CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL AGENDA

Mayor Dave Potter, Councilmembers Jeff Baron, Alissandra Dramov, Karen Ferlito, and Bobby Richards
Contact: 831.620.2000 www.ci.carmel.ca.us

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

REGULAR MEETING
Tuesday, September 12, 2023

4:30 PM

HYBRID MEETING ATTENDANCE OPTIONS

This meeting will be held in person and via teleconference ("hybrid"). The public is welcome to attend the meeting in person or remotely via Zoom, however, 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. To view or listen to the meeting from home, you may also watch the live stream on the City's YouTube page at: https://www.youtube.com/@CityofCarmelbytheSea/streams. To participate in the meeting via Zoom, copy and paste the link below into your browser.

https://ci-carmel-ca-us.zoom.us/j/84290242781 Meeting ID: 842 9024 2781 Passcode: 391897 Dial in (253) 215-8782

HOW TO OFFER PUBLIC COMMENT

The public may give public comment at this meeting in person, or using the Zoom teleconference module, provided that there is access to Zoom during the meeting. Zoom comments will be taken after the in-person comments. The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received at least 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be made part of the record.

OPEN SESSION
4:30 PM

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

A. Proclamations for Childhood Cancer Awareness Month

B. Carmel High School Report Out

PUBLIC APPEARANCES

Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the Chair. Matters not appearing on the agenda will not receive action at this meeting and may be referred to staff. Persons are not required to provide their names, and it is helpful for speakers to state their names so they may be identified in the minutes of the meeting.

ANNOUNCEMENTS

A. City Administrator Announcements

B. City Attorney Announcements

C. Councilmember Announcements

CONSENT AGENDA

Items on the consent agenda are routine in nature and do not require discussion or independent action. Members of the Council, Board or Commission or the public may ask that any items be considered individually for purposes of Council, Board or Commission discussion and/ or for public comment. Unless that is done, one motion may be used to adopt all recommended actions.

1. July 31, 2023 Special Meeting Minutes, and August 1, 2023, Regular Meeting Minutes

2. July 2023 Monthly Reports

3. July 2023 Check Register Summary

4. Resolution 2023-081, authorizing the City Administrator to apply for and accept funds from the California Coastal Commission Local Coastal Program Local Assistance Grant Program for the Coastal Engineering and Adaptation Planning Project

5. Resolution 2023-082, rejecting all bids received for four Facility Renovation Projects, and directing staff to evaluate alternative contracting methods before re-advertising for bids

6. Resolution 2023-083, authorizing the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with BKF Engineers for the Concrete Streets Repair Project, for a not-to-exceed fee of $49,092

7. Resolution 2023-084 authorizing the City Administrator to execute Amendment No.1 with Digital Deployment, Inc. for website and hosting services for a new not to exceed amount of $181,150 and extend the contract through June 30, 2028

8. Resolution 2023-085 authorizing the City Administrator to execute a Professional Services Agreement with Carmel Chamber of Commerce for Visitor Center operations and services for a not-to-exceed amount of $60,000 and a term expiring on June 30, 2024

9. Resolution 2023-086 authorizing and approving the City of Carmel-by-the-Sea current pay rates and ranges (salary schedule)

10. Resolution 2023-087 Accepting a Donation of $7,500 for the Carmel-by-the-Sea Police Department

11. Resolution 2023-088 Accepting a Donation of Twenty-Five Thousand Dollars ($25,000.00) to the City of Carmel-by-the-Sea's Forest Hill Park

12. Adopt Resolution 2023-089 authorizing a refund of a Mills Act application fee in the

amount of $2,688 to Chris Fenton.

13. Adopt Resolution 2023-090 authorizing a refund of a Mills Act Contract application fee in the amount of $2,688 to Katherine Shaw

PUBLIC HEARINGS

14. Consideration of initiating amendments to the General Plan and Local Coastal Plan to change the General Plan land use designation for the Pine Inn parking lot (APN 010-212-010) from Single-Family Residential to Multi-Family Residential and facilitate the transfer of hotel rooms from the Pine Inn to the Pine Inn parking lot.

15. Review the Historic Resources Board's July 17, 2023 decision to issue a Determination of Consistency with the Secretary of the Interior's Standards for the construction of a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site, and consider adoption of Resolution 2023-091 upholding the Determination of Consistency and conditions of approval for the construction project DR 23-140 (Esperanza Carmel Commercial – JB Pastor Building)

16. Introduction of Ordinance No. 2023-006 (first reading), which would amend the Carmel Municipal Code (CMC) Title 17 (Zoning) by repealing and replacing chapter 17.46 (Telecommunications and Wireless Facilities) and making conforming amendments to Zoning Code sections 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 and 17.70.020 and to municipal code sections 12.08.050, 12.08.060, 13.28.070; and finding the same exempt from the California Environmental Quality Act and in full conformance with the City's Local Coastal Program and the California Coastal Act

FUTURE AGENDA ITEMS

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage http://www.ci.carmel.ca.us in accordance with applicable legal requirements.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this agenda, received after the posting of the agenda will be available for public review at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
EXTRAORDINARY BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Chip Rerig, City Administrator
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Proclamations for Childhood Cancer Awareness Month

RECOMMENDATION:

Present a proclamation declaring September as Childhood Cancer Awareness Month to Jacob's Heart Cancer Support Services and Kids Cancer Connection, Inc.

BACKGROUND/SUMMARY:

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Proclamation - Jacob's Heart
Proclamation - Kids Cancer Connection, Inc.

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
PROCLAMATION

HONORING JACOB'S HEART AND DECLARING SEPTEMBER 2023 AS CHILDHOOD CANCER AWARENESS MONTH

WHEREAS, the character of our community is revealed in how we treat our most vulnerable; and

WHEREAS, each year, 19.1 in every 100,000 children in our community will be diagnosed with cancer; and

WHEREAS, cancer remains the leading cause of death by disease among children— more than asthma, diabetes, cystic fibrosis, congenital anomalies, and AIDS combined; and

WHEREAS, Jacob's Heart has been keeping medically fragile children and families housed, fed, and emotionally supported by steadfastly adhering to the following commitments: 1) Parents of children with cancer and other serious illnesses will be relieved of financial fears and able to focus attention on their children: 2) No child undergoing intensive treatment in our community will be homeless; 3) Families of seriously ill children will not experience food insecurity during and after the pandemic; and 4) No child seriously ill child in our community will ever miss a medical appointment because of a lack of transportation; and

WHEREAS, Jacob's Heart holds the memories and honors legacies of hundreds of children from our local community who have been lost to cancer, ensuring that their memories will never be forgotten; and

WHEREAS, the oncology department at Lucile Packard Children's Hospital at Stanford has worked closely with Jacob's Heart for the past 25 years as a trusted community partner in providing family-centered care that addresses the emotional, practical, and financial struggles of families of children with cancer in the City of Carmel-by-the-Sea; and

WHEREAS, it is important for all Carmel-by-the-Sea City residents to recognize the impact of pediatric cancer on families within our community and honor the children in our community whose lives have been cut short by cancer.

NOW, THEREFORE, I, Dave Potter, Mayor of the City of Carmel, hereby declare September 2023, as Childhood Cancer Awareness Month in the City of Carmel-by-the-Sea, and do hereby honor Jacob's Heart Children's Cancer Support Services for outstanding support to our community and acknowledge the organization's contributions to Childhood Cancer Awareness Month.

September 12, 2023

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Dave Potter, Mayor

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
PROCLAMATION

HONORING KIDS CANCER CONNECTION AND DECLARING SEPTEMBER 2023 AS CHILDHOOD CANCER AWARENESS MONTH

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection report cancer is the leading cause of death by disease among U.S. children between infancy and age 15. This tragic disease is detected in more than 16,000 of our country's young people each and every year. An estimated 400,000 children and adolescents are diagnosed with cancer globally each year; and

WHEREAS, one in five of our nation's children loses his or her battle with cancer. Many infants, children and teens will suffer from long-term effects of comprehensive treatment, including secondary cancers; and

WHEREAS, founded nearly 30 years ago by Steven Firestein, a member of the philanthropic branch of the Max Factor cosmetics family, the American Cancer Fund for Children, Inc. and Kids Cancer Connection, Inc. in collaboration with Lions Clubs International are dedicated to helping these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at Lucile Packard Children's Hospital Stanford, Community Hospital of the Monterey Peninsula - Montage Health, Cottage Children's Medical Center, Valley Children's Healthcare and Hospital, The City of Hope National Medical Center, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor toy distributions, family sailing programs, pet-assisted therapy, Laughternoon - Laughter is Healing, KCC Supercar Experience, first responder programs, Home and Hospital Instructional programs and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer.

NOW, THEREFORE, I, Dave Potter, Mayor of the City of Carmel, hereby declare September 2023, as Childhood Cancer Awareness Month in the City of Carmel-by-the-Sea, and do hereby honor American Cancer Fund for Children and Kids Cancer Connection for their outstanding support to our community and acknowledge the organization’s contributions to Childhood Cancer Awareness Month.

September 12, 2023

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Dave Potter, Mayor

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	July 31, 2023 Special Meeting Minutes, and August 1, 2023, Regular Meeting Minutes

RECOMMENDATION:

Approve Draft Minutes.

BACKGROUND/SUMMARY:

The City Council routinely approves minutes of its meetings.

FISCAL IMPACT:

None.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

Attachment 1) July 31, 2023 Minutes
Attachment 2) August 1, 2023 Minutes

CITY COUNCIL
SPECIAL MEETING MINUTES

July 31, 2023

CALL TO ORDER AND ROLL CALL

Mayor Dave Potter called the meeting to order at 4:30 p.m.
Roll Call: Councilmembers Jeff Baron, Alissandra Dramov, Karen Ferlito, Mayor Pro Tem Bobby Richards, and Mayor Potter were all present.

CLOSED SESSION

City Attorney Pierik read the closed session agenda titles.

1. CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6
   Agency designated representatives: City Administrator Chip Rerig, Katy Suttorp (Burke, Williams & Sorensen), Interim Public Safety Director Jeff Watkins
   Employee organization: Carmel Fire Ambulance Association

2. Public Employee Performance Evaluation (Government Code § 54957) City Attorney

3. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION
   Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (One potential case).

PUBLIC APPEARANCES

None

ADJOURNMENT

Council adjourned open session at 4:31 pm.

SIGNED: ATTEST:

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Mayor Potter, Mayor Nova Romero, MMC, City Clerk

CITY COUNCIL
REGULAR MEETING MINUTES

August 1, 2023

CALL TO ORDER AND ROLL CALL
Mayor Dave Potter called the meeting to order at 4:30 p.m.
Roll Call: Councilmembers Jeff Baron, Alissandra Dramov, Karen Ferlito, Mayor Pro Tem Richards, and Mayor Dave Potter were all present.

PLEDGE OF ALLEGIANCE
City Administrator Rerig led the pledge of allegiance.

PUBLIC APPEARANCES
Michael McWalters spoke about concerns over residents who have electromagnetic radio sensitivity and urged Council to adopt a strong wireless Ordinance to protect vulnerable residents. Melanie Billick thanked Chip and staff for the appointment of the new City Forester. Jo Todd thanked Council for extending the post office lobby hours for the public.

ANNOUNCEMENTS
City Administrator Rerig - announced that there will be an Urban Forest Master Plan questionnaire sent out to residents soon. He also announced the Planning Commission meeting on August 9th to review the plans for the Ulrika Plaza project, and a special meeting on August 23rd regarding the wireless telecommunications draft ordinance. He added the Coastal Commission will be reviewing the City's Timehsare Ordinance at a meeting on August 10th in Oxnard. He thanked Police Chief Wakins to his many hours of work he spent working with FEMA attempting to get reimbursement from the damages caused by the winter storms.

City Attorney Pierik - announced that there are no reportable actions from closed session yesterday, except that closed session item #3, City Attorney Evaluation, will be continued at the end of today's open session.

Councilmembers - none

CONSENT AGENDA

Item #4 was pulled by Councilmember Ferlito, Item # 5 pulled from consent by Councilmember Dramov.

Public comment: none

Motion by Councilmember Ferlito to approve consent agenda items 1, 2, 3, 6, & 7, seconded by Councilmember Baron, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmembers Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 1 - July 11, 2023 Regular Meeting Minutes, and July 17, 2023, Special Meeting Minutes

Item 2 - June 2023 Check Register Summary

Item 3 - June 2023 Monthly Reports

Item 6 - Resolution 2023-079, authorizing a Free Use Day of the Sunset Center Theater and Lobby for the Carmel Sunset Rotary Club Art Auction Event

Item 7 - Resolution 2023-080 to designate 2023 Holiday Closure from December 22 – December 29, 2023

ITEMS PULLED FROM CONSENT:

Item 4 - Resolution 2023-077, authorizing the City Administrator to execute a Construction Contract with Bowen Engineering and Environmental, in an amount, including a 10% contingency, of $139,700, for the Water Well Decommissioning, and Tank and Pump House Removal Project in the Mission Trails Nature Preserve

Councilmember Ferlito commented that she is glad to see this long awaited project move forward with approval of the contract to remove the decommissioned well, tank, and pump house from Mission Trail Nature Preserve.

Public comment: none.

Motion by Councilmember Baron to approve Resolution 2023-077, seconded by Mayor Pro Tem Richards, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmembers Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 5 - Resolution 2023-078 authorizing the City Administrator to execute an agreement with the Monterey County Convention and Visitors Bureau (MCCVB) for Destination Marketing for the term of July 1, 2023 to June 30, 2024 in an amount not to exceed $204,030

Councilmember Dramov commented that she is not in favor of the current contract proposed and marketing strategy by the MCCVB which attracts the wealthiest tourists and drives up costs.

Public comment: A resident commented that the contract amount for marketing in Carmel is too high and he would like to have the contract reviewed in the future.

Motion by Mayor Pro Tem Richards to approve Resolution 2023-078, seconded by Councilmember Baron, and approved 4-1-0-0 by the following roll call vote:
AYES: Councilmembers Baron, Ferlito, Richards, and Mayor Potter
NOES: Councilmember Dramov
ABSENT: None
ABSTAIN: None

ORDERS OF BUSINESS

Item 8 - 6th Cycle Draft Housing Element (2023-2031) Update

Principal Planner Marnie Waffle gave a presentation on the updates to the 6th Cycle Draft Housing Element that were made per Council's direction at the July 11th City Council meeting.

Public Comment:
David O'Neil said that many residents are concerned about the accessory dwelling unit (ADU) pre-approved plans idea and hopes that the public will be able to give input on this before adopting an ADU plan. Melanie Billick said that the planning staff have been so overwhelmed with projects they have not been able to complete an ADU Ordinance or plan. Nancy Twomey spoke on behalf of the Carmel Residents Association (CRA) agreed with the comments made about maintaining the City's charm when Council considers an ADU plan. Neal Kruse said that much of staff time is being taken up by administering the state mandated guidelines and pushing them on the residents which forces the public to take a defensive approach.

Council thanked Marnie Waffle for her work on this item and for the thorough and clear presentation of the item. Councilmember Baron thanked Councilmember Ferlito and Mayor Pro Tem Richards, Planning Staff, and residents for all of their hard work on drafting the 6th Cycle Housing Element plan. Councilmember Dramov said she does not support approval and the City should be doing more to fight back against state mandates.

Motion by Councilmember Ferlito to direct staff to submit the updated Housing Element to the State, seconded by Mayor Pro Tem Richards, and approved 4-1-0-0 by the following roll call vote:
AYES: Councilmembers Baron, Ferlito, Richards, and Mayor Potter
NOES: Councilmember Dramov
ABSENT: None
ABSTAIN: None

Item 9 - Receive a report on non-compliant outdoor seating and amenities at restaurants and wine tasting shops that still remain after the City's Proclamation of a Local Emergency was rescinded, and provide direction to staff on how it should be addressed

Community Planning and Building Director Swanson gave a presentation to Council on the survey conducted of businesses with outdoor dining and what compliance issues are in violation since the Council repealed the emergency resolution that allowed for temporary outdoor seating. He asked for Council to provide direction to staff how to move forward.

Public comment:
Jeff Blair, Jack Galante, and Kim Stemler urged Council to allow for continued outdoor wine tasting. Anthony Carnazzo voiced support for outdoor dining and said that it is part of Carmel's charm. Kristin Rideout asked council to allow continued outdoor dining and amenities while restaurants apply for a use permit and are going through the permitting process which can take several months. Karyl Hall spoke in favor of continuing the outdoor dining especially to allow people to bring their dogs to eat outdoors. Parker Logan said that the vibe of council is authoritarian.

Council discussion resumed.

Council consensus direction to staff:
Restaurants:

- Allow restaurants to temporarily keep additional outdoor seating while they are applying for a use permit.
- Complete Use Permit application (including paying fees) must be received by Dec. 31, 2023.
- For those not applying, all unpermitted seating must be removed by Dec. 31, 2023. Failure results in all unpermitted seating being removed immediately.

Wine tasting shops:

- Put off a decision at this time and discuss at the August 30th special meeting to discuss Council priorities.

Amenities:

- Begin strict enforcement of non-compliant outdoor amenities (heaters, lighting, signage, outdoor speakers) immediately.

FUTURE AGENDA ITEMS
Councilmembers Baron and Ferlito requested a future item to discuss street addresses.

ADJOURNMENT
Council adjourned open session at 6:15 pm.

Council moved to closed session for a continuation of item #3 from the July 31st meeting. Council adjourned from closed session at 7:15 pm.

SIGNED: ATTEST:

Mayor Potter, Mayor Nova Romero, MMC, City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	July 2023 Monthly Reports

RECOMMENDATION:

Review and receive monthly reports.

BACKGROUND/SUMMARY:

This is a monthly series of reports:

- City Administrator Contract Log
- Community Planning and Building Department Reports
- Police, Fire, and Ambulance Reports
- Public Records Act Requests
- Public Works Department Reports

FISCAL IMPACT:

N/A

PRIOR CITY COUNCIL ACTION:

Monthly review and approval

ATTACHMENTS:

Attachment 1) City Administrator Contract Log
Attachment 2) Community Planning and Building Department Reports
Attachment 3) Police, Fire, and Ambulance Reports
Attachment 4) Public Records Act Requests
Attachment 5) Public Works Department Reports

City Administrator Contract Log
FY 2023-24
JULY 2023

Date entered Into	Contractor	Contract Amount	Purpose
FY 23-24	AIMP	$24,500.00	Recording City Meetings
FY 23-24	ONO CONSULTING, LLC	$25,000.00	On call Arborist Services

CITY OF CARMEL-BY-THE-SEA
Monthly Report

Community Planning and Building Department

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Leah Young, Administrative Coordinator
SUBMITTED ON:	August 9, 2023
APPROVED BY:	Brandon Swanson, Director of Community Planning and Building

JULY 2023 – DEPARTMENT ACTIVITY REPORT

I. PLANNING PERMIT APPLICATIONS:

In July 2023, **41** planning permit applications were received.

II. BUSINESS LICENSE APPLICATIONS:

In July 2023, **12** business license applications were received.

III. BUILDING PERMIT APPLICATIONS:

In July 2023, **54** building permit applications were received.

IV. CODE COMPLIANCE CASES:

In July 2023, **12** new code compliance cases were created.

V. TRANSIENT RENTAL COMPLIANCE CASES:

In July 2023, **2** new transient rental compliance cases were created.

VI. ENCROACHMENT PERMIT APPLICATIONS:

In July 2023, **24** encroachment permit applications were received.

VI. YEAR-TO-DATE TRENDS

Table 1 includes the following July 2023 totals: planning and building permit applications, code compliance and transient rental compliance cases, business licenses, and encroachments. July 2023 totals are provided alongside July 2022 totals for comparison.

Compared to the same time period in the year 2022, Table 1 denotes the following percentage changes in the year 2023:

- Planning Permit Applications – increase of 4.24%
- Business License Applications – increase of 53.33 %
- Building Permit Applications – increase of 30.28%
- Code Compliance Cases – decrease of 28.86%
- Transient Rental Cases – decrease of 8.70%
- Encroachment Permit Applications – increase of 6.67%

Table 1. Permit Application Totals

	PLANNING	BUSINESS LICENSES	BUILDING	CODE COMPLIANCE	TRANSIENT RENTAL COMPLIANCE	ENCROACHMENTS
2022 YTD Totals	226	30	284	149	23	150
2023 YTD Totals	236	46	370	106	21	160
YTD % Difference	+4.24%	+53.33 %	+30.28%	-28.86%	-8.70%	+6.67%

Planning Permit Report

07/01/2023 - 07/31/2023

Permit #	Permit Type	Project Description	Address/Location	Date Received	Date Approved	Status
23235	Design Study	Replace existing fence on Carmelo and 12th Ave sides of property at 4' tall. Replace existing walkway from corner of Carmelo & 12th to front door.	SW Corner of Carmelo & 12th	7/31/2023		In Review
23234	Design Review	Retractable, demountable awning to be installed at the north side of the outdoor dining area of Grasing's restaurant.	NW Corner of Mission & 6th	7/27/2023		In Review
23233	Design Review	Replacement of non-operational wood windows to match precisely 2nd floor windows facing Ocean Ave. Peacock tile mosaic and 18" x 18" tile accents over 2 doors, and change of small tile colors to match peacock mosaic.	6th Avenue 2 SW of Mission	7/27/2023		In Review
23232	Design Study	Maintenance & repair of (e) Fence & Gate exhibiting extensive rot and damage	Camino Real 4 SW of Ocean	7/26/2023		In Review
23231	Banners	Installation of 10 double banner poles along Ocean from Junipero to Monte Verde and two double banners at Sunset Center for the Monterey Symphony from: Sept 29, 2023 - Oct 10, 2023 Nov 10, 2023 - Nov 21, 2023 Feb 9, 2024 - Feb 20, 2024 March 8, 2024 - Mar 19, 2024 April 12, 2024 - April 23, 2024 May 10, 2024 - May 21, 2024.	Ocean from Junipero to Monte Verde	7/26/2023		In Review
23230	Landscape Plan Check/Inspection	Comply with City condition of approval for permit 210187, encroachment permit to install grease interceptor for Foray restaurant in City right of way, by replacing existing City landscaping with new landscaping.	NE Corner of San Carlos & 5th	7/25/2023		In Review

23229	Design Study	Revise pathway plan, replace walkway and driveway with Calstone pavers, exterior courtyard door replaced with reused existing window, and revise location of exterior lights.	Guadalupe 4 SW of 2nd	7/25/2023		In Review
23228	Historic Evaluation	Phase one historic evaluation.	NW Corner of Casanova & 8th	7/25/2023		In Review
23227	Historic Evaluation	Phase 1 initial historic evaluation.	Casanova 4 SE of 7th	7/25/2023		Closed
23226	Design Study	DEFERRED MAINTENANCE WORK, REINSTALL CAP & PAN CLAY TILE ROOF, REPLACE (E) WINDOWS & EXTERIOR DOORS; PATCH & REPAIR ROTTED AREAS; INTERIOR REMODEL OF KITCHEN & BATHROOM; ADD GABLE END ROOF OVER (E) GARAGE; NEW CHIMNEY CAP; RE-WORK (E) WALKWAYS & PATIO; ADD GAS FIRE PIT & BBQ AREA TO (E) PATIO	Mission 3 NE of 8th	7/24/2023		In Review
23225	Notice of Exempt Work	Repair leaking window and dry rot at rear garage/studio. Repair cracked tile and water proof to prevent water intrusion. All repair work is non-bearing and non-structural.	Torres 2 SE of 3rd	6/27/2023	7/21/2023	Approved

23224	Design Review	1) Balcony Walls: Upon further testing, the existing balcony walls for Rooms 8-16 need to be rebuilt to meet current structural requirements. Owner plans to demo existing slanted wall and rebuild new straight wall in its place to match all other existing walls. Owner also plans to increase height of new wall to meet current code requirement of 42" with metal guardrail to match the metal guardrails of all other exterior balconies in the building. No change to the plan to stucco the new exterior balcony walls to match the rest of the hotel walls. 2) Balcony Screens: Replace previously demolished privacy screens between balconies of rooms 8-16. No change to privacy screens originally planned for renovation; revised plans to rebuild balcony walls to meet structural requirements illustrated in original design intent for the balcony screens. 3) Border Fencing Along 5th Ave: Remove steel elements of fencing, replace with wood. 4) Minor changes in 1-3 above would have no material impact on visual aspects of hotel as depicted in original renderings submitted with application.	NE Corner of San Carlos & 5th	7/24/2023	7/28/2023	Approved
23223	Design Study	Installation of a property fence and landscape lighting	Casanova 9 NW of Ocean	7/19/2023		In Review
23222	Design Study	REMOVAL OF EXISTING FIREPLACE, CHIMNEY, FLUE AND ASSOCIATED CONNECTION TO EXISTING STRUCTURE. ADDING A NEW ACCESS DOOR IN EXISTING LOCATION AND A NEW DOOR ON OPPOSITE SIDE OF WALL AS WELL AS A NEW NON-VENTED ELECTRIC FIREPLACE. ALL WORK IS NOT VISIBLE FROM THE PUBLIC RIGHT-OF-WAY	4th 2 SE of Torres	7/19/2023		In Review

23221	Design Study	1. HOME ADDITION AND REMODEL INCLUDES ADDING 63 SQFT FRONT ADDITION, 300 SQFT SECOND STORY, AND 231 SQFT UNCOVERED BALCONY ON THE SECOND FLOOR. 2. ADD 200 SQFT DETACHED GARAGE. 3. ADD 15FT OF 4FT TALL FENCE AND APPROX. 16FT OF 6FT FENCE TO TIE IN EXISTING FENCE. 4. WIDENING THE DRIVEWAY.	Ocean 4 NE Guadalupe	7/19/2023		In Review
23220	Variance	Plate height variance. Associated Permit DS 23-211.	Mission 2 SE of 13th Ave	7/13/2023		In Review
23219	Design Study	Removal of existing fireplace, chimney, flue, and associated connection to existing structure. Addition of a new access door in existing location and a new door on opposite side of wall as well as a new non-vented electric fireplace. All work is not visible from the public right of way.	4th 2 SE of Torres	7/18/2023		Closed
23218	Design Study	Property fence and landscape lighting.	Casanova 9 NW of Ocean	7/10/2023		In Review
23217	Design Study	Detached single-car garage; 250 SF in front setback.	Torres 4 NE of 6th	7/14/2023		In Review
23216	Design Study	Remodel of an existing single-story Single-Family Dwelling and addition of a second story consisting of a Master Bedroom and Bathroom.	Casanova Street 4 NE of 8th Avenue	7/12/2023		In Review
23215	Design Study	Property fence and landscape lighting				In Review
23214	Design Study	Roof extension	Carmelo 6 NW of 4th	7/19/2023		In Review
23213	Design Study	Remodel of existing single family residence. Remodel kitchen, entry, 2 baths and bedroom/closet area. Remodel entry stairs. Replace driveway. New roofing and siding. Add 3 skylights.	Lincoln 5 NE of 3rd	7/14/2023		In Review
23212		Installation of roof mounted 8.40 kW Solar PV System and Battery System..	San Carlos St., 3 Southwest of 10th Ave			Closed

23211	Design Study	Remodel, Addition and detached garage replacement. Associated permit VA 23-220.	Mission 2 SE of 13th Ave	7/13/2023		In Review
23210	Design Study	Request for a time extension for previously approved DS 21-224 & VA 21-225.	NW Corner of Santa Fe & 6th	7/12/2023		In Review
23209	Historic Evaluation	Historic Evaluation. Associated Permit DS 23-147 (Rodriguez). THE OWNERS WOULD LIKE TO SEEK PLANNING APPROVAL FOR WORK DONE TO AN EXISTING 1,325 SQFT, SINGLE STORY, THREE BEDROOM, TWO BATHROOM RESIDENCE. WORK TO INCLUDE APPLYING STUCCO AND STONE TO AN EXISTING BRICK CHIMNEY.	Camino Real 4 NW of 11th	7/6/2023		In Review
23208	Design Study	Construction of a new 1,600-SF, two-story house and detached 200-SF garage on a 4,000-SF vacant lot. Construct new 4' H grape stake fence and gate across front of property, construct new 4' to 6' H vertical board fences along north side yard and rear yard. Construct new stone patio, stone walkway, and outdoor gas fire pit in front yard. New landscaping, per sheet L 1.0.	Casanova 2 NW of 13th	7/5/2023		In Review
23207	Preliminary Review - Planning Commission	The purpose of this preliminary review application is to get high level input from your staff, as well as Planning Commission, on property owner's entire plan for enhancement of the Carmel Resort Inn property. There will be a total of 3 separate applications: 1. Design Review 2. Use Permit amendment 3. Lot Line Adjustment	Block 17, multiple lots on Carpenter & Guadalupe	7/10/2023		In Review
23206	Design Study	Construction of a new Single Family Dwelling with attached Garage, consisting of a Main Floor, Upper Floor and Basement.	Guadalupe 4 NE of 2nd	7/3/2023		In Review
23205	Design Study	Construction of a new Single Family Dwelling with attached Garage, consisting of a Main Floor, Upper Floor and Basement.	Guadalupe 5 NE of 2nd	7/3/2023		In Review

23204	Sign	3 square feet (18 x 24") external wooden double-sided blade sign with gold Surround Art Gallery name on both sides. The wood thickness is 1 inch. The sign will be located on designated space with existing hanging fasteners in compliance with the City's requirments. The pictures of the sign's look are attached to this application.	NW Cornor of Mission and 7th, Unit A6	6/30/2023	7/20/2023	Approved
23203	Historic Evaluation	Owner intends to sell property and is optimistic that is is deemed NOT historic for the sale.	Carmelo 3 NW of 12th	6/29/2023		In Review
23202	Design Study	This approval of Design Study (DS 23-202, Krugler) authorizes amendments to existing Design Study Approvals (DS 21-250; DS 22-304) for alterations to an existing single-family residence located on Crespi Avenue 9 southeast of Mountain View in the Single Family Residential (R-1) District with an active building permit (BP 21-476). The modifications approved under this Design Study include: 1. Change in the approved exterior paint color of the residence to "Agreeable Grey" by Sherwin Williams. No changes to the color of the trim, or other materials are proposed. Alterations not expressly listed in this authorization are not permitted. The project shall be consistent with the plans application materials dated approved by Community Planning & Building Department on July 19, 2023, unless modified by the conditions of approval.	Crespi 9 SE of Mountain View	7/6/2023	7/19/2023	Approved
23201	Design Study	Renovation of home and garden	Lincoln 4 NW of Santa Lucia	7/6/2023		In Review
23200	Design Study	Solid copper 9" spread path light. LED lamps. Dark sky approved.	Monte Verde 4 SW of 7th	7/5/2023		In Review

23199	Banners	Installation of 5 double-sided banner poles for 46 days from Aug 3, 2023 - Sept 18, 2023 for the Addams Family & Outdoor Forest Theater.	Ocean from Junipero to Monte Verde	7/5/2023	7/10/2023	Approved
23198	Pre-application Review - Staff	CUP/Coastal Permits for reconstruction of Pine Inn Commercial Parking Structure, including: converting 21 surface parking spaces to 21 covered and underground parking spaces; consolidation of (18) existing Pine Inn hotel rooms down to (9) and transferring (7) rooms to the new structure on Lots 18 and 20 along with creating (1) workforce housing unit.	NE Corner of Monte Verde and Sixth Ave.	7/3/2023		In Review
23197	Design Review	Repair Cottage windows, including selective demolition, removal and replacement of window components, including sashes, muntins, mullions, etc. See attached narrative for additional information.	NEC San Carlos & 10th	4/7/2023		In Review
23196	Design Study	Partial Exterior Remodel	San Antonio 2 NW of 11th	7/3/2023		In Review
23195	Historic Evaluation	Initial Historic Evaluation	Forest Rd 5 SW Ocean	7/10/2023		In Review

Total Records: 41 **8/4/2023**

Business License Report

07/01/2023 - 07/31/2023

Entity #	Application Type	Business Name	Business Description	Location	Date Received	Date Approved	Status
23046	Ownership Change	Esperanza Carmel Commercial, LLC, Wagner Building,	Commercial Property	Lincoln 3 SW of Ocean	7/27/2023		Pending Assignment
23045	Ownership Change	Esperanza Carmel Commercial, LLC, Wagner Building, Transient Rental	Short term rental unit	Lincoln 3 SW of Ocean	7/27/2023		Pending Assignment
23044	Location Change	Natalie Baroni	Retail of women's fashion and accessories	Carmel Plaza	7/26/2023	7/28/2023	Approved
23043	Ownership Change	Court of the Fountain	Commercial Property Management	NW Corner of Mission & 7th	7/25/2023		In Review
23042	Ownership Change	Morgan Court	Commercial and residential long-term leasing	Lincoln 4 NE of 7th	7/24/2023		In Review
23041	Ownership Change	A.W. Shucks	Food and beverage service	Ocean 2 SW of San Carlos	7/18/2023		In Review
23040	Ownership Change	Rise and Roam Bakery and Pizzeria	Bakery and pizzeria	NE Corner of 7th Avenue & Mission Street	7/13/2023	7/28/2023	Approved
23039	New Business	Inspired Muse	Retail: Women's apparel, gifts, and accessories	SWC San Carlos and 7th, Hampton Ct, Unit #3	7/11/2023	7/28/2023	Approved
23038	New Business	Daisy Rose Gallery	Multi-artist Gallery	Dolores between 5th & 6th	7/10/2023	7/28/2023	Approved
23037	New Business	Nematic Gallery	Multi-artist Gallery	Dolores 6 NE of 6th	7/12/2023	7/31/2023	Approved
23036	New Business	WMV VISVIM CARMEL	Mens and Womens Clothing, shoes, accessories retail store	San Carlos Street 3 NW of 6th Avenue	7/3/2023		In Review

23035	New Business	ATI	CLOSED THIS APPLICATION TODAY. Emailed applicant with instructions to apply for In-and-About BL through Admin. Dept.	2541 Seaboard Avenue San Jose CA 95131	7/3/2023		Closed

Total Records: 12 **8/4/2023**

Building Permit Report

07/01/2023 - 07/31/2023

Permit #	Date Submitted	Date Approved	Project Description	Valuation	Permit Type	Property Location
230368	8/1/2023		Demolition and replacement of existing entry stairs	16,000	Building	Casanova 3 NW of 10th
230367	7/28/2023	7/28/2023	Remove and replace craked tile flooring in master bath, remove and replace countertops in master bathroom, repaint master bath, remove carpet in master bedroom and replace with hardwood flooring.	0	Exempt Work	26152 Landera Drive
230366	7/27/2023		Installation of a demountable, retractable awning at the north side of the outdoor dining area of the restaurant.	21,800	Building	NW Corner of Mission & 6th
230365	7/27/2023		New 250 square foot detached Garage	70,000	Building	NE Corner of San Carlos & 13th
230364			VOID	0		
230363	7/26/2023		Add key actuated faucet inline to existing tab-actuated faucet.	0	Exempt Work	Scenic Pathway at 13th Access
230362	7/26/2023		Construction of a new 220 sf detached carport.	0	Building	Santa Rita 2 NW of 4th
230361	7/26/2023		731 SF ADU conversion/addition	0	Building	Santa Rita 2 NW of 4th
230360	7/26/2023		Remove an (e) glass solarium and replace with new roofing, walls, windows, and skylights to match existing.	37,000	Building	Monte Verde 2 SE of 12th
230359	7/26/2023		Renovation to an existing 1468 sf single family residence including a 254sf addition.	750,000	Building	Santa Rita 2 NW of 4th
230358	7/25/2023	7/25/2023	Exterior repainting of the property.	0	Exempt Work	Dolores 3 SE of 3rd
230357	7/24/2023	7/25/2023	Installation of a 6' x 25' interior privacy fence outside of the front setback. CONDITION: 811 TICKET REQUIRED TO BE ON SITE PRIOR TO EXCAVATION.	0	Exempt Work	SW Corner of San Carlos & 12th

230356	7/24/2023		Fix a french drain	8,000	Plumbing	Lobos 2 SW of Valley Way
230355	7/24/2023	7/24/2023	Remove kitchen cabinets, remove kitchen and dining room flooring.	0	Exempt Work	Perry Newberry 3 NW of 5th
230354	7/24/2023		Demolition of existing storage building and garage. Construction of new single car garage.	75,000	Building	SW Corner of Casanova and 11th
230353	7/24/2023		Interior improvements at utility room and garage, including relocating washer and dryer, adding a sink and a toilet.	30,000	Building	Torres 2 NE of 5th
230352	7/24/2023		Peacock tile mosaic & 18"x18" tile accents over 2 doors, and change of small tile colors to match peacock mosaic	3,800	Exempt Work	6th 2 SW of Mission
230351	7/24/2023		Replacement of non-operational wood windows to match precisely existing 2nd floor windows facing Ocean Ave, field-verified dimensions for windows 6th St side	38,000	Exempt Work	6th Ave 2 SW of Mission St
230350	7/21/2023	7/28/2023	The existing 4 (or more) foot fence is being replaced with a 3 foot fence. Two gates to be replace at the same height as the fence. 6ft fence to be replaced in back. House will also be repainted the same color as the existing color. Eaves, doors, trim, windows, garage door, railings and decks will be painted with Sherwin Williams Coastal Plain (SW 6192). House walls, skirting, step raisers to be painted Sherwin Williams Creamy (SW 7012).	0	Exempt Work	NW Corner of Casanova & 12th
230349	7/20/2023		The addition of a new deck off the primary bedroom; • The addition of a new deck off the dining room; • The addition of a new hot tub; • The removal of the existing driveway and replacement of a new tire-track driveway; • Removal of non-conforming site coverage throughout; • Interior bathroom remodel; • New landscaping; • Site drainage improvements.	32,125	Building	Perry Newberry 2 NW of 5th

230348	7/20/2023	7/21/2023	Sheet rock removal in rooms 1,3,5,22,24,26 and installation of wood access panels to cover the openings. Exploratory concrete retaining wall core drilling for structural testing and rebar x-rays in the same locations.	2,000	Demolition	San Carlos 2 NW of 4th
230347	7/20/2023		Installation of rear garden landscaping and irrigation, new 240sf deck at the rear of property, new fence along the property line.	20,000	Building	Monterey 2 SW of 2nd
230346	7/20/2023	8/2/2023	Remove (e) comp shingles and replace with new CertainTeed Presidential comp shingles in color "Country Gray".	28,000	Roofing	Torres 3 SE of Mountain View
230345	7/20/2023		Partial re-roof: tear off (e) wood shake and install DaVinci multi width shake, straight course pattern in color "Tahoe".	42,438	Roofing	Monte Verde 6 SW of 12th
230344	7/19/2023	7/20/2023	Replace existing redwood fence at southern boundary with new redwood fence. New fence will match existing build details. Post to be redwood 4x4 with treated bottoms set with concrete into 10" x 32" min holes with 2" drain rock bottoms at all taller fence sections that dont exceed 7'6". Fence hole depths within 15' of East boundary not to exceed 4' in height. (See pics)	16,000	Exempt Work	Carmelo 5 NW of 4th
230343	7/19/2023		Kitchen and bathroom remodels including doors and window replacements. Update electrical plumbing and electrical throughout, decking, new painting, and fence.	190,000	Building	Camino Real 3 SW of 4th
230342	7/19/2023		Install a 6.08 kW grid connected to solar PV system and 10.5 kW backup battery system.	30,000	Electrical	Monte Verde 3 SE of 11th
230341	7/18/2023	7/31/2023	Replace driveway with new concrete paver driveway, repair and reface existing concrete stairs with Carmel stone, rebuild existing wooden railing at the front door and replace concrete pathway with concrete pavers.	10,000	Building	Junipero 3 SE of 2nd
230340	7/17/2023	7/17/2023	Remove 150sf of wood shingle roof and install new wood shingles to repair.	5,200	Roofing	Torres 3 SE of 3rd

230339	7/17/2023	7/28/2023	Remodel existing bathroom and walk-in closet to add a 2nd bathroom, reduce the size of the existing bathroom and create a smaller walk-in closet.	25,000	Building	SE Corner of Carpenter & 4th
230338	7/17/2023	7/17/2023	Manual transfer switch install.	6,000	Electrical	NW Corner of Carpenter & 4th
230337	7/17/2023	7/17/2023	Remove approximately 10' of exterior cedar shake shingles and related deck tile to explore leak issue.	500	Demolition	Monte Verde 3 SW of 5th
230336	7/14/2023	7/19/2023	Erect a 6' grapestake side-yard fence along the property line shared by 010-165-044 and 010-165-043. There is an existing fence along the property line within the 15' setback, therefore no work will be done within the setback zone.	0	Exempt Work	NW Corner of San Carlos & Santa Lucia
230335	7/14/2023		Construction of new ADU on parcel containing an existing SFD.	175,000	Building	SW Corner of Casanova and 11th
230334	7/14/2023	7/17/2023	Retroactive authorization for single shower stall installation in baster bathroom.	0	Plumbing	Carpenter 3 NW of 3rd
230333	7/14/2023		Installation of roof mounted 8.40 kW Solar PV System and Battery System	68,546	Electrical	San Carlos 3 SW of 10th
230332	7/13/2023		Tree vs. House	110,000	Building	San Carlos 3 SW of 1st
230331	7/12/2023	7/12/2023	Remove and replace existing 1.28 GPF with two 0.8 GPF UHET in the same location to come into MPWMD requirements.	0	Exempt Work	NE Corner of Guadalupe & 6th
230330	7/12/2023	7/13/2023	Tear off (e) wood shake roof and replace with new 30 lb felt under Certainteed Presidential TL shingles in color "Country Gray".	21,650	Roofing	SW Corner of Camino Real & 10th
230329	7/12/2023	7/27/2023	Installation of new EV charger 60amp/240volt off 125 amp panel.	2,100	Electrical	Guadalupe 3 SW of 5th
230328	7/12/2023		Addition of a solar PV system to standing seam metal roof and battery storage in the garage.	21,281	Electrical	Lincoln 5 SW of 10th
230327	7/12/2023	7/27/2023	Remove and replace existing windows in-kind, to be Sierra Pacific windows.	0	Exempt Work	San Carlos 3 NE of 13th
230326	7/12/2023	7/12/2023	Replace existing water heater with new 30 gallon water heater.	2,000	Plumbing	Monte Verde 2 SE of Ocean

230325	7/12/2023		Replace two toggle switches that control the heater and fan with tmers that will shut off system if left on.	500	Electrical	Monte Verde 3 SE of Ocean
230324	7/11/2023		Install roof mounted PV array 6.4 kW 14 modules and a 13.5 ESS with one battery.	10,000	Electrical	4910 Monterey St
230323	7/10/2023		Install 2 second story AC units	18,000	Mechanical	SW Corner of Mission & 7th
230322	7/10/2023	7/14/2023	Removal of two interior walls up to ceiling at dispatch office. Extend grid drop ceiling where walls were removed. Dispose of waste.	4,085	Building	SW Corner of Junipero & 4th
230321	7/10/2023		Creation of new detached accessory dwelling unit.	160,200	Building	NW Corner of Santa Fe & 6th
230320	7/7/2023	7/28/2023	At walk deck area, tear off existing tile and waterproofing system. Prime the deck and install 2 layers of Bituthene 4000 waterproof membrane. Exposed membrane seams will be sealed with Bithumastic. Once mastic sets, will cover with 1/8" asphaltic protection board. Homeonwer to provide and install floor tile.	29,705	Building	2998 Franciscan Way
230319	7/7/2023	7/7/2023	Remove rotted stuccoed arch and gate between main house and garage. Arch and gate are not structural and there is no footing below. Rebuild gate in-kid, approximately 4'x6'-6"	0	Exempt Work	Monte Verde 3 SE of 8th
230318	7/7/2023	7/10/2023	Interior cosmetic renovations to commercial space including covering the interior walls with textured black wallpaper, black carpet laying, installation of two movable stands to display art 8'x4'x1' to be located behind the windows.	0	Exempt Work	NW Corner of Mission & 7th Unit A6
230317	7/7/2023		Remove and replace all dryrotted siding and trim on exterior in preparation for paint. Replace in kind. Repair work shall not exceed 100sf.	0	Exempt Work	Monte Verde 6 SW of 10th
230316	7/7/2023		New one car Detached Garage.	70,000	Building	NW Corner San Carlos & 13th
230315	7/5/2023		Installation of 2 New tesla Powerwall 10 kW, 200A Gateway.	34,200	Electrical	NE Corner of Casanova & 10th

Code Compliance Report

07/01/2023 - 07/31/2023

Case #	Case Date	Status	Location	Problem Description	Date Received	Date Closed
23107	7/28/2023	Potential STR identified	13th 2 SW of Mission	Transient Rental	7/28/2023	
23106	7/18/2023	Open	San Carlos 2nd to 3rd	Waste receptacles in ROW	7/17/2023	
23105	7/17/2023	Open	Lincoln 3 NW of 9th	Tree cutting without permit	7/17/2023	
23104	7/21/2023	Potential STR identified	Santa Fe 3 SW of 4th	Transient Rental	7/21/2023	
23103	7/25/2023	Open	Dolores 6 NE of 7th	Demolition without a permit	7/25/2023	
23102	7/21/2023			Construction without a permit		
23101	7/13/2023	Open		Site Coverage Violation		
23100	7/10/2023	Open		Boulders in ROW		
23099	7/10/2023	Open		Portable Toilet in ROW		
23098	7/10/2023	Open		Construction Site Maintenance		
23097	7/10/2023	Open		Landscaping ROW		
23096	7/10/2023	Open				

Total Records: 12

8/4/2023

Transient Rental Report

01/01/2023 - 07/31/2023

Case #	Street	Status	Date Received	Last Status Date	Date Closed
23107	13th	Potential STR identified	7/28/2023	7/28/2023	
23104	Santa Fe	Potential STR identified	7/21/2023	7/28/2023	
23094	2nd	2nd NOV sent	6/23/2023	7/25/2023	
23093	Rio	1st NOV sent	6/21/2023	7/5/2023	
23092	Ocean	Closed	6/21/2023	7/7/2023	7/7/2023
23091	Dolores	Closed	6/22/2023	7/19/2023	7/19/2023
23061	Monte Verde	Closed	4/27/2023	7/17/2023	7/17/2023
23058	Mission	Closed	4/19/2023	6/2/2023	6/2/2023
23057	Carmelo	Closed	4/19/2023	6/2/2023	6/2/2023
23053	San Carlos	Closed	3/21/2023	6/2/2023	6/2/2023
23039	Rio Road	Closed	2/27/2023	4/17/2023	4/17/2023
23015	Carmelo	Closed	1/9/2023	2/3/2023	2/3/2023
23014	Mission	Closed	1/9/2023	1/10/2023	1/30/2023
23013	N Casanova	Closed	1/9/2023	2/3/2023	2/3/2023
23012	Mission	Closed	1/9/2023	1/27/2023	1/27/2023
23009	Santa Fe	Closed	1/8/2023	2/3/2023	2/3/2023
23008	Guadalupe	Closed	1/8/2023	1/13/2023	1/13/2023
23007	2nd	Closed	1/8/2023	1/8/2023	4/8/2023
23005	Carpenter	Closed	1/8/2023	2/3/2023	2/3/2023
23004	5th	Closed	1/5/2023	2/3/2023	2/3/2023
23003	Dolores and 1st	Closed	1/5/2023	2/3/2023	2/3/2023

Total Records: 21

8/4/2023

Encroachment Permit Report

07/01/2023 - 07/31/2023

Permit #	Permit Type	Date Submitted	Project Description	Property Location	Date Issued	Status
230160	Temp Ench	7/31/2023	Extend construction fence 13' poast west property line. eliminate 2 parking spots and utilize for staging and storing of materials.	Junipero 6 NE of 8th		In Review
230159	Temp Ench	7/27/2023	Applicant to trench, backfill, and install all underground electrical equipment and cable. PG&E to install all overhead electric work and perform hot tie in work. PM #35343447. Contact: PG&E (408) 478-1894	NW Corner of Casanova & Ocean	7/27/2023	Issued
230158	Temp Ench	7/27/2023	Lifting AC unit off roof, setting up crane in parking spaces in front of address. Total time block spots to be approximately 1 hours. Contact: Andrew Tope (831) 238-3655	Ocean 3 NW of Dolores	7/27/2023	Issued
230157	Driveway	7/26/2023	Remove and replace driveway, reduce site coverage, install new small retaining wall. Contact: Valley Hills Nursery (831) 624-3484	Carpenter 3 SW of 4th		In Review
230156	Temp Ench	7/25/2023	Closure of two parking spaces and adjacent sidewalk for blow in cellulose insulation installation. CONDITION: SIDEWALK CLOSED AHEAD SIGNS TO BE PLACED AT THE CORNERS OF SAN CARLOS AT 5TH & 6TH Contact: Christian Torrey (831) 915-8765	San Carlos 3 NE of 6th	7/25/2023	Issued
230155	Temp Ench	7/25/2023	Upgrade existing emergency power backup to 72hrs per CPUC mandate. Installation of a precast concrete pad and battery cabinet next to the existing cabinet. Contact: Nevada Alpha Construction (916) 282-8158	NE Corner of Dolores & 4th	7/27/2023	Issued

230154	Temp Ench	7/21/2023	Closure of Carmelo between Ocean and 4th to accommodate for material delivery. Contact: Level 5 Construcion (831) 682-5381	Carmelo 4 NW of Ocean		In Review
230153	Temp Ench	7/20/2023	Replace sewer lateral using pipe bursting. Contact: Rooter King (831) 394-5315	2900 Franciscan Way	7/20/2023	Issued
230152	Temp Ench	7/17/2023	2'x3' asphalt patch for CalAm job #0910. Contact: Kelsey Mayo (831) 262-1425	SW Corner of Dolores & 5th	7/18/2023	Issued
230151	Temp Ench	7/17/2023	PG&E to trench and backfill a 5'x5' bellhole for abandonment of a gas service at main. PM# 35447630. Contact: PG&E (408) 478-1894	SW Corner of Guadalupe & 4th	7/18/2023	Issued
230150	Temp Ench	7/14/2023	Excavate from power pole on Lincoln to the house to install a new gas line and underground electric, cable, and phone. Contact: Stocker & Allaire Construction (831) 595-2164	Lincoln 5 SW of 10th	7/14/2023	Issued
230149	Temp Ench	7/13/2023	Excavate a 3'x3' pit near the fence line and a 4'x5' put in the asphalt to renew a 1" water service. Contact: West Valley Construction (408) 640-8913	4th 115' West of Junipero	7/17/2023	Issued
230148	Temp Ench	7/12/2023	Trench for new electrical service from pole to house. Contact: Edgars Plumbing Inc (831) 601-5557	Lincoln 2 NW of 13th	7/14/2023	Issued
230147	POD	7/12/2023	Placement of a 8x8x16 moving pod parallel to the street. Contact: Roberta Anderson (831) 238-7341	San Carlos 3 SW of Vista	7/14/2023	Issued
230146	Temp Ench	7/11/2023	Trench for PG&E to lay gas line. Contact: Rooter King (831) 394-5315	Mission 3 SW of 13th	7/17/2023	Issued
230145	Temp Ench	7/10/2023	Blanket encroachment permit for all work related to on-call tree services for Tope's Tree Service, Community Tree Service, and West Coast Arborists. Encroachment for pruning, removal, planting, and watering of trees on city-owned properties.	All City-Owned Properties	7/10/2023	Approved
230144	Temp Ench	7/7/2023	Replace sewer lateral using pipe bursting. Contact: Rooter King (831) 394-5315	Monte Verde 3 SE of 3rd	7/12/2023	Issued

230143	Temp Ench	7/7/2023	remove and replace 50' of 4" sewer drain 7' deep in the street. Will install a 2 way clean out and backwater valve.	Scenic 3 SE of Ocean	7/25/2023	Issued
230142	Driveway	7/7/2023	Remove asphalt driveway section and walkways, replace with pavers, add channel drain at garage and connect to pop up emitter in front yard. Contact: System Pavers (510) 401-5310	Junipero 5 NE of 8th		In Review
230141	Temp Ench	7/7/2023	Temporary parking for concrete pours. Contact: Masterwork Builders (831) 233-1465	Casanova 4 SW of 4th	7/12/2023	Issued
230140	Temp Ench	7/6/2023	PG&E to trench and backfill all. PG&E to remove existing overhead temp service. PG&E to install TPX underground service in PG&E install duct. PG&E to replace joint pole and install overhead transformer. PM #35399477. Contact: PG&E (408) 478-1894	SE Corner of Monte Verde & 2nd		In Review
230139	Temp Ench	7/6/2023	Applicant to trench, backfill & install electric substructures. PG&E to reroute underground service cable and remove overhead service. PG&E to install new overhead transformer, cable #2 box & joint pole. PM $35402378. Contact: PG&E (408) 478-1894	Junipero 4 SW of 8th	7/13/2023	Issued
230138	Temp Ench	7/5/2023	PG&E to assess woodpecker damage, adjust guy wire & install missing guy marker. PM# 45863094. Contact: PG&E (408) 478-1894	Intersection of Lincoln & 4th	7/10/2023	Issued
230137	Temp Ench	7/5/2023	REPLACE 40' OF 4" SEWER DRAIN LINE 9' DEEP IN THE STREET. WILL REMOVE SADDLE AND REPLACE WITHA WYE. INSTALL BACKWATER VALVE AND 2 WAY CLEAN OUT.	SE CORNER OF SANTA FE & 5TH	7/10/2023	Issued

Total Records: 24 **8/4/2023**

CITY OF CARMEL-BY-THE-SEA
Monthly Report

Public Safety

July 2023

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Jeff Watkins, Director of Public Safety
APPROVED BY:	Chip Rerig, City Administrator
MEETING DATE:	September 12, 2023

AMBULANCE REPORT

Summary of Carmel Fire Ambulance July Calls for Service

AMBULANCE PERFORMANCE MEASURE

The performance goal for Code-3 (life-threatening emergency lights & siren) ambulance calls with a response time of 5 minutes or less from dispatch to arrival is 95%. For the month of July 2023 the ambulance was able to meet the performance measure. The response time was 100% with (0) code-3 call over 5 minutes.

33 Calls for service in CBTS - Average response time: 3:39 min.
32 Code 3 medical calls for service.

MONTEREY FIRE REPORT

Summary of Monterey Fire July Calls for Service

FIRE PERFORMANCE MEASURE

The performance goal for Code-3 (life-threatening emergency lights & siren) fire calls with a response time of 5 minutes or less from dispatch to arrival is 90%. For the month of July 2023, the fire department was able to meet the performance measure. The response time was 100%, with (0) code-3 calls over 5 minutes.

54 total calls for service in CBTS- Average response time: 3:23 min.
43 total Code-3 calls – Zero with a response time over 5:00 min.

BEACH FIRES

There was three illegal beach fire recorded during the month of July.

*The performance goal for Code-3 (life threatening emergency-lights & siren) ambulance calls with a response time of 5 minutes or less from dispatch to arrival is 95%.

RESPONSE SUMMARY REPORT BY INCIDENT TYPE
27060 CARMEL-BY-THE-SEA
Alarm Date From: 07/01/2023 To: 07/31/2023

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
300-321 Series (EMS)						
EMS call, excluding vehicle accident with injury	7/23/2023 12:17 PM	230723-MNT05717	0:00:00	6TH AVE	MISSION ST	3
EMS call, excluding vehicle accident with injury	7/12/2023 11:17 PM	230712-MNT05450	0:00:05	6TH AVE	MISSION ST	3
EMS call, excluding vehicle accident with injury	7/7/2023 5:36 PM	230707-MNT05319	0:00:35	5TH AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	7/1/2023 2:08 PM	230701-MNT05163	0:01:52	SAN CARLOS ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	7/15/2023 3:45 PM	230715-MNT05517	0:02:11	SCENIC RD	8TH AVE	3
EMS call, excluding vehicle accident with injury	7/26/2023 9:53 PM	230726-MNT05820	0:02:34	6TH AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	7/15/2023 12:00 AM	230715-MNT05505	0:03:00	8TH AVE	SAN CARLOS ST	3
EMS call, excluding vehicle accident with injury	7/8/2023 1:16 AM	230708-MNT05327	0:03:03	SAN CARLOS ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	7/22/2023 10:42 PM	230722-MNT05707	0:03:05	SAN CARLOS ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	7/31/2023 3:58 PM	230731-MNT05954	0:03:08	CARMELO ST	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	7/12/2023 10:24 AM	230712-MNT05434	0:03:12	SAN CARLOS ST	10TH AVE	3
EMS call, excluding vehicle accident with injury	7/6/2023 8:03 AM	230706-MNT05282	0:03:28	25905 JUNIPERO ST		3
EMS call, excluding vehicle accident with injury	7/8/2023 7:24 AM	230708-MNT05331	0:03:34	GUADALUPE ST	4TH AVE	3
EMS call, excluding vehicle accident with injury	7/16/2023 8:17 AM	230716-MNT05530	0:03:43	SANTA RITA ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	7/3/2023 6:57 PM	230703-MNT05216	0:03:45	2957 SANTA LUCIA AVE		3
EMS call, excluding vehicle accident with injury	7/7/2023 5:48 AM	230707-MNT05305	0:03:58	LINCOLN ST	11TH AVE	3
EMS call, excluding vehicle accident with injury	7/6/2023 7:37 PM	230706-MNT05297	0:04:00	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	7/18/2023 2:04 PM	230718-MNT05595	0:04:01	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	7/31/2023 4:57 PM	230731-MNT05957	0:04:17	LINCOLN ST	9TH AVE	3
EMS call, excluding vehicle accident with injury	7/12/2023 4:02 PM	230712-MNT05440	0:04:28	26246 DOLORES ST		3
EMS call, excluding vehicle accident with injury	7/16/2023 3:07 AM	230716-MNT05526	0:04:40	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	7/5/2023 6:55 PM	230705-MNT05273	0:04:59	4903 MONTEREY ST		3
EMS call, excluding vehicle accident with injury	7/10/2023 4:42 PM	230710-MNT05388	0:06:46	6TH AVE	MISSION ST	2
		23	**0:03:14**			
400 Series (Hazardous Material)						
Gas leak (natural gas or LPG)	7/8/2023 3:32 PM	230708-MNT05347	0:03:25	LINCOLN ST	10TH AVE	3
Heat from short circuit (wiring), defective/worn	7/10/2023 3:00 AM	230710-MNT05377	0:03:21	SANTA FE ST	2ND AVE	3
Biological hazard, confirmed or suspected	7/20/2023 4:27 PM	230720-MNT05656	0:00:00	SANTA FE ST	S MOUNTAIN VIEW AVE	2
Biological hazard, confirmed or suspected	7/28/2023 7:35 AM	230728-MNT05860	0:03:39	DOLORES ST	5TH AVE	3
Accident, potential accident, other	7/26/2023 12:51 PM	230726-MNT05805	0:04:17	CAMINO REAL ST	8TH AVE	3
		5	***0:02:56***			

Attachment 3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
500 & 600 Series (Service Calls)						
Lock-out	7/23/2023 5:58 PM	230723-MNT05728	0:02:59	MISSION ST	OCEAN AVE	3
Water or steam leak	7/29/2023 7:40 AM	230729-MNT05894	0:03:22	7TH AVE	JUNIPERO AVE	3
Water or steam leak	7/9/2023 4:19 PM	230709-MNT05367	0:03:32	SAN CARLOS ST	13TH AVE	2
Water or steam leak	7/18/2023 8:28 AM	230718-MNT05583	0:03:41	FOREST RD	S MOUNTAIN VIEW AVE	2
Water or steam leak	7/24/2023 7:50 PM	230724-MNT05754	0:04:11	MISSION ST	13TH AVE	2
Water or steam leak	7/22/2023 12:48 PM	230722-MNT05695	0:05:38	13TH AVE	MISSION ST	2
Assist police or other governmental agency	7/4/2023 4:23 PM	230704-MNT05234	0:01:32	SAN CARLOS ST	7TH AVE	3
Assist police or other governmental agency	7/11/2023 11:00 AM	230711-MNT05408	0:07:04	7TH AVE	DOLORES ST	2
Assist invalid	7/14/2023 2:39 PM	230714-MNT05493	0:02:53	8TH AVE	SAN CARLOS ST	2
Assist invalid	7/24/2023 7:17 PM	230724-MNT05750	0:03:25	CASANOVA ST	8TH AVE	3
Assist invalid	7/24/2023 7:17 PM	230724-MNT05751	0:03:25	CASANOVA ST	8TH AVE	3
No incident found on arrival at dispatch address	7/27/2023 3:14 PM	230727-MNT05839	0:02:34	JUNIPERO AVE	8TH AVE	3
No incident found on arrival at dispatch address	7/13/2023 1:43 PM	230713-MNT05460	0:03:28	OCEAN AVE	SCENIC RD	3
No incident found on arrival at dispatch address	7/29/2023 7:25 AM	230729-MNT05893	0:03:47	SANTA FE ST	6TH AVE	3
No incident found on arrival at dispatch address	7/4/2023 5:42 PM	230704-MNT05238	0:04:50	CAMINO REAL ST	8TH AVE	3
No incident found on arrival at dispatch address	7/21/2023 1:34 PM	230721-MNT05677	0:05:07	CASANOVA ST	4TH AVE	2
Smoke from barbecue, tar kettle	7/15/2023 11:58 AM	230715-MNT05513	0:04:26	SAN CARLOS ST	8TH AVE	3
EMS call, party transported by non-fire agency	7/17/2023 12:20 PM	230717-MNT05560	0:04:39	MISSION ST	8TH AVE	3
		18	***0:03:55***			
700 Series (False Alarms)						
Smoke detector activation due to malfunction	7/15/2023 8:31 AM	230715-MNT05509	0:02:42	JUNIPERO AVE	8TH AVE	3
Smoke detector activation due to malfunction	7/3/2023 9:19 AM	230703-MNT05200	0:04:45	2946 SANTA LUCIA AVE		2
Smoke detector activation, no fire - unintentional	7/23/2023 10:06 AM	230723-MNT05715	0:04:12	LINCOLN ST	7TH AVE	2
Smoke detector activation, no fire - unintentional	7/25/2023 2:12 PM	230725-MNT05768	0:04:24	LOBOS ST	1ST AVE	3
Detector activation, no fire - unintentional	7/20/2023 10:55 AM	230720-MNT05647	0:02:28	7TH AVE	SAN CARLOS ST	3
Detector activation, no fire - unintentional	7/20/2023 11:46 AM	230720-MNT05648	0:02:50	SAN ANTONIO AVE	8TH AVE	3
Detector activation, no fire - unintentional	7/27/2023 7:37 PM	230727-MNT05852	0:03:17	MONTE VERDE ST	7TH AVE	3
Alarm system activation, no fire - unintentional	7/13/2023 9:35 PM	230713-MNT05472	0:03:08	SAN CARLOS ST	7TH AVE	3
		8	***0:03:28***			

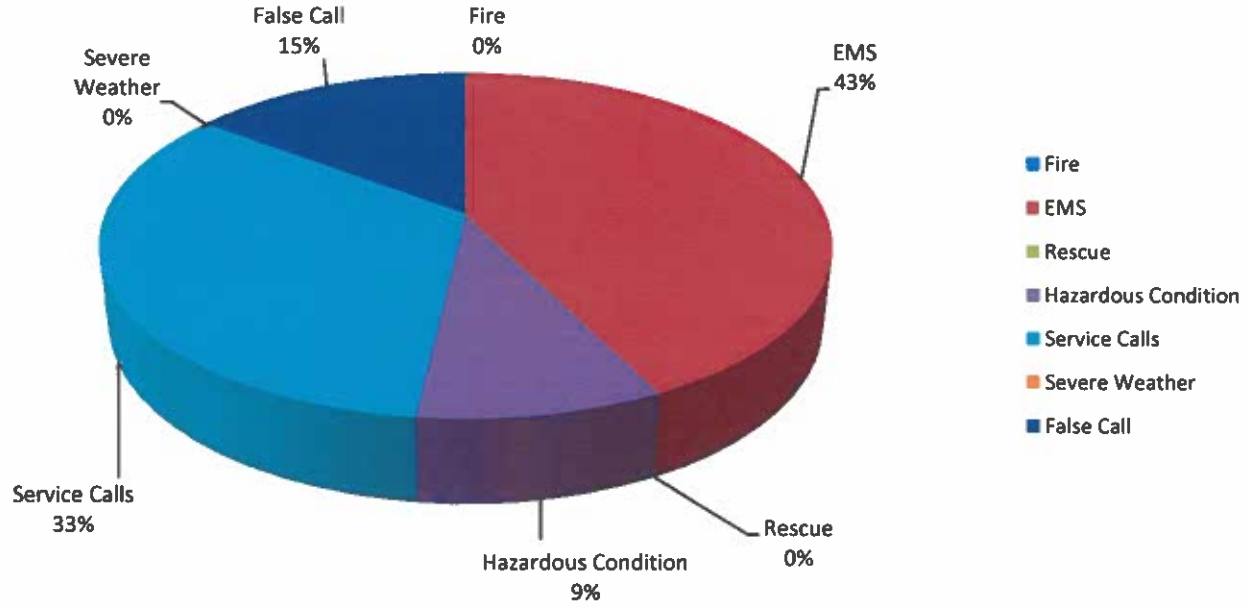
Over 5 Minute Response Times Cause of Delay: Code 3 Responses

Code 2 Calls	**11**
Code 3 Calls	**43**
Total # of Incidents	**54**
% Under 5 Minute Response Time	**100%**

Attachment 3

CARMEL-BY-THE-SEA
JULY 2023
Response Summary Report by Incident Type

Type of Call	Number	Average Response Time
Fire	0	0:00
EMS	23	3:14
Rescue	0	0:00
Hazardous Condition	5	2:56
Service Calls	18	3:55
Severe Weather	0	0:00
False Call	8	3:28
Total Responses	54	3:23



Total Code 3 Calls:	43
Response Times for Code 3 Calls ≤ 5 minutes:	100%

Attachment 3

RESPONSE SUMMARY REPORT BY DISTRICT
27015 CARMEL-BY-THE-SEA FIRE AMBULANCE
Alarm Date From: 07/01/2023 To: 07/31/2023

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
100 Series (Fires)						
Building fire	7/10/2023	230710-CFA00884	00:03:52	SANTA FE ST	2ND AVE	3
		1	**00:03:52**			
300-321 Series (EMS)						
EMS call, excluding vehicle accident with injury	7/1/2023	230701-CFA00849	00:04:29	TORRES ST	6TH AVE	3
EMS call, excluding vehicle accident with injury	7/1/2023	230701-CFA00851	00:02:09	SAN CARLOS ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	7/3/2023	230703-CFA00862	00:04:00	2957 SANTA LUCIA AVE		3
EMS call, excluding vehicle accident with injury	7/4/2023	230704-CFA00864	00:03:02	SAN CARLOS ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	7/5/2023	230705-CFA00867	00:04:48	4903 MONTEREY ST		3
EMS call, excluding vehicle accident with injury	7/6/2023	230706-CFA00868	00:03:49	25905 JUNIPERO ST		3
EMS call, excluding vehicle accident with injury	7/6/2023	230706-CFA00871	00:04:00	26010 RIDGE WOOD RD		3
EMS call, excluding vehicle accident with injury	7/7/2023	230707-CFA00873	00:04:35	LINCOLN ST	11TH AVE	3
EMS call, excluding vehicle accident with injury	7/7/2023	230707-CFA00874	00:00:07	5TH AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	7/8/2023	230708-CFA00875	00:03:10	SAN CARLOS ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	7/8/2023	230708-CFA00876	00:03:46	GUADALUPE ST	4TH AVE	3
EMS call, excluding vehicle accident with injury	7/12/2023	230712-CFA00890	00:03:38	SAN CARLOS ST	10TH AVE	3
EMS call, excluding vehicle accident with injury	7/12/2023	230712-CFA00892	00:04:19	26246 DOLORES ST		3
EMS call, excluding vehicle accident with injury	7/12/2023	230712-CFA00894	00:00:05	6TH AVE	MISSION ST	3
EMS call, excluding vehicle accident with injury	7/16/2023	230716-CFA00901	00:03:19	SANTA RITA ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	7/16/2023	230716-CFA00902	00:01:54	SAN CARLOS ST	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	7/17/2023	230717-CFA00906	00:01:46	MISSION ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	7/18/2023	230718-CFA00910	00:02:00	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	7/19/2023	230719-CFA00912	00:04:24	25057 N CARMEL HILLS DR		3
EMS call, excluding vehicle accident with injury	7/23/2023	230723-CFA00934	00:03:00	6TH AVE	MISSION ST	3
EMS call, excluding vehicle accident with injury	7/26/2023	230726-CFA00941	00:06:39	3565 EDGEFIELD PL		3
EMS call, excluding vehicle accident with injury	7/28/2023	230728-CFA00951	00:06:26	RILEY RANCH RD	HWY 1	3
EMS call, excluding vehicle accident with injury	7/31/2023	230731-CFA00963	00:02:55	LINCOLN ST	9TH AVE	3
		23	***0:03:24***			
400 Series (Hazardous Material)						
Hazardous condition, other	7/21/2023	230721-CFA00921	00:05:19	CASANOVA ST	4TH AVE	2
Hazardous condition, other	7/26/2023	230726-CFA00939	00:03:57	CAMINO REAL ST	8TH AVE	3

Attachment 3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
400 Series (Hazardous Material) cont.						
Hazardous condition, other	7/28/2023	230728-CFA00948	00:03:13	DOLORES ST	5TH AVE	3
Gas leak (natural gas or LPG)	7/8/2023	230708-CFA00878	00:03:58	LINCOLN ST	10TH AVE	3
		4	***0:04:07***			
700 Series (False Alarms)						
False alarm or false call, other	7/29/2023	230729-CFA00953	00:03:25	SANTA FE ST	6TH AVE	3
False alarm or false call, other	7/29/2023	230729-CFA00955	00:03:33	SANTA FE ST	6TH AVE	3
Alarm system activation, no fire - unintentional	7/13/2023	230713-CFA00898	00:02:56	SAN CARLOS ST	7TH AVE	3
Alarm system activation, no fire - unintentional	7/20/2023	230720-CFA00914	00:03:30	7TH AVE	SAN CARLOS ST	3
Alarm system activation, no fire - unintentional	7/25/2023	230725-CFA00937	00:03:51	LOBOS ST	1ST AVE	3
		5	***0:03:27***			

Over 5 Minute Response Times Cause of Delay: Code 3 Responses

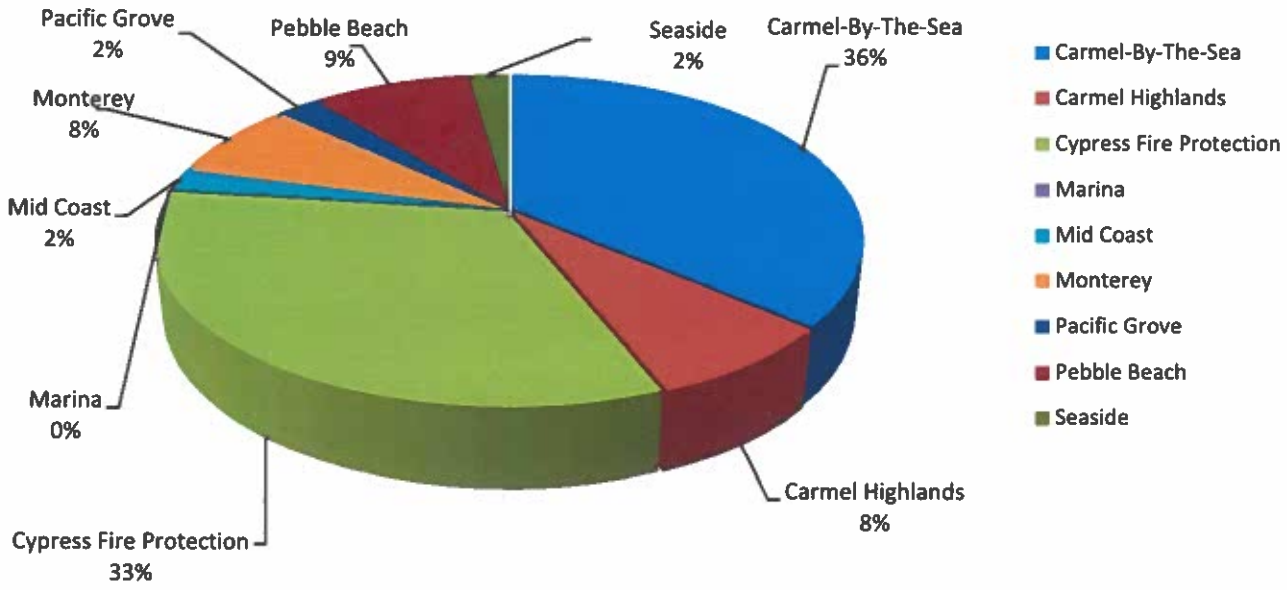
Code 2 Calls	**1**
Code 3 Calls	**32**
Total # of Incidents	**33**
% Under 5 Minute Response Time	**100%**
Total Average Response Time	**0:03:39**

Attachment 3

CITY OF CARMEL - FIRE AMBULANCE DEPARTMENT
JULY 2023
Response Summary Report by District Type

District Response	Number	Average Response Time
Carmel-By-The-Sea	33	3:39
Carmel Highlands	7	9:21
Cypress Fire Protection	30	5:38
Marina	0	0:00
Mid Coast	2	14:07
Monterey	7	7:20
Pacific Grove	2	11:11
Pebble Beach	8	8:12
Seaside	2	11:30

Total Responses	91	7:53



Total Code 3 Calls:	32
CFA Response Times for Code 3 Calls ≤ 5 minutes:	100%

Attachment 3

City Clerk PRA Log
July 2023

Attachment 4

Request Number	Date Requested	10-day response date	Records Requested	Requestor Name	Date Completed	Notes
2023-67 (Next Request ID # 23-6)	7/3/2023	7/13/2023	a report of all building permits processed by your department since Apr 30, 2023 to present. Please include any fields that your permitting system tracks. This includes but is not limited to: o Permit Number o Applied/Issued Dates o Work Address o Permit Type o Permit Status o Description of the work being done o Contractor and Architect Details o Job Valuations The preferred file type is .xls/.csv.	Rolex Domengiano, Build Zoom	7/6/2023	Records sent on 7/6/2023 through Next Request.
2023-68 (Next Request ID # 23-5)	7/6/2023	7/17/2023	Agenda Item Number 14 of the Regular Planning Commission meeting of October 12, 2022, was entitled "Carmel's (sic) Preservation Association: Petition to save the unique architectural character of Carmel-by-the-Sea." I have attached to this request a copy of the Staff Report for this agenda item, which report includes a copy of the petition, but does not contain the signatures to said petition. The Staff Report regarding "Carmel Preservation Association: Petition to save the unique architectural character of Carmel-by-the-Sea'" notes that the petition was submitted on 10-07-2022. Pursuant to the California Public Records Act, I respectfully request that you provide me with the list of signatures accompanying the subject Carmel Preservation Association petition. Please send me the records in electronic format. If you are unable to do so, I am happy to come by City Hall and copy the same.	Brian Turlington	7/17/2023	No responsive documents found, emailed requester.
2023-69 (NextRequest ID # 23-7)	7/10/2023	7/20/2023	All records, including emails, documents, communications, etc. regarding David or Debra ("Debbie") Hutchings, or referring to Mr. and Ms. Hutchings as residents of Lincoln St 3 NW of 9th Ave, including any police reports of any complaints against Mr. and Ms. Hutchings, for the time frame of 1/1/2004 to present" All records, including emails, documents, communications, etc. regarding David or Debra ("Debbie") Hutchings, or referring to Mr. and Ms. Hutchings as residents of Lincoln St 3 NW of 9th Ave, including any police reports of any complaints against Mr. and Ms. Hutchings, for the time frame of 1/1/2004 to present"	Michelle Lyons	8/21/2023	Next Request ID # 23-7. Requested extension to 8/3/2023 due to volume of records. Sent partial records 7/28/23, the rest will be released on a rolling basis. Next update - 8/3/2023. Final documents released on 8/21/2023.
2023-70	7/13/2023	7/24/2023	Tree Id : JB20230225100416 I would like to request 1) all records pertaining to the above referenced tree ID. The same tree that crushed my truck on scenic Road. 2) I'd also like all correspondence between Carl, Warren and Carmel by the sea on claim 304-4646. 3) I would also like all correspondence between Justin Ono and Carmel by the sea (Between the dates of 01/01/2023- 07/13/2023)	Parker Logan	7/19/2023	7-19-2023 - Sent response. Released records for #1, no records for #2, need clarification on #3. Waiting for response. Clarification rececieved 7/24 - 10 day response date adjusted to 8/3/23. Reponsive records for #3 released on 7/31/2023.

Request Number	Date Requested	10-day response date	Records Requested	Requestor Name	Date Completed	Notes
2023-71	7/18/2023	7/28/2023	records relating to the property located at 6 Lincoln Street, Apt. #15, Carmel-by-the-Sea aka SWC Lincoln and 7th, Unit #15 from November 2015-present: Building Inespections for APN APN 010-192-001-000, code compliance complaints, and any correspondence between city staff and the owners or managers of the building, and between the city and the tenant Mina	Dana Reich	8/10/2023	7/19/2023 sent link to GIS property files. Additional records sent on 7/27/2023. Any additional records found will be released on a rolling basis. Final responsive records sent on 8/10/23.
2023-72	7/19/2023	7/31/2023	Records on a "utility pole near 3314 Ocean Ave" Any city records related to the removal of a guy anchor on or about October 2022. Any city records related to the ownership of guy anchor removed. Any city records indicating installation of guy anchor. It is believed that the guy anchor/stake was installed in 2020.	Sal Ramirez, PG&E	7/19/2023	no responsive documents. Location is outside of city limits
2023-73	7/12/2023	7/24/2023	1) How much has been spent so far on the **drafting of the wireless ordinance**, and which firms have received which funds for this project? (1/1/2022-present) 2) what are the total costs so far for the **Verizon lawsuit/s**, and how much has been paid to which attorneys? (1/1/2022 - present)	Mary Schley	7/20/2023	response sent
2023-74	7/20/2023	7/31/2023	firm hired to investigate former Carmel Police chief Alan Ward. 2) The investigative report concerning Ward. 3) Any letter from Ward or his representatives concerning his retirement/resignation. 4) Ward's total compensation for the time he was paid by the city. 5) The city's portion of his PERS pension. 6) The contract between the city and Bob Murray & Associates for the search that led to the hiring of Ward and the amount paid for the search. 7) The results of any closed session votes in 2023 by the members of the Carmel City Council regarding Ward's employment and the investigative report.	Pam Marino	7/27/2023	response sent
2023-75	7/20/2023	7/31/2023	All staff contact info 1. First Name 2. Last Name 3. Position Title 4. Department 5. Direct Phone Number (if does not exist, list main phone number with extension) 6. Business Cell Phone (if provided by City of Carmel by the Sea) 7. Email Address 8. Office Address (Address, City, State, Zip)	SmartProcure	8/1/2023	records sent.
2023-76	7/26/2026	8/7/2023	The total that Alan Ward was paid while on leave	Mary Schley	7/27/2023	response sent
2023-77	7/27/2023	8/7/2023	all documents pertaining to the investigation of former Police Chief Alan Ward.	Mary Schley	8/2/2023	response sent

Police Records Request Log

July, 2023

Request No.	Request Date & Received By	10-Day Due Date	Date Completed by PSO	Requestor	Info Requested	Status
2022-0001	7/5/2023	7/15/2023	7/5/23 DA	Lexis Nexis	CA2300262	completed
2022-0002	7/6/2023	7/16/2023	7/7 DA	Marianne DiMaggio	CG2300280	completed
2022-0003	07/10 mw	7/20/2023	07/17 AI/MW	City Hall Nova Romero - email	CC1900316,CC1600364,CC0600295,CC1100117,CC1500377,CG1900349,CG1900381, CG1900625, CG1900644	completed
2022-0004	07/18/2023 AI	7/28/2023	07/18/2023 AI	Lexis Nexis	CA2300282	completed
2022-0005	07/18/2023 AI	7/28/2023	07/18/2023 AI	Metropolitan Reporting Bureau	CA2300276	completed
2022-0006	07/18/2023 AI	7/28/2023	07/18/2023 AI	Lexis Nexis	CG2300257	completed
2022-0007	07/18/2023 AI	7/28/2023	07/18/2023 AI	Marzano, Heather	CG2300306	completed
2022-0008	07/24/23 mw	8/3/2023	8/4 JK	Medical Board Sacramento	CG2300295	mw, ai, jk
2022-0009	7/25/2023 mw	8/4/2023	07/25/23 mw	Marzano, Heather	CG2300306 - supplement 1	completed
2022-0010	07/25/23 mw	8/4/2023	7/29 DA	Grover, Deborah	CA2300312	completed
2022-0011	7/28/23 DA	8/8/2023	7/29 DA	Lexis Nexis	CAD 07022023-0008	completed
2022-0012	7/28/2023	8/8/2023	7/29 DA	Lexis Nexis	CAD 07022023-0008	completed
2022-0013	7/25/2023	8/5/2023	7/29 DA	Carmen Garcia Diaz	CG2300038	completed
2022-0014	7/30/2023	8/9/2023	8/4 DA	Garcia Morales, Jose	CG2200413	Denied- Referred to DA's Office

**

CITY OF CARMEL-BY-THE-SEA
Public Works Department
July 2023 Monthly Report

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert M. Harary, P.E., Director of Public Works
SUBMITTED ON:	August 2, 2023
APPROVED BY:	Chip Rerig, City Administrator

City Council Meeting of July 11, 2023

- Authorized sending a letter to Monterey County for the Fiscal Year (FY) 2023/24 Used Oil Program.
- Adopted Resolution 2023-067, awarding a Professional Services Agreement (PSA) with Denise Duffy & Associates to provide North Dunes Habitat Restoration and on-call environmental monitoring services for two years for a fee of $111,560.
- Adopted Resolution 2023-070, approving Amendment No. 1 to the PSA with Davey Resource Group to provide additional services associated with the Urban Forest Master Plan (UFMP) for an additional fee of $45,000.
- Adopted Resolution 2023-071, awarding a PSA with Advance Design Consultants to provide electrical engineering services for panel upgrades at several City buildings, and for design of a replacement electrical panel for the Sunset Center north lot and additional EV charging stations at Vista Lobos, for a fee of $79,560.
- Adopted Resolution 2023-072, approving Amendment No. 1 to the PSA with Neill Engineers to design four high-priority drainage improvements identified in the 2023 Storm Drain Master Plan Update for a fee of $159,100.
- Adopted Resolution 2023-073, approving Amendment No. 1 to the PSA with Ausonio, Inc. to provide project management services for seven facility renovation projects during FY 2023/24 for a fee of $125,000.
- Adopted Resolution 2023-076, approving a fee for services schedule with a new fee for tree evaluations, and revised fees for tree pruning and removal permits, and tree-related appeals to the Forest & Beach Commission and City Council.

Forest and Beach Commission Meeting of July 13, 2023

- Meeting canceled for lack of quorum. Next meeting is on August 10, 2023.

Forest and Beach Commission Special Meeting of July 20, 2023

- Commissioners conducted a tour of Carmel Beach focusing on shoreline infrastructure deficiencies and needed repairs, including 11 beach access stairs, 11 seawalls, and 6 revetments, as noted in the Coastal Engineering Study's Shoreline Condition Assessment.

Administration

- New City Forester, Justin Ono, began on July 17th.
- Facility Maintenance Specialist, Leo Hernandez, began serving our Country in the National Guard for 6 weeks.

- An in-house promotional opportunity was posted for a Maintenance Worker III.
- Unfortunately, no Proposals were submitted in response to the Request of Proposal for Scout House renovation, activities programming, and facility management.
- Supported review of Police license plate reader cameras (Flock) for cameras installed prior to issuance of an encroachment permit.
- Supported the City Attorney's office regarding a claim for alleged damage due to drainage issues for property located near Lincoln Street and First Avenue.
- The Director provided a training session for City staff regarding consistent contracting terminology, the advantages of maintaining a roster of Statement of Qualifications, and tips for preparing Requests for Proposals, selecting consultants, and developing PSAs.
- Several Public Works managers attended Brown Act training and a Generational Diversity Workshop.
- Processed numerous final invoices for goods and services provided through June to close out FY 2022/23. Also prepared blanket purchase orders for often-used contractors and vendors for the new FY 2023/24.

Carmel Cares

- Began construction of the Scenic Pathway Guardrail Repair Project. Project anticipated to be completed by late August.
- Decorated Devendorf Park and downtown for the July 4th holiday.
- Installed the custom-built wooden cabinet for audio equipment at Forest Theater.
- Submitted documentation for design review and permit approval for proposed new cigarette butt containers to replace the existing, smaller "Butt Stops Here" containers.
- "Downtown Detail" volunteers continued to beautify sidewalks in the downtown area.
- The "Median Minders" continued to improve medians across the Village.
- Continued to pick up illegal fire remains and other debris along the beach.

Environmental Programs

- Incorporated edits and modifications requested by the Coastal Commission regarding the City's draft Stormwater Ordinance Updates. Coordinated with the City Attorney's office regarding the Coastal Commission's more stringent and impactful requirements, and with other local agencies to get their input on these potential new mandates.
- Reviewed proposal from the California Marine Sanctuary for additional water quality testing.
- For the Coastal Engineering Study, executed Amendment No. 1 to the PSA with EMC/ Integral/Haro Kashunich and Associates, which reprioritized tasks with no net impact to the fees or schedule, and issued the Notice to Proceed.
- Prepared staff report and coordinated presentation for August 10th Forest & Beach Commission meeting regarding Coastal Engineering Study Task 2, for the Shoreline and Beach Change Analysis.
- Developed standard CEQA Findings language to be included for most Forest & Beach Commission Public Hearing decisions.
- Executed PSA with Denise Duffy & Associates for North Dunes Habitat Restoration and issued the Notice to Proceed. Kickoff meeting to be held in early August. Also compiled list of potential volunteers to be organized by staff for consistent, ongoing weed pulling and ice plant removals in the Dunes habitat area.
- Completed the annual Cal Recycle report for e-waste disposal.
- Based on the annual trash can condition survey, developed preliminary locations for the next batch of ribbon style trash/recycling containers to be purchased.
- Prepared a CEQA Categorical Exemption document for the FY 2021/22 Paving Project.

- Monitored water ponding on the beach, restrained from draining out with the tides due to sand deposits.
- Public outreach noted in Friday Letters included: organics recycling workshop, reef-safe sunscreen products, doggie doo photo contest, and responding to stranded beach mammals.

Facility Maintenance

- Contractor replaced the heater and blower switches in the back of the City Council chambers with energy-efficient timers.
- Contractor repaired the Scenic Restroom mahogany doors and frames so they no longer jam as the doors expand and contract due to temperature changes. New door closers were also installed.
- For the Police dispatch room, contractor demolished the former closet walls to open up the room for more space. The drop ceiling was modified, and electrical circuits were temporarily relocated. Quotes are also in progress to install drywall and paint prior to installing modular furniture.
- As a new FY 2023/24 CIP project, evaluated the condition of the existing 11 traffic bollards in front of the Sunset Center Box office, and obtained quotes for new bollards to replace those damaged and for spares.

Project Management for the Capital Improvement Program

4 Leaf Projects:

- For the Police Building Project, a kickoff meeting with Indigo Architects was held on July 7th. Their building condition assessment tour was scheduled for August 2nd, and programming interviews with key City start are also being scheduled for their functional program report.

Ausonio, Inc. Projects:

- The bundled project for City Hall Roof Replacement, Sunset Center Exterior Painting - north wing, Cottage Windows Repairs, and Harrison Memorial Library Exterior/Interior Painting was advertise for bids effective July 14th. A pre-bid meeting is scheduled for August 1st and bids open on August 22nd.
- Began review of existing plans for the San Antonio Pathway Reconstruction Project, between Second and Fourth Avenues.

Wallace Group Projects:

- The sole bid received from Bowen Engineering & Environmental, for the MTNP Well and Tank/Pump House Removal Project, was determined to be responsive and responsible. Analysis of the higher than expected bid revealed that the cost estimate was too low for handling and disposing hazardous materials, and the estimate for mobilization assumed a local contractor, (Bowen is based in Fresno). Award of the $139,700 construction contract is scheduled for the August 1st Council meeting.
- For the FY 22/23 Concrete Streets Repair Project, BKF Engineers submitted a proposal for additional services associated with intermitted street returns along Ocean Avenue, between Monte Verde Street and San Antonio Avenue, and evaluation of additional treatment options. Proposal under review for a potential Amendment to their PSA in September.
- For the FY 23/24 City-wide Paving Project, the selected streets for overlays and slurry seals were reviewed a second time in the field, and final adjustments were made to the rehabilitation strategies. Wallace Group prepared the scope of work proposal and are developing a fee and schedule to perform the engineering and design work in-house.

Additional Projects:

- Recently-revised plans and contract documents were completed and approved for the FY 2021/22 Paving Project. Bid advertising to commence on August 7th.
- For the MTNP 3 Drainage Improvement Projects, continued back and forth dialog and resubmittals with the California Department of Fish and Wildlife and Water Quality Control Board to obtain required regulatory permits. Wrote memorandum to Council regarding the types of regulatory comments requested and resultant delays and extra costs.
- Negotiated the City's proposed special conditions of permit approval with Cal Am Water for their proposed 8-inch waterline to be installed along Dolores Street, between Santa Lucia and Eighth Avenues.
- Wave Broadband submitted another revised set of plans associated with their proposed fiber optics infrastructure project spanning across the City. The plans are nearing completion, and a special encroachment permit may be issued by City Council following a presentation by Wave in September to describe their project purpose, scope, and mitigation of impacts.
- PG&E submitted easement documents for City review as required for PG&E to install a transformer at the southeast corner of the Vista Lobos parking lot to accommodate additional EV charging stations at discounted power rates.

Street Maintenance

- For the very busy, extended July 4th holiday weekend, followed the next week by the U.S. Women's Open golf tournament in Pebble Beach, provided parking signage for Police, additional staffing, trash bins, portable toilets, sinks, and supplemented trash pickups.
- Began to coordinate and prepare for Car Week events in August.
- Substantially completed the Annual Traffic Painting Program by finishing red, yellow, green and gray curbs. Thermoplastic parking tees and legends remain.
- Refreshed/repainted wayfinding signs in various locations.
- At Torres Street and Ninth Avenue, replaced a collapsed, wooden drainage culvert with an HDPE pipe, constructed a custom rock headwall, and reconstructed a fence and pathway.
- Installed five dual trash/recycling ribbon style containers at Sunset Center.
- Rented a bobcat to spread sand over exposed rocks at the base of the Eighth Avenue beach access stairs and over the embankment west of the Del Mar parking lot.
- Cleared out more piles of fire fuel and debris from MTNP.
- Coordinated the delivery, testing, and training of the new Electric Street Sweeper arriving on August 4th.

Forestry, Parks, and Beach

- The first Community Workshop for the Urban Forest Master Plan (UFMP) was held at Vista Lobos on July 12th and was attended by roughly 20 residents, plus several Commissioners and new Steering Committee members. It was the first of several opportunities in the coming months where public input will be requested.
- The Community Survey for the UFMP was developed but not yet released to allow for further discussion among Commissioners prior to launching the survey.
- Davey Resource Group provided the following status update for development of the UFMP:
    - Tree Inventory - complete
    - Urban Forest Economics Resource Analysis - complete
    - GIS Mapping ~ 99% complete
    - Tree Canopy and Land Cover Assessment ~93% complete
    - Operational background review – 90% complete
    - Stakeholder interviews ~ 90% complete
    - Draft UFMP Report ~ 40% complete

- A meeting is being schedule for early September with a CalFire representative to better guide us through the process of reimbursement of the $150k grant for the UFMP.
- On-call tree services contractors Community Tree Service, Tope's Tree Service, and West Coast Arborists were issued Change Orders with budgets up to $175,000 each for FY 2023/24, for a total of $525,000. Forestry plans to reserve $150,000 of the $525,000 for possible storms in January – March, 2024. Task Orders for price quotes are in progress.
- On-call landscape maintenance contractor, Town & Country, was issued 30 new Task Orders, totaling $125,000 and covering a wide range of landscaping services throughout the City for FY 2023/24. Approximately $50,000 remains in reserves for additional services over the FY.
- The City's new stump grinder was put into action. The crew removed five stumps in July, and several trees were planted in the downtown area upon removal of these stumps.
- Continued to provide information related to tree-related claims resulting from the winter storms.
- Forestry crews participated in Aerial Rescue Training on July 7th.

Private and Development Activities

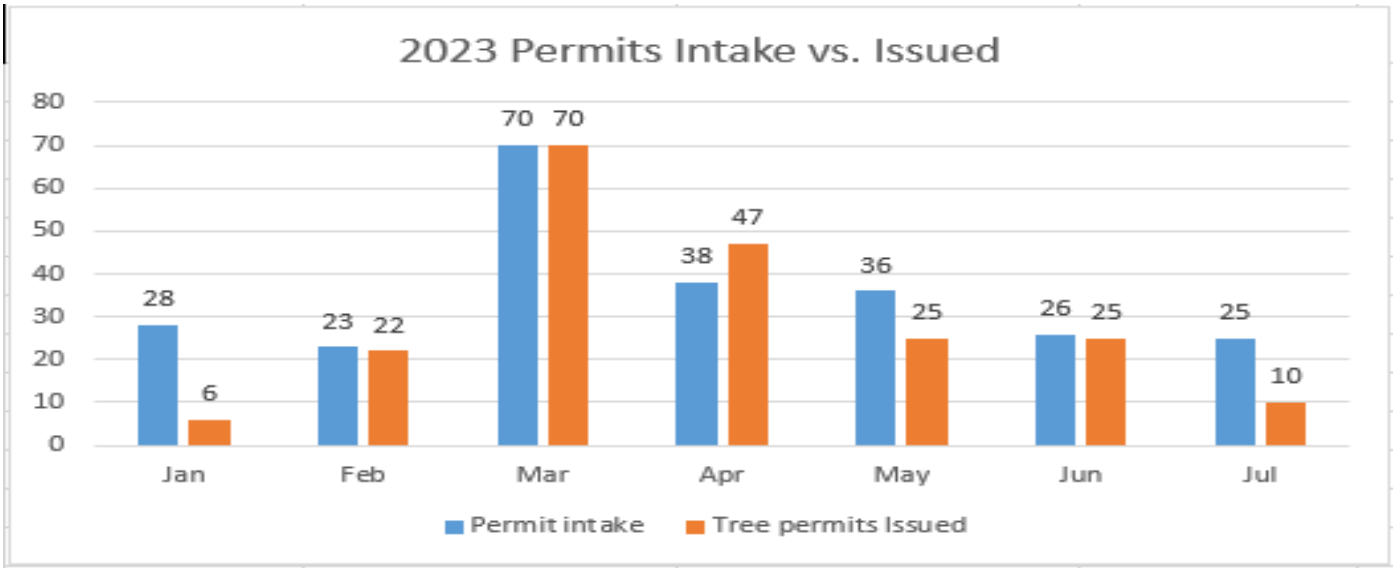
2023 Permitted removals, pruning, and required planting

	Tree permits received	Tree permits Issued	Total Prunings	Total Removals	Removal of Upper	Removal of Lower	Required to Plant Upper	Required to Plant Lower	No room for new tree	Meets Density Rec.	Total Number of Trees Required
January	28	6	0	12	3	7	5	1	0	2	6
February	23	22	1	24	15	9	15	10	0	0	25
March	70	70	21	71	47	24	32	14	1	7	46
April	38	47	16	53	49	4	32	3	2	2	35
May	36	25	9	26	20	6	18	4	4	7	22
June	26	25	14	26	17	9	16	6	0	4	22
July	25	10	7	7	5	2	3	2	0	2	5
2023 Totals	**246**	**205**	**68**	**219**	**156**	**61**	**121**	**40**	**7**	**24**	**161**

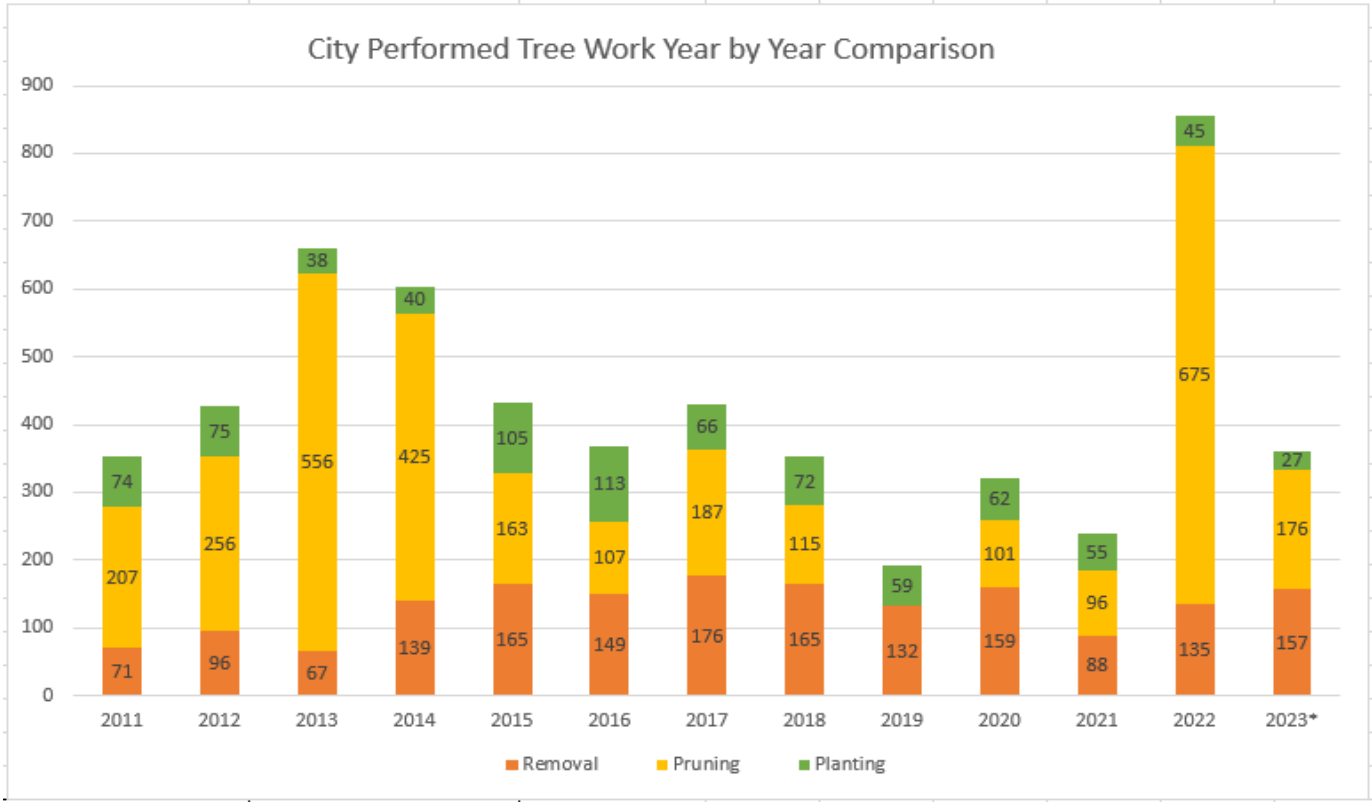
Historic permitted removals and required planting

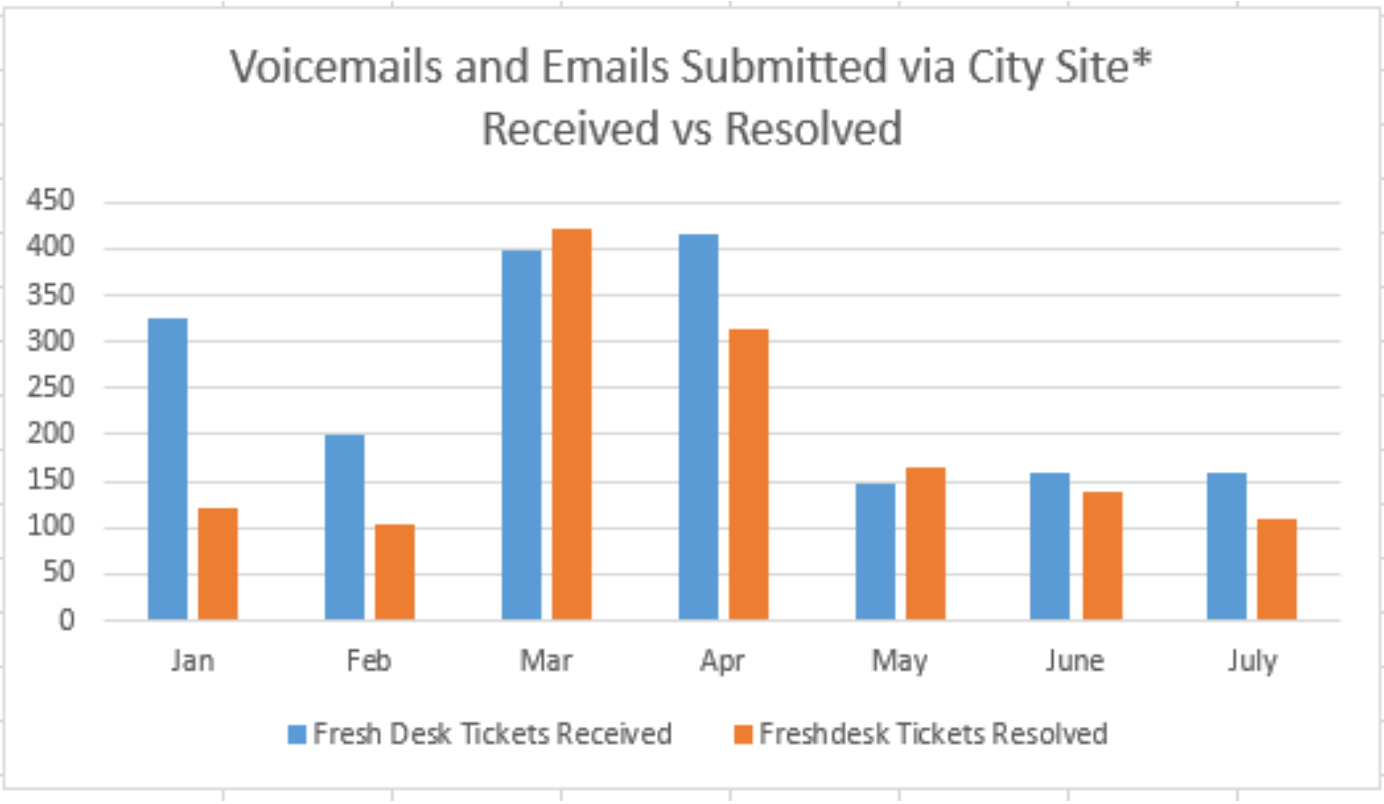
Year	Permitted removals	Removal of upper	Removal of lower	Replanting Required	Replanting of upper	Replanting of lower	Replanting %	Applications processed
2021	204	81	123	135	81	54	66.18%	213
2022	149	82	67	85	48	37	57.05%	155
2023*	219	156	61	161	121	40	73.52%	246

*Year To Date



City Forestry, Parks, and Beach Activities





* Numbers only represent correspondences received via the City's website and do not include live calls, voicemails, drop-in visitors, and emails sent directly to employees from residents, nor return calls and emails from staff.

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	July 2023 Check Register Summary

RECOMMENDATION:

Approve the check register for July 2023.

BACKGROUND/SUMMARY:

The check register is produced from the City's financial system. The report groups the checks by the respective department or function. The check register includes the check number, the name of the vendor, a description of the purchase, the check issue date and the amount of the check.

Per the California Supreme Court's decision in the case of Los Angeles County Board of Supervisors v. Superior Court (Dec. 29, 2016) (2016 WL 7473802), the check register excludes the specific invoice payments for legal services incurred for pending and active investigations, pending and active litigation, as well as recently concluded matters. The Supreme Court has ruled that these specific invoices are protected under attorney-client privilege and need not be disclosed under the Public Records Act.

On the last page of the report, staff have included the contract balance for the respective vendors that were paid in July 2023.

FISCAL IMPACT:

The check register summary for July 2023, totals $3,609,498.79.

PRIOR CITY COUNCIL ACTION:

Council ratified the June 2023 check register at August 1, 2023, regular meeting.

ATTACHMENTS:

Attachment 1) July 2023 Check Register

July 2023 Check Register

Attachment 1

Check No.	Vendor/Employee	Transaction Description	Date	Amount
Department: 110 City Council				
51652	Monterey County Business Council	Partner membership	07/14/2023	500.00
51657	Peninsula Messenger LLC	Mail service sorting and delivery	07/14/2023	5,166.00
51659	Transportation Agency for Monterey County	FY 23-24 Local Agency Contribution Monterey County Regional Transporta	07/14/2023	1,283.00
51699	Association of Monterey Bay Area Governments	FY 23-24 Member Jurisdiction due and meeting allowance	07/20/2023	3,811.17
51733	Prism Public Risk Innovation	Workers Compensation 7/1/2023-6/30/2024	07/26/2023	115.95
		Total for Department: 110 City Council		10,876.12
Department: 111 City Administration				
51562	Amazon Web Services Inc	Data and cloud storage fees	07/07/2023	854.36
51565	AT&T	Telephone service citywide	07/07/2023	2,177.98
51573	Comcast	City Hall cable services	07/07/2023	68.71
51576	Copies By-The-Sea	Agenda printing services	07/07/2023	1,587.49
51577	Corbin Willits System	MOM Financial system monthly fee	07/07/2023	720.79
51585	Hinderliter, De Llamas & Associates	Sales/transactions tax auditing services	07/07/2023	648.03
51586	Iron Mountain	Records storage service	07/07/2023	431.51
51587	J 4 Systems	Migration of Active Network Servicer	07/07/2023	3,680.00
51600	Office Depot, Inc.	Office supplies - Admin	07/07/2023	256.30
51601	Pitney Bowes Bank Inc Purchase Power	Postage meter supplies	07/07/2023	380.82
51615	Universal Staffing Inc	Temporary staffing services-City Hall front desk	07/07/2023	4,607.03
51616	Verizon Wireless	Cell phone sales and usage	07/07/2023	328.93
51620	Wm. B. Saleh Painting, Inc	Interior prep and paint City Hall	07/07/2023	23,812.00
51632	IAMP Pro Audio/Anthony J. Nocita	Sound system service for multiple meeting May 2023	07/14/2023	2,680.00
51635	Office Depot, Inc.	Admin Office supplies	07/14/2023	1,642.78
51640	Southern Computer Warehouse	3 hp ZBook Firefly 16Gp Mobile Workstations	07/14/2023	4,556.54
51641	SystemsUp LLC	Remote desktop services	07/14/2023	19.50
51642	T-Mobile	Monthly cell service, usage and purchases	07/14/2023	1,520.04
51643	Traffic Patterns	Recuritment services, NEOGOV implementation and on-call HR	07/14/2023	550.00
51644	US Bank	IT Subscriptions: Junction Networks	07/14/2023	1,687.87
51645	US Bank	IT Subscriptions: Constant Contact	07/14/2023	70.00
51646	US Bank	IT Subscriptions: Microsoft, Freshworks, Zoom, Adobe, BackBlaze, Google	07/14/2023	2,901.07
51647	US Bank	HR Subscriptions: Metrofax	07/14/2023	11.95
51648	US Bank	IT equipment non-capital	07/14/2023	606.90
51649	US Bank	NYT Digital subscription	07/14/2023	20.00
51650	US Bank	HR: Employee Appreciation Luncheon Yeti	07/14/2023	3,924.39
51651	US Bank	CCMF Annual Membership	07/14/2023	400.00
51644	US Bank	SpringBrook software training	07/14/2023	900.00
51646	Archive Social	NR:FOIA Workflow Platform - Standard subscription	07/14/2023	8,388.00
51650	Digital Deployment	Website support agreement:Maint, training, security and updates	07/14/2023	700.00
51654	NEOGOV	Insight, Onboard,GovJobs, Candidate Test Subscriptions	07/14/2023	9,458.84
51655	Netfile, Inc	Annual subscription for Agency Services	07/14/2023	3,200.00
51693	US Bank	Cookies for employee staff meeting lunch 6.20.2023	07/20/2023	333.00
51700	AT&T	Telephone service citywide	07/20/2023	1,046.42
51704	Digital Deployment	Website support agreement:Maint, training, security and updates	07/20/2023	10,500.00
51705	UPS Store	FY23-24 budget book printing	07/20/2023	1,696.75
51709	MISAC	Membership FY 23-24	07/20/2023	130.00
51710	Monterey County Film Commission	FY 23-24 Marketing Funds -Grant	07/20/2023	3,000.00
51713	Quality Print & Copy	Printing service-Business cards,stationary,envelopes	07/20/2023	1,042.25
51717	United Way Of Monterey County	FY 23-24 United Way 211 Program Grant	07/20/2023	3,000.00
51722	Comcast Business	NonNGEN internet and recurring charges	07/26/2023	1,139.72
51726	FedEx	Shipping fees-Business office	07/26/2023	29.14
51728	InterVision	Threat Prevention subscription and support services	07/26/2023	15,802.64
51729	J 4 Systems	System moderization and resiliency services directed by IT	07/26/2023	2,010.00
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	29,761.89
51735	Springbrook Software	Professional services relating to accounting software usage	07/26/2023	283.50
51736	SystemsUp LLC	Remote desktop services as directed by IT Manager	07/26/2023	39.00
51737	Xerox Financial Services	Xerox copier leases citywide	07/26/2023	1,234.01
51738	Alhambra	Water service City Hall	07/26/2023	214.64
51754	MRC	Xerox Copier Usage fees - All city copiers	07/26/2023	811.92
51756	Office Depot, Inc.	Office supplies-Admin	07/26/2023	209.11
51759	Revenue & Cost Specialists LLC	Master Fee Schedule review	07/26/2023	5,000.00
51768	Verizon Wireless	Cell phone usage and sales	07/26/2023	1,380.50
		Total for Department: 111 City Administration		161,456.32
Department: 112 City Attorney				
51568	Burke,Williams & Sorensen, LLP	City Attorney services	07/07/2023	17,055.50
51609	Sloan Sakai Yeong & Wong	Legal services	07/07/2023	480.00
51625	Best Best & Krieger, Attorney At Law	Legal fees:Telecommunications issue, Verizon litigation	07/14/2023	5,736.50
51626	Burke,Williams & Sorensen, LLP	City Attorney services	07/14/2023	13,255.00
51639	Sloan Sakai Yeong & Wong	Legal services - May-June 2023	07/14/2023	4,377.64
51742	Burke,Williams & Sorensen, LLP	City Attorney services-Labor negotiations	07/26/2023	96,807.23

		Total for Department: 112 City Attorney		137,711.87
Department: 115 Community Planning & Building				
51680	Engineered Fire Systems	FY 22-23 - Plan RVW: June 2023	07/20/2023	2,750.00
51681	FedEx	FY 22-23 - Volume Study Plans	07/20/2023	42.27
51682	Katherine Wallace	Costco, Ad-hoc Housing Mtg.	07/20/2023	49.96
51685	Office Depot, Inc.	FY 22-23 CP&B Off. Supp.: Damage/Replace	07/20/2023	55.42
51686	One Workplace L Ferrari	FY 22-23 Office Furniture: CP&B	07/20/2023	4,359.80
51688	Quality Print & Copy	Business Cards: Sullivan, Marnie, Leah	07/20/2023	278.59
51693	US Bank	Office supplies: Amazon	07/20/2023	30.16
51693	US Bank	Meeting with Plan Commr.	07/20/2023	65.65
51693	US Bank	APA K Wallace: Training, membership	07/20/2023	672.00
51693	US Bank	Sticker Mule: Planning Dept. supplies	07/20/2023	74.29
51693	US Bank	Mad Dogs & Englishmen: Bike Racks	07/20/2023	128.92
51693	US Bank	Office supplies: Amazon	07/20/2023	84.24
51694	Winter and Company	FY 22-23 - Design Traditions 1.5: July 2022 - May 2023	07/20/2023	11,495.00
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	22,031.53
51780	EMC Planning Group, Inc	6th Cycle Housing Element & Gen Plan Safety Element Update Proje	07/31/2023	84,465.90
		Total for Department: 115 Community Planning & Building		126,583.73
Department: 116 Police				
51561	Amazon Capitol Services	PD Supplies and equipment	07/07/2023	447.32
51583	Flock Group Inc	Hardware and software relating to body camera and taser equipment	07/07/2023	60,650.00
51588	Jacob Clifford	Travel reimbursment San Diego 6/4/23-6/8/23	07/07/2023	1,830.55
51588	Jacob Clifford	Training 5/6/23 Bayshore Hotel	07/07/2023	281.68
51590	Javier Auto Services	PD Auto Repairs	07/07/2023	1,188.99
51595	Monterey Tire Service Inc	PD-New tire purchase and installation	07/07/2023	488.60
51597	Napa Auto Parts	Police Dept-Auto parts	07/07/2023	36.47
51605	Same Day Shred	PD-Document shredding services	07/07/2023	45.00
51610	T2 Systems Canada Inc.	T2 MobilePay Virtual Station	07/07/2023	124.00
51611	Transunion Risk & Alterna	PD: Monthly fee for information services	07/07/2023	75.00
51614	United Public Safety, Inc-Attn: Accts Rec	Ticketing Platform for PD:Hardware, software, tech support and d	07/07/2023	794.32
51622	Alhambra	Water service Police Dept	07/14/2023	202.40
51628	County of Monterey IT Dept	Correct accounting check 51232	07/14/2023	1,843.93
51629	County of Santa Clara-Sheriff Office	Cop Link South Bay Information Sharing Sys Jan-Dec 23	07/14/2023	346.26
51631	Federico's Embroidery	Uniform embroidery expense	07/14/2023	49.33
51633	Jacqueline Koviak	Reimburse for expenses/Training 6/26/23-6/27/23	07/14/2023	769.84
51644	US Bank	PD patches	07/14/2023	114.71
51644	US Bank	J Watkins Training/Seminar expenses	07/14/2023	548.26
51647	California Police Chiefs Association	Annual membership	07/14/2023	365.00
51649	County of Monterey, Dept of Emerg Communications	NGEN Operations and maintenance	07/14/2023	5,106.35
51660	Veritone, Inc	Annual subscription-State mandated Police Contact Statistics	07/14/2023	1,500.00
51697	Allied Universal	Beach patrol services	07/20/2023	4,387.60
51703	Comcast	PD Cable serices	07/20/2023	21.29
51706	Javier Auto Services	PD Auto Repairs	07/20/2023	352.88
51715	Tracnet Corporation	Annual maintenance MSP	07/20/2023	22,007.14
51720	Allied Universal	Beach patrol services	07/26/2023	351.00
51725	Federico's Embroidery	PD : CERT expenses	07/26/2023	500.00
51731	Monterey Power Sports	PD Motorcycle repairs	07/26/2023	690.27
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	137,213.89
51734	Rydin Decal	Decals PD	07/26/2023	944.00
51738	Alhambra	Water service Police Dept	07/26/2023	183.33
51739	Amazon Capitol Services	PD Supplies and Equipment	07/26/2023	287.90
51741	Axon Enterprise, Inc	PD: 2021 Taser7 Certification bundle	07/26/2023	24,027.36
51744	Carmel Towing & Garage	FY 22-23 Fuel charges PD	07/26/2023	4,221.13
51747	Department of Justice/Accounting Office	PD:Fingerprinting services	07/26/2023	64.00
51748	Drivers License Guide Co.	License Publications	07/26/2023	34.90
51753	Monterey County Sheriff-Coroner	Criminal Justice Information System fees-4/1/2023-6/30/2023	07/26/2023	22,408.28
51756	Office Depot, Inc.	Police Dept office supplies	07/26/2023	576.41
51766	US Bank	PD Misc office expenses	07/26/2023	61.56
51767	Veritas CVSA Truth Verification Services	PD: Professional services: Pre Employment CVSA	07/26/2023	1,750.00
51770	Wittman Enterprises, LLC	PD fees June 2023	07/26/2023	3,096.38
51779	County of Monterey IT Dept	PD Cellular access/telephone calling and access Jun 2023	07/31/2023	2,278.38
51787	Speak Write Billing Department	Software for PD report writing	07/31/2023	223.13
51789	Transunion Risk & Alterna	PD: Monthly fee for information services	07/31/2023	75.00
		Total for Department: 116 Police		302,563.84
Department: 117 Fire				
51560	Allstar Fire Equipment Inc	2 Turnout pants/2 Turnout Coats	07/07/2023	6,702.47
51593	Mission Linen Service	Fire Dept laundry service	07/07/2023	247.24
51623	Allstar Fire Equipment Inc	4 Particulate Barrier hoods	07/14/2023	452.63
51627	City Of Monterey	Fired Dept Vehicle repairs	07/14/2023	11,851.84
51649	County of Monterey, Dept of Emerg Communications	Dispatch Service	07/14/2023	6,114.03
51651	Mission Linen Service	Fire Dept laundry service	07/14/2023	123.62
51698	Allstar Fire Equipment Inc	Safety apparel Fire Dept	07/20/2023	648.95
51702	City Of Monterey	FY 23-24 Monthly fee Interim Fire Admin/Emerg Incident Mgmt	07/20/2023	236,620.21
51730	Mission Linen Service	Fire Dept laundry service	07/26/2023	261.96
51744	Carmel Towing & Garage	Fire Dept-Fuel June 2023	07/26/2023	238.73

51752	Mission Linen Service	Fire Dept laundry service	07/26/2023	123.62
51779	County of Monterey IT Dept	1.Fire Dept:Cellular access/telephone calling and access 2. PD:C	07/31/2023	506.18
		Total for Department: 117 Fire		263,891.48
Department: 118 Ambulance				
51564	Arthur Rosillo	Travel reimbursement ESO Training Texas	07/07/2023	1,313.73
51567	Bound Tree Medical LLC	Medical supplies	07/07/2023	50.03
51572	City Of Monterey	FY 22-23 Ambulance OT for staffing by Monterey	07/07/2023	1,760.43
51619	Wittman Enterprises, LLC	Ambulance billing service	07/07/2023	5,887.12
51624	American Supply Company	Amb janitorial supplies	07/14/2023	150.87
51637	Peninsula Welding & Medical Supply, inc.	Ambulance Dept-Oxygen/hazardous materials transport service	07/14/2023	215.41
51712	Peninsula Welding & Medical Supply, inc.	Ambulance Dept-Oxygen/hazardous materials transport service	07/20/2023	34.81
51721	City Of Monterey	FY 23-24 Ambulance Administration fee	07/26/2023	1,983.56
51723	De Lage Landen Financial	Ambulance copier usage	07/26/2023	71.01
51724	Dr. James Stubblefield, MD, Inc	Annual contract:Medical director Fire Agency Provider Controlled	07/26/2023	7,000.00
51732	Myles Routh	ACLS Renewal 0900-UTC	07/26/2023	180.00
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	73,438.42
51744	Carmel Towing & Garage	Fire-Amb June 23 less overpmt of $262.56	07/26/2023	662.57
51746	City Of Monterey	FY 22-23 Ambulance overtime reimbursement for staffing by Monter	07/26/2023	16,515.66
51770	Wittman Enterprises, LLC	Fire Amb fees June 2023	07/26/2023	2.14
		Total for Department: 118 Ambulance		109,265.76
Department: 119 Public Works				
51559	4Leaf, Inc	Traffic Enginering 3-31-23 J4030C	07/07/2023	195.00
51563	AR Gutters & Sheet Metal Inc.	Install downspouts at Vista Lobos	07/07/2023	365.00
51569	Carmel Area Wastewater District	Vactor CDS cleaning FY 22-23 contract	07/07/2023	3,829.80
51570	Carmel Cares-Dale Byrne, President	Landscaping work	07/07/2023	2,455.00
51571	Cintas Corporation	Uniform service 6/27/23	07/07/2023	367.84
51574	Community Tree Service	Tree work as directed by City Forester	07/07/2023	16,294.03
51575	Conte's Generator Service, iNC	PW/FM Emergency generator services	07/07/2023	1,300.00
51578	Cypress Painting & Decorating, Inc.	Painting at Devendorf Park RR	07/07/2023	7,480.00
51580	Dominic Marquez	Wellness Program MOU reimbursement	07/07/2023	150.00
51581	Edges Electrical Group	Electrical supplies for City Facilities	07/07/2023	5,406.80
51582	First Alarm	CFD alarm monitoring 6/15/23	07/07/2023	309.12
51584	Granite Rock Company	Marking paint - 6/24/23	07/07/2023	67.14
51589	Jamestown Advanced Products Corp	New garbage cans for City-	07/07/2023	13,970.17
51592	Michael Feher	Workboots reinbursement 6/23/23	07/07/2023	213.04
51594	Monterey County Weekly Classifieds	Remainder of invoice total #04/20/23CRML-2	07/07/2023	616.00
51596	MRC	Toner for PW Copier 3498031 6/6/23	07/07/2023	60.09
51598	National Stock Sign Company	6 cases of No Parking Signs	07/07/2023	1,556.81
51602	Poe's Plumbing & Backflow	Plumbing at city sites	07/07/2023	1,952.08
51606	Scarborough Lumber & Building	Facility Maintenance - Hardware supplies	07/07/2023	1,028.86
51608	Sentry Alarm Systems	Alarm Monitoring at various City sites	07/07/2023	3,254.79
51612	Tree Stuff Lockbox	Safety equipment for Forestry Division 5-24-23	07/07/2023	3,050.05
51613	Uline Inc.	Safety equipment for PW employees 6/8/23	07/07/2023	950.38
51615	Universal Staffing Inc	Temporary staffing services	07/07/2023	8,755.01
51618	West Coast Arborists Inc .	Contract tree work	07/07/2023	23,250.00
51620	Wm. B. Saleh Painting, Inc	Int/Ext painting of the upper Forest Hill Park RR.	07/07/2023	4,378.00
51670	American Lock & Key	Locksmith ervice for City Facilities	07/20/2023	542.90
51671	Applied Marine Sciences	Microbial Source Tracking	07/20/2023	4,096.00
51679	Edges Electrical Group	Supplies for City locations	07/20/2023	74.06
51684	Monterey Sanitary Supply	Fire Dept-janitorial supplies	07/20/2023	1,546.48
51690	Scarborough Lumber & Building	PW Streets - Supplies	07/20/2023	22.68
51691	Tope's Tree Service Inc.	Tree services citywide as directed by City Forester	07/20/2023	13,000.00
51692	Town and Country Gardening	On call landscape service for City	07/20/2023	15,936.05
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	94,696.91
51738	Alhambra	PW Water Delivery-	07/26/2023	68.40
51743	Carmel Cares-Dale Byrne, President	Reimburse for Mutt Mitt purchase	07/26/2023	3,404.00
51745	Carpet Caravan Inc.	New carpet install 6/22/23	07/26/2023	990.14
51746	City Of Monterey	Unit 14 service repair: parts and labor 6/27/23	07/26/2023	8,620.27
51749	Edges Electrical Group	Supplies for City locations	07/26/2023	1,746.03
51751	Granite Construction Company	City Hall hot mix 6/28/23	07/26/2023	841.92
51755	Napa Auto Parts	Parts for Sweeper 6/29/23	07/26/2023	480.71
51756	Office Depot, Inc.	Supplies for Admin PW 6/15/23	07/26/2023	508.85
51758	Quinn Company Inc	Rental of Dump Truck	07/26/2023	1,314.12
51760	Ross Recreation Equipment, Inc.	FHP Playground Parts	07/26/2023	6,650.86
51761	Sherwin-Williams Co.	PW Paint and paint supplies	07/26/2023	824.13
51763	Tree Stuff Lockbox No 639707	Safety equipment for tree crew. 7/11/23	07/26/2023	385.63
51764	Uline Inc.	Trash bags, gear	07/26/2023	410.21
51765	Universal Staffing Inc	Temporary staffing services PW-7/3/23	07/26/2023	1,785.00
51771	Zumar Industries, Inc.	12 Stop Signs and blanks	07/26/2023	1,007.03
51773	Airtec Inc	Exhaust fan repair in PW- 6/30/21	07/31/2023	3,270.26
51775	American Supply Company	PW/FM Janitorial supplies 0177834	07/31/2023	1,460.89
51778	Carmel Towing & Garage	June Fuel for PW	07/31/2023	3,119.80
51781	Florence Filter Corp	Filters for City buildings 6/22/23	07/31/2023	1,438.25
51783	Ono Consulting	Consulting from May - June	07/31/2023	12,600.00
51785	PSTS, Inc.	Services:Pumping oil-water separator 6/29/23	07/31/2023	805.00

51788	Town and Country Gardening	Tree work as directed by staff	07/31/2023	23,320.00
51790	US Bank	CW-6191 7/6/23 Facilities supplies	07/31/2023	2,937.00
51790	US Bank	RC- Forestry supplies	07/31/2023	895.85
51790	US Bank	PW Expo APWA for Javier Hernandez	07/31/2023	829.00
51790	US Bank	CW-6191 7/6/23 Facilities supplies	07/31/2023	1,625.98
		Total for Department: 119 Public Works		312,509.39
Department: 120 Library				
51634	Jayson Architecture	Professional architectural services Library	07/14/2023	19,954.00
51656	Pacific Grove Self Storage	Storage Unit - Document storage	07/14/2023	353.00
51733	Prism Public Risk Innovation	Primary Workers Compensation 7/1/2023-6/30/2024	07/26/2023	22,031.53
		Total for Department: 120 Library		42,338.53
Department: 121 Community Activities				
51707	Leslie Fenton	Lunch for PW crew working July 4	07/20/2023	22.00
51727	Good Roots Events, Inc.	50% for 2023 Farmers' Market & 3rd Thursday events - music and s	07/26/2023	20,700.00
51733	Prism Public Risk Innovation	Primary Worke'rs Compensation 7/1/2023-6/30/2024	07/26/2023	7,227.88
		Total for Department: 121 Community Activities		27,949.88
Department: 122 Economic Revitalization				
51621	Sunset Cultural Center Inc.	City Operating Grant - Quarter 1, 2023	07/07/2023	187,500.00
51648	Carmel Chamber of Commerce	Visitor Center operations	07/14/2023	30,000.00
51718	Visit Carmel	Destination marketing funding FY 23-24	07/20/2023	30,000.00
		Total for Department: 122 Economic Revitalization		247,500.00
Department: 130 Non-Departmental				
51603	Prism Public Risk Innovation	Enterprise Risk Consultant Program	07/07/2023	3,368.75
51636	Pacific Gas & Electric	Citywide gas & electric services	07/14/2023	14,209.43
51638	Prism Public Risk Innovation	Enterprise Risk Consultant Fee S. Wimes Mar-Apr 2023	07/14/2023	1,399.44
51658	Prism Public Risk Innovation	Property Program	07/14/2023	158,989.00
51696	Alliant Insurance Services	AST Pollution premium/Surplus lines tax/ee	07/20/2023	790.69
51733	Prism Public Risk Innovation	Optional Excess Liability Program 7/1/2023-6/30/2024	07/26/2023	83,186.00
51733	Prism Public Risk Innovation	General Liability 7/1/2023-6/30/2024	07/26/2023	670,278.00
51733	Prism Public Risk Innovation	Cyber Liability Program 7/1/2023-6/30/2024	07/26/2023	7,364.00
51774	Alliant Insurance Services	ACIP-Alliant Crime Insurance Program	07/31/2023	1,340.00
51777	Cal-Am Water Company	Water service citywide-Jun-Jul 2023	07/31/2023	15,742.11
51784	Prism Public Risk Innovation	Enterprise Risk Consultant Fee S Adams April-May 2023	07/31/2023	1,012.50
		Total for Department: 130 Non-Departmental		957,679.92
Department: 311 Capital Projects				
51566	BKF Engineers	Concrete Street Repairs - CIP	07/07/2023	28,763.24
51591	Layer 1 Networks Inc	Labor to install new telecom outlets PD	07/07/2023	300.11
51599	Native Solutions	North Dunes Restoration Project	07/07/2023	11,500.00
51604	Rehak General Engineering	City Hall Retaining Wall	07/07/2023	121,309.43
51606	Scarborough Lumber & Building	Paint for ADA handrails 6/16/23 #447614-4	07/07/2023	71.55
51607	Schaaf & Wheeler Civil Engineers	Storm Drain Master Plan	07/07/2023	8,085.00
51617	Wallace Group	Project Management CIP Cioncrete Street Repair	07/07/2023	4,524.58
51673	Bureau Veritas North America Inc	Facilities Condition Assessment Project	07/20/2023	28,219.95
51676	Davey Resource Group, Inc.	Forestry Managament Plan	07/20/2023	19,885.96
51678	Dudek	Construction support servicesfor MTNP pump house removal and wel	07/20/2023	3,976.25
51740	Ausonio, Inc	SCC Haz mat remediation and exterior painting	07/26/2023	4,445.00
51757	Pacific Redwood Products, LLC	Scenic Barrier Rails-	07/26/2023	45,188.63
51762	Ten Over Studio, Inc	On Call Architecural Services-SSC Exterior Painting	07/26/2023	1,587.50
51769	Wallace Group	Project Management CIP Cioncrete Street Repair	07/26/2023	2,384.25
51772	4Leaf, Inc	Police Facility Reno Project	07/31/2023	2,632.50
51775	American Supply Company	PW/FM Janitorial supplies 0177834 1160.00 to CIP ADA yr 6	07/31/2023	1,160.00
51776	Ausonio, Inc	PM and and consulting for CH retaining Wall billing for June. 7	07/31/2023	2,727.50
51780	EMC Planning Group, Inc	Coastal Engineering Study and Adaptation Plan	07/31/2023	1,819.41
51782	Mayone Structural Engineering	City Hall Repair Project - CIP	07/31/2023	6,357.00
51786	Rehak General Engineering	City Hall Retaining Wall	07/31/2023	6,384.71
		Total for Department: 311 Capital Projects		301,322.57
Department: 411 Debt Service				
51649	County of Monterey, Dept of Emerg Communications	NGEN Debt service	07/14/2023	15,032.69
		Total for Department: 411 Debt Service		15,032.69
Department: 513 Veh & Equip Replacement				
51653	Motorola Solutions Credit Co. LLC	CIP:Police Radios lease 122PS-PDRADIO	07/14/2023	29,002.98
51791	Municipal Maintenance Equipment	RAVA 5E Series Electric Street Sweeper purchase	07/31/2023	563,813.71
		Total for Department: 513 Veh & Equip Replacement		592,816.69
		Grand Total		3,609,498.79

Vendor	Contract Amt	Paid thru July	Contract Balance
Pen Messenger	$ 107,730.00	$ 35,871.00	$ 71,859.00
City of Monterey *	$ 2,950,699.00	$ 245,891.60	$ 2,704,807.40

J4 Systems	$ 51,840.70	$ 48,806.50	$ 3,034.20
Pureserve *	$ 272,000.00	$ 21,775.59	$ 250,224.41
4Leaf Inc.	$ 179,800.00	$ 67,862.90	$ 111,937.10

Attachment 1

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Mary Bilse, Environmental Programs Manager
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-081, authorizing the City Administrator to apply for and accept funds from the California Coastal Commission Local Coastal Program Local Assistance Grant Program for the Coastal Engineering and Adaptation Planning Project

RECOMMENDATION:

Adopt Resolution 2023-081 authorizing the City Administrator to apply for and accept funds from the California Coastal Commission Local Coastal Program Local Assistance Grant Program for the Coastal Engineering and Adaptation Planning Project.

BACKGROUND/SUMMARY:

In 1972, California voters adopted Proposition 20 creating the California Coastal Act and Coastal Commission (Commission). The Commission was given the mandate of implementing Coastal Act policies by preparing a comprehensive plan for the California coastline and reviewing locally-approved projects within a coastal zone along the coastline. In 1976, the Coastal Act was revised with specific provisions that coastal permit processing authority be transferred from the Commission to local governments upon the adoption of local Coastal Land Use and Implementation Plans. The Coastal Land Use Plan must contain planning policies and land use designations relating to the coastal zone and Coastal Act. The Coastal Implementation Plan must contain regulations and programs necessary to carry out the Coastal Land Use Plan. Together the Coastal Land Use Plan and Implementation Plan form the Local Coastal Program (LCP).

Recognizing funding and capacity constraints of local governments in undertaking this work, the Commission's LCP Local Assistance Grant Program provides funds to support local governments in completing or updating LCPs consistent with the California Coastal Act, with special emphasis on planning for sea-level rise and climate change. The Commission is in the process of releasing funds designed to assist local governments in assessing sea level rise and climate change impacts and planning for coastal resiliency. Funding is provided by the Budget Act of 2021 and will provide up to $31 million to support local governments. The outcome of the LCP assistance grant must include adoption of a new or amended LCP.

The City's LCP was certified by the Coastal Commission in 2004 and includes the following General Plan Elements: Land Use & Community Character Element, Circulation Element, Coastal Access and Recreation Element, and Coastal Resource Management Element. The LCP also includes the Carmel

Municipal Code Chapter 17 (Implementation Plan) and the General Plan and Zoning Ordinance appendices.

In August 2022, the City Council adopted the City's Climate Adaptation Plan and Climate Action Plan. These plans included various projects to implement. One key initial project is the Coastal Engineering Study and Adaptation Planning Project. In November 2022, the City Council approved a Professional Services Agreement with EMC Planning Group/Integral Corporation/Haro Kasunich & Associates in the amount of $175,000 to conduct the first phase of the Coastal Engineering Study and Adaptation Planning Project.

The Coastal Engineering Study and Adaptation Planning Project is designed to be completed in two phases. Phase 1 is fully funded in the prior and current fiscal years' Capital Improvement Plan (CIP). Key tasks and associated deliverables for Phase 1 are briefly outlined below:

Phase 1 – Coastal Engineering and Hazard Assessment

- **Task 1** – The findings of the Coastal Infrastructure Condition Assessment were presented to the Forest and Beach Commission in March 2023. The final report is available in the following link: https://ci.carmel.ca.us/sites/main/files/file-attachments/12176_carmel_beach_adaptation_coastal_protection_assessment_4-27-2023_rev.pdf?1692201318
- **Task 2** – Preparation of the Shoreline and Beach Change Analysis – Long Term and Seasonal. The findings of this analysis were presented to the Forest and Beach Commission in August 2023. The final report will be provided by September 2023. A link the consultants' presentation is provided in the following link: https://ci.carmel.ca.us/sites/main/files/file-attachments/carmel_task_2_presentation_fbcommission_08102023.pdf?1692199802
- Tasks 1 and 2 are also planned to be presented at a future Climate Committee meeting.
- **Task 3** – Shoreline and Beach Erosion Exposure Modeling. A technical memo of the methods and maps showing results of the projected existing and future coastal hazard extents is currently underway.
- **Task 4** – Coastal Hazard and Sea Level Rise Vulnerability Assessment. The consultants will provide an Executive Summary of results, up to five sector profile summaries (land use, transportation, utilities, etc.).
- **Task 5** – Policy Review. The consultants will provide a memo summarizing the City's existing coastal hazard policies and attend meetings with California Coastal Commission and City staff.

Phase 2 – Local Coastal Plan Coastal Hazards Policy Update

The Phase 2 LCP Coastal Hazards Policy work will build off the technical work completed and in progress in Phase 1 and will update the City's LCP to address Coastal Hazards. The City's Fiscal Year 2023/2024 CIP budget established $100,000 to partially fund Phase 2.

The consultants and staff have recently identified a non-competitive California Coastal Commission grant of $500,000 for which this project is eligible to complete all of Phase 2 (**Attachment 2**). City staff, the consultants, and the Coastal Commission staff met in August 2023 to review the Phase 2 scope of work, estimated costs, and terms of the Grant Agreement (**Attachment 3**). If the City receives Coastal Commission grant funding of $500,000, staff will ask the City Council to re-appropriate the Fiscal Year 2023/2024 CIP funds of $100,000 at an upcoming meeting.

Once funded by the grant, the Phase 2 scope of work would be focused on the Coastal Hazards section of the LCP, and will address sea level rise hazards, areas of vulnerability, preferred adaptation strategies,

potential coastal resiliency projects, and coastal hazards mapping. Specifically, Phase 2 will include: 1) project management, including $50,000 for City staff project management; 2) develop recommendations for policy and project approaches and identify high priority adaptations; 3) public outreach and community engagement; 4) conduct a socio-economic analysis including developing a cost analysis for certain implementation strategies; 5) develop adaptation strategies for the short, medium, and long term projects as well as monitor triggers for steps to move to the next phase of adaptation; and 6) revise hazard policies and additional policy area updates; and 7) prepare the LCP amendment to update coastal hazard policies. This effort would result in an updated LCP that identifies areas of coastal vulnerability in the City, addresses environmental justice needs, and plans for coastal resiliency and climate adaptation projects.

Grant Application Process and Next Steps

We are requesting the City Council to a) adopt the attached Resolution in the form provided by the California Coastal Commission, b) approve the submission of the grant application, and c) accept the funds from the California Coastal Commission Local Coastal Program Local Assistance Grant Program for the Coastal Engineering and Adaptation Planning Project. The Commission expects to award the grant in the Fall 2023.

Work will not be authorized to begin on Phase 2 until the City Council approves an amendment to the Professional Services Agreement with EMC Planning Group/Integral Corporation/Haro Kasunich & Associates for approximately $450,000.

FISCAL IMPACT:

Funding for Phase 2 is anticipated to come from a non-competitive California Coastal Commission Grant in the amount of $500,000. Work will not be authorized to begin on Phase 2 until the City Council approves an amendment to the Professional Services Agreement with EMC Planning Group/ Integral Corporation/Haro Kasunich & Associates for $450,000 for the grant funding and appropriates $50,000 for City staff project management. Grant funds would be available monthly on a reimbursement basis.

If the City receives Coastal Commission grant funding, staff will ask the City Council to reappropriate the Fiscal Year 2023/2024 CIP funds of $100,000 which were programmed to prepare a portion of the Phase 2 services. These funds may be reappropriated to further design and construction of the Shoreline Infrastructure Repairs Project included in the Fiscal Year 2023/2024 CIP or another project.

PRIOR CITY COUNCIL ACTION:

In June 2022, City Council approved the Fiscal Year 2022-23 CIP budget, which included a Sea Level Rise/Coastal Engineering Report and a Beach Sand Survey and Wall Inspections in the combined amount of $175,000. At their August 2, 2022 meeting, City Council adopted the City's Climate Adaptation Plan and Climate Action Plan under Resolution 2022-064.

In November 2022, City Council approved Resolution 2022-094, the City Council awarded a Professional Services Agreement to EMC/Integral/Haro Kasunich, for a not-to-exceed fee of $175,000, for the first phase of the Coastal Engineering and Adaptation Planning Project. The Coastal Engineering Report is identified as a high-priority project in the Climate Action Plan.

ATTACHMENTS:

Attachment 1) Resolution 2023-081
Attachment 2) CCC Grant Application

Attachment 3) Grant Agreement

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-081

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING SUBMITTAL OF THE CALIFORNIA COASTAL COMMISSION LOCAL COASTAL PROGRAM LOCAL ASSISTANCE GRANT PROGRAM PROPOSAL

WHEREAS, the Budget Act of 2021 provides up to $31 million to support the Coastal Commission's Local Coastal Programs (LCP) Local Assistance Grant Program and which awards grants to local governments to support coastal resiliency and updates to the LCPs; and,

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a grant program to provide such financial assistance for LCP planning; and,

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to promote coastal resiliency and address the effects of climate change; and,

WHEREAS, grant proposals submitted under this grant program must complete LCP work with special emphasis on coastal resiliency and addressing the effects of climate change and sea level rise; and,

WHEREAS, the City of Carmel-by-the-Sea has a certified LCP; and,

WHEREAS, the City of Carmel-by-the-Sea, desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to the LCP; and,

WHEREAS, the City of Carmel-by-the-Sea desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an LCP and desires to assume permit issuing authority; and,

WHEREAS, the City of Carmel-by-the-Sea commits to and agrees to fully support a planning effort intended to amend a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

1. Directs City of Carmel-by-the-Sea staff to submit the grant application package attached hereto as Exhibit "A" to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of $500,000 to fund the Coastal Engineering and Adaptation Planning Project, Phase 2, more particularly described in the grant application package attached as Exhibit "A".

2. Authorize the City Administrator of the City of Carmel-by-the-Sea to apply for, accept and execute in the name of the City of Carmel-by-the-Sea, all necessary applications, contracts, and agreements and amendments thereto, and appropriate funds from the California Coastal Commission, to procure and implement any project approved through approval of the grant application.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dave Potter
Mayor

ATTEST:

Nova Romero, M.M.C.
City Clerk

CALIFORNIA COASTAL COMMISSION
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2421
VOICE (415) 904-5200
FAX (415) 904-5400

CALIFORNIA COASTAL COMMISSION LCP LOCAL ASSISTANCE GRANT PROGRAM

NON-COMPETITIVE GRANT APPLICATION FORM

The California Coastal Commission is pleased to announce the availability of rolling grant funding to support local government coastal resiliency efforts. Funding is provided by the Budget Act of 2021, which appropriates $31 million to the Coastal Commission to support its LCP Local Assistance Grant Program. The grant program is intended to provide assistance to local governments responsible for developing and amending Local Coastal Programs. Funds may be used for projects that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise, and which contain an LCP planning component.

As part of the recently adopted grant program updates, the Coastal Commission developed a non-competitive, rolling application process that is separate from the Commission's competitive grant rounds. **This rolling application process is designed for targeted projects up to $500,000** which have a high likelihood of success over a shorter grant term, such as a single feasibility study with targeted LCP changes. The application form and additional details are provided below. More information on eligible grantees and projects, program priorities, and evaluation criteria can be found in the recently adopted LCP Grant Program Updates.

Coastal Commission staff is available to assist during the application process. Applicants are encouraged to reach out to the LCP Grant team with any questions as they develop their applications. Contact information is provided below.

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APPLICATION FORM

APPLICANT INFORMATION

Applicant name (agency): City of Carmel-by-the-Sea	
Address: P. O. Box CC, Carmel-by-the-Sea, California 93921	
Primary Contact name: Chip Rerig	Title: City Administrator
Telephone: 831-620-2000	Fax: 831-620-2004
Email: crerig@ci.carmel.ca.us	
Federal Tax ID#:	

Person authorized to sign grant agreement, amendments, and Request for Funds:	
Name: Chip Rerig	Title: City Administrator
Telephone: 831-620-2000	Email: crerig@ci.carmel.ca.us

PROJECT INFORMATION

Project Title: Hazards Policy Review and Revisions	
LCP/LCP Segment: City of Carmel	
Project Location	
City/Geographic area: Carmel-by-the-Sea	
County: Monterey	
Project Timeline	
Start date: 10/1/2023	End date: 03/01/2025

Signature:_____ Date:

APPLICATION MATERIALS

A complete grant application package will consist of the following materials. Please note the entire grant application will be public record upon submittal.

1. **Signed Application Form**. The signed application form (page 2, above), including the agency, primary contact, person authorized to sign, and project information.

2. **Project Description**. Provide a clear description of the proposed project, including how the project will meet program priorities and fulfill the evaluation criteria (see Attachment C). Describe the goals and objectives to be achieved as well as key deliverables and LCP planning components (including specifying whether proposed work will include updates on the Land Use Plan, Implementation Plan/Zoning Code, and/or a Public Works Plan). Note that public outreach and coordination with Coastal Commission staff are required components of these grants. The Project Description section should be no more than 2 pages in 12 point font, single-spaced.

   Please note that the non-competitive grant program is intended for more targeted projects which have a high likelihood of success over a shorter grant term, such as a single feasibility study with targeted LCP changes. Comprehensive LCP updates or projects that include development of multiple studies and significant LCP changes will likely be more appropriate for the competitive grant rounds.

The City of Carmel-by-the-Sea's Local Coastal Program (LCP) was certified by the Coastal Commission in 2004. The LCP includes a policy document, the Land Use Plan, and a set of ordinances and resolutions to implement those policies, the Coastal Implementation Plan. The Land Use, Circulation, Coastal Access, Recreation, and Coastal Resource Management elements of the City's General Plan have been combined with its Local Coastal Land Use Plan to ensure coordination of these two policy documents. The Coastal Implementation Plan consists of Carmel Municipal Code Chapter 17 as well as Coastal Implementation Plan appendices which include the City's Shoreline Management Plan (Appendix A).

Climate change is one of the most significant policy areas to emerge since the certification of Carmel's LCP in 2004, and statewide attention has focused on sea level rise and climate change considerations for local jurisdictions. As a response, in August 2022, the Carmel City Council adopted the Climate Action Plan and Climate Adaptation Plan. This Coastal Engineering study is an official implementation strategy as a result of those plans. Phase 1 of the Coastal Engineering study is currently underway using City funds of $175,000.

The City of Carmel is undertaking Coastal Engineering and Adaptation Planning work with the goal of updating their LCP to address sea-level rise and coastal hazards. Phase 1 of the work, which includes technical studies and reports, is currently underway. Integral Consulting Inc. and HKA are preparing a Coastal Engineering and Hazard Assessment study for the City of Carmel which assessed the conditions and lifespans of existing coastal protection structures, analyzed historic blufftop and beach width changes, and will model coastal hazard exposure within the City of Carmel's Coastal Zone. The City provided $175,000 for this Phase 1 work. Phase 1 Task 1 (Coastal

Engineering Condition Evaluation) has just been accepted by the City, and Phase 1 Task 2 (Shoreline and Beach Change Analysis) is well underway. Phase 1 Task 3 (Shoreline and Beach Erosion Modeling) and Task 4 (Coastal Hazard and Sea Level Rise Vulnerability, High Priority Adaptation Identification, and Action Plan) will be underway shortly.

While Phase 1 is underway, the City would like to take advantage of the new Coastal Commission non-competitive funding stream to apply for Phase 2 grant money which will fund policy updates and a coastal hazards LCP Amendment. The Phase 2 policy work will build off the technical work done in Phase 1 and will update the City's LCP to address coastal hazards based on the findings of the Phase 1 technical studies funded by the City of Carmel. Policy updates will be focused on the Coastal Hazards section of the LCP and will address sea level rise and associated hazards, areas of vulnerability, preferred adaptation strategies, potential coastal resiliency projects, and coastal hazards mapping. Specifically, Phase 2 will include: 1) reviewing existing coastal hazards policies, 2) conducting a social vulnerability assessment; 3) submitting an LCP amendment to update coastal hazard policies; and 4) updating the City's coastal hazard mapping. This effort would result in an updated LCP that identifies areas of coastal vulnerability in the City of Carmel, addresses environmental justice needs, and plans for coastal resiliency and climate adaptation projects.

The Carmel-by-the-Sea City Manager and City Council aim to complete these tasks expeditiously to ensure that coastal hazards are fully addressed and planned for in the LCP. The scope of work and identified tasks for Phase 2 are identified below.

3. **Task Descriptions and Schedule.** Provide a description of the tasks that will accomplish your project goals and objectives (see Section (a.) below) and complete a proposed schedule, including anticipated benchmarks, for implementation of each task (see Section (b.) below).

    a. **Task Descriptions:** Identify specific tasks and subtasks to be accomplished and provide a narrative description of each task and subtask, including the approach needed to accomplish the task and the roles of partners and stakeholders. Task descriptions should briefly state how they support the overall project goals.

    Proposed deliverables for each task should be described as well, such as draft and final sea level rise vulnerability assessments and adaptation reports, and draft, revised draft, and submittals of Land Use Plans, Implementation Plan, and/or Public Works Plans. Note that tasks (and the schedule, below) should account for review of major deliverables by Coastal Commission staff and members of the public prior to finalization.

    Please describe how the project applicant will conduct outreach to engage stakeholders in the planning process, particularly those from disadvantaged and low-income communities, as well as California Native American Tribes, and how these stakeholders will be involved in the planning or assessment process. If your project includes partners, please identify their roles and responsibilities.

PHASE 2- Hazards Policy Review and Revisions, Outreach and LCP Amendment

Task 0 – Project Management
This task includes billing hours after the City issues a purchase order to complete, project administration, execution of subconsultant contracts, internal team coordination, a kickoff meeting, and quarterly progress calls with summary notes. EMC Planning Group, as Prime, will take the lead for the consultants on project management and administration. The City staff is also requesting funds to support staff participation and project management in the various project tasks.

Task 1 – Adaptation Feasibility
Integral will summarize the wide range of possible adaptation strategies (projects and policy, green vs gray) and briefly describe the secondary consequences of each and using our professional judgement and experiences to identify adaptation strategies that should be left on the table and presented to the community for further analysis and discussion in Phase 2. We will also identify high priority adaptations that have a very good chance of needing to be implemented over the next 10 years. Some of the feasibility criteria for adaptation will include secondary consequences, regulatory viability, as well as initial construction and ongoing maintenance costs. Essentially this will identify which adaptation tools remain on the table for community discussion, which ones are ruled out, and which are of higher priority that should be expedited to the City planning and permit phase. Integral will lead this task with input on costs from HKA and EMC write up for policy approaches.

Deliverables:

- Draft tables summarizing feasibility, recommendations for policy and project approaches, and identify high priority adaptations, sent to CCC staff for 6-week review
- Final tables reflecting CCC comments as appropriate

Task 2 – Public Outreach and Engagement
EMC Planning Group and Integral will prepare and present to the Climate Change Committee (CCC) – 1 city council, 1 planning commission meeting ($5K per meeting for prep, staff support for staff reports, technical presentation development, participation, travel, and follow ups). Assist staff to identify and engage low-income communities as well as California Native American Tribes and develop outreach and meetings to solicit meaningful engagement. Attended by Integral and EMC lead. EMC will prepare an outreach plan to engage broader community members such as non-homeowners, members of surrounding communities (Carmel Valley, Big Sur, Monterey, Pacific Grove, etc.), and frequent visitors. Such outreach efforts could include email lists, radio announcements, beach and grocery store informational postings, and a dedicated website for content development prepared and managed by EMC Planning Group. Phase 2 Task 3 (socio-economic analyses) will help inform outreach strategies and groups to target.

Deliverable:

- Technical content and preparation for at least eight (8) presentations, including: two (2) Climate Committee, two (2) Forest and Beach Commission, one (1) Planning Commission, one (1) City Council, and two (2) Public Workshops led by Integral and EMC Planning Group;
- Draft and Final Outreach Plan; sent to CCC staff for 6-week review
- Website content
- Outreach and Education materials.

Task 3 – Socio-Economic Analyses

Integral will lead this socio-economic analysis, which will build upon data collected from Phase 1 Task 4 (Coastal Hazard and Sea Level Rise Vulnerability, High Priority Adaptation Identification, and Action Plan) and Phase 2 Task 1 (Adaptation Feasibility) to analyze changes to City revenue streams, asset values and non-market beach and coastal recreational use values from a 'business as usual' approach. This task includes a travel-cost survey to understand visitation patterns and values associated with recreational and tourism use of Carmel's coast, to help guide preferences for adaptation approaches. This task will also include the purchase of cellphone data, to better understand the source of visitors to the area, and the importance of access to the coastline of Carmel to residents of inland communities, particularly during high heat events. This is important to understand both the aggregate value of non-market values of the Carmel coastline (as values are a product of the daily use estimates from the travel cost survey and the number of visitors), but also to examine the feasibility and equitability of different funding and financing options, such as tourism taxes and daily parking fees. Analysis of cellphone data will be based on geo-fencing of points of interest (access points, coastal reserves), and analysis of the 'home' location of visitor cellphone devices. The methodology will be similar to that employed by Merrill et al 2020, with advisory input from Associate Professor Kiki Patsch at California State University Channel Islands, who has experience in the use of this data in central California. Finally, this task will include developing indicative cost estimates for construction and maintenance costs associated with various prioritized adaptation strategies, based on unit cost information, to inform the benefit cost analysis (BCA). The results of the data collection and initial analysis will be used to refine a site-specific benefit cost assessment, to evaluate economic and fiscal changes from the baseline case 'business as usual' for community/City selected adaptation strategies.

Deliverables:

- Draft technical memo of survey and economic results with maps and tabular data, sent to CCC staff for 6-week review
- Final technical memo of survey and economic results with maps and tabular data incorporating CCC comments as appropriate
- Two (2) presentations to either the Climate Committee, Planning Commission, Forest and Beach Commission or City Council presented by EMC Planning Group or Integral.

Task 4 – Adaptation Pathway Development

Using results of Phase 1 Task 4 (Coastal Hazard and Sea Level Rise Vulnerability, High Priority Adaptation Identification, and Action Plan) and Phase 2 Tasks 1, 2 and 3, develop an adaptation pathway for each of the four sections of the City's coastline (North Beach, North Dunes, Central Beach, and South Beach) by identifying appropriate adaptation strategies for the short, medium and long term (by time and/or SLR elevation), as well as monitoring triggers for initiating planning steps to move to the next phase of adaptation. This Task will also include engineering cost estimates for potential adaptation pathways, including how to pay for adaptation over time.

Deliverables:

- Short draft technical memo on monitoring needs and adaptation pathway graphics for each section. Cost estimates and funding options for adaptation pathways, sent to CCC staff for 6-week review

- Final technical memo and adaptation pathway graphics, incorporating CCC staff comments as appropriate
- One presentation to either the Climate Change Committee, Planning Commission, Forest and Beach Commission or City Council attended by Integral and EMC.

Task 5 – Revised Coastal Hazard Policies
After identifying triggers and thresholds; develop draft coastal hazards policies based on results of hazard policy review, public outreach, the adaptation feasibility and adaptation pathway development, the socio-economic analysis and the Phase 1 Coastal Engineering and Hazard Assessment. This Phase includes LUP and IP policy drafting and coordination with Coastal and City staff to:

- Identify and prepare draft language for Coastal Hazards LCP policy areas updates.

Deliverables:

- 1-2 meetings with California Coastal Commission staff to discuss draft coastal hazard policies and obtain Coastal staff's guidance on scope and policy priorities for the LCP Amendment.
- Memo identifying draft policy language, sent to CCC staff for 6-week review
- Final policy language, incorporating CCC staff comments as appropriate
- One presentation to the appropriate City body attended by EMC.

Task 6 – Additional Policy Area Updates
This Task leaves time and budget for amendments to other sections of the LCP, if such amendments become necessary to maintain consistency throughout the entire LCP. For example, new Coastal Hazards policies may trigger inconsistencies with current Public Access or ESHA policies, which would then need to be updated to maintain consistency throughout the LCP. If no additional amendments become necessary, the City will request an informal amendment to reallocate the Task 6 funds within the Budget.

Deliverables:

- Draft LCP amendments in sections of the LCP other than the Coastal Hazards chapter, for 6-week CCC staff review
- Final LCP amendments in sections of the LCP other than the Coastal Hazards chapter, reflecting CCC comments as appropriate

Task 7 – LCP Amendment
Task 7 will be focused on integrating the policies written in Task 5 and Task 6 into the LCP and evaluating programmatic changes, and implementation language and making other necessary amendments to the LCP based on the hazards work completed in the previous tasks. This will result in an updated, uniform, conforming LCP that is internally consistent between all coastal resource policy areas.

This task will result in a final LCP Amendment that focuses on integrating the Coastal Hazard policy updates into other policy area updates, as necessary. This Task will include working with Coastal Commission staff to revise the policies and zoning around the coastal hazards and social vulnerability findings such that future uses are consistent with the City's LCP policies. Amendments to the Implementation Plan (IP) will be done concurrently with the amendments to the Land Use Plan (LUP), as necessary. Task 7 includes the following:

- Preparation of an Administrative and Draft version of the LCP;
- Submit draft LCP amendments for Coastal Commission staff review;
- Meet with Coastal Commission staff;
- Present draft LCP amendments at a public workshop for input and discussion;
- Develop revised draft LCP amendments that addresses feedback received to date;
- Prepare the Final Coastal Hazards and Sea Level Rise Draft LCP documents (and any associated LCP amendments);
- Attend and present at the Planning Commission Hearing (LCP Coastal Hazards and LCP Amendments adoption);
- Attend and present at the City Council Hearing (LCP Coastal Hazards LCP and Amendments adoption); and
- Attend the Coastal Commission LCP Amendments (Coastal Hazards LCP and Amendments) Certification hearing and assist the City with response to questions, if needed.

Deliverables:

- Administrative draft LCP amendment(s) for City and 6-week Coastal Commission staff review.
- Draft LCP amendment(s) for public review, revised to reflect City and CCC staff comments.
- Local hearing package: Revised draft LCP amendments for adoption consideration; final Coastal Hazards and Sea Level Rise Draft LCP documents
- Up to four (4) meetings with City and Coastal Commission staff to discuss amendments.
- One (1) public workshop to consider draft LCP amendments.
- One (1) Planning Commission Hearing.
- One (1) City Council Hearing.
- One (1) Coastal Commission Hearing.

Note: All documents will be produced as electronic format files (Word and Adobe pdf).

b. **Schedule:** Complete the schedule template below for each task and subtask. Please specify dates for the submittal of interim drafts as well as final deliverables as applicable (*e.g.*, Draft Vulnerability Assessment and Final Vulnerability Assessment). Staff anticipates that these targeted grants will support projects that can be

accomplished in approximately two years, though longer project terms will be considered.

Proposed Start/End Dates:

Phase 2. Hazard Policy Review and Revisions, Outreach, and Adaptation Pathway Development	**Projected start/end dates:**
Task 1 Adaptation Feasibility	Projected start/end dates: October 1, 2023 – January 31, 2024
Task 2 Public Outreach and Engagement	Projected start/end dates: October 1, 2023 – January 31, 2024
Task 3 Socio-economic survey and fiscal impact analysis	Projected start/end dates: October 1, 2023 – June 30, 2024
Task 4 Adaptation Pathway Development	Projected start/end dates: March 1, 2024 – Sept 30, 2024
Task 5 Revised Hazard Policies	Projected start/end dates: April 1, 2024 – Sept 30, 2024
Task 6 Additional Policy area updates	Projected start/end dates: April 1, 2024 – January 15, 2025
Task 7 LCP Amendment	Projected start/end dates: Sept 1, 2024 – June 30, 2025

a. **Benchmark Schedule:** Please list (1) all significant and pertinent project benchmarks related to the project for which funds are being requested, (2) expected dates for reaching or completing those steps. These dates will be used in monitoring grant progress and in grant reporting under approved grant agreements.

ACTIVITY	**COMPLETION DATE**
Phase 2, Task 1	January 31, 2024
Phase 2, Task 2	January 31, 2024
Phase 2, Task 3	June 30, 2024
Phase 2, Task 4	September 30, 2024
Phase 2, Task 5	September 30, 2024
Phase 2, Task 6	January 15, 2025
Phase 2, Task 7	June 30, 2025

4. **Budget.** Please include a task-by-task budget for both County/City staff labor and for potential consultants and/or project partners. Budget detail on sub-tasks is not necessary and budgets may be amended following execution of grant agreements. Note that consultant/partner costs must be listed by task and must include all costs relating to consultant/partner labor, travel, supplies, overhead, etc. If consultants will be hired at a later date, please include a budget estimate per task that can be updated after hiring the

consultants. **Please note that these non-competitive, rolling grants are intended for projects up to $500,000.** Applications for larger grant projects should be reserved for future competitive grant rounds.

Application Budget Information

Funding Request: $ 418,827 Total Project Cost: $ 418,827

Jurisdiction Name	***CCC Grant Total***	***Match/Other Funds***	***Total (LCP Grant Funds + Match/ Other Funds)***
LABOR COSTS[1]			
County/City Staff Labor			
Task 1 – *Project Management*	**$50,000**	**$ 175,000 (Phase 1)**	
Total Labor Costs	**$50,000**		
DIRECT COSTS			
County/City Staff Project Supplies			
A			
B, etc.			
Total	**N/A**		
Consultants[2]/Partners			
PH 2- Task 0 Project Management	**$ 56,180**		
PH 2 – Task 1 Adaptation Feasibility	**$ 27,260**		
PH 2 -- Task 2 Public Outreach and Engagement	**$ 57,320**		
PH 2 -- Task 3 Socio-Economic Analyses	**$ 51,850**		
PH 2 -- Task 4 Adaptation Pathway Development	**$ 87,180**		
PH 2 -- Task 5 Revised Hazard Policies	**$ 49,740**		
PH 2—Task 6 Additional Potential Policy Area Updates	**$ 35,740**		
PH 2 – Task 7 LCP Amendment	**$ 53,500**		
Subtotal	**$ 418,770**		

[1] *Amount requested should include total for salary and benefits.*

[2] *All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.*

Jurisdiction Name	***CCC Grant Total***	***Match/Other Funds***	***Total (LCP Grant Funds + Match/ Other Funds)***
Consultants Expenses			
Outreach Platform	**$ 5,000**		
Mileage	**$ 1,165**		
Cell Phone Data	**$ 12,000**		
Production/Misc.	**$ 1,000**		
Graphics	**$500**		
Subtotal	**$ 19,665**		
Total Direct Costs	**$ 438,435**		
OVERHEAD/INDIRECT COSTS[3]			
5% Mark-up[4]	**$ 11,565**		
Total County/City Staff Overhead/Indirect Costs			
TOTAL PROJECT COST	**$ 500,000**		

5. **Supplementary Information** (optional). Additional photos, maps and/or other information may be included as attachments if such materials will help illustrate or support the proposed project. This may include maps or other information identifying disadvantaged and low-income communities within the planning area; maps, photos, or other information regarding project areas identified to be significantly impacted by climate change or sea level rise; brief descriptions or links to previously completed studies or other work upon which the proposed project will build; or letters of support from relevant stakeholders.

   Please note: All photos, maps, and additional information submitted is subject to the unqualified and unconditional right of the State of California to use, reproduce, publish, or display it, free of charge. All items submitted will be considered a public record upon submittal and will be treated in accordance with Public Records Act requirements. Please indicate if credit is requested for any photos and/or maps or documents.

6. **Resolution from the Applicant's Governing Body.** Please submit a resolution that contains the following authorizations: 1) authority to submit the proposal, 2) authority to enter into a grant agreement with the California Coastal Commission if the grant is awarded, and 3) designation of the applicant's authorized representative (name and title). A sample resolution is provided as Attachment A. Resolutions should also contain clear statements of

[3] *Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Labor."*

[4] *For this proposal, EMC Planning Group has reduced it's standard 10% subconsultant markup of 10% to 5%. The markup does not apply to EMC Planning Group labor costs.*

commitment to full completion of the intended grant process, including submission of applicable LCP products (LCP submittal or amendment) to the Commission for review.

SUBMISSION INSTRUCTIONS

Please submit the completed application form, including all attachments, via email to LCPGrantProgram@coastal.ca.gov. Submit all application materials combined in a single PDF file, AND submit the Project Proposal (including project description, task descriptions, schedule, and budget) as a Word document. See Attachment B for an application checklist.[5]

If you are unable to submit via email, you may mail a CD and hard copy to the Coastal Commission at the address below. Please coordinate with Kelsey Ducklow via email prior to mailing hard copy application materials.

Kelsey Ducklow and Carey Batha
California Coastal Commission
455 Market St., Suite 300
San Francisco, CA 94105

kelsey.ducklow@coastal.ca.gov
carey.batha@coastal.ca.gov

Once an application has been submitted, Commission staff will confirm it has been received, and may follow up for clarifications, additional details, or to recommend that an amended application be submitted. The Executive Director will make a final determination on grant awards within 30 days of submittal of a complete grant application. Applicants will be notified of the decision, and staff will provide an update to the Coastal Commission on awarded projects. Projects not awarded funding through the non-competitive program will still be eligible for future competitive grant rounds.

CONTACT INFORMATION

Coastal Commission staff are pleased to assist local governments during preparation of LCP grant applications. Contact information for the LCP Grant Program Team is included below. **Please note that due to the COVID-19 Pandemic, many staff members continue to work from home, so email may be the best way to contact them at this time**.

[5] Please note: all information that is submitted is subject to the unqualified and unconditional right of the State of California to use, reproduce, publish, or display it, free of charge. All documents submitted will be considered a public record upon submittal and will be treated in accordance with Public Records Act requirements. Please indicate if credit is requested for any photos and/or maps.

For questions on the overall grant application process, including project eligibility and funding requirements, please contact Kelsey Ducklow at: kelsey.ducklow@coastal.ca.gov or (415) 904-2335.

Questions regarding specific project proposals should be directed to the LCP grant coordinator for the respective County:

- For Del Norte, Humboldt, Mendocino, Santa Cruz, Monterey, and San Luis Obispo Counties, please contact Awbrey Yost at: awbrey.yost@coastal.ca.gov, or call (831) 427-4863.
- For Sonoma, Marin, San Francisco, San Mateo, and Orange Counties, please contact Brittney Cozzolino at: brittney.cozzolino@coastal.ca.gov, or call (415) 904-5271.
- For Santa Barbara and Ventura Counties, please contact Karen Vu at: karen.vu@coastal.ca.gov, or call (415) 904-5268.
- For Los Angeles and San Diego Counties, please contact Mary Matella at: mary.matella@coastal.ca.gov, or call (415) 904-6093

For District-specific questions, contact information for each district office is listed below.

North Coast (Del Norte, Humboldt, Mendocino Counties)

- Shana Gray, Deputy Director: shana.gray@coastal.ca.gov, (415) 904-5280
- Melissa Kraemer, District Manager: melissa.kraemer@coastal.ca.gov, (707) 826-8950

North Central Coast (Sonoma, Marin, San Francisco, San Mateo Counties)

- Dan Carl, Deputy Director: Dan.Carl@coastal.ca.gov, (831) 427-4863
- Stephanie Rexing, District Manager: stephanie.rexing@coastal.ca.gov, (415) 904-5260

Central Coast (Santa Cruz, Monterey, San Luis Obispo Counties)

- Dan Carl, Deputy Director: Dan.Carl@coastal.ca.gov, (831) 427-4863
- Kevin Kahn, District Manager: kevin.kahn@coastal.ca.gov, (831) 427-4863

South Central Coast (Santa Barbara and Ventura Counties, and the Malibu portion of Los Angeles County)

- Steve Hudson, Deputy Director: Steve.Hudson@coastal.ca.gov, (805) 585-1800
- Barbara Carey, District Manager: Barbara.Carey@coastal.ca.gov, (805) 585-1800

South Coast (Los Angeles (except Malibu) **and Orange Counties)**

- Karl Schwing, Deputy Director, Orange County: Karl.Schwing@coastal.ca.gov, (562) 590-5071
- Steve Hudson, Deputy Director, Los Angeles County: Steve.Hudson@coastal.ca.gov, (562) 590-5071
- Amber Dobson, District Manager: Amber.Dobson@coastal.ca.gov, (562) 590-5071

- Shannon Vaughn, District Manager: shannon.vaughn@coastal.ca.gov, (562) 590-5071

San Diego (San Diego County)

- Karl Schwing, Deputy Director: Karl.Schwing@coastal.ca.gov, (619) 767-2370
- Diana Lilly, District Manager: diana.lilly@coastal.ca.gov, (619) 767-2370
- Kanani Leslie, District Manager: kanani.leslie@coastal.ca.gov, (619) 767-2370

Attachment A: Sample Resolution[6]

WHEREAS, the Budget Act of 2021 provides up to $31 million to support the Coastal Commission's LCP Local Assistance Grant Program which awards grants to local governments to support coastal resiliency and updates to Local Coastal Programs (LCPs); and

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to promote coastal resiliency and address the effects of climate change; and

WHEREAS, grant proposals submitted under this grant program must complete Local Coastal Program (LCP) planning work with special emphasis on coastal resiliency and addressing the effects of climate change and sea-level rise; and

WHEREAS, (insert name of jurisdiction), has [does not yet have] an effectively certified LCP [or LCP segment]; and

WHEREAS, the (name of jurisdiction), desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to the LCP [in whole or in part]; and

[For uncertified areas] WHEREAS, the (name of jurisdiction), desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an LCP and desires to assume permit issuing authority; and

WHEREAS, the (name of jurisdiction) commits to and agrees to fully support a planning effort intended to [complete or] amend a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

NOW, THEREFORE, BE IT RESOLVED, that the [name of legislative or policy body], of the [name of jurisdiction], hereby:

1. Directs [name of jurisdiction] staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of $_____ to fund the project more particularly described in the grant application package.

[6] This sample is provided for informational purposes only; please contact your attorney before using this sample.

2. Authorizes the (title of official), of the (name of jurisdiction), to execute, in the name of the (name of jurisdiction), all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the (name of legislative or policy body), of the (name of jurisdiction), on this ____ day of _____, 2021 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Attest:

_____

Signed:

_____
(name and title of official authorized to sign resolutions of the governing body)

Attachment B: Application Checklist

A complete Grant Application Packet includes the following components. Please submit all documents in a single PDF file as well as a Word Document of the Project Proposal details, as noted below. **It is very important to receive the PDF file and a Word document for efficiency in preparing grant agreement documents.** Thank you for your attention to these important components of the application.

- ☐ Signed LCP Grant Application Form (.pdf)
- ☐ Project Proposal (.docx)
  - Project Description, Task Descriptions, Schedule, Budget, and Supplemental Information
- ☐ Signed Resolution (.pdf)
- ☐ All documents combined into a single PDF file (.pdf)

Attachment C: Program Priorities and Evaluation Criteria

Applications for LCP local assistance planning grants will be evaluated for their ability to complete the proposed planning work. Projects selected for funding will be those that best meet the Commission's adopted program priorities and evaluation criteria, which were updated at the October 2021 hearing to reflect current planning needs.[7]

Eligible Grantees and Projects

These grants are intended to provide assistance to local governments responsible for developing and amending Local Coastal Programs, and such local governments must be the primary applicant and grantee. Coastal jurisdictions may also partner together in support of regional planning efforts and/or grant funds may be used to support relevant stakeholder groups to achieve specific project goals. Local governments are eligible to apply for projects that were not previously funded.

Eligible projects are those that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise, and which contain an LCP planning component. Grant funds may be used for technical, economic, policy, and other analyses, feasibility studies, vulnerability assessments, adaptation plans, outreach and coordination efforts, and activities related to LCP adoption and submittal. LCP planning components may include development of a new LCP, a comprehensive LCP update, an LCP amendment (*e.g.*, updates to coastal hazards policies; incorporation of new sea level rise related policies or programs), targeted LCP changes (*e.g.*, changes to LCP policies/zoning to allow for implementation of identified sea level rise adaptation strategies or climate resiliency projects; updates to previously adopted SLR policies in response to continued planning), or similar activities undertaken through a Public Works Plan (PWP) process.

More information on eligible project types is provided in the program priorities and evaluation criteria sections below. Additional details, including project examples, may be provided in forthcoming grant application announcements.

Program Priorities

Applications will be evaluated for their ability to advance coastal resiliency efforts in the context of LCP planning. This may include:

- Completion of technical, economic, policy, or other analyses meant to assist in understanding, planning for, and adapting to climate change and sea level rise, and increasing coastal resiliency, including but not limited to general vulnerability assessments, studies to evaluate impacts based on evolving science (*e.g.*, extreme sea level rise, groundwater change), feasibility and design studies for nature-based adaptation or other specific strategies, and development of monitoring programs

[7] See: *Recommended Updates to the LCP Local Assistance Grant Program*, adopted October 15, 2021.

- Planning work and/or related studies to support development of regional, neighborhood, site, or asset specific adaptation approaches, including phased adaptation/adaptation pathways, such as for a Shoreline Management Plan, a Coastal Hazards Response Plan as required by a Coastal Development Permit, or similar
- Planning work and/or focused outreach efforts to increase public awareness and participation in climate change and sea level rise planning activities, particularly among vulnerable communities
- Planning work to address environmental justice concerns, particularly related to climate change and sea level rise planning activities, and to ensure equitable protection of coastal resources and provision of public coastal access and lower-cost recreation for everyone, regardless of race, ethnicity, socio-economic status, or place of residence
- Completion of land use plan and/or zoning work to achieve certification of a new Local Coastal Program (or an Area of Deferred Certification) or planning and/or zoning work to significantly update certified LCPs (or LCP segments) in whole or in part to provide for coastal resiliency, or to reflect changed conditions, new information and scientific knowledge, new programs and policies, or other significant changed circumstances

Evaluation Criteria

Staff will evaluate grant applications against the following selection criteria. The criteria will be considered as a whole, not weighted.

Public Benefit/Significance

The Commission will consider the extent to which the proposed project will address issues of statewide significance and maximize public benefits of the coast. These can include reducing greenhouse gases and addressing the impacts of climate change and sea level rise; preserving and enhancing coastal habitat; protecting, providing and enhancing public access; protecting priority land uses such as agriculture, coastal dependent development, or recreation; protecting and providing lower cost visitor and recreational opportunities. The Commission will consider the extent to which priority Coastal Act resources are addressed and the public benefits maximized.

Environmental Justice

In 2016, the Legislature passed AB 2616 giving the Coastal Commission explicit authority to consider environmental justice, defined in California Government Code Section 65040.12(e), as updated in 2020, as: "*The fair treatment and meaningful engagement of people of all races, cultures, incomes, and national origins with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.*" Low-income communities, indigenous communities, communities of color, and other marginalized communities often bear a disproportionate burden of pollution or other environmental harms, while suffering from a lack of environmental services, such as clean drinking water, clean air, and access to parks and open space. Addressing these types of disparities and barriers to

meaningful involvement is critical for ensuring that Coastal Act goals of protecting coastal resources for all are equitably fulfilled, particularly as climate change results in evolving risks, without creating new or continuing to exacerbate existing environmental burdens in environmental justice communities. The Coastal Commission will consider the extent to which environmental justice issues are addressed when evaluating grant proposals.

Addressing the Effects of Climate Change

Climate change is one of the most significant policy areas to emerge since many of the LCPs have been certified. The Commission is seeking LCP updates and amendments that address the effects of climate change, including land use, housing, transportation, and habitat restoration and conservation policies that facilitate reductions in greenhouse gases and vehicle miles traveled, as well as the planning and implementation of strategies to adapt to sea level rise and other issue areas affected by climate change, such as changes in habitats and fire hazards.

Relative Need for LCP Update

Related to the public benefits of a proposal, the Commission will consider the relative need for an LCP update, considering the length of time since an LCP or LCP segment has been updated and the significance of the issues proposed to be updated. For example, many jurisdictions seek to assess vulnerability and develop adaptation solutions to address sea level rise, fire, or other climate change impacts to critical infrastructure, residential areas, recreational amenities and open space, or significant wetland and habitat areas. Others have identified needs to reduce vehicle miles traveled, encourage smart growth, increase climate-resilient housing supply, improve public transit, and enhance pedestrian and bicycle options, particularly to and along the coast. A proposal to complete technical studies, economic analyses, mapping, public outreach, and development of LCP policies in support of these options may be important.

Likelihood of Success