all purposes under this Easement Deed, with respect to the land transferred; and upon such a transfer Grantor shall be fully relieved and discharged from all of Grantor's obligations under this Easement Deed with respect to the land transferred.

J. ASSIGNMENT.

1. Grantor shall have the right to assign its rights or delegate its obligations under this Easement Deed, in whole or in part. No such assignment or delegation by Grantor, however, shall relieve the fee owner or owners of the Conservation Easement area from the obligations to perform the covenants of Grantor in this Easement Deed, and such covenants shall continue as covenants running with the land as specified in Paragraph D above.

2. Grantee shall have the right to assign its rights and delegate its obligations under this Easement Deed, but only to a public agency, private association, or corporation which agrees to accept such rights and assume such obligations and is approved in writing in advance by the City, the Executive Director of the California Coastal Commission, and Grantor. Grantee shall not abandon the Conservation Easement, but may assign the Conservation Easement in accordance with the preceding sentence.

K. PUBLIC ENTRY AND USE OF CONSERVATION AREA. This Easement Deed does not govern access to or use of the Conservation Easement Area by members of the public.

L. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

M. SEVERABILITY. If any provision of this Easement Deed is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

N. AMENDMENT/MODIFICATION. This Easement Deed may be amended, modified, or changed only with the written consent of the Grantor and the Grantee. In addition, an amendment to the Permit may be required, if necessary, as determined by the City. Any amendment of this Easement Deed and any necessary amendment to the Permit shall be void and of no effect without the written consent of the two entities.

Executed this _____ day of _____, 2024, at _____, California.

GRANTOR

By: _____
(Signature)

Richard E. Loehr, Successor Trustee
of the Gertrude M. Loehr Living Trust

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____, 2024, 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)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the easement deed or grant dated _____ from Richard E. Loehr, Successor Trustee of the Gertrude M. Loehr Living Trust, to the City of Pacific Grove, a political corporation and/or governmental agency, is hereby accepted by the City Council of the City of Pacific Grove on _____, (or by the undersigned officer or agent on behalf of the City of Pacific Grove pursuant to authority conferred by resolution of the City Council of the City of Pacific Grove (Resolution No. 24 - ___) adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____ _____
(Signature)

MATTHEW MOGENSEN, City Manager

ATTEST:
DATED: _____ _____
SANDRA KANDELL, City Clerk

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On _____, 2024, 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)

Document Form/Content Acceptable:

_____ Dated: _____

BRIAN PIERIK, City Attorney

EXHIBIT A1

LEGAL DESCRIPTION – ADJUSTED LOT 2 (1335 Arena Avenue)

Certain Real Property situate in the City of Pacific Grove, County of Monterey, State of California, being a portion of Block 330 as shown on that certain map entitled "Map of Pacific Grove Acres" filed on June 2, 1919, in Volume 3 of Cities and Towns at Page 13 in the Office of the County Recorder of said County and State, more particularly described as follows:

BEGINNING at point on the southerly sideline of Arena Avenue, a city street, from which a 2"x 2" redwood stake (remnant), marking the point of curvature of that certain 20,006 square foot parcel of land shown on that certain Record of Survey filed September 29, 1969 in Volume X5 of Surveys at Page 33, in the Recorder's Office of said County and State, bears North 74° 57' 24" East, 151.61 feet (a 1/2" iron pipe, marked "LS 2689 bears North 74° 57' 24" East, 61.57 feet); thence leaving said southerly sideline

1. South 21° 55' 48" East, 206.23 feet, from which a 2" x 2" wood hub with a brass tag marked "LS 2689" bears South 86° 00' 46" East, 15.56 feet; thence
2. North 86° 00' 46" West, 146.76 feet; thence
3. North 21° 55' 48" West, 160.08 feet to the southerly sideline of Arena Avenue; thence easterly along said southerly sideline
4. Through a non-tangent curve to the left with a radius of 540.00 feet, the center of which bears North 10° 04' 05" West, through a central angle of 4° 58' 31", and arc distance of 46.89 feet; thence tangentially
5. North 74° 57' 24" East, 86.37 feet to the Point of Beginning

CONTAINING A TOTAL OF 0.55 ACRES, MORE OR LESS.

See Attached Exhibit A2

Prepared By: Roger A. Peterson, PLS 5958 February 19, 2024

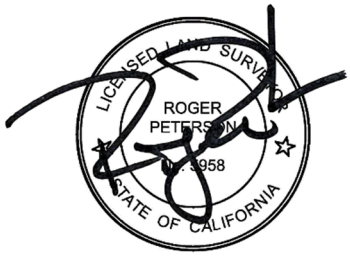


Exhibit A1 Page 1 of 1

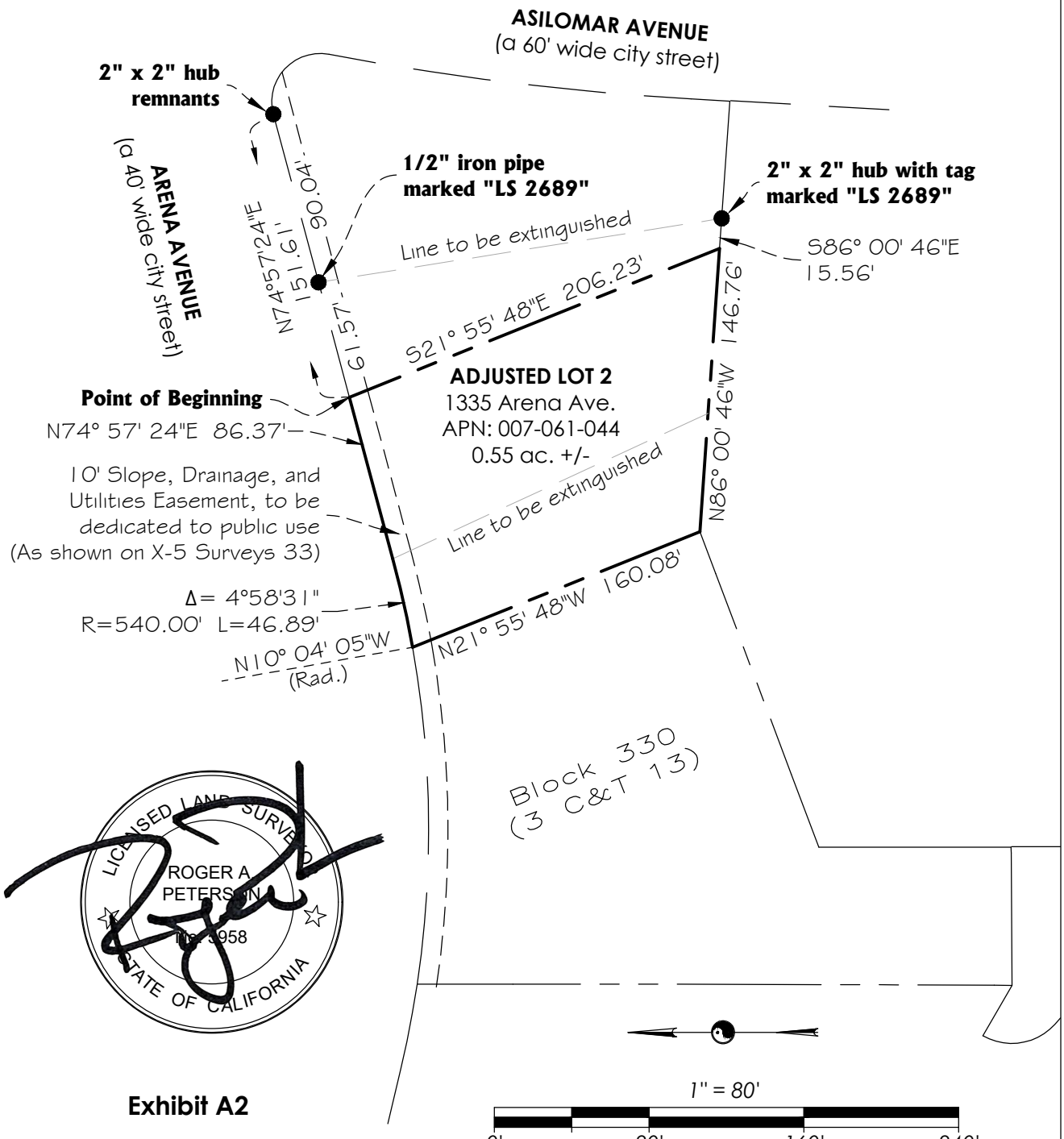


Exhibit A2

Showing Adjusted Lot 2
per Lot Line Adjustment CDP 22-0296

February 2024

Rasmussen Land Surveying, Inc.
2150 Garden Road, Suite A-3
Monterey, California 93940
P: 831.375.7240 F: 831.375.2545

RLS W.O. # 2022-049 Sheet 1 of 1

EXHIBIT B

Coastal Development Permit 22-0296

DocuSign Envelope ID: 18AF1EC1-2F50-42F4-9BF9-7C3D37C87013

CITY OF PACIFIC GROVE

Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

T: 831.648.3183 • F: 831.648.3184 • www.ci.pg.ca.us/cdd

COASTAL DEVELOPMENT PERMIT (CDP) 22-0296 TO ALLOW A LOT LINE ADJUSTMENT BETWEEN THREE LEGAL LOTS OF RECORD AT 1353 ARENA AVENUE, 1335 ARENA AVENUE, AND 320 ASILOMAR AVENUE.

FACTS

1. The subject properties are located at 1353 Arena Avenue (APN 007-061-003), 1335 Arena Avenue (APN 007-061-044), and 320 Asilomar Avenue (APN 007-061-045), Pacific Grove.
2. The subject properties have land use designations of Low Density Residential 1.0 du/ac in the adopted and certified City of Pacific Grove Coastal Land Use Plan (per LUP Figure 6).
3. The subject properties have a zoning classification of R-1-B-4.
4. The subject properties are located within the City's Coastal Zone (per LUP Figure 1), within an archaeologically sensitive area (per LUP Figure 7), and within an environmentally sensitive habitat area.
5. The subject properties are not listed on the City's Historic Resources Inventory (HRI).
6. Pursuant to Pacific Grove Municipal Code (PGMC) Sections 23.90.050, *City CDP Determinations*, and 23.90.040, *CDP Exemptions*, Community Development Department (CDD) staff determined the proposed lot line adjustment to be exempt from the requirement to obtain a CDP, and forwarded this determination to the Coastal Commission on December 12, 2022. An interested member of the public challenged this CDP determination, and Coastal Commission staff also responded with an opinion that a CDP would be required. After receipt of the Coastal Commission staff opinion, CDD staff forwarded a revised CDP determination that the proposed lot line adjustment would not be exempt from the requirement to obtain a CDP on September 13, 2023.
7. Detailed Project Description. The proposed project includes a lot line adjustment between three (3) legal lots of record consisting of existing Lot 1 (1353 Arena Avenue; APN 007-061-003; 54,252 square feet), existing Lot 2 (1335 Arena Avenue; APN 007-061-044; 23,470 square feet), and existing Lot 3 (320 Asilomar Avenue; APN 007-061-045; 19,971 square feet), resulting in an adjusted Lot 1 of 45,747 square feet; an adjusted Lot 2 of 24,073 square feet, and an adjusted Lot 3 of 27,873 square feet.
8. Per PGMC section 23.90.140, Coastal Hazards, CDD staff reviewed LUP Figure 3 (Coastal Hazards and Areas of Potential Sea Level Rise), aerial and topographic imagery, application materials, and conducted multiple site visits on June 29 and August 24, 2023, and determined the site and proposed lot line adjustment would not be subject to coastal hazards over its lifetime. The nearest point of the subject properties is over 375 feet from the shoreline and the site elevations range from approximately 49 feet to 119 feet. In this case, submittal of a Coastal Hazards Report is not warranted.
9. Per PGMC section 23.90.150, Water Quality and Marine Resources, the City did not require a water quality assessment because the proposed lot line adjustment does not propose new site coverage.
10. Per PGMC 23.90.160, Scenic Resources, CDD staff reviewed LUP Figure 4 (Scenic Areas), aerial and street view imagery, and conducted multiple site visits on June 29 and August 24, 2023. This review determined the site is within a designated scenic view area; however, as a proposed lot line adjustment involving no new structural development, the project would not adversely impact public

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views and a site-specific visual analysis is not required in this case. Future structural development on the properties would be subject to applicable policies and regulations regarding scenic resources.

11. Per PGMC section 23.90.170, Biological Resources, CDD staff reviewed LUP Figure 5 (Land Habitat Sensitivity Map), aerial imagery, and conducted multiple site visits on June 29 and August 24, 2023. Per LUP Figure 5, the properties are located in an area of moderate biological sensitivity and within the Asilomar Dunes Residential Area which is considered an environmentally sensitive habitat area. Also, a Biological Survey Report (Moss; July 27, 2023; attached) prepared for the project did not identify any potential impacts of the proposed lot line adjustment on biological resources. Additionally, the siting and layout of the proposed Residential Development Envelopes for each of the three lots was determined in consultation with the Project Biologist following a survey for rare plants and identification of areas of high and moderate environmental sensitivity. The report also identified biological guidelines for future development of the properties. However, since no physical development is proposed, those guidelines are not relevant to the project under consideration at this time. Future structural development on the properties would be subject to applicable policies and regulations regarding biological resources.
12. Per PGMC section 23.90.200, Cultural Resources, the proposed project does not involve physical changes to the existing development on the subject properties; therefore, an historic report was not warranted. However, a Phase I Historic Assessment (Seavey; July 28, 2017; attached) prepared for the existing dwellings concluded that the residences have been altered over time and bear little resemblance to the original structures. Therefore, the combined loss of physical integrity and lack of historical significance disqualifies them from consideration for listing on the Pacific Grove Historic Resources Inventory (HRI). Additionally, on July 26, 2027, the Historic Resources Committee adopted an Initial Historic Screening (IHS 17-0643) for 1353 Arena Avenue that determined the property to be ineligible for the City's HRI.
13. Per PGMC section 23.90.200, Cultural Resources, the proposed lot line adjustment does not involve ground disturbance; therefore, an archaeological report is not warranted.
14. This project has been determined to be Categorically Exempt per California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5, Minor Alterations in Land Use Limitations, and the exceptions to the exemptions in Section 15300.2 of the CEQA Guidelines do not apply.

FINDINGS

For a Coastal Development Permit per PGMC Section 23.90.080

1. *LCP Consistency. The project is consistent with the LCP. (Local Coastal Program)*

   As proposed and conditioned, the lot line adjustment meets the requirements of the LCP including, but not limited to, the applicable Coastal Resource Protection Standards of the Implementation Plan (IP) and the Biological, Cultural, Scenic, and Community Design policies of the Land Use Plan (LUP). These standards and policies are addressed in the Facts above and in the following findings.

2. *Public Views. The project protects or enhances public views.*

   The proposed lot line adjustment involves no new structural development and would not adversely impact public views, and future structural development on the properties would be subject to applicable policies and regulations regarding scenic resources.

3. *Habitat Protection. The project protects vegetation, natural habitats, and natural resources consistent with the LCP.*

   The lot line adjustment, as proposed and conditioned, would not impact natural habitats or resources. The siting and layout of the proposed Residential Development Envelopes for each of the three lots was determined in consultation with the Project Biologist following a survey for rare plants and identification of areas of high and moderate environmental sensitivity, and future structural development on the properties

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would be subject to applicable policies and regulations regarding biological resources. Therefore, the project is consistent with the LCP, including PGMC § 23.90.170 regarding biological resources and/or environmentally sensitive habitat areas.

4. *Design Consistency. The design, location, size, and operating characteristics of the proposed development is consistent with applicable LCP design requirements, including design plans and area plans incorporated into the LCP.*

   As proposed, the project complies with the zoning regulations and development standards set forth in Pacific Grove Municipal Code (PGMC) Chapters 24.06 (Lot Line Adjustments), 23.90 (Coastal Implementation Plan), and 23.16 (R-1-B Combined Districts). The R-1-B-4 district requires a minimum building site area of 20,000 square feet and a minimum width of 100 feet. Existing Lot 3, at 19,971 square feet, is non-conforming and the proposed lot line adjustment would bring the lot into conformance with the applicable development standards.

5. *Coastal Access. The project protects or enhances public access to and along the coast.*

   As proposed, the lot line adjustment would not impact public access to or along the coast.

6. *Visitor Serving. The project supports the LCP goal of providing for visitor-serving needs as appropriate, including providing low and no cost visitor and recreational facilities.*

   The proposed lot line adjustment does not involve visitor-serving needs or facilities; therefore, this finding is not applicable.

7. *Appropriate Use. The project is consistent with the allowed LCP uses associated with the property.*

   The site zoning classifications and land use designations are consistent with the proposed project.

8. *Coastal Resources. The proposed development protects or enhances coastal resources, where applicable.*

   The proposed lot line adjustment does not involve structural development; therefore, this finding is not applicable. See also Fact Nos. 8 – 13 and supporting information, and Finding Nos. 2 and 3 above.

For a Lot Line Adjustment per PGMC Section 24.06.040

1. *The adjustment involves four or fewer adjoining parcels that were legally created and will not result in the creation of more parcels than originally existed.*

   The proposed lot line adjustment is between three existing adjoining parcels, and the three existing legal lots of record share common boundaries. The proposed lot line adjustment will not create a greater number of parcels than originally existed. Three contiguous separate legal parcels will be adjusted, resulting in three contiguous separate legal parcels. Therefore, no new parcels will be created.

2. *Each resulting parcel is viable in supporting existing or planned land uses based on applicable general plan and other applicable zoning regulations.*

   As proposed, the lot line adjustment is consistent with the Pacific Grove 1994 General Plan, the 2020 Local Coastal Program, and applicable zoning ordinances. Each resulting parcel is viable in supporting existing or planned land uses based on the applicable general plan and other applicable zoning regulations. City staff verified that the subject properties are in compliance with all rules and regulations pertaining to the use of the property, and that no violations exist on the subject properties.

3. *The resulting parcels and any structure(s) or parking space(s) located thereon will comply with the requirements of the zoning district in which the parcel is located and with applicable building regulations, except that where an existing parcel(s) or structure(s) is nonconforming with respect to zoning regulations, a lot-line adjustment may be approved if the degree of nonconformance is not increased.*

   As proposed, the resulting parcels would comply with applicable zoning regulations and development standards set forth in PGMC Chapters 24.06 (Lot Line Adjustments), 23.90 (Coastal Implementation Plan),

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and 23.16 (R-1-B Combined Districts). The R-1-B-4 district requires a minimum building site area of 20,000 square feet and a minimum width of 100 feet. Existing Lot 3, at 19,971 square feet, is non-conforming and the proposed lot line adjustment would bring the lot into conformance with the applicable development standards.

4. *The adjustment will not impair any existing public-street or private-access easement or create parcels without legal access to a public street and the number of lots fronting on a public street is not being reduced.*

   The proposed lot line adjustment would not impair existing access and each of the resulting parcels would have access to Arena Avenue and/or Asilomar Avenue.

5. *The adjustment will not require substantial alteration of any existing public easements or improvements.*

   The proposed lot line adjustment would not require alteration of any existing public easement or improvements.

6. *The adjustment will not result in a utility service line being located on any property other than the lot being served, unless the service line is contained in a recorded utility easement.*

   The proposed lot line adjustment would not result in any utility service line being located on any property other than the lot being served.

7. *Each resulting parcel has been, or can be, provided with adequate sewage-disposal facilities.*

   Each resulting parcel either has or can be provided with an adequate lateral wastewater connection.

PERMIT

Coastal Development Permit (CDP) 22-0296 to allow a lot line adjustment between three (3) legal lots of record consisting of existing Lot 1 (1353 Arena Avenue; APN 007-061-003; 54,252 square feet), existing Lot 2 (1335 Arena Avenue; APN 007-061-044; 23,470 square feet), and existing Lot 3 (320 Asilomar Avenue; APN 007-061-045; 19,971 square feet), resulting in an adjusted Lot 1 of 45,747 square feet; an adjusted Lot 2 of 24,073 square feet, and an adjusted Lot 3 of 27,873 square feet.

CONDITIONS OF APPROVAL

1. **Permit Expiration.** This permit shall expire and be null and void two (2) years from and after the date of approval. Application for extension of this approval must be made prior to the expiration date.
2. **Terms and Conditions.** These terms and conditions shall run with the land and bind to all future owners and possessors of the subject property, unless amended. Amendments to this permit may be achieved only if an application is made and approved, pursuant to the Zoning Code.
3. **Conformance to Plans.** Development and use of the sites shall conform to the approved plans for the "Lot Line Adjustment", dated September 6, 2023, and "Site Plan - LLA", dated August 30, 2023, on file with the Community Development Department, with the exception of any subsequently approved changes. Minor plan changes shall be subject to review and approval by the Community Development Director. Major plan changes may also require subsequent discretionary review and approval.
4. **Certificate of Compliance.** The Owner(s)/Applicant(s) shall prepare, execute and record deeds that reflect the lot line adjustment as required by California Government Code §66412(d) and request an unconditional Certificate of Compliance for each of the adjusted parcels.

   Prior to the expiration of the entitlement, the Owner(s)/Applicant(s) shall do the following:

   Have a professional land surveyor prepare a legal description and plat with closure calculations. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (CDP 22-0296) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B." The legal description and plat shall comply with the Monterey County Recorder's guidelines as to form and content.

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Submit the draft legal descriptions, plats and closure calculations to the project planner for both of the following:
a. Each newly adjusted parcel of the lot line adjustment for which a Certificate of Compliance will be issued.
b. For the adjusted parcels, being all areas being conveyed by Owner(s) in conformance to the approved lot line adjustment.

i. The Owner(s)/Applicant(s) shall be responsible for ensuring the accuracy and completeness of all parties listed as Grantor and Grantee on the deeds.

ii. The purpose of the deed shall be stated on the first page of the deed, as follows: "The purpose of this deed is to adjust the parcel boundaries in conformance to the lot line adjustment approved by the City of Pacific Grove (CDP 22-0296). This deed is being recorded pursuant to §66412(d) of the California Government Code and shall be deemed to reconfigure the subject parcels in conformance to said approved lot line adjustment. Any configuration of said subject parcels that existed prior to recordation of this deed shall no longer be valid and shall not be used for the purpose of sale, lease or financing, whether immediate or future."

NOTE: Owner(s) is/are responsible for securing any re-conveyance, partial re-conveyance and/or subordination in connection with any loan, mortgage, lien or other financial obligation on all property being transferred between parties.

Following project planner review and any corrections of the legal descriptions and plats:
a. Record the fully executed and acknowledged deed(s) to the adjustment parcels with the County Recorder.
b. Deliver a copy of the recorded deed(s) to the project planner.
c. Deliver the legal description and plat of each Certificate of Compliance to the Community Development Department for final processing, together with a check, payable to the "Monterey County Recorder," for the appropriate fees to record the Certificate(s) of Compliance.

5. **Conservation Easement.** Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall dedicate a conservation easement to the City for all areas of the properties outside of the Residential Development Envelope and Outdoor Use Area. The conservation easement shall contain specific restrictive language that permanently prohibits all future development in the preservation area, with the following exception: existing utility uses and their maintenance. The Owner(s) shall submit a signed and notarized Subordination Agreement, if required, to the Community Development Department (CDD) for review and approval. The easement legal description and map shall be developed in consultation with a certified professional, and the Owner(s) shall submit the draft legal description and map of the easement area to the CDD for review. The easement deed shall be approved by the CDD Director and accepted by the City Council.
6. **Dune Habitat Restoration.** Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall prepare and implement dune restoration plans prepared by a qualified dune restoration professional. The prepared plan shall be submitted to the Community Development Department.

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

1. The Commission determined 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 Permit.
2. The Commission finds the project Categorically Exempt pursuant to CEQA Guidelines Section 15305, Class 5, Minor Alterations in Land Use Limitations.
3. The Commission approves CDP 22-0296 as proposed and conditioned.
4. This permit shall become effective upon the expiration of the 10-day appeal period after the final approval.

5. This permit shall not take effect until the owner acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF PACIFIC GROVE ON THE 14TH DAY OF DECEMBER, 2023, BY THE FOLLOWING VOTE:

AYES:	Commissioners Fredrickson, Murphy, Kubica, Nodzenski, Sawyer, and Chair Lilley
NOES:	None
ABSENT:	Commissioner Davison
ABSTENTIONS:	None

APPROVED:

DocuSigned by:
C0D1F6F29E23497...
Steven Lilley, Chair

The undersigned hereby acknowledge and agree to the approved terms and conditions, and agree to fully conform to, and comply with, said terms and conditions.

DocuSigned by:
866DB56CCD694FD...
James Paul Loehr

12/20/2023
Date

DocuSigned by:
548C38D0D8234E6...
Richard E. Loehr, Successor Trustee
of the Gertrude M. Loehr Living Trust

12/20/2023
Date

EXHIBIT C1

EASEMENT DESCRIPTION (1335 Arena Avenue)

The land referred to herein below is situate in the City of Pacific Grove, County of Monterey, State of California, being a portion of Block 330 as shown on that certain map entitled "Map of Pacific Grove Acres" filed on June 2, 1919, in Volume 3 of Cities and Towns at Page 13 in the Office of the County Recorder of said County and State.

A **Conservation Easement**, being more particularly described as follows:

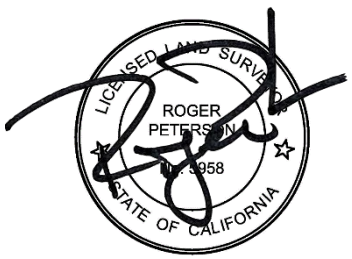
All of that certain parcel of land as described in that certain Certificate of Compliance, filed on May 14, 2024, as Instrument No. 2024016772 in the Office of the County Recorder of said County and State,

EXCEPTING THERFROM the following portion of said parcel, more particularly described as follows:

BEGINNING AT a point on the southerly sideline of Arena Avenue, a city street, from which a 1/2" iron pipe in a 2" x 2" redwood stake with a brass tag marked "LS 2689", marking the northeast corner of that certain 32,955 square foot parcel of land shown on that certain Record of Survey map filed September 29, 1969 in Volume X-5 of Surveys at Page 33, records of said county and state, bears North 74° 57' 24" East, 147.94 feet distant; thence leaving said southerly sideline of Arena Avenue

1. South 26° 39' 31" East, 24.27 feet; thence
2. North 68° 01' 25" East, 27.08 feet; thence
3. South 21° 58' 35" East, 28.00 feet; thence
4. South 68° 01' 25" West, 13.33 feet; thence
5. South 21° 58' 35" East, 25.50 feet; thence
6. South 68° 01' 25" West, 12.00 feet; thence
7. South 21° 58' 35" East, 14.00 feet; thence
8. South 68° 01' 25" West, 28.00 feet, from which an untagged 2" x 2" wood hub bears South 14° 58' 33" West, 75.3 feet; thence
9. North 21° 58' 35" West, 14.00 feet; thence
10. South 68° 01' 25" West, 12.00 feet; thence
11. North 21° 58' 35" West, 52.98 feet; thence
12. North 18° 20' 24" East, 12.36 feet; thence
13. North 26° 39' 31" West, 19.83 feet to the southerly sideline of Arena Avenue; thence easterly along said southerly sideline of Arena Avenue
14. 30.23 feet along a non-tangent curve to the left with a radius of 540.00 feet, the center of which bears North 11° 50' 08" West, through a central angle of 03° 12' 28", to the Point of Beginning.

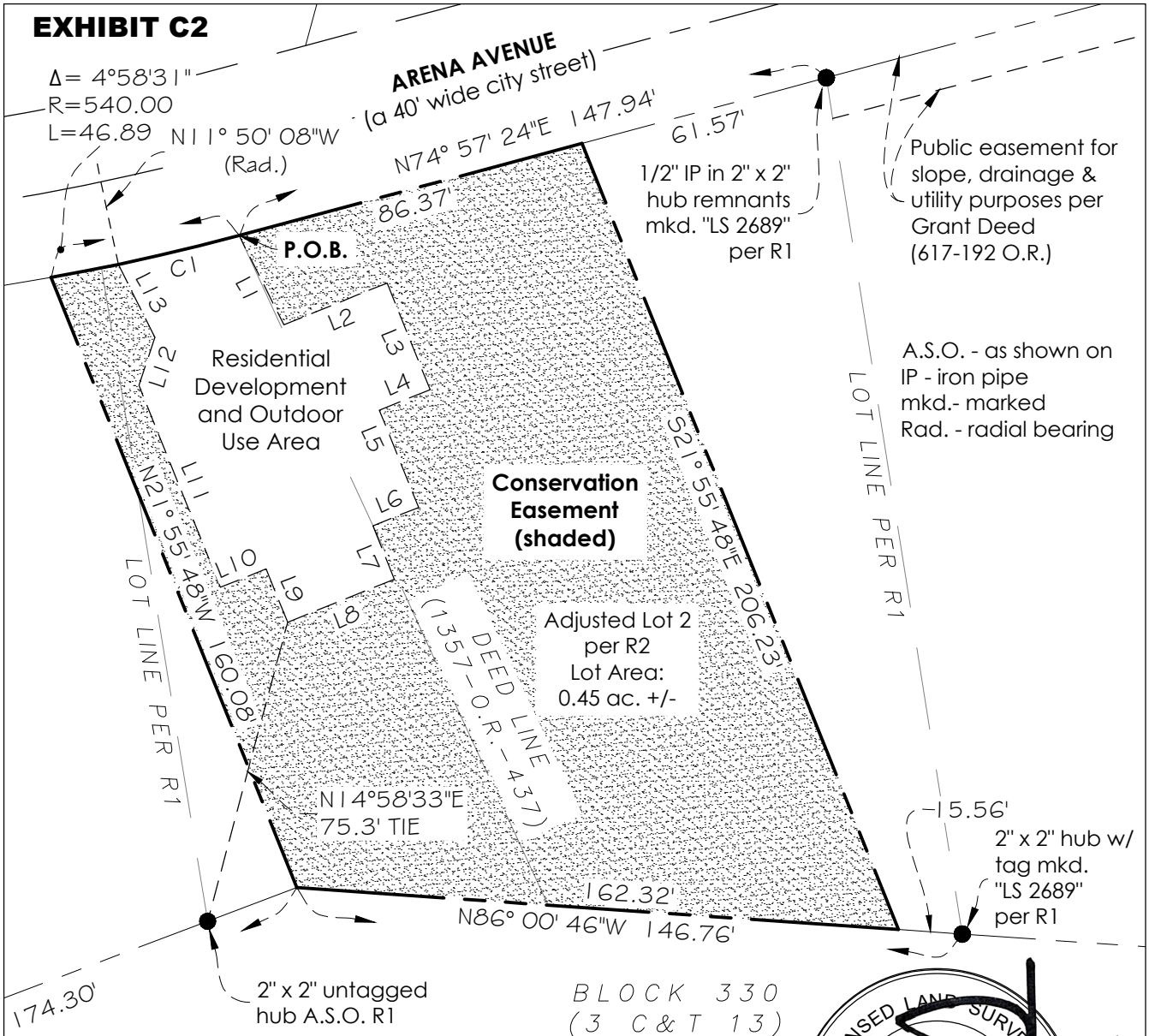
CONTAINING A TOTAL OF 0.45 ACRES, MORE OR LESS.



See Attached Exhibit C2

Prepared By: Roger A. Peterson, PLS 5958 February 19, 2024

EXHIBIT C2



Record Map References:

R1: Record of Survey filed in Volume X5 of Surveys at Page 33, in the Monterey County Recorder's Office, State of California.

R2: Certificate of Compliance recorded on 14 May 2024 as Instrument No. 2024016772, Monterey County Records, State of California

- Indicates monument as noted.
- Subject Parcel Boundary
- Adjoining Parcel Boundary
- Original Lot Line
- Residential Development Envelope and Outdoor Use Area

1" = 40'

0' 40' 80' 120'

LICENSED LAND SURVEYOR
ROGER PETERSON
No. 8958
STATE OF CALIFORNIA

Exhibit C2 - Conservation Easement

February 2024

Rasmussen Land Surveying, Inc.
2150 Garden Road, Suite A-3,
Monterey, California 93942
P: 831.375.7240 F: 831.375.2545

RLS WO # 2022-049 Exhibit C2 Sheet 1 of 2

EXHIBIT C2

Line Table		
Line #	Length	Direction
L1	24.27'	S26° 39' 31"E
L2	27.08'	N68° 01' 25"E
L3	28.00'	S21° 58' 35"E
L4	13.33'	S68° 01' 25"W
L5	25.50'	S21° 58' 35"E
L6	12.00'	S68° 01' 25"W
L7	14.00'	N21° 58' 35"W
L8	28.00'	S68° 01' 25"W
L9	14.00'	S21° 58' 35"E
L10	12.00'	S68° 01' 25"W
L11	52.98'	N21° 58' 35"W
L12	12.36'	N18° 20' 24"E
L13	19.83'	N26° 39' 31"W

Curve Table			
Curve #	Length	Radius	Delta
C1	30.23'	540.00'	003° 12' 28"

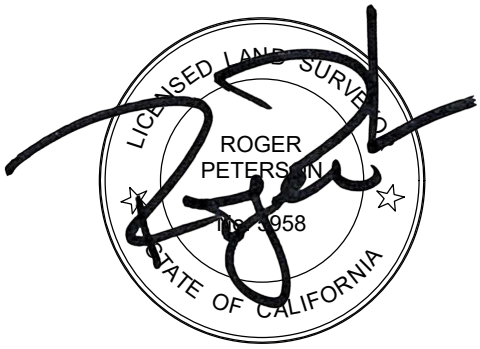


Exhibit C2 -
Conservation Easement

February 2024

Rasmussen Land Surveying, Inc.
2150 Garden Road, Suite A-3,
Monterey, California 93942
P: 831.375.7240 F: 831.375.2545

RLS WO # 2022-049 Exhibit C2 Sheet 2 of 2

When recorded return to:
CITY OF PACIFIC GROVE
COMMUNITY DEVELOPMENT DEPT.
Attn: Garrett McCown
300 Forest Avenue
Pacific Grove, CA 93950
(831) 648-3199

Space above for Recorder's Use

Permit No.:	**CDP 22-0296**
Resolution No.:	**Planning Commission Permit No. CDP 22-0296**
Owner Name:	**Richard E. Loehr, Successor Trustee of the Gertrude M. Loehr Living Trust**
Project Planner:	**Garrett McCown**
APN:	**007-061-046-000**

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF $ 0
[ ] computed on the consideration or full value of property conveyed, OR
[ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
[ ] unincorporated area; and
[X] Exempt from transfer tax,
Reason: Transfer to a governmental entity

CONSERVATION EASEMENT DEED (COASTAL)

THIS CONSERVATION EASEMENT DEED (this "Easement Deed") is made this _____ day of _____, 2024, by and between RICHARD E. LOEHR, SUCCESSOR TRUSTEE OF THE GERTRUDE M. LOEHR LIVING TRUST, as Grantor, and the CITY OF PACIFIC GROVE, a political subdivision of the State of California, as Grantee.

WITNESSETH:

WHEREAS, Grantor is the owner in fee of the real property more particularly described and depicted in Exhibits "A1" and "A2" attached hereto and made a part hereof, situated in the City of Pacific Grove, County of Monterey, State of California (hereinafter the "Property"); and

WHEREAS, a portion of the Property comprises the Conservation Easement, and includes environmentally sensitive area and environmentally sensitive habitat area , as those terms are defined under the California Coastal Act of 1976 (the "Act") and the City of Pacific Grove Local Coastal Program ("LCP"), (referred to herein, collectively, as "ESHA"), and also provides natural scenic beauty and open space values; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the Conservation Easement area, including for its ESHA, its great natural scenic beauty, and its open space values, in such a way as to ensure enhancement, protection, and management of such areas as protected and self-functioning habitat areas in perpetuity; and including because such ESHA protection is essential to the health and well-being of the Asilomar Dunes, not only in terms of the value of the resources themselves, but also in terms of fostering a natural environment within which the Dune's residential and visitor-serving commercial uses can thrive; and

WHEREAS, the Act requires that any coastal development permit approved by the City must be consistent with the provisions of the certified LCP; and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the City for a permit to undertake development as defined in the LCP; and

WHEREAS, a Coastal Development Permit was granted (Community Development Department File Number 22-0296, hereinafter referred to as the "Permit") on December 14, 2023, by the City of Pacific Grove Planning Commission pursuant to the Findings, Evidence, and Conditions contained in Permit No. 22-0296, attached hereto as Exhibit "B" and hereby incorporated by this reference in its entirety (hereinafter the "Permit"), subject to the following condition:

> "Condition of Approval No. 5 – CONSERVATION EASEMENT – Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall dedicate a conservation easement to the City for all areas of the properties outside of the Residential Development Envelope and Outdoor Use Area. The conservation easement shall contain specific restrictive language that permanently prohibits all future development in the preservation area, with the following exception: existing utility uses and their maintenance. The Owner(s) shall

submit a signed and notarized Subordination Agreement, if required, to the Community Development Department ("CDD") for review and approval. The easement legal description and map shall be developed in consultation with a certified professional, and the Owner(s) shall submit the draft legal description and map of the easement area to the CDD for review. The easement deed shall be approved by the CDD Director and accepted by the City Council.

WHEREAS, the areas being protected include natural, scenic, and open space qualities and features valuable for plant and wildlife habitat; and

WHEREAS, the City, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Permit, granted the Permit to the Grantor upon the condition described above (hereinafter the "Condition") requiring, inter alia, that the Grantor record a conservation easement affecting the Conservation Easement and agree to restrict development on and use of the Conservation Easement so as to enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource values present in the Conservation Easement as protected and self-functioning habitat areas in perpetuity, including to prevent any adverse direct and cumulative effects on these resources; and

WHEREAS, the City has placed the Condition on the Permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified LCP and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, Grantor has elected to comply with the Condition and execute this Easement Deed so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this Easement Deed be irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that this Easement Deed shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the Grantor is willing to execute this Easement Deed for the conservation and scenic use as herein expressed of the Conservation Easement, and thereby enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource value by the restricted use and enjoyment of the Conservation Easement by the Grantor through the imposition of the restrictions hereinafter expressed; and

WHEREAS, the recitals set forth above are hereby incorporated in and made a part of this Easement Deed by this reference.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant and convey unto Grantee for the benefit of the People of the State of California, an estate, interest, and conservation easement in perpetuity for the purpose of habitat protection and resource conservation over the Conservation Easement area in accordance with the following provisions (the "Conservation Easement"); and to that end and for the purposes of accomplishing the intent of the parties hereto, Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Conservation Easement the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the City of Pacific Grove, County of Monterey, State of California, and is particularly described and depicted in Exhibits "C1" and "C2"", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation Easement".

B. RESTRICTIONS, EXCEPTIONS, AND RESERVATIONS. Upon recordation of this Easement Deed and thereafter in perpetuity, the use of the Conservation Easement shall be limited to natural open space for habitat protection and resource conservation uses. No "development" (as defined in Land Use Plan Section 1.10 of the LCP), including, but not limited to, removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc., and no grazing or agricultural activities shall occur or be allowed on the Conservation

Easement with the exception of the following (subject to compliance with any applicable governmental regulatory requirements):

1. The right to maintain, repair, and use all existing roads, trails, public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, upon the Conservation Easement area.

2. The right to the construction, maintenance, repair, and use of new public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, when such public service, utility, and drainage pipes and facilities are found to be infeasible to be located outside of such conservation areas, and, if infeasible, when such facilities are the minimum necessary.

3. Conduct of public and private scientific study, consistent with the intent of this Conservation Easement.

4. The use and occupancy of the Conservation Easement area not inconsistent with the conditions and restrictions herein imposed, such as public and private visitation, hiking, and similar passive or low-impact outdoor recreational uses.

5. Management of resources within the Conservation Easement area in accordance with a Habitat Restoration Plan dated March 12, 2024 (incorporated herein by reference and a copy of which is maintained in the Community Development Department of the City).

For any allowable use and development, Grantor shall provide Grantee with copies of all Site and Construction Plans (e.g. Site, Grading, Utility, Drainage, Erosion Control, and Landscape plans, etc.) showing the location of existing and proposed facilities and the materials and specifications for proposed grading and construction within the Conservation Easement area. Grantor shall give advance notice to Grantee whenever maintenance or construction activities will occur within the Conservation Easement area.

C. SUBJECT TO APPLICABLE LAWS. Land uses and development permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

D. BENEFIT AND BURDEN. This Conservation Easement shall run with and burden the Conservation Easement area, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Conservation Easement from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This Conservation Easement shall benefit Grantee and its successors and assigns on behalf of the People of the State of California forever.

E. RIGHT OF ENTRY. The Grantee, the Coastal Commission, or their agents may enter onto the Conservation Easement area to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

F. ENFORCEMENT. Any act or any conveyance, contract, or authorization, whether written or oral, by the Grantor which uses or would cause to be used or would permit use of the Conservation Easement area contrary to the terms of this Easement Deed will be deemed a breach hereof. The Grantee or the Coastal Commission may bring any action in court necessary to enforce this Easement Deed, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee or the Coastal Commission may pursue any appropriate legal and equitable remedies. The Grantee or the Coastal Commission shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Easement Deed shall be brought in law or in equity. Any forbearance on the part of the Grantee or the Coastal Commission to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's or the Coastal Commission's rights regarding any subsequent breach.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Easement or any interest or easement created by this Easement Deed. All costs and expenses for such maintenance, improvement, use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this

Easement Deed. Grantor and its successors and assigns shall manage and maintain the Conservation Easement area in accordance with the standards of a Habitat Restoration Plan dated March 12, 2024, as well as any other standards and requirements of whatever kind that may from time to time be legitimately imposed on the Conservation Easement subject to all required approvals, including entitlement approvals for any development, including changes in intensity of use.

H. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, the Coastal Commission, and their agencies, departments, officers, directors, agents, employees, and authorized volunteers are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence or intentional misconduct of the Grantee or the Coastal Commission while in, upon, or in any way connected with the Conservation Easement, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, the Coastal Commission, and their agencies, departments, officers, directors, agents, employees, and authorized volunteers from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring, except to the extent caused by the sole negligence or intentional misconduct of such entities or persons. The Grantee and the Coastal Commission shall have no right of control over, nor duties and responsibilities with respect to, the Conservation Easement which would subject the Grantee or the Coastal Commission to any liability occurring upon the Conservation Easement area by virtue of the fact that the Grantee and the Coastal Commission have the right to enter the Conservation Easement area, as such right is strictly limited to preventing uses inconsistent with the interest granted. The parties acknowledge and agree that the Conservation Easement area is not “property of a public entity” or “public property”, and Grantee’s and Coastal Commission’s rights herein do not include the right to enter the Conservation Easement area for the purposes of correcting any “dangerous condition” as those terms are defined by California Government Code Section 830.

I. TRANSFER OF TITLE. Grantor shall have the absolute right to transfer its right, title, and interest in and to all or any portion of the Conservation Easement area and upon such a transfer the transferee, by acceptance of the deed (whether or not so stated in the deed), shall have assumed and shall be obligated to perform all of the covenants of Grantor under this Easement Deed and shall have all of the rights and obligations of and be deemed to stand in the place of the Grantor for all purposes under this Easement Deed, with respect to the land transferred; and upon such a transfer Grantor shall be fully relieved and discharged from all of Grantor's obligations under this Easement Deed with respect to the land transferred.

J. ASSIGNMENT.

1. Grantor shall have the right to assign its rights or delegate its obligations under this Easement Deed, in whole or in part. No such assignment or delegation by Grantor, however, shall relieve the fee owner or owners of the Conservation Easement area from the obligations to perform the covenants of Grantor in this Easement Deed, and such covenants shall continue as covenants running with the land as specified in Paragraph D above.

2. Grantee shall have the right to assign its rights and delegate its obligations under this Easement Deed, but only to a public agency, private association, or corporation which agrees to accept such rights and assume such obligations and is approved in writing in advance by the City, the Executive Director of the California Coastal Commission, and Grantor. Grantee shall not abandon the Conservation Easement, but may assign the Conservation Easement in accordance with the preceding sentence.

K. PUBLIC ENTRY AND USE OF CONSERVATION AREA. This Easement Deed does not govern access to or use of the Conservation Easement Area by members of the public.

L. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

M. SEVERABILITY. If any provision of this Easement Deed is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

N. AMENDMENT/MODIFICATION. This Easement Deed may be amended, modified, or changed only with the written consent of the Grantor and the Grantee. In addition, an amendment to the Permit may be required, if necessary, as determined by the City. Any amendment of this Easement Deed and any necessary amendment to the Permit shall be void and of no effect without the written consent of the two entities.

Executed this _____ day of _____, 2024, at _____, California.

GRANTOR

By: _____
(Signature)

Richard E. Loehr, Successor Trustee
of the Gertrude M. Loehr Living Trust

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____, 2024, 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)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the easement deed or grant dated _____ from Richard E. Loehr, Successor Trustee of the Gertrude M. Loehr Living Trust, to the City of Pacific Grove, a political corporation and/or governmental agency, is hereby accepted by the City Council of the City of Pacific Grove on _____, (or by the undersigned officer or agent on behalf of the City of Pacific Grove pursuant to authority conferred by resolution of the City Council of the City of Pacific Grove (Resolution No. 24 - ___) adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____ _____
(Signature)

MATTHEW MOGENSEN, City Manager

ATTEST:
DATED: _____ _____
SANDRA KANDELL, City Clerk

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On _____, 2024, 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)

Document Form/Content Acceptable:

_____ Dated: _____

BRIAN PIERIK, City Attorney

EXHIBIT A1

LEGAL DESCRIPTION – ADJUSTED LOT 1 (1353 Arena Avenue)

Certain Real Property situate in the City of Pacific Grove, County of Monterey, State of California, being a portion of Block 330 as shown on that certain map entitled “Map of Pacific Grove Acres” filed on June 2, 1919, in Volume 3 of Cities and Towns at Page 13 in the Office of the County Recorder of said County and State, more particularly described as follows:

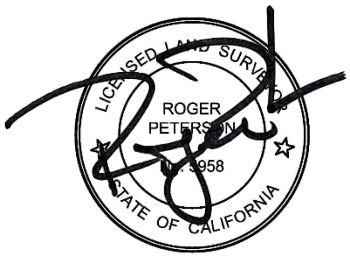
BEGINNING at a 3” x 3” wood hub with a brass tag marked “LS 2689” marking the southeasterly corner of that certain 20,006 square foot parcel of land shown on that certain Record of Survey, filed on September 29, 1969, in Volume X-5 of Surveys at Page 33 in the Office of the County Recorder of said County and State; thence along the boundary of said 20,006 square foot parcel the following three courses:

1. North 89° 39’ 52” East, 68.46 feet to a 3/4" untagged iron pipe with a wood plug; thence
2. North 88° 47’ 21” East, 3.04 feet to a 3/4" iron pipe with a brass tag marked “LS 2689”; thence
3. North, 99.33 feet; thence
4. North 69° 20’ 21” East, 174.30 feet (at 40.30 feet a 3/4" iron pipe with a brass tag marked “LS 2689” marking the most southeasterly corner of said 20,006 square foot parcel, and at 151.12 feet a 2” x 2” untagged wood hub marking the southeasterly corner of that certain 23,755 square foot parcel of land shown on said Record of Survey); thence
5. North 21° 55’ 48” West, 160.08 feet to the southerly sideline of Arena Avenue, a city street; thence westerly along the southerly sideline of Arena Avenue
6. Along a non-tangent curve to the right with a radius of 540.00 feet, the center of which bears North 10° 04’ 05” West, through a central angle of 18° 33’ 29”, an arc distance of 174.90 feet to the northwesterly corner of said 20,006 square foot parcel; thence leaving said southerly sideline and along the westerly boundary of said parcel
7. South, 49.49 feet to a 3/4" iron pipe with a brass tag marked “LS 2689”; thence
8. South 00° 04’ 12” West, 119.92 feet to the remnants of a 3” x 3” wood hub; thence
9. South 00° 10’ 23” West, 128.90 feet to a 3/4" iron pipe with a brass tag marked “LS 2689”; thence
10. South 00° 52’ 16” West, 9.08 feet to the Point of Beginning

CONTAINING A TOTAL OF 1.05 ACRES, MORE OR LESS.

See Attached Exhibit A2

Prepared By: Roger A. Peterson, PLS 5958 February 19, 2024



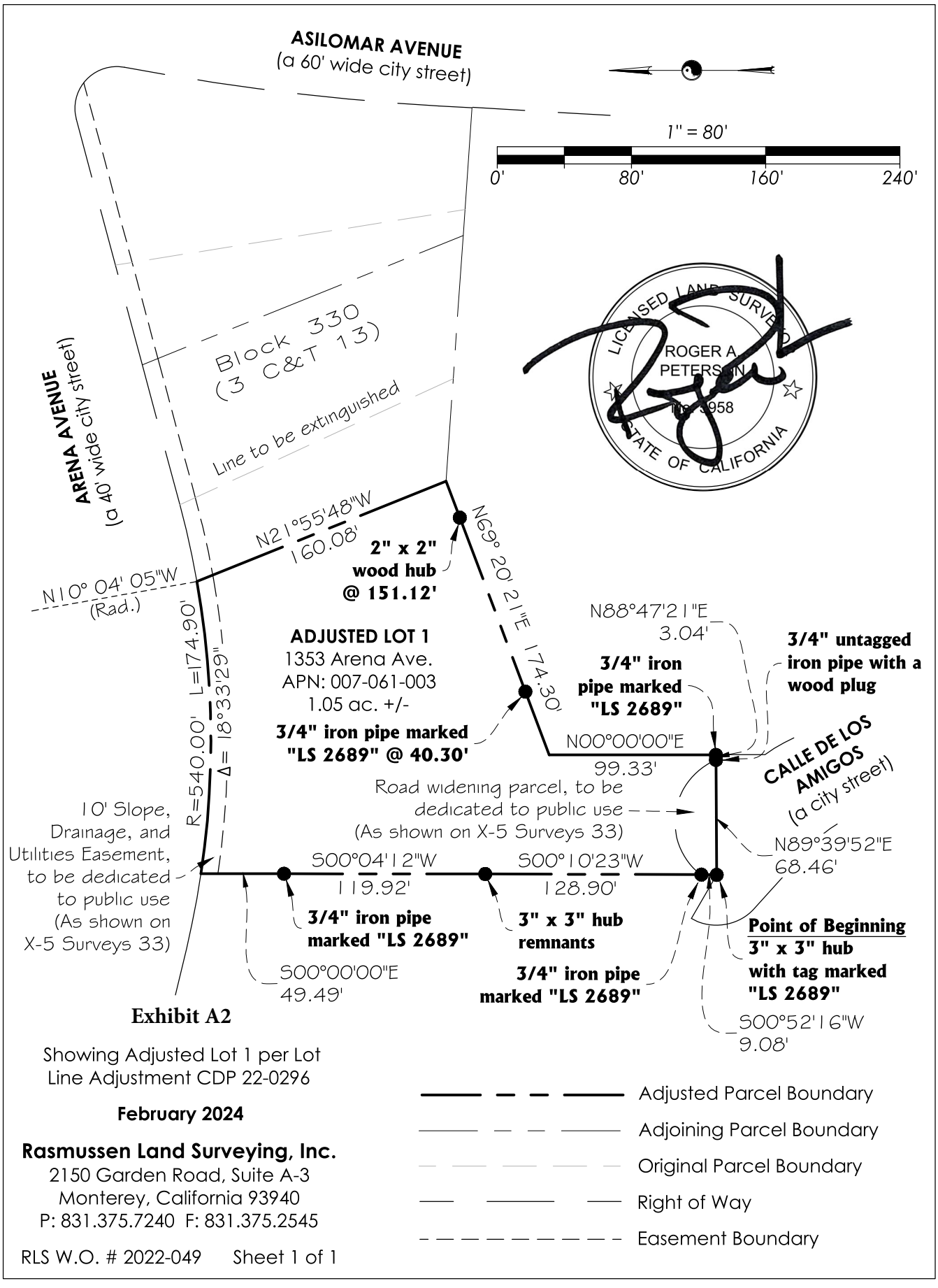

ASILOMAR AVENUE
(a 60' wide city street)
1" = 80'
0'
80'
160'
240'
ARENA AVENUE
(a 40' wide city street)
Block 330
(3 C&T 13)
Line to be extinguished
LICENSED LAND SURVEYOR
ROGER A PETERSEN
No. 5958
STATE OF CALIFORNIA
N21°55'48"W
160.08'
2" x 2"
wood hub
@ 151.12'
N69° 20' 21"E 174.30'
N10° 04' 05"W
(Rad.)
R=540.00' L=174.90'
Δ= 18°33'29"
ADJUSTED LOT 1
1353 Arena Ave.
APN: 007-061-003
1.05 ac. +/-
3/4" iron pipe marked
"LS 2689" @ 40.30'
N88°47'21"E
3.04'
3/4" iron
pipe marked
"LS 2689"
3/4" untagged
iron pipe with a
wood plug
N00°00'00"E
99.33'
CALLE DE LOS
AMIGOS
(a city street)
Road widening parcel, to be
dedicated to public use
(As shown on X-5 Surveys 33)
N89°39'52"E
68.46'
10' Slope,
Drainage, and
Utilities Easement,
to be dedicated
to public use
(As shown on
X-5 Surveys 33)
S00°04'12"W
119.92'
S00°10'23"W
128.90'
3/4" iron pipe
marked "LS 2689"
3" x 3" hub
remnants
Point of Beginning
3" x 3" hub
with tag marked
"LS 2689"
S00°00'00"E
49.49'
3/4" iron pipe
marked "LS 2689"
S00°52'16"W
9.08'
Exhibit A2
Showing Adjusted Lot 1 per Lot
Line Adjustment CDP 22-0296
February 2024
Rasmussen Land Surveying, Inc.
2150 Garden Road, Suite A-3
Monterey, California 93940
P: 831.375.7240 F: 831.375.2545
RLS W.O. # 2022-049 Sheet 1 of 1
Adjusted Parcel Boundary
Adjoining Parcel Boundary
Original Parcel Boundary
Right of Way
Easement Boundary

EXHIBIT B

Coastal Development Permit 22-0296

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CITY OF PACIFIC GROVE

Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

T: 831.648.3183 • F: 831.648.3184 • www.ci.pg.ca.us/cdd

COASTAL DEVELOPMENT PERMIT (CDP) 22-0296 TO ALLOW A LOT LINE ADJUSTMENT BETWEEN THREE LEGAL LOTS OF RECORD AT 1353 ARENA AVENUE, 1335 ARENA AVENUE, AND 320 ASILOMAR AVENUE.

FACTS

1. The subject properties are located at 1353 Arena Avenue (APN 007-061-003), 1335 Arena Avenue (APN 007-061-044), and 320 Asilomar Avenue (APN 007-061-045), Pacific Grove.
2. The subject properties have land use designations of Low Density Residential 1.0 du/ac in the adopted and certified City of Pacific Grove Coastal Land Use Plan (per LUP Figure 6).
3. The subject properties have a zoning classification of R-1-B-4.
4. The subject properties are located within the City's Coastal Zone (per LUP Figure 1), within an archaeologically sensitive area (per LUP Figure 7), and within an environmentally sensitive habitat area.
5. The subject properties are not listed on the City's Historic Resources Inventory (HRI).
6. Pursuant to Pacific Grove Municipal Code (PGMC) Sections 23.90.050, *City CDP Determinations*, and 23.90.040, *CDP Exemptions*, Community Development Department (CDD) staff determined the proposed lot line adjustment to be exempt from the requirement to obtain a CDP, and forwarded this determination to the Coastal Commission on December 12, 2022. An interested member of the public challenged this CDP determination, and Coastal Commission staff also responded with an opinion that a CDP would be required. After receipt of the Coastal Commission staff opinion, CDD staff forwarded a revised CDP determination that the proposed lot line adjustment would not be exempt from the requirement to obtain a CDP on September 13, 2023.
7. Detailed Project Description. The proposed project includes a lot line adjustment between three (3) legal lots of record consisting of existing Lot 1 (1353 Arena Avenue; APN 007-061-003; 54,252 square feet), existing Lot 2 (1335 Arena Avenue; APN 007-061-044; 23,470 square feet), and existing Lot 3 (320 Asilomar Avenue; APN 007-061-045; 19,971 square feet), resulting in an adjusted Lot 1 of 45,747 square feet; an adjusted Lot 2 of 24,073 square feet, and an adjusted Lot 3 of 27,873 square feet.
8. Per PGMC section 23.90.140, Coastal Hazards, CDD staff reviewed LUP Figure 3 (Coastal Hazards and Areas of Potential Sea Level Rise), aerial and topographic imagery, application materials, and conducted multiple site visits on June 29 and August 24, 2023, and determined the site and proposed lot line adjustment would not be subject to coastal hazards over its lifetime. The nearest point of the subject properties is over 375 feet from the shoreline and the site elevations range from approximately 49 feet to 119 feet. In this case, submittal of a Coastal Hazards Report is not warranted.
9. Per PGMC section 23.90.150, Water Quality and Marine Resources, the City did not require a water quality assessment because the proposed lot line adjustment does not propose new site coverage.
10. Per PGMC 23.90.160, Scenic Resources, CDD staff reviewed LUP Figure 4 (Scenic Areas), aerial and street view imagery, and conducted multiple site visits on June 29 and August 24, 2023. This review determined the site is within a designated scenic view area; however, as a proposed lot line adjustment involving no new structural development, the project would not adversely impact public

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views and a site-specific visual analysis is not required in this case. Future structural development on the properties would be subject to applicable policies and regulations regarding scenic resources.

11. Per PGMC section 23.90.170, Biological Resources, CDD staff reviewed LUP Figure 5 (Land Habitat Sensitivity Map), aerial imagery, and conducted multiple site visits on June 29 and August 24, 2023. Per LUP Figure 5, the properties are located in an area of moderate biological sensitivity and within the Asilomar Dunes Residential Area which is considered an environmentally sensitive habitat area. Also, a Biological Survey Report (Moss; July 27, 2023; attached) prepared for the project did not identify any potential impacts of the proposed lot line adjustment on biological resources. Additionally, the siting and layout of the proposed Residential Development Envelopes for each of the three lots was determined in consultation with the Project Biologist following a survey for rare plants and identification of areas of high and moderate environmental sensitivity. The report also identified biological guidelines for future development of the properties. However, since no physical development is proposed, those guidelines are not relevant to the project under consideration at this time. Future structural development on the properties would be subject to applicable policies and regulations regarding biological resources.
12. Per PGMC section 23.90.200, Cultural Resources, the proposed project does not involve physical changes to the existing development on the subject properties; therefore, an historic report was not warranted. However, a Phase I Historic Assessment (Seavey; July 28, 2017; attached) prepared for the existing dwellings concluded that the residences have been altered over time and bear little resemblance to the original structures. Therefore, the combined loss of physical integrity and lack of historical significance disqualifies them from consideration for listing on the Pacific Grove Historic Resources Inventory (HRI). Additionally, on July 26, 2027, the Historic Resources Committee adopted an Initial Historic Screening (IHS 17-0643) for 1353 Arena Avenue that determined the property to be ineligible for the City's HRI.
13. Per PGMC section 23.90.200, Cultural Resources, the proposed lot line adjustment does not involve ground disturbance; therefore, an archaeological report is not warranted.
14. This project has been determined to be Categorically Exempt per California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5, Minor Alterations in Land Use Limitations, and the exceptions to the exemptions in Section 15300.2 of the CEQA Guidelines do not apply.

FINDINGS

For a Coastal Development Permit per PGMC Section 23.90.080

1. *LCP Consistency. The project is consistent with the LCP. (Local Coastal Program)*

   As proposed and conditioned, the lot line adjustment meets the requirements of the LCP including, but not limited to, the applicable Coastal Resource Protection Standards of the Implementation Plan (IP) and the Biological, Cultural, Scenic, and Community Design policies of the Land Use Plan (LUP). These standards and policies are addressed in the Facts above and in the following findings.

2. *Public Views. The project protects or enhances public views.*

   The proposed lot line adjustment involves no new structural development and would not adversely impact public views, and future structural development on the properties would be subject to applicable policies and regulations regarding scenic resources.

3. *Habitat Protection. The project protects vegetation, natural habitats, and natural resources consistent with the LCP.*

   The lot line adjustment, as proposed and conditioned, would not impact natural habitats or resources. The siting and layout of the proposed Residential Development Envelopes for each of the three lots was determined in consultation with the Project Biologist following a survey for rare plants and identification of areas of high and moderate environmental sensitivity, and future structural development on the properties

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would be subject to applicable policies and regulations regarding biological resources. Therefore, the project is consistent with the LCP, including PGMC § 23.90.170 regarding biological resources and/or environmentally sensitive habitat areas.

4. *Design Consistency. The design, location, size, and operating characteristics of the proposed development is consistent with applicable LCP design requirements, including design plans and area plans incorporated into the LCP.*

   As proposed, the project complies with the zoning regulations and development standards set forth in Pacific Grove Municipal Code (PGMC) Chapters 24.06 (Lot Line Adjustments), 23.90 (Coastal Implementation Plan), and 23.16 (R-1-B Combined Districts). The R-1-B-4 district requires a minimum building site area of 20,000 square feet and a minimum width of 100 feet. Existing Lot 3, at 19,971 square feet, is non-conforming and the proposed lot line adjustment would bring the lot into conformance with the applicable development standards.

5. *Coastal Access. The project protects or enhances public access to and along the coast.*

   As proposed, the lot line adjustment would not impact public access to or along the coast.

6. *Visitor Serving. The project supports the LCP goal of providing for visitor-serving needs as appropriate, including providing low and no cost visitor and recreational facilities.*

   The proposed lot line adjustment does not involve visitor-serving needs or facilities; therefore, this finding is not applicable.

7. *Appropriate Use. The project is consistent with the allowed LCP uses associated with the property.*

   The site zoning classifications and land use designations are consistent with the proposed project.

8. *Coastal Resources. The proposed development protects or enhances coastal resources, where applicable.*

   The proposed lot line adjustment does not involve structural development; therefore, this finding is not applicable. See also Fact Nos. 8 – 13 and supporting information, and Finding Nos. 2 and 3 above.

For a Lot Line Adjustment per PGMC Section 24.06.040

1. *The adjustment involves four or fewer adjoining parcels that were legally created and will not result in the creation of more parcels than originally existed.*

   The proposed lot line adjustment is between three existing adjoining parcels, and the three existing legal lots of record share common boundaries. The proposed lot line adjustment will not create a greater number of parcels than originally existed. Three contiguous separate legal parcels will be adjusted, resulting in three contiguous separate legal parcels. Therefore, no new parcels will be created.

2. *Each resulting parcel is viable in supporting existing or planned land uses based on applicable general plan and other applicable zoning regulations.*

   As proposed, the lot line adjustment is consistent with the Pacific Grove 1994 General Plan, the 2020 Local Coastal Program, and applicable zoning ordinances. Each resulting parcel is viable in supporting existing or planned land uses based on the applicable general plan and other applicable zoning regulations. City staff verified that the subject properties are in compliance with all rules and regulations pertaining to the use of the property, and that no violations exist on the subject properties.

3. *The resulting parcels and any structure(s) or parking space(s) located thereon will comply with the requirements of the zoning district in which the parcel is located and with applicable building regulations, except that where an existing parcel(s) or structure(s) is nonconforming with respect to zoning regulations, a lot-line adjustment may be approved if the degree of nonconformance is not increased.*

   As proposed, the resulting parcels would comply with applicable zoning regulations and development standards set forth in PGMC Chapters 24.06 (Lot Line Adjustments), 23.90 (Coastal Implementation Plan),

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and 23.16 (R-1-B Combined Districts). The R-1-B-4 district requires a minimum building site area of 20,000 square feet and a minimum width of 100 feet. Existing Lot 3, at 19,971 square feet, is non-conforming and the proposed lot line adjustment would bring the lot into conformance with the applicable development standards.

4. *The adjustment will not impair any existing public-street or private-access easement or create parcels without legal access to a public street and the number of lots fronting on a public street is not being reduced.*

   The proposed lot line adjustment would not impair existing access and each of the resulting parcels would have access to Arena Avenue and/or Asilomar Avenue.

5. *The adjustment will not require substantial alteration of any existing public easements or improvements.*

   The proposed lot line adjustment would not require alteration of any existing public easement or improvements.

6. *The adjustment will not result in a utility service line being located on any property other than the lot being served, unless the service line is contained in a recorded utility easement.*

   The proposed lot line adjustment would not result in any utility service line being located on any property other than the lot being served.

7. *Each resulting parcel has been, or can be, provided with adequate sewage-disposal facilities.*

   Each resulting parcel either has or can be provided with an adequate lateral wastewater connection.

PERMIT

Coastal Development Permit (CDP) 22-0296 to allow a lot line adjustment between three (3) legal lots of record consisting of existing Lot 1 (1353 Arena Avenue; APN 007-061-003; 54,252 square feet), existing Lot 2 (1335 Arena Avenue; APN 007-061-044; 23,470 square feet), and existing Lot 3 (320 Asilomar Avenue; APN 007-061-045; 19,971 square feet), resulting in an adjusted Lot 1 of 45,747 square feet; an adjusted Lot 2 of 24,073 square feet, and an adjusted Lot 3 of 27,873 square feet.

CONDITIONS OF APPROVAL

1. **Permit Expiration.** This permit shall expire and be null and void two (2) years from and after the date of approval. Application for extension of this approval must be made prior to the expiration date.
2. **Terms and Conditions.** These terms and conditions shall run with the land and bind to all future owners and possessors of the subject property, unless amended. Amendments to this permit may be achieved only if an application is made and approved, pursuant to the Zoning Code.
3. **Conformance to Plans.** Development and use of the sites shall conform to the approved plans for the "Lot Line Adjustment", dated September 6, 2023, and "Site Plan - LLA", dated August 30, 2023, on file with the Community Development Department, with the exception of any subsequently approved changes. Minor plan changes shall be subject to review and approval by the Community Development Director. Major plan changes may also require subsequent discretionary review and approval.
4. **Certificate of Compliance.** The Owner(s)/Applicant(s) shall prepare, execute and record deeds that reflect the lot line adjustment as required by California Government Code §66412(d) and request an unconditional Certificate of Compliance for each of the adjusted parcels.

   Prior to the expiration of the entitlement, the Owner(s)/Applicant(s) shall do the following:

   Have a professional land surveyor prepare a legal description and plat with closure calculations. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (CDP 22-0296) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B." The legal description and plat shall comply with the Monterey County Recorder's guidelines as to form and content.

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Submit the draft legal descriptions, plats and closure calculations to the project planner for both of the following:
a. Each newly adjusted parcel of the lot line adjustment for which a Certificate of Compliance will be issued.
b. For the adjusted parcels, being all areas being conveyed by Owner(s) in conformance to the approved lot line adjustment.

i. The Owner(s)/Applicant(s) shall be responsible for ensuring the accuracy and completeness of all parties listed as Grantor and Grantee on the deeds.

ii. The purpose of the deed shall be stated on the first page of the deed, as follows: "The purpose of this deed is to adjust the parcel boundaries in conformance to the lot line adjustment approved by the City of Pacific Grove (CDP 22-0296). This deed is being recorded pursuant to §66412(d) of the California Government Code and shall be deemed to reconfigure the subject parcels in conformance to said approved lot line adjustment. Any configuration of said subject parcels that existed prior to recordation of this deed shall no longer be valid and shall not be used for the purpose of sale, lease or financing, whether immediate or future."

NOTE: Owner(s) is/are responsible for securing any re-conveyance, partial re-conveyance and/or subordination in connection with any loan, mortgage, lien or other financial obligation on all property being transferred between parties.

Following project planner review and any corrections of the legal descriptions and plats:
a. Record the fully executed and acknowledged deed(s) to the adjustment parcels with the County Recorder.
b. Deliver a copy of the recorded deed(s) to the project planner.
c. Deliver the legal description and plat of each Certificate of Compliance to the Community Development Department for final processing, together with a check, payable to the "Monterey County Recorder," for the appropriate fees to record the Certificate(s) of Compliance.

5. **Conservation Easement.** Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall dedicate a conservation easement to the City for all areas of the properties outside of the Residential Development Envelope and Outdoor Use Area. The conservation easement shall contain specific restrictive language that permanently prohibits all future development in the preservation area, with the following exception: existing utility uses and their maintenance. The Owner(s) shall submit a signed and notarized Subordination Agreement, if required, to the Community Development Department (CDD) for review and approval. The easement legal description and map shall be developed in consultation with a certified professional, and the Owner(s) shall submit the draft legal description and map of the easement area to the CDD for review. The easement deed shall be approved by the CDD Director and accepted by the City Council.
6. **Dune Habitat Restoration.** Per Land Use Plan Policy BIO-24(d), the Owner(s) of adjusted Lots 1 and 2 (i.e., the currently developed properties) shall prepare and implement dune restoration plans prepared by a qualified dune restoration professional. The prepared plan shall be submitted to the Community Development Department.

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

1. The Commission determined 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 Permit.
2. The Commission finds the project Categorically Exempt pursuant to CEQA Guidelines Section 15305, Class 5, Minor Alterations in Land Use Limitations.
3. The Commission approves CDP 22-0296 as proposed and conditioned.
4. This permit shall become effective upon the expiration of the 10-day appeal period after the final approval.

5. This permit shall not take effect until the owner acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF PACIFIC GROVE ON THE 14TH DAY OF DECEMBER, 2023, BY THE FOLLOWING VOTE:

AYES:	Commissioners Fredrickson, Murphy, Kubica, Nodzenski, Sawyer, and Chair Lilley
NOES:	None
ABSENT:	Commissioner Davison
ABSTENTIONS:	None

APPROVED:

DocuSigned by:
C0D1F6F29E23497...
Steven Lilley, Chair

The undersigned hereby acknowledge and agree to the approved terms and conditions, and agree to fully conform to, and comply with, said terms and conditions.

DocuSigned by:
866DB56CCD694FD...
James Paul Loehr — 12/20/2023
Date

DocuSigned by:
548C38D0D8234E6...
Richard E. Loehr, Successor Trustee of the Gertrude M. Loehr Living Trust — 12/20/2023
Date

EXHIBIT C1

EASEMENT DESCRIPTION (1353 Arena Avenue)

The land referred to herein below is situate in the City of Pacific Grove, County of Monterey, State of California, being a portion of Block 330 as shown on that certain map entitled "Map of Pacific Grove Acres" filed on June 2, 1919, in Volume 3 of Cities and Towns at Page 13 in the Office of the County Recorder of said County and State.

A **Conservation Easement**, being more particularly described as follows:

BEGINNING at the northwesterly corner of that certain parcel of land as described in that certain Certificate of Compliance, filed on May 14, 2024, as Instrument No. 2024016771 in the Office of the County Recorder of said County and State, on the southerly sideline of Arena Avenue, a city street, said point of beginning also being the northwesterly corner of that certain 23,755 square foot parcel of land shown on that certain Record of Survey map filed September 29, 1969 in Volume X-5 of Surveys at Page 33, records of said county and state, from which a 3/4" iron pipe with a brass tag marked "LS 2689", as shown on said map, bears South, 49.49 feet (50.17 feet on said record of survey map); thence easterly along the southerly sideline of Arena Avenue

1. 108.07 feet along a non-tangent curve to the left with a radius of 540.00 feet, the center of which bears North 08° 29' 24" East, through a central angle of 11° 27' 59"; thence leaving said southerly sideline of Arena Avenue
2. South 27° 53' 25" East, 33.17 feet; thence
3. South 54° 32' 34" West, 47.54 feet; thence
4. South 35° 27' 26" East, 76.00 feet; thence
5. North 54° 32' 34" East, 18.00 feet; thence
6. South 35° 27' 26" East, 18.00 feet, from which point an unmarked 2" x 2" wood hub on the southeasterly boundary of said parcel bears South 65° 58' 38" East, 64.02 feet; thence
7. North 54° 32' 34" East, 45.50 feet; thence
8. North 35° 27' 26" West, 18.00 feet; thence
9. North 54° 32' 34" East, 18.16 feet; thence
10. North 21° 55' 48" West, 21.45 feet; thence
11. North 51° 54' 19" West, 49.28 feet; thence
12. North 27° 53' 25" West, 10.17 feet; thence
13. North 16° 39' 51" West, 11.12 feet; thence
14. North 10° 49' 54" West, 4.16 feet to the southerly sideline of Arena Avenue; thence easterly along said southerly sideline of Arena Avenue
15. 34.86 feet along a non-tangent curve to the left with a radius of 540.00 feet, the center of which bears North 06° 22' 04" West, through a central angle of 03° 41' 54" to the northeasterly corner of said parcel; thence southeasterly
16. South 21° 55' 48" East, 160.08 feet; thence southwesterly
17. South 69° 20' 21" East, 174.30 feet (at 23.18 feet an untagged 2" x 2"x wood hub, and at 134.00 feet a 3/4" iron pipe with a brass tag marked "LS 2689"); thence southerly along said boundary
18. South, 99.33 feet to a 3/4" iron pipe with a brass tag marked "LS 2689" at the southeasterly corner of said parcel; thence westerly along said boundary
19. South 88° 47' 21" West, 3.04 feet to an untagged 3/4" iron pipe; thence along said boundary

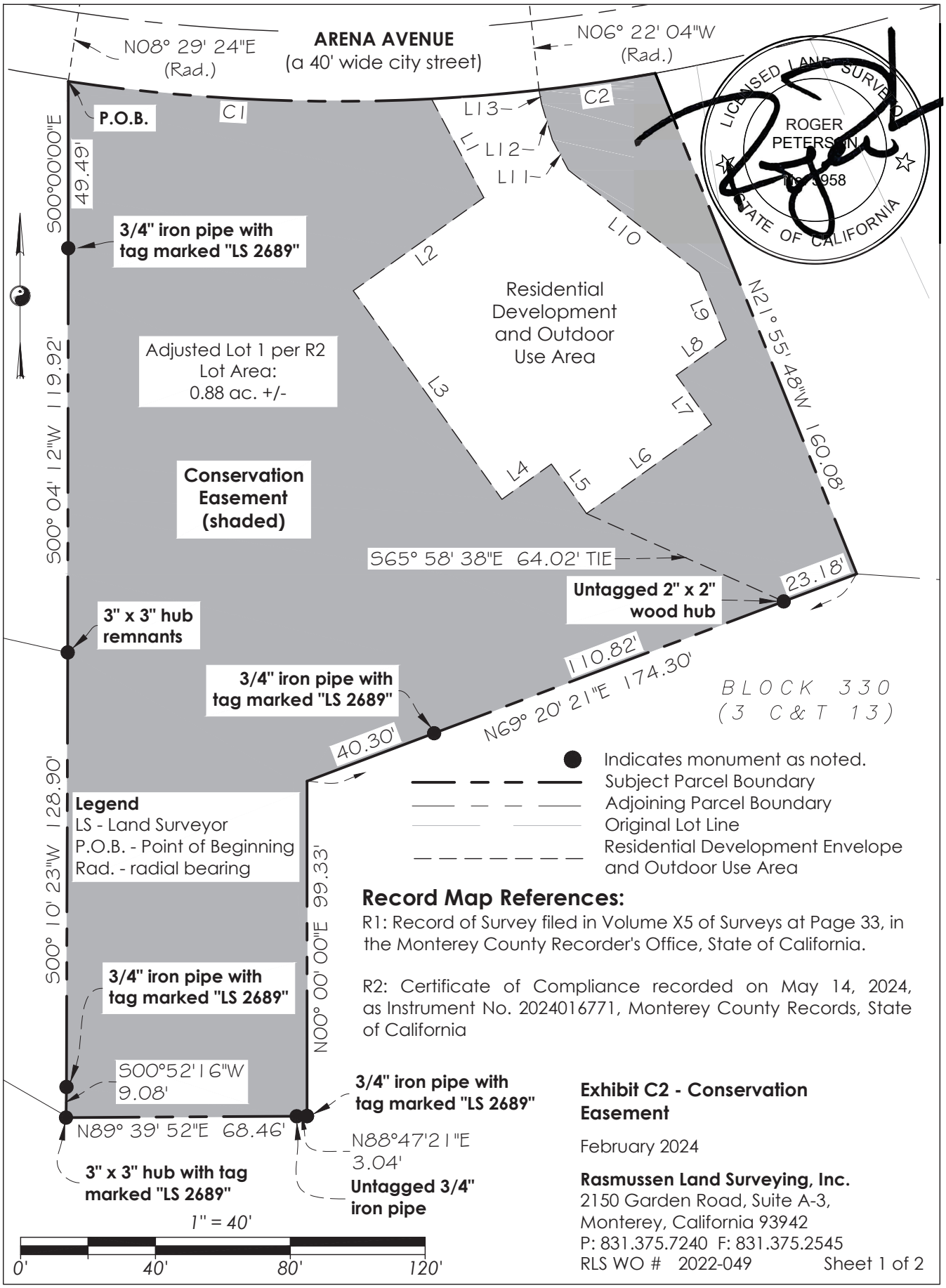
20. South 89° 39’ 52” West, 68.46 feet to a 3” by 3” wood hub with a brass tag marked “LS 2689” at the southwesterly corner of said parcel; thence northerly along said boundary
21. North 00° 52’ 16” East, 9.08 feet to a 3/4” iron pipe with a brass tag marked “LS 2689”; thence northerly along said boundary
22. North 00° 10’ 23” East, 128.90 feet to the remnants of a 3” x 3” wood hub; thence northerly along said boundary
23. North 00° 04’ 12” East, 119.92 feet to a 3/4” iron pipe with a brass tag marked “LS 2689”; thence northerly along said boundary
24. North, 49.49 feet to the Point of Beginning.

CONTAINING A TOTAL OF 0.88 ACRES, MORE OR LESS.



See Attached Exhibit C2

Prepared By: Roger A. Peterson, PLS 5958 February 19, 2024



Record Map References:

R1: Record of Survey filed in Volume X5 of Surveys at Page 33, in the Monterey County Recorder's Office, State of California.

R2: Certificate of Compliance recorded on May 14, 2024, as Instrument No. 2024016771, Monterey County Records, State of California

Exhibit C2 - Conservation Easement

February 2024

Rasmussen Land Surveying, Inc.
2150 Garden Road, Suite A-3,
Monterey, California 93942
P: 831.375.7240 F: 831.375.2545
RLS WO # 2022-049 Sheet 1 of 2

Line Table		
Line #	Length	Direction
L1	33.17'	S27° 53' 25"E
L2	47.54'	S54° 32' 34"W
L3	76.00'	S35° 27' 26"E
L4	18.00'	N54° 32' 34"E
L5	18.00'	S35° 27' 26"E
L6	45.50'	N54° 32' 34"E
L7	18.00'	N35° 27' 26"W
L8	18.16'	N54° 32' 34"E
L9	21.45'	N21° 55' 48"W
L10	49.28'	N51° 54' 19"W
L11	10.17'	N27° 53' 25"W
L12	11.12'	N16° 39' 51"W
L13	4.16'	N10° 49' 54"W

Curve Table			
Curve #	Length	Radius	Delta
C1	108.07'	540.00'	011° 27' 59"
C2	34.86'	540.00'	003° 41' 54"

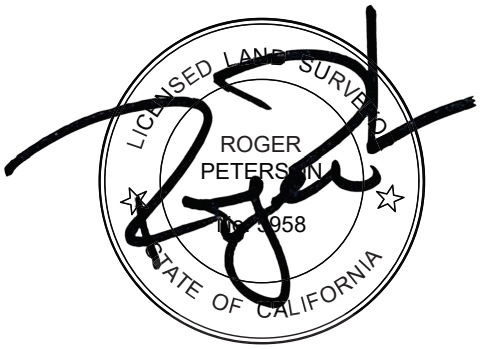


Exhibit C2 - Conservation Easement

February 2024

Rasmussen Land Surveying, Inc. 2150 Garden Road, Suite A-3, Monterey, California 93942
P: 831.375.7240 F: 831.375.2545

RLS WO # 2022-049 Sheet 2 of 2

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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Leticia Livian, Human Resources Director
MEETING DATE: July 03, 2024
SUBJECT: Ordinance Amending the Salary Classification Schedule
CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION
Hold second reading of an ordinance amending the salary classification schedule.

DISCUSSION
No changes were made between the first and second readings of the ordinance. The City Clerk caused a summary of the ordinance to be published on June 27, 2024.

The City salary classification schedule identifies the job classifications approved by Council (e.g., Office Assistant) and the hourly rates of pay for each classification at each step authorized by the Personnel Rules. Pursuant to Charter Article 25 and Pacific Grove Municipal Code (PGMC) Section 4.20.280, approval and amendment to the classification schedule must be adopted by the Council.

2023 MOU & Benefit and Compensation Plans
Last year, City Council approved the General Employees Association (GEA) and Management Employees Association (MEA) Memorandum of Understanding (MOU). City Council also approved the Benefits and Compensation Plans (Plans) for Non-represented Management and Confidential Group and the Department Head Group.

Approval of the MOU's and Plans included a 3% cost of living adjustment (COLA) for three years (FY 23/24, FY 24/25, FY 25/26), or a market adjustment for certain classifications divided in year one and year two. The year two COLA, or market adjustment is effective the first full pay period in July 2024.

Pursuant to Charter Article 25 and Pacific Grove Municipal Code (PGMC) Section 4.20.280, approval and amendment to the classification schedule must be adopted by the Council.

The requested changes are for GEA, MEA Non-represented Management and Confidential and the Department Head Groups and classifications that align with these groups. All other classifications in the salary schedule remain the same. To view the current salary schedule, click here.

The revised salary schedule reflecting the changes are incorporated into the attached ordinance with

impacted classifications bolded in black.

OPTIONS
Provide alternative direction to staff.

FINANCIAL IMPACT:
The COLA's and market adjustments are budgeted in the FY 24/25 budget.

GEA
The increase for year 2 of the COLA is estimated to be approximately $129,000 for FY 24/25.

MEA
The increase for year 2 of the COLA and market adjustment is estimated to be approximately $45,144 ($29,644+$15,500) for FY 24/25.

Non-represented Management and Confidential and Department Head Groups
The increase for year 2 of the COLA for non-represented confidential group is estimated to be approximately $35,048 for FY 24/25.

The increase for year 2 of the COLA and market adjustment for the department head group is estimated to be approximately $64,150 ($45,200 + $18,950) for FY 24/25.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Ordinance

ORDINANCE NO. 24-_____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE AMENDING THE CLASSIFICATION SCHEDULE

Findings

1. In 2023, City Council approved the General Employees Association (GEA) and Management Employees Association (MEA) Memorandum of Understanding (MOU). City Council also approved the Benefits and Compensation Plans (Plans) for Non-represented Management and Confidential Group and the Department Head Group; and

2. Approval of the MOU's and Plans included a 3% cost of living adjustment (COLA) for three years (FY 23/24, FY 24/25, FY 25/26), or a market adjustment for certain classifications divided in year 1 and year 2.; and

3. Provisions of the MOU provides for a 3% cost of living adjustment (COLA) in the first year of the agreement, 3% COLA in the second year of the agreement, and 3% COLA in the third year of the agreement; and

4. The year 2 COLA, or market adjustment is effective the first full pay period in July 2024; and

5. FY 24/25 3% COLA and salary market adjustments will be effective July 7, 2024.

6. The GEA, MEA, Non-Represented and Confidential and Department Head Groups and classifications that align with those groups, salary ranges will be revised to reflect the second year 3% COLA increase, or 50% of the market adjustment for identified classifications; and

7. Modifications to the salary classification plan must be amended to revise hourly rates; and

8. Amendment to the classification plan must be adopted by the City Council pursuant to Charter Article 25 and Pacific Grove Municipal Code (PGMC) Section 4.20.280; and

9. 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. Enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment pursuant Section 15378.

Ordinance

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing findings of the City Council are incorporated into this Ordinance as if set forth in full.

SECTION 2. The position classification plan approved and adopted by the City Council pursuant to Charter Article 15 and PGMC § 4.20.280 is amended for GEA, MEA, Non-represented Management and Confidential and Department Head Groups classifications and MEA aligned classifications, with the following salary schedule:

City of Pacific Grove
Salary Schedule - Hourly Rate
Full-time and Part-time

Code	Classification	Hourly Salary Steps							
		Step 1A	Step 2B	Step 3C	Step 4D	Step 5E	Step 6F	Step 7G	Step 8H
124-001	**Accountant**	**34.78**	**36.52**	**38.35**	**40.26**	**42.28**	**43.33**	**44.42**	**45.53**
219-000	**Accountant, Chief**	**41.58**	**43.66**	**45.84**	**48.14**	**50.54**	**52.44**	**54.41**	
218-003	**Accountant, Senior**	**39.69**	**41.67**	**43.76**	**45.95**	**48.24**	**50.05**	**51.93**	
120-001	**Accounting Assistant**	**27.45**	**28.83**	**30.27**	**31.78**	**33.37**	**34.20**	**35.06**	**35.94**
125-01	**Accounting Assistant, Senior**	**29.19**	**30.65**	**32.18**	**33.79**	**35.48**	**36.37**	**37.28**	**38.21**
304-001	**Administrative Services Director (ASD)**	**69.70**	**73.18**	**76.84**	**80.68**	**84.72**	**88.95**	**93.40**	
302-001	**ASD/ Assistant City Manager**	**78.44**	**82.36**	**86.48**	**90.81**	**95.35**	**100.11**	**105.12**	
212-000	**Administrative Services Manager**	**55.79**	**58.58**	**61.50**	**64.58**	**67.81**	**71.20**	**74.76**	
170-000	**Administrative Analyst**	**35.10**	**36.85**	**38.69**	**40.63**	**42.66**	**43.72**	**44.82**	**45.94**
104-001	**Administrative Assistant**	**23.67**	**24.85**	**26.09**	**27.40**	**28.77**	**29.49**	**30.22**	**30.98**
171-001	**Administrative Coordinator**	**26.80**	**28.14**	**29.55**	**31.03**	**32.58**	**33.39**	**34.23**	**35.08**
505-001	**Animal Control Officer**	**27.71**	**29.10**	**30.55**	**32.08**	**33.68**	**34.94**	**36.26**	
216-002	**Assistant Finance Manager**	**37.99**	**39.89**	**41.88**	**43.98**	**46.17**	**47.91**	**49.70**	
090-000	Cashier	16.00	16.80	17.64	18.52	19.45			
243-001	**City Clerk**	**56.94**	**59.78**	**62.80**	**65.91**	**69.21**	**72.67**	**76.30**	
244-001	**City Clerk/DEI Coordinator**	**59.79**	**62.78**	**65.91**	**69.21**	**72.67**	**76.30**	**80.12**	
002-000	City Council Member	420	per month						
301-001	City Manager	121.00							
300-001	City Manager Pro Tempore	121.00							
164-002	**Code Compliance Officer**	**35.56**	**37.34**	**39.20**	**41.16**	**43.22**	**44.30**	**45.41**	**46.54**
205-000	**Community Development Director**	**71.82**	**75.41**	**79.18**	**83.14**	**87.29**	**91.66**	**96.24**	
507-001	**Community Service Officer**	**28.30**	**29.72**	**31.20**	**32.76**	**34.40**	**35.69**	**37.03**	
209-000	**Construction Project Manager**	**43.24**	**45.41**	**47.68**	**50.06**	**52.56**	**54.53**	**56.58**	
40-000	Custodian	17.13	17.98	18.88	19.83	20.82			
204-001	**Deputy City Clerk**	**34.28**	**35.99**	**37.79**	**39.68**	**41.67**	**43.75**	**45.94**	
305-001	**Deputy City Manager**	**66.58**	**69.90**	**73.40**	**77.07**	**80.92**	**84.97**	**89.22**	
156-001	**Equipment Mechanic**	**34.92**	**36.67**	**38.50**	**40.43**	**42.45**	**43.51**	**44.60**	**45.71**
157-000	**Equipment Mechanic, Senior**	**37.17**	**39.03**	**40.98**	**43.03**	**45.18**	**46.31**	**47.47**	**48.66**
256-000	**Finance Director**	**69.70**	**73.18**	**76.84**	**80.68**	**84.72**	**88.95**	**93.40**	
208-001	**Financial Analyst**	**32.99**	**34.64**	**36.37**	**38.19**	**40.10**	**41.60**	**43.16**	
310-001	**Human Resources Director**	**69.88**	**73.38**	**77.05**	**80.90**	**84.94**	**89.19**	**93.65**	
210-001	**Human Resources Manager**	**49.89**	**52.39**	**55.01**	**57.76**	**60.65**	**63.68**	**66.86**	
105-001	**IT Support Specialist**	**27.58**	**28.96**	**30.41**	**31.93**	**33.53**	**34.36**	**35.22**	**36.10**
64-000	Intern	16.00	16.80	17.64	18.52	19.45			
64-3	Intern II	20.76	21.80	22.89	24.03	25.24			
208-002	**Librarian**	**32.99**	**34.64**	**36.37**	**38.19**	**40.10**	**41.60**	**43.16**	
122-001	**Library Assistant**	**25.47**	**26.74**	**28.08**	**29.48**	**30.95**	**31.73**	**32.52**	**33.33**
144-002	**Library Assistant, Senior**	**27.30**	**28.66**	**30.10**	**31.60**	**33.18**	**34.01**	**34.86**	**35.73**
199-000	**Library Clerk**	**19.13**	**20.09**	**21.09**	**22.15**	**23.25**			
219-000	**Library Director**	**67.50**	**70.87**	**74.42**	**78.14**	**82.04**	**86.15**	**90.45**	
50-004	Lighthouse Docent Coordinator	16.00	16.80	17.64	18.52	19.45			
154-000	**Maintenance Supervisor**	**37.11**	**38.97**	**40.91**	**42.96**	**45.11**	**46.24**	**47.39**	**48.58**
132-000	**Maintenance Worker**	**29.62**	**31.10**	**32.65**	**34.29**	**36.00**	**36.90**	**37.82**	**38.77**
146-001	**Maintenance Worker, Senior**	**33.23**	**34.89**	**36.63**	**38.47**	**40.39**	**41.40**	**42.43**	**43.49**
208-003	**Management Analyst**	**39.48**	**41.45**	**43.52**	**45.70**	**47.98**	**49.78**	**51.65**	
001-000	Mayor	700	per month						

City of Pacific Grove
Salary Schedule - Hourly Rate
Full-time and Part-time

Code	Classification	Hourly Salary Steps							
		Step 1A	Step 2B	Step 3C	Step 4D	Step 5E	Step 6F	Step 7G	Step 8H
506-001	**Parking Enforcement Officer**	**26.63**	**27.96**	**29.36**	**30.82**	**32.36**	**33.58**	**34.84**	
165-001	**Planner, Assistant**	**36.15**	**37.96**	**39.86**	**41.85**	**43.94**	**45.04**	**46.17**	**47.32**
168-002	**Planner, Associate**	**40.17**	**42.18**	**44.29**	**46.50**	**48.83**	**50.05**	**51.30**	**52.58**
241-002	**Planner, Principal**	**50.22**	**52.73**	**55.37**	**58.14**	**61.05**	**63.33**	**65.71**	
169-001	**Planner, Senior**	**45.49**	**47.77**	**50.16**	**52.66**	**55.30**	**56.68**	**58.10**	**59.55**
201-000	**Police Adm. Services Manager (ASM)**	**55.79**	**58.58**	**61.51**	**64.58**	**67.81**	**71.20**	**74.76**	
211-001	**Police ASM/Public Information Officer**	**58.58**	**61.50**	**64.58**	**67.81**	**71.20**	**74.76**	**78.50**	
602-001	**Police Chief**	**78.20**	**82.11**	**86.21**	**90.52**	**95.05**	**99.80**	**104.79**	
601-001	**Police Commander**	**62.22**	**65.34**	**68.60**	**72.03**	**75.63**	**79.42**	**83.39**	
516-001	Police Officer	46.33	48.65	51.08	53.63	56.32	58.43	60.62	
513-000	Police Officer Recruit	24.94	26.19	27.50	28.87	30.32	31.46	32.64	
521-002	**Police Records Supervisor**	**32.12**	**33.73**	**35.41**	**37.18**	**39.04**	**40.51**	**42.03**	
524-001	Police Sergeant	53.53	56.21	59.02	61.97	65.07	67.51	70.04	
508-001	**Police Services Technician**	**28.30**	**29.72**	**31.20**	**32.76**	**34.40**	**35.69**	**37.03**	
62-001	Pre School Manager	19.30	20.27	21.28	22.35	23.46			
219-001	**Program Manager**	**45.22**	**47.49**	**49.86**	**52.35**	**54.97**	**57.03**	**59.17**	
206-000	**Program Manager, Senior**	**55.79**	**58.58**	**61.50**	**64.58**	**67.81**	**71.20**	**74.76**	
509-001	**Property and Evidence Technician**	**29.72**	**31.20**	**32.76**	**34.40**	**36.12**	**37.48**	**38.88**	
207-000	**Public Works (PW) Director**	**72.06**	**75.67**	**79.45**	**83.42**	**87.59**	**91.97**	**96.57**	
303-001	**PW Director/ Deputy City Manager**	**75.31**	**79.08**	**83.03**	**87.18**	**91.54**	**96.12**	**100.92**	
220-002	**Public Works Superintendent**	**49.17**	**51.63**	**54.21**	**56.92**	**59.76**	**62.00**	**64.33**	
10-001	Recreation Assistant I	16.00	16.80	17.64	18.52	19.45			
51-001	Recreation Assistant II	19.62	20.60	21.63	22.71	23.85			
118-001	**Recreation Coordinator**	**29.24**	**30.70**	**32.24**	**33.85**	**35.54**	**36.43**	**37.34**	**38.27**
217-003	**Recreation Coordinator, Senior**	**40.62**	**42.65**	**44.79**	**47.03**	**49.38**	**51.23**	**53.15**	
62-002	**Recreation Program Supervisor**	**25.30**	**26.57**	**27.90**	**29.29**	**30.76**			
216-003	**Risk Manager**	**37.98**	**39.88**	**41.88**	**43.97**	**46.17**	**47.90**	**49.70**	
209-000	**Senior Librarian**	**38.18**	**40.08**	**42.09**	**44.19**	**46.40**	**48.14**	**49.95**	
170-001	**Volunteer Coordinator**	**28.78**	**30.22**	**31.73**	**33.32**	**34.98**	**35.86**	**36.75**	**37.67**

	Classification	Hourly Salary Range
203	Extra Help Retired Annuitant	15.50 - 106.96

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

SECTION 4. In accord with Article 15 of the City Charter, this ordinance shall become effective on July 7, 2024.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this ___ day of July 2024, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN PIERIK, City Attorney

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: July 03, 2024

SUBJECT: Appointment to Library Board

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

RECOMMENDATION

Motion to approve appointment of Lucy Moore to Library Board ending January 31, 2028.

DISCUSSION

The appointment of Lucy Moore fills a vacancy on the Library Board.

City 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. We are very fortunate to have many highly qualified and talented residents willing to serve on City committees.

The term for Library Board members is 4 years.

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.

OPTIONS

N/A

FINANCIAL IMPACT:

There is no fiscal impact for this appointment.

GOAL ALIGNMENT: Not Applicable.

Attachments

Redacted Lucy Moore Application

CITY OF PACIFIC GROVE
www.cityofpacificgrove.org

Application for Appointment to a Public Board, Commission, or Committee

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:
Lucy Moore

Street Address:
REDACTED

City:	**State:**	**ZIP Code:**
Pacific Grove	CA	93950

Residence Telephone Number:	**Work Telephone Number:**	**E-Mail Address:**
REDACTED		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 and Attachment of Resume is Desirable):

I served on the board of the PG Library Friends for two years during the time when we worked to merge with the Library Foundation Board. This was extremely satisfying work. However, when the merger was complete, the board membership needed to be reduced and since there wasn't a clear role for me to fulfill, I stepped aside.

I would be honored and delighted to serve on the Library Board as the library enters a new chapter with the retirement of Diana Godwin. Our library has always been the most important public institution in town for me, and it remains so today.

Thank you for considering my application.

Sincerely,
Lucy Moore

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

Signature of Applicant:	**Date:**

FOR CITY USE ONLY Appointed to: _____ **Date of**
Appointment: _____ **Expiration:** _____ **Date of**
Reappointment: _____ **End of Term:** _____ **Date**
Certification of Appreciation Awarded: _____

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: July 03, 2024

SUBJECT: Arborist Services

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

RECOMMENDATION

1. Authorize an agreement with Monterey Bay Treeworks for Professional Arborist Services for FY 24/25 in an amount not to exceed $104,000.
2. Alternatively, discuss and take other action on this item.

DISCUSSION

The City of Pacific Grove (City) contributes to the welfare and aesthetic qualities of the community through rules and regulations relating to planting, care, maintenance and removal of trees in public and private areas. These regulations are enforced by the City's Arborist.

The City Arborist's responsibilities include safeguarding trees from unauthorized trimming or removal, enforcing the tree ordinance, implementing forestry programs, conducting public outreach, reviewing tree applications, coordinating with tree contractors, scheduling City related tree activities and all other activities associated with the City's urban forest.

Scope of Work

The contract Arborist would be expected to perform the following services during the agreement period:

· Update and enforce the City's Tree Ordinance

· Consult with constituents on tree-related matters: The City Arborist reviews most applications in the field to determine accuracy and requested scope

· Conduct public outreach and education programs: Meets with tree service contractors for annual Title 12 overview meeting. Conducts, in association with Public Works, tree planting events, such as Arbor Day at Forest Grove Elementary School and an Arbor Day community tree planting educational seminars

· Establish schedules and methods for providing forestry and canopy management services, identify resource needs, and review needs with appropriate management staff

· Oversee tree service contractors' urban forestry management activities, including street clearance

· Coordinate with Utility Agencies for utility clearance work: Performs annual walkthroughs with

utility companies to review line clearance activities
· Survey tree populations and conduct a variety of environmental impact studies and investigations
· Oversee the tree permit processes, maintain all related records, and produce reports when requested: Processed 277 permits in 2023
· Provide presentations and written reports to the City Manager, Beautification and Natural Resources Commission and City Council, when needed
· Respond to tree-related emergencies: Coordinates all storm-related removals with Public Works and tree service contractors, on private and public property

The City released a Request for Proposals (RFP) on May 7, 2024, and on June 4, 2024 the RFP window closed. The City received one proposal from Monterey Bay Treeworks, owner Albert Weisfuss, to continue the service he has been providing the City, for an hourly rate of $100 per hour, not to exceed $104,000 per fiscal year.

Mr. Weisfuss is a Certified Arborist with over 35 years of experience in caring for trees, parks and greenbelts across the Monterey Peninsula, including over 10 years providing Arborist Services to the City of Pacific Grove. Mr. Weisfuss has a track record of excellent customer service, a demonstrated ability to work collaboratively with residents and City Staff, extensive experience in community outreach programs, updating and maintaining tree inventories, and assisting local municipalities in the development of comprehensive urban forestry programs and policy documents. In addition to being a Certified Arborist, Mr. Weisfuss retains an International Society of Arboriculture Tree Risk Assessment Qualification which provides him with the ability to assess tree risks making informed decisions that will promote the safety of people and property and enhance tree benefits, health and longevity.

Budget Process

Through the budget process, the City Council has expressed an interest in hiring a Forester as a full-time employee of the City. Ongoing, the City of Pacific Grove must continue to retain an arborist to provide our residents and business with services regarding proper tree management through the tree permit process. The City's Arborist also works with residents, businesses and City staff to ensure tree health, pruning for safety and aesthetics, and to make recommendations for tree removal and plantings.

Prior to a budget amendment proposal staff is planning to present to the City Council in September of 2024, staff will develop a Forester job description and will develop a recommended forestry program that will meet the current and future City-wide tree management needs.

It is the recommendation to continue with Monterey Treeworks and Mr. Weisfuss for one year, granting the City Council an opportunity to evaluate the future needs of the community with regards to urban forest tree care.

OPTIONS

1. Approve agreement
2. Do not approve agreement; failure to approve an agreement will result in a gap in service to the community as there will be no one to oversee the tree permit process.
3. Provide alternate direction

FINANCIAL IMPACT:

$115,000 has been proposed in the FY 2024/25 Budget via Public Works Operations to allow for arborist services.

If approved, the City's standard professional services agreement amendment (reviewed and approved by the City Attorney, Risk Management, and the California Joint Powers Insurance Authority) will be prepared for the Mayor's signature per the standard contracting process.

FOCUSED PRIORITY AREA: 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: Joyce Halabi, Deputy Public Works Director

MEETING DATE: July 03, 2024

SUBJECT: Maintenance Services Agreement with The Don Chapin Co., Inc DBA Greenline Liquid Waste Haulers for Sanitary Sewer Maintenance Services

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

RECOMMENDATION

1. Authorize Mayor to sign extensions of the Maintenance Service Agreement with The Don Chapin Co., Inc DBA Greenline Liquid Waste Haulers
2. Alternatively, discuss and take other action related to this item

DISCUSSION

On July 20, 2022, the City Council approved a Maintenance Service Agreement with The Don Chapin Co., Inc DBA Greenline Liquid Waste Haulers for sanitary sewer maintenance services ("Agreement") in an amount not to exceed $350,000 per fiscal year.

The Council approved term of the agreement through June 30, 2023, with options to extend annually for two (2) additional one (1) year periods. The method by which extensions would be executed was not stipulated.

The recommended action is to authorize Mayor to sign extensions of the Agreement for the periods specified in the Agreement.

OPTIONS

1. Authorize the Mayor to sign the extensions
2. Do not authorize the Mayor to sign extensions. Failure to authorize the Mayor to sign the extensions would result in an impact to Sanitary Sewer Maintenance Services.

FINANCIAL IMPACT:

Funding has been allocated in the FY24/25 budget for this Sanitary Sewer maintenance services agreement, utilizing the Sewer Fund.

FOCUSED PRIORITY AREA: Infrastructure

Attachments

Sanitary Sewer Maintenance Services Agreement
FY23/24 Extension Letter

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CITY OF PACIFIC GROVE
MAINTENANCE SERVICES AGREEMENT

This MAINTENANCE SERVICES AGREEMENT ("Agreement") is made and effective **August 1, 2022,** by and between the City of Pacific Grove, a municipal corporation ("City"), and The **Don Chapin Co., Inc. DBA Greenline Liquid Waste Haulers** ("CONTRACTOR").

City wishes to retain the services of an experienced and qualified CONTRACTOR to provide **sanitary sewer maintenance services** ("Services"). CONTRACTOR represents and warrants that it is qualified to perform those Services. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

   Unless terminated in accordance with Section 8 below, the AGREEMENT will continue in full force and effect from the Effective Date through **June 30, 2023**. **Upon mutual written AGREEMENT, the term of this AGREEMENT can be extended annually for two (2) additional one (1) year periods.**[1]

2. SCOPE OF SERVICES

   CONTRACTOR will provide the Services listed in the Scope of Services attached hereto as Exhibit A. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

3. PERFORMANCE

   a. CONTRACTOR shall at all times faithfully, competently and to the best of its ability, experience, and talent, perform all tasks described herein. CONTRACTOR shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONTRACTOR hereunder in meeting its obligations under this Agreement.

   b. CONTRACTOR shall obtain a valid City Business License and shall maintain said Business License for the term of this Agreement and any extensions.

   c. CONTRACTOR shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by CONTRACTOR or in any way affect the performance of its Services pursuant to this Agreement. CONTRACTOR shall at all times observe and comply with all such laws and regulations. City, and its officers, employees, and agents shall not be liable at law or in equity occasioned by failure of CONTRACTOR to comply with this Section.

[1] Authorized at the July 20, 2022, City Council Meeting.

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d. CONTRACTOR must maintain a valid California Contractor's License throughout the term of this Contract.

e. CONTRACTOR agrees that in the performance of this Agreement or any sub-agreement hereunder, neither CONTRACTOR nor any person acting on CONTRACTOR's behalf shall refuse to employ or refuse to continue in any employment any person or discriminate on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, genetic information, marital status, sexual preference, sex, gender identity, gender expression, military or veteran status or age. Harassment in the workplace is not permitted in any form. CONTRACTOR further agrees to comply with all laws with respect to employment when performing this Agreement.

f. CONTRACTOR shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit D attached to and part of this Agreement.

g. CONTRACTOR declares and warrants that no undue influence or pressure is used against or in concert with any officer, employee or agent of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial agreement or financial inducement. No officer, employee, or agent of City will receive compensation, directly or indirectly, from CONTRACTOR, or from any officer, employee or agent of CONTRACTOR, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.

CONTRACTOR is bound by the contents of City's Request for Proposal on file hereto and incorporated herein as Exhibit E, and the contents of the proposal submitted by CONTRACTOR, available on file at the Public Works Department. hereto and incorporated herein as Exhibit E. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in CONTRACTOR's Proposal.

4. CITY MANAGEMENT

The City Manager, or designee, shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by CONTRACTOR, but not including the authority to enlarge the Scope of Work or change the compensation due to CONTRACTOR. The City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Work or change CONTRACTOR's compensation, subject to Section 6 hereof.

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5. PAYMENT

a. For Services rendered pursuant to this AGREEMENT, CONTRACTOR shall be paid in accordance with the Payment Schedule attached hereto as Exhibit B, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for the Services initially contemplated by this AGREEMENT, exceed the sum of **$350,000**, unless otherwise first approved in writing by the City.

b. The City Manager's contract authority is limited to $39,999.99, which includes all costs. Contracts, including any contract amendments that exceed the total threshold, require City Council approval. Any contracts, including contract amendments that exceed the total threshold, which do not have City Council approval, shall be void.

c. CONTRACTOR shall submit invoices monthly for actual Services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for Services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If City disputes any of CONTRACTOR's fees, it shall give written notice to CONTRACTOR within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. LABOR CODE AND PREVAILING WAGE REQUIREMENTS:

a. CONTRACTOR agrees to comply with the requirements of California Labor Code sections 1810 through 1815. Eight hours of labor constitutes a legal day's work per Labor Code section 1810. CONTRACTOR will forfeit the statutory penalty to City for each worker employed in the execution of this Agreement by CONTRACTOR or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code sections 1810 through 1815.

b. Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Agreement are available for download from the State website:

http://www.dir.ca.gov/OPRL/dprewagedetermination.htm.

c. CONTRACTOR must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2.) When applicable, copies of the prevailing rate of per diem wages will be on file at City's Administrative Services Department and available to CONTRACTOR and any other interested party upon request.

d. CONTRACTOR, and any subcontractor engaged by CONTRACTOR, may pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the contract. (Labor Code § 1774.) CONTRACTOR is responsible for

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compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.

e. CONTRACTOR must comply with all provisions of Labor Code section 1775. Under Section 1775, CONTRACTOR will forfeit the statutory penalty to City for each worker employed in the execution of the Agreement by CONTRACTOR or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. CONTRACTOR may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

   Nothing in this Agreement prevents CONTRACTOR or any subcontractor from employing properly registered apprentices in the execution of the Contract. CONTRACTOR is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.

f. CONTRACTOR has reviewed and agrees to comply with any applicable provisions for any public work subject to Department of Industrial Relations (DIR) Monitoring and Enforcement of prevailing wages, including the registration requirements of Labor Code Section 1771.1(a). City hereby notifies CONTRACTOR that CONTRACTOR is responsible for submitting certified payroll records directly to the State Compliance Monitoring Unit (CMU). For further information concerning compliance monitoring please visit the website location at: http://www.dir.ca.gov/dlse/cmu/cmu.html.

g. CONTRACTOR must comply with Labor Code section 1771.1(a), which provides that CONTRACTOR may award any contracts and subcontracts for work that qualifies as a "public work" only to subcontractors which are at that time registered with the DIR and qualified to perform public work pursuant to Labor Code section 1725.5. CONTRACTOR must obtain proof of such registration from all such subcontractors."

h. If federal funds are used to pay for the Work, CONTRACTOR and any subcontractor agree to comply, as applicable, with the labor and reporting requirements of the Davis-Bacon Act (40 USC § 276a-7), the Copeland Act (40 USC § 276c and 18 USC §874), and the Contract Work Hours and Safety Standards Act (40 USC § 327 and following).

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7. INSPECTION

City shall at all times have the right to inspect the work and materials. CONTRACTOR shall furnish all reasonable aid and assistance required by City for the proper examination of the work and all parts thereof. Such inspection shall not relieve CONTRACTOR from any obligation to perform said work strictly in accordance with the specifications or any modifications thereof and in compliance with the law.

8. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

a. City may at any time, for any reason, without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon CONTRACTOR at least thirty (30) days prior written notice. Upon receipt of said notice, CONTRACTOR shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, City shall pay to CONTRACTOR the actual value of the Services performed up to the time of termination, provided that the Services performed are of value to the City. Upon termination of the Agreement pursuant to this Section, CONTRACTOR shall submit an invoice to City pursuant to Section 6.c.

9. DEFAULT OF CONTRACTOR/FORCE MAJEURE

a. CONTRACTOR's failure to comply with the provisions of this Agreement shall constitute a default. In the event that CONTRACTOR is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating CONTRACTOR for any Services performed after the date of default and can terminate this Agreement immediately by written notice to the CONTRACTOR. If such failure by the CONTRACTOR to make progress in the performance of Services hereunder arises out causes beyond the CONTRACTOR's control, and without fault or negligence of the CONTRACTOR, it shall not be considered a default.

b. If the City Manager or designee determines CONTRACTOR is in default in the performance of any of the terms or conditions of this Agreement, they shall cause to be served upon CONTRACTOR a written notice of the default. The CONTRACTOR shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event CONTRACTOR fails to cure its default within such period of time or fails to present City with a written plan for the cure of the default, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

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10. OWNERSHIP OF DOCUMENTS

a. CONTRACTOR shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of Services under this Agreement. CONTRACTOR shall maintain adequate records of Services provided in sufficient detail to permit an evaluation of Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONTRACTOR shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records at CONTRACTOR's office; shall permit City to make copies and transcripts there from as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. If there is a substantial billing deviation adverse to City, then the cost of an audit shall be borne by CONSULTANT. Such records, together with supporting documents, shall be maintained at City Hall for a minimum period of five (5) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the Services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused, or otherwise disposed of by City without the permission of CONTRACTOR. With respect to computer files, CONTRACTOR shall make available to City, at City's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. RECORD AUDIT

In accordance with Government Code, Section 8546.7, for expenditures of greater than $10,000, records of both City and CONTRACTOR shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

12. INDEMNIFICATION

CONTRACTOR shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, employees, agents, and volunteers (collectively, City) from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and CONTRACTOR, or should City otherwise find CONTRACTOR's legal counsel

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unacceptable, then CONTRACTOR shall reimburse the City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The CONTRACTOR shall promptly pay any final judgment rendered against the City (and its officers, employees, agents and volunteers) with respect to claims determined by a trier of fact to have been the result of the CONTRACTOR's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

CONTRACTOR obligations under this section apply regardless of whether such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by City. However, without affecting the rights of City under any provision of this agreement, CONTRACTOR shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of CONTRACTOR will be for that entire portion or percentage of liability not attributable to the active negligence of City.

No City officer, employee or agent shall be personally liable to CONTRACTOR, in the event of any default or breach by City or for any amount that may become due to CONTRACTOR.

13. INSURANCE

Without limiting CONTRACTOR's indemnification of City, and prior to commencement of work, CONTRACTOR shall obtain, provide, and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described in Exhibit C and in a form that is satisfactory to City.

14. INDEPENDENT CONTRACTOR

a. CONTRACTOR is and shall at all times remain as to City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of CONTRACTOR shall at all times be under CONTRACTOR's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's officers, employees, or agents, except as set forth in this Agreement. CONTRACTOR shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. CONTRACTOR shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

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b. No employee benefits shall be available to CONTRACTOR in connection with the performance of this Agreement. Except for the fees paid to CONTRACTOR as provided in the Agreement, City shall not pay salaries, wages, or other compensation to CONTRACTOR for performing services hereunder for City. City shall not be liable for compensation or indemnification to CONTRACTOR for injury or sickness arising out of performing services hereunder.

c. Any and all employees or sub-contractors of CONTRACTOR under this Agreement, while engaged in the performance of any work or services required by CONTRACTOR under this Agreement, shall be considered employees or sub-contractors of CONTRACTOR only and not of City. Any and all claims that may arise under the Workers' Compensation Act on behalf of said employees or sub-contractors, while so engaged and all claims made by a third party as a consequence of any negligent act or omission on the part of the CONTRACTOR's employees or sub-contractors, while so engaged in any of the work or services provided for or rendered herein shall not be City's obligation.

15. SUBCONTRACTORS

Before CONTRACTOR retains or hires a subcontractor to provide any work, labor, or services relative to this AGREEMENT, CONTRACTOR must:

a. Present the name and identifying information of the subcontractor that will provide any work, labor, or services to City.

b. Present to the City the form of subcontract that will be used with the subcontractor for City's approval, which approval will not be unreasonably withheld. Such subcontract AGREEMENT must include an indemnity agreement that is generally in accord with the indemnity obligations contained in Section 11 of this Agreement and must specifically name the City as an indemnified party; and

c. Secure from the subcontractor evidence of insurance coverage that meets with this Agreement including naming the City as an additional insured as required by this Agreement, unless such requirement is waived in writing by the City.

16. NO BENEFIT TO ARISE TO CITY OFFICERS AND EMPLOYEES

No City officer, employee of City, or their designees or agents, and no public officer who exercises authority over or responsibilities with respect to the Services provided under the Agreement during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Services performed under this Agreement.

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17. CONFLICT OF INTEREST

CONTRACTOR shall at all times avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this Agreement, and shall comply with the City's conflict of interest code.

If City determines CONTRACTOR comes within the definition of Contractor under the Political Reform Act (Government Code §87100 et seq.), CONTRACTOR shall complete and file and shall require any other person performing Services under this Agreement to complete and file a "Statement of Economic Interest" with City disclosing CONTRACTOR's and/or such other person's financial interests.

18. NO WAIVER OF BREACH/TIME

The waiver by City of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement. Time is of the essence in carrying out the duties hereunder.

19. CONFIDENTIAL INFORMATION/RELEASE OF INFORMATION

a. All information gained by CONTRACTOR in performance of this Agreement shall be considered confidential and shall not be released by CONTRACTOR without City's prior written authorization. CONTRACTOR, its officers, employees, agents, or sub-contractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided CONTRACTOR gives City notice of such court order or subpoena.

b. CONTRACTOR shall promptly notify City should CONTRACTOR, its officers, employees, agents, or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the Services performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent CONTRACTOR and/or be present at any deposition, hearing, or similar proceeding. CONTRACTOR agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by CONTRACTOR. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

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20. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:
Daniel Gho
Public Works Director/Deputy City Manager
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

To CONTRACTOR:
Caroline D. Chapin
Executive Vice President
The Don Chapin Co., Inc
DBA Greenline Liquid Waste Haulers
1128 Madison Lane
Salinas, CA 93907

Notice is effective on the date of personal service, or 5 days following deposit in a United States mailbox, or date of postmark. The parties may agree to notice by email.

21. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in third parties.

22. ASSIGNMENT

CONTRACTOR shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City. Subject to the foregoing, all terms of the Agreement will be binding upon, enforceable by and inure to the benefit of the parties and their successors and assigns.

23. GOVERNING LAW

City and CONTRACTOR understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in Monterey County, or the federal district court with jurisdiction over the City. CONTRACTOR agrees not to commence or prosecute any

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dispute arising out of or in connection with this Agreement other than in the aforementioned courts and irrevocably consents to the exclusive personal jurisdiction and venue of the aforementioned courts.

24. DISPUTE RESOLUTION; ATTORNEY'S FEES

CONTRACTOR shall continue to perform under this Agreement during any dispute. CONTRACTOR and City hereby agree to make good faith efforts to resolve disputes as quickly as possible. In the event any dispute arising from or related to this Agreement results in litigation or arbitration, the prevailing party shall be entitled to recover all reasonable costs incurred, including court costs, attorney fees, expenses for expert witnesses (whether or not called to testify), expenses for accountants or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party, and shall not require initiation of a separate legal proceeding.

25. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of CONTRACTOR warrants and represents that they have the authority to execute this Agreement on behalf of the CONTRACTOR and the authority to bind CONTRACTOR to the performance of its obligations hereunder.

26. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to their obligations described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

27. AMENDMENT

a. Any modification or amendment to this Agreement must be in writing.

b. Neither City nor CONTRACTOR shall be deemed to have waived any obligation of the other, or to have agreed to any modification to this Agreement unless it is in writing, and signed by the party giving the waiver.

28. INTERPRETATION OF CONFLICTING PROVISIONS

In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control

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29. SEVERABILITY

If any term of this Agreement is held invalid by a court of competent jurisdiction or arbitrator the remainder of this Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF PACIFIC GROVE	CONTRACTOR
By: DocuSigned by: Daniel Gho 056C641716ED4E6...	By: DocuSigned by: Caroline Chapin D10923211F5048A...
Department Director	CONTRACTOR
Date: 8/3/2022	Date: 8/3/2022
By: DocuSigned by: Bill Peake 2E6F9DE48137414...	By: DocuSigned by: Tori Hannah 3B02FAB081E94DB...
City Manager or Mayor	City Administrative Services Department
Date: 8/9/2022	Date: 8/3/2022

Approved As To Form: DocuSigned by: Greg Rubens 22EB9D6BCF144BF...

City Attorney

8/9/2022

Date

Attachments:

Exhibit A	Scope of Services
Exhibit B	Payment Schedule
Exhibit C	Insurance Requirements
Exhibit D	Request for Proposal
Exhibit E	CONTRACTOR's Proposal

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Exhibit A

Scope of Work/Services

General Intent:
The Contractor shall perform sanitary sewer maintenance services to designated areas within the existing City limits as directed by the Director of Public Works or his/her designee. Sanitary sewer maintenance services include the cleaning and maintenance of City owned sanitary sewer pipelines and manholes as designated by the City and regular reporting to the City for the work completed by the Contractor.

A. The CONTRACTOR shall furnish all labor, materials, tools, personal protective equipment, and equipment necessary to clean sanitary sewer manholes & pipelines, and storm water infrastructure in a safe, timely and workmanlike manner. All equipment must be in a good state of repair and maintained in such good state during the progress of the work. No worn or obsolete equipment shall be used, and in no case shall the maker's rating capacity for any equipment be exceeded.

B. All work performed, methods, and equipment used shall be in conformance with the Prevailing State and Federal Occupational Safety and Health Act. Costs from delays and losses due to operations not in conformance to these acts, specifications, or stoppages by OSHA inspectors or the designated representative, because of non-conformance, shall be solely borne by the CONTRACTOR.

C. The CONTRACTOR shall be solely responsible for traffic and /or pedestrian control and protection of Public and Private Properties. The CONTRACTOR shall be Responsible for the protection of public and private property adjacent to the work site and shall exercise due caution to avoid damage to such property. The CONTRACTOR shall repair or replace all existing improvements within the adjacent work sites which are damaged or removed because of CONTRACTORS operations. If there is an accident, either vehicular, personal, or property damage, the City representative shall be immediately notified. CONTRACTOR shall furnish all traffic and/or pedestrian safety devise at their own expense.

D. All manholes shall be treated as confined spaces. The entry of manholes, for cleaning and inspection, shall be avoided when possible. Use of mechanical devices or equipment to remove material from pipelines and manholes should be utilized whenever possible. If entry to confined spaces is necessary, all Cal-OSHA and Title 8 requirements shall be followed. Contractor is required to operate and maintain his or her safety equipment and is responsible for all safety training for his or her crew. CONTRACTOR shall never leave an open maintenance hole unattended. The City may make unannounced inspections to ensure compliance with the safety requirements. If CONTRACTOR is deemed to be working in an unsafe manner by the City, the contract may be terminated.

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E. As a condition of compliance, the CONTRACTOR shall obtain the required permits for a meter to access to water from fire hydrants by Monterey Peninsula Water Management District (MPWMD) and Cal American Water (CalAm).

F. The CONTRACTOR and each subcontractor must have or obtain a valid City of Pacific Grove Business License in accordance to the City of Pacific Grove municipal code. Copies of all licenses shall be provided to the City's representative or Project Manager prior to commencing work.

Cleaning:

G. The CONTRACTOR shall be responsible for performing the cleaning of the entire sanitary sewer system and storm water infrastructure. The intent of sewer line cleaning is to remove all sludge, dirt, sand, rocks, grease, and other solids or semisolid material from the pipe. Sewer cleaning shall be performed with a hydraulically propelled high-velocity jet. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand and other materials and obstructions from the sewer lines and manholes. As a minimum, jetting of lines must be performed by pulling the high velocity spray nozzle in the direction opposite to the force created by the water pressure. The CONTRACTOR shall employ a debris trapping system or implement vacuuming in the outlet of the downstream manhole prior to cleaning any sewer line to contain all foreign materials in the manhole. The CONTRACTOR will remove all trapped materials from the manhole prior to removal from the system.

H. All Materials resulting from the sewer line cleaning shall be removed from the sewer lines and associated structures prior to moving to the next sewer line segment.

I. The CONTRACTOR shall report the quantity of debris removed from the debris trapping system for each segment of pipe cleaned in a manner and on a form acceptable to the Director of Public Works or his/her designee.

J. The CONTRACTOR may propose an alternate method of cleaning the sewer lines at no extra cost to the City, which City may approve or deny in its sole discretion. Such alternative method must be approved in writing by the City prior to implementation.

K. The CONTRACTOR shall use precautions to ensure that the water pressure created by the cleaning operations does not damage or cause flooding of public or private property. Also, CONTRACTOR shall take precautions in the use of cleaning equipment, so as to prevent damage to the existing pipe and manholes. The CONTRACTOR shall be Responsible for all costs involved in damage to public or private property through its Cleaning operation. Any damage to the pipe shall be repaired by the CONTRACTOR immediately at no cost to the City.

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L. The CONTRACTOR shall not dispose of or allow any liquid or solid waste from the sewer cleaning operation to enter the City's Storm drain system. All debris removed from the sanitary sewer system needs to be properly disposed of.

M. The designated Sanitary Sewer sections shall be cleaned using hydraulically propelled, high-velocity jet equipment. Selection of the equipment used shall be based on the conditions of the lines at the time the work commences. The equipment and methods selected shall be in accordance with industry and the City's best management practices. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand, and other materials and obstructions in the sewer lines and manholes. If cleaning of the entire section cannot be successfully performed from one manhole, then the equipment shall be set up at the upstream manhole and cleaning attempted again.

N. The following is a list of equipment that will not be allowed to be used:

A. Hydraulically Propelled Equipment: Sewer balls or movable dam

B. Mechanically Powered Equipment: Bucket machines

O. The following is a list of cleaning equipment that will be allowed, depending upon the application:

A. High-Velocity Hydraulic (Hydro-Cleaning) Equipment: All High-Velocity Sewer Cleaning Equipment shall be constructed for ease and safety of operation. The equipment shall be operated at the industry standard for proper cleaning of the City's sanitary sewer lines. All equipment manufactures recommendations for PSI and gallons per minute need to be followed. The nozzles shall be capable of producing a scouring action, in the lines designated to be cleaned, to remove debris and sand from the flow line. Equipment shall also include a high-velocity jetter for washing and scouring manhole walls and floors. The jetter shall be capable of producing flows from a fine spray to a solid stream. The equipment shall carry a nominal 1000 gallon minimum water tank, auxiliary engines, pumps, and hydraulically driven hose reel. The equipment shall have a minimum of 650 feet of high-pressure hose.

B. Root Removal Equipment: Hydraulic or mechanical driven cutters may be used as necessary to remove root intrusion. Chain flail nozzles and warthog type nozzles may be used for root removal.

c. CONTRACTOR must provide City with a list of equipment to be used for sanitary sewer and storm water infrastructure cleaning. All equipment that is to be used for cleaning needs to be presented to the City with manufactures recommended PSI and GPM.

P. In the instance that the Contractors equipment becomes lodged in the sewer lines, the CONTRACTOR will notify the City as soon as possible, and take all necessary steps for removal. The CONTRACTOR shall take precautions when removal occurs not to damage the sewer lines, system or cause an overflow. If the equipment must be

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removed by excavation of the sewer line, the CONTRACTOR will be responsible for all cost incurring for the retrieval of the equipment.

Q. THE CONTRACTOR is solely responsible if the CONTRACTOR's cleaning causes a sewer overflow. The CONTRACTOR shall immediately mitigate the situation and contact the City. The CONTRACTOR shall implement the City's overflow emergency response plan. CONTRACTOR shall within 24 hours from the occurrence, submit to the City representative a written report describing the following.

- Location of Spill
- Type of remedial/ clean up measures
- Duration
- Cause
- Corrective/ Preventative actions
- Impacted water bodies

R. Contractor shall describe routine preventive operation and maintenance activities, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders.

S. Provide equipment and replacement part inventories, including identification of critical replacement parts.

T. Emergency Callouts: The CONTRACTOR shall be available for emergency callouts. Emergency response and deployment of staff and equipment shall be on scene within one half hour of notification. Proposal shall identify staffing availability for emergency response, distance of travel and equipment to demonstrate that this response time can be met. The Contractor shall supply the City project manager with the name(s), and telephone number(s) of responsible person(s) representing the Contractor for twenty-four (24) hour, seven (7) days a week emergency response. This information shall remain current at all times. Any changes shall be forwarded to the City's project manager in writing. The Contractor shall delivery this information at the time when initial bonds and certificates of insurance are received. All procedures for emergency callouts will be consistent with the City's Sewer System Management Plan, Element 6. Hourly rates for staff and equipment responding to emergency call outs shall be specified, if different from other hourly rate schedule.

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Exhibit B

Payment Schedule

Invoices shall be submitted to the City Monthly for services provided. Costs for maintenance tasks, call outs, and emergency work rates are provided below.

Maintenance Tasks	
Task	**Cost**
Hydro-Flush Sanitary Sewer Line	$ 1.07 per Linear Foot
Hydro-Flush Sanitary Sewer Line with Root Removal	$ 1.37 per Linear Foot
Vacuum Truck	$ 275 per hour
Unloading Fee	$ 0.16 per gallon

Overtime Call-Out & Emergency Work Hourly Rates	
Classification	**Cost**
Overtime	$ 325/hour (4 hour minimum) $ 400/hour double time (4 hour minimum)
Holiday	$ 400/hour (4 hour minimum)

As noted in the agreement, the total contract amount shall not exceed $350,000 per fiscal year.

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Exhibit C

Insurance Specifications

General liability insurance. CONTRACTOR shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. CONTRACTOR shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the CONTRACTOR arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident.

Umbrella or excess liability insurance. [Optional depending on limits required] CONTRACTOR shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Workers' compensation insurance. CONTRACTOR shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000).

CONTRACTOR shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

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Other provisions or requirements

Proof of insurance. CONTRACTOR shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by CONTRACTOR, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by CONTRACTOR shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by CONTRACTOR or City will withhold amounts sufficient to pay premium from CONTRACTOR payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, employees and volunteers or shall specifically allow CONTRACTOR or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONTRACTOR hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

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Enforcement of contract provisions (non estoppel). CONTRACTOR acknowledges and agrees that any actual or alleged failure on the part of the City to inform CONTRACTOR of non-compliance with any requirement imposes no additional obligations on the AGENCY nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the CONTRACTOR maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. CONTRACTOR agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. CONTRACTOR agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the project who is brought onto or involved in the project by CONTRACTOR, provide the same minimum insurance coverage and endorsements required of CONTRACTOR. CONTRACTOR agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONTRACTOR agrees that upon request, all AGREEMENTS with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

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Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the CONTRACTOR ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONTRACTOR, the City and CONTRACTOR may renegotiate CONTRACTOR's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

Timely notice of claims. CONTRACTOR shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from CONTRACTOR's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONTRACTOR shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

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VERIFICATION OF CALIFORNIA CONTRACTOR'S LICENSE

I certify, under penalty of perjury, that I have a valid California Contractor's license issued pursuant to Business and Professions Code section 7000 and following, and was so licensed at the time that the bid was awarded:

California Contractor's License:

406512	A, B, C21, C42, HAZ	6/30/23
License Number	Class	Expiration Date

The Don Chapin Company, Inc.

CONTRACTOR (PRINT OR TYPE)

8/3/2022

Date

DocuSigned by:
Caroline Chapin
D10923211E5048A...

Signature

(Public Contract Code § 6100)

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CERTIFICATE REGARDING WORKERS' COMPENSATION

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Caroline Chapin

Name (print or type)

8/3/2022

Date

DocuSigned by:
Caroline Chapin
D10923211F5048A...

Signature

CERTIFICATE REGARDING DEPARTMENT OF INDUSTRIAL RELATIONS CONTRACTOR REGISTRATION

I certify, under penalty of perjury, that Contractor is registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor's Department of Industrial Relations registration number is 1000001363.

Caroline Chapin Executive Vice President

Name & Title (print or type)

8/3/2022

Date

DocuSigned by:
Caroline Chapin
D10923211E5048A...

Signature

(Labor Code section 1725.5)

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LIST OF SUBCONTRACTORS

WORK IDENTIFICATION:

NO SUBCONTRACTORS WILL PERFORM WORK

NAME AND ADDRESS OF BIDDER: _____

_____

Name/Address/Phone No./State License Number of Subcontractor/City of Pacific Grove Business License Number	Department of Industrial Relations Registration Number*	Items of Work	Portion of Work (% of Contract Price)
		% of Total Contract Price by Subcontract	
		% of Total Contract Price by Contractor	

*Pursuant to Division 2, Part 7, Chapter 1, (commencing with section 1720 including section 1725.5) of the Labor Code

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EXHIBIT D

REQUEST FOR PROPOSALS

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CITY OF PACIFIC GROVE

DEPARTMENT OF PUBLIC WORKS

NOTICE INVITING SEALED BIDS FOR SANITARY SEWERS MAINTENANCE SERVICES

The City of Pacific Grove invites sealed bids for sanitary sewers maintenance services.

All bids submitted shall meet the following terms and conditions:

1. Bids shall be delivered to the office of the Public Works Corporation Yard, 2100 Sunset Drive, Pacific Grove, CA 93950, not later than 2:00 PM on Wednesday, June 22, 2022, at which hour and date all bids will be publicly opened. Bids shall be submitted in a sealed envelope, and the outside of the envelope shall be clearly marked, "SANITARY SEWER MAINTENANCE SERVICES". It is sole responsibility of the bidder to see that his bid is received in proper time. Any bids received after the scheduled closing time will be rejected.

2. Any bidder may withdraw his or her bid, by written request at any time prior to the scheduled closing time for receipt of bids, but no bidder may withdraw his or her bid for a period of thirty (30) days after the opening thereof.

3. All bids submitted shall include a completed "Proposal", identifying unit costs. The work performed under this contract must conform to requirements of the project plans and specifications, which are included in the bidder package.

4. The contract will be awarded to the lowest responsible bidder (as defined in the City purchasing regulations) whose work, in the opinion of the City Council will best meet the requirements of the City of Pacific Grove. It is clearly understood by all bidders that said Council reserves the right to reject any and all bids and to waive informalities in said bids.

5. No contractor or subcontractor may be listed on a bid proposal or awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

6. In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the current prevailing wages in Monterey County, California, as determined by the Director of the California Department of Industrials Relations as required to be paid to mechanics and laborers, employed directly upon the site of the work.

7. A Bidder's Package, including a bidder specification, special requirements and a sample contract may be viewed and an electronic copy can be obtained at the City Clerk's Office, located at 300 Forest Avenue, Pacific Grove, CA, 93950, (831) 648- 3181.

8. The contact person for technical questions concerning project specifications, the bid process and general project information should be directed to Joyce Halabi, City of Pacific Grove Deputy Public Works Director via e-mail at jhalabi@cityofpacificgrove.org or by phone at (831) 648-5722.

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Dated: 6/1/2022

DocuSigned by:
Daniel Gho
056C641716ED4E6...

Daniel Gho, Public Works Director

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CITY OF PACIFIC GROVE
INVITATION TO SUBMIT PROPOSALS

PUBLIC WORKS PROPOSALS FOR SANITARY SEWER MAINTENANCE SERVICES

The City of Pacific Grove is accepting proposals from qualified firms for SANITARY SEWER MAINTENANCE SERVICES.

If you or your firm has experience in Sanitary Sewer Maintenance we invite you to respond to our Request for Proposals (RFP). Should you have any questions concerning this process, please contact Joyce Halabi, Deputy Public Works Director at 831-648-5722, or jhalabi@cityofpacificgrove.org.

RFP ISSUE DATE:

PROPOSAL DUE DATE & TIME: Wednesday, June 22, 2022 at 2:00 pm

1. INTRODUCTION

The City of Pacific Grove (City) is seeking proposals from qualified firms to provide maintenance of the City's sanitary sewer mains and manholes. Minimum requirements of proposer and detailed description of required services are included in Section 3, Scope of Services.

2. BACKGROUND AND DESCRIPTION OF PROJECT

The City of Pacific Grove's sanitary sewer collection system includes pipelines ranging in size from 4" to 18" in diameter and approximately 59 miles (314,435 linear feet) of sanitary sewer line comprised of various materials, including but not limited to: vitrified clay (VCP), reinforced concrete (RCP), and polyvinyl chloride (PVC), cast iron (CI) pipes and approximately 900 manholes.

ATTACHMENTS:

1. PG Sewer Aerial Drain Field Photo attached.

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The selected firm will be responsible for maintenance services for the City of Pacific Grove's sanitary sewer mains and storm water infrastructure. The objective is to comply with operations and maintenance requirements of the State Water Quality Control Board (SWQCB) Statewide General Waste Discharge Requirements (WDR), Order No. 2006-0003-DWQ, and the WQ 2008-0002-EXEC, as described and included in the City's Sewer System Management Plan. Additional objectives include following best management practices, ensuring public safety throughout the City, and vigilant protection of the environment while hydro-flush cleaning of all City main sewer lines.

In addition, these services include compliance with the storm drain maintenance requirements as required by State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 Waste Discharge Requirements (WDRs) For Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit) and the Pacific Grove storm water management program.

The work to be done under this contract consists of cleaning of City sanitary sewer mains, removal of tree roots in various locations throughout the City, as directed by the Project Manager. The work shall also include the removal and disposal of tree roots, solids, sludge, grit, grease, sand, pieces of broken pipe and any other debris from the sanitary sewer lines and sanitary manholes. Sewer mains shall remain in service during the cleaning process. There shall be no by-pass pumping allowed, or any other method which disrupts the flow without expressed written permission from the Project Manager.

3. SCOPE OF SERVICES

General Intent:
The Contractor shall perform sanitary sewer maintenance services to designated areas within the existing City limits as directed by the Director of Public Works or his/her designee. Sanitary sewer maintenance services include the cleaning and maintenance of City owned sanitary sewer pipelines and manholes as designated by the City and regular reporting to the City for the work completed by the Contractor.

A. The CONTRACTOR shall furnish all labor, materials, tools, personal protective equipment and equipment necessary to clean sanitary sewer manholes & pipelines, and storm water infrastructure in a safe, timely and workmanlike manner. All equipment must be in a good state of repair and maintained in such good state during the progress of the work. No worn or obsolete equipment shall be used, and in no case shall the maker's rating capacity for any equipment be exceeded.

B. All work performed, methods, and equipment used shall be in conformance with the Prevailing State and Federal Occupational Safety and Health Act. Costs from delays and losses due to operations not in conformance to these acts,

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specifications, or stoppages by OSHA inspectors or the designated representative, as a result of non-conformance, shall be solely borne by the CONTRACTOR.

C. The CONTRACTOR shall be solely responsible for traffic and /or pedestrian control and protection of Public and Private Properties. The CONTRACTOR shall be Responsible for the protection of public and private property adjacent to the work site and shall exercise due caution to avoid damage to such property. The CONTRACTOR shall repair or replace all existing improvements within the adjacent work sites which are damaged or removed as a result of CONTRACTORS operations. In the event that there is an accident, either vehicular, personal, or property damage, the City representative shall be immediately notified. CONTRACTOR shall furnish all traffic and/or pedestrian safety devise at their own expense.

D. All manholes shall be treated as confined spaces. The entry of manholes, for cleaning and inspection, shall be avoided when possible. Use of mechanical devices or equipment to remove material from pipelines and manholes should be utilized whenever possible. If entry to confined spaces is necessary, all Cal-OSHA and Title 8 requirements shall be followed. Contractor is required to operate and maintain his or her safety equipment and is responsible for all safety training for his or her crew. CONTRACTOR shall never leave an open maintenance hole unattended. The City may make unannounced inspections to ensure compliance with the safety requirements. If CONTRACTOR is deemed to be working in an unsafe manner by the City, the contract may be terminated.

E. As a condition of compliance the CONTRACTOR shall obtain the required permits for a meter to access to water from fire hydrants by Monterey Peninsula Water Management District (MPWMD) and Cal American Water (CalAm).

F. The CONTRACTOR and each subcontractor must have or obtain a valid City of Pacific Grove Business License in accordance to the City of Pacific Grove municipal code. Copies of all licenses shall be provided to the City's representative or Project Manager prior to commencing work.

Cleaning:

G. The CONTRACTOR shall be responsible for performing the cleaning of the entire sanitary sewer system and storm water infrastructure. The intent of sewer line cleaning is to remove all sludge, dirt, sand, rocks, grease, and other solids or semisolid material from the pipe. Sewer cleaning shall be performed with a hydraulically propelled high-velocity jet. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand and other materials and obstructions from the sewer lines and manholes. As a minimum, jetting of lines must be performed by pulling the high velocity spray nozzle in the direction opposite to the force created by the water pressure. The CONTRACTOR shall employ a debris trapping system or implement vacuuming in the outlet of the downstream

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manhole prior to cleaning any sewer line to contain all foreign materials in the manhole. The CONTRACTOR will remove all trapped materials from the manhole prior to removal from the system.

H. All Materials resulting from the sewer line cleaning shall be removed from the sewer lines and associated structures prior to moving to the next sewer line segment.

I. The CONTRACTOR shall report the quantity of debris removed from the debris trapping system for each segment of pipe cleaned in a manner and on a form acceptable to the Director of Public Works or his/her designee.

J. The CONTRACTOR may propose an alternate method of cleaning the sewer lines at no extra cost to the City, which City may approve or deny in its sole discretion. Such alternative method must be approved in writing by the City prior to implementation.

K. The CONTRACTOR shall use precautions to ensure that the water pressure created by the cleaning operations does not damage or cause flooding of public or private property. Also, CONTRACTOR shall take precautions in the use of cleaning equipment, so as to prevent damage to the existing pipe and manholes. The CONTRACTOR shall be Responsible for all costs involved in damage to public or private property through its Cleaning operation. Any damage to the pipe shall be repaired by the CONTRACTOR immediately at no cost to the City.

L. The CONTRACTOR shall not dispose of or allow any liquid or solid waste from the sewer cleaning operation to enter the City's Storm drain system. All debris removed from the sanitary sewer system needs to be properly disposed of.

M. The designated Sanitary Sewer sections shall be cleaned using hydraulically propelled, high-velocity jet equipment. Selection of the equipment used shall be based on the conditions of the lines at the time the work commences. The equipment and methods selected shall be in accordance with industry and the City's best management practices. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand, and other materials and obstructions in the sewer lines and manholes. If cleaning of the entire section cannot be successfully performed from one manhole, then the equipment shall be set up at the upstream manhole and cleaning attempted again.

N. The following is a list of equipment that will not be allowed to be used:
   a. Hydraulically Propelled Equipment: Sewer balls or movable dam
   b. Mechanically Powered Equipment: Bucket machines

O. The following is a list of cleaning equipment that will be allowed, depending upon the application:

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a. High-Velocity Hydraulic (Hydro-Cleaning) Equipment: All High-Velocity Sewer Cleaning Equipment shall be constructed for ease and safety of operation. The equipment shall be operated at the industry standard for proper cleaning of the City's sanitary sewer lines. All equipment manufactures recommendations for PSI and gallons per minute need to be followed. The nozzles shall be capable of producing a scouring action, in the lines designated to be cleaned, to remove debris and sand from the flow line. Equipment shall also include a high-velocity jetter for washing and scouring manhole walls and floors. The jetter shall be capable of producing flows from a fine spray to a solid stream. The equipment shall carry a nominal 1000 gallon minimum water tank, auxiliary engines, pumps, and hydraulically driven hose reel. The equipment shall have a minimum of 650 feet of high-pressure hose.
b. Root Removal Equipment: Hydraulic or mechanical driven cutters may be used as necessary to remove root intrusion. Chain flail nozzles and warthog type nozzles may be used for root removal.
c. CONTRACTOR must provide City with a list of equipment to be used for sanitary sewer and storm water infrastructure cleaning. All equipment that is to be used for cleaning needs to be presented to the City with manufactures recommended PSI and GPM.

P. In the instance that the Contractors equipment becomes lodged in the sewer lines, the CONTRACTOR will notify the City as soon as possible, and take all necessary steps for removal. The CONTRACTOR shall take precautions when removal occurs not to damage the sewer lines, system or cause an overflow. If the equipment must be removed by excavation of the sewer line, the CONTRACTOR will be responsible for all cost incurring for the retrieval of the equipment.

Q. THE CONTRACTOR is solely responsible if the CONTRACTOR's cleaning causes a sewer overflow. The CONTRACTOR shall immediately mitigate the situation and contact the City. The CONTRACTOR shall implement the City's overflow emergency response plan. CONTRACTOR shall within 24 hours from the occurrence, submit to the City representative a written report describing the following.
- Location of Spill
- Type of remedial/ clean up measures
- Duration
- Cause
- Corrective/ Preventative actions
- Impacted water bodies

R. Contractor shall describe routine preventive operation and maintenance activities, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at

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known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders;

S. Provide equipment and replacement part inventories, including identification of critical replacement parts.

T. **Emergency Callouts**: The CONTRACTOR shall be available for emergency callouts. Emergency response and deployment of staff and equipment shall be on scene within one half hour of notification. Proposal shall identify staffing availability for emergency response, distance of travel and equipment to demonstrate that this response time can be met. The Contractor shall supply the City project manager with the name(s), and telephone number(s) of responsible person(s) representing the Contractor for twenty-four (24) hour, seven (7) days a week emergency response. This information shall remain current at all times. Any changes shall be forwarded to the City's project manager in writing. The Contractor shall delivery this information at the time when initial bonds and certificates of insurance are received. All procedures for emergency callouts will be consistent with the City's Sewer System Management Plan, Element 6. Hourly rates for staff and equipment responding to emergency call outs shall be specified, if different from other hourly rate schedule.

4. REQUIREMENTS OF PROPOSERS/EVALUATION

City staff will evaluate proposal submissions. The City reserves the right to interview prospective Contractors prior to making its selection. The City also reserves the right to rely on information from sources other than the information provided by the respondents.

The City may seek written clarification from any or all proposers in order to better understand and evaluate the proposed solution. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original proposal.

EVALUATION PROCESS

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. Evaluation criteria will include such considerations as:

a) Understanding of the background and requirements of the project;
b) The approach to be followed and the tasks to be performed, including detailed steps and resources required;
c) The education and specific experience of the project team to be assigned and the organization chart;
d) Understanding of the best management practices (BMP) that can be utilized to analyze and minimize impacts to the environment, public safety, and achieving maintenance goals and requirements.

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e) Overall project cost will be considered, but not be the sole factor used for rankings.

5. SUBMISSION INSTRUCTIONS

GENERAL
The proposer is responsible for making all necessary investigations and examinations of documents, operations, and premises affecting full performance. Failure to do so will not relieve the proposer from any terms and conditions of the proposal documents. The proposal submission will be considered conclusive evidence that the proposer has made such an examination.

Please read the instructions carefully and check your RFP package immediately upon receipt to ensure that you have in your possession all of the necessary documents, copies of which are on file for reference and may be obtained from the City Clerk's Office at:

Pacific Grove City Hall
300 Forest Avenue
Pacific Grove, CA 93950
831 648-3181/3106

Should you find a discrepancy in or any portions omitted from said documents, or have questions as to their meaning, please notify Joyce Halabi, Deputy Public Works Director at 831-648-5722, or jhalabi@cityofpacificgrove.org. The City of Pacific Grove will not be bound by any oral statements or representations.

PROPOSAL FORMAT
Response to the criteria below may be no longer than 10 pages total. Any cover letters, additional materials, and required Attachments listed below will not be counted in this total. However, please limit additional materials to no more than 20 pages.

The proposal package must include:
1. An original of the entire proposal, including all original ink signatures.
2. One (1) complete copy of the entire proposal, labeled "Copy."
3. One electronic version on a USB drive

Selection Process and Evaluation Criteria, each prospective consultant shall submit a proposal in accordance with the requirements as listed and in the same order as below:

TITLE PAGE
Title page must include the name of the proposed business entity and the name, address and telephone number of one contact person. All correspondence from the City to proposer will be with one contact person. The individual designated as the contact person will be responsible for disseminating information to the other members of the business entity.

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EXPERIENCE AND QUALIFICATIONS
Describe your firm's history, resources, and capabilities. Indicate key personnel that you will agree to commit to City of Pacific Grove projects if awarded a contract, including name and qualifications of the proposed staff. Indicate applicable licenses, credentials, and professional training held by the firm principal(s) and key personnel.

Any Sub-Consultant that your firm may intend to use for City projects must be pre-approved first by the City. Should your firm propose to engage the services of a sub-consultant provide the firm's name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFP.

PRICING/HOURLY RATE
Proposal shall include all services requested under section 3, scope of services. Proposer shall evaluate this RFP and develop a services proposal for all items, and also include an individual cost per linear foot for Hydro services of the Sanitary Sewer Lines.

Wages - In accordance with the provisions of California Labor Code
Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the general prevailing rate of wages in the County in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. These wage rates appear in the California Department of Industrial Relations publication entitled General Prevailing Wage Rates. Interested parties can obtain the current wage information by submitting their requests to the Department of Industrial Relations, Division of Labor Statistics and Research, P.O. Box 42603, San Francisco CA 94142, or on the World Wide Web at http:/www.dir.ca.gov. The rates at the time of the bid advertisement date of a project will remain in effect for the life of the project in accordance with the California Code of Regulations, as modified and effective.

REFERENCES
Three clients for which the proposer has provided services within the past five (5) years, similar to those identified in this RFP. The City of Pacific Grove reserves the right to contact any reference or any client listed in the documents for information which may be helpful to the City in evaluating the Contractor's performance on previous assignments

INSURANCE
Types and limits of the firm's insurance. Insurance requirements are described in the City's professional services agreement:
https://www.cityofpacificgrove.org/how_do_i/find_search_for/forms.php#outer-528

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INDEMIFICATION

The CONTRACTOR shall protect indemnify and save harmless the CITY, the CITY'S officers, officials, and employees and agents against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify and save harmless the CITY and its officers, officials, employees and agents from any claims, demands, suits, actions or proceedings of any kind or nature, including Worker's Compensation claims, of or by anyone whomsoever, arising out of or as a result of any negligent, tortuous or deliberate act, error or omission on the part of the contractor or other whose services are engaged by the contractor or anyone employed or controlled by either of them in the performance of the work provided for in this contract.

The entire package must be placed in a sealed envelope labeled "SANITARY SEWERS AND STORM WATER MAINTENANCE SERVICES." Said package must have the name and address of the proposer on the outside and be mailed or delivered to:

Joyce Halabi, Deputy Public Works Director
City of Pacific Grove
2100 Sunset Drive
Pacific Grove, CA 93950
Phone 831-648-5722

No Later Than: 2:00 pm, June 22, 2022

It is the proposer's sole responsibility to submit the proposal on time. Proposals which are received after the exact time and date indicated above will not be considered. Proposals will remain confidential in their entirety until City evaluation and analysis is complete and a recommendation of award has been submitted to the City Council.

The technical point of contact for this project is Joyce Halabi, Deputy Public Works Director; he can be contacted by e-mail jhalabi@cityofpacificgrove.org or by phone 831-648-5722. Clarifying questions are encouraged as we believe these will add to the quality of the proposals. All additional questions received and the City's response will be posted on the City website at http://www.cityofpacificgrove.org

Final award shall be contingent upon selected firm (Contractor) accepting Terms and Conditions in substantial conformity to the terms listed in this RFP.

CITY OF PACIFIC GROVE DISCRETION AND NON-LIABILITY

It should be noted that all the material, exhibits, and data presented in this request for proposal and supplemental information is general in nature and shall not be deemed as representations or inducements to which the City is bound. Proposers are advised to conduct independent evaluations of all factual, financial, and legal matters upon which their proposal is based

GENERAL CONDITIONS

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a) The City reserves the right to reject any and all proposals, to waive any informality, to request interviews of Contractor(s) prior to award and to select and negotiate the Contract services in the best interest of the City.

b) The Contractor shall guarantee to perform the services offered and the total price of the proposal for a period of not less than 60 days from the deadline for submission of proposals.

c) The City reserves the right to accept all or part of any proposal, and to negotiate a contract for services and cost with the selected Contractor.

d) The Contractor shall provide all necessary personnel, materials and equipment to perform and complete all work under this proposal.

e) The Contractor shall be unbiased and vendor neutral.

f) The City intends to recommend award of a contract to the City Council for the requested services within two (2) month of receipt of the proposals. The Contractor shall be prepared to commence work immediately upon execution of a contract with the City.

g) Unless otherwise stated, invoices are to be submitted to the Public Works Department division upon delivery of service to the City. The invoice must include an itemization of all services provided, including unit list price, net price, extensions total amount(s) due, and amounts previously paid.

h) Unless otherwise stated, payment will be made within thirty (30) days of the completion of the service, in an acceptable fashion, to the City and receipt of invoice, whichever is later.

i) This contract will be for the services described in the RFP response; however, this agreement should not be considered exclusive. As deemed necessary, the City reserves the right to obtain these services from any other vendor.

j) Unless otherwise specified all costs listed are firm for the term of the contract.

k) Neither party shall be liable for any inability to perform its obligations under any subsequent agreement due to war, riot, insurrection, civil commotion, fire, flood, earthquake, storm or other act of God.

l) Notification of the parties shall be considered to have been constructively received when it is mailed via the United States Postal Service or delivered in hand to the parties as stated in the contract.

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m) Proposal shall also mean quotation, bid, offer, qualification/experience statement, and services. Proposers shall also mean vendors, proposers, bidders, or any person or firm responding to a Request for Information.

n) All contracts entered into by the City of Pacific Grove shall be governed by the Laws of the State of California. Any disputes shall be resolved within the venue of the State of California.

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Proposal Title Sheet for City of Pacific Grove Sewer Cleaning Services

Date: _____

I/We _____ the undersigned, do hereby propose to furnish the City of Pacific Grove, California, a Sewer Cleaning Services Proposal, in accordance with all terms and specifications contained herein:

Attach one (1) copy of your proposal package.

Name of Firm: _____

Signature & Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Contractor shall answer to the following questions by circling the appropriate response or completing the blank provided:

COMPANY PROFILE:
Is your firm? (Please circle one)

a) Sole Proprietorship YES NO

b) Partnership YES NO

c) Corporation YES NO

List Legal names of the Company: _____

DIR Public Works Contractor Registration #:_____

Total Number of Employees: _____

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References: List at least three (3) municipalities of same general size and billing numbers and frequency where the same/similar services, as stated herein, have been provided.

1.

Municipality Name

Contact Person Title

Address/P.O. Box City State Zip

Phone Number Fax Number

2.

Municipality Name

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

3.

Municipality Name

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

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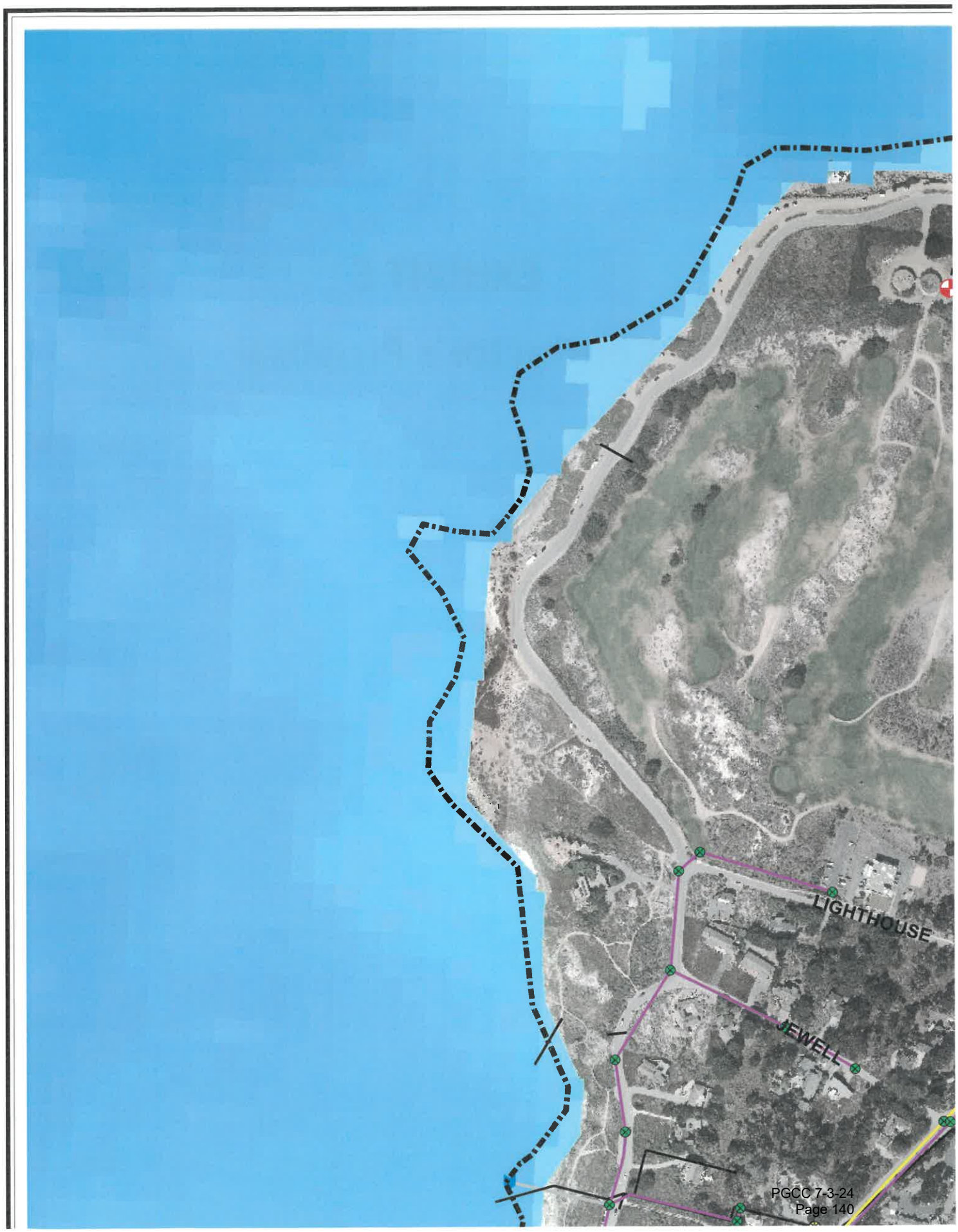
PRICING PROPOSAL

Task	Cost
Hydro-Flush Sanitary Sewer Line	$ per Linear Foot
Hydro-Flush Sanitary Sewer Line with Root Removal	$ per Linear Foot
Vacuum Truck	$ per hour
Unloading Fee	$ per gallon

Overtime Call-Out & Emergency Work Hourly Rates

Classification	Cost per hour
Overtime	$
Holiday	$

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EXHIBIT E

Contractor's Proposal

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CITY OF PACIFIC GROVE
INVITATION TO SUBMIT PROPOSALS

PUBLIC WORKS PROPOSALS FOR SANITARY SEWER MAINTENANCE SERVICES

The City of Pacific Grove is accepting proposals from qualified firms for SANITARY SEWER MAINTENANCE SERVICES.

If you or your firm has experience in Sanitary Sewer Maintenance we invite you to respond to our Request for Proposals (RFP). Should you have any questions concerning this process, please contact Joyce Halabi, Deputy Public Works Director at 831-648-5722, or jhalabi@cityofpacificgrove.org.

RFP ISSUE DATE:

PROPOSAL DUE DATE & TIME: Wednesday, June 22, 2022 at 2:00 pm

1. INTRODUCTION

The City of Pacific Grove (City) is seeking proposals from qualified firms to provide maintenance of the City's sanitary sewer mains and manholes. Minimum requirements of proposer and detailed description of required services are included in Section 3, Scope of Services.

2. BACKGROUND AND DESCRIPTION OF PROJECT

The City of Pacific Grove's sanitary sewer collection system includes pipelines ranging in size from 4" to 18" in diameter and approximately 59 miles (314,435 linear feet) of sanitary sewer line comprised of various materials, including but not limited to: vitrified clay (VCP), reinforced concrete (RCP), and polyvinyl chloride (PVC), cast iron (CI) pipes and approximately 900 manholes.

ATTACHMENTS:

1. PG Sewer Aerial Drain Field Photo attached.

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The selected firm will be responsible for maintenance services for the City of Pacific Grove's sanitary sewer mains and storm water infrastructure. The objective is to comply with operations and maintenance requirements of the State Water Quality Control Board (SWQCB) Statewide General Waste Discharge Requirements (WDR), Order No. 2006-0003-DWQ, and the WQ 2008-0002-EXEC, as described and included in the City's Sewer System Management Plan. Additional objectives include following best management practices, ensuring public safety throughout the City, and vigilant protection of the environment while hydro-flush cleaning of all City main sewer lines.

In addition, these services include compliance with the storm drain maintenance requirements as required by State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 Waste Discharge Requirements (WDRs) For Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit) and the Pacific Grove storm water management program.

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B. All work performed, methods, and equipment used shall be in conformance with the Prevailing State and Federal Occupational Safety and Health Act. Costs from delays and losses due to operations not in conformance to these acts,

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specifications, or stoppages by OSHA inspectors or the designated representative, as a result of non-conformance, shall be solely borne by the CONTRACTOR.

C. The CONTRACTOR shall be solely responsible for traffic and /or pedestrian control and protection of Public and Private Properties. The CONTRACTOR shall be Responsible for the protection of public and private property adjacent to the work site and shall exercise due caution to avoid damage to such property. The CONTRACTOR shall repair or replace all existing improvements within the adjacent work sites which are damaged or removed as a result of CONTRACTORS operations. In the event that there is an accident, either vehicular, personal, or property damage, the City representative shall be immediately notified. CONTRACTOR shall furnish all traffic and/or pedestrian safety devise at their own expense.

D. All manholes shall be treated as confined spaces. The entry of manholes, for cleaning and inspection, shall be avoided when possible. Use of mechanical devices or equipment to remove material from pipelines and manholes should be utilized whenever possible. If entry to confined spaces is necessary, all Cal-OSHA and Title 8 requirements shall be followed. Contractor is required to operate and maintain his or her safety equipment and is responsible for all safety training for his or her crew. CONTRACTOR shall never leave an open maintenance hole unattended. The City may make unannounced inspections to ensure compliance with the safety requirements. If CONTRACTOR is deemed to be working in an unsafe manner by the City, the contract may be terminated.

E. As a condition of compliance the CONTRACTOR shall obtain the required permits for a meter to access to water from fire hydrants by Monterey Peninsula Water Management District (MPWMD) and Cal American Water (CalAm).

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manhole prior to cleaning any sewer line to contain all foreign materials in the manhole. The CONTRACTOR will remove all trapped materials from the manhole prior to removal from the system.

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I. The CONTRACTOR shall report the quantity of debris removed from the debris trapping system for each segment of pipe cleaned in a manner and on a form acceptable to the Director of Public Works or his/her designee.

J. The CONTRACTOR may propose an alternate method of cleaning the sewer lines at no extra cost to the City, which City may approve or deny in its sole discretion. Such alternative method must be approved in writing by the City prior to implementation.

K. The CONTRACTOR shall use precautions to ensure that the water pressure created by the cleaning operations does not damage or cause flooding of public or private property. Also, CONTRACTOR shall take precautions in the use of cleaning equipment, so as to prevent damage to the existing pipe and manholes. The CONTRACTOR shall be Responsible for all costs involved in damage to public or private property through its Cleaning operation. Any damage to the pipe shall be repaired by the CONTRACTOR immediately at no cost to the City.

L. The CONTRACTOR shall not dispose of or allow any liquid or solid waste from the sewer cleaning operation to enter the City's Storm drain system. All debris removed from the sanitary sewer system needs to be properly disposed of.

M. The designated Sanitary Sewer sections shall be cleaned using hydraulically propelled, high-velocity jet equipment. Selection of the equipment used shall be based on the conditions of the lines at the time the work commences. The equipment and methods selected shall be in accordance with industry and the City's best management practices. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand, and other materials and obstructions in the sewer lines and manholes. If cleaning of the entire section cannot be successfully performed from one manhole, then the equipment shall be set up at the upstream manhole and cleaning attempted again.

N. The following is a list of equipment that will not be allowed to be used:
   a. Hydraulically Propelled Equipment: Sewer balls or movable dam
   b. Mechanically Powered Equipment: Bucket machines

O. The following is a list of cleaning equipment that will be allowed, depending upon the application:

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a. High-Velocity Hydraulic (Hydro-Cleaning) Equipment: All High-Velocity Sewer Cleaning Equipment shall be constructed for ease and safety of operation. The equipment shall be operated at the industry standard for proper cleaning of the City's sanitary sewer lines. All equipment manufactures recommendations for PSI and gallons per minute need to be followed. The nozzles shall be capable of producing a scouring action, in the lines designated to be cleaned, to remove debris and sand from the flow line. Equipment shall also include a high-velocity jetter for washing and scouring manhole walls and floors. The jetter shall be capable of producing flows from a fine spray to a solid stream. The equipment shall carry a nominal 1000 gallon minimum water tank, auxiliary engines, pumps, and hydraulically driven hose reel. The equipment shall have a minimum of 650 feet of high-pressure hose.
b. Root Removal Equipment: Hydraulic or mechanical driven cutters may be used as necessary to remove root intrusion. Chain flail nozzles and warthog type nozzles may be used for root removal.
c. CONTRACTOR must provide City with a list of equipment to be used for sanitary sewer and storm water infrastructure cleaning. All equipment that is to be used for cleaning needs to be presented to the City with manufactures recommended PSI and GPM.

P. In the instance that the Contractors equipment becomes lodged in the sewer lines, the CONTRACTOR will notify the City as soon as possible, and take all necessary steps for removal. The CONTRACTOR shall take precautions when removal occurs not to damage the sewer lines, system or cause an overflow. If the equipment must be removed by excavation of the sewer line, the CONTRACTOR will be responsible for all cost incurring for the retrieval of the equipment.

Q. THE CONTRACTOR is solely responsible if the CONTRACTOR's cleaning causes a sewer overflow. The CONTRACTOR shall immediately mitigate the situation and contact the City. The CONTRACTOR shall implement the City's overflow emergency response plan. CONTRACTOR shall within 24 hours from the occurrence, submit to the City representative a written report describing the following.
- Location of Spill
- Type of remedial/ clean up measures
- Duration
- Cause
- Corrective/ Preventative actions
- Impacted water bodies

R. Contractor shall describe routine preventive operation and maintenance activities, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at

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known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders;

S. Provide equipment and replacement part inventories, including identification of critical replacement parts.

T. **Emergency Callouts**: The CONTRACTOR shall be available for emergency callouts. Emergency response and deployment of staff and equipment shall be on scene within one half hour of notification. Proposal shall identify staffing availability for emergency response, distance of travel and equipment to demonstrate that this response time can be met. The Contractor shall supply the City project manager with the name(s), and telephone number(s) of responsible person(s) representing the Contractor for twenty-four (24) hour, seven (7) days a week emergency response. This information shall remain current at all times. Any changes shall be forwarded to the City's project manager in writing. The Contractor shall delivery this information at the time when initial bonds and certificates of insurance are received. All procedures for emergency callouts will be consistent with the City's Sewer System Management Plan, Element 6. Hourly rates for staff and equipment responding to emergency call outs shall be specified, if different from other hourly rate schedule.

4. REQUIREMENTS OF PROPOSERS/EVALUATION

City staff will evaluate proposal submissions. The City reserves the right to interview prospective Contractors prior to making its selection. The City also reserves the right to rely on information from sources other than the information provided by the respondents.

The City may seek written clarification from any or all proposers in order to better understand and evaluate the proposed solution. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original proposal.

EVALUATION PROCESS

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. Evaluation criteria will include such considerations as:

a) Understanding of the background and requirements of the project;
b) The approach to be followed and the tasks to be performed, including detailed steps and resources required;
c) The education and specific experience of the project team to be assigned and the organization chart;
d) Understanding of the best management practices (BMP) that can be utilized to analyze and minimize impacts to the environment, public safety, and achieving maintenance goals and requirements.

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e) Overall project cost will be considered, but not be the sole factor used for rankings.

5. SUBMISSION INSTRUCTIONS

GENERAL
The proposer is responsible for making all necessary investigations and examinations of documents, operations, and premises affecting full performance. Failure to do so will not relieve the proposer from any terms and conditions of the proposal documents. The proposal submission will be considered conclusive evidence that the proposer has made such an examination.

Please read the instructions carefully and check your RFP package immediately upon receipt to ensure that you have in your possession all of the necessary documents, copies of which are on file for reference and may be obtained from the City Clerk's Office at:

Pacific Grove City Hall
300 Forest Avenue
Pacific Grove, CA 93950
831 648-3181/3106

Should you find a discrepancy in or any portions omitted from said documents, or have questions as to their meaning, please notify Joyce Halabi, Deputy Public Works Director at 831-648-5722, or jhalabi@cityofpacificgrove.org. The City of Pacific Grove will not be bound by any oral statements or representations.

PROPOSAL FORMAT
Response to the criteria below may be no longer than 10 pages total. Any cover letters, additional materials, and required Attachments listed below will not be counted in this total. However, please limit additional materials to no more than 20 pages.

The proposal package must include:
1. An original of the entire proposal, including all original ink signatures.
2. One (1) complete copy of the entire proposal, labeled "Copy."
3. One electronic version on a USB drive

Selection Process and Evaluation Criteria, each prospective consultant shall submit a proposal in accordance with the requirements as listed and in the same order as below:

TITLE PAGE
Title page must include the name of the proposed business entity and the name, address and telephone number of one contact person. All correspondence from the City to proposer will be with one contact person. The individual designated as the contact person will be responsible for disseminating information to the other members of the business entity.

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EXPERIENCE AND QUALIFICATIONS

Describe your firm's history, resources, and capabilities. Indicate key personnel that you will agree to commit to City of Pacific Grove projects if awarded a contract, including name and qualifications of the proposed staff. Indicate applicable licenses, credentials, and professional training held by the firm principal(s) and key personnel.

Any Sub-Consultant that your firm may intend to use for City projects must be pre-approved first by the City. Should your firm propose to engage the services of a sub-consultant provide the firm's name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFP.

PRICING/HOURLY RATE

Proposal shall include all services requested under section 3, scope of services. Proposer shall evaluate this RFP and develop a services proposal for all items, and also include an individual cost per linear foot for Hydro services of the Sanitary Sewer Lines.

Wages - In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the general prevailing rate of wages in the County in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. These wage rates appear in the California Department of Industrial Relations publication entitled General Prevailing Wage Rates. Interested parties can obtain the current wage information by submitting their requests to the Department of Industrial Relations, Division of Labor Statistics and Research, P.O. Box 42603, San Francisco CA 94142, or on the World Wide Web at http:/www.dir.ca.gov. The rates at the time of the bid advertisement date of a project will remain in effect for the life of the project in accordance with the California Code of Regulations, as modified and effective.

REFERENCES

Three clients for which the proposer has provided services within the past five (5) years, similar to those identified in this RFP. The City of Pacific Grove reserves the right to contact any reference or any client listed in the documents for information which may be helpful to the City in evaluating the Contractor's performance on previous assignments

INSURANCE

Types and limits of the firm's insurance. Insurance requirements are described in the City's professional services agreement:
https://www.cityofpacificgrove.org/how_do_i/find_search_for/forms.php#outer-528

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INDEMIFICATION
The CONTRACTOR shall protect indemnify and save harmless the CITY, the CITY'S officers, officials, and employees and agents against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify and save harmless the CITY and its officers, officials, employees and agents from any claims, demands, suits, actions or proceedings of any kind or nature, including Worker's Compensation claims, of or by anyone whomsoever, arising out of or as a result of any negligent, tortuous or deliberate act, error or omission on the part of the contractor or other whose services are engaged by the contractor or anyone employed or controlled by either of them in the performance of the work provided for in this contract.

The entire package must be placed in a sealed envelope labeled "SANITARY SEWERS AND STORM WATER MAINTENANCE SERVICES." Said package must have the name and address of the proposer on the outside and be mailed or delivered to:

Joyce Halabi, Deputy Public Works Director
City of Pacific Grove
2100 Sunset Drive
Pacific Grove, CA 93950
Phone 831-648-5722

No Later Than: 2:00 pm, June 22, 2022

It is the proposer's sole responsibility to submit the proposal on time. Proposals which are received after the exact time and date indicated above will not be considered. Proposals will remain confidential in their entirety until City evaluation and analysis is complete and a recommendation of award has been submitted to the City Council.

The technical point of contact for this project is Joyce Halabi, Deputy Public Works Director; he can be contacted by e-mail jhalabi@cityofpacificgrove.org or by phone 831-648-5722. Clarifying questions are encouraged as we believe these will add to the quality of the proposals. All additional questions received and the City's response will be posted on the City website at http://www.cityofpacificgrove.org

Final award shall be contingent upon selected firm (Contractor) accepting Terms and Conditions in substantial conformity to the terms listed in this RFP.

CITY OF PACIFIC GROVE DISCRETION AND NON-LIABILITY
It should be noted that all the material, exhibits, and data presented in this request for proposal and supplemental information is general in nature and shall not be deemed as representations or inducements to which the City is bound. Proposers are advised to conduct independent evaluations of all factual, financial, and legal matters upon which their proposal is based

GENERAL CONDITIONS

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a) The City reserves the right to reject any and all proposals, to waive any informality, to request interviews of Contractor(s) prior to award and to select and negotiate the Contract services in the best interest of the City.

b) The Contractor shall guarantee to perform the services offered and the total price of the proposal for a period of not less than 60 days from the deadline for submission of proposals.

c) The City reserves the right to accept all or part of any proposal, and to negotiate a contract for services and cost with the selected Contractor.

d) The Contractor shall provide all necessary personnel, materials and equipment to perform and complete all work under this proposal.

e) The Contractor shall be unbiased and vendor neutral.

f) The City intends to recommend award of a contract to the City Council for the requested services within two (2) month of receipt of the proposals. The Contractor shall be prepared to commence work immediately upon execution of a contract with the City.

g) Unless otherwise stated, invoices are to be submitted to the Public Works Department division upon delivery of service to the City. The invoice must include an itemization of all services provided, including unit list price, net price, extensions total amount(s) due, and amounts previously paid.

h) Unless otherwise stated, payment will be made within thirty (30) days of the completion of the service, in an acceptable fashion, to the City and receipt of invoice, whichever is later.

i) This contract will be for the services described in the RFP response; however, this agreement should not be considered exclusive. As deemed necessary, the City reserves the right to obtain these services from any other vendor.

j) Unless otherwise specified all costs listed are firm for the term of the contract.

k) Neither party shall be liable for any inability to perform its obligations under any subsequent agreement due to war, riot, insurrection, civil commotion, fire, flood, earthquake, storm or other act of God.

l) Notification of the parties shall be considered to have been constructively received when it is mailed via the United States Postal Service or delivered in hand to the parties as stated in the contract.

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m) Proposal shall also mean quotation, bid, offer, qualification/experience statement, and services. Proposers shall also mean vendors, proposers, bidders, or any person or firm responding to a Request for Information.

n) All contracts entered into by the City of Pacific Grove shall be governed by the Laws of the State of California. Any disputes shall be resolved within the venue of the State of California.

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City of Pacific Grove

I. Proposal Title Sheet

II. Table of Content Experience and Qualification

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Proposal Title Sheet for City of Pacific Grove Sewer Cleaning Services

Date: June 14, 2022

I/We CAROLINE D. CHAPIN EXEC. VICE PRESIDENT the undersigned, do hereby propose to furnish the City of Pacific Grove, California, a Sewer Cleaning Services Proposal, in accordance with all terms and specifications contained herein:

Attach one (1) copy of your proposal package.

Name of Firm: THE DON CHAPIN CO., INC. dba GREENLINE LIQUID WASTE HAULERS

Signature & Title: CAROLINE D. CHAPIN EXEC. VICE PRESIDENT

Address: 1128 MADISON LANE, SALINAS CA 93907

Telephone Number: 831-422-2298

Fax Number: 831-757-8310

Contractor shall answer to the following questions by circling the appropriate response or completing the blank provided:

COMPANY PROFILE:
Is your firm? (Please circle one)

a) Sole Proprietorship YES NO

b) Partnership YES NO

c) Corporation (YES) NO

List Legal names of the Company: THE DON CHAPIN CO., INC.
dba GREENLINE LIQUID WASTE HAULERS

DIR Public Works Contractor Registration #: 1000001363

Total Number of Employees: 9

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Green Line
A LIQUID WASTE COMPANY
560 Crazy Horse Canyon Road, Salinas, CA 93907
(831) 422-2298

Experience and Qualification

We at Green Line a Liquid Company are more than sufficiently equipped and expertly trained to suit the needs for the Sanitary Sewer Maintenance Services for The City of Pacific Grove. As such, Green Line Liquid Waste Haulers would like to submit our bid for Public Works Proposals for Sanitary Sewer Maintenance Service.

Green Line has roots back to 1955 making it one of the oldest if not, the oldest liquid waste and sanitary sewer maintenance companies in the Central Cost of California. Green Line has grown and developed into a complete commercial liquid waste company with services including the pumping and hauling of sewage, grease and other liquid wastes, as well as the hydro-jetting of wastewater and storm drain lines, video and closed-circuit televising of sewage lines and waste pipe systems.

Our experienced technicians have a wealth of knowledge that has developed over decades. Not only have they become expertly trained with the equipment we run every day, they have become experts in the surrounding communities wastewater collection systems. We have serviced virtually all the wastewater systems in the surrounding Tri-County area. Our technicians have learned about troubled spots, hot spots, sensitive and technical areas that are integral parts of properly maintaining a wastewater system. This is very critical knowledge when servicing particular areas of each system as to not cause damage or create a problem that will arise in the

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future. That critical information is shared and passed along to all our employees through our extensive record keeping and our detailed dispatching system.

Our Green Line employees have gained invaluable information about surrounding wastewater collection systems through years of experience.

Brian Honegger
General Manager
30+ years of construction experience. Brian has expertise in all aspects of construction from heavy demolition ,site grading, wet and dry utilities all the way through the finish of vertical construction.

Haley Balding
Dispatcher
Haley has been directing the crew for nearly two years. Haley is a very quick study and has learned how to ask the correct questions to get all the pertinent information needed to ensure the correct technician and the correct equipment is dispatched to the job. Haley thinks quickly on her feet and is able to react to any situation.

Tom Blackwell
Technician
30+ years of wastewater system maintenance experience. Tom is a NASSCO certified CCTV operator and has been for the last 18 years. He is extremely proficient in all our company's equipment including our hydro flushing equipment, CCTV Vans and vacuum pumping trucks.

Nate Glispey
Technician
15+ years of wastewater system maintenance experience. Nate is very knowledgeable and proficient at running or hydro flushing equipment and vacuum pumping trucks. Over the last 15 years Nate has flushed the majority of the wastewater collection systems in the Tri-County area. His knowledge of the each system is proven to be a great asset time and time again.

Luis Lopez
Technician
7+ years of wastewater system maintenance experience. Luis is a NASSCO certified CCTV operator. He is also proficient in the hydro flushing and vacuum pumping equipment. Luis has a great attention to detail which lends itself perfectly with this type of intricate work.

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Mike Anzaldua
Technician
20+ years of wastewater system maintenance experience. Throughout the years Mike has learned about all the specific locations and nuances in the surrounding areas pumps and lift stations. He is familiar with the volume of flow to expect at each lift station given the time of day.

Bowe Cleveland
Technician
Bowe is in his first year of wastewater system maintenance. He has trained with all our long time experienced technicians. He has become proficient at running the hydro flushing equipment as well the vacuum pumping trucks. Bowe is a smart conscientious employee who will call and ask questions before making a decision.

Jose Tapia
Technician
Jose is in his first year of wastewater system maintenance. He too has trained with all our long time experienced technicians. Jose has become proficient in running our vacuum pumping trucks. He is very smart and conscientious and will ask questions, get all the important information prior to making decisions.

Dave Phillips
Consultant
40+ years of plumbing, wastewater system maintenance. Dave has hydro flushed, CCTV recorded and vacuumed nearly every inch of the Tri-County wastewater collection systems. Dave is a fountain of knowledge that Brian, Haley or any of the technicians can tap into whenever an unknown situation arises.

Not only does Green Line have the most knowledge and experience, we have the most up to date fleet of sewer maintenance equipment. Green Line has two top of the line hydro flushing trucks capable of flushing 6" up to 72" diameter piping. These trucks have the ability to flush 80 gallons of water per minute at 2,000 pounds of pressure per square inch. These pressures and volumes can be adjusted to ensure care is taken with older systems as well. With a plethora of hose tips available we can flush out virtually any debris. We have 2 state of the art CCTV Vans that have some of the latest Video inspection equipment and software available. Our CCTV cameras can video as small as 6" diameter pipe all the way up to 72" diameter. We have a fleet

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of 6 vacuum pumpers to support our work operations. With that quantity of pumpers, we can handle almost any waste flow into a failing lift station to avoid disaster.

Today, Green Line is a part of the Don Chapin Family of companies. Together with their sister company Toms Septic, Green Line is the most established, largest and most comprehensive liquid waste service company on the Central Coast of California boasting roots that go back more than sixty-five years.

Green Line is based on Madison Lane in the Southwestern Salinas. With optimal driving conditions Pacific Grove is a mere 24 miles away. During an emergency Green Line has a multitude of different routes that are available given the day or night and traffic situation, the longest route being 29 miles away. This will enable Green Line to be at the ready given the situation day or night.

Green Line strives daily to provide quick, responsive and affordable services to commercial, industrial and residential customers. We service the communities of Monterey, Santa Cruz, San Benito and Santa Clara Counties. Green Line is much more than just a pumping and hauling company. We offer a wide variety of services from grease trap servicing, waste pumping, hydro-jetting to video inspection services. We work closely with our family of companies that can take care of virtually any service repair or replacement needs. Green Line in conjunction with our family of companies has installed, serviced or repaired nearly every septage disposal system in the Tri-Country area. This extensive database of information will save both time and money when it comes time to service your system. Green Line prides itself on having state of the art equipment that will help get every job completed in a timely manner. Green Line is a company

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that will keep your drain system clean and operating properly while keeping our business in compliance with governing agencies.

At Green Line, we pride ourselves on the quality of our projects to ensure that our service is not just complete but also available. We are about quality, pride in knowledge and going the extra mile the deliver the best. When you see our big green trucks and the Green Line logo you know quality is on the move.

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SEE ATTACHMENT "A"

References: List at least three (3) municipalities of same general size and billing numbers and frequency where the same/similar services, as stated herein, have been provided.

1.

Municipality Name

Contact Person Title

Address/P.O. Box City State Zip

Phone Number Fax Number

2.

Municipality Name

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

3.

Municipality Name

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

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Attachment "A"

Municipality Name: City of Pacific Grove
Contact Person: Mike Aliotti
Title: Administrative Technician
Address / P.O. Box: 2100 Sunset Dr. Pacific Grove, CA 93950
Phone Number: 831-648-5722 x 4212
Fax Number:
Email: maliotto@cityofpacificgrove.org

Municipality Name: County of Monterey
Contact Person: Jesus Mercado
Title: Bridge Maintenance Superintendent
Address / P.O. Box: 855 E. Laurel Drive Bldg. E Salinas, CA 93905
Phone Number: 831-755-4844
Fax Number: 831-751-0322
Email: mercadojp@co.monterey.ca.us

Municipality Name: City of King
Contact Person: Geoff English
Title: Consultant Public Works Special Projects Coordinator
Address / P.O. Box: 212 South Vanderhurst Ave. King City, CA 93930
Phone Number: 831-385-3281
Fax Number:
Email: genglish@kingcity.com

Municipality Name: County of Santa Cruz
Contact Person: Thomas Fakner
Title: Deputy Director
Address / P.O. Box: 701 Ocean St. Rm. 330 Santa Cruz, CA 95060
Phone Number: 831-454-4606
Fax Number:
Email: Thomas.fakner@santacruzcounty.us

Municipality Name: City of Santa Cruz
Contact Person: Gary Braquet
Title: Project Manager
Address / P.O. Box: 715 Graham Hill Rd. Santa Cruz, CA 95060
Phone Number: 831-420-5460
Fax Number:
Email: gbraquet@cityofsantacruz.com

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Municipality Name: Salsipuedes Sanitary District
Contact Person: Delia Brambilia
Title: District Manager
Address / P.O. Box: 739 East Lake Ave. #2 Watsonville, CA 95076
Phone Number: 831-722-7760
Fax Number:
Email: dbrambila@me.com

Municipality Name: Marina Coast Water District
Contact Person: Joe Pineda
Title: Superintendent
Address / P.O. Box: 11 Reservation Rd. Marina, CA 93933
Phone Number: 831-384-6131
Fax Number:
Email: jpineda@mcwd.org

Municipality Name: California Utilities Service
Contact Person: Lotfi Boukraa
Title: Operations Manager
Address / P.O. Box: P.O. Box 5100 Salinas, CA 93915
Phone Number: 831-595-4320
Fax Number:
Email: lotfi@calutilities.com

Municipality Name: California American Water
Contact Person: Robert Moss
Title: Operations Supervisor Wastewater Department
Address / P.O. Box: 511 Forest Lodge Rd. CA 93950
Phone Number: 831-233-1938
Fax Number:
Email: Robert.moss@amwater.com

Municipality Name: Tres Pinos Water District
Contact Person: Maria Fehl
Title: Office Manager
Address / P.O. Box: P.O. Box 1001 Tres Pinos, CA 95075
Phone Number: 831-628-3319
Fax Number:
Email: trespinoswaterdistrict@gmail.com

Municipality Name: Castroville Community Services District
Contact Person: Eric Tynan
Title: Operations Manager
Address / P.O. Box: 11499 Geil St. Castroville, CA 95012
Phone Number: 831-235-0155
Fax Number:
Email: cwderic@redshift.com

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Municipality Name: University of California Santa Cruz
Contact Person: Jeff Clothier
Title: Sr. Superintendent HVAC/Plumbing/BMS
Address / P.O. Box: 1156 High Street Santa Cruz, CA 95064
Phone Number: 831-459-5038
Fax Number:
Email: jeff.clothier@ucsc.edu

Municipality Name: City of Soledad
Contact Person: Gabrial Perez
Title: Manager
Address / P.O. Box: 248 Main St. Soledadd, CA 93960
Phone Number: 831-210-1573
Fax Number:
Email: g.perez@cityofsoledad.com

Municipality Name: City of Gonzales
Contact Person: Tiffany Twisselmann
Title: Public Works Supervisor
Address / P.O. Box: 147 Fourth St. Gonzales, CA 93926
Phone Number: 831-776-2095
Fax Number:
Email: ttwisselmann@ci.gonzales.ca.us

Municipality Name: Bracewell Engineering
Contact Person: Robert Campos
Title: Operations Manager
Address / P.O. Box: 155 Mast St. Unit 114 Morgan Hill, CA 95037
Phone Number: 408-498-7045
Fax Number:
Email: robert@bracewellengineering.com

Municipality Name: Monterey One Water
Contact Person: Nathan
Title: Superintendent
Address / P.O. Box: 14811 Del Monte Boulevard Marina, CA 93933
Phone Number: 831-251-8782
Fax Number:
Email: nathan@my1water.org

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PRICING PROPOSAL

Task	Cost	
Hydro-Flush Sanitary Sewer Line	$ 1.07	per Linear Foot
Hydro-Flush Sanitary Sewer Line with Root Removal	$ 1.37	per Linear Foot
Vacuum Truck	$ 275.00	per hour(4 hour minimum)
Unloading Fee	$ 0.16	per gallon

Overtime Call-Out & Emergency Work Hourly Rates

Classification	Cost per hour
Overtime	$ 325.00/hour overtime (4 hour minimum), 400.00/ hour double time (4 hour minimum)
Holiday	$ 400.00 / hour (4 hour minimum)

The term of the agreement has not been determined. If this agreement is renewed annually, or if the contract period is for more than one twelve (12) month period, an annual renewel adjustment (COLA) of three (3) percent shall be added for each subsequent twelve (12) month period to each and every item unit cost above.

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dca
DEPARTMENT OF CONSUMER AFFAIRS

CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE

License Number **406512** Entity CORP

Business Name THE DON CHAPIN CO INC DBA
TOM'S SEPTIC CONSTRUCTION

Classification(s) A HAZ C21 C42 B

Expiration Date 06/30/2023 www.cslb.ca.gov

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Public Works Contractor Registration

THE DON CHAPIN CO INC

THE DON CHAPIN CO INC

View Details
Remove from My List

Detail:

Registration Number:
1000001363
Status:
Active
CSLB Number:
406512
Legal Entity Type:
Corporation
Mailing Address:
560 CRAZY HORSE CYN. RD.
SALINAS
CA 93907
County:
Monterey
Craft:
General Engineering
Email:
mdodson@donchapin.com

Registration History

Effective Date	Expiration Date
7/1/2021	6/30/2024
7/1/2019	6/30/2021
6/8/2018	6/30/2019
5/8/2017	6/30/2018
5/17/2016	6/30/2017
6/29/2015	6/30/2016
9/17/2014	6/30/2015

DBA

Name
DBA TOMS SEPTIC CONSTRUCTION

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 09/29/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #0M77949 1-831-724-3841 McSherry & Hudson, LLC Insurance Services 35 Penny Lane, Suite 6 P. O. Box 2690 Watsonville, CA 95076	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED THE DON CHAPIN COMPANY, INC. DBA GREEN LINE LIQUID WASTE HAULERS 560 CRAZY HORSE CANYON ROAD SALINAS, CA 93907	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: ZURICH AMERICAN INS CO — 16535 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 63379314 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC	X	X	GLO 9674277-11	10/01/21	10/01/22	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,000 $ 1,000,000 $ 10,000 $ 5,000,000 $ 10,000,000 $ 10,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS X HIRED AUTOS / X NON-OWNED AUTOS X Contractual	X	X	BAP 9674279-11	10/01/21	10/01/22	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 5,000,000 $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WC 9674280-13	10/01/21	10/01/22	X WC STATUTORY LIMITS / OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: Tom's Septic Service and Green Line: 2011 Hydro Sewer Cleaning Contract. City of Pacific Grove, its officers & employees are included as an additional insured (primary and non-contributory) on General Liability policy and additional insured (and primary) on Automobile Liability policy per the attached endorsements, if required.

CERTIFICATE HOLDER

City of Pacific Grove

Attn: Daniel Gho
300 Forest Ave.

Pacific Grove,, CA 93950
USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
09/29/2021

NAME OF INSURED: THE DON CHAPIN COMPANY, INC.
DBA GREEN LINE LIQUID WASTE HAULERS

SUPP (10/00)

DocuSign Envelope ID: 997060A7-0761-4E2B-8868-D38560250C0D

Additional Insured – Automatic – Owners, Lessees Or Contractors

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.	
Policy No. **GLO9674277-11**	Effective Date: **10/01/2021**

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section **II – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or

b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

(1) Your ongoing operations, with respect to Paragraph **1.a.** above; or

(2) "Your work", with respect to Paragraph **1.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **1.**, insurance afforded to such additional insured:

(a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or

b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

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in the performance of:

(a) Your ongoing operations, with respect to Paragraph **2.a.** above; or

(b) "Your work" and included in the "products-completed operations hazard", with respect to Paragraph **2.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **2.**, insurance afforded to such additional insured:

(i) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(ii) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

3. If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

a. Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or

b. With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **3.**, insurance afforded to such additional insured:

(a) Only applies to the extent permitted by law;

(b) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and

(c) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

4. If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

a. Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or

b. With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **4.**, insurance afforded to such additional insured:

(1) Only applies to the extent permitted by law;

(2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;

(3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

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(4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section **IV – Commercial General Liability Conditions**:

The additional insured must see to it that:

(1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;

(2) We receive written notice of a claim or "suit" as soon as practicable; and

(3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **IV – Commercial General Liability Conditions**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

a. The additional insured is a Named Insured under such other insurance; and

b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **4.b.** of the **Other Insurance** Condition under Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

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F. Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or

2. Available under the applicable Limits of Insurance shown in the Declarations,

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.

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POLICY NUMBER: **GLO9674277-11**

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:
ANY PERSON OR ORGANIZATION THAT REQUIRES YOU TO WAIVE YOUR RIGHTS OF RECOVERY, IN A WRITTEN CONTRACT OR AGREEMENT WITH THE NAMED INSURED THAT IS EXECUTED PRIOR TO THE ACCIDENT OR LOSS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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Blanket Notification to Others of Cancellation or Non-Renewal

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.	
Policy No. **GLO 9674277-11**	Effective Date: **10/01/2021**

This endorsement applies to insurance provided under the:

Commercial General Liability Coverage Part

A. If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contact or written agreement to provide such notification. Such list:

1. Must be provided to us prior to cancellation or non-renewal;
2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
3. Must be in an electronic format that is acceptable to us.

B. Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:

1. Within 10 days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
2. At least 30 days prior to the effective date of:
   a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
   b. Non-renewal, but not including conditional notice of renewal,

unless a greater number of days is shown in the Schedule of this endorsement for the mailing or delivering of such notification with respect to Paragraph **B.1.** or Paragraph **B.2.** above.

C. Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:

1. Extend the Coverage Part cancellation or non-renewal date;
2. Negate the cancellation or non-renewal; or
3. Provide any additional insurance that would not have been provided in the absence of this endorsement.

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D. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

SCHEDULE	
The total number of days for mailing or delivering with respect to Paragraph **B.1.** of this endorsement is amended to indicate the following number of days:	15*
The total number of days for mailing or delivering with respect to Paragraph **B.2.** of this endorsement is amended to indicate the following number of days:	30**
* If a number is not shown here, 10 days continues to apply. ** If a number is not shown here, 30 days continues to apply.	

All other terms and conditions of this policy remain unchanged.

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Coverage Extension Endorsement

ZURICH

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP 9674279-11	10/01/2021	10/01/2022	10/01/2021	McSherry&Hudson		

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

   The following are also "insureds":

   a. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

   b. Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.

   c. Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.

   d. Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

   Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

(2) Up to $5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.

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C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

   This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

   This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and

b. Any:

(1) Overdue lease or loan payments at the time of the "loss";

(2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;

(3) Security deposits not returned by the lessor;

(4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and

(5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to $75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

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(1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

(3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is $100 per day, to a maximum of $3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

a. We will pay up to $750 for "loss" to personal effects which are:

(1) Personal property owned by an "insured"; and

(2) In or on a covered "auto".

b. Subject to Paragraph **a.** above, the amount to be paid for "loss" to personal effects will be based on the lesser of:

(1) The reasonable cost to replace; or

(2) The actual cash value.

c. The coverage provided in Paragraphs **a.** and **b.** above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:

(1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.

(2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.

(3) Paintings, statuary and other works of art.

(4) Contraband or property in the course of illegal transportation or trade.

(5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

1. The Exclusion in Paragraph **B.4.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.2.c.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.

2. The following is added to Paragraph **1.a. Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

(a) Are the property of an "insured"; and

(b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is $500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

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K. Airbag Coverage

The Exclusion in Paragraph **B.3.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is $5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

   Temporary Substitute Autos – Physical Damage

   If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

   Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

   1. Breakdown;
   2. Repair;
   3. Servicing;
   4. "Loss"; or
   5. Destruction.

2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

   Temporary Substitute Autos – Physical Damage

   We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

   The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

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agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

(1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

(1) Any covered "auto" you lease, hire, rent or borrow; and

(2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

(1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or

(2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

(5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

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U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to $50 per day to a maximum of $1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of $2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

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Blanket Notification to Others of Cancellation or Non-Renewal

ZURICH

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP 9674279-11	10/01/2021	10/01/2022	10/01/2021	71235000	INCL	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial Automobile Coverage Part

A. If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contact or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to the first Named Insured. Such list:

1. Must be provided to us prior to cancellation or non-renewal;
2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
3. Must be in an electronic format that is acceptable to us.

B. Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:

1. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
2. At least 30 days prior to the effective date of:
   a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
   b. Non-renewal, but not including conditional notice of renewal.

C. Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:

1. Extend the Coverage Part cancellation or non-renewal date;
2. Negate the cancellation or non-renewal; or
3. Provide any additional insurance that would not have been provided in the absence of this endorsement.

D. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 0.00 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
ALL PERSONS AND/OR ORGANIZATION THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.	ALL CA OPERATIONS

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BLANKET NOTIFICATION TO OTHERS OF CANCELLATION OR NONRENEWAL ENDORSEMENT

This endorsement adds the following to Part Six of the policy.

PART SIX
CONDITIONS

Blanket Notification to Others of Cancellation or Nonrenewal

1. If we cancel or non-renew this policy by written notice to you, we will mail or deliver notification that such policy has been cancelled or non-renewed to each person or organization shown in a list provided to us by you if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to you. Such list:
   a. Must be provided to us prior to cancellation or non-renewal;
   b. Must contain the names and addresses of only the persons or organizations requiring notification that such policy has been cancelled or non-renewed; and
   c. Must be in an electronic format that is acceptable to us.
2. Our notification as described in Paragraph 1. above will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to you. We will mail or deliver such notification to each person or organization shown in the list:
   a. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
   b. At least 30 days prior to the effective date of:
      (1) Cancellation, if cancelled for any reason other than nonpayment of premium; or
      (2) Non-renewal, but not including conditional notice of renewal.
3. Our mailing or delivery of notification described in Paragraphs 1. and 2. above is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
   a. Extend the policy cancellation or non-renewal date;
   b. Negate the cancellation or non-renewal; or
   c. Provide any additional insurance that would not have been provided in the absence of this endorsement.
4. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs 1. and 2. above.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **10/01/2021** Policy No. **WC9674280-13** Endorsement No.
Insured: **Per Schedule on File** Premium $

Insurance Company:
Zurich American Insurance Company

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PUBLIC WORKS DEPARTMENT
CITY OF PACIFIC GROVE
2100 Sunset Drive, Pacific Grove CA 93950 | (831) 648-5722

June 27, 2023

Caroline D. Chapin, Executive Vice President
The Don Chapin Co., Inc
DBA Greenline Liquid Waste Haulers
1128 Madison Lane
Salinas, CA 93907

SUBJECT: **FY 2023/24 Contract Extension Letter – Sanitary Sewer Maintenance Services**

The term of your agreement, for Sanitary Sewer Maintenance Services, with the City of Pacific Grove was from August 1, 2022 through June 30, 2023. This agreement is renewable by mutual written letter for additional yearly increments, not to exceed two (2) additional fiscal years, unless sooner terminated pursuant to the terms of the agreement.

This letter is to renew your current contract with the City of Pacific Grove at the existing rate for the next twelve months (July 1, 2023 through June 30, 2024).

This addendum to the agreement dated June 27, 2023, is not in effect until signed by all parties.

DocuSigned by:
Caroline Chapin
D10923211F5048A...

Caroline D. Chapin, The Don Chapin Co., Inc — **Date** 6/27/2023

DocuSigned by:
Daniel Gho
056C641716ED4E6...

Daniel Gho, Public Works Director/Deputy City Manager — **Date** 6/28/2023

DocuSigned by:
Bill Peake
2E6F9DE48137414...

Bill Peake, Mayor — **Date** 6/28/2023

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Joyce Halabi, Deputy Public Works Director

MEETING DATE: July 03, 2024

SUBJECT: Maintenance Services Agreement with Accent Clean and Sweep Inc. For Street Sweeping Services

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

RECOMMENDATION

1. Authorize Mayor to sign extensions of the Maintenance Services Agreement with Accent Clean and Sweep Inc.
2. Alternatively, discuss and take other action related to this item

DISCUSSION

On July 20, 2022, the City Council approved a Maintenance Service Agreement with Accent Clean and Sweep Inc. for street sweeping services in an amount not to exceed $205,200 plus a 10% contingency per fiscal year ("Agreement").

The Council approved term of the agreement through June 30, 2023 with options to extend annually for four (4) additional one (1) year periods. The method by which extensions would be executed was not stipulated.

The recommended action is to authorize Mayor to sign extensions of the Agreement for the periods specified in the Agreement.

OPTIONS

1. Authorize the Mayor to sign the extensions
2. Do not authorize the Mayor to sign extensions. Failure to authorize the Mayor to sign the extensions would result in an impact to Street Sweeping Services.

FINANCIAL IMPACT:

Adequate funding has been allocated in the FY24/25 Budget to support street sweeping services for the fiscal year. These funds come from the Public Works Operating Budget.

FOCUSED PRIORITY AREA: Infrastructure

Attachments

Street Sweeping Services Agreement
FY23/24 Extension Letter

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CITY OF PACIFIC GROVE
MAINTENANCE SERVICES AGREEMENT

This MAINTENANCE SERVICES AGREEMENT ("Agreement") is made and effective **August 1, 2022,** by and between the City of Pacific Grove, a municipal corporation ("City"), and **Accent Clean & Sweep Inc.** ("CONTRACTOR").

City wishes to retain the services of an experienced and qualified CONTRACTOR to provide Street Sweeping Services ("Services"). CONTRACTOR represents and warrants that it is qualified to perform those Services. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

   Unless terminated in accordance with Section 8 below, the AGREEMENT will continue in full force and effect from the Effective Date through **June 30, 2023. Upon mutual written AGREEMENT, the term of this AGREEMENT can be extended annually for four (4) additional one (1) year periods.**

2. SCOPE OF SERVICES

   CONTRACTOR will provide the Services listed in the Scope of Services attached hereto as Exhibit A. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

3. PERFORMANCE

   a. CONTRACTOR shall at all times faithfully, competently and to the best of its ability, experience, and talent, perform all tasks described herein. CONTRACTOR shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONTRACTOR hereunder in meeting its obligations under this Agreement.

   b. CONTRACTOR shall obtain a valid City Business License and shall maintain said Business License for the term of this Agreement and any extensions.

   c. CONTRACTOR shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by CONTRACTOR or in any way affect the performance of its Services pursuant to this Agreement. CONTRACTOR shall at all times observe and comply with all such laws and regulations. City, and its officers, employees, and agents shall not be liable at law or in equity occasioned by failure of CONTRACTOR to comply with this Section.

   d. CONTRACTOR must maintain a valid California Contractor's License throughout the term of this Contract.

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e. CONTRACTOR agrees that in the performance of this Agreement or any sub-agreement hereunder, neither CONTRACTOR nor any person acting on CONTRACTOR's behalf shall refuse to employ or refuse to continue in any employment any person or discriminate on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, genetic information, marital status, sexual preference, sex, gender identity, gender expression, military or veteran status or age. Harassment in the workplace is not permitted in any form. CONTRACTOR further agrees to comply with all laws with respect to employment when performing this Agreement.

f. CONTRACTOR shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit D attached to and part of this Agreement.

g. CONTRACTOR declares and warrants that no undue influence or pressure is used against or in concert with any officer, employee or agent of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial agreement or financial inducement. No officer, employee, or agent of City will receive compensation, directly or indirectly, from CONTRACTOR, or from any officer, employee or agent of CONTRACTOR, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.

CONTRACTOR is bound by the contents of City's Request for Proposal on file hereto and incorporated herein as Exhibit E, and the contents of the proposal submitted by CONTRACTOR, available on file at the Public Works Department hereto and incorporated herein as Exhibit E. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in CONTRACTOR's Proposal.

4. CITY MANAGEMENT

The City Manager, or designee, shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by CONTRACTOR, but not including the authority to enlarge the Scope of Work or change the compensation due to CONTRACTOR. The City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Work or change CONTRACTOR's compensation, subject to Section 6 hereof.

5. PAYMENT

a. For Services rendered pursuant to this AGREEMENT, CONTRACTOR shall be paid in accordance with the Payment Schedule attached hereto as Exhibit B, provided,

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however, that in no event will the total amount of money paid the CONTRACTOR, for the Services initially contemplated by this AGREEMENT, exceed the sum of **$205,200 plus a 10% contingency** unless otherwise first approved in writing by the City.

b. The City Manager's contract authority is limited to $39,999.99, which includes all costs. Contracts, including any contract amendments that exceed the total threshold, require City Council approval. Any contracts, including contract amendments that exceed the total threshold, which do not have City Council approval, shall be void.

c. CONTRACTOR shall submit invoices monthly for actual Services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for Services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If City disputes any of CONTRACTOR's fees, it shall give written notice to CONTRACTOR within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. LABOR CODE AND PREVAILING WAGE REQUIREMENTS:

a. CONTRACTOR agrees to comply with the requirements of California Labor Code sections 1810 through 1815. Eight hours of labor constitutes a legal day's work per Labor Code section 1810. CONTRACTOR will forfeit the statutory penalty to City for each worker employed in the execution of this Agreement by CONTRACTOR or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code sections 1810 through 1815.

b. Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Agreement are available for download from the State website:

http://www.dir.ca.gov/OPRL/dprewagedetermination.htm.

c. CONTRACTOR must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2.) When applicable, copies of the prevailing rate of per diem wages will be on file at City's Administrative Services Department and available to CONTRACTOR and any other interested party upon request.

d. CONTRACTOR, and any subcontractor engaged by CONTRACTOR, may pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the contract. (Labor Code § 1774.) CONTRACTOR is responsible for compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.

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e. CONTRACTOR must comply with all provisions of Labor Code section 1775. Under Section 1775, CONTRACTOR will forfeit the statutory penalty to City for each worker employed in the execution of the Agreement by CONTRACTOR or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. CONTRACTOR may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

Nothing in this Agreement prevents CONTRACTOR or any subcontractor from employing properly registered apprentices in the execution of the Contract. CONTRACTOR is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.

f. CONTRACTOR has reviewed and agrees to comply with any applicable provisions for any public work subject to Department of Industrial Relations (DIR) Monitoring and Enforcement of prevailing wages, including the registration requirements of Labor Code Section 1771.1(a). City hereby notifies CONTRACTOR that CONTRACTOR is responsible for submitting certified payroll records directly to the State Compliance Monitoring Unit (CMU). For further information concerning compliance monitoring please visit the website location at: http://www.dir.ca.gov/dlse/cmu/cmu.html.

g. CONTRACTOR must comply with Labor Code section 1771.1(a), which provides that CONTRACTOR may award any contracts and subcontracts for work that qualifies as a "public work" only to subcontractors which are at that time registered with the DIR and qualified to perform public work pursuant to Labor Code section 1725.5. CONTRACTOR must obtain proof of such registration from all such subcontractors."

h. If federal funds are used to pay for the Work, CONTRACTOR and any subcontractor agree to comply, as applicable, with the labor and reporting requirements of the Davis-Bacon Act (40 USC § 276a-7), the Copeland Act (40 USC § 276c and 18 USC §874), and the Contract Work Hours and Safety Standards Act (40 USC § 327 and following).

7. INSPECTION

City shall at all times have the right to inspect the work and materials. CONTRACTOR shall furnish all reasonable aid and assistance required by City for the proper examination

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of the work and all parts thereof. Such inspection shall not relieve CONTRACTOR from any obligation to perform said work strictly in accordance with the specifications or any modifications thereof and in compliance with the law.

8. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

a. City may at any time, for any reason, without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon CONTRACTOR at least thirty (30) days prior written notice. Upon receipt of said notice, CONTRACTOR shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, City shall pay to CONTRACTOR the actual value of the Services performed up to the time of termination, provided that the Services performed are of value to the City. Upon termination of the Agreement pursuant to this Section, CONTRACTOR shall submit an invoice to City pursuant to Section 6.c.

9. DEFAULT OF CONTRACTOR/FORCE MAJEURE

a. CONTRACTOR's failure to comply with the provisions of this Agreement shall constitute a default. In the event that CONTRACTOR is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating CONTRACTOR for any Services performed after the date of default and can terminate this Agreement immediately by written notice to the CONTRACTOR. If such failure by the CONTRACTOR to make progress in the performance of Services hereunder arises out causes beyond the CONTRACTOR's control, and without fault or negligence of the CONTRACTOR, it shall not be considered a default.

b. If the City Manager or designee determines CONTRACTOR is in default in the performance of any of the terms or conditions of this Agreement, they shall cause to be served upon CONTRACTOR a written notice of the default. The CONTRACTOR shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event CONTRACTOR fails to cure its default within such period of time or fails to present City with a written plan for the cure of the default, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

10. OWNERSHIP OF DOCUMENTS

a. CONTRACTOR shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the

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performance of Services under this Agreement. CONTRACTOR shall maintain adequate records of Services provided in sufficient detail to permit an evaluation of Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONTRACTOR shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records at CONTRACTOR's office; shall permit City to make copies and transcripts there from as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. If there is a substantial billing deviation adverse to City, then the cost of an audit shall be borne by CONSULTANT. Such records, together with supporting documents, shall be maintained at City Hall for a minimum period of five (5) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the Services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused, or otherwise disposed of by City without the permission of CONTRACTOR. With respect to computer files, CONTRACTOR shall make available to City, at City's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

11. RECORD AUDIT

In accordance with Government Code, Section 8546.7, for expenditures of greater than $10,000, records of both City and CONTRACTOR shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

12. INDEMNIFICATION

CONTRACTOR shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, employees, agents, and volunteers (collectively, City) from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and CONTRACTOR, or should City otherwise find CONTRACTOR's legal counsel unacceptable, then CONTRACTOR shall reimburse the City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The CONTRACTOR shall promptly pay any final judgment rendered against the City (and its officers, employees, agents and volunteers) with respect to claims

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determined by a trier of fact to have been the result of the CONTRACTOR's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

CONTRACTOR obligations under this section apply regardless of whether such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by City. However, without affecting the rights of City under any provision of this agreement, CONTRACTOR shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of CONTRACTOR will be for that entire portion or percentage of liability not attributable to the active negligence of City.

No City officer, employee or agent shall be personally liable to CONTRACTOR, in the event of any default or breach by City or for any amount that may become due to CONTRACTOR.

13. INSURANCE

Without limiting CONTRACTOR's indemnification of City, and prior to commencement of work, CONTRACTOR shall obtain, provide, and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described in Exhibit C and in a form that is satisfactory to City.

14. INDEPENDENT CONTRACTOR

a. CONTRACTOR is and shall at all times remain as to City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of CONTRACTOR shall at all times be under CONTRACTOR's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's officers, employees, or agents, except as set forth in this Agreement. CONTRACTOR shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. CONTRACTOR shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to CONTRACTOR in connection with the performance of this Agreement. Except for the fees paid to CONTRACTOR as provided in the Agreement, City shall not pay salaries, wages, or other compensation to CONTRACTOR for performing services hereunder for City. City shall not be liable

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for compensation or indemnification to CONTRACTOR for injury or sickness arising out of performing services hereunder.

c. Any and all employees or sub-contractors of CONTRACTOR under this Agreement, while engaged in the performance of any work or services required by CONTRACTOR under this Agreement, shall be considered employees or sub-contractors of CONTRACTOR only and not of City. Any and all claims that may arise under the Workers' Compensation Act on behalf of said employees or sub-contractors, while so engaged and all claims made by a third party as a consequence of any negligent act or omission on the part of the CONTRACTOR's employees or sub-contractors, while so engaged in any of the work or services provided for or rendered herein shall not be City's obligation.

15. SUBCONTRACTORS

Before CONTRACTOR retains or hires a subcontractor to provide any work, labor, or services relative to this AGREEMENT, CONTRACTOR must:

a. Present the name and identifying information of the subcontractor that will provide any work, labor, or services to City.

b. Present to the City the form of subcontract that will be used with the subcontractor for City's approval, which approval will not be unreasonably withheld. Such subcontract AGREEMENT must include an indemnity agreement that is generally in accord with the indemnity obligations contained in Section 11 of this Agreement and must specifically name the City as an indemnified party; and

c. Secure from the subcontractor evidence of insurance coverage that meets with this Agreement including naming the City as an additional insured as required by this Agreement, unless such requirement is waived in writing by the City.

16. NO BENEFIT TO ARISE TO CITY OFFICERS AND EMPLOYEES

No City officer, employee of City, or their designees or agents, and no public officer who exercises authority over or responsibilities with respect to the Services provided under the Agreement during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Services performed under this Agreement.

17. CONFLICT OF INTEREST

CONTRACTOR shall at all times avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this Agreement, and shall comply with the City's conflict of interest code.

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If City determines CONTRACTOR comes within the definition of Contractor under the Political Reform Act (Government Code §87100 et seq.), CONTRACTOR shall complete and file and shall require any other person performing Services under this Agreement to complete and file a "Statement of Economic Interest" with City disclosing CONTRACTOR's and/or such other person's financial interests.

18. NO WAIVER OF BREACH/TIME

The waiver by City of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement. Time is of the essence in carrying out the duties hereunder.

19. CONFIDENTIAL INFORMATION/RELEASE OF INFORMATION

a. All information gained by CONTRACTOR in performance of this Agreement shall be considered confidential and shall not be released by CONTRACTOR without City's prior written authorization. CONTRACTOR, its officers, employees, agents, or sub-contractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided CONTRACTOR gives City notice of such court order or subpoena.

b. CONTRACTOR shall promptly notify City should CONTRACTOR, its officers, employees, agents, or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the Services performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent CONTRACTOR and/or be present at any deposition, hearing, or similar proceeding. CONTRACTOR agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by CONTRACTOR. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

20. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States

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Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:
Daniel Gho
Public Works Director/Deputy City Manager
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

To CONTRACTOR:
Michael Haughey
Accent Clean & Sweep, Inc.
1172 South Main St. #167
Salinas, CA 93901

Notice is effective on the date of personal service, or 5 days following deposit in a United States mailbox, or date of postmark. The parties may agree to notice by email.

21. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in third parties.

22. ASSIGNMENT

CONTRACTOR shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City. Subject to the foregoing, all terms of the Agreement will be binding upon, enforceable by and inure to the benefit of the parties and their successors and assigns.

23. GOVERNING LAW

City and CONTRACTOR understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in Monterey County, or the federal district court with jurisdiction over the City. CONTRACTOR agrees not to commence or prosecute any dispute arising out of or in connection with this Agreement other than in the aforementioned courts and irrevocably consents to the exclusive personal jurisdiction and venue of the aforementioned courts.

24. DISPUTE RESOLUTION; ATTORNEY'S FEES

CONTRACTOR shall continue to perform under this Agreement during any dispute. CONTRACTOR and City hereby agree to make good faith efforts to resolve disputes as

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quickly as possible. In the event any dispute arising from or related to this Agreement results in litigation or arbitration, the prevailing party shall be entitled to recover all reasonable costs incurred, including court costs, attorney fees, expenses for expert witnesses (whether or not called to testify), expenses for accountants or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party, and shall not require initiation of a separate legal proceeding.

25. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of CONTRACTOR warrants and represents that they have the authority to execute this Agreement on behalf of the CONTRACTOR and the authority to bind CONTRACTOR to the performance of its obligations hereunder.

26. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to their obligations described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

27. AMENDMENT

a. Any modification or amendment to this Agreement must be in writing.

b. Neither City nor CONTRACTOR shall be deemed to have waived any obligation of the other, or to have agreed to any modification to this Agreement unless it is in writing, and signed by the party giving the waiver.

28. INTERPRETATION OF CONFLICTING PROVISIONS

In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control

29. SEVERABILITY

If any term of this Agreement is held invalid by a court of competent jurisdiction or arbitrator the remainder of this Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF PACIFIC GROVE

By: DocuSigned by: Daniel Gho 056C641716ED4E6...
Department Director

Date: 7/29/2022

By: DocuSigned by: Bill Peake 2E6F9DE48137414...
City Manager or Mayor

Date: 7/30/2022

CONTRACTOR

By: DocuSigned by: 6CB17EF7A5DC443...
CONTRACTOR

Date: 7/29/2022

By: DocuSigned by: Tori Hannah 3B02FAB081E94DB...
City Administrative Services Department

Date: 7/29/2022

Approved As To Form: DocuSigned by: Pierik, Brian A. 01871FB17BD8435...
City Attorney

7/29/2022
Date

Attachments:

	Exhibit A	Scope of Services
	Exhibit B	Payment Schedule
	Exhibit C	Insurance Requirements
	Exhibit D	Request for Proposal
	Exhibit E	CONTRACTOR's Proposal

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Exhibit A

Scope of Work/Services

The CONTRACTOR shall provide the City with street sweeping services for residential and commercial roadways and city parking lots as specified below.

Types of Sweeping Services

- Scheduled Services: Contractor shall sweep streets designated in Attachment A, Street Sweeping Maps. The schedule for street sweeping may not be changed without the written approval of the City.
- Sweeping shall not be performed on weekends unless authorized by the City. The City may require revisions of the schedule as necessary to maximize sweeping coverage or to coincide with the solid waste collection schedule.
- Unscheduled Service: For Unscheduled Service, the Contractor will be given 2 working days advance notice of the need. Compensation shall be based on Item IV of the Cost Proposal Schedule. Unscheduled Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in a non-emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for the Unscheduled Services. No additional compensation shall be given for travel time to the Unscheduled Services site.
- Emergency Service: Emergency Service requires response within 2 hours or less. Emergency Services completed during normal business hours (8 AM – 5 PM) shall be compensated based on Item V.a of the Cost Proposal Schedule. Emergency Services completed during non-normal business hours (5 PM – 8 AM), weekends and holidays shall be compensated based on Item V.b of the Cost Proposal Schedule. Emergency Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in an emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for Emergency Services. No additional compensation shall be given for travel time to the Emergency Services site.

All other work: All other work included in these specifications, unless identified as "Unscheduled Services" or "Emergency Services," shall be deemed ancillary to the work covered by proposal Item I listed in the Cost Proposal Schedule, and no additional compensation shall be granted.

City Parking Lots

Sweeping of all City parking lots shall be swept before 8am on a weekly basis.

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Special Events
Street sweeping shall occur in advance of special events within the downtown area. Annually, the contractor will be provided with the list of events, roadways to be swept, and timing of sweeping.

Additions/Deletions
The City reserves the right to add or delete curb miles and to increase or reduce the sweeping frequency called for in these specifications. The cost per curb mile for additions or deletions will dictate the maximum increase that will be allowed for additional miles and/or for additional frequency. That amount will also dictate the minimum reduction in monthly cost for deletion of curb miles and/or decrease in sweeping frequency.

Hours of Sweeping
All scheduled machine street sweeping shall be performed only during the hours of 7:00 AM to 9:00 AM for commercial areas and during the hours of 8:00 AM to 6:00 PM for residential areas. Sweeping shall not be performed on weekends unless authorized by the City.

Sweeping shall be scheduled to maximize the area of streets being swept by minimizing interference by parked vehicles. Sweeping shall be scheduled and done in such a way as to minimize noise complaints in residential areas and parking lots adjacent to residential areas. The City may require revisions in the hours and/or manner of operation as necessary to maximize sweeping coverage, to minimize noise complaints, or to coincide with City staff working hours.

Equipment
Contract work shall only be performed with equipment suitable to produce the quality of work identified below ("Equipment Identification"). All equipment shall be subject to the City's approval prior to use. All sweeping equipment shall have appropriate safety markings consisting of highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with the State Vehicle Code and approved by the City.

The use of a steel plate on the sweeper wheel to prevent tire scuffing against the curb will not be permitted.

The Contractor shall properly maintain a minimum of or have two (2) working machine sweepers, both in good condition and appearance, for use on the work under this contract at all times.

Sweepers shall comply with all local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the contract or replaced with a sweeper which does meet the limits.

Equipment Identification
All the equipment being used within the City shall be clearly and prominently marked with the Contractor's name and telephone number.

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Hand-Sweeping/Vacuuming
Contractor shall remove all visible debris along curbs and medians. Square cul-de-sacs and bulb-outs require hand sweeping of the corners or vacuuming into the sweeper. Compensation for hand- sweeping/vacuuming shall be considered as included in the scope of work for basic sweeping service, and no separate payment will be made therefore. If callback is required, the City shall deduct as per the "Callbacks" section below.

Disposal of Sweeping Debris
The Contractor may dump all debris swept from the City streets at the City's Corporation Yard located at 2100 Sunset Drive, Pacific Grove, CA 93950.

Level of Cleanliness
Level of cleanliness shall be defined as the absence of debris in the streets and gutters upon the completion of the sweeping operation. Payment will be for one pass only, and no separate payment will be made for a second pass needed to remove debris. Sweeper shall not limit the number of times that the sweeper debris hopper is emptied for any given route to meet the level of cleanliness.

Speed of Vehicles
The Contractor shall operate the sweepers between three to five miles per hour when sweeping, unless it can be proven, to the satisfaction of the City, the sweeper can operate at a higher speed and still operate efficiently.

Callbacks
Whenever, in the opinion of the City, a section of street is inadequately swept, the Contractor shall, within 24 hours after notification, re-sweep the section in question and may, at the discretion of the City, forfeit as a penalty of one hundred dollars ($100) for each time a street is inadequately swept. No additional payment will be made for callbacks as a result of inadequate sweeping.

Water
The Contractor shall utilize adequate amounts of water to conduct street sweeping services. No dry sweeping shall be allowed unless authorized by the City. The Contractor shall provide equipment with adequate air gap to prevent cross contamination of the City's water system

Dust Control
The proper volume and pressure of water will be supplied by the sweeper and shall be in good working condition at all times to adequately control dust during sweeping operation.

Vehicles
Currently, streets are <u>not</u> posted for "no parking" on sweeping days. It is understood that if vehicles are parked on the streets when services are being performed by the Contractor, then Contractor's operations will be impeded and Contractor will be required to bypass said parked vehicles. In such events, the rates charged by Contractor shall not be reduced.

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Trees

If trees along the sweeping route impede the Contractor's ability to effectively sweep curbed area, Contractor shall note the location of tree on the Sweeping Log. This information shall be reported to the City by the Contractor within 24 hours. If a downed tree or limb from a tree is observed in the street, Contractor shall immediately notify the Department of Public Works at (831) 648-5722.

Communications and Reports

- Office: The Contractor shall maintain an office or such other facility through which he/she can be contacted and from which he/she can maintain radio or pager contact with sweeping vehicles. It shall be equipped with sufficient telephones and shall have a responsible person in charge during regular business hours, Monday through Friday. The Contractor shall also provide a 24-hour emergency contact telephone number.
- Complaints: Complaints regarding the street sweeping operations, which the City considers justifiable and the responsibility of the Contractor, will be referred to the Contractor for immediate attention. Within two (2) days, the Contractor shall submit to the Public Works Director, or his designee, a report of the action taken to address or reconcile each complaint.
- Reports: The Contractor shall submit a Sweeping Log upon request of the City. The log shall include a daily starting and ending odometer readings, cubic yards of material collected and type of sweeper used. A separate log shall also be used for any additional work items performed. Discharge Permit. The street sweeper shall have a tracking device which can provide real-time location, speed, and usage. This data shall be logged at a minimal interval of every 5-minutes. This log shall be continuously accessible and available to the City through a website.

City Rights

The City will:

- Increase or decrease the amount of work to be performed with no change in the unit price.
- Have emergency service performed by City forces or by a separate contractor as needed.
- Use video equipment to create public service spots for community awareness
- Change hours of sweeping as necessary provided 48 hours advance notice is given.

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Attachment A – Street Sweeping Map



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Exhibit B

Payment Schedule

CONTRACTOR shall invoice the City monthly for services. Rates for street sweeping services and additional service tasks are noted below.

Street Sweeping Rates

Monthly rates for sweeping services based on routes, parking lots and schedules defined in the street sweeping map are provided below.

Year of Service	Monthly Fee	Annual Fee
Year 1 (FY22/23)	$17,100	$205,200
Year 2 (FY23/24)	$17,100	$205,200
Year 3 (FY24/25)	$18,810	$225,720
Year 4 (FY25/26)	$18,810	$225,720

Additional Service Rates

Task	Description	Rate
Additions/Deletions Curb Mile	Rate per curb mile for addition/deletions to the basic sweeping services	$41.22/mile
Additions/Deletions Square Yards (Parking Lots)	Rate per square yards for addition/deletions to the basic sweeping services	$0.02/Sq. Yard
Unscheduled Service	Hourly rate for unscheduled service (includes operator and sweeper)	$180/hour
Operating Hours Emergency Service	Hourly rate for emergency services during operating hours, 8am – 5pm (includes operator and sweeper)	$180/hour
After Hours Emergency Service	Hourly rate for emergency services after hours including nights & weekends (includes operator & sweeper)	$210/hour

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Exhibit C

Insurance Specifications

General liability insurance. CONTRACTOR shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. CONTRACTOR shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the CONTRACTOR arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident.

Umbrella or excess liability insurance. [Optional depending on limits required] CONTRACTOR shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Workers' compensation insurance. CONTRACTOR shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000).

CONTRACTOR shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

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Other provisions or requirements

Proof of insurance. CONTRACTOR shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by CONTRACTOR, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by CONTRACTOR shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by CONTRACTOR or City will withhold amounts sufficient to pay premium from CONTRACTOR payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, employees and volunteers or shall specifically allow CONTRACTOR or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONTRACTOR hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

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Enforcement of contract provisions (non estoppel). CONTRACTOR acknowledges and agrees that any actual or alleged failure on the part of the City to inform CONTRACTOR of non-compliance with any requirement imposes no additional obligations on the AGENCY nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the CONTRACTOR maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. CONTRACTOR agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. CONTRACTOR agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the project who is brought onto or involved in the project by CONTRACTOR, provide the same minimum insurance coverage and endorsements required of CONTRACTOR. CONTRACTOR agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONTRACTOR agrees that upon request, all AGREEMENTS with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

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Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the CONTRACTOR ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONTRACTOR, the City and CONTRACTOR may renegotiate CONTRACTOR's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

Timely notice of claims. CONTRACTOR shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from CONTRACTOR's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONTRACTOR shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

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VERIFICATION OF CALIFORNIA CONTRACTOR'S LICENSE

I certify, under penalty of perjury, that I have a valid California Contractor's license issued pursuant to Business and Professions Code section 7000 and following, and was so licensed at the time that the bid was awarded:

California Contractor's License:

740094	c61	12/23
License Number	Class	Expiration Date

Accent clean & sweep inc

CONTRACTOR (PRINT OR TYPE)

7/29/2022

Date

DocuSigned by:

6CB17EF7A5DC443...

Signature

(Public Contract Code § 6100)

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CERTIFICATE REGARDING WORKERS' COMPENSATION

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Mike

Name (print or type)

DocuSigned by:

6CB17EF7A5DC443...

7/29/2022

Date

Signature

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CERTIFICATE REGARDING DEPARTMENT OF INDUSTRIAL RELATIONS CONTRACTOR REGISTRATION

I certify, under penalty of perjury, that Contractor is registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor's Department of Industrial Relations registration number is 1000022812.

Mike President

Name & Title (print or type)

7/29/2022

Date

DocuSigned by:

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Signature

(Labor Code section 1725.5)

LIST OF SUBCONTRACTORS

WORK IDENTIFICATION:

NO SUBCONTRACTORS WILL BE USED

NAME AND ADDRESS OF BIDDER: _____

_____

Name/Address/Phone No./State License Number of Subcontractor/City of Pacific Grove Business License Number	Department of Industrial Relations Registration Number*	Items of Work	Portion of Work (% of Contract Price)
		% of Total Contract Price by Subcontract	
		% of Total Contract Price by Contractor	

*Pursuant to Division 2, Part 7, Chapter 1, (commencing with section 1720 including section 1725.5) of the Labor Code

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EXHIBIT D

REQUEST FOR PROPOSALS

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CITY OF PACIFIC GROVE

DEPARTMENT OF PUBLIC WORKS

NOTICE INVITING SEALED BIDS FOR STREET SWEEPING SERVICES

The City of Pacific Grove invites sealed bids for Street Sweeping Services.

All bids submitted shall meet the following terms and conditions:

1. Bids shall be delivered to the Public Works Department at 2100 Sunset Drive, Pacific Grove, CA 93950, not later than 2:00 PM on Thursday June 22, 2022, at which hour and date all bids will be publicly opened. Bids shall be submitted in a sealed envelope, and the outside of the envelope shall be clearly marked, "SEALED BID FOR STREET SWEEPING SERVICES". It is sole responsibility of the bidder to see that their bid is received in proper time. Any bids received after the scheduled closing time will be rejected.

2. Any bidder may withdraw his or her bid, either personally or by written request at any time prior to the scheduled closing time for receipt of bids, but no bidder may withdraw his or her bid for a period of thirty (30) days after the opening thereof.

3. All bids submitted shall include a completed "Proposal", identifying unit costs. The work performed under this contract must conform to requirements of the project plans and specifications, which are included in the bidder package.

4. The contract will be awarded to the lowest responsible bidder (as defined in the City purchasing regulations) whose work, in the opinion of the City Council will best meet the requirements of the City of Pacific Grove. It is clearly understood by all bidders that said Council reserves the right to reject any and all bids and to waive informalities in said bids.

5. No contractor or subcontractor may be listed on a bid proposal or awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

6. In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the current prevailing wages in Monterey County, California, as determined by the Director of the California Department of Industrials Relations as required to be paid to mechanics and laborers, employed directly upon the site of the work.

7. A Bidder's Package, including bidder specifications, special requirements and a sample contract may be viewed, and an electronic copy can be obtained at the City Clerk's Office, located at 300 Forest Avenue, Pacific Grove, CA, 93950, (831) 648-3181.

8. The contact person for technical questions concerning project specifications, the bid process and general project information should be directed to Joyce Halabi, Deputy Public Works Director via e-mail at jhalabi@cityofpacificgrove.org or by phone at (831) 648-5722.

Dated: 6/1/2022

DocuSigned by:
Daniel Gho
056C641716ED4E6...

Daniel Gho
Public Works Director

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

REQUIRED SERVICES, SCOPE OF SERVICES, AND REQUIREMENTS

1. DESCRIPTION OF REQUIRED SERVICES AND GENERAL CONDITIONS

This proposal is for the street sweeping services in the City. The Contractor shall furnish all labor, tools, shop facilities, equipment, and materials and perform all work necessary to provide for street sweeping services.

A. Duration of Contract

Initial contract period for the street sweeping services shall be from July 2022 to June 3
0, 2023 for a twelve (12) month period with terms to extend the initial agreement by mutual letter for four consecutive terms (4 total years).

B. Contractor Qualifications

The Contractor bidding on this project must have at least five years of experience providing street sweeping services. All employees of Contractor shall be properly licensed to operate assigned equipment used for sweeping the City, as determined by local, state, and federal regulations.

C. Description of Work

The work to be performed consists of sweeping, either by modern machine sweeping, all designated improved public streets including curb returns and median islands within the City on a uniform schedule as outlined below. No machine street sweeping shall be performed during rainstorms, when there is running water in the gutter or street, or for any other reason sweeping is impractical as determined by the City.

D. Definitions

1. Curb Mile - Curb Mile shall be defined as the distance the machine sweeper travels with an effective sweeping width of eight (8) feet from the curb face along an improved street.
2. Linear Mile – Measurement of actual miles driven in order to satisfactorily clean streets to the City standard, which may require multiple passes depending on condition or width of the street.
3. Holiday – There will be no sweeping on the following observed holidays: New Year's Day, Independence Day, Thanksgiving Day, and Christmas Day. When routes are not swept due to a holiday, the Contractor shall make-up the missed routes on the following business day by sweeping the routes missed due to the holiday, along with the regularly scheduled commercial routes.
4. Debris - All deposits of dirt, rock, glass, cans, leaves, sticks, papers, or any like materials so designated by the City within the areas to be swept within the terms of this contract and of a size which can be practically removed by mechanical sweeping or hand-sweeping operations shall be removed.
5. Scheduled Service - Sweeping frequency as defined in the contract documents which must be performed on the schedule set forth in the contract documents.
6. Unscheduled Service - Service which can be requested by the City to be performed outside the bounds of the scheduled service which can be anticipated a minimum of 2 working days in advance.
7. Emergency Service - Service which can be requested by the City to be performed outside the bounds of the scheduled service within 2 hours of being notified to provide such service.

2. SCOPE OF SERVICES

A. Types of Sweeping Services

1. Scheduled Services: Contractor shall sweep streets designated in Attachment A, Street Sweeping Maps. The schedule for street sweeping may not be changed without the written approval of the City.

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Sweeping shall not be performed on weekends unless authorized by the City. The City may require revisions of the schedule as necessary to maximize sweeping coverage or to coincide with the solid waste collection schedule.

2. Unscheduled Service: For Unscheduled Service, the Contractor will be given 2 working days advance notice of the need. Compensation shall be based on Item IV of the Cost Proposal Schedule. Unscheduled Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in a non-emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for the Unscheduled Services. No additional compensation shall be given for travel time to the Unscheduled Services site.
3. Emergency Service: Emergency Service requires response within 2 hours or less. Emergency Services completed during normal business hours (8 AM – 5 PM) shall be compensated based on Item V.a of the Cost Proposal Schedule. Emergency Services completed during non-normal business hours (5 PM – 8 AM), weekends and holidays shall be compensated based on Item V.b of the Cost Proposal Schedule. Emergency Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in an emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for Emergency Services. No additional compensation shall be given for travel time to the Emergency Services site.
4. All other work: All other work included in these specifications, unless identified as "Unscheduled Services" or "Emergency Services", shall be deemed ancillary to the work covered by proposal Item I listed in the Cost Proposal Schedule, and no additional compensation shall be granted.

B. City Parking Lots

Sweeping of all City parking lots shall be only during the hours of 10:00 PM8:00 am to 9:00AM on a weekly basis, except the Corporation Yard shall be swept during the day.

C. Special Events

Included in the standard sweeping are specified areas and dates prior to special events in Attachment B.

D. Additions/Deletions

The City reserves the right to add or delete curb miles and to increase or reduce the sweeping frequency called for in these specifications. The cost per curb mile for additions or deletions (Item II of the Cost Proposal Schedule) will dictate the maximum increase that will be allowed for additional miles and/or for additional frequency. That amount will also dictate the minimum reduction in monthly cost for deletion of curb miles and/or decrease in sweeping frequency.

B. Hours of Sweeping

All scheduled machine street sweeping shall be performed only during the hours of 7:00 AM to 9:00 AM for commercial areas and during the hours of 8:00 AM to 6:00 PM for residential area. Sweeping shall not be performed on weekends unless authorized by the City.

Sweeping shall be scheduled to maximize the area of streets being swept by minimizing interference by parked vehicles. Sweeping shall be scheduled and done in such a way as to minimize noise complaints in residential areas and parking lots adjacent to residential areas. The City may require revisions in the hours and/or manner of operation as necessary to maximize sweeping coverage, to minimize noise complaints, or to coincide with City staff working hours.

C. Equipment

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Contract work shall only be performed with equipment suitable to produce the quality of work identified in Section H. All equipment shall be subject to the City's approval prior to use. All sweeping equipment shall have appropriate safety markings consisting of highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with the State Vehicle Code and approved by the City.

The use of a steel plate on the sweeper wheel to prevent tire scuffing against the curb will not be permitted.
.

The Contractor shall properly maintain a minimum of or have two (2) working machine sweepers, both in good condition and appearance, for use on the work under this contract at all times.

Sweepers shall comply with all local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the contract or replaced with a sweeper which does meet the limits.

D. Equipment Identification
All the equipment being used within the City shall be clearly and prominently marked with the Contractor's name and telephone number.

E. Hand-Sweeping/Vacuuming
Contractor shall remove all visible debris along curbs and medians. Square cul-de-sacs and bulb-outs require hand sweeping of the corners or vacuuming into the sweeper. Compensation for hand-sweeping/vacuuming shall be considered as included in the scope of work for basic sweeping service, and no separate payment will be made therefore. If callback is required, the City shall deduct as per callback rate in Section J.

F. Disposal of Sweeping Debris
The Contractor may dump all debris swept from the City streets at the City's Corporation Yard located at 2100 Sunset Drive, Pacific Grove, CA 93950.

G. Level of Cleanliness
Level of cleanliness shall be defined as the absence of debris in the streets and gutters upon the completion of the sweeping operation. Payment will be for one pass only, and no separate payment will be made for a second pass needed to remove debris. Sweeper shall not limit the number of times that the sweeper debris hopper is emptied for any given route in order to meet the level of cleanliness.

H. Speed of Vehicles
The Contractor shall operate the sweepers between three to five miles per hour when sweeping, unless it can be proven, to the satisfaction of the City, the sweeper can operate at a higher speed and still operate efficiently.

I. Callbacks
Whenever, in the opinion of the City, a section of street is inadequately swept, the Contractor shall, within 24 hours after notification, re-sweep the section in question and may, at the discretion of the City, forfeit as

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a penalty of one hundred dollars ($100) for each time a street is inadequately swept. No additional payment will be made for callbacks as a result of inadequate sweeping.

J. Water

The Contractor shall utilize adequate amounts of water to conduct street sweeping services. No dry sweeping shall be allowed unless authorized by the City. The Contractor shall provide equipment with adequate air gap to prevent cross contamination of the City's water system

K. Dust Control

The proper volume and pressure of water will be supplied by the sweeper and shall be in good working condition at all times to adequately control dust during sweeping operation.

L. Vehicles

Currently, streets are not posted for "no parking" on sweeping days. It is understood that if vehicles are parked on the streets when services are being performed by the Contractor, then Contractor's operations will be impeded and Contractor will be required to bypass said parked vehicles. In such events, the rates charged by Contractor shall not be reduced.

M. Trees

If trees along the sweeping route impede the Contractor's ability to effectively sweep curbed area, Contractor shall note the location of tree on the Sweeping Log. This information shall be reported to the City by the Contractor within 24 hours. If a downed tree or limb from a tree is observed in the street, Contractor shall immediately notify the Department of Public Works at (831) 648-5722.

N. Communications and Reports

1. Office: The Contractor shall maintain an office or such other facility through which he/she can be contacted and from which he/she can maintain radio or pager contact with sweeping vehicles. It shall be equipped with sufficient telephones and shall have a responsible person in charge during regular business hours, Monday through Friday. The Contractor shall also provide a 24-hour emergency contact telephone number.
2. Complaints: Complaints regarding the street sweeping operations, which the City considers justifiable and the responsibility of the Contractor, will be referred to the Contractor for immediate attention. Within two (2) days, the Contractor shall submit to the Public Works Director, or his designee, a report of the action taken to address or reconcile each complaint.
3. Reports: The Contractor shall submit a Sweeping Log upon request of the City. The log shall include a daily starting and ending odometer readings, cubic yards of material collected and type of sweeper used. A separate log shall also be used for any additional work items performed. Discharge Permit. The street sweeper shall have a tracking device which can provide real-time location, speed, and usage. This data shall be logged at a minimal interval of every 5-minutes. This log shall be continuously accessible and available to the City through a website.

O. City Rights

The City will:

1. Increase or decrease the amount of work to be performed with no change in the unit price.
2. Have emergency service performed by City forces or by a separate contractor as needed.
3. Use video equipment to create public service spots for community awareness
4. Change hours of sweeping as necessary provided 48 hours advance notice is given.

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P. Wages - In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the general prevailing rate of wages in the County in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. These wage rates appear in the California Department of Industrial Relations publication entitled General Prevailing Wage Rates. Interested parties can obtain the current wage information by submitting their requests to the Department of Industrial Relations, Division of Labor Statistics and Research, P.O. Box 42603, San Francisco CA 94142, or on the World Wide Web at http:/www.dir.ca.gov. The rates at the time of the bid advertisement date of a project will remain in effect for the life of the project in accordance with the California Code of Regulations, as modified and effective.

3. REQUIREMENTS

The entire package must be placed in a sealed envelope labeled "STREET SWEEPING SERVICES." Said package must have the name and address of the proposer on the outside and be mailed or delivered to:

City of Pacific Grove
c/o Joyce Halabi, Deputy Public Works Director
300 Forest Avenue
Pacific Grove, CA 93950

No Later Than: Thursday, June 22, 2022 at 2:00 pm.

It is the proposer's sole responsibility to submit the proposal on time. Proposals which are received after the exact time and date indicated above will not be considered. Proposals will remain confidential in their entirety until City evaluation and analysis is complete and a recommendation of award has been submitted to the City Council.

The technical point of contact for this project is Joyce Halabi, Deputy Public Works Director; she can be contacted by e-mail at jhalabi@cityofpacificgrove.org or by phone 831-648-5722. Clarifying questions are encouraged as we believe these will add to the quality of the proposals. All additional questions received and the City's response will be posted on the City website at www.cityofpacificgrove.org

Final award shall be contingent upon selected firm (Contractor) accepting Terms and Conditions in substantial conformity to the terms listed in this RFP.

A. Proposal submission

The proposal must include:

1. An original of the entire proposal, including all original ink signatures.
2. One complete copy of the entire proposal.
3. One electronic version of the entire proposal, on a USB drive.
4. The Contractor selected shall be required to comply with the City's insurance requirements.
5. The Contractor shall protect indemnify and save harmless the City, the City's officers, officials, and employees and agents against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify and save harmless the City and its officers, officials, employees and agents from any claims, demands, suits, actions or proceedings of any kind or nature, including Worker's Compensation claims, of or by anyone whomsoever, arising out of or as a result of any negligent, tortuous or deliberate act, error or omission on the part of the contractor or other whose services are engaged by the contractor or anyone employed or controlled by either of them in the performance of the work provided for in this contract.

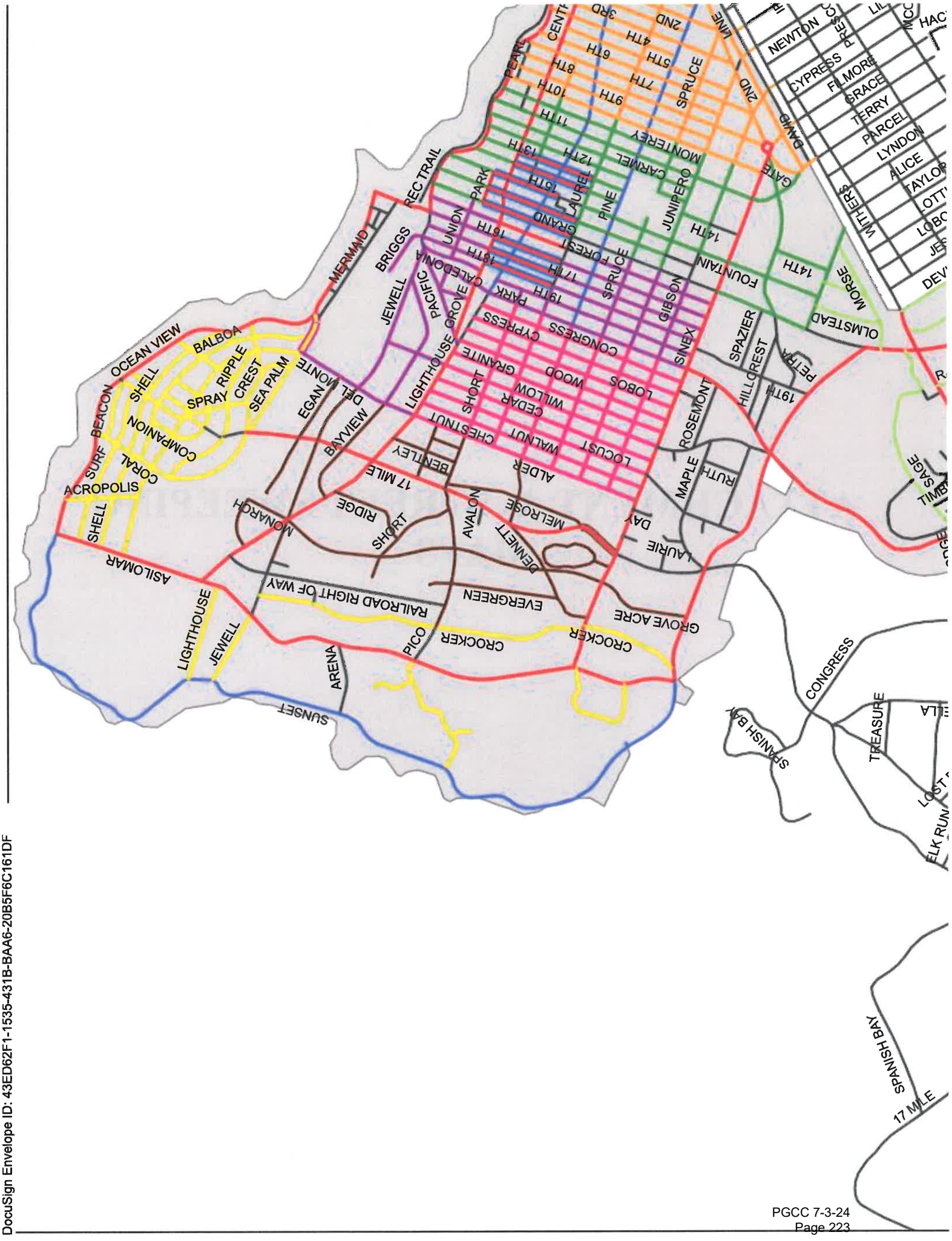
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B. Proposal Content Requirements

1. Title Page: Title page must include the name of the proposed business entity and the name, address and telephone number of one contact person. All correspondence from the City to proposer will be with one contact person. The individual designated as the contact person will be responsible for disseminating information to the other members of the business entity.
2. Table of Contents
3. Experience and Qualifications: Describe your firm's history, resources, and capabilities. Indicate key personnel that you will agree to commit to City of Pacific Grove projects if awarded a contract, including name and qualifications of the proposed staff. Indicate applicable licenses, credentials, and professional training held by the firm principal(s) and key personnel. Any Sub-Consultant that your firm may intend to use for City projects must be pre-approved first by the City. Should your firm propose to engage the services of a sub-consultant provide the firm's name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFP.
4. References: Three clients for which the proposer has provided services within the past five (5) years, similar to those identified in this RFP. The City of Pacific Grove reserves the right to contact any reference or any client listed in the documents for information which may be helpful to the City in evaluating the Contractor's performance on previous assignments
5. Proof of DIR contractor registration.
6. Cost Proposal Schedule

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ATTACHMENT A- STREET SWEEPING MAPS



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Attachment B Special Event List
FY 2022-2023

#	Event	Day of Event	Date of Event	Location	Notes
1	Little Car Show	Wednesday	August 11, 2022	Downtown Lighthouse Ave.	Downtown to be done prior to event
2	Butterfly & Homecoming Parade	Saturday	October 2, 2022	Pine & Downtown	Route Done prior to parade: Day before
3	Annual Holiday Parade of Lights	Thursday	December 1, 2022	Lighthouse Avenue	Route Done prior to parade: Day before
4	Good Old Days	Friday-Sun.	May 5-7, 2023	Downtown	Downtown to be done prior to event: Friday

* Each the date of the above-mentioned Special Events Change. Future years dated TBD by Council prior to the start of the next fiscal year.

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Attachment C Cost Proposal Schedule

STREET SWEEPING SERVICES
(July 1, 2018 – June 30, 2019)

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
I.	**Monthly Street Sweeping**				
	Monthly Rate for basic sweeping services based on the routes, parking lots and schedules defined in Section 2 of this Request for Proposals.	12	$/Month	$ _____	$ _____
	TOTAL PROPOSAL (ITEM I) PER YEAR			**$ _____**	
II.	**Additions/Deletions – Curb Mile**				
	Rate per curb mile for addition or deletions to the basic sweeping services.	1	$/Mile	$ _____	
III.	**Additions/Deletions – Square Yards – Parking Lots**				
	Rate per curb mile for addition or deletions to the basic sweeping services.	1	$/Sq. Yard	$ _____	
IV.	**Unscheduled Service**				
	Hourly rate for unscheduled service (includes operator and sweeper).	1	$/Hour	$ _____	
V.	**Emergency Service**				
V.a	Hourly rate for emergency services during normal operating hours 8 a.m.-5 p.m. (includes operator and sweeper).	1	$/Hour	$ _____	
V.b	Hourly rate for emergency services after hours including nights and weekends (includes operator and sweeper).	1	$/Hour	$ _____	

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Attachment D Proposal Title Sheet

Proposal Title Sheet for City of Pacific Grove for Street Sweeping Services

Date: _____

I/We _____ the undersigned, do hereby propose to furnish the City of *Pacific Grove, California*, a Proposal for Street Sweeping, in accordance with all terms and specifications contained herein:

Attach one (1) copy of your proposal package.

Name of Firm: _____

Signature & Title: _____

Address: _____

Phone Number: _____

Fax Number: _____

Contractor shall answer to the following questions by circling the appropriate response or completing the blank provided:

Company Profile:

Is your firm? (Please circle one)

A.	SOLE PROPRIETORSHIP	YES	NO
B.	PARTNERSHIP	YES	NO
C	CORPORATION	YES	NO

List Legal Names of Company:

_____

_____

_____

Total Number of Employees_____

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References: List **at least three** (3) local agencies of same general size and billing numbers and frequency where the **same/similar services**, as stated **herein**, have been **provided**. (Note: lack of three comparable agencies will not disqualify proposer.)

LOCAL AGENCY NAME

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

LOCAL AGENCY NAME

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

LOCAL AGENCY NAME

Contact Person Title

Address P.O. Box City State Zip

Phone Number Fax Number

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

EXHIBIT E

Contractor's Proposal

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Clean & Sweep, Inc.

Title Page

Accent Clean & Sweep, Inc.
1172 South Main street, #167
Salinas, Ca. 93901

ph# 831)783-0303

email: accentclean-sweep@sbcglobal.net

contact, Michael Haughey

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Table of contents

1) experience and qualifications

2)References

3)Proof of DIR

4)Cost of proposal Schedule

5)Bid documents signed

6)Bid documents not signed

7) Memory card with bid documents

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Accent

Clean & Sweep, Inc.

Experience and Qualifications

1) we have two long term staff that have spent years (15 yrs prior, 4 yrs recently) serving The City of pacific Grove street sweeping program and are committed to continuity, customer service, and value to the City.

2)The owner of the company and daily manager is storm water trained and understands the purpose of NPDES and storm water needs, carrying QSP and CESSWI certifications. All staff are storm water technicians and SWPPP trained.

3)The equipment is late model PM10 certified equipment and back up machine is a 2022 model, various other broom machines to assist during storm events as well are nearby and quickly dispatched. We are a local company and have been maintaining the Monterey county NPDES sweeping program for years 2015-2021,

4)We have been in business in Monterey County since 1995, and are a licensed contractor

5)Sweep several small cities including City of Castroville and The City of Scotts Valley

1172 S. Main St., Salinas, CA 93901 ♦ 831-783-0303 831-783-1399 Fax

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

References

City of Scotts Valley Taylor Thomas 831-783-1661
Public Works
701 Lundy Lane
Scotts Valley, CA 95066

Constellation Brand, Inc. Joel Beas 831-214-1662
235 North Bloomfield Road
Canandaaigua, NY 14424

Monterey County Public Works Art Gadeza 831277-2648
168 W. Alisal St, 2nd Floor
Salinas, CA 93901-2680

Monterey Regional Waste Management Dist. David Ramirez 831-261-2153
P.O. BOX 1670
Marina, Ca. 93933

Thelander Mgmt. Co. 88311-758-2855
P.O BOX 1531
Salinas, CA 93902

Carmel Marina Corp. MRF David Saucedo 831-760-7028
Waste Management companies
11260 Commercial Parkway
Castroville, CA 95012

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Department of Industrial Relations
STATE OF CALIFORNIA

APPLICATION FOR
PUBLIC WORKS CONTRACTOR REGISTRATION

Registration Information

Type: Public Works

Period: 07/01/2022 06/30/2024

Contractor Information

Contractor Name: ACCENT CLEAN AND SWEEP, INC.

Trade Name:

License Type Number: 1000022812

Contractor Physical Address

Physical Business Country: United States of America

Physical Business Address: 489 El Camino Real South

Physical Business City/ Province: SALINAS

Physical Business State: CA

Physical Business Postal Code: 93908

Contractor Mailing Address

Mailing Country: United States of America

Mailing Address: 1172 SOUTH MAIN ST. #167

Mailing City /Province: SALINAS

Mailing State: CA

Mailing Postal Code: 93901

Contact Info

Daytime Phone:

Mobile Phone:

Daytime Phone Ext.:

Business Email: accentclean-sweep@sbcglobal.net

Applicant's Email: accentclean-sweep@sbcglobal.net

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Workers' Compensation

Professional Employer Organization (PEO)

Do you lease employees through Professional Employer Organization? No

Workers' Compensation Overview

Carrier: ICW Group Insurance Companies

Inception Date: 03/14/2022

Policyholder Name: ACCENT CLEAN AND SWEEP, INC.

Expiration Date: March 14, 2023

Policy Number: WSA5040187

Certification

Yes I certify that I do not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award

I certify that the contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

Yes I certify that one of the following is true: (1) I am licensed by the Contractors State License Board (CSLB) in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code; or (2) my business or trade is not subject to licensing by the CSLB.

I understand refunds are not authorized

I, Michael Haughey, the undersigned, am , ACCENT CLEAN AND SWEEP, INC. with the authority to act for and on behalf of the above named contractor. I certify under penalty of perjury that all of the above information provided is true and correct. I further acknowledge that any untruthful information provided in this application could result in the certification being canceled.

I certify this on: 10:53 AM

Legal Entity Information

Legal Entity Type: Corporation

Name: ACCENT CLEAN AND SWEEP, INC.

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Contractor Information

Legal Entity Name
ACCENT CLEAN AND SWEEP, INC.
Legal Entity Type
Corporation
Status
Active
Registration Number
1000022812
Registration effective date
07/01/22
Registration expiration date
06/30/24
Mailing Address
1172 SOUTH MAIN ST. #167 SALINAS 93901 CA Un...
Physical Address
489 El Camino Real South SALINAS 93908 CA Unite...
Email Address
accentclean-sweep@sbcglobal.net
Trade Name/DBA
License Number (s)
CSLB:740094
CSLB:740094

Registration History

Effective Date	Expiration Date
06/08/18	06/30/19
06/22/17	06/30/18
06/29/16	06/30/17
01/12/16	06/30/16
05/29/15	06/30/15
07/01/19	06/30/20
07/01/20	06/30/21
07/01/21	06/30/22
07/01/22	06/30/24

Legal Entity Information

Corporation Entity Number: 770578716
Federal Employment Identification Number: 770578716
President Name: Michael Haughey
Vice President Name:
Treasurer Name:
Secretary Name:
CEO Name:

Agency for Service:
Agent of Service Name: Michael Haughey
Agent of Service Mailing Address: 1172 South Main Street #167 Salinas 93901 CA United States of A

Worker's Compensation

Do you lease employees through Professional Employer Organization (PEO)?: No
Please provide your current worker's compensation insurance information below:

PEO Information	PEO Name	PEO Phone	PEO Email

Insured by Carrier
Policy Holder Name: ACCENT CLEAN AND SWEEP, INC.
Insurance Carrier: ICW Group Insurance Companies
Policy Number: WSA5040187
Inception date: 03/14/22
Expiration Date: 03/14/23

DocuSign Envelope ID: 43ED62F1-1535-431B-BAA6-20B5F6C161DF

Accent
Clean & Sweep, Inc.

Cost of Proposal Schedule

Year 1)	FYE 7/1/22-6/30/23	$205200
Year 2)	FYE 7/1/23-6/30/24	$205200
Year 3)	FYE 7/1/24-6/30/25	$225720
Year 4)	FYE 7/1/25-6/30/26	$225720

1172 S. Main St., Salinas, CA 93901 ♦ 831-783-0303 831-783-1399 Fax

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CITY OF PACIFIC GROVE

DEPARTMENT OF PUBLIC WORKS

NOTICE INVITING SEALED BIDS FOR STREET SWEEPING SERVICES

The City of Pacific Grove invites sealed bids for Street Sweeping Services.

All bids submitted shall meet the following terms and conditions:

1. Bids shall be delivered to the Public Works Department at 2100 Sunset Drive, Pacific Grove, CA 93950, not later than 2:00 PM on Thursday June 22, 2022, at which hour and date all bids will be publicly opened. Bids shall be submitted in a sealed envelope, and the outside of the envelope shall be clearly marked, "SEALED BID FOR STREET SWEEPING SERVICES". It is sole responsibility of the bidder to see that their bid is received in proper time. Any bids received after the scheduled closing time will be rejected.

2. Any bidder may withdraw his or her bid, either personally or by written request at any time prior to the scheduled closing time for receipt of bids, but no bidder may withdraw his or her bid for a period of thirty (30) days after the opening thereof.

3. All bids submitted shall include a completed "Proposal", identifying unit costs. The work performed under this contract must conform to requirements of the project plans and specifications, which are included in the bidder package.

4. The contract will be awarded to the lowest responsible bidder (as defined in the City purchasing regulations) whose work, in the opinion of the City Council will best meet the requirements of the City of Pacific Grove. It is clearly understood by all bidders that said Council reserves the right to reject any and all bids and to waive informalities in said bids.

5. No contractor or subcontractor may be listed on a bid proposal or awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

6. In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the current prevailing wages in Monterey County, California, as determined by the Director of the California Department of Industrials Relations as required to be paid to mechanics and laborers, employed directly upon the site of the work.

7. A Bidder's Package, including bidder specifications, special requirements and a sample contract may be viewed, and an electronic copy can be obtained at the City Clerk's Office, located at 300 Forest Avenue, Pacific Grove, CA, 93950, (831) 648-3181.

8. The contact person for technical questions concerning project specifications, the bid process and general project information should be directed to Joyce Halabi, Deputy Public Works Director via e-mail at jhalabi@cityofpacificgrove.org or by phone at (831) 648-5722.

Dated: 6/1/2022

DocuSigned by:
Daniel Gho
056C641716ED4E6...

Daniel Gho
Public Works Director

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REQUIRED SERVICES, SCOPE OF SERVICES, AND REQUIREMENTS

1. DESCRIPTION OF REQUIRED SERVICES AND GENERAL CONDITIONS

This proposal is for the street sweeping services in the City. The Contractor shall furnish all labor, tools, shop facilities, equipment, and materials and perform all work necessary to provide for street sweeping services.

A. Duration of Contract

Initial contract period for the street sweeping services shall be from July 2022 to June 3
0, 2023 for a twelve (12) month period with terms to extend the initial agreement by mutual letter for four consecutive terms (4 total years).

B. Contractor Qualifications

The Contractor bidding on this project must have at least five years of experience providing street sweeping services. All employees of Contractor shall be properly licensed to operate assigned equipment used for sweeping the City, as determined by local, state, and federal regulations.

C. Description of Work

The work to be performed consists of sweeping, either by modern machine sweeping, all designated improved public streets including curb returns and median islands within the City on a uniform schedule as outlined below. No machine street sweeping shall be performed during rainstorms, when there is running water in the gutter or street, or for any other reason sweeping is impractical as determined by the City.

D. Definitions

1. Curb Mile - Curb Mile shall be defined as the distance the machine sweeper travels with an effective sweeping width of eight (8) feet from the curb face along an improved street.
2. Linear Mile – Measurement of actual miles driven in order to satisfactorily clean streets to the City standard, which may require multiple passes depending on condition or width of the street.
3. Holiday – There will be no sweeping on the following observed holidays: New Year's Day, Independence Day, Thanksgiving Day, and Christmas Day. When routes are not swept due to a holiday, the Contractor shall make-up the missed routes on the following business day by sweeping the routes missed due to the holiday, along with the regularly scheduled commercial routes.
4. Debris - All deposits of dirt, rock, glass, cans, leaves, sticks, papers, or any like materials so designated by the City within the areas to be swept within the terms of this contract and of a size which can be practically removed by mechanical sweeping or hand-sweeping operations shall be removed.
5. Scheduled Service - Sweeping frequency as defined in the contract documents which must be performed on the schedule set forth in the contract documents.
6. Unscheduled Service - Service which can be requested by the City to be performed outside the bounds of the scheduled service which can be anticipated a minimum of 2 working days in advance.
7. Emergency Service - Service which can be requested by the City to be performed outside the bounds of the scheduled service within 2 hours of being notified to provide such service.

2. SCOPE OF SERVICES

A. Types of Sweeping Services

1. Scheduled Services: Contractor shall sweep streets designated in Attachment A, Street Sweeping Maps. The schedule for street sweeping may not be changed without the written approval of the City.

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Sweeping shall not be performed on weekends unless authorized by the City. The City may require revisions of the schedule as necessary to maximize sweeping coverage or to coincide with the solid waste collection schedule.

2. Unscheduled Service: For Unscheduled Service, the Contractor will be given 2 working days advance notice of the need. Compensation shall be based on Item IV of the Cost Proposal Schedule. Unscheduled Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in a non-emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for the Unscheduled Services. No additional compensation shall be given for travel time to the Unscheduled Services site.
3. Emergency Service: Emergency Service requires response within 2 hours or less. Emergency Services completed during normal business hours (8 AM – 5 PM) shall be compensated based on Item V.a of the Cost Proposal Schedule. Emergency Services completed during non-normal business hours (5 PM – 8 AM), weekends and holidays shall be compensated based on Item V.b of the Cost Proposal Schedule. Emergency Services instances may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in an emergency timeframe. A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for Emergency Services. No additional compensation shall be given for travel time to the Emergency Services site.
4. All other work: All other work included in these specifications, unless identified as "Unscheduled Services" or "Emergency Services", shall be deemed ancillary to the work covered by proposal Item I listed in the Cost Proposal Schedule, and no additional compensation shall be granted.

B. City Parking Lots

Sweeping of all City parking lots shall be only during the hours of 10:00 PM8:00 am to 9:00AM on a weekly basis, except the Corporation Yard shall be swept during the day.

C. Special Events

Included in the standard sweeping are specified areas and dates prior to special events in Attachment B.

D. Additions/Deletions

The City reserves the right to add or delete curb miles and to increase or reduce the sweeping frequency called for in these specifications. The cost per curb mile for additions or deletions (Item II of the Cost Proposal Schedule) will dictate the maximum increase that will be allowed for additional miles and/or for additional frequency. That amount will also dictate the minimum reduction in monthly cost for deletion of curb miles and/or decrease in sweeping frequency.

B. Hours of Sweeping

All scheduled machine street sweeping shall be performed only during the hours of 7:00 AM to 9:00 AM for commercial areas and during the hours of 8:00 AM to 6:00 PM for residential area. Sweeping shall not be performed on weekends unless authorized by the City.

Sweeping shall be scheduled to maximize the area of streets being swept by minimizing interference by parked vehicles. Sweeping shall be scheduled and done in such a way as to minimize noise complaints in residential areas and parking lots adjacent to residential areas. The City may require revisions in the hours and/or manner of operation as necessary to maximize sweeping coverage, to minimize noise complaints, or to coincide with City staff working hours.

C. Equipment

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Contract work shall only be performed with equipment suitable to produce the quality of work identified in Section H. All equipment shall be subject to the City's approval prior to use. All sweeping equipment shall have appropriate safety markings consisting of highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with the State Vehicle Code and approved by the City.

The use of a steel plate on the sweeper wheel to prevent tire scuffing against the curb will not be permitted.
.

The Contractor shall properly maintain a minimum of or have two (2) working machine sweepers, both in good condition and appearance, for use on the work under this contract at all times.

Sweepers shall comply with all local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the contract or replaced with a sweeper which does meet the limits.

D. Equipment Identification
All the equipment being used within the City shall be clearly and prominently marked with the Contractor's name and telephone number.

E. Hand-Sweeping/Vacuuming
Contractor shall remove all visible debris along curbs and medians. Square cul-de-sacs and bulb-outs require hand sweeping of the corners or vacuuming into the sweeper. Compensation for hand-sweeping/vacuuming shall be considered as included in the scope of work for basic sweeping service, and no separate payment will be made therefore. If callback is required, the City shall deduct as per callback rate in Section J.

F. Disposal of Sweeping Debris
The Contractor may dump all debris swept from the City streets at the City's Corporation Yard located at 2100 Sunset Drive, Pacific Grove, CA 93950.

G. Level of Cleanliness
Level of cleanliness shall be defined as the absence of debris in the streets and gutters upon the completion of the sweeping operation. Payment will be for one pass only, and no separate payment will be made for a second pass needed to remove debris. Sweeper shall not limit the number of times that the sweeper debris hopper is emptied for any given route in order to meet the level of cleanliness.

H. Speed of Vehicles
The Contractor shall operate the sweepers between three to five miles per hour when sweeping, unless it can be proven, to the satisfaction of the City, the sweeper can operate at a higher speed and still operate efficiently.

I. Callbacks
Whenever, in the opinion of the City, a section of street is inadequately swept, the Contractor shall, within 24 hours after notification, re-sweep the section in question and may, at the discretion of the City, forfeit as

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a penalty of one hundred dollars ($100) for each time a street is inadequately swept. No additional payment will be made for callbacks as a result of inadequate sweeping.

J. Water

The Contractor shall utilize adequate amounts of water to conduct street sweeping services. No dry sweeping shall be allowed unless authorized by the City. The Contractor shall provide equipment with adequate air gap to prevent cross contamination of the City's water system

K. Dust Control

The proper volume and pressure of water will be supplied by the sweeper and shall be in good working condition at all times to adequately control dust during sweeping operation.

L. Vehicles

Currently, streets are not posted for "no parking" on sweeping days. It is understood that if vehicles are parked on the streets when services are being performed by the Contractor, then Contractor's operations will be impeded and Contractor will be required to bypass said parked vehicles. In such events, the rates charged by Contractor shall not be reduced.

M. Trees

If trees along the sweeping route impede the Contractor's ability to effectively sweep curbed area, Contractor shall note the location of tree on the Sweeping Log. This information shall be reported to the City by the Contractor within 24 hours. If a downed tree or limb from a tree is observed in the street, Contractor shall immediately notify the Department of Public Works at (831) 648-5722.

N. Communications and Reports

1. Office: The Contractor shall maintain an office or such other facility through which he/she can be contacted and from which he/she can maintain radio or pager contact with sweeping vehicles. It shall be equipped with sufficient telephones and shall have a responsible person in charge during regular business hours, Monday through Friday. The Contractor shall also provide a 24-hour emergency contact telephone number.
2. Complaints: Complaints regarding the street sweeping operations, which the City considers justifiable and the responsibility of the Contractor, will be referred to the Contractor for immediate attention. Within two (2) days, the Contractor shall submit to the Public Works Director, or his designee, a report of the action taken to address or reconcile each complaint.
3. Reports: The Contractor shall submit a Sweeping Log upon request of the City. The log shall include a daily starting and ending odometer readings, cubic yards of material collected and type of sweeper used. A separate log shall also be used for any additional work items performed. Discharge Permit. The street sweeper shall have a tracking device which can provide real-time location, speed, and usage. This data shall be logged at a minimal interval of every 5-minutes. This log shall be continuously accessible and available to the City through a website.

O. City Rights

The City will:

1. Increase or decrease the amount of work to be performed with no change in the unit price.
2. Have emergency service performed by City forces or by a separate contractor as needed.
3. Use video equipment to create public service spots for community awareness
4. Change hours of sweeping as necessary provided 48 hours advance notice is given.

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P. Wages - In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the general prevailing rate of wages in the County in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. These wage rates appear in the California Department of Industrial Relations publication entitled General Prevailing Wage Rates. Interested parties can obtain the current wage information by submitting their requests to the Department of Industrial Relations, Division of Labor Statistics and Research, P.O. Box 42603, San Francisco CA 94142, or on the World Wide Web at http:/www.dir.ca.gov. The rates at the time of the bid advertisement date of a project will remain in effect for the life of the project in accordance with the California Code of Regulations, as modified and effective.

3. REQUIREMENTS

The entire package must be placed in a sealed envelope labeled "STREET SWEEPING SERVICES." Said package must have the name and address of the proposer on the outside and be mailed or delivered to:

City of Pacific Grove
c/o Joyce Halabi, Deputy Public Works Director
300 Forest Avenue
Pacific Grove, CA 93950

No Later Than: Thursday, June 22, 2022 at 2:00 pm.

It is the proposer's sole responsibility to submit the proposal on time. Proposals which are received after the exact time and date indicated above will not be considered. Proposals will remain confidential in their entirety until City evaluation and analysis is complete and a recommendation of award has been submitted to the City Council.

The technical point of contact for this project is Joyce Halabi, Deputy Public Works Director; she can be contacted by e-mail at jhalabi@cityofpacificgrove.org or by phone 831-648-5722. Clarifying questions are encouraged as we believe these will add to the quality of the proposals. All additional questions received and the City's response will be posted on the City website at www.cityofpacificgrove.org

Final award shall be contingent upon selected firm (Contractor) accepting Terms and Conditions in substantial conformity to the terms listed in this RFP.

A. Proposal submission

The proposal must include:

1. An original of the entire proposal, including all original ink signatures.
2. One complete copy of the entire proposal.
3. One electronic version of the entire proposal, on a USB drive.
4. The Contractor selected shall be required to comply with the City's insurance requirements.
5. The Contractor shall protect indemnify and save harmless the City, the City's officers, officials, and employees and agents against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify and save harmless the City and its officers, officials, employees and agents from any claims, demands, suits, actions or proceedings of any kind or nature, including Worker's Compensation claims, of or by anyone whomsoever, arising out of or as a result of any negligent, tortuous or deliberate act, error or omission on the part of the contractor or other whose services are engaged by the contractor or anyone employed or controlled by either of them in the performance of the work provided for in this contract.

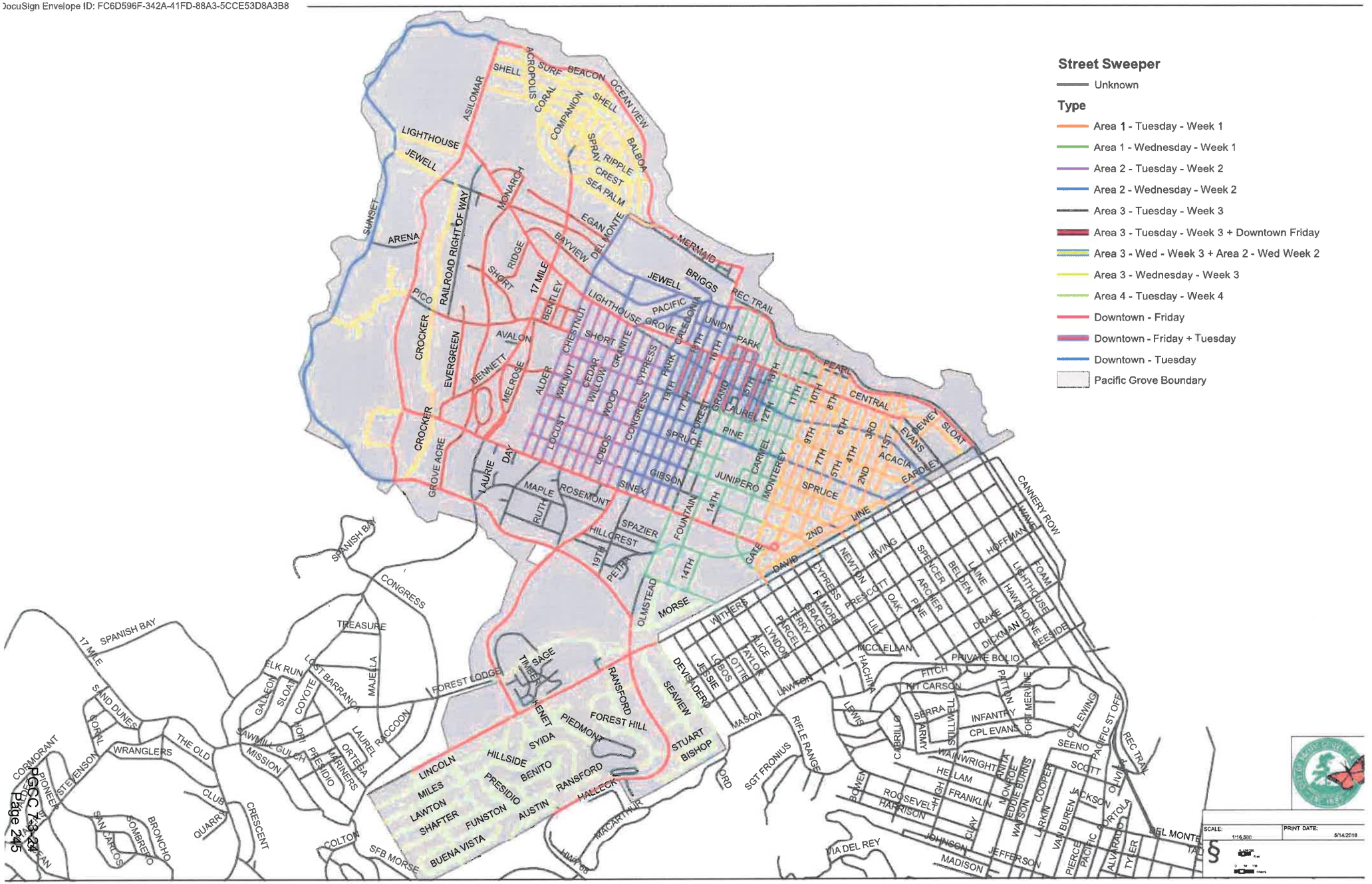
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B. Proposal Content Requirements

1. Title Page: Title page must include the name of the proposed business entity and the name, address and telephone number of one contact person. All correspondence from the City to proposer will be with one contact person. The individual designated as the contact person will be responsible for disseminating information to the other members of the business entity.
2. Table of Contents
3. Experience and Qualifications: Describe your firm's history, resources, and capabilities. Indicate key personnel that you will agree to commit to City of Pacific Grove projects if awarded a contract, including name and qualifications of the proposed staff. Indicate applicable licenses, credentials, and professional training held by the firm principal(s) and key personnel. Any Sub-Consultant that your firm may intend to use for City projects must be pre-approved first by the City. Should your firm propose to engage the services of a sub-consultant provide the firm's name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFP.
4. References: Three clients for which the proposer has provided services within the past five (5) years, similar to those identified in this RFP. The City of Pacific Grove reserves the right to contact any reference or any client listed in the documents for information which may be helpful to the City in evaluating the Contractor's performance on previous assignments
5. Proof of DIR contractor registration.
6. Cost Proposal Schedule

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ATTACHMENT A- STREET SWEEPING MAPS


Street Sweeper
Unknown
Type
Area 1 - Tuesday - Week 1
Area 1 - Wednesday - Week 1
Area 2 - Tuesday - Week 2
Area 2 - Wednesday - Week 2
Area 3 - Tuesday - Week 3
Area 3 - Tuesday - Week 3 + Downtown Friday
Area 3 - Wed - Week 3 + Area 2 - Wed Week 2
Area 3 - Wednesday - Week 3
Area 4 - Tuesday - Week 4
Downtown - Friday
Downtown - Friday + Tuesday
Downtown - Tuesday
Pacific Grove Boundary
SCALE:
1:16,500
PRINT DATE:
5/14/2018

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Attachment B Special Event List
FY 2022-2023

#	Event	Day of Event	Date of Event	Location	Notes
1	Little Car Show	Wednesday	August 11, 2022	Downtown Lighthouse Ave.	Downtown to be done prior to event
2	Butterfly & Homecoming Parade	Saturday	October 2, 2022	Pine & Downtown	Route Done prior to parade: Day before
3	Annual Holiday Parade of Lights	Thursday	December 1, 2022	Lighthouse Avenue	Route Done prior to parade: Day before
4	Good Old Days	Friday-Sun.	May 5-7, 2023	Downtown	Downtown to be done prior to event: Friday

* Each the date of the above-mentioned Special Events Change. Future years dated TBD by Council prior to the start of the next fiscal year.

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Attachment C Cost Proposal Schedule

STREET SWEEPING SERVICES
(July 1, 2018 – June 30, 2019)

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
I.	**Monthly Street Sweeping**				
	Monthly Rate for basic sweeping services based on the routes, parking lots and schedules defined in Section 2 of this Request for Proposals.	12	$/Month	$ 17,100	$ 205,200
	TOTAL PROPOSAL (ITEM I) PER YEAR			**$** 205,200	
II.	**Additions/Deletions – Curb Mile**				
	Rate per curb mile for addition or deletions to the basic sweeping services.	1	$/Mile	$ 41.22	
III.	**Additions/Deletions – Square Yards – Parking Lots**				
	Rate per curb mile for addition or deletions to the basic sweeping services.	1	$/Sq. Yard	$ 0.02	
IV.	**Unscheduled Service**				
	Hourly rate for unscheduled service (includes operator and sweeper).	1	$/Hour	$ 180/hr.	
V.	**Emergency Service**				
V.a	Hourly rate for emergency services during normal operating hours 8 a.m.-5 p.m. (includes operator and sweeper).	1	$/Hour	$ 180/hr.	
V.b	Hourly rate for emergency services after hours including nights and weekends (includes operator and sweeper).	1	$/Hour	$ 210/hr.	

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Attachment D Proposal Title Sheet

Proposal Title Sheet for City of Pacific Grove for Street Sweeping Services

Date: 6/8/2022

I/We Michael Haughey for Accent Clean & Sweep, Inc. the undersigned, do hereby propose to furnish the City of *Pacific Grove, California*. a Proposal for Street Sweeping, in accordance with all terms and specifications contained herein:

Attach one (1) copy of your proposal package.

Name of Firm: Accent Clean & Sweep, Inc.

Signature & Title: Owner/Manager

Address: 1172 South Main St. #167, Salinas, Ca. 93901

Phone Number: (831) 783-0303

Fax Number: (831) 783-1399

Contractor shall answer to the following questions by circling the appropriate response or completing the blank provided:

Company Profile:

Is your firm? (Please circle one)

A.	SOLE PROPRIETORSHIP	YES	(NO)
B.	PARTNERSHIP	YES	(NO)
C	CORPORATION	(YES)	NO

List Legal Names of Company:

Accent Clean & Sweep, Inc.

Total Number of Employees 16

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References: List **at least three** (3) local agencies of same general size and billing numbers and frequency where the **same/similar services**, as stated **herein**, have been **provided**. (Note: lack of three comparable agencies will not disqualify proposer.)

LOCAL AGENCY NAME

Scott Hamby		Public Works Director		
Contact Person		Title		
701 Lundy Lane		Scotts Valley, Ca. 95066		
Address	P.O. Box	City	State	Zip
(831) 438-5854		(831) 439-9748		
Phone Number		Fax Number		

LOCAL AGENCY NAME

Claudette Frey		San Benito County Public Works		
Contact Person		Title		
2301 Technology Parkway		Hollister, Ca. 95023		
Address	P.O. Box	City	State	Zip
(831) 902-2274				
Phone Number		Fax Number		

LOCAL AGENCY NAME

Eric Tynan		Castroville Community Services		
Contact Person		Title		
11499 Geil Avenue		Castroville, Ca. 95012		
Address	P.O. Box	City	State	Zip
(831) 633-2560		(831) 633-3103		
Phone Number		Fax Number		

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/25/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bozzuto & Company Ins. Svcs. Inc. 9300 Madison Ave., Suite #100 Orangevale CA 95662	**CONTACT NAME:** Certificate Department **PHONE (A/C, No, Ext):** 800-400-6394 **FAX (A/C, No):** 800-286-0808 **E-MAIL ADDRESS:** certificates@bozzutoinsurance.com
INSURED ACCEN-2 Accent Clean & Sweep Inc. 489 El Camino Real S Salinas CA 93908	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Insurance Co of The West — 27847 **INSURER B :** National Specialty Insurance — 22608 **INSURER C :** Crum & Forster Specialty Ins — 44520 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 181347390 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	Y	EPK-139055	3/14/2022	3/14/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	GMI-0023-02	3/14/2022	3/14/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	[ ] **UMBRELLA LIAB** [ ] OCCUR [ ] **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	WSA 5040187 04	3/14/2022	3/14/2023	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Work performed by the named insured for the certificate holder.
Additional Insured status, Primary and Non-Contributory wording, and Waivers of Subrogation applies to City of Pacific Grove, its officers, officials, employees, and agents when required under written contract per the attached endorsements.

CERTIFICATE HOLDER

City of Pacific Grove
2100 Sunset Drive
Pacific Grove CA 93950

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Maika Abrigo

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POLICY NUMBER: GMI-0023-02

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Accent Clean & Sweep
Endorsement Effective Date: 3/14/2022

SCHEDULE

Name Of Person(s) Or Organization(s):
Blanket where required by written agreement executed prior to loss
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

B. The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

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POLICY NUMBER: GMI-0023-02

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Accent Clean & Sweep
Endorsement Effective Date: 3/14/2022

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Blanket where required by written agreement executed prior to loss
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) of Covered Operations
Blanket when specifically required in a written contract with the name insured.	Blanket when specifically required in a written contract with the name insured.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section III – Who Is An Insured within the Common Provisions is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" cause, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

3. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
4. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Person(s) or Organization(s):	Location And Description Of Completed Operations
Blanket when specifically required in a written contract with the name insured.	Blanket when specifically required in a written contract with the name insured.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section III – Who Is An Insured within the Common Provisions is amended to include as an insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

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Crum&Forster
part of the FAIRFAX group

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED WITH WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART
ERRORS AND OMISSIONS LIABILITY COVERAGE PART
THIRD PARTY POLLUTION LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)
Where Required by Written Contract

A. **SECTION III – WHO IS AN INSURED** within the Common Provisions is amended to include as an additional insured the person(s) or organization(s) indicated in the Schedule shown above, but solely as respects "claims" caused in whole or in part, by "your work" for that person or organization performed by you, or by those acting on your behalf.

   This insurance shall be primary and non-contributory, but only in the event of a named insured's sole negligence.

B. We waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for "damages" arising out of "your work" performed under a designated project or contract with that person(s) or organization(s).

C. This Endorsement does not reinstate or increase the Limits of Insurance applicable to any "claim" to which the coverage afforded by this Endorsement applies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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Crum & Forster
part of the FAIRFAX group

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDED WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART
ERRORS AND OMISSIONS LIABILITY COVERAGE PART
THIRD PARTY POLLUTION LIABILITY COVERAGE PART
ONSITE CLEANUP COVERAGE PART

SCHEDULE

Name of Person(s) or Organization(s)
Where Required by Written Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

SECTION VI – COMMON CONDITIONS, item 17. Transfer Of Rights of Recovery Against Others To Us within the Common Provisions is amended by the addition of the following:

Solely as respects the person(s) or organization(s) indicated in the Schedule shown above, we waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for "damages" arising out of your ongoing operations or "your work" performed under a written contract with that person(s) or organization(s) and included in the "products-completed operations hazard".

However, this waiver shall not apply to "damages" resulting from the sole negligence of the person(s) or organization(s) indicated in the Schedule shown above.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - BLANKET

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us).

The additional premium for this endorsement shall be 2 % of the total California Workers' Compensation premium otherwise due.

Schedule

Person or Organization	Job Description
ANY PERSON/ORGANIZATION WHEN REQUIRED BY WRITTEN CONTRACT	**ALL CALIFORNIA OPERATIONS**

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 03/14/2022 Policy No. **WSA 5040187 04** Endorsement No.

Insured **ACCENT CLEAN & SWEEP INC** Premium $ **INCL.**

Insurance Company **INSURANCE COMPANY OF THE WEST**

Countersigned By _____

WC 99 06 34
(Ed. 8-00)

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PUBLIC WORKS DEPARTMENT
CITY OF PACIFIC GROVE
2100 Sunset Drive, Pacific Grove CA 93950 | (831) 648-5722

June 27, 2023

Michael Haughey
Accent Clean & Sweep, Inc.
1173 South Main St. #167
Salinas, CA 93901

SUBJECT: FY 2023/24 Contract Extension Letter – Street Sweeping Services

The term of your agreement, for Street Sweeping Services, with the City of Pacific Grove was from August 1, 2022 through June 30, 2023. This agreement is renewable by mutual written letter for additional yearly increments, not to exceed four (4) additional fiscal years, unless sooner terminated pursuant to the terms of the agreement.

This letter is to renew your current contract with the City of Pacific Grove at the existing rate for the next twelve months (July 1, 2023 through June 30, 2024).

This addendum to the agreement dated June 27, 2023, is not in effect until signed by all parties.

DocuSigned by:
6CB17EE7A5DC443...
Michael Haughey, Accent Clean & Sweep, Inc. — **Date** 6/27/2023

DocuSigned by:
Daniel Gho
056C641716ED4E6...
Daniel Gho, Public Works Director/Deputy City Manager — **Date** 6/28/2023

DocuSigned by:
Bill Peake
2E6E9DE48137414...
Bill Peake, Mayor — **Date** 6/28/2023

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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Matt Mogensen, City Manager

MEETING DATE: July 03, 2024

SUBJECT: Waste Water Collection Service Fees on the Tax Bill Protest Public Hearing

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

RECOMMENDATION

Staff recommends the City Council:

1. Continue a Public Hearing on the collection of annual sewer service fees on the property tax roll by the County of Monterey to a date certain;
2. Continue a Public Hearing on the collection of annual sewer service fees on the property tax roll by the County of Monterey to a date uncertain.

DISCUSSION

Wastewater (sewer) services are provided by two agencies: the City of Pacific Grove and Monterey One Water (M1W). The City of Pacific Grove is responsible for maintaining and improving the wastewater collection system for the entire City of Pacific Grove. Untreated wastewater is collected in this system and sent to M1W's regional conveyance system where it is pumped to M1W's facility for treatment before safely being reintroduced into the environment. The City charges customers for collecting wastewater in accordance with service rates approved by the City Council. Monterey One Water charges for its conveyance and treatment service in accordance with rates approved by its Board of Directors. For years, M1W has collected the City's charges on the City's behalf along with their conveyance/treatment costs every two months.

At its City Council meeting held on June 21, 2023, the Council received a presentation from M1W regarding its intent to change their billing to an annual fee to be included on a parcel's property tax bill. On October 30, 2023, the M1W Board of Directors voted to change the billing process from bi-monthly direct billing to property tax billing within the M1W service area, citing the following advantages:

- Shifting from the current billing process to the County property tax bill would eliminate the need to address limitations in M1W's accounting software. The software used to maintain M1W's billing will be replaced, and eliminating the need to handle billing will increase the efficiency of the Agency.
- According to M1W, shifting from direct billing to property tax billing would likely reduce the number of late and delinquent accounts.
- M1W will save approximately $400,000 resulting from this change, e.g., decrease in third party vendor expenses and an increase in revenue collections.

At its April 17, 2024, City Council Meeting, the Council directed the City Manager to send a letter to Monterey One Water confirming the City's intent to move the City's charges for wastewater collection to the County of Monterey's property tax bill and carry out the tasks to accomplish the transfer by July 1, 2024. The staff report for this item is attached for background information.

On June 19, 2024, the City Council approved a Resolution Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property Related Fees and Charges (staff report attached).

Staff published a notice of public hearing regarding the Waste Water Collection Service Fees on the Tax Bill Protest Public Hearing, in the Monterey Weekly on June 20, 2024, and June 27, 2024.

At its June 24, 2024, Board of Directors meeting, the Monterey One Water Board voted against moving its billing to the County of Monterey tax rolls. The vote was 8-2 in favor to move the billing to the tax rolls; however, the rules allow for a weighted vote and require a 2/3 majority. The approval requirement was not met. This decision only affected the Monterey One Water charge portion of the sewer collection bill, not the Pacific Grove or other locality sewer collection fees.

As a result of this unexpected vote, some local agencies have opted to not go forward at this time with moving the collection of sewer fees to the County Assessor tax rolls (Salinas and Seaside). Others are still considering it (Monterey, for example, has not yet taken action) or have voted to shift the collection to the County tax rolls (Moss Landing).

In order to allow adequate time to understand the complexities of the changing circumstances, staff recommends that the City Council continue the public hearing to a future date.

OPTIONS

Continue a Public Hearing on the collection of annual sewer service fees on the property tax roll by the County of Monterey to a date certain or take no action and continue the hearing to a date uncertain.

FINANCIAL IMPACT:

There is no fiscal impact of continuing the public hearing to a date certain. Should the City Council continue the hearing to a date uncertain, the City would have additional costs to re-notice the hearing.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

April 17 2024 Agenda Report on Wastewater Charges and Property Tax Bill

June 19 2024 Agenda Report

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Robert Perrault, City Manager

MEETING DATE: April 17, 2024

SUBJECT: Authorize the City Manager to send a letter to Monterey One Water affirming the City of Pacific Grove's intent to move the City's Billing for Wastewater (Sewer) charges to the County of Monterey Property tax bill.

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

RECOMMENDATION

Direct the City Manager to send a letter to Monterey One Water confirming the City's intent to move the City's charges for wastewater collection to the County of Monterey's property tax bill and carry out the tasks to accomplish the transfer by July 1, 2024.

DISCUSSION

Wastewater (sewer) services are provided by two agencies: the City of Pacific Grove and Monterey One Water (M1W). The City of Pacific Grove is responsible for maintaining and improving the wastewater collection system for the entire City of Pacific Grove. Untreated wastewater is collected in this system and sent to M1W's regional conveyance system where it is pumped to M1W's facility for treatment before safely being reintroduced into the environment. The City charges customers for collecting wastewater in accordance with service rates approved by the City Council. Monterey One Water charges for its conveyance and treatment service in accordance with rates approved by its Board of Directors. For years, M1W has collected the City's charges on the City's behalf along with their conveyance/treatment costs every two months. Recently, M1W has decided to move the collection of their charges to Monterey County to be collected along with property tax. The purpose of this item is to discuss the City's willingness to also transfer the collection of its wastewater fees to the County.

According to M1W, property owners are responsible for the payments. In some cases, the property owner chooses to forward their bill to a tenant or third-party payee.

At its City Council meeting held on June 21, 2023, the Council received a presentation from M1W regarding its intent to change their billing to an annual fee to be included on a parcel's property tax bill. On October 30, 2023, the M1W Board of Directors voted to change the billing process from bi-monthly direct billing to property tax billing within the M1W service area, citing the following advantages:

- Shifting from the current billing process to the County property tax bill would eliminate the need to address limitations in M1W's accounting software. The software used to maintain M1W's billing will be replaced, and eliminating the need to handle billing will increase the efficiency of the Agency.

- According to M1W, shifting from direct billing to property tax billing would likely reduce the number of late and delinquent accounts.
- M1W will save approximately $400,000 resulting from this change, e.g., decrease in third party vendor expenses and an increase in revenue collections.

With M1W moving its billing for wastewater service to the County, it is worthwhile for the city to consider doing the same. A few of the reasons for consideration:

- It would resolve a potential issue of customers receiving two separate billings for sewer service, one on the tax bill and one from the city.
- In the event the city decides not to transfer the billing to the County, the city would have to implement a separate system to collect billing which would add costs to the Administrative Services Department. These costs at this point have not been estimated.
- The City's share of the billing would remain the same. The City has already conducted a 218 process on the current rate structure so current customers/ property owners would not see an increase resulting from this transfer.
- For those customers wishing to pay sewer related costs on a more frequent basis, the county has contracted with a third-party vendor, Easy Smart Pay, to pay a parcel's property tax bill, and any subsequent fees like wastewater, on a monthly basis through ACH or credit card.

During the April 17th meeting, representatives from M1W will provide the Council and the public with a presentation to acquaint the Council and the public with the procedure necessary to accomplish the transfer. It is the staff's understanding that this process is governed through the California Health and Safety Code. To effectuate the transfer, the Council would need to direct staff to prepare a written report containing a description of each parcel receiving service and the amount of charge for each year. It is my understanding that M1W would assist with this report. A public hearing would need to be held in June 2024 to consider adoption of a resolution approving the written report (Annual Rate Report) and directing collection of the City's sewer service charges on the County tax roll. In accordance with the Health and Safety Code, adoption must occur annually and with a 2/3 vote of the Council. In addition, a revised collection agreement with M1W and possibly a separate agreement with the County would come before the Council for approval.
Staff is suggesting the following order for this item:

1. Receive Staff Report
2. Recieve Monterey One Water Presentation
3. Council questions of Staff and Monterey One Water
4. Public Comment
5. Council deliberation.

OPTIONS

1. The Council could decide to retain the responsibility for billing and collection.
2. The Council could provide staff with additional direction.

FINANCIAL IMPACT:

The impact of providing this direction at this time would have limited fiscal impact. Should the Council determine to retain the billing and collection responsibility, additional costs would be incurred but have not been estimated.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1 - Draft Letter of Intention

2 - Copy of Monterey One Water Implementation Plan

April 8, 2024

Fred Marsh
Chief Financial Officer
Monterey One Water
5 Harris Court
Monterey, CA 93940

Subject: Transition of Wastewater (Sewer) Fee Collection to Monterey County Tax Bill

Dear Mr. Marsh

The City of Pacific Grove intends to move the City's wastewater (sewer) fee for collection services to the Monterey County Property Tax Bill. This change is in conjunction with Monterey One Water moving its wastewater service fee to the property tax bill, effective July 1,2024.

The City Manages and maintains the wastewater collection system for the residents and businesses in Pacific Grove. The City understands there is an annual process to place the fee for its wastewater collection service on the property tax bill and will work with Monterey One Water Staff through the required approvals for its fee.

We look forward to working with your staff to formalize this process and implement the change.

Sincerely,

Robert Perrault
Interim City Manager

Cc: Mike McCullough Director of External Affairs, Monterey One Water
Dan Gho Deputy City Manager, Public Works Director
Tori Hannah, Administrative Services Director

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Lori Frati, Finance Manager

MEETING DATE: June 19, 2024

SUBJECT: Certification of Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments and Property Related Fees and Charges for FY 2024-25.

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

RECOMMENDATION

Motion to adopt a resolution Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property Related Fees and Charges.

DISCUSSION

On April 17, 2024, the City Council approved a Letter of Intention to move the City's wastewater (sewer) fee for collection services to the Monterey County Property Tax Bill. The full background and information regarding this action can be found on the attachment to this report. This change is in conjunction with Monterey One Water moving its wastewater service fee to the property tax bill, effective July 1,2024. The City Manages and maintains the wastewater collection system for the residents and businesses in Pacific Grove. In order to place the wastewater fee on the property tax bill, there is an annual process to place the fee for its wastewater collection service on the property tax bill.

District user fees are collected using the Monterey County (County) tax rolls, and in order to ensure that the provisions of Proposition 218 are being addressed by the District, the Monterey County Auditor requires certification of compliance with the Proposition, including a hold harmless and indemnification provision for administrative expenses to the County associated with collection of user fees. This certification is required each year on or before August 1, before the processing of the secured tax roll bills for the coming fiscal year.

OPTIONS

1. Approve a resolution Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property Related Fees and Charges.
2. Alternatively, discuss and take other action related to this item.

FINANCIAL IMPACT:

None

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

April 17 2024 Agenda Report on Wastewater Charges and Property Tax Bill
Proposed Resolution
Proposed Agreement

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Matt Mogensen, City Manager

MEETING DATE: July 03, 2024

SUBJECT: Resolution of the City Council Of The City Of Pacific Grove Submitting A Ballot Measure To Voters To Amend The Pacific Grove City Charter To Change The Number Of Elected City Council Members From Six To Four and related changes to the City Charter

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

RECOMMENDATION

1. Motion to adopt a Resolution of the City Council Of The City Of Pacific Grove Submitting A Ballot Measure To Voters To Amend The Pacific Grove City Charter To Change The Number Of Elected City Council Members From Six To Four and related changes to the City Charter.
2. Other action related to this item.

DISCUSSION

On November 8, 2022, Ballot Measure O was voted on by the voters which would have reduced the number of City Councilmember from six(6) to four(4) and related changes to the City Charter. Measure O did not receive a majority vote by the voters, losing by 13 votes.

On March 20, 2024, Interim City Manager Robert Perrault presented an Agenda Report (Attachment 1) which recommended the City Council give direction to the City Manager to return to the Council with the documents necessary to place a measure on the ballot for the November 5, 2024 General Statewide Election to reduce the Council's composition from six (6) to (4) members and the Council approved this recommendation.

Attachment 2 to this Agenda Report is a Resolution Of The City Council Of The City Of Pacific Grove Submitting A Ballot Measure To Voters To Amend The Pacific Grove City Charter To Change The Number Of Elected City Council Members From Six To Four and related changes to the City Charter. Exhibit A to the Resolution identifies the proposed changes to the City Charter with track changes and yellow highlights.

OPTIONS

Other action related to this item.

FINANCIAL IMPACT:

The County of Monterey charges the City for costs of the General Election. The County Elections Department estimates those costs for the November 5, 2024 election based on the number of registered voters at $10 per person to be $102,240. Historically, after the County breaks out the costs to all cities, districts, county, the actual cost for the election has been lower than the estimate. The added cost due to including this ballot measure cannot be estimated. The invoice from the County to the City for the November 8, 2022 Election (Attachment 3) in the amount of $63,595.28 does not include a breakdown of the cost for the ballot measure at that election.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1. Agenda Report dated March 20, 2024
2. Resolution Submitted to Voters re Ballot Measure 6 to 4
3. County Invoice to Pacific Grove for Cost of November 8, 2022 Election

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO:	Honorable Mayor and Members of the City Council
FROM:	Robert Perrault, City Manager
MEETING DATE:	March 20, 2024
SUBJECT:	Consider Transitioning from Six (6) to Four (4) Council Members
CEQA:	Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Direct the City Manager to return to the Council with the documents necessary to place a measure on the ballot reducing the Council's composition from six (6) to (4) members.

DISCUSSION

During the last Council meeting, I received directions from the Council to issue a Request for Proposal (RFP) to retain a demographer. The decision to retain a demographer is the first step taken by the Council to move from the current at large voting system to a district-based voting system. This action was taken based on the recommendation from the City Attorney which stemmed from the City's receipt of a letter from Mr. Sandoval, District Director for the League of United Latin American Citizens (LULAC). In his letter, Mr. Sandoval requested the city transition from the current system to the district-based system to comply with the California Voting Rights Act, and avoid potential litigation based on a possible violation of the Act.

I am in the process of retaining the demographer who will then complete a study of the City based on the 2020 census and will include an analysis of the City's population, its ethnic composition, and proportion of eligible voters according to ethnic group and socioeconomic characteristics. This information will be returned to the Council as a prerequisite for the Council's adoption of a Resolution of Intent to move to the by district voting system and the development of district maps. The information contained in the demographer's report will be used to assist the city with the development of the maps. The creation of the proposed districts along with the amendment to the City Charter would be placed before the electorate in the general election of 2026.

Converting the current at large voting system to the by district voting system raises the issue of Council composition. As outlined in the City's Charter Article 6, the City Council consists of six council members and the mayor, all of which are elected at large. This composition has existed since the Charter's adoption by the voters in 1927. In order to move to a by district voting system, six districts would need to be created to retain the current council composition. More recently, in 2022, the Council placed Measure O on the ballot to reduce the Council membership size from 6 members to 4 members and the mayor. See **agenda report** authored by Council Member Coletti on May 18, 2022. According to the City Clerk, this measure failed to pass by only 13 votes.

As noted, it may be timely to consider once again a reduction in Council seats. In Council Member Coletti's report, he notes that nearly 90% of California cities have a council composition of 5 seats. Cities with a 7-member council composition is more the exception to the rule at 6.5% of the total. Please keep in mind that there are more than 450 cities statewide of varying sizes. All of Monterey County Cities have 5 member councils. Finally, in the 40 years I have served California cities, all have been with cities composed of 5-member councils.

From a very practical perspective, a possible reduction in seats makes sense with respect to the creation of districts. Pacific Grove remains a very small city consisting of approximately 2.5 square miles and a population of slightly more than 15,000. The creation of six districts of equitable size and neighborhoods of interest would be more difficult than the creation of 4 districts. The creation of 6 districts versus 4 with the relatively same number of voters could also prove challenging. The registered voter makeup of the city is between 8 and 10,000

voters. Six districts would equate to between 1300 and 1600 voters per district. Four districts would increase the number of registered voters per district. The creation of four districts will also increase the universe for eligible potential candidates. It has been my experience in small cities with small districts that it is more difficult to find candidates who are willing to step forward to assume the mantle of leadership. In the event no one steps forward and a vacancy exists, the vacancy will need to be filled in keeping with the Charter, which could mean an appointment of an eligible resident of the correlating district. In moving to 4 or 6 districts, I would recommend continuing to elect the mayor at large.

Next Steps.
Should the Council wish to consider the reduction in its composition, it would be appropriate to direct the City Manager to prepare documents necessary to file the measure with the County Clerk for consideration by the voters in November 2024. Staff would also suggest that the Council consider using similar language to that used in 2022. (Please see the attachment.) Should the measure be successful, the reduction in seats would not be implemented until the November 2026 Council election. The advantage of moving forward with this question at this time is that a voter decision on the composition of the Council will provide clear direction in terms of developing maps for 4 or 6 districts.

OPTIONS

1. The Council could take no action at this time; or
2. Provide the City Manager with additional direction.

FINANCIAL IMPACT:

There is no direct financial impact associated with consideration of this item at this time. Placing a measure on the ballot for voter consideration will have associated costs. The City Manager will bring an estimate of costs to the Council for consideration, once the documents are prepared.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Public Comment
Amelio PPT
Coletti PPT
22-039 Charter Amendment Reso

RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE SUBMITTING A BALLOT MEASURE TO VOTERS TO AMEND THE PACIFIC GROVE CITY CHARTER TO CHANGE THE NUMBER OF ELECTED CITY COUNCIL MEMBERS FROM SIX TO FOUR BY DIRECTING (1) IN 2026 TWO COUNCIL MEMBERS SHALL BE ELECTED TO FOUR-YEAR TERMS, AND ONE COUNCIL MEMBER SHALL BE ELECTED TO A SINGLE TWO-YEAR TERM, AND (2) EVERY TWO YEARS THEREAFTER BEGINNING IN 2028 TWO COUNCIL MEMBERS SHALL BE ELECTED TO FOUR-YEAR TERMS; CONSISTENT CHARTER CHANGES SHALL CLARIFY A QUORUM, MAJORITY VOTE AND OTHER SELECT ACTIONS AND REQUESTING THE MONTEREY COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION AND CONSOLIDATE IT WITH THE STATEWIDE ELECTION TO BE HELD ON NOVEMBER 5, 2024

WHEREAS, the Pacific Grove City Charter, since 1927, has required the staggered election of six Council members, in addition to the Mayor, whereby each Council Member is elected to serve a four-year term. This election system was largely based on the "Model City Charter" published in 1926 by the League of California Municipalities, with one notable exception being the "Model City Charter" recommended a five-member council.

WHEREAS, California city councils vary greatly in size from four to fifteen members. A clear majority of cities (almost 90%) throughout California call for election of a five-member council. This is the council membership for all cities in Monterey County, excepting Pacific Grove and Salinas. Less than 7% of California cities rely on a seven-member council.

WHEREAS, the proposed Charter Amendment would reduce the size of the City Council from seven to five members, that is, four Council members and a Mayor.

WHEREAS, reducing the number of elected council members from six to four will reduce redundancy, conserve City resources and facilitate decision-making. Some commentators have stated council larger than five increases the opportunity for members to divide into factions.

WHEREAS, any City Charter amendment must be approved by the voters of that City.

WHEREAS, a change to the City election system requires a vote of the electorate and may only be effected prospectively insofar as elected officials, by law, hold office for the entire term of their elected service.

WHEREAS, the change to the City election system proposes to stage this election sequence whereby one council member shall serve a single two-year term to provide a bridge between the six-member group of elected councilmembers to the four-member group of elected councilmembers.

WHEREAS, pursuant to Elections Code Section 10002, the City Council of the City of Pacific Grove may request the Board of Supervisors of the county to permit the county elections

official to render specified services to the city or district relating to the conduct of an election. The city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district.

WHEREAS, pursuant to Elections Code Section 10002, Monterey County Elections shall supply the elections official with a list of its precincts, or consolidated precincts, as applicable.

WHEREAS, the City Clerk and County Registrar of Voters are authorized to print forms, publish notices, and provide information as may be necessary or convenient to assure the orderly conduct of the election, and they shall do all other things necessary to facilitate the holding of the election in a manner consistent with law.

WHEREAS, pursuant to Elections Code Sections 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections.

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election.

WHEREAS, the City Council finds and determines this resolution is exempt from the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. ("CEQA") and 14 Cal. Code of Regulations, Sections 15000, et seq. ("CEQA Guidelines"). The calling and noticing of an election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines 15378.

WHEREAS, the City Council desires to submit the proposed Charter Amendment to the voters of the City at a General Municipal Election to be held on Tuesday, November 5, 2024, , and to be consolidated with the general municipal election and the statewide election to be held on that date.

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

Section 1. **Recitals**. The City Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Resolution 24-022. On June 5, 2024, the City Council adopted Resolution 24-022 Calling An Election, Requesting The County Elections Department Conduct The Election, Requesting Consolidation Of The Election With The November 5, 2024, General Municipal Election, And Authorizing The City Manager To Sign The Service Agreement For Provision Of Election Services.

Section 3. Election. Pursuant to Section 3 of Article XI of the California Constitution, Article 8 of the City Charter, and Elections Code Sections 9255(b)(l), the City Council of the City of Pacific Grove hereby orders the following proposed Charter Amendment be submitted to the voters at the November 5, 2024, General Municipal Election and requests the Monterey County Elections Department to conduct the election and consolidate it with the statewide election to be held on November 5, 2024 and submit to the electorate the following question:

Measure "_" Charter Amendment - Reducing Number of Councilmembers.

Shall the Pacific Grove City Charter be amended to reduce the size of the City Council from six Councilmembers and a Mayor to four Councilmembers and a Mayor such that: in 2026 two Councilmembers shall be elected to four-year terms, and one to a single two-year term, and every two years thereafter two Councilmembers shall be elected to four-year terms; with associated amendments for votes needed for a quorum, majority vote and other select actions?	**YES**	
	NO	

Section 4. Proposed Charter Amendment. The text of the proposed Charter Amendment to be submitted to the voters is attached to this Resolution as Exhibit A and incorporated by reference. The full text of the proposed Charter Amendment shall be printed in the Sample Ballot and Voters Pamphlet and shall be made available to the public and to any voter at the County Elections Department and the Pacific Grove City Clerk.

Section 5. Publication of Measure. The City Clerk is directed to publish a synopsis of the measure at least one time not later than one week before the election.

Section 6. Approval. The vote requirement for this measure to pass shall be a majority of those casting ballots on the measure (50% plus 1).

Section 7. Filing with County. The City Clerk shall file a certified copy of this Resolution with the County Elections Department.

Section 8. Analysis and Argument. Pursuant to Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the measure that shall not exceed 500 words no later than 12:00 p.m. on August 15, 2024. Pursuant to Elections Code Section 9282, the City Council authorizes the Mayor to author and submit the primary argument and pursuant to Elections Code Section 9285(a), authorizes the Mayor to submit a rebuttal argument in favor of the ballot measure. Pursuant to Elections Code Section 9287, if more than one argument is submitted against the measure, the City Clerk shall select the argument to be included with the ballot materials. An

argument for or against the measure shall not exceed 300 words in length. The last day to submit arguments for or against the proposed measure shall be August 15, 2024. Submittals are to be delivered to the City Clerk no later than 12:00 p.m. Rebuttal arguments (250 words) shall be permitted pursuant to applicable law. The last day to submit rebuttal arguments to the City Clerk shall be August 22, 2024. Submittals are to be delivered to the City Clerk no later than 12:00 p.m.

Section 9. Implementation. The City Clerk and City Manager are authorized to take all actions as necessary to effectuate the purposes of this resolution and the election. The City Manager is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with Monterey County Registrar of Voters. The City Clerk and City Attorney are authorized to make any typographical, clerical, and non-substantive corrections to this resolution as may be deemed necessary by the Monterey Elections Department.

Section 10. Declaration. The City Council shall meet to declare the results of the election called for by this Resolution at their regular meeting following certification of election results.

Section 11. Effective Date. This Resolution shall take immediate effect upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

Section 12. Environmental Compliance. The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly.

Section 13. Election Called and Consolidated. The City Council of the City of Pacific Grove hereby orders an election be called and consolidated with any and all elections also called to be held on November 5, 2024 within the same territory.

Section 14. All Necessary Services. The City Council of the City of Pacific Grove hereby orders that pursuant to Elections Code Section 10002 said governing body hereby requests the Board of Supervisors of the County of Monterey to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full.

Section 15. Printing of Measure. The City Council of the City of Pacific Grove hereby requests that the Monterey County Elections Department print the attached full measure text Exhibit A exactly as filed or indicated on the filed document in the voter information guide for the November 5, 2024 election.

PASSED AND ADOPTED by the City Council of the City of Pacific Grove on this 3rd day of July, 2024, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:
DATED: _____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN A. PIERIK, City Attorney

RESOLUTION NO. _____

EXHIBIT A

Text of Proposed Charter Amendment to Be Submitted to the Voters: Proposal to Amend the Pacific Grove City Charter to Reduce the Size of the City Council from Six (6) Councilmembers and a Mayor to Four (4) Councilmembers and a Mayor and Redefine the Votes Needed for a Quorum, A Majority Vote and Other Select Actions.

TEXT OF AMENDMENT TO PACIFIC GROVE CITY CHARTER

Amended text shown in ***underscored bold italics*** text, and deleted text shown in ~~strikeout~~ text. Highlighted text shown solely for ease of reference.

PART 1: PROPOSED CHARTER AMENDMENT

Section 1. That Article 6 of the City Charter be amended to read as follows:

Article 6 Officers and Employees

The officers of the City of Pacific Grove shall consist of ~~six~~ ***four*** Councilmembers and a Mayor, a City Manager, a City Clerk, a City Treasurer, a City Attorney, other officers as provided by ordinance, and members of Commissions, Boards and Committees as provided by Charter and by ordinance; provided, the Council may by ordinance provide for such subordinate officers, assistants, deputies, clerks and employees as it deems necessary, and that the Council may at any time, when in its judgment the interest of the City so demands, consolidate by ordinance the powers and duties of two or more City officers, and place the same in charge of one such officer. The Mayor and the members of the Council shall be elected from the City at large. All other officers, assistants, deputies, clerks, and employees shall be appointed as provided in this Charter, or as the Council may provide by ordinance in case no provision for their appointment is herein made, and they shall hold their respective offices or positions at the pleasure of the appointing power, except as otherwise herein provided.

Section 2. That Article 11 of the City Charter be amended to read as follows:

Article 11 The Mayor

A Mayor shall be elected at each general municipal election and shall hold office for the term of two years from and after the Tuesday next succeeding the day of such election and until a successor is elected and qualified. The Mayor may receive compensation as provided by ordinance, but in no case shall the compensation exceed that amount which is permitted by State Law for General Law cities of comparable size to Pacific Grove. The Mayor shall be ineligible to hold any office or employment with the City except as a member of any board, commission or committee thereof of which the Mayor is constituted such member by General Law. In the name and on behalf of the City the Mayor shall sign all contracts, deeds, bonds and other legal instruments in which the city is a party. The Mayor or the Mayor's designate shall represent the City at all ceremonial functions of a social or patriotic character when it is desirable or

appropriate to have the City represented officially thereat. The Council shall choose one of its members to serve as Mayor pro tempore during the absence of the Mayor. The Mayor shall preside over all Council meetings and shall be entitled to one vote.

In the event a vacancy occurs in the office of the Mayor, the remaining Council Members shall appoint, by ~~four~~ ***three*** affirmative votes, one of their number to serve as Mayor for the remaining term of the vacated office of Mayor. If the Council does not fill the Mayoral vacancy within thirty (30) days its appointment power shall lapse and the Mayor Pro Tempore shall assume the office of Mayor. In either event, a vacancy shall then exist as to that Council seat, which shall be filled in accord with the provisions of Article 12 of this Charter.

Section 3. That Article 12 of the City Charter be amended to read as follows:

Article 12 Council

~~Three~~ ***Two*** Councilmembers shall be elected at each general municipal election and shall hold office for the term of four years each from and after the Tuesday next succeeding the day of such election, and until their successors are elected and qualified.

A vacancy in an elective office shall be filled by appointment by the Council, such appointee to hold office until the next general municipal election and until a successor is elected and qualified. Such successor shall be elected for the unexpired term of his or her predecessor at the general municipal election and until a successor is elected and qualified. Such successor shall be elected for the unexpired term of his or her predecessor at the general municipal election next succeeding such appointment. Should the Council fail to fill any such vacancy within thirty days after the same occurs, then it shall be filled by appointment by the Mayor; provided, however, that if the offices of a majority, or more, of the Council shall become vacant, then the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections.

If any Councilmember of the City shall be absent for more than two consecutive regular meetings without good cause as determined by the Council, or shall cease to be a resident or elector of the City, or shall fail to qualify, or shall resign or be convicted of a felony, or be adjudged mentally incompetent, the Councilmember's office shall thereupon become vacant.

The Councilmembers may receive compensation as provided by ordinance, but in no case shall the compensation exceed that amount which is permitted by the State Law for General Law cities of comparable size to Pacific Grove.

No Councilmember shall be eligible to hold any other office or employment with the City except as a member of any board, commission, or committee thereof, of which the Councilmember is constituted such member by the General Law of the State.

The term of office for a Councilmember who files as a candidate for the Office of Mayor shall automatically expire on the Tuesday next succeeding the general municipal election held following that filing. The filing period for candidates to fill such Councilmember's term shall be extended an additional five days.

Section 4. That Article 13 of the City Charter be amended to read as follows:

Article 13 Meetings of the Council

All meetings of the Council shall be duly noticed and shall be open to the public and shall otherwise comply with applicable state law. All meetings of the Council shall be held in the Council Chambers, except that the Council may hold meetings at another location either to (1) accommodate those who wish to attend, or to (2) accommodate an emergency situation, or to (3) accommodate the needs of a particular meeting as determined in the sole discretion of the Council. There shall be two regular meetings of the Council in each month at a day and hour by ordinance determined, and any regular meeting may be adjourned to a date and hour certain and such adjourned meeting shall be a regular meeting for all purposes; provided however, the Council may cancel one of those meetings, as circumstances may require, by ~~five (5)~~ ***four (4)*** affirmative votes. The Council shall adopt rules for the conduct of its proceeding and shall provide by ordinance the manner in which its special meetings may be called.

Section 5. That Article 15 of the City Charter be amended to read as follows:

Article 15 Ordinances

(a) The enacting clause of all ordinances passed by the Council shall read as follows: "The Council of the City of Pacific Grove does ordain as follows:" The enacting clause of all ordinances passed by the vote of the electors of the City through the exercise of the initiative or referendum shall be: "The people of the City of Pacific Grove do ordain as follows:"

(b) The affirmative vote of ~~four~~ ***three*** members of the Council shall be necessary to adopt any ordinances, resolutions or claims against the City, which vote shall be taken by ayes and noes and entered upon the record, and upon the request of any member of the Council the ayes and noes shall be taken and recorded upon any vote.

(c) No ordinance shall be passed by the Council on the day of its introduction nor within five days thereafter, nor at any time other than at a regular meeting, nor until its publication at least once in the official newspaper at least three days before its adoption. Provided, that the publication of ordinances as required herein may be satisfied by publication of a summary of a proposed ordinance, if at the time the ordinance is introduced the Council directs a summary to be published. Any summary so published shall be approved by the City Attorney. A copy of the full text of proposed ordinances for which summaries are published shall be on file in the office of the City Clerk and available to the public on and after the first business day following introduction.

(d) Notwithstanding the five day waiting period required in (c), immediately hereinabove, any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health, safety or public welfare, and containing the reasons for its urgency, may be introduced and if passed by a vote of no fewer than ~~five~~ ***four*** members of the Council shall become effective immediately.

(e) A proposed ordinance may be amended or modified between the time of its introduction and the time of its final passage, provided its general scope and original purpose are retained.

(f) No ordinance or portion thereof shall be repealed, revised or amended except by ordinance, and all ordinances shall be signed by the Mayor and attested by the City Clerk.

(g) Except as provided by General Law, or by this Charter, no action providing for the approval or amendment of the annual fiscal year budget, or for the acquisition, sale, lease, encumbrancing or disposition of real property of the City, or any interest therein, or for the levying of any tax or assessment, or for the granting of any franchise, or for the establishment or changing of zoning regulations, or for the imposing of any penalty, shall be taken except by ordinance.

(h) All ordinances subject to the right of referendum shall become effective 30 days following final passage. All other ordinances shall be effective immediately upon final passage. The provisions of this subarticle shall not affect the ability of the Council to adopt emergency measures pursuant to subarticle (d) of this Article.

Section 6. That Article 19 of the City Charter be amended to read as follows:

Article 19 City Manager

There shall be a City Manager appointed by the affirmative vote of ~~five sevenths~~ ***four fifths*** of the Council who shall be the administrative head of the City government. The City Manager shall be chosen by the Council without regard to political consideration and with reference solely to qualifications for such office. The procedure for removal of the City Manager shall be prescribed by ordinance.

It shall not be necessary that the City Manager reside in the City at the time of appointment, but the City Manager shall become a resident thereof within sixty days thereafter and thereafter during incumbency shall actually reside in the City.

The powers and duties of the City Manager shall be:

a. To see that all ordinances are enforced.

b. To appoint all heads of departments, subordinate officials and employees, and remove the same, and have general supervision and control over the same.

c. To exercise general supervision over all privately owned public utilities operating within the City so far as the same are subject to municipal control.

d. To see that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are fully observed and to report to the Council any violations thereof.

e. To act as purchasing agent for the City. The City Manager shall know the exact condition of the treasury at all times, and shall approve all demands before the same have been allowed by the Council if the City Manager is satisfied that the money is lawfully due.

f. To attend all meetings of the Council unless excused therefrom by ~~three~~ ***two*** members thereof or by the Mayor.

g. To examine, or cause to be examined, without notice, the conduct, or the official account and records, of any officer or employee of the City.

h. To keep the Council advised as to the needs of the City.

i. To have supervision over all City property, including public buildings, parks and playgrounds.

j. To appoint such advisory boards as the City Manager may deem desirable to advise and assist the City Manager provided the members of such boards shall receive no compensation.

k. To cause a quarterly statement of all funds in the treasury to be submitted to the Council. Such statements shall be submitted not later than the first meeting in November, February, May and August.

l. To assume general control of the City government and all of its branches in case of riot, insurrection or extraordinary emergency, and to be responsible for the suppression of disorders and the restoration of normal conditions.

Section 7. That Article 24 of the City Charter be amended to read as follows:

Article 24 City Attorney

There shall be a City Attorney appointed by the City Council. The City Attorney shall be an attorney-at-law, admitted to the bar of the Supreme Court of this State, and one who has been in actual practice in the State, for at least three years next preceding appointment. All other things being equal, an attorney who has had special training for this office or experience in municipal corporation law shall be appointed to this office, if practicable. The City Attorney shall be legal advisor of the Council and shall be available to all other City officials on City business.

The City Attorney shall prosecute all violations of City ordinances, and shall draft all ordinances, resolutions, contracts, or other legal documents or proceedings required by the Council or other officials, except as may be otherwise provided, and shall perform such legal services from time to time as the Council may require, and shall attend all meetings of the Council unless excused therefrom by ~~three~~ ***two*** members thereof or by the Mayor. When from any cause therefrom the City Attorney is unable to perform the duties of office, the City Attorney shall with the consent of the Council appoint some other qualified attorney to act temporarily as City Attorney. Whenever, in the judgment of the Council, the interests of the City require it, assistant counsel may be employed. The City Attorney shall deliver all books, records, papers, documents, and property of every description, under his or her control, owned by the City, to his or her successor in office, and shall possess such other powers, and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance.

Section 8. That Article 26 of the City Charter be amended to read as follows:

Article 26 Appointive Commissions and Boards

There shall be the Commission and Boards enumerated in this Article which shall have the powers and duties as provided herein. The appointment of persons to serve on these Commissions and Boards shall be made by the Mayor subject to the confirmation by affirmative vote of ~~four~~ ***three*** members of the Council.

Before making such appointments the Mayor shall consult with the Council and shall consider fully any and all nominations suggested by other members of the Council.

Members of Commissions and Boards shall serve at the pleasure of the Council. The Council, by an affirmative vote of ~~four~~ ***three*** of its members, may remove any member of any Commission or Board at any time during the Commission or Board member's term of office.

The term of office for members of Commissions and Boards shall be four years, but in no event shall any person serve more than three successive full terms on a single Commission or Board. For the purposes of this Article, service upon appointment to a vacated mid-term seat shall be deemed service for a full term. A person who has served for such three term period on a Commission or Board shall be eligible for reappointment to that Commission or Board after the expiration of two years.

Any person appointed to serve on such Commissions or Boards shall be a registered elector of the City and shall not hold any paid office or employment in the City government or be a member of any other Board as herein enumerated, or be a member of the City Council, except as an ex officio member without vote.

a. CITY PLANNING COMMISSION. There shall be a Planning Commission consisting of seven members, and shall have the following powers and duties:

(1) Recommend to the Council the adoption, amendment, or repeal of a General Master Plan, or any part thereof, for the physical development of the City.

(2) Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution.

(3) Perform such other duties relating to planning and zoning as the Council may require by ordinance or resolution, or as may be prescribed by the General Laws of the State.

b. LIBRARY BOARD. There shall be a Library Board consisting of five members and shall have the following powers and duties:

(1) Act in an advisory capacity to the Council and City Manager in all matters pertaining to the operation of a public library.

(2) Recommend to the City Council the adoption of such laws, rules, and regulations as it may deem necessary for the administration and protection of the City Library.

(3) Perform such other duties relating to the library services as the Council may require by ordinance or resolution.

c. MUSEUM BOARD. There shall be a Museum Board consisting of five members and shall have the following powers and duties:

(1) Act in an advisory capacity to the Council and City Manager in all matters pertaining to the operation of a public museum.

(2) Recommend to the City Council the adoption of such laws, rules, and regulations as it may deem necessary for the administration and protection of the City Museum.

(3) Perform such other duties relating to the museum service as the Council may require by ordinance or resolution.

d. RECREATION BOARD. There shall be a Recreation Board consisting of five members and shall have the following powers and duties:

(1) Act in an advisory capacity to the Council and City Manager in all matters pertaining to the operation of a City recreation program.

(2) Recommend to the City Council the adoption of such laws, rules and regulations as it may deem necessary for the administration and operation of a City recreation program.

(3) Promote and stimulate public interest in a recreation program and solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(4) Perform such other duties relating to the recreation program as the Council may require by ordinance or resolution.

Section 9. That Article 40 of the City Charter be amended to read as follows:

Article 40 Contracts on Public Works; Materials and Supplies

(a) In the erection, improvement and repair of all public buildings and works, in all street and sewer work, and in furnishing supplies or materials for same when the expenditure required for the same shall exceed the sum of Fifteen Thousand Dollars ($15,000.00), the same shall be done by contract and shall be let to the lowest responsible bidder, after notice by publication in the official newspaper, and security for the due execution and performance of any such contract may be required of the successful bidder. The Council may provide by ordinance for the detailed procedure for carrying out this Article.

Provided, that the Council may reject any and all bids presented and may re-advertise in their discretion, and provided further, that after rejecting bids the Council may declare and determine by an affirmative vote of ~~five~~ ***four*** of its members that in its opinion the work in question may be more economically or satisfactorily performed by day labor, by either city employees or others,

and after adoption of a resolution to this effect, it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this Article.

Provided, further, that such contracts likewise may be let without advertising for bids if such work shall be deemed by the Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by an affirmative vote of ~~five~~ ***four*** Council members and containing a declaration of facts constituting such urgency.

(b) The Council by ordinance shall adopt policies and procedures, including appropriate bidding regulations, governing purchases of or contracts for supplies, materials and equipment. Purchases of supplies, materials and equipment shall be made only in accordance with the adopted policies and procedures.

PART 2: BALLOT DESCRIPTION

As provided in Government Code section 34458.5, the following ballot description is in this proposed Charter Amendment measure:

CHARTER AMENDMENT

The proposed Charter Amendment measure would amend Pacific Grove City Charter Articles 6, 11, 12, 13, 15, 19, 24, 26, and 40. The amendment would change the number of elected City Council members from six to four by directing (1) in 2026 two Council members shall be elected to four-year terms, and one Council member shall be elected to a single two-year term, and (2) every two years thereafter beginning in 2028 two Council members shall be elected to four- year terms; Consistent Charter changes shall clarify a quorum, majority vote and other select actions, which shall become effective when the number of Councilmembers is reduced to four (4) after the November 2028 election is certified.

Charter Article 6 would be revised to provide the reduction of the number of Councilmembers from six (6) to four (4).

Charter Article 11 would be revised to provide that in the event a vacancy occurs in the office of the Mayor, the remaining Council Members shall appoint, by three (3) affirmative votes, one of their number to serve as Mayor for the remaining term of the vacated office of Mayor, instead of four (4) votes.

Charter Article 12 would be revised to provide that two (2) Councilmembers shall be elected at each general municipal election rather than three (3).

Charter Article 13 would be revised to provide that the City Council may cancel one of its monthly meetings, by four (4) affirmative votes instead of five (5).

Charter Article 15 would be revised to provide that the affirmative vote of three (3) members of the Council shall be necessary to adopt any ordinances, resolutions or claims against the City instead of four (4).

Charter Article 19 would be revised to provide that the appointment of the City Manager shall require the affirmative vote of four fifths of the Council instead of five sevenths and to require the City Manager to attend all meetings of the Council unless excused by two (2) members instead of three (3), or by the Mayor.

Charter Article 24 would be revised to provide that the City Attorney must attend all meetings of the Council unless excused by two (2) members instead of three (3), or by the Mayor.

Charter Article 26 would be revised to provide that the appointment of persons serving on City Commissions and Boards shall be made by the Mayor subject to the confirmation by affirmative vote of three (3) members of the Council instead of four (4). Also the Council, by an affirmative vote of three (3) of its members, may remove any member of any commission, instead of four (4).

Charter Article 40 would be revised to provide that the Council after rejecting all bids may declare and determine by an affirmative vote of four (4) of its members instead of five (5) that in its opinion the work in question may be more economically or satisfactorily performed by day labor, by either city employees or others, and after adoption of a resolution, it may proceed to have the proposed work done without further observance of the foregoing provisions of Article 40.

Article 40 would also be revised to allow the Council to approve a contract without advertising for bids with a finding of urgent necessity for the preservation of life, health or property, with an affirmative vote of four (4) Council members instead of five (5).

PART 3: IMPLEMENTATION

In the event this Charter Amendment measure is approved:

A. Exclusively for the election to be held in November 2026, two councilmembers shall be elected and hold office for a term of four years and one additional councilmember shall be elected and hold office for a term of two years, resulting in a four (4) member City Council and Mayor (5 member) local legislative body after the November 2028 election is certified

B. To further effectuate the purposes of this Charter Amendment measure and the direction of the voters, the City Council shall amend the following sections of the Pacific Grove Municipal Code - Sections 2.04.070 (c)(5), 3.02.030 and 3.04.030, and such other sections as needed, to modify the number of required council votes for actions referenced in those provisions as may be consistent with this measure.

C. This Charter Amendment measure shall be submitted to the Secretary of State pursuant to Government Code sections 34459 through 34461, inclusive.

PART 4: EFFECTIVE DATES

Section 3(a) of Article XI of the California Constitution provides:

For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

This Charter Amendment measure shall become effective in the manner allowed by law.

Each Charter Article amendment, provided herein, shall become effective and implemented in conjunction with the following election dates:

1. Amendment of Charter Article 6 - November 7, 2028.
2. Amendment of Charter Article 11 - November 3, 2026.
3. Amendment of Charter Article 12 - November 7, 2028.
4. Amendment of Charter Article 13 - November 7, 2028.
5. Amendment of Charter Article 15 - November 7, 2028.
6. Amendment of Charter Article 19 - November 7, 2028.
7. Amendment of Charter Article 24 - November 7, 2028.
8. Amendment of Charter Article 26 - November 7, 2028.
9. Amendment of Charter Article 40 - November 7, 2028.

PART 5: SEVERABILITY

It is the intent of the people that the provisions of the Charter Amendment measure are severable and that if any section, subsection, sentence, clause, or phrase of this charter amendment is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Charter Amendment measure. The people of the City of Pacific Grove hereby declare that they would have passed this Charter Amendment measure and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

MONTEREY COUNTY
ELECTIONS DEPARTMENT
PO BOX 4400
SALINAS, CA 93912
Phone: (831) 796-1499
Fax: (831) 755-5485

INVOICE TO:

City of Pacific Grove
300 Forest Avenue Pacific Grove CA 93950
cityclerk@cityofpacificgrove.org

Invoice Number: 231111
Invoice Date: 3/15/2023
Payment Due: 4/19/2023

Description of Charges for November 8, 2022	Amount
County Employees	$ 6,046.22
Temporary Staff	$ 5,954.00
Voter Information Guide	$ 36,967.10
Ballot Printing and Mailing	$ 6,737.94
Voting Equipment	$ 2,462.96
Indirect Cost	$ 4,228.31
Transport	$ 219.75
Notices	$ 151.94
Office	$ 827.06
TOTAL AMOUNT DUE	$ 63,595.28
Registered Voters for this election	10,488
Cost Per Registered Voter	$ 6.06

Please make remittance payable to MONTEREY COUNTY ELECTIONS

Please attach one copy of this invoice with payment

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Matt Mogensen, City Manager

MEETING DATE: July 03, 2024

SUBJECT: Resolution of the City Council of the City of Pacific Grove submitting a ballot measure to voters amending Chapter 23.45 of the Pacific Grove Municipal code to add a definition of timeshare project and prohibit advertising and sale thereof and other changes

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

RECOMMENDATION

1. Motion to adopt a Resolution of the City Council of the City of Pacific Grove submitting a ballot measure to voters amending Chapter 23.45 of the Pacific Grove Municipal code to add a definition of timeshare project and prohibit advertising and sale thereof and other changes (Attachment 1).
2. Motion finding that Resolution and Proposed Ordinance are not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the enactment of this Proposed Ordinance: (1) does not constitute a “project” as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3); and (4) involves regulatory actions to assure protection of the environment pursuant to Section 15308.
3. Other action related to this item.

DISCUSSION

On November 2, 1982, the voters adopted Measure B Enacting Regulations For Multiple Unit Developments Involving Condominiums, Planned Unit Developments and Time-Shares and prohibited timeshare projects.

On November 17, 1982, the City Council adopted Ordinance No. 1315 N.S. which codified Measure B in Chapter 23.45 of the City Municipal Code.

Section 23.45.020 of the City of Pacific Grove Municipal Code provides that timeshare projects shall not be permitted in the City of Pacific Grove ("City").

Section 23.45.030 states that one of the intentions of Chapter 23.45 in prohibiting timeshares is to avoid conversion and loss of the City's residential stock and character.

Chapter 23.45 of the City Municipal Code does not include a definition of the term timeshare project.

The City Charter in Article 5.5 provides that the City shall be guided by the determination of the people that Pacific Grove is primarily a city of homes and that business and industry shall be compatible with its residential character.

The Housing Element of the City's General Plan specifically recognizes that the City seeks to protect the stability of residential neighborhood in Goal 1: Support the maintenance and rehabilitation of the city's existing housing stock and residential neighborhoods.

The Local Coastal Program consists of the City's Land Use Plans, zoning ordinance, zoning district maps and other ordinances and implementing actions.

On April 17, 2024, the City Council gave direction to the City Manager to return to the City Council with documents to place a measure on the November 5, 2024 ballot asking the voters to amend Chapter 23.45 of the Municipal Code provide a definition for "timeshare" or "timeshare project," including those fractional interest uses marketed, sold, and managed as timeshares, and allow the City Council to make any future amendments to the definition via Council Ordinance.

On June 13, 2024, the City Planning Commission reviewed the proposed Ordinance and adopted Resolution 2024-003 and determined the proposed Ordinance is consistent with the City's General Plan, Local Coastal Program and all other relevant City and State codes and regulations.

The proposed amendments to the City Municipal Code set forth in the Ordinance are in full conformity with the City's Local Coastal Program and the California Coastal Act (Public Resources Code Section 30510 et seq.).

California Environmental Quality Act (CEQA)
The Proposed Resolution and Ordinance are not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the approval of this Resolution and enactment of this Proposed Ordinance:

(1) Does not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378. The proposed Ordinance is not a project because it will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Timeshare projects are already prohibited by City Municipal Code Section 23.45.020 and the Proposed Ordinance provides clarity to the City Municipal Code by providing a definition of a timeshare project.

(2) Will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2). The Proposed Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because timeshare projects are already prohibited by City Municipal Code Section 23.45.020 and the Proposed Ordinance provides clarity to the City Municipal Code by providing a definition of a timeshare project.

(3) Is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3). The Proposed Ordinance does not have the potential for causing a significant effect on the environment because timeshare projects are already prohibited by City Municipal Code Section 23.45.020 and the Proposed Ordinance provides

clarity to the City Municipal Code by providing a definition of a timeshare project.

(4) Involves regulatory actions to assure protection of the environment pursuant to Section 15308. The Proposed Ordinance will assure projection of the environment because timeshare projects are already prohibited by City Municipal Code Section 23.45.020 and the Proposed Ordinance provides clarity to the City Municipal Code by providing a definition of a timeshare projects. In addition, the Proposed Ordinance will serve the intention of Measure B (codified in Municipal Code Section 23.45.030) which is to prohibit timeshares in order to avoid conversion of the City's residential stock and character. Conversion of a home into a timeshare will result in a more intensive use of the home similar to a visitor serving land use with resulting impacts including transportation, noise and other impacts.

Therefore, the adoption of this Proposed Ordinance is exempt from CEQA and no further environmental review is necessary.

OPTIONS

Take other action related to this item.

FINANCIAL IMPACT:

The County of Monterey charges the City for costs of the General Election. The County Elections Department estimates those costs for the November 5, 2024 election based on the number of registered voters at $10 per person to be $102,240. Historically, after the County breaks out the costs to all cities, districts, county, the actual cost for the election has been lower than the estimate. The added cost due to including this ballot measure cannot be estimated. The invoice from the County to the City for the November 8, 2022 Election (Attachment 2) in the amount of $63,595.28 does not include a breakdown of the cost for the ballot measure at that election.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1. Resolution Submitted to Voters re Timeshares
2. County Invoice to Pacific Grove or Cost for November 2022 General Election

RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE SUBMITTING A BALLOT MEASURE TO VOTERS AMENDING CHAPTER 23.45 OF THE PACIFIC GROVE MUNICIPAL CODE TO ADD A DEFINITION OF TIMESHARE PROJECT AND PROHIBIT ADVERTISING AND SALE THEREOF AND OTHER CHANGES TO VOTE OF CITY'S ELECTORS AND REQUESTING THE MONTEREY COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION AND CONSOLIDATE IT WITH THE STATEWIDE ELECTION TO BE HELD ON NOVEMBER 5, 2024

WHEREAS, timeshare projects involve the division of the exclusive rights to use, possess, and occupy any real property between multiple persons, pursuant to a fixed or floating time schedule; and

WHEREAS, on March 18, 1981, the City Council of the City of Pacific Grove ("City") adopted Ordinance No. 1250 N.S. which added Section 23.64.025 to the City Municipal Code and included for a definition of a timeshare project a reference to California Business and Professions Code Section 11003.5 and restricted timeshare projects to the C, I, V. C. and R-3-M Districts; and

WHEREAS, on November 2, 1982, the voters adopted Measure B Enacting Regulations For Multiple Unit Developments Involving Condominiums, Planned Unit Developments and Time-Shares and which prohibited timeshare projects; and

WHEREAS, on November 17, 1982, the City Council adopted Ordinance No. 1315 N.S. which codified Measure B in Chapter 23.45 of the City Municipal Code; and

WHEREAS, Chapter 23.45 of the City Municipal Code does not include a definition of the term timeshare; and

WHEREAS, on June 4, 1997, the City Council adopted Ordinance No. 97-22 which rescinded Section 23.64.025 due to a conflict with Section 23.45.020 (adopted by Measure B) which prohibits timeshare projects; and

WHEREAS, in 2004, Business and Professions Code Section 11003.5 was repealed by the California State Legislature; and

WHEREAS, the Pacific Grove City Charter, in Article 5.5, the Pacific Grove General Plan, and the Pacific Grove Municipal Code recognize that Pacific Grove is "primarily a city of homes" and that "business and industry shall be compatible with its residential character"; and

WHEREAS, the Pacific Grove Municipal Code, in Section 23.45.030, includes the stated intention for prohibiting timeshares, as adopted by the voters at the November 2, 1982, election: "It is also the intention of this chapter in prohibiting timeshares to avoid the conversion and loss of the city's residential stock and character"; and

WHEREAS, the current Housing Element of the City's General Plan specifically recognizes that the City seeks to protect the stability of residential neighborhoods: Goal 1 - Support the maintenance and rehabilitation of the city's existing housing stock and residential neighborhoods; and

WHEREAS, the Land Use Element of the City's General Plan was amended by the voters at the November 6, 2018, election to include the following policy: Policy 1.5 - Protect Pacific Grove's residential character by prohibiting the short-term (less than 30 consecutive calendar days) rental of residential property in residential zoning districts, except to the extent such use is allowed in the Coastal Zone under the Local Coastal Program. The Pacific Grove Municipal Code shall be consistent with this Policy; and

WHEREAS, recent increases in the development and sale of fractional interest ownerships have made it appropriate to revisit the City Municipal Code to confirm that fractional interest ownerships are prohibited timeshares and to also expressly prohibit the advertising and sale of prohibited timeshare projects and fractional interest uses; and

WHEREAS, the City Planning Commission reviewed this proposed Ordinance, and on June 13, 2024, determined the proposed Ordinance is consistent with the City's General Plan, Local Coastal Program, and all other relevant City and State codes and regulations, and having reviewed the Planning Commission's recommendations and the relevant provisions of the General Plan, the City Council has found that the proposed Ordinance is consistent with the City's General Plan and the Local Coastal Program; and

WHEREAS, the proposed amendments to the City Municipal Code are in full conformity with the City's Local Coastal Program and the California Coastal Act (Public Resources Code Section 30510 et seq.); and

WHEREAS, The City Council exercises its independent judgment and finds that the Proposed Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the enactment of this Proposed Ordinance: (1) does not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3); and (4) involves regulatory actions to assure protection of the environment pursuant to Section 15308;

WHEREAS, pursuant to Elections Code Section 10002, the governing body of any city or district may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election. The city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in

territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election;

WHEREAS, the City Council desires to submit the proposed Ordinance to the voters of the City at a General Municipal Election to be held on Tuesday, November 5, 2024, and to be consolidated with the general municipal election and the statewide election to be held on that date.

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

Section 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby fully incorporated by this reference.

Section 2. Election. The City Council of the City of Pacific Grove hereby orders the proposed Ordinance be submitted to the voters at the General Municipal Election to be held on Tuesday, November 5, 2024 and requests the Monterey County Elections Department to conduct the election and consolidate it with the statewide election to be held on November 5, 2024 and submit to the electorate the following question:

Measure " " Ordinance Amending Chapter 23.45 of Pacific Grove Municipal Code — Adding Definition of Timeshare Project and Prohibiting Advertising and Sale Thereof And Other Related Changes

Shall Chapter 23.45 of the Pacific Grove Municipal Code be amended, in the form included in the voter information guide, to add a definition of timeshare project that will henceforth be associated with the City's longstanding prohibition of timeshare projects; prohibit advertising and sale of any prohibited timeshare project; and other related changes?	**YES**	
	NO	

Section 3. Proposed Ordinance. The text of the proposed Ordinance to be submitted to the voters is attached to this Resolution as Exhibit A and incorporated by reference. The full text of the proposed Ordinance shall be printed in the Sample Ballot and Voters Pamphlet and shall be made available to the public and to any voter at the County Elections Department and the Pacific Grove City Clerk.

Section 4. Publication of Measure. The City Clerk is directed to publish a synopsis of the measure at least one time not later than one week before the election.

Section 5. Approval. The vote requirement for this measure to pass shall be a majority of those casting ballots on the measure (50% plus 1).

Section 6. Filing with County. The City Clerk shall file a certified copy of this Resolution with the County Elections Department.

Section 7. Analysis and Argument. Pursuant to Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the measure that shall not exceed 500 words no later than 12:00 p.m. on August 15, 2024. Pursuant to Elections Code Section 9282, the City Council authorizes the Mayor to author and submit the primary argument and pursuant to Elections Code Section 9285(a), authorizes the Mayor to submit a rebuttal argument in favor of the ballot measure. Pursuant to Elections Code Section 9287, if more than one argument is submitted against the measure, the City Clerk shall select the argument to be included with the ballot materials. An argument for or against the measure shall not exceed 300 words in length. The last day to submit arguments for or against the proposed measure shall be August 15, 2024. Submittals are to be delivered to the City Clerk no later than 12:00 p.m. Rebuttal arguments (250 words) shall be permitted pursuant to applicable law. The last day to submit rebuttal arguments to the City Clerk shall be August 22, 2024. Submittals are to be delivered to the City Clerk no later than 12:00 p.m.

Section 8. Implementation. The City Clerk and City Manager are authorized to take all actions as necessary to effectuate the purposes of this resolution and the election. The City Manager is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with Monterey County Registrar of Voters. The City Clerk and City Attorney are authorized to make any typographical, clerical, and non-substantive corrections to this resolution as may be deemed necessary by the Monterey Elections Department.

Section 9. Declaration. The City Council shall meet to declare the results of the election called for by this Resolution at their regular meeting following certification of election results.

Section 10. Effective Date. This Resolution shall take immediate effect upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

Section 11. Environmental Compliance. The City Council finds the adoption of this Resolution is not subject to the California Environmental Quality Act ("CEQA") , because the enactment of this Resolution and the Proposed Ordinance: (1) does not constitute a “project” as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3); and (4) involves regulatory actions to assure protection of the environment pursuant to Section 15308.

Section 12. Election Called and Consolidated. The City Council of the City of Pacific Grove hereby orders an election be called and consolidated with any and all elections also called to be held on November 5, 2024 within the same territory.

Section 13. **All Necessary Services**. The City Council of the City of Pacific Grove hereby orders that pursuant to Elections Code Section 10002 said governing body hereby requests the Board of Supervisors of the County of Monterey to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full.

Section 14. **Printing of Measure.** The City Council of the City of Pacific Grove hereby requests that the Monterey County Elections Department print the attached full measure text Exhibit A exactly as filed or indicated on the filed document in the voter information guide for the November 5, 2024 election.

PASSED AND ADOPTED by the Council of the City of Pacific Grove on this 3rd day of July, 2024, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED

_____
BILL PEAKE, Major

ATTEST:
DATED: _____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN A. PIERIK, City Attorney

EXHIBIT A

ORDINANCE NO. _____

ORDINANCE TO BE SUBMITTED TO VOTERS OF THE CITY OF PACIFIC GROVE AMENDING CHAPTER 23.45 OF THE PACIFIC GROVE MUNICIPAL CODE TO ADD A DEFINITION OF TIMESHARE PROJECT AND PROHIBIT ADVERTISING AND SALE THEREOF AND OTHER CHANGES IN A MANNER FULLY IN CONFORMITY WITH THE COASTAL ACT (PUBLIC RESOURCES CODE SECTION 30510 ET SEQ.)

FINDINGS

The People of the City of Pacific Grove hereby find:

1. Timeshare projects involve the division of the exclusive rights to use, possess, and occupy any real property between multiple persons, pursuant to a fixed or floating time schedule.

2. On March 18, 1981, the City Council of the City of Pacific Grove ("City") adopted Ordinance No. 1250 N.S. which added Section 23.64.025 to the City Municipal Code and included for a definition of a timeshare project a reference to California Business and Professions Code Section 11003.5 and restricted timeshare projects to the C, I, V. C. and R-3-M Districts. All references to Sections in this Ordinance shall be to Sections of the City Municipal Code unless otherwise stated.

3. On November 2, 1982, the voters adopted Measure B Enacting Regulations For Multiple Unit Developments Involving Condominiums, Planned Unit Developments and Time-Shares and prohibited timeshare projects.

4. On November 17, 1982, the City Council adopted Ordinance No. 1315 N.S. which codified Measure B in Chapter 23.45 of the City Municipal Code.

5. Section 23.45.020 provides that timeshare projects shall not be permitted in the City.

6. Section 23.45.030 states that one of the intentions of Chapter 23.45 in prohibiting timeshares is to "avoid the conversion and loss of the city's residential stock and character."

7. On June 4, 1997, the City Council adopted Ordinance No. 97-22 which rescinded Section 23.64.025 due to a conflict with Section 23.45.020 (adopted by Measure B) which prohibits timeshare projects.

8. In 2004, Business and Professions Code Section 11003.5 was repealed by the California State Legislature.

9. Chapter 23.45 of the City Municipal Code does not include a definition of the term timeshare project.

10. The City Charter in Article 5.5 provides that the City "shall be guided by the determination of the people that Pacific Grove is primarily a city of homes and that business and industry shall be compatible with its residential character."

11. The Housing Element of the City's General Plan specifically recognizes that the City seeks to protect the stability of residential neighborhood in Goal 1: Support the maintenance and rehabilitation of the city's existing housing stock and residential neighborhoods.

12. On March 11, 2020, the California Coastal Commission certified the City's Land Use Plan and Implementing Ordinances.

13. The Local Coastal Program consists of the City's Land Use Plans, zoning ordinance, zoning district maps and other ordinances and implementing actions.

13. City Municipal Code Chapter 23.90 is the City's Local Coastal Program Implementation Plan.

15. On June 13, 2024, the City Planning Commission has reviewed this Ordinance and determined this Ordinance is consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations, and having reviewed the Planning Commission's recommendations and the relevant provisions of the General Plan, the City Council has found that this Ordinance is consistent with the City's General Plan; and

16. Recent increases in the development and sale of fractional interest ownerships have made it appropriate to revisit the City Municipal Code to confirm that fractional interest ownerships are prohibited timeshares and to also expressly prohibit the advertising and sale of prohibited timeshare projects and fractional interest uses.

17. On June 20, 2024, notice of the public hearing before the City Council was published in compliance with State law (California Government Code 65091), indicating the date and time of the public hearing on this Ordinance.

18. On July 3, 2024 the City Council opened the public hearing to receive public testimony regarding this Ordinance, including without limitation, information provided by City staff and public testimony.

19. The amendments proposed by this Ordinance to the City Municipal Code are in full conformity with the City's Local Coastal Program and the California Coastal Act (Public Resources Code Section 30510 et seq.).

20. This Ordinance is necessary for the protection of the health, safety and welfare of the residents of the City.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF PACIFIC GROVE DO ORDAIN AS FOLLOWS:

SECTION 1. Findings. The foregoing Findings are true and correct and are hereby incorporated by this reference as though set forth in full.

SECTION 2. CEQA Determinations. The City Council exercises its independent judgment and finds that this Resolution and the Proposed Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the enactment of this Proposed Ordinance: (1) does not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3); and (4) involves regulatory actions to assure protection of the environment pursuant to Section 15308

SECTION 3. Amendment to Chapter 23.45 of the City Municipal Code.

Chapter 23.45 of the City Municipal Code is hereby amended to add the following:

23.45.015 Definition of Timeshare Project

(a) For purposes of Chapter 23.45 of the City Municipal Code, "Timeshare Project" means any arrangement, plan, scheme, or similar device, whether established by membership agreement, sale, lease, deed, license, right-to-use agreement, articles of organization or incorporation, operating agreement or bylaws, or by any other means, whereby a purchaser, in exchange for consideration, receives the right to exclusive use of real property or portion thereof, according to a fixed or floating time schedule, for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years. A timeshare project shall be deemed to exist whenever such recurring rights of exclusive use to real property are created, regardless of whether such exclusive rights of use are a result of a grant of ownership rights, possessory rights, membership rights, rights pursuant to contract, or ownership of a fractional interest or share in real property, and regardless of whether they are coupled with ownership of a real property interest such as freehold interest or an estate for years in the property.

(b) The definition of Timeshare Project set forth herein shall take precedence over the definition of a timeshare or timeshare project, by whatever name, if any, elsewhere in State law or the City Municipal Code.

(c) The definition of Timeshare Project set forth herein may be changed in the future by an ordinance adopted by the City Council without voter approval only to the extent that those changes would not lessen or eliminate the prohibition of timeshare projects.

23.45.025 Advertising of Timeshare Projects Prohibited

(a) Any responsible person, including but not limited to an owner of a timeshare project, management entity, agent, or broker who uses, or allows the use of, or advertises or causes to be printed, published, advertised, or disseminated in any way and through any medium, the availability for sale or use of real property in violation of Section 23.45.020 is guilty of a misdemeanor for each day in which such accommodation is

used, allowed to be used, or advertised for sale or use in violation of Section 23.45.020. Such violation shall be punishable pursuant to the City Municipal Code.

(b) Any responsible person, including but not limited to an owner of a timeshare project, management entity, agent, or broker who uses, or allows the use of, or advertises or causes to be printed, published, advertised, or disseminated in any way and through any medium, the availability for sale or use of real property in violation of Section 23.45.020 is subject to administrative fines and/or penalties as set forth in the City Municipal Code.

(c) Each day a violation of this section occurs shall constitute a separate offense, and the remedies under this section are cumulative and in addition to any and all other remedies available at law and equity.

(d) The prohibition of advertising timeshare projects set forth herein shall not apply to any lawful timeshare project established prior to the codification of Measure B in Chapter 23.45 of the City Municipal Code.

(e) The prohibition of advertising timeshare projects set forth herein may be changed in the future by an ordinance adopted by the City Council without voter approval only to the extent that those changes would not lessen or eliminate this prohibition.

23.45.035 Assisting with Timeshare Projects Prohibited

(a) No person or entity shall assist any other person or entity in the marketing, creation, use, sale or purchase of a timeshare project.

(b) Each day a violation of this section occurs shall constitute a separate offense, and the remedies under this section are cumulative and in addition to any and all other remedies available at law and equity.

(c) The prohibition of assisting with timeshare projects set forth herein shall not apply to any lawful timeshare project established prior to the codification of Measure B in Chapter 23.45 of the City Municipal Code.

(d) The prohibition of assisting with timeshare projects set forth herein may be changed in the future by an ordinance adopted by the City Council without voter approval only to the extent that those changes would not lessen or eliminate this prohibition.

23.45.050 Severability.

Section 23.45.050 Severability is hereby amended to read as follows:

Severability and Interpretation. Chapter 23.45, including all amendments thereto shall be broadly construed in order to achieve its purpose and shall be interpreted so as to be consistent with all applicable Federal and State laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of Chapter 23.45 is held to be invalid or unconstitutional by a final judgment of a court

of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Chapter 23.45. The voters hereby declare that Chapter 23.45, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions were declared invalid or unconstitutional. If any provision of Chapter 23.45 is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of Chapter 23.45 that can be given effect without the invalid application.

SECTION 4. Severability and Interpretation. This Ordinance shall be broadly construed in order to achieve its purpose. This Ordinance shall be interpreted so as to be consistent with all applicable Federal and State laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The voters hereby declare that this Ordinance, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions were declared invalid or unconstitutional. If any provision of this Ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Ordinance that can be given effect without the invalid application.

SECTION 5. Publication. The City Clerk shall publish and/or post this Ordinance in the manner required by law.

SECTION 6. Effective Date. This Ordinance shall become effective pursuant to applicable law.

SECTION 7. Amendment or Repeal. Except as otherwise provided in this Ordinance, this Ordinance may be amended or repealed only by the voters of the City of Pacific Grove.

PASSED AND ADOPTED BY THE PEOPLE OF THE CITY OF PACIFIC GROVE this 5th day of November, 2024.

APPROVED:

_____
Bill Peake, Mayor

ATTEST:

DATE: _____

_____
Sandra Kandell, City Clerk

APPROVED AS TO FORM:

_____
Brian A. Pierik, City Attorney

MONTEREY COUNTY
ELECTIONS DEPARTMENT
PO BOX 4400
SALINAS, CA 93912
Phone: (831) 796-1499
Fax: (831) 755-5485

INVOICE TO:

City of Pacific Grove
300 Forest Avenue Pacific Grove CA 93950
cityclerk@cityofpacificgrove.org

Invoice Number: 231111
Invoice Date: 3/15/2023
Payment Due: 4/19/2023

Description of Charges for November 8, 2022	Amount
County Employees	$ 6,046.22
Temporary Staff	$ 5,954.00
Voter Information Guide	$ 36,967.10
Ballot Printing and Mailing	$ 6,737.94
Voting Equipment	$ 2,462.96
Indirect Cost	$ 4,228.31
Transport	$ 219.75
Notices	$ 151.94
Office	$ 827.06
TOTAL AMOUNT DUE	$ 63,595.28
Registered Voters for this election	10,488
Cost Per Registered Voter	$ 6.06

Please make remittance payable to MONTEREY COUNTY ELECTIONS

Please attach one copy of this invoice with payment

CITY OF PACIFIC GROVE

300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Matt Mogensen, City Manager

MEETING DATE: July 03, 2024

SUBJECT: Lovers Point Grill Lease Agreement

CEQA: Categorical Exemption, CEQA Guidelines Section 15301, Class I, Existing Facilities

RECOMMENDATION

1. Request the City Attorney to read the title of the ordinance;
2. Motion to waive further reading and introduce an Ordinance of the City Council of the Pacific Grove approving a five-year lease between Sunset Hospitality Group, Inc., a California corporation, and the City of Pacific Grove for the use of City owned property including approximately 270 square feet of building space located at Lover's Point Park and Beach in the City of Pacific Grove, and authorizing and directing the City Manager to execute the same
3. Direct that publication of the Ordinance will be satisfied by publication of a summary approved by the City Attorney.
4. Motion to approve the form of a Lease with Sunset Hospitality Group
5. Motion to approve a License Agreement with Sunset Hospitality Group
6. Motion finding the License and Lease is exempt from the California Environmental Quality Act (CEQA) per Section 15301 of the CEQA Guidelines which allows for the leasing, licensing, repair, and maintenance of public or private structures.

DISCUSSION

The City of Pacific Grove ("City") owns that certain portion of real property situated at the northeast corner of the intersection of Ocean View Boulevard and 17th Street, at the southerly end of Lover's Point Park and Beach, improved with an approximately 270 square foot building (the "Premises"), located in the City of Pacific Grove.

The Premises are improved with a restaurant, including a kitchen, configured for walk-up ordering and take-out service only.

The City operates the Premises through a lease agreement for operation of restaurant food and beverage services.

The City issued a Request for Proposal (RFP) on March 19, 2024, and the City received proposals from three entities. A panel of staff reviewed the proposals and interviewed each proposer. As a result of the selection process, the proposal submitted by Sunset Hospitality, Inc. was selected as the highest rated

proposal for their unique qualifications and vision for the Premises.

The lease form allows Sunset Hospitality, Inc. the exclusive use of Premises for the sale of food, beverages, and related services.

The proposed Lease (Attachment 1) provides that the use will be for a snack bar including beverages, sandwiches and light fare. The term of the Lease is five (5) years with one option extension for an additional five-year term if both parties agree to the extension. The rent for the Premises will be:

Base Rent:	The initial monthly base rent shall be $1,500 plus an annual payment equal to a proportion of annual gross sales in the following amounts: 0% for annual gross sales under $300,000 2% for annual gross sales $300,000 - $399,999 3% for annual gross sales $400,000 - $499,999 4% for annual gross sales $500,000 - $599,999 5% for annual gross sales $600,000 - $699,999 6% for annual gross sales $800,000 and above. Tenant is separately responsible for paying for utilities and services (including electric, water and sewer).

The Lease will be approved by Ordinance (Attachment 2). The proposed timeline for the Ordinance is a first reading of the Ordinance on July 3, 2024 and a second reading on July 20, 2024 and 30 days thereafter will be August 19, 2024 which, if the Ordinance is adopted, would be the Rent Commencement Date.

In order to allow Sunset Hospitality access to the Premises before August 19, 2024 when the Lease will become effective, there is a License Agreement proposed which is Attachment 3.

The proposed menu of food and beverages to be offered by Sunset Hospitality at the Premises is Attachment 4.

The License Agreement and Lease of the Premises will not have a significant effect on the environment and is found to be exempt from the California Environmental Quality Act (CEQA) per Section 15301 of the CEQA Guidelines which allows for the leasing, licensing, repair, and maintenance of public or private structures.

OPTIONS

Other action related to this item.

FINANCIAL IMPACT:

Rent will be paid to the City by Sunset Hospitality of $1,500 a month plus an annual payment equal to a proportion of annual gross sales as specified in the Lease and as described above in this Agenda Report.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

Lovers Point Group Menu

Ordinance of the City Council of the Pacific Grove approving a five-year lease between Sunset Hospitality Group, Inc., a California corporation, and the City of Pacific Grove for the use of City owned property

Form of Lease with Sunset Hospitality Group

License Agreement with Sunset Hospitality Group

Lover's Point Snack Bar

BETWEEN THE BUN

BURGER $10
single patty w/ lettuce, tomato, pickles, grilled onions, brioche bun.

CHEESEBURGER $12
single patty w/ melted American cheese, lettuce, tomato, pickles, grilled onions, brioche bun.

MUSHROOM BURGER $14
single patty w/ melted American cheese, grilled mushrooms, lettuce, tomato, pickles, grilled onions, brioche bun.

DOUBLE DOUBLE $14
double patty w/ lettuce, tomato, pickles, grilled onions, brioche bun

FRIED CHICKEN SANDWICH $14
buttermilk fried chicken, Gilroy garlic aioli, pickles, brioche bun

FLAT TOP HOT DOG $10
Midwestern style hot dog w/ relish, grilled onions, pickles, tomato, split top bun

SNACKS

HANDCUT FRENCH FRIES $8
double fried Kennebec potatoes, Big Sur sea salt

SOFT PRETZEL $12
Nisi's pretzel served w/ sweet & tangy mustard sauce

GRILLED ARTICHOKE $12
grilled Castroville artichoke w/ Big Sur sea salt, fresh herb, Gilroy garlic aioli

HAND CUT GARLIC FRIES $10
double fried Kennebec potatoes, Gilroy garlic, fresh herbs, Big Sur sea salt

CLAM CHOWDER $8
creamy New England chowder w/ clams and potatoes

SEASONAL SALAD $12

SWEET TREATS

HAND SPUN MILK SHAKE $8
Choice of:
Vanilla
Chocolate
Strawberry

ICE CREAM BY THE SCOOP $4
Choice of:
Vanilla
Chocolate
Strawberry

CHURROS $8
sprinkled w/ cinnamon sugar and served w/ Ghirardelli chocolate sauce

CHOCOLATE CHIP COOKIE $4

ICE CREAM SANDWICH $10
choice of icecream sandwiched between two homemade chocolate chip cookies

BEVERAGES

SODA BY THE CAN $3
coke | diet | 7-Up | rootbeer

HOMEMADE LEMONADE $3

ICED TEA $3

WATER BY THE BOTTLE $3
Acqua Panna still | San Pellegrino sparkling

TENANT LEASE

By and Between

CITY OF PACIFIC GROVE
a California charter city
("Landlord")

and
SUNSET HOSPITALITY GROUP, INC.
a California corporation
("Tenant")

Dated: August __, 2024

TENANT LEASE

BASIC LEASE PROVISIONS

1.	Tenant:	Sunset Hospitality Group, Inc. 500 Hartnell Street Monterey, California 93933 Phone: (310) 403-0210
2.	Landlord:	City of Pacific Grove 300 Forest Avenue Pacific Grove, California 93950 Phone: (831) 648-3174 Attention: City Manager
3.	Premises:	That certain building of approximately 270 square feet in interior floor space located generally on the southwest portion of the City's Lover's Point Park and Beach, as depicted in Exhibit B attached hereto
4.	Use:	Snack bar (e.g., beverages, sandwiches, and light fare)
5.	Term:	Five (5) years, with one optional extension for an additional five-year term, if both parties agree to such extensions
6.	Lease Commencement Date:	August __, 2024 ("**Commencement Date**").
7.	Rent Commencement Date:	August __, 2024 ("**Rent Commencement Date**").
8.	Base Rent:	The initial monthly base rent shall be $1,500 plus an annual payment equal to a proportion of annual gross sales in the following amounts: 0% for annual gross sales under $300,000 2% for annual gross sales $300,000 - $399,999 3% for annual gross sales $400,000 - $499,999 4% for annual gross sales $500,000 - $599,999 5% for annual gross sales $600,000 - $699,999 6% for annual gross sales $800,000 and above. Tenant is separately responsible for paying for utilities and services (including electric, water and sewer).

The Basic Lease Information set forth above and the Exhibits listed below and attached hereto are incorporated into and made a part of the following Lease. Each reference in this Lease to any of the Basic Lease Information shall mean the respective information above and shall be construed to incorporate all of the terms provided under the particular Lease section pertaining to such information. In the event of any conflict between the Basic Lease Information and the provisions of the Lease, the latter shall control.

The following Exhibits are attached to this Lease and incorporated herein by this reference:

Exhibit A – Premises Description
Exhibit B – Rules and Regulations
Exhibit C – Ongoing Maintenance Schedule
Exhibit D – List of Lessor-owned Furnishings
Exhibit E – Initial Improvement Schedule
Exhibit F – Insurance Certificate

This Lease Agreement (this "**Lease**") is made and entered into effective as of August __, 2024 ("**Effective Date**") by and between the City of Pacific Grove, a California charter city ("**Landlord**") and Sunset Hospitality Group, Inc., a California corporation ("**Tenant**").

1. PREMISES.

1.1 Premises. Landlord is the owner of certain real property developed into a municipal park and beach commonly known as Lover's Point Park and Beach, located generally at the northeast intersection of Ocean View Boulevard and 17th Street, situated in the City of Pacific Grove, Monterey County, State of California ("**Property**"). The Property is also improved with an approximately 270 square foot building ("**Premises**") owned by Landlord and located in the southwest portion of the Property, and described and depicted in **Exhibit A**, attached hereto and incorporated herein by this reference. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, on the terms and subject to the covenants, conditions and uses stated herein, the Premises. The Premises are leased to Tenant in their "as is" condition. The Premises are leased on an "AS-IS" basis, "WITH ALL FAULTS," with all furniture, fixtures and equipment located within the Premises as of the Commencement Date (except such as are already owned by Tenant), also being subject to this Lease. Tenant shall also be permitted to use the locked storage area located at the beach level of the Property to store items associated with the operation of the Premises.

1.2 Public Area. Tenant may, subject to rules made by Landlord, and on a non-exclusive basis, use those areas on the Property exterior to the Building designated by Landlord from time to time for the common use of Landlord and members of the public, such as patio and other public areas adjacent to the Building (the "**Public Area**"). Landlord has sole discretion to determine the design and location of the Public Area and to determine the manner in which the Public Area is maintained and operated. The Public Area does not include space within Tenant's Premises.

1.3 Parking. During the Term, Tenant shall be entitled to utilize the number of parking spaces within the parking area for the Property as designated by Landlord from time to time. Landlord shall at all times have the right to establish and modify the nature and extent of the parking areas for Premises. Tenant shall not use more parking spaces than its allotment and shall not use any parking spaces specifically assigned by Landlord to other tenants, if any, or for such other uses such as visitor, handicapped or other special purpose parking.

1.4 Reserved Rights.

1.4.1 Landlord's Right of Entry. Landlord reserves the right to enter the Premises upon reasonable notice to Tenant (except that advance notice shall not be required in case of an emergency) for the following purposes: (i) to inspect the condition of the Premises; (ii) to ascertain the performance by Tenant of the terms and conditions hereof; (iii) to respond to an emergency at the Premises; (iv) to maintain, inspect and repair the Premises to the extent required or permitted under this Lease; (v) to post notices of non-responsibility for alterations, additions or repairs undertaken by Tenant; and (vi) to show the Premises to prospective tenants or purchasers or persons acting on their behalf; (vii) to post a leasing sign in or about the Premises; and (viii) to perform any other right or duty of Landlord under this Lease. Landlord

may exercise this right of entry without any rent credit to Tenant for any loss of occupancy or quiet enjoyment of the Premises.

1.4.2 Additional Reserved Rights. In addition, Landlord reserve(s) the right upon reasonable notice to Tenant (except that advance notice shall not be required in case of an emergency) to undertake the following: (i) install, use, maintain, repair, alter, relocate or replace any improvements in the Public Area; (ii) grant easements encumbering the Property which do not unreasonably interfere with Tenant's use of the Premises and dedicate for public use portions thereof; and (iii) affix reasonable signs and displays.

1.5 Compliance with ADA. Notwithstanding anything to the contrary contained in this Lease, Landlord and Tenant agree that responsibility for compliance with the Americans With Disabilities Act of 1990, as amended (the "ADA") shall be allocated as follows: (i) Landlord shall be responsible for compliance with the provisions of Title III of the ADA for all Public Areas not included within the Premises; (ii) Landlord shall be responsible for compliance with the provisions of Title III of the ADA for any construction, renovations, alterations and repairs made within the Premises if such construction, renovations, alterations or repairs are made by Landlord, its employees, agents or contractors, at the direction of Landlord or done pursuant to plans and specifications prepared or provided by Landlord or Landlord's architect or space planner; (iii) Tenant shall be responsible for compliance with the provisions of Title III of the ADA for any construction, renovations, alterations and repairs made within the Premises if such construction, renovations, alterations and repairs are made by Tenant, its employees, agents or contractors, at the direction of Tenant or done pursuant to plans and specifications prepared or provided by Tenant or Tenant's architect or space planner.

1.5.1 Accessibility Disclosure. Landlord hereby advises Tenant that the Premises has not undergone an inspection by a certified access specialist, and except to the extent expressly set forth in this Lease, Landlord shall have no liability or responsibility to make any repairs or modifications to the Premises in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law:

> A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." [*Cal. Civ. Code Section* 1938(e)]. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Building with

regard to such inspections and shall be subject to Landlord's prior written consent.

2. TERM.

2.4 Lease Commencement Date. The initial term of this Lease shall be for a period of five (5) years commencing on the Effective Date ("**Initial Term**"). Any reference to "**Term**" in this Lease shall include the Initial Term and the Extension Term where Tenant and Landlord have extended the Lease pursuant to Section 2.2.

2.5 Optional Extension.

2.5.1 Provided that (i) Tenant is not in default under the terms of this Lease at the time the optional extension is exercised or at the commencement of the Extension Term (defined below), and (ii) Tenant has not been in default more than twice in any 12-month period, Landlord and Tenant may mutually agree to renew this Lease for an additional five-year period ("**Extension Term**"). The Extension Term shall commence, if at all, upon the expiration of the Initial Term and end sixty months later. There shall be no additional extension term beyond the Extension Term set forth herein.

2.5.2 The Extension Term shall be on all the terms and conditions of this Lease.

2.5.3 Base Rent for the Extension Term shall be determined as set forth in section 3.5 below.

2.5.4 Tenant must exercise its option to extend this Lease by giving Landlord a minimum of six (6) months written notice prior to the end of the Initial Term. If Tenant fails to give notice in a timely manner, Tenant shall lose the ability to exercise its extension option. Landlord may in its discretion waive such failure.

2.5.5 The extension option set forth herein is personal to Tenant and shall not be included in any assignment of this Lease without prior written approval from Landlord.

3. RENT.

3.4 Rent Commencement Date. Tenant's obligation to pay Rent under this Lease shall commence as of the Effective Date. Rent shall be paid as set forth in this Section 3.

3.5 Base Rent; Rent Adjustment. The monthly Base Rent for the Initial Term shall be $1,500, for a total of $18,000 per year. Base Rent shall be adjusted as set forth in this Section 3.2 and may be adjusted as set forth in Section 3.5, below. Tenant shall pay to Landlord, at Landlord's Address designated in Item 2 of the Basic Lease Information, or at such other address as Landlord may from time to time designate in writing to Tenant for the payment of Rent, the Base Rent herein defined, without notice, demand, offset or deduction, in advance, on the first day of each calendar month. Upon the execution of this Lease, Tenant shall pay to Landlord the first month's Base Rent due as of the Rent Commencement Date. All sums other than Base Rent which Tenant is obligated to pay under this Lease shall be deemed to be additional rent

("Additional Rent") due on the same date as Base Rent unless otherwise specified hereunder or otherwise requested by Landlord. Notwithstanding the foregoing, late charges under Section 3.3.4 shall be due and payable immediately as incurred. The term "Rent" means the Base Rent and all Additional Rent payable hereunder. If Rent is due for a period of less than a full month, it shall be prorated for such partial month on the basis of a thirty (30) day month. On the first anniversary of the commencement date of this Lease, and annually thereafter, the rent payable by Tenant shall be increased to an amount determined by multiplying the basic monthly rental by a fraction, the denominator of which shall be the most recent Consumer Price Index figure, as hereinafter defined, published prior to the date of this Lease, and the numerator of which shall be the most recent Consumer Price Index figure published prior to the particular anniversary date; provided, however, that in no event shall the rent for any month after such anniversary be less than the rent for the month immediately preceding such anniversary. As used herein, the term "Consumer Price Index" shall mean Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco- Oakland-San Jose Average for All Items, 1982-84=100, or the successor of that Index, as published by the Bureau of Labor Statistics, U.S. Department of Labor. Tenant shall make the rent payment on or before the 10th day of each month. Application of Payments. All payments received by Landlord from Tenant shall be applied to the oldest obligation owed by Tenant to Landlord. No designation by Tenant, either in a separate writing, on a check or money order, or otherwise shall modify this clause or have any force or effect.

3.6 Percentage Rent.

3.6.1 *Payment*. In addition to the Base Rent, Tenant agrees to pay to Landlord, as Rent for each Lease Year or partial Lease Year, the amount by which the percentage of Tenant's Gross Sales from the Premises set forth in Paragraph 8 of the Basic Lease Provisions for such Lease Year or partial Lease Year (the "Percentage Rent"). Percentage Rent will be determined and paid, without any prior demand within forty-five days (45-days) after the end of such Lease Year, including the last Lease Year of the term of the Lease, and Tenant's obligation will survive the expiration of the Lease Term. Each Lease Year will be considered as an independent accounting period for the purpose of computing the amount of Percentage Rent due. The amount of Gross Sales of any Lease Year will not be carried over into any other Lease Year.

3.6.2 *Gross Sales Reports*. Tenant agrees to submit to Landlord on or before the forty-fifth day (45th) day following the end of each Lease Year or partial Lease Year (including the last Lease Year hereof, as to which Tenant's obligation will survive the expiration of the Lease Term) a written statement signed and verified by an authorized representative of Tenant as true and correct, showing the amount of such Gross Sales during the preceding Lease Year or partial Lease Year and an itemization of all permissible deductions from Gross Sales. The annual statement will also be duly certified by Tenant or an officer of Tenant to be true and correct in compliance with the definition of Gross Sales in this Lease in accordance with sound and accepted accounting practice consistently applied. The statements referred to in this Section 3.3.2 of this Lease must be in such form and style and contain such details and information as Landlord may reasonably designate and will be delivered to the address set forth in Paragraph 2 of the Basic Lease Provisions or such other address as Landlord may from time to time designate. The acceptance by Landlord of payments of Percentage Rent or Gross Sales reports is without prejudice and does not constitute a waiver of Landlord's right to claim a deficiency in the payment of Percentage Rent or to audit Tenant's books and records. The Gross Sales for any

portion of a calendar month prior to the commencement of the first full calendar month, will be included in the report due for the next succeeding month.

3.6.3 *Records and Audit Reports*. Tenant agrees to prepare and keep for a period of at least thirty-six (36) months following the end of each Lease Year, true and accurate books of account and records, conforming to generally sound and accepted accounting principles consistently applied, including, but not limited to, sales tax and other reports filed with governmental agencies, all purchases and receipts of merchandise, inventories and all sales and other transactions by Tenant from which Gross Sales at, upon or from the Premises can be determined. Tenant agrees to record all sales, at the time each sale is made, and to retain cumulative cash register tapes or such other cumulative records concerning such Gross Sales as are approved by Landlord. Notwithstanding the foregoing, Landlord agrees that it will not unreasonably refuse to allow Tenant to maintain its books and records in computerized form, provided: (i) that Tenant's computerized books and records provide the same level of information as the print books and records described in this Section 3.3.3 of the Lease; (ii) such computerized books and records are retained for the full thirty-six (36) month retention period, and are made accessible for Landlord's inspection on request; (iii) print copies are made available to Landlord's representatives engaged in inspecting Tenant's books and records upon request. Landlord's consent to computerized record keeping, once given, may be revoked by Landlord on not less than sixty (60) days' prior written notice to Tenant, if Tenant fails to comply with the foregoing requirements.

If Tenant's Gross Sales are required to be reported on any federal, state or local sales tax return, and Gross Sales so reported on any of the sales tax returns exceed the Gross Sales as reported by Tenant under this Lease, then the Gross Sales will be taken at the highest figure so reported. If any governmental authority increases the Gross Sales reported by Tenant on any such tax return for any Lease Year for which such Gross Sales have been reported, then Tenant will notify Landlord promptly of such increase, supply to Landlord a true copy of such governmental action and pay any additional Percentage Rent due under this Lease together with interest at the late rent Interest Rate set forth in Section 3.3.4 of the Lease from the date such Percentage Rent was due.

Landlord has the right, upon thirty (30) days' notice to Tenant to cause a complete audit of all statements of Gross Sales and in connection with such audit, to examine Tenant's books of account and records (including all supporting data and any other records from which Gross Sales may be tested or determined) of Gross Sales disclosed in any statement provided or required to be provided to Landlord by Tenant. Tenant will make all such records available for such examination at the location set forth in Paragraph 1 of the Basic Lease Provisions. Landlord will have the right to copy and duplicate such information as Landlord may require. If any such audit discloses that the actual Gross Sales transacted by Tenant exceed those reported, then Tenant will pay Landlord such additional Percentage Rent as may be payable together with interest at the late rent Interest Rate pursuant to Section 3.3.4 of the Lease from the date such additional Percentage Rent was due. If the excess so disclosed is ten percent (10%) or more, Tenant will also pay the reasonable costs of Landlord's audit and examination. If the excess is less than ten percent (10%), then Landlord will pay for the services of its auditors. The furnishing by Tenant of any fraudulent statement will constitute a non-curable Event of Default. If an audit is commenced by Landlord, all supporting data and any other records from which Gross Sales may

be tested or determined will be preserved and retained by Tenant until a final resolution of such audit, dispute or difference. Any information obtained by Landlord as a result of such audit will be treated as confidential, except in any litigation or proceeding between the parties.

For purposes of this lease, the term "gross sales" means sum of the full sale price at which all beverages, food stuffs, catering services and other such goods, room rental fees charged by Tenant, specialty contracted services, wares and merchandise are sold at any time during the term of the Agreement by Tenant, its employees or agents in. Gross sales shall exclude credit card service charges that are not included in the sale price to customers.

3.6.4 Late Charge and Interest. The late payment of any Rent will cause Landlord to incur additional costs, including administration and collection costs and processing and accounting expenses and increased debt service ("Delinquency Costs"). If Landlord has not received any installment of Rent within five (5) calendar days after such amount is due, Tenant shall pay a late charge in the amount of One Hundred Twenty Five Dollars ($125.00) immediately. This late charge represents a reasonable estimate of the Delinquency Costs incurred by Landlord. In addition, all delinquent amounts shall bear interest from the date such amount was due until paid in full at a rate per annum ("Applicable Interest Rate") equal to the lesser of (a) the maximum interest rate permitted by law, or (b) five percent (5%) above the rate publicly announced by JPMorgan Chase Bank, N.A. (or if JPMorgan Chase Bank, N.A. ceases to exist, the largest bank then headquartered in the United States of America) ("Bank") at its "Reference Rate." If the use of the announced Reference Rate is discontinued by the Bank, then the term Reference Rate shall mean the announced rate charged by the Bank which is, from time to time, substituted for the Reference Rate. Landlord and Tenant recognize that the damage which Landlord shall suffer as a result of Tenant's failure to pay such amounts is difficult to ascertain and said late charge and interest are the best estimate of the damage which Landlord shall suffer in the event of late payment. Landlord's acceptance of late Rent, partial Rent and late charges does not equate with a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any rights and remedies available under this Lease and/or by operation of law.

3.7 Additional Rent. In addition to paying the Base Rent specified in Item 8 of the Basic Lease Information and in Section 3.2, and pursuant to any Addendum or Amendment to this Lease that Landlord and Tenant may execute, Tenant shall pay as Additional Rent all Utilities and Services, defined and described in Section 4, not directly paid by Tenant to the utility company, and any other amounts of any kind that become due or payable by Tenant to Landlord under the terms of this Lease. Unless Landlord elects otherwise pursuant to this Lease, all amounts due under this section as Additional Rent are payable for the same periods and in the same manner, time and place, as the Base Rent. Tenant's obligation to pay Rent under this Lease survives the Term to the extent such obligation has not been fulfilled during that Term.

3.8 Renegotiation of Base Rent Amount Upon Leasehold Improvements. If Tenant anticipates undertaking significant and costly renovations to the Property during the Term, upon the issuance of a building permit by City to commence such renovations, City and Tenant may meet to discuss a renegotiation of the rent amount to account for the improvements.

3.9 Security Deposit. Tenant shall not be required to deposit any sums with Landlord as security for Tenant's performance of its obligations under this Lease. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code and agrees that the provisions of this Section 3.5 shall govern the treatment of Tenant's Security Deposit in all respects for this Lease.

4. UTILITIES AND SERVICES.

4.4 Utilities and Services. Tenant shall be solely responsible for contracting for, and shall promptly pay any and all shall pay when due any and all water, heat, gas, electricity, telephone and other utilities and services ("collectively, "**Services**") provided to or for the Premises, including taxes thereon. Tenant shall establish its own accounts for all utility Services, including garbage collection services, to the extent such Services can be separately metered and billed. In the case of any Services that are not separately metered and billed directly to Tenant, but are metered jointly with other premises, Tenant shall pay Landlord upon demand a pro rata share, as determined by Landlord, of all charges. Landlord shall bill Tenant its pro rate share of any Services that are not separately metered within one hundred twenty (120) days of the date that Landlord receives such bills from the Service provider (e.g., utility company). Tenant will also procure, or cause to be procured without cost to Landlord, any and all necessary permits, licenses, or other authorization s required for the lawful and proper installation and maintenance upon the Premises of wires, pipes, conduits, tubes, and other equipment and appliances for use in supplying any such service to and upon the Premises. Landlord, upon request of Tenant, and at the sole expense and liability of Tenant, will join with Tenant in any application required for obtaining or continuing any such services.

4.2 Pest Control. Tenant, at Tenant's cost, shall at all times keep the Premises free of pests, including the obligation to maintain a pest control service contract with a licensed pest control operator. If Tenant fails to promptly and fully comply with this Section, Landlord shall have the right, but not the obligation, to enter the Premises to perform such spraying or inspections at Tenant's expense. Performance of such work by Landlord shall not constitute a waiver of Tenant's default in failing to do the same nor shall it entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Rent. Tenant shall reimburse Landlord for any cost incurred by Landlord pursuant to this Section upon demand therefor.

4.3 Exculpation of Liability. Landlord shall not be liable for any loss or damage suffered by Tenant or others, by reason of Landlord's failure to furnish any of the Services, or furnishing reduced Service; no such failure or reduction shall constitute or be construed as a constructive or other eviction of Tenant, nor shall Landlord be liable for loss of business or injury to property however occurring, through or in connection with or incidental to such failure to furnish or reduction of any of the Services. Should Landlord elect to provide a security patrol or system, Landlord shall not be responsible for any damage or injury to Tenant, Tenant's officers, agents, employees, independent contractors, invitees, customers, visitors, licensees, assignees or subtenants (individually and collectively, "Tenant's Parties"), or the Premises or property due to failure, action or inaction of such patrol or system. Landlord reserves the right to stop Services when necessary, by reason of accident or emergency or for inspection, repairs, alterations, decorations, additions or improvements which, in the judgment of Landlord, are

desirable or necessary to be made, until same shall have been completed, and shall further have no responsibility or liability for failure to supply any Services in such instance. Landlord shall use reasonable efforts to minimize the inconvenience to Tenant from any such disruptions or interruptions of Services and shall provide Tenant with reasonable notice of such disruptions or interruptions to the extent that Landlord is aware of or has been provided with advance notice of the disruptions or interruptions. The exculpation of liability under this Section shall not apply to the extent claims are caused by Landlord's sole or active negligence.

4.4 No Representation. Landlord makes no representation with respect to the adequacy or fitness of any heating, air conditioning or ventilation equipment in the Premises to maintain temperatures which may be required for, or because of, any equipment of Tenant, and Landlord shall have no liability for loss or damage suffered by Tenant or others in connection therewith.

4.5 Conservation and Use Policies. In the event of imposition of federal, state, or local governmental controls, rules, regulations, or restrictions on the use or consumption of energy or other utilities during the Term, both Landlord and Tenant shall be bound thereby. In the event of a difference in interpretation by Landlord and Tenant of any such controls, the interpretation of Landlord shall prevail, and Landlord shall have the right to enforce compliance therewith, including the right of entry into the Premises to effect compliance.

5. TAXES.

5.3 Taxes. As used in this Lease "Taxes" means Possessory Interest Taxes and Personal Taxes. Tenant's obligations for Taxes for the last full or partial year of the Term and for any prior unpaid Taxes shall survive the expiration or earlier termination of this Lease.

5.4 Statement Regarding Possessory Interest Tax. This Lease creates a possessory property interest in Tenant. Tenant's property interest may be subject to property taxation, and Tenant or the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on the interest. Such taxes are referred to herein as "Possessory Interest Taxes".

5.5 Personal Taxes. Tenant shall pay directly to the taxing authority all taxes and assessments levied upon trade fixtures, alterations, additions, improvements, inventories and other personal property located and/or installed on the Premises by Tenant. Such taxes are referred to herein as "Personal Taxes".

5.6 Payment of Taxes. Tenant shall pay all Taxes prior to delinquency. To the extent any such taxes are not separately assessed or billed to Tenant by the taxing authority, Landlord shall deliver to Tenant copies of the assessment and tax bill together with Landlord's proposed allocation between Landlord and Tenant. Tenant shall pay the amount reasonably allocated to Tenant no later than ten (10) business days prior to the date on which such Taxes are due. Taxes attributable to any of Tenant's personal property situated within the Public Area shall be charged to Tenant. Should Tenant fail to pay its Taxes, Landlord may elect to do so on Tenant's behalf. Tenant will thereafter be required to reimburse Landlord for such Taxes together with interest at

the Applicable Interest Rate, from the date Landlord tendered payment, until the date Tenant fully reimburses Landlord.

5.5 Records and Accounting.

5.5.1 Tenant shall keep proper records and accounts of the gross sales. Such records and accounts, including any sales tax reports that Tenant is required to furnish to any governmental authority, shall be open at all reasonable times to the inspection of Landlord or Landlord's auditor or authorized representative, with prior notice and during business hours.

5.5.2 Monthly accounting of gross sa1es shall be compiled and furnished to Landlord and attached to the payment of Monthly Gross Sales Rent as described in Section 3.2.

5.5.3 Tenant shall provide to Landlord annual compiled financial statements of Tenant's business at the premises. The annual financial statements shall be due to Landlord within three (3) months after the end of each twelve (12) month operating period

6. INSURANCE.

6.3 Landlord. Landlord may elect to maintain insurance or an insurance equivalent (including but not limited to, e.g., that offered to a municipality through and by a joint powers authority, a self-insurance pool of liability coverage authorized pursuant to California Government Code Section 6500, or similar collective) insuring the Premises on an occurrence basis against fire and extended coverage (including, if Landlord elects, "all risk" coverage, earthquake/volcanic action, flood and/or surface water insurance) similar in type and coverage limits to that carried by Landlord on its other properties. Landlord may also carry such other insurance as Landlord may deem prudent or advisable, in such amounts and on such terms as Landlord shall determine.

6.4 Tenant. Tenant shall, at Tenant's expense, obtain and keep in force at all times the following insurance, and shall be liable for all premiums, deductibles, and self-insured amounts, if any, in connection therewith:

6.4.1 Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) annual aggregate, providing coverage for, among other things, blanket contractual liability, premises, products/completed operations and personal injury, death and advertising injury coverage, with deletion of (a) the exclusion for operations within fifty (50) feet of a railroad property (railroad protective liability), if applicable, and (b) the exclusion for explosion, collapse or underground hazard, if applicable, and, if necessary, Tenant shall provide for restoration of the aggregate limit.

6.4.2 Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance that complies with all applicable state statutes and regulatory requirements, and, if Tenant hires any employees, employer's liability insurance coverage in the amount of at least One Million Dollars ($1,000,000).

6.4.3 Property Insurance. "All risk" property insurance including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any improvements, personal property, fixtures and equipment of Tenant (collectively "Tenant's Property") (and coverage for the full replacement cost thereof including business interruption of Tenant), together with, if the property of Tenant's invitees is to be kept in the Premises, warehouser's legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located in the Premises.

6.5 General.

6.5.1 Insurance Companies. Insurance required to be maintained by Tenant shall be written by companies licensed to do business in California and having a "General Policyholders Rating" of at least A:VIII (or such higher rating as may be required by a lender having a lien on the Premises) as set forth in the most current issue of "Best's Insurance Guide."

6.5.2 Certificates of Insurance. Tenant shall deliver to Landlord certificates of insurance for all insurance required to be maintained by Tenant pursuant to this Lease, in the form of the ACORN standard certificate of insurance, prior to the Commencement Date. Tenant shall, at least ten (10) days prior to expiration of the policy, furnish Landlord with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after sixty (60) days' prior written notice to the parties named as additional insureds as required in this Lease (except in the case of cancellation for nonpayment of premium in which case cancellation shall not take effect until at least ten (10) days' notice has been given to the parties named as additional insureds). If Tenant fails to maintain any insurance required in this Lease, Tenant shall be liable for all losses and cost resulting from said failure.

6.5.3 Additional Insureds. Landlord shall be named as an additional insured on the policy as required by Section 6.2.1. An additional insured endorsement naming such parties as additional insured(s) shall be attached to the certificate of insurance.

6.5.4 Primary Coverage. All insurance to be maintained by Tenant shall be primary without right of contribution from insurance of Landlord.

6.5.5 Umbrella/Excess Insurance. Any umbrella liability policy or excess liability policy (which shall be in "following form") shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance. The limits of insurance maintained by Tenant shall not limit Tenant's liability under this Lease,

6.5.6 Waiver of Subrogation. Tenant waives any right to recover against Landlord for claims for damages to Tenant's Property to the extent covered (or required by this Lease to be covered) by Tenant's insurance. The coverage obtained by Tenant pursuant to this Lease shall include a waiver of subrogation endorsement attached to the certificate of insurance.

6.5.7 Notification of Incidents. Tenant shall notify Landlord within twenty four (24) hours after the occurrence of any accident or incident in/at Property or any portion thereof which could give rise to a claim against Landlord, its coverage, Tenant or Tenant's

insurance. Tenant's notice shall be accompanied by a copy of any accident/incident form prepared by Tenant, reporting and/or relating to the accident/incident.

6.3.8 Adjustment of Insurance Levels. Landlord reserves the right at any time during the term of this Lease to change the amounts and types of insurance required hereunder upon giving Tenant three (3) months prior written notice.

7. INDEMNITY; LIABILITY EXEMPTION.

7.3 Indemnity. Except with respect to claims solely caused by Landlord's active negligence or willful misconduct, Tenant shall indemnify, protect, defend, and hold harmless Landlord and its elected and appointed officers, officials, employees, volunteers, lenders, agents, and contractors and each of their successors and assigns from and against any and all claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the Term directly or indirectly as a result of or in connection with (i) any default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; (ii) Tenant's use of the Premises or the Property, including the conduct of Tenant's business or any activity, work or things done, permitted or suffered by Tenant in or about the Premises, the Public Area, or other portions of the Property; (iii) any act, error or omission of Tenant or of any invitee, licensee or guest of Tenant, in or about the Premises, the Public Area, or other portions of the Property; (iv) loss of, injury, or damage to or destruction of property (including loss of use resulting from that loss, injury, damage or destruction); (v) all resulting economic losses, consequential and/or exemplary damages; and (vi) any subleases, assignments and related activities, (all of the foregoing, collectively, the "Indemnification"). Tenant shall provide such Indemnification by and through counsel reasonably acceptable to Landlord. The obligations of Tenant under this Section shall survive the expiration or sooner termination of this Lease.

7.4 Exemption of Landlord from Liability. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property including, but not limited to, Tenant's fixtures, equipment, furniture and alterations or injury to persons in, upon or about the Premises, the Public Area, or other portions of the Property arising from any cause, and Tenant hereby waives all claims in respect thereof against Landlord, except to the extent such claims are caused by Landlord's sole or active negligence or willful misconduct, Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the property of Tenant, or injury to or death of Tenant, Tenant's Parties or any other person in or about the Premises, the Public Area, or the Property, whether such damage or injury is caused by fire, steam, electricity, gas, water or rain, or from the breakage, leakage or other defects of sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Premises, the Public Area, or other portions of the Property or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant, except damage or injury caused solely by Landlord's sole or active negligence or willful misconduct. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant, if any, of the Premises, the Public

Area or other portions of the Property or Landlord's failure to enforce the terms of any agreements with parties other than Tenant.

8. REPAIRS AND MAINTENANCE.

8.3 Landlord's Obligations.

8.3.1 At Landlord's Election on Tenant's Behalf, Landlord shall not be required to make or bear the costs of any repair resulting from (i) any alteration or modification to the Premises or to mechanical equipment within the Premises performed by, for or because of Tenant or to special equipment or systems installed by, for or because of Tenant, (ii) the installation, use or operation of Tenant's property, fixtures and equipment, (iii) the moving of Tenant's property in or out of the Premises, or the Property, or in and about the Premises, (iv) Tenant's use or occupancy of the Premises in violation of Section 10 of this Lease or in the manner not contemplated by the parties at the time of the execution of this Lease, (v) the acts or omissions of Tenant or Tenant's Parties, (vi) fire and other casualty, except as provided by Section 12 of this Lease, (vii) condemnation, except as provided in Section 13 of this Lease, or (viii) or any condition which might require repair. If Landlord elects to undertake repairs and maintenance necessitated by causes set forth in the preceding sentence, then Tenant shall pay as Additional Rent, Landlord's actual costs paid or incurred in connection therewith.

8.3.2 Tenant's Waiver. Notwithstanding anything to the contrary, whether stated or implied in this Lease, Tenant waives and releases its rights to make repairs at Landlord's expense or deduct such expenses from Rent, except as expressly stated in this Lease.

8.4 Tenant's Obligations. Tenant, at Tenant's expense, shall maintain the Premises in good order, condition and repair, including, without limitation, interior floor surfaces and floor coverings, interior walls and wall coverings, Signs and Graphics, and any items required for compliance with applicable laws, rules and regulations. In the event Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in good order, condition and repair, Landlord shall, upon five (5) days' written notice to Tenant, have the right to perform such maintenance, repairs or refurbishing at Tenant's expense, provided Tenant fails to do so within that five-day period.

8.3 Beginning Condition. On the Commencement Date, Tenant shall accept the Premises in its "AS IS" condition. Tenant acknowledges that it has inspected the Premises and agrees that the Premises are suitable for Tenant's intended use and Tenant agrees that it is not relying on any warranty or representation made by Landlord or its officers concerning the use of the Premises or the Property. Landlord does not represent or warrant that the Premises or the Property conform to applicable restrictions, zoning ordinances, setback lines, parking requirements, impervious ground cover ratio requirements, or other matters that may relate to Tenant's intended use.

8.4 Condition Upon Surrender. Upon the expiration of termination of this Lease, Tenant shall surrender the Premises to Landlord broom clean, and, subject to reasonable wear and tear, in the condition which Tenant shall have been required to maintain the Premises under this Lease with the heating, ventilation, plumbing, electrical, lighting, man doors, dock doors,

levelers, shelters, seals and bumpers (if any), windows and floors serving the Premises in good operating condition. Tenant shall repair all damage to the Premises caused by the installation or removal of its trade fixtures and other property of Tenant. Tenant shall restore the Premises to the same condition or better as existed immediately prior to the installation of any item removed.

9. ALTERATIONS.

9.3 Condition of Premises. Tenant acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises, Public Area, or Property except as specifically stated in this Lease.

9.3.1 Landlord Improvements to Premises. The Premises are leased in an as-is condition.

9.4 Tenant Improvements to Premises. Tenant, at Tenant's sole cost and expense, may install interior improvements, subject to Landlord's prior written approval ("Work"). Plans, specifications, and drawings for the Work shall be subject to prior written approval by Landlord's Public Works Director, and Tenant shall be responsible for obtaining any and all required permits. Tenant may perform those components of the Work which constitute minor cosmetic alterations (i.e., painting), are non-structural, do not require a permit, and are not typically performed by a licensed contractor or tradesperson. Any other Work shall be performed by licensed contractors and in accordance with all applicable laws, including without limitation, any applicable State laws regarding prevailing wage requirements. In no event shall Tenant undertake any structural, electrical or plumbing work in connection with, or work on the exterior of, the Building, the Property or the Premises without Landlord's advance written consent.

9.5 Trade Fixtures: Alterations. Subject to Section 9.6, Tenant may install necessary trade fixtures, equipment and furniture in the Premises, provided that such items are installed and are removable without structural or material damage to the Premises. For purposes of this Lease, the term "trade fixture" shall mean specialty fixtures or equipment used in Tenant's trade or business as identified by Tenant and agreed to by Landlord in writing. Tenant shall not construct, or allow to be constructed, any alterations or physical additions in, about or to the Premises without the prior written consent of Landlord.

9.6 Standard of Work. All work to be performed by or for Landlord or Tenant pursuant hereto shall be performed diligently and in a first-class, workmanlike manner, and in compliance with all Laws applicable to the Premises and insurance carrier requirements. Landlord shall have the right, but not the obligation, to inspect periodically the Work, and Landlord may require changes in the method or quality of the Work. In no event shall the Work obstruct access to the Property and/or Public Area.

9.7 Damage; Removal. Tenant shall repair all damage to the Property and the Premises caused by the installation or removal of Tenant's fixtures, equipment, furniture and alterations. Upon the termination of this Lease, Tenant shall remove any or all alterations, additions, improvements and partitions made or installed by Tenant and restore the Premises to their condition existing prior to the construction of any such items and perform any closure work, investigation and environmental remedial work required by any Hazardous Materials Laws (as

hereinafter defined) or by any other applicable laws, ordinances, regulations or permits by any governmental authority having jurisdiction; provided, however, Landlord may require, upon written notice to Tenant no less than fifteen (15) days before the expiration of the Term, any such items (except trade fixtures) designated by Landlord to remain on the Premises, in which event they shall be and become the property of Landlord upon the termination of this Lease. All such removals and restoration shall be accomplished in a good and workmanlike manner so as not to cause any damage to the Premises, the Public Area, or the Property whatsoever and in strict accordance with all applicable laws, regulations and governmental orders.

9.8 Liens. Tenant shall promptly pay and discharge all claims for labor performed, supplies furnished, and services rendered at the request of Tenant and shall keep the Property and the Premises free of all mechanics' and materialmen's liens in connection therewith. Tenant shall provide at least ten (10) days' prior written notice to Landlord before any labor is performed, supplies furnished or services rendered on or at the Premises and Landlord shall have the right to post on the Premises notices of non-responsibility. If any lien is filed, Tenant shall cause such lien to be released and removed within ten (10) days after the date of filing, and if Tenant fails to do so, Landlord may take such action as may be necessary to remove such lien, without the duty to investigate the validity of it (unless Tenant has commenced an action to contest, dispute or defend the claims of lienholders and has provided Landlord with written notice of the pendency of the action), and Tenant shall pay Landlord such amounts expended by Landlord together with interest thereon, at the Applicable Interest Rate, from the date of expenditure.

9.9 Satellites and Antennae. Notwithstanding anything in this Lease to the contrary, Landlord and Tenant agree that it shall be reasonable for Landlord to withhold its consent to (i) installation in or about the Premises or Property of equipment comprising or relating to relays, monopoles, satellite dishes, antennae, wireless telecommunications devices, transmitters, roof mounts, two-way radios, or similar apparatus (collectively, "Transmission Devices") or (ii) any assignment or subletting which permits or contemplates installation of such Transmission Devices.

10. USE.

10.3 Usage. The Premises will be used for the operation of a snack bar serving sandwiches, other light menu items, and beverages, and for no other uses without the prior written consent of Landlord, which may be granted or withheld in Landlord's sole and absolute discretion. Tenant acknowledges that neither Landlord nor any of Landlord's agents has made any representation or warranty with regard to the Premises, the Public Area, or the Property with respect to their suitability for the conduct of Tenant's business. Tenant's execution of this Lease and entry of the Premises hereunder shall conclusively establish that the foregoing were at such time in satisfactory condition. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities now in force or which may hereafter be in force ("Laws"), which shall impose any duty upon Landlord or Tenant with respect to the use, occupancy, or alteration of the Premises. Tenant shall be responsible for obtaining any permit or business license required by any governmental agency permitting Tenant's use of the Premises. Tenant shall comply with the Rules and Regulations, including observance of prohibited uses, attached hereto as Exhibit B and incorporated by reference, together with such reasonable additional rules and regulations as

Landlord may from time to time prescribe. Tenant shall not commit waste, overload the floors or structure of the building, subject the Property or any portion thereof to any use which would damage the same or increase the risk of loss or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants, take any action which would abrogate any warranties, or use or allow the Premises to be used for any unlawful purpose. Landlord shall not be responsible for non-compliance by any other tenant or occupant with, or Landlord's failure to enforce, any of the rules and regulations or any other terms or provisions of such tenant's or occupant's lease. Tenant shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or hereafter constituted. Tenant shall not do any act which shall in any way encumber the title of Landlord in and to the Property or any portion thereof.

10.4 Quiet Enjoyment. Tenant, upon paying Rent and performing all of its obligations under this Lease, shall peaceably and quietly enjoy the Premises, subject to the terms of this Lease, and any mortgage, deed of trust, lease, or other agreement to which this Lease may be subordinate. Tenant acknowledges that the Premises are adjacent to a City-owned public park and beach. Tenant acknowledges that Tenant is leasing the Premises with full awareness of this adjacent use.

10.5 Access. Tenant shall be permitted 24-hour a day access to the Premises.

10.6 Operations.

10.6.1 Hours of Operation. Tenant agrees that the hours of operation shall be posted at the location and any Tenant website that is primarily used for the space. Hours of operation shall be in compliance with the Rules and Regulations attached hereto as Exhibit B.

10.4.2 General Method of Operation. Tenant shall operate the business on the Premises continuously during the entire term of this Lease with such due diligence and efficiency as will reasonably produce the maximum return to Tenant.

10.4.3 Management. A manager shall be present during all times the facility is open for business.

10.4.4 Licenses and Permits. Tenant shall obtain all permits and licenses required by the laws of any federal, state, or other governmental agency to allow Tenant to meet the obligations under this Lease. All permits and licenses shall be maintained in Tenant's name. Tenant shall pay, at Tenant's own expense, all charges and fees incidental to the lawful conduct of the services, and keep fully informed on all existing Federal, State and local laws, ordinances, and regulations which in any manner affect the fulfillment of this agreement. Tenant shall pay, when due, all taxes and assessments levied upon the Premises and personal property situated in the Premises. Tenant recognizes and understands that this Lease may create a real property possessory interest tax that may subject the Tenant to real property truces. Nonpayment of taxes may result in Tenant being in default under Section 5.4.

10.4.5 Restaurant Name. The restaurant name shall be "Lover's Point Snack

Bar." Any change to this name shall require the advance written approval of Landlord. This name shall attach to the Premises and be exclusively available to Landlord and any successor restaurant operator, upon termination of the Lease.

10.4.6 Health and Sanitation. Tenant shall insure that all its employees are neatly attired in clean and appropriate uniforms whenever on duty. The Landlord requires that all Tenant's employees engaged in the preparation, handling, serving, and storage of food meet both State of California and Monterey County Health Department requirements and the Landlord's health requirements for such activity.

10.4.7 Recycling Program. Tenant, at Tenant's cost, shall participate in any and all recycling programs in which Landlord is obligated to participate by law or if Tenant is otherwise required to do so pursuant to any federal, state or local law, rule or regulation

10.5 Sewer Damage. Tenant agrees not to discharge any harmful or dangerous chemicals into the sewer system, whether it be inside the Premises area or inside the main system leading from the Premises to the main sewer line. Should Tenant discharge any harmful chemicals into the sewer system, Tenant shall be fully responsible for the cost and repair of such damage. Landlord reserves the right to select an expert of its choosing to inspect any damage at Tenant's cost. Tenant shall not be responsible for cost of expert if it is determined such damage is not caused by Tenant. Tenant accepts responsibility for any damage if the following conditions exist: (i) the damage to the sewer system is determined to be due to the chemicals used in the operation of Tenant's business; or (ii) the damage exists only in the designated portion of the sewer system connecting to the Premises.

11. ENVIRONMENTAL MATTERS.

11.3 Environmental Compliance. Tenant shall, at its sole cost and expense, comply with all federal, state and local laws from time to time in effect ("Hazardous Materials Laws") concerning the management, use, generation, storage, transportation, presence, discharge or disposal of hazardous, toxic, radioactive or carcinogenic materials, substances or wastes ("Hazardous Materials"). Neither Tenant nor its agents, employees, contractors, sublessees, assignees or invitees shall use, handle, store, transport, release or dispose of any Hazardous Materials anywhere in, on, under or about the Premises. Tenant shall cause any and all Hazardous Materials brought onto, used, generated, stored or discharged in the Premises to be removed from the Premises and transported for disposal in accordance with applicable Hazardous Materials Laws. Landlord shall have the right to enter the Premises from time to time to conduct tests, inspections and surveys concerning Hazardous Materials and to monitor Tenant's compliance with its obligations concerning Hazardous Materials and Hazard Materials Laws. Tenant shall immediately notify Landlord in writing of any voluntary clean-up or removal action instituted or proposed by Tenant, any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened, or any claim made or threatened by any person against Tenant, the Premises relating to Hazardous Materials or Hazardous Materials Laws, Tenant shall also supply to Landlord as promptly as possible, and in any event within five (5) business days after Tenant receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use thereof and concerning Hazardous Materials or Hazardous Materials Laws.

11.4 Tenant's Indemnification. Except to the extent caused by Landlord's sole or active negligence, Tenant shall indemnify, defend and hold Landlord harmless from any claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses (including attorneys' fees and expenses) caused or alleged to have been caused by the presence, use or release of Hazardous Materials in or about the Premises, including, without limitation, any personal injury, death, property damage, decrease in value of the Premises, caused or alleged to have been caused by the use, storage, generation, presence or release of Hazardous Materials, whether such claims, causes of action or liabilities are first asserted during the Term or thereafter, and including without limitation, claims made against Landlord with respect to personal injury, death or property damage sustained by third parties caused or alleged to have been caused by the use, storage, generation, presence or release of Hazardous Materials in violation of Tenant's obligations under this Lease. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

12. DAMAGE AND DESTRUCTION.

12.3 If, during the Term, the building and other improvements that are part of the Premises are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, and at least one (1) year of the Term remains, Landlord shall restore said building and improvements to substantially the same condition as they were in immediately before destruction, if the restoration can be made under then existing laws and can be completed within 180 working days after obtaining all necessary permits therefore, and if the cost of such repairs does not exceed the amount of insurance proceeds received by Landlord from Tenant's Insurance pursuant to Section 6 above, on account of such damages. Such destruction shall not terminate this Lease. In case of destruction, there shall be an abatement or reduction of Rent, between the date of destruction and the date of completion of restoration if restoration takes place, based on the extent to which the destruction actually interferes with Tenant's use of the Premises. Tenant hereby waives the provisions of Sections 1932, Subdivision 2, and 1933, Subdivision 4, of the Civil Code of California. If the restoration cannot be made in the time stated in this paragraph, then within 15 days after the parties determine that the restoration cannot be made in the time stated in this paragraph, Tenant can terminate this Lease immediately by giving written notice to Landlord. If Tenant fails to terminate this Lease and if restoration is permitted under the existing laws, Landlord, at its election, can either terminate this Lease or restore the building and other improvements that are part of the Premises within a reasonable time and this Lease shall continue in full force and effect. If the existing laws do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party. In the event of the giving of such notice of termination by Landlord or Tenant as provided herein, this Lease and all interest of Tenant in the Premises shall terminate 15 days after receipt of such notice by the other party.

12.4 Uninsured or Underinsured Casualty. In the event that the Premises are (i) damaged to the extent Tenant is unable to use the Premises and such damage is not covered by insurance proceeds received by Landlord, (ii) the Premises are damaged to the extent that the estimated repair cost exceeds the insurance proceeds, if any, available for such repair (not including the deductible(s), if any, on Landlord's property and other applicable insurance) plus any amount that Tenant is obligated or elects to pay for such repair, (iii) the estimated repair cost, even though covered by insurance, exceeds fifty percent (50%) of the full replacement cost

of the Premises, or (iv) in the event that the holder of any indebtedness secured by the Premises requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right at Landlord's option either (a) to repair such damage as soon as reasonably possible at Landlord's expense, or (b) to give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to terminate this Lease as of the date of the occurrence of such damage.

12.5 Tenant's Fault; Repair Limitation. If the Premises are damaged resulting from the negligence or breach of this Lease by Tenant or any of Tenant's Parties, Rent shall not be reduced during the repair of such damage and Tenant shall be liable to Landlord for the cost of the repair caused thereby to the extent such cost is not covered by insurance proceeds. Notwithstanding anything in this Lease to the contrary, and except to the extent caused by Landlord's sole or active negligence, Landlord shall not be required to repair any injury or damage, by fire or other cause to the property of Tenant or to make repairs or replacements of any decorations, or any improvements installed on the Premises by or for Tenant, unless Landlord has received insurance proceeds from Tenant's property insurance as provided in Section 6.2.3 above, and neither Tenant nor Landlord have opted to terminate this Lease as provided in Section 19.13.

13. EMINENT DOMAIN.

13.3 Effect on Rights and Obligations. If any portion of the Premises is permanently taken by condemnation, this Lease shall remain in effect, except that Tenant can elect to terminate this Lease if 15% or more of the total number of square feet in the Premises is taken or if the remaining portion of the Premises is rendered unsuitable for Tenant's continued use. If Tenant elects to terminate this Lease, Tenant must exercise its right to terminate by giving written notice to Landlord within 30 days after the nature and the extent of the taking have been finally determined, as of the date of termination, which date shall not be earlier than 30 days nor later than 90 days after Tenant has notified Landlord of its election to terminate; except that this Lease shall terminate on the date of taking if the date of taking falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Lease within the 30-day period, this Lease shall continue in full force and effect, except that the monthly Rent thereafter to be paid shall be reduced on a pro-rata basis. Tenant shall notify Landlord in writing of any condemnation or threatened condemnation within ten (10) days after Tenant receives notice of said action or threatened action.

14. DEFAULT.

14.3 Events of Default. When used in this Lease with reference to Tenant, the term "default" refers to any breach of Tenant's obligations under this Lease, however brief. When any such default continues for the applicable period specified below, such default shall constitute an Event of Default hereunder, entitling Landlord to exercise the remedies set forth in Sections 14.2 and 14.3 of this Lease. The occurrence of any of the following events shall constitute an "Event of Default":

14.3.1 Failure to comply with Assignment and Subletting provisions as set forth in Section 15.1;

14.3.2 Abandonment of or vacating the Premises for a period of thirty (30) consecutive days;

14.3.3 Failure to pay Rent on the date when due and the failure continuing for a period of ten (10) days after such payment is due;

14.3.4 Failure to perform Tenant's covenants and obligations hereunder (except default in the payment of Rent) where such failure continues for a period of thirty (30) days;

14.3.5 The making of a general assignment by Tenant for the benefit of creditors; the filing of a voluntary petition by Tenant or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the same within sixty (60) days of such filing; the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold; Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due; any court entering a decree or order directing the winding up or liquidation of Tenant or of substantially all of Tenant's assets; Tenant taking any action toward the dissolution or winding up of Tenant's affairs; the cessation or suspension of Tenant's use of the Premises; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets or this leasehold; or

14.3.6 The making of any material misrepresentation or omission by Tenant or any successor in interest of Tenant in any materials delivered by or on behalf of Tenant to Landlord or Landlord's lender pursuant to this Lease.

14.4 Remedies.

14.4.1 Termination. In the event of the occurrence of any Event of Default, Landlord shall have the right to give a written termination notice to Tenant and, on the date specified in such notice (which date is at least two (2) business days following the date of delivery of such notice), this Lease shall terminate unless on or before such date all arrears of Rent and all other sums payable by Tenant under this Lease and all costs and expenses incurred by or on behalf of Landlord hereunder shall have been paid by Tenant and all other Events of Default at the time existing shall have been fully remedied to the satisfaction of Landlord.

A. Repossession. Following termination, without prejudice to other remedies Landlord may have, Landlord may (i) peaceably re-enter the Premises upon voluntary surrender by Tenant or remove Tenant therefrom and any other persons occupying the Premises, using such legal proceedings as may be available; (ii) repossess the Premises or re-let the Premises or any part thereof for such term (which may be for a term extending beyond the Term), at such rental and upon such other terms and conditions as Landlord in Landlord's sole discretion shall determine, with the right to make reasonable alterations and repairs to the Premises; and (iii) remove all personal property therefrom.

B. Unpaid Rent. Landlord shall have all the rights and remedies of a landlord provided by applicable law, including the right to recover from Tenant: (a) the worth, at the time of award, of the unpaid Rent that had been earned at the time of termination, (b) the

worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after the date of termination until the time of award exceeds the amount of loss of rent that Tenant proves could have been reasonably avoided, (c) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided, and (d) any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default. The phrase "worth, at the time of award," as used in (a) and (b) above, shall be computed at the Applicable Interest Rate, and as used in (c) above, shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

14.4.2 Continuation. Landlord shall have the remedy described in California Civil Code section 1951.4 (as amended from time to time, and successor statutes thereto) and Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due. In the event and for so long as Landlord elects this remedy, Tenant shall have the right to sublet its Premises, assign its interest in the Lease, or both, subject to Landlord's prior written consent, which shall not be unreasonably withheld. In addition, even though an Event of Default may have occurred, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover Rent as it becomes due. Landlord, without terminating this Lease, may, during the period Tenant is in default, enter the Premises and re-let the same, or any portion thereof, to third parties for Tenant's account and Tenant shall be liable to Landlord for all costs Landlord incurs in re-letting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises and like costs. Re-letting may be for a period shorter or longer than the remaining Term. Tenant shall continue to pay the Rent on the date the same is due. No act by Landlord hereunder, including acts of maintenance, preservation or efforts to lease the Premises or the appointment of a receiver upon application of Landlord to protect Landlord's interest under this Lease, shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. In the event that Landlord elects to re-let the Premises, the rent that Landlord receives from re-letting shall be applied to the payment of, first, any indebtedness from Tenant to Landlord other than Base Rent and Additional Rent; second, all costs, including maintenance, incurred by Landlord in re-letting; and, third, Base Rent and Additional Rent. After deducting the payments referred to above, any sum remaining from the rental Landlord receives from re-letting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess rent received by Landlord. If, on the date Rent is due under this Lease, the rent received from the re-letting is less than the Rent due on that date, Tenant shall pay to Landlord, in addition to the remaining Rent due, all costs, including maintenance, which Landlord incurred in re-letting the Premises that remain after applying the rent received from re-letting as provided hereinabove. So long as this Lease is not terminated, Landlord shall have the right to remedy any default of Tenant, to maintain or improve the Premises, to cause a receiver to be appointed to administer the Premises and new or existing subleases and to add to the Rent payable hereunder all of Landlord's reasonable costs in so doing, with interest at the Applicable Interest Rate from the date of such expenditure.

14.5 Remedies Cumulative. Each right and remedy of Landlord provided for herein or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude Landlord from exercising any other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity, by statute or otherwise. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment as Rent shall be deemed an accord and satisfaction of full payment of Rent; and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue other remedies.

14.6 Default of Landlord. Except to the extent caused by reasons beyond Landlord's reasonable control, Landlord's failure to perform any obligation required of it pursuant to the terms of this Lease within thirty (30) days following written notice from Tenant or, in the case of any obligation which cannot reasonably be performed within thirty (30) days, Landlord's failure to commence such performance within said thirty (30) day period and thereafter diligently pursue such performance to completion, shall constitute a default by Landlord under the terms of this Lease. In the event of a default by Landlord, Tenant shall have the right to seek any and all remedies provided for in this Lease or otherwise existing at law.

15. ASSIGNMENT AND SUBLETTING.

15.3 Landlord's Consent. Tenant shall not assign, sublet or otherwise transfer, whether voluntarily or involuntarily or by operation of law, the Premises or any part thereof, without Landlord's prior written approval, which shall not be unreasonably withheld. Any sublease or assignment or other transfer agreements shall be subject to Landlord's prior written approval. Tenant's attempted assignment/subletting without first obtaining Landlord's written consent shall be void at Landlord's election. Landlord's consent to one assignment or subletting shall not be deemed a consent to subsequent assignments and/or sublettings. The parties agree that it shall be reasonable for Landlord to withhold its consent to a proposed assignment or subletting if the proposed assignee or sublessee or the nature of its business would require Landlord to incur additional expense in construction work or other work to the Premises that would not otherwise be required if Tenant remained, for example, if the proposed assignee or sublessee is subject to compliance with additional requirements of the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) (including related regulations) beyond those requirements which are applicable to the tenant desiring to assign or sublease, if the proposed assignee's or sublessee's activities in, on or about the Premises or the Property involve the use, analysis, handling, storage, transport, discharge, release, generation or disposal of any Hazardous Materials, or if the proposed assignment or subletting would violate any section of this Lease.

15.4 Notice. If Tenant desires to assign this Lease or sublet any or all of the Premises, Tenant shall give Landlord written notice thereof ("Tenant's Transfer Request") with copies of all related documents and agreements associated with the assignment or sublease, including without limitation, a description of the space Tenant proposes to assign or sublet, the anticipated effective date of the assignment or sublease, the financial statements of any proposed assignee or sublessee, at least forty-five (45) days prior to the anticipated effective date of the assignment or sublease. A condition to Landlord's consent to any Transfer of this Lease will be the delivery to Landlord of a true copy of the fully executed instrument of assignment, sublease, transfer or hypothecation, in form and substance reasonably satisfactory to Landlord. Landlord shall have a

period of thirty (30) days following receipt of Tenant's Transfer Request and all related documents and agreements to notify Tenant in writing of Landlord's election to disapprove the Sublease or Assignment. In any event, if Landlord fails to notify Tenant in writing of Landlord's election, Landlord shall be deemed to have disapproved such assignment or subletting, nor shall failure by Landlord to approve a proposed tenant shall cause a termination of this Lease. This Lease may not be assigned by operation of law. Any purported assignment or subletting contrary to the provisions hereof shall be void at Landlord's election and shall constitute an Event of Default hereunder.

15.5 Subject to Lease. Any assignments or sublets must be subject to and in accordance with the terms and conditions of this Lease, and must be consistent with the use requirements provided in Section 10 herein. In no event may any sublessee encumber this Lease. Tenant shall remain fully liable under this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease.

15.6 Indemnification. Tenant shall ensure that any sublessees or assigns through their subleases or assignment agreements shall indemnify, protect, defend, and hold harmless Landlord and its elected and appointed officers, officials, employees, volunteers, lenders, agents, contractors and each of their successors and assigns to the same extent that Tenant shall so indemnify Landlord as set forth in this Lease.

15.7 Relocation Waiver. Each sublease or rental agreement shall contain a relocation waiver in substantially the following form: "Relocation Waiver. Sublessee fully releases and discharges the City of Pacifica (in its capacity as Landlord and otherwise as a municipal corporation) from all and any manner of rights, demands, liabilities, obligations, claims, or cause of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to the sale of the Property, Building, Premises, or the Subleased Premises, the full or partial termination of Sublessee's leasehold interest as permitted under this Sublease, or the relocation of Sublessee's business operations or the relocation of any person or persons, business or businesses, or other occupant or occupants located on the Subleased Premises, including, without limitation, the specific waiver and release of any right to any relocation benefits, assistance and/or payments under Government Code sections 7260 et seq. ("Relocation Assistance Law"), notwithstanding that such relocation assistance, benefits and/or payments may be otherwise required under the Relocation Assistance Law or other state or federal law. Sublessee acknowledges and agrees that the release and waiver set forth in this section is material consideration for Landlord's consent to the sublease by Sublandlord of the Subleased Premises to Sublessee on the terms set forth herein and that, but for this release and waiver, Landlord would not have consented to the sublease of the Subleased Premises by Sublandlord to Sublessee. It is hereby intended that the above release relates to both known and unknown claims that the Sublessee may have, or claim to have, against the Landlord or the City of Pacifica with respect to the subject matter contained herein or the events relating thereto. By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with the items set out above, the Sublessee expressly waives any rights under California Civil Code section 1542, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT

TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

15.8 Liability. Landlord may, without waiving any rights or remedies, collect rent from the assignee, sublessee or occupant and apply the net amount collected to the Rent herein reserved and apportion any excess rent so collected in accordance with the terms of the preceding sentence. Tenant (and successor tenants) shall continue to be liable as a principal and not as a guarantor or surety to the same extent as though no assignment or subletting had been made. In addition, Tenant shall make all legally required disclosures to the proposed assignee or sublessee. Landlord may consent to subsequent assignments or subletting of this Lease or amendments or modifications to the Lease by assignees of Tenant without notifying Tenant or any successor of Tenant and without obtaining their consent; Landlord's consent shall not be construed as relieving Tenant or any successor tenant of any liability or obligation under the Lease. No transfer shall be effective until there has been delivered to Landlord a counterpart of the transfer instrument in which the transferee agrees to be and remain jointly and severally liable with Tenant (and if applicable, successor tenants) for the payment of Rent pertaining to the Premises and for the performance of all the terms and provisions of this Lease relating thereto arising on or after the date of the transfer. No transfer will release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the rent and to perform all other obligations to be performed by Tenant hereunder. In the event of default by any transferee of Tenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such transferee or successor. Notwithstanding any contrary provision of this Lease, if Tenant or any proposed transferee claims that Landlord has unreasonably withheld or delayed its consent to a proposed transfer or otherwise has breached its obligations under this Section, Tenant's and such transferee's only remedy shall be to seek a declaratory judgment and/or injunctive relief, and Tenant, on behalf of itself and, to the extent permitted by law, such proposed transferee waives all other remedies against Landlord, including without limitation, the right to seek monetary damages or to terminate this Lease.

16. ESTOPPEL, ATTORNMENT AND SUBORDINATION.

16.3 Estoppel. Within ten (10) days after request by Landlord, Tenant shall deliver an estoppel certificate duly executed (and acknowledged if required by any lender or purchaser) to any proposed mortgagee, purchaser or Landlord, in a form substantially similar to that requested by the proposed mortgagee, purchaser or Landlord. Tenant's failure to deliver said estoppel certificate in such time period shall be an Event of Default hereunder and shall be conclusive upon Tenant that (a) this Lease is in full force and effect, without modification except as may be represented by Landlord; (b) there are no uncured defaults in Landlord's performance and Tenant has no right of offset, counterclaim or deduction against Rent hereunder; and (c) no more than one month's Base Rent has been paid in advance. In addition, except to the extent caused by Landlord's sole or active negligence, Tenant shall indemnify and hold Landlord harmless from and against any and all damages, penalties, fines, taxes, costs, liabilities, losses and expenses (including, without limitation, reasonable attorneys' fees and court costs) which Landlord may sustain or incur as a result of or in connection with Tenant's failure or delay in delivering such

estoppel certificate. Landlord reserves the right to substitute a different form of estoppel certificate upon the request of any proposed mortgagee or purchaser. If any financier should require that this Lease be amended (other than in the description of the Premises, the Term, the Permitted Uses, the Rent or as will substantially, materially and adversely affect the rights of Tenant), Landlord shall give written notice thereof to Tenant, which notice shall be accompanied by a Lease supplement embodying such amendments. Tenant shall, within ten (10) days after the receipt of Landlord's notice, execute and deliver to Landlord the tendered Lease supplement,

16.4 Subordination. This Lease shall be subject and subordinate to all Leases, and the lien of all mortgages and deeds of trust which now or hereafter affect the Premises or the Property or Landlord's interest therein, and all amendments thereto, all without the necessity of Tenant's executing further instruments to effect such subordination; provided, however, that Tenant's rights hereunder shall not be disturbed, except in accordance with the terms and provisions of this Lease. If requested, Tenant shall execute and deliver to Landlord within ten (10) days after Landlord's request, whatever documentation that may reasonably be required to further effect the provisions of this section.

Notwithstanding anything to the contrary set forth herein, Tenant acknowledges and agrees that this Lease is subordinate and subject to any Lease, license, or other property right or permission the Landlord has obtained from the Commission authorizing the occupancy and use of the Property and the Premises by the Landlord. In the event of a conflict between this Lease and any lease, license, or other similar document between the Landlord and the Commission, the document between the Landlord and the Commission shall control.

16.5 Attornment. In the event of a foreclosure proceeding, the exercise of the power of sale under any mortgage or deed of trust or the termination of a Lease, Tenant shall, if requested, attorn to the purchaser thereupon and recognize such purchaser as Landlord under this Lease. The transferee shall not be liable for any acts, omissions or defaults of Landlord that occurred before the sale or conveyance, or the return of any security deposit except for deposits actually paid to transferee, and except as reduced as expressly provided for by operation of law.

17. RELOCATION.

17.3 Tenant fully releases and discharges Landlord (in its capacity as Landlord and otherwise as a municipal corporation) from all and any manner of rights, demands, liabilities, obligations, claims, or cause of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to the sale of the Property, Building, or Premises, the full or partial termination of Tenant's leasehold interest as permitted under this Lease, or the relocation of Tenant's business operations or the relocation of any person or persons, business or businesses, or other occupant or occupants located on the Premises including, without limitation, the specific waiver and release of any right to any relocation benefits, assistance and/or payments under Government Code sections 7260 et seq. ("**Relocation Assistance Law**"), notwithstanding that such relocation assistance, benefits and/or payments may be otherwise required under the Relocation Assistance Law or other state or federal law. Tenant acknowledges and agrees that the release and waiver set forth in this section is material consideration for Landlord's lease of the Premises to Tenant on the terms set forth herein and that, but for this release and waiver, Landlord would not have

leased the premises to Tenant. It is hereby intended that the above release relates to both known and unknown claims that the Tenant may have, or claim to have, against the Landlord or the City of Pacifica with respect to the subject matter contained herein or the events relating thereto. By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with the items set out above, the Tenant expressly waives any rights under California Civil Code section 1542, which provides:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

18. NON-DISCRIMINATION COVENANT. Tenant herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this Lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, physical or mental disability or medical condition, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased nor shall the Tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises herein leased

19. MISCELLANEOUS.

19.1 General.

19.1.1 Entire Agreement. This Lease sets forth all the agreements between Landlord and Tenant concerning the Property, the Premises, the Building and the Public Area; and there are no agreements either oral or written other than as set forth herein.

19.1.2 Time of Essence. Time is of the essence of this Lease.

19.1.3 Attorneys' Fees. In any action or proceeding which either party brings against the other to enforce its rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees, which amounts shall be a part of the judgment in said action or proceeding.

19.1.4 Severability. If any provision of this Lease or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Lease and the application thereof shall remain in full force and effect and shall not be affected, impaired or invalidated.

19.1.5 Governing Law; Venue. This Lease shall be construed and enforced in accordance with the laws of the state of California without regard to principles of conflicts of

laws. Any action filed to enforce or interpret this Lease shall be filed and heard exclusively in the Superior Court of Monterey County or the federal district court for the Northern District of California.

19.1.6 No Option. Submission of this Lease to Tenant for examination or negotiation does not constitute an option to lease, offer to lease or a reservation of, or option for, the Premises; and this document shall become effective and binding only upon the execution and delivery hereof by Landlord and Tenant.

19.1.7 Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the successors and assigns of Landlord and, subject to compliance with the terms of Section 15, Tenant.

19.1.8 Third Party Beneficiaries. Nothing herein is intended to create any third-party benefit.

19.1.9 Memorandum of Lease. Landlord may elect to have either this either this Lease or a short form memorandum hereof recorded pursuant to the requirements of California Government Code section 37393. Tenant shall cooperate with Landlord in executing and acknowledging any such memorandum of lease. Upon the expiration or other termination of this Lease, Tenant shall immediately execute and deliver to Landlord a quitclaim deed to the Premises, Building, and/or Property, as required, in recordable form, designating Landlord as transferee or grantee.

19.1.10 No Agency, Partnership or Joint Venture. Nothing contained herein nor any acts of the parties hereto shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture by the parties hereto or any relationship other than the relationship of landlord and tenant.

19.1.11 Merger. The voluntary or other surrender of this Lease by Tenant or a mutual cancellation thereof or a termination by Landlord shall not work a merger and shall, at the option of Landlord, terminate all or any existing sub tenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all of such sub tenancies.

19.1.12 Headings. Section headings have been inserted solely as a matter of convenience and are not intended to define or limit the scope of any of the provisions contained herein.

19.2 Signs. All signs and graphics of every kind visible in or from public view or corridors, the exterior of the Premises, the exterior of the Building, or on monuments installed or caused to be installed by, for the benefit of, or at the request of Tenant ("Signs and Graphics") shall be subject to Landlord's prior written approval, shall be in keeping with the character of the Building and shall be subject to any applicable governmental laws, ordinances, and regulations and in compliance with Landlord's signage program, Tenant shall remove all such Signs and Graphics prior to the termination of this Lease. Such installations and removals shall be made in such manner as to avoid injury or defacement of the Premises; and Tenant shall repair any injury or defacement, including without limitation, discoloration caused by such installation or removal. Tenant shall be responsible for all fees, costs and expenses associated with installation and

removal of Signs and Graphics. In the event any such fees, costs or expenses are incurred by Landlord (whether directly or indirectly), Landlord shall deliver to Tenant an invoice, with reasonable supporting documentation, and Tenant shall reimburse Landlord for those amounts within fifteen (15) days after receipt of such invoice. Notwithstanding anything in this Lease to the contrary, Landlord is not required to provide Signs and Graphics beyond the standards set forth in the Rules and Regulations. Under no circumstances shall Tenant install or operate lighted signage.

18.3 Proprietary and Governmental Roles; Actions by City. Except where clearly and expressly provided otherwise in this Lease, the capacity of the City in this Lease shall be as owner and lessor of property only ("Proprietary Capacity"), and any obligations or restrictions imposed by this Lease on the City shall be limited to that capacity and shall not relate to, constitute a waiver of, supersede or otherwise limit or affect its governmental capacities, including enacting laws, inspecting structures, reviewing and issuing permits, and all of the other legislative and administrative or enforcement functions pursuant to federal, state or local law ("Governmental Capacity"). When acting in its Proprietary Capacity, discretionary actions may be undertaken by the City Manager or other designees as designated by the City Manager to the extent otherwise provided for in this Lease. In addition, nothing in this Lease shall supersede or waive any discretionary or regulatory approvals required to be obtained from the City under applicable law, nor guarantee that the City, in its Governmental Capacity, will grant any particular request for a license, permit or other regulatory approval. Lessee understands that the City may grant or deny such request in its sole discretion and may impose such terms and conditions as it deems consistent with that discretion and applicable law.

18.4 Waiver. No waiver of any default or breach hereunder shall be implied from any omission to take action on account thereof, notwithstanding any custom and practice or course of dealing. No waiver by either party of any provision under this Lease shall be effective unless in writing and signed by such party. No waiver shall affect any default other than the default specified in the waiver and then such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant shall not be construed as a waiver of any subsequent breach of the same.

18.5 Limitation of Liability. The obligations of Landlord under this Lease are not personal obligations of the individual officials, officers, agents or employees of Landlord, and Tenant shall look solely to the Premises for satisfaction of any liability of Landlord and shall not look to other assets of Landlord nor seek recourse against the assets of the individual officials, officers, agents or employees of Landlord. Whenever Landlord transfers its interest, Landlord shall be automatically released from further performance under this Lease and from all further liabilities and expenses hereunder and the transferee of Landlord's interest shall assume all liabilities and obligations of Landlord hereunder from the date of such transfer.

18.6 Notices. All notices to be given hereunder shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by facsimile (immediately followed by one of the preceding methods), to Landlord's Address and Tenant's Address, as applicable, as set forth in Item 1 and 2 of the Basic Lease Information, or to such other place as Landlord or Tenant may designate in a written

notice given to the other party. Notices shall be deemed served upon the earlier of receipt or three (3) days after the date of mailing.

18.7 Brokerage Commission. Landlord and Tenant each represents that neither has been represented by any broker in connection with this Lease, and that no real estate broker's commission, finder's fee or other compensation ("Commission") is due or payable. Tenant agrees to indemnify and hold harmless Landlord from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a Commission based upon any statement, representation or agreement of Tenant.

18.8 Authorization. Each individual or entity executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant and that such execution is binding upon Tenant.

18.9 Holding Over; Surrender.

18.9.1 Holding Over, If Tenant holds over the Premises or any part thereof after expiration or earlier termination of the Term, such holding over shall constitute a month-to-month tenancy, at a rent equal to one hundred thirty percent (130%) of the Base Rent in effect immediately prior to such holding over and shall otherwise be on all the other terms and conditions of this Lease. This section shall not be construed as Landlord's permission for Tenant to hold over. Acceptance of Rent by Landlord following expiration or termination shall not constitute a renewal of this Lease or extension of the Term except as specifically set forth above. If Tenant fails to surrender the Premises upon expiration or earlier termination of this Lease, Tenant shall indemnify and hold Landlord harmless from and against all loss or liability resulting from or arising out of Tenant's failure to surrender the Premises, including, but not limited to, any amounts required to be paid to any tenant or prospective tenant who was to have occupied the Premises after the expiration or earlier termination of this Lease and any related attorneys' fees and brokerage commissions.

18.9.2 Surrender. Upon the termination of this Lease or Tenant's right to possession of the Premises, Tenant will surrender the Premises, together with all keys, in good condition and repair, reasonable wear and tear excepted. Conditions existing because of Tenant's failure to perform maintenance, repairs or replacements shall not be deemed "reasonable wear and tear."

18.10 Joint and Several. If Tenant consists of more than one person, the obligation of all such persons shall be joint and several.

18.10 Compliance with Law. Tenant and its officers, employees, agents and assigns shall be bound by and comply with all applicable federal, state and local laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations, rights and performance under the terms of this Lease.

18.11 Covenants and Conditions. Each provision to be performed by Tenant hereunder shall be deemed to be both a covenant and a condition. This Lease shall be construed as though the covenants between Landlord and Tenant are independent and not dependent. Tenant expressly waives the benefit of any statute to the contrary, and agrees that even if Landlord fails

to perform its obligations under this Lease, Tenant shall not be entitled to make repairs or perform any acts at Landlord's expense, or to any setoff against Rent or other amounts owing under this Lease against Landlord.

18.12 Force Majeure. A Party shall not be considered to be in default or breach of this Agreement, and shall be excused from performance or liability for damages to the other Party, if and to the extent it shall be delayed in or prevented from performing or carrying out any of the provisions of this Lease, arising out of or from any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over any portion of the Property, over the construction anticipated to occur thereon or over any uses thereof, or by fire, flood, inclement weather, strikes, lockouts or other labor or industrial disturbance (whether or not on the part of agents or employees of either party hereto engaged in the construction of the Premises), civil disturbance, epidemic, pandemic, quarantine, order of any government, court or regulatory body claiming jurisdiction or otherwise, acts of terrorism, act of public enemy, war, riot, sabotage, blockade, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, discovery of hazardous or toxic materials, earthquake, or other natural disaster, or any cause whatsoever beyond the reasonable control (*excluding financial inability*) of the party whose performance is required, or any of its contractors or other representatives, whether or not similar to any of the causes hereinabove stated.

Any Party claiming a Force Majeure event shall use reasonable diligence to remove the condition that prevents performance and shall not be entitled to suspend performance of its obligations in any greater scope or for any longer duration than is required by the Force Majeure event. Each Party shall use its best efforts to mitigate the effects of such Force Majeure event, remedy its inability to perform, and resume full performance of its obligations hereunder. A Party suffering a Force Majeure event ("Affected Party") shall notify the other Party ("Non-Affected Party") in writing ("Notice of Force Majeure Event") as soon as reasonably practicable specifying the cause of the event, the scope of commitments under the Agreement affected by the event, and a good faith estimate of the time required to restore full performance. Except for those commitments identified in the Notice of Force Majeure Event, the Affected Party shall not be relieved of its responsibility to fully perform as to all other commitments in the Agreement. If the Force Majeure event continues for a period of more than 90 days from the date of the Notice of Force Majeure Event, the Non-Affected Party shall be entitled, at its sole discretion, to terminate the Agreement.

For the avoidance of doubt, Force Majeure shall not include a party's financial inability to perform its obligations hereunder. Notwithstanding the preceding, upon the occurrence of a Force Majeure event, Landlord may, at Landlord's sole discretion, reduce the amount of rent due during the Force Majeure event, provided, however, that the amount of any such reduction shall be repaid in monthly installments during the remainder of the term of the Lease following the cessation of the Force Majeure event. Any unpaid balance at the end of the term of the Lease shall be due and payable in full. In the event of a Force Majeure event that limits or prevents Tenant's access to the Premises, Rent shall be abated for the duration of such Force Majeure event.

18.13 Rights to Terminate. Both Tenant and Landlord may terminate this Lease upon sixty (60) days' prior written notice, only on the grounds of a material default of the Lease. Notwithstanding the foregoing, Landlord may terminate this Lease absent a material default in the event that Landlord determines that the Premises require repair or restoration, Landlord may terminate this Lease upon sixty (60) days prior written notice to Tenant. Landlord shall also have the right to terminate this Lease upon thirty (30) days prior written notice to Tenant in the event that the California Coastal Commission (i) prohibits commercial activity on the Property or (ii) takes any other action that would materially conflict with Tenant's use of the Premises.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date,

City of Pacific Grove,
a California charter

Name:_____
Bill Peake, Mayor

Sunset Hospitality Group, Inc., a
California corporation

By:_____

Title:_____

By:_____

Title:_____

Attest:

By: _____

City Clerk

Approved as to form:

By: _____

City Attorney

EXHIBIT A

PREMISES DESCRIPTION AND DEPICTION





Approximate 270 square foot building located at the northeast corner of the intersection of Ocean View Boulevard and 17th Street, at the southerly end of Lover's Point Park and Beach, located in the City of Pacific Grove.

EXHIBIT B

RULES AND REGULATIONS

Tenant shall comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of these Rules and Regulations.

1. Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, escalators or stairways of the Building. The halls, passages, exits, and entrances are not for the general public, and CITY shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of CITY would be prejudicial to the safety, character, reputation and interests of the Building and its tenants; provided, that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Tenant and no employee, invitee, agent, licensee or contractor of Tenant shall go upon or be entitled to use any portion of the roof of the Building unless authorized by the City.

2. CITY will furnish Tenant, free of charge, two keys to each door lock in the Premises. CITY may impose a reasonable charge for any additional keys. Tenant may not make or have made additional keys, and Tenant shall not alter any lock or install a new additional lock or bolt on any door or window of its Premises. Tenant, upon termination of its tenancy, shall deliver to CITY the keys of all doors which have been furnished to, or otherwise procured by Tenant, and, in the event of loss of any keys, shall pay CITY the cost of replacing the same or of changing the lock or locks opened by such lost key if CITY shall deem it necessary to make such change.

3. IT cables and equipment, telephone lines and security systems shall not be installed in the Premises except with the approval and under the direction of CITY.

4. No furniture or equipment of any kind shall be brought into the Building without prior notice to CITY and all moving of the same into or out of the Building shall be done at such time and in such manner as CITY shall designate. Deliveries during normal office hours shall be limited to normal office supplies and other small items. No deliveries shall be made which impede or interfere with other tenants or the operation of the Building.

5. Tenant shall not use or keep in the Premises any hazardous materials, kerosene, gasoline or inflammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of food service equipment. Tenant shall not use the Premises in a manner offensive or objectionable to CITY or other occupants of the Project by reason of noise, odors or vibrations, nor shall Tenant bring into or keep in or about the Premises any animals.

6. The normal hours of operation shall be 10:30 am until sunset, unless otherwise approved in writing by the CITY. CITY reserves the right to exclude from the Building between the hours of 7:00 p.m. and 6:00 a.m., or such other hours as may be established from time to time by CITY, and on legal holidays, any person unless that person is known to the person or employee in charge of the Building and has a pass or is properly identified. CITY shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any

person. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to CITY for all acts of such persons.

7. Tenant shall close and lock all doors of its Premises and entirely shut off all water faucets or other water apparatus, and, except with regard to Tenant's computers and other equipment which reasonably require electricity on a 24-hour basis, all electricity, gas or air outlets before Tenant and its employees leave the Premises. Tenant shall be responsible for any damage or injuries sustained by other tenants or occupants of the Building or by CITY for noncompliance with this rule.

8. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed.

9. Tenant shall not sell, or permit the sale at retail, of newspapers, magazines, periodicals, theater tickets, or any other goods or merchandise to the general public in or on the Premises.

10. Tenant shall not install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

11. Except as expressly permitted in the Lease, Tenant shall not mark, drive nails, screw or drill into the partitions, window mullions, woodwork or plaster, or in any way deface the Premises or any part thereof, except to install normal wall hangings. Tenant shall repair any damage resulting from noncompliance under this rule.

12. Canvassing, soliciting and distribution of handbills or any other written material, and peddling in and around the Project or the Buildings are expressly prohibited, and each tenant shall cooperate to prevent same.

13. CITY reserves the right to exclude or expel from the Buildings any person who, in CITY's judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the Project.

14. All garbage and refuse disposal shall be made in accordance with directions reasonably issued from time to time by CITY.

15. The Premises shall not be used for (a) the storage, use, or sale of marijuana, (b) any repair, servicing, or storage of vehicles or (c) lodging or for manufacturing of any kind.

16. Tenant shall not use in any space any hand trucks except those equipped with rubber tires and side guards, or such other material-handling equipment as CITY may approve.

17. Tenant agrees that it shall comply with all fire and security regulations that may be issued from time to time by CITY, and Tenant also shall provide CITY with the name of a designated responsible employee to represent Tenant in all matters pertaining to such fire or security

regulations. Tenant shall cooperate fully with CITY in all matters concerning fire and other emergency procedures.

18. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage. Such responsibility shall include keeping doors locked and other means of entry to the Premises closed.

19. CITY may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by CITY shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other such tenant, nor prevent CITY from thereafter enforcing any such Rules and Regulations against any and all of the tenants in the Building.

20. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of premises in the Buildings.

21. CITY reserves the right to make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety, security, care and cleanliness of the Buildings and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.

22. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees or guests.

23. Tenant shall not without CITY's consent, which may be given or withheld in CITY's sole and absolute discretion, receive, store, discharge, or transport firearms, ammunition, or weapons or explosives of any kind or nature at, on or from the Premises.

24. EXCEPT WITH THE PRIOR WRITTEN PERMISSION OF CITY, NO OVERNIGHT PARKING IS PERMITTED AT THE PREMISES. A VIOLATION SHALL CONSTITUTE A DEFAULT HEREUNDER AND A DAILY FEE OF ($100) SHALL BE CHARGED AS RENT FOR EACH VIOLATION.

25. SMOKING IS NOT PERMITTED ON THE PROPERTY EXCEPT IN SPECIFIC AREAS DESIGNATED BY CITY SHALL CONSTITUTE A DEFAULT HEREUNDER AS ALSO A FEE OF ($50) SHALL BE CHARGED AS RENT FOR EACH VIOLATION.

EXHIBIT C

ONGOING MAINTENANCE SCHEDULE

Exhibit C-1

EXHIBIT D

LIST OF LESSOR-OWNED FURNISHINGS

Exhibit D-1

EXHIBIT E

INITIAL IMPROVEMENT SCHEDULE

EXHIBIT F

INSURANCE CERTIFICATE

LICENSE AGREEMENT

This License Agreement ("**Agreement**") is made as of _____, 20__ ("**Effective Date**") by and between the CITY OF PACIFIC GROVE, a California charter city ("**City**"), and the SUNSET HOSPITALITY GROUP, INC., a California corporation ("**Licensee**"). City and Licensee are at times referred to herein individually as "**Party**" and collectively as "**Parties**."

RECITALS:

A. City owns that certain real property developed into a municipal park and beach commonly known as Lover's Point Park and Beach, improved with a building consisting of approximately 270 square feet, located generally at the northeast intersection of Ocean View Boulevard and 17th Street, situated in the City of Pacific Grove, Monterey County, State of California ("**Property**").

B. City and Licensee are in lease negotiations for a portion of the Property for the purpose of operating a restaurant/snack bar, which lease will be subject to approval by the City Council by ordinance.

C. Licensee has requested the right to use, during the negotiation and lease approval process, the 270 square foot building that is the subject of lease negotiations ("**Licensed Area**"), as described and depicted on Exhibit A, attached hereto and incorporated herein by this reference.

D. City and Licensee mutually acknowledge that a license is a form of limited, revocable permission to use property that does not constitute a sale, lease, encumbrance, or disposition of real property, and does not create or give rise to an interest in real property held by the licensee.

E. Licensee understands the limitations and risks inherent in a license and accepts such risks, including the risk of loss of any investment or expenditure.

F. For good and valuable consideration, receipt of which is acknowledged hereby, City is willing to permit Licensee to use the Licensed Area pursuant to the terms and conditions set forth in this Agreement.

AGREEMENT:

1. Recitals. The recitals set forth above are true and correct, and are incorporated by this reference herein as a substantive part of this Agreement.

2. Grant of License. City grants to Licensee a license ("**License**") to use the Licensed Area for the permitted uses specified in Section 3 during the Term, together with the right of ingress and egress to and from the Licensed Area.

3. Uses. Licensee shall have the right to use the Licensed Area solely for the operation of a snack bar serving sandwiches, other light menu items, and beverages, and for no other uses without the prior written consent of City, which may be granted or withheld in City's sole and absolute discretion. Licensee acknowledges that neither City nor any of City's agents has made

any representation or warranty with regard to the Licensed Area with respect to its suitability for Licensee's purposes. Licensee, at Licensee's sole cost and expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities now in force or which may hereafter be in force ("**Laws**"), which shall impose any duty upon Licensee with respect to the use, occupancy, or alteration of the Licensed Area. Licensee shall be responsible for obtaining any permit or business license required by any governmental agency permitting Licensee's use of the Licensed Area. Licensee shall comply with the Rules and Regulations, including observance of prohibited uses, attached hereto as Exhibit B and incorporated by reference, together with such reasonable additional rules and regulations as City may from time to time prescribe. Without limiting the foregoing, Licensee agrees not to use or permit use of the Licensed Area for any unlawful purpose, and not to commit or permit any waste or nuisance in or about the Licensed Area. Licensee will not use the Licensed Area in a manner that increases the risk of fire, cost of fire insurance or improvements thereon.

4. Term. The term of this Agreement ("**Term**") shall commence as of the Effective Date and shall continue until September 30, 2024, unless terminated earlier pursuant to Section 10.2 or Section 15.

5. License Fee. Licensee shall pay to City an monthly license fee of $1,500 for the use of the Licensed Area.

6. Security. City shall have no obligation to provide security (including, but not limited to, lighting) for the Licensed Area. Any security for the Licensed Area shall be the sole responsibility of Licensee at Licensee's sole cost and expense.

7. Licensee Obligations.

7.1 Limit Use. Licensee shall ensure that the Licensed Area is used only for the purposes set forth in Section 3 hereof.

7.2 Damage. During the Term, Licensee shall be responsible to repair any damage to the Licensed Area arising from or connected to Licensee's use of the Licensed Area except only damages caused directly by City or its employees, invitees, agents, or contractors.

7.3 No Nuisance or Waste. Licensee shall not commit, suffer, or permit any nuisance or waste, environmental waste, damage, or destruction to occur in or about the Licensed Area and shall not permit the use of the Licensed Area for any illegal or immoral purpose. Licensee further agrees to comply with all State and federal laws and local ordinances concerning the Licensed Area and the use of the Licensed Area. During the Term Licensee shall comply with all federal, state, and local laws, regulations, and ordinances and the terms of this Agreement.

8. City's Right to Inspect. City, through its employees or agents, shall have the right to enter upon the Licensed Area at all reasonable times during the Term of this Agreement for the purpose of inspecting the same and making such repairs as City may deem desirable, upon providing Licensee with reasonable advance notice, whenever practicable.

9. No Transfer or Assignment. This License is personal to Licensee. Any attempt to transfer or assign this License shall be void and this License shall immediately terminate.

10. Hazardous Materials.

10.1 Compliance with Laws. Licensee shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept or used in or about the Licensed Area or Project by Licensee, its agents, employees, contractors or invitees.

10.2 Termination of License. City shall have the right to terminate the License in City's sole and absolute discretion in the event that (i) any anticipated use of the Licensed Area by Licensee involves the generation or storage, use, treatment, disposal or release of Hazardous Material in a manner or for a purpose prohibited or regulated by any governmental agency, authority or Hazardous Materials laws; (ii) Licensee has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Licensed Area, if the contamination resulted from Licensee's action or use of the Licensed Area; or (iii) Licensee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material on the Licensed Area.

10.3 Hazardous Materials Defined. The term "Hazardous Material(s)" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to, those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of "hazardous substances," "hazardous waste," "hazardous chemical substance or mixture," "imminently hazardous chemical substance or mixture," " toxic substances," "hazardous air pollutant," "toxic pollutant" or "solid waste" in the (a) "CERCLA" or "Superfund" as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Sec. 6901 et seq., (c) CWA., 33 U.S.C. Sec. 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Sec. 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq. (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq., (l) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., (n) "Proposition 65," Cal. Health and Safety Code Sec. 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., (r) Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, materials and wastes which are, or in the future become regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetracholoethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products

or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

10.4 City's Right to Perform Tests. At any time prior to the expiration of the License Term, City shall have the right to enter upon the Licensed Area in order to conduct tests of water and soil and to deliver to Licensee the results of such tests to demonstrate that levels of any Hazardous Materials in excess of permissible levels has occurred as a result of Licensee's use of the Licensed Area. Licensee shall be solely responsible for and shall indemnify, protect, defend and hold City harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs arising out of or in connection with any removal, remediation, cleanup, restoration and materials required hereunder to return the Licensed Area and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials. The testing shall be at Licensee's expense if City has a reasonable basis for suspecting and confirms the presence of Hazardous Materials in the soil or surface or groundwater in on, under, or about the Licensed Area or the Project, which has been caused by or resulted from the activities of Licensee, its agents, employees, contractors or invitees.

10.5 Hazardous Materials Indemnity. Licensee shall indemnify, defend (by counsel reasonably acceptable to City), protect and hold the City harmless from and against any and all claims, liabilities, penalties, forfeitures, losses and/or expenses, including, without limitation, diminution in value of the Licensed Area or Project, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Licensed Area or Project, damages arising from any adverse impact or marketing of the Licensed Area or Project and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys' fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death of or injury to any person or damage to any property whatsoever (including, without limitation, groundwater, sewer systems and atmosphere), arising from, or caused or resulting, either prior to or during the License Term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under or about the Licensed Area or Project by Licensee, Licensee's agents, employees, licensees or invitees or at Licensee's direction, of Hazardous Material, or by Licensee's failure to comply with any Hazardous Materials Law, whether knowingly or by strict liability. Licensee's indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup or detoxification or decontamination of the Licensed Area or Project, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the License Term. For purposes of the indemnity provided herein, any acts or omissions of Licensee or its employees, agents, customers, subLicensees, assignees, contractors or subcontractors of Licensee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Licensee.

11. Improvements. Licensee may construct improvements upon the Licensed Area ("Improvements"), provided that said Improvements shall be approved in writing by City prior to the commencement of any work and provided further that all Improvements are completed in: (i) accordance with the plans and specifications approved by City, (ii) a good and workmanlike manner, (iii) conformity with all county, city, state and federal regulations, and any and all applicable permits. Licensee shall provide City with not less than ten (10) days' notice prior to the commencement of any work in, on or about the Licensed Area so that City, at City's option, may

post a Notice of Non Responsibility as provided by law. All work shall be completed by duly licensed and insured contractors, which contractors shall be acceptable to City. City makes no representation with respect to the applicability of public bidding procedures or requirements for the payment of prevailing wages hereunder.

11.1 Cost of Construction. All costs of construction shall be the sole responsibility of Licensee and shall be paid by Licensee when due. The Licensee shall conduct any construction program in such a manner so that no mechanic's liens or materialmen's liens shall be asserted, or purportedly asserted, against the Licensed Area or any improvements thereon. If any such lien shall be asserted, Licensee shall indemnify, defend and hold harmless City and the Licensed Area in accordance with Section 13, Indemnification, of this License. If requested by City, in City's sole discretion, Licensee shall post a surety bond to release the Licensed Area from any mechanic's liens recorded against the Licensed Area. Said bond shall be issued by a surety qualified to do business in California and shall be in an amount prescribed by law.

12. Insurance. Licensee shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Licensee's operation and use of the Licensed Area. The cost of such insurance shall be borne by the Licensee.

12.1 Minimum Scope And Limit Of Insurance. Coverage shall be at least as broad as:

12.1.1 Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

12.1.2 Workers' Compensation Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than $1,000,000 per accident for bodily injury or disease.

12.1.3 Property insurance against all risks of loss to any Licensee improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the Licensee maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

11.2 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

11.2.1 Additional Insured Status: The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect

to liability arising out of work or operations performed by or on behalf of the Licensee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Licensee's insurance (at least as broad as ISO Form CG 20 10).

11.2.2 Primary Coverage: For any claims related to this contract, the Licensee's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Licensee's insurance and shall not contribute with it.

11.2.3 Legal Liability Coverage: The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the Licensed Area.

11.2.4 Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with thirty (30) days' prior written notice to the City.

11.2.5 Waiver of Subrogation: Licensee hereby grants to City a waiver of any right to subrogation which any insurer of said Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

11.2.6 Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

11.2.7 Self-Insured Retentions: Self-insured retentions must be declared to and approved by the City. The City may require the Licensee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

11.2.8 Verification of Coverage: Licensee shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before occupying the Licensed Area. However, failure to obtain the required documents prior to the work beginning shall not waive the Licensee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

11.2.9 Special Risks or Circumstances: City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

13. Indemnification. Licensee agrees to indemnify, defend (with counsel reasonably approved by City) and hold harmless the City and its authorized officers, employees, agents and volunteers, from any and all claims, actions, losses, damages, and/or liability arising out of this License from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the City on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Licensee's indemnification obligation applies to the City's "active" as well as "passive" negligence but does not apply to the City's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. The provisions of the Section shall survive the termination of this Agreement.

14. Covenants Against Discrimination. Licensee covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement.

15. Termination. This License may be terminated by either Party at any time, with or without cause, by providing written notice of termination to the other Party. Such termination will be effective thirty (30) days after such notice is received.

16. Duties upon Termination. Upon termination of this Agreement, Licensee, at its sole expense, shall be solely responsible to perform the following:

a. Licensee shall clean and restore the Licensed Area to a condition similar to that existing prior to the Effective Date, subject to reasonable wear and tear.

b. Remove all personal property on the Licensed Area.

Should Licensee fail to vacate the Licensed Area in a clean and undamaged condition and remove all personal property, City may arrange for the cleaning and/or repair of the Licensed Area and the removal of personal property, the cost of which will be immediately reimbursed by Licensee.

The Parties' obligations under Section 13 shall survive termination of this Agreement.

17. Proprietary and Governmental Roles; Actions by City. Except where clearly and expressly provided otherwise in this License, the capacity of the City in this License shall be as City and licensor of real property only ("Proprietary Capacity"), and any obligations or restrictions imposed by this License on the City, in its capacity as owner of the Licensed Area shall be limited to that capacity and shall not relate to, constitute a waiver of, supersede or otherwise limit or affect its governmental capacities, including enacting laws, inspecting structures, reviewing and issuing permits, and all of the other legislative and administrative or enforcement functions pursuant to federal, state or local law ("Governmental Capacity"). When acting in its

Proprietary Capacity, discretionary actions may be undertaken by the City Manager or other designees as designated by the City Manager to the extent otherwise provided for in this License. In addition, nothing in this License shall supersede or waive any discretionary or regulatory approvals required to be obtained from the City under applicable law, nor guarantee that the City, in its Governmental Capacity, will grant any particular request for a license, permit or other regulatory approval. Licensee understands that the City may grant or deny such request in its sole discretion, and may impose such terms and conditions as it deems consistent with that discretion and applicable law.

18. No Interest in Real Property. This Agreement does not grant Licensee, its successors, assigns or transferees any interest, legal or equitable, in the Licensed Area, and this Agreement shall become null and void and without legal effect if it is recorded in the official records of the County of Monterey.

19. Notices. All notices required or permitted under this Agreement shall be in writing and shall be served on the parties at the addresses set forth below. Any such notices shall, unless otherwise provided herein, be given or served (i) by depositing the same in the United States mail, postage paid, certified, and addressed to the party to be notified, with return receipt requested, (ii) by overnight delivery using a nationally recognized overnight courier, or (iii) by personal delivery. Notice deposited in the mail in the manner hereinabove described shall be effective upon receipt or rejection of such notice. A party's address may be changed by written notice to the other party.

To Licensee:
Sunset Hospitality Group, Inc.
500 Hartnell Street
Monterey, California 93933
Phone: (310) 403-0210
Attn:

With a Copy to:

To City:
City of Simi Valley
300 Forest Avenue
Pacific Grove, CA 93950
Phone: (831) 648-3174
Attn: City Manager

With a Copy to:
Burke, Williams & Sorensen, LLP
2310 East Ponderosa Drive, Suite 25
Camarillo, CA 93010-4747
Phone: (805) 987-3468
Attn: Brian Pierik, City Attorney

20. GENERAL PROVISIONS.

20.1 Attorneys' Fees. In any action between the parties hereto, seeking enforcement of any of the terms and provisions of this Agreement, or in connection with the Licensed Area, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

20.2 Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California with regard to conflicts of laws principles or rules. Any legal action to interpret or enforce any term or conditions of this Agreement shall be brought in the Superior Court of California or the County of Ventura.

20.3 No Waiver. No delay or omission by either party in exercising any right or power accruing upon the compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

20.4 Modifications and Amendment. In order to be effective, any modification or amendment of this Agreement shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of both parties.

20.5 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20.6 Final Agreement. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements shall be of no force or effect.

20.7 Construction. This Agreement shall be construed according to its fair meaning as if prepared by all parties to this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

20.8 Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

20.9 Non-Liability of Officials or Employees. No officer, official or employee of City shall be personally liable for any obligations under the terms of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date set forth above.

Dated: _____, 2024	**Dated: _____, 2024**
SUNSET HOSPITALITY GROUP, INC. **a California corporation**	**CITY OF PACIFIC GROVE** **a California charter city**
By: _____ Name: Its:	By: _____ Name: Its: City Manager
By: _____ Name: Its:	

EXHIBIT A

LICENSED AREA





Approximate 270 square foot building located at the northeast corner of the intersection of Ocean View Boulevard and 17th Street, at the southerly end of Lover's Point Park and Beach, located in the City of Pacific Grove

EXHIBIT B

RULES AND REGULATIONS

Licensee shall comply with the following Rules and Regulations. Landlord shall not be responsible to Licensee for the nonperformance of any of these Rules and Regulations.

1. Licensee shall not obstruct any sidewalks, passages, exits, entrances, or stairways of the Property.

2. City will furnish Licensee, free of charge, two keys to each door lock in the Licensed Area. City may impose a reasonable charge for any additional keys. Licensee may not make or have made additional keys, and Licensee shall not alter any lock or install a new additional lock or bolt on any door or window of its Licensed Area. Licensee, upon termination of its tenancy, shall deliver to City the keys of all doors which have been furnished to, or otherwise procured by Licensee, and, in the event of loss of any keys, shall pay City the cost of replacing the same or of changing the lock or locks opened by such lost key if City shall deem it necessary to make such change.

3. IT cables and equipment, telephone lines and security systems shall not be installed in the Licensed Area except with the approval and under the direction of City.

4. No furniture or equipment of any kind shall be brought into the Licensed Area without prior notice to City and all moving of the same into or out of the Licensed Area shall be done at such time and in such manner as City shall designate. Deliveries during normal office hours shall be limited to normal office supplies and other small items.

5. Licensee shall not use or keep in the Licensed Area any hazardous materials, kerosene, gasoline or inflammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of food service equipment. Licensee shall not use the Licensed Area in a manner offensive or objectionable to City or to members of the public and patrons of the Property by reason of noise, odors or vibrations, nor shall Licensee bring into or keep in or about the Licensed Area any animals.

6. City reserves the right to exclude from the Licensed Area between the hours of 7:00 p.m. and 6:00 a.m., or such other hours as may be established from time to time by City, and on legal holidays, any person unless that person is known to the person or employee in charge of the Licensed Area and has a pass or is properly identified. City shall not be liable for damages for any error with regard to the admission to or exclusion from the Licensed Area of any person. Licensee shall be responsible for all persons for whom it requests passes and shall be liable to City for all acts of such persons.

7. Licensee shall close and lock all doors of its Licensed Area and entirely shut off all water faucets or other water apparatus, and, except with regard to Licensee's computers and other equipment which reasonably require electricity on a 24-hour basis, all electricity, gas or air outlets before Licensee and its employees leave the Licensed Area. Licensee shall be responsible for any damage or injuries sustained by others or by City for noncompliance with this rule.

8. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed.

9. Licensee shall not sell, or permit the sale at retail, of newspapers, magazines, periodicals, theater tickets, or any other goods or merchandise to the general public in or on the Licensed Area.

10. Licensee shall not install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Licensed Area.

11. Except as expressly permitted in the License, Licensee shall not mark, drive nails, screw or drill into the partitions, window mullions, woodwork or plaster, or in any way deface the Licensed Area or any part thereof, except to install normal trade fixtures and wall hangings. Licensee shall repair any damage resulting from noncompliance under this rule.

12. Canvassing, soliciting and distribution of handbills or any other written material, and peddling in and around the Licensed Area are expressly prohibited, and each Licensee shall cooperate to prevent same.

13. City reserves the right to exclude or expel from the Licensed Area any person who, in City's judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the Project.

14. All garbage and refuse disposal shall be made in accordance with directions reasonably issued from time to time by City.

15. The Licensed Area shall not be used for (a) the storage, use, or sale of marijuana, (b) any repair, servicing, or storage of vehicles or (c) lodging or for manufacturing of any kind.

16. Licensee shall not use in any space any hand trucks except those equipped with rubber tires and side guards, or such other material-handling equipment as City may approve.

17. Licensee agrees that it shall comply with all fire and security regulations that may be issued from time to time by City, and Licensee also shall provide City with the name of a designated responsible employee to represent Licensee in all matters pertaining to such fire or security regulations. Licensee shall cooperate fully with City in all matters concerning fire and other emergency procedures.

18. Licensee assumes any and all responsibility for protecting its Licensed Area from theft, robbery and pilferage. Such responsibility shall include keeping doors locked and other means of entry to the Licensed Area closed.

19. City may waive any one or more of these Rules and Regulations for the benefit of Licensee, but no such waiver by City shall or prevent City from thereafter enforcing any such Rules and Regulations against Licensee.

20. City reserves the right to make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety, security, care and cleanliness of the Licensed Area and for the preservation of good order therein. Licensee agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.

21. Licensee shall be responsible for the observance of all of the foregoing rules by Licensee's employees, agents, clients, customers, invitees or guests.

22. Licensee shall not without City's consent, which may be given or withheld in City's sole and absolute discretion, receive, store, discharge, or transport firearms, ammunition, or weapons or explosives of any kind or nature at, on or from the Licensed Area.

23. EXCEPT WITH THE PRIOR WRITTEN PERMISSION OF CITY, NO OVERNIGHT PARKING IS PERMITTED AT THE LICENSED AREA. A VIOLATION SHALL CONSTITUTE A DEFAULT HEREUNDER AND A DAILY FEE OF ($100) SHALL BE CHARGED FOR EACH VIOLATION.

24. SMOKING IS NOT PERMITTED ON THE PROPERTY EXCEPT IN SPECIFIC AREAS DESIGNATED BY CITY SHALL CONSTITUTE A DEFAULT HEREUNDER AS ALSO A FEE OF ($50) SHALL BE CHARGED AS RENT FOR EACH VIOLATION.

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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Brian Pierik, City Attorney

MEETING DATE: July 03, 2024

SUBJECT: Resolution Amending Council Policy 000-17 'Order of Agenda'

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

RECOMMENDATION

1. Motion to adopt a Resolution Amending Council Policy 000-17 'Order of Agenda'.
2. Alternative, discuss and take other action related to this item.

DISCUSSION

Council Policy 000-17 'Order of Agenda' establishes the general practice to be followed with respect to the management of agenda items before the City Council.

On May 15, 2024, the City Council gave direction for the City Attorney to prepare a Resolution to amend Council Policy 000-017 "Order of Agenda". The amendments are proposed to clarify the protocol for deliberation on regular agenda items.

Proposed Policy 000-17 amendments in Attachment 1 are shown by deletion of all text shown in red strikeout text (~~strikeout text~~) and the addition of all text shown in red underscored text (underscored text). Policy 000-17 without this markup is provided in Attachment 2.

Amendments serve to promote greater understanding of when meeting participants, i.e. public, staff, and Councilmembers, have the opportunity to speak.

Amendments provide an orderly and efficient process by which everyone has an opportunity to contribute before Council takes appropriate action.

OPTIONS

N/A

FINANCIAL IMPACT:

There is no fiscal impact.

FOCUSED PRIORITY AREA: Not Applicable.

Attachments

1. Policy 000-17 Order of Agenda with markup
2. Policy 00-17 Order of Agenda without markup
3. Resolution Amending Council Policy 000-17 'Order of Agenda'

City of Pacific Grove

Council Policy

Subject	Policy	Effective Date	Page
Order of Agenda for Council Meetings	**000-17**	**December 20, 2017**	**Page 1 of 4**

A. Council meeting agendas are designed to facilitate the orderly conduct of City business, provide adequate time for the City Council to make informed, deliberative decisions, and provide members of the public an opportunity to present information to the City Council on any matter within the subject matter jurisdiction of the City.

B. This policy establishes the general practice to be followed with respect to the management of agenda items before the City Council. This policy shall not be construed to limit or impair rights of the public as set forth in the Ralph M. Brown Act, the Public Records Act, or any other provision of law.

C. In the development of a specific meeting's agenda, the City Manager may adjust this order, when warranted. The Mayor and Council may also adjust the order in which matters are considered at the meeting. Deviation from the order of the agenda set in this policy, by itself, shall not provide a basis to reverse or invalidate any action of the City Council.

D. The standard order of the City Council agenda shall be as follows:

Call to Order

Pledge of Allegiance

1. **Approval of the Agenda**
   Councilmembers shall have an opportunity to request changes to the order of items, to postpone items to a future meeting, or to add new matters in accord with the emergency or urgency requirements set forth in the Government Code.

2. **Presentations**
   Presentations shall be made on behalf of the City to persons or organizations, and/or brief presentations (not to exceed 5 minutes, each) made to the Council by others upon approval of the City Manager. Presentations shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

3. **Council and Staff Announcements**
   Announcements shall be limited to City-related items and shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

Report out of any closed session held prior to the Regular meeting will be provided as the first announcement.

4. Public Comment

These are comments from the public on matters that are on the agenda (including the Consent Agenda) as well as for matters not on the agenda during General Public Comment which are within the subject matter jurisdiction of the City.

Persons who wish to address the Council shall use the microphone and are asked to state their name. It is helpful if speakers also indicate the subject matter of their comments. (Note: Even if a speaker refuses to state his or her name or the subject matter of the comment, the speaker shall not be denied the right to speak.) Accommodations will be made for persons with disabilities.

Public comment shall be limited to three minutes per speaker for each item on the Agenda. For General Public Comment, each speaker shall be limited to three minutes.

In the discretion of the Mayor, the length of the public comment on an item on the Agenda may be reduced to lower than three minutes when appropriate based on the number of speakers for an item and/or the Mayor may limit the total time for public comment on an item on the Agenda.

Communication to the Council under General Public Comment will be received without comment while the public comment period is open. When public comment during General Public Comment Communications is closed, questions from the public may be referred to staff for a brief response.

Pursuant to Government Code Section 54954.3 (c), the City Council shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.

Pursuant to Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Mayor may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. After the meeting room has been cleared, the Mayor may readmit an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Pursuant to Government Code Section 54957.95, the Mayor may cause the removal of any individual for disrupting the meeting subject to the following rules:

(1) Prior to removing an individual, the Mayor shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior

may result in their removal.

(2) The Mayor may then cause the removal of the individual if they do not promptly cease their disruptive behavior.

(3) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following: (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law. (B) Engaging in behavior that constitutes use of force or a true threat of force.

(4) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(5) If there has been a use of force or a true threat of force, there is no obligation for the Mayor to provide a warning to the individual before causing the individual to be removed from the meeting.

Consent Agenda

The Consent Agenda deals with routine and noncontroversial matters, and may include action on resolutions and second readings of ordinances, provided no public comment is anticipated on those items. The purpose of the Consent Agenda is to make efficient use of available time by considering all routine and non-controversial items under one motion. The Consent Agenda is structured so that any Councilmember, staff, or the public may pull an item for discussion or questions.

A single vote on the Consent Agenda shall apply to each item that has not been removed.

Councilmembers may notify the City Clerk if they want a specific vote or abstention recorded as to any individual item.

The standard elements of the Consent Agenda are:

5. **Approval of City Council Meeting Minutes**
6. **Resolutions**
7. **Ordinances**
8. **Reports – Information Only**

9. Reports – Requiring Action

10. Meeting Minutes of Commissions, Boards, and Committees

When a Councilmember wishes to remove an item the Councilmember will discuss his/her question(s) with staff prior to the meeting in order for staff to research the answer(s), which shall be provided ahead of time to all members (e.g., in the blue folders).

The Mayor will first ask the members of the Council, then members of the public if anyone wants to pull an item from consent. The person pulling the item will simply state the item number and subject.

Unless a specific item is pulled for discussion, the Council shall ordinarily approve all action items or recommendations on the entire Consent Agenda under a single motion. Council's vote to approve the Consent Agenda is a direction to staff to proceed with each action as recommended.

Items Removed from the Consent Agenda

The Council shall separately consider and act on each item removed from the Consent Agenda. Such items shall be heard in their normal place on the Regular Agenda. That placement will be noted on each consent item. The discussion format for those items will follow the protocol for the Regular Agenda.

Regular Agenda

The protocol for deliberation on regular agenda items is:

1) The agenda report is presented by staff (or other person who prepared the report) at the discretion of the City Manager. The report can be concise yet sufficient to establish context and key facts for the item.
2) Public comment is received, ~~then closed~~normally without response, as described above.
3) Council deliberates and takes action as appropriate for the item. Staff or the public may speak to the item during Council deliberation if called upon by a member of Council.

This protocol explicitly omits the practice of clarifying questions from council prior to opening for public comment. Councilmembers can ask for clarification prior to the Council meeting and can also ask questions during the council deliberation phase.

11. Public Hearings

The Public Hearing agenda includes matters for which a public hearing notice was posted or published and for which public comment is anticipated.

12. Unfinished and Ongoing Business

The Unfinished Business agenda shall consist of matters that return to the Council for action, the same matter having been considered at or continued from a prior meeting or are updates or actions for long term and ongoing topics.

13. New Business

The New Business agenda shall consist of matters not previously considered by the Council.

14. Full Presentations

Presentations under this item are those that may exceed five minutes and are made to the Council upon invitation of the Mayor or City Manager. Presentations shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

15. Closed Sessions (if required)

Closed Sessions are held in compliance with the Brown Act. The specific time for any Closed Session may be set at other times at the convenience of Council. The Council may adjourn to Closed Session on any other agenda item if authorized by law, upon advice of the City Attorney.

16. Public Announcement of Action Taken in Closed Session

This announcement shall immediately follow any Closed Session.

Adjournment

E. Whenever practical, closed session items are best addressed during a special meeting prior to a regular meeting, as a convenience to the public, beginning at 5:00 pm.

F. All agenda reports recommending Council action shall include the following: title, recommendation, background, justification, and financial impact. Closed session agenda reports shall be confidential pursuant to California Government Code 54963 and PGMC §2.04.080.

G. The Agendas the meetings of all Legislative Bodies shall include the following Statement:

> ""Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor or Chair may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17."

Adopted May 2, 2001 - Resolution No.1-025
Amended June 3, 2009 - Resolution No. 9-021
Amended February 3, 2010 - Resolution No.10-014
Amended September 1, 2010 - Resolution No.10-068
Amended November 17, 2010 - Resolution No.10-099

Amended February 2, 2011 - Resolution No. 11-008
Amended January 20, 2016 - by motion of Council
Amended December 20, 2017 - Resolution No. 17-032
Amended September 1, 2021 - Resolution 21-028
Amended February 1, 2023 – by Minute Order
Amended March 6, 2024 by Resolution No. 24-005

City of Pacific Grove

Council Policy

Subject	Policy	Effective Date	Page
Order of Agenda for Council Meetings	**000-17**	**December 20, 2017**	**Page 1 of 4**

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(2) The Mayor may then cause the removal of the individual if they do not promptly cease their disruptive behavior.

(3) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following: (A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law. (B) Engaging in behavior that constitutes use of force or a true threat of force.

(4) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(5) If there has been a use of force or a true threat of force, there is no obligation for the Mayor to provide a warning to the individual before causing the individual to be removed from the meeting.

Consent Agenda

The Consent Agenda deals with routine and noncontroversial matters, and may include action on resolutions and second readings of ordinances, provided no public comment is anticipated on those items. The purpose of the Consent Agenda is to make efficient use of available time by considering all routine and non-controversial items under one motion. The Consent Agenda is structured so that any Councilmember, staff, or the public may pull an item for discussion or questions.

A single vote on the Consent Agenda shall apply to each item that has not been removed.

Councilmembers may notify the City Clerk if they want a specific vote or abstention recorded as to any individual item.

The standard elements of the Consent Agenda are:

5. **Approval of City Council Meeting Minutes**
6. **Resolutions**
7. **Ordinances**
8. **Reports – Information Only**

9. Reports – Requiring Action

10. Meeting Minutes of Commissions, Boards, and Committees

When a Councilmember wishes to remove an item the Councilmember will discuss his/her question(s) with staff prior to the meeting in order for staff to research the answer(s), which shall be provided ahead of time to all members (e.g., in the blue folders).

The Mayor will first ask the members of the Council, then members of the public if anyone wants to pull an item from consent. The person pulling the item will simply state the item number and subject.

Unless a specific item is pulled for discussion, the Council shall ordinarily approve all action items or recommendations on the entire Consent Agenda under a single motion. Council's vote to approve the Consent Agenda is a direction to staff to proceed with each action as recommended.

Items Removed from the Consent Agenda

The Council shall separately consider and act on each item removed from the Consent Agenda. Such items shall be heard in their normal place on the Regular Agenda. That placement will be noted on each consent item. The discussion format for those items will follow the protocol for the Regular Agenda.

Regular Agenda

The protocol for deliberation on regular agenda items is:

1) The agenda report is presented by staff (or other person who prepared the report) at the discretion of the City Manager. The report can be concise yet sufficient to establish context and key facts for the item.
2) Public comment is received, normally without response, as described above.
3) Council deliberates and takes action as appropriate for the item. Staff or the public may speak to the item during Council deliberation if called upon by a member of Council.

This protocol explicitly omits the practice of clarifying questions from council prior to opening for public comment. Councilmembers can ask for clarification prior to the Council meeting and can also ask questions during the council deliberation phase.

11. Public Hearings

The Public Hearing agenda includes matters for which a public hearing notice was posted or published and for which public comment is anticipated.

12. Unfinished and Ongoing Business

The Unfinished Business agenda shall consist of matters that return to the Council for action, the same matter having been considered at or continued from a prior meeting or are updates or actions for long term and ongoing topics.

13. New Business

The New Business agenda shall consist of matters not previously considered by the Council.

14. Full Presentations

Presentations under this item are those that may exceed five minutes and are made to the Council upon invitation of the Mayor or City Manager. Presentations shall neither receive Council action nor provide a reason for Council debate. Council may ask brief questions or refer matters to staff for consideration on a future agenda.

15. Closed Sessions (if required)

Closed Sessions are held in compliance with the Brown Act. The specific time for any Closed Session may be set at other times at the convenience of Council. The Council may adjourn to Closed Session on any other agenda item if authorized by law, upon advice of the City Attorney.

16. Public Announcement of Action Taken in Closed Session

This announcement shall immediately follow any Closed Session.

Adjournment

E. Whenever practical, closed session items are best addressed during a special meeting prior to a regular meeting, as a convenience to the public, beginning at 5:00 pm.

F. All agenda reports recommending Council action shall include the following: title, recommendation, background, justification, and financial impact. Closed session agenda reports shall be confidential pursuant to California Government Code 54963 and PGMC §2.04.080.

G. The Agendas the meetings of all Legislative Bodies shall include the following Statement:

> ""Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. This is a warning that if a member of the public attending this meeting remotely or in-person violates the Brown Act by failing to comply with these requirements of the Brown Act, then the Mayor or Chair may request that speaker be muted. If a member of the public attending this meeting in-person engages in disruptive behavior that disturbs the orderly conduct of the meeting, they may be removed from the meeting after a warning, pursuant to Council Policy 000-17."

Adopted May 2, 2001 - Resolution No.1-025
Amended June 3, 2009 - Resolution No. 9-021
Amended February 3, 2010 - Resolution No.10-014
Amended September 1, 2010 - Resolution No.10-068
Amended November 17, 2010 - Resolution No.10-099

Amended February 2, 2011 - Resolution No. 11-008
Amended January 20, 2016 - by motion of Council
Amended December 20, 2017 - Resolution No. 17-032
Amended September 1, 2021 - Resolution 21-028
Amended February 1, 2023 – by Minute Order
Amended March 6, 2024 by Resolution No. 24-005

RESOLUTION NO. 24-XXX

RESOLUTION AMENDING COUNCIL POLICY 000-017 ORDER OF AGENDA

FINDINGS

1. Council Policy 000-17 'Order of Agenda' establishes the general practice to be followed with respect to the management of agenda items before the City Council.

2. On May 15, 2024, the City Council gave direction for the City Attorney to prepare a Resolution to amend Council Policy 000-017 "Order of Agenda".

3. The amendments are proposed to clarify the protocol for deliberation on regular agenda items.

4. Amendments provide an orderly and efficient process by which everyone has an opportunity to contribute before Council takes appropriate action.

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. Policy 000-17 amendments in Attachment 1 are shown by deletion of all text shown in red strikeout text (~~strikeout text~~) and the addition of all text shown in red underscored text (underscored text).

3. Policy 000-17 without this markup is provided in Attachment 2.

4. Attachment 2 is hereby approved as attached to this Resolution, which by this reference are incorporated as set forth in its entirety. .

5. This Resolution shall become effective immediately following passage and adoption thereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 3rd day of July, 2024, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

_____
BILL PEAKE, Mayor

ATTEST:
DATED:_____

_____
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

_____
BRIAN A. PIERIK, City Attorney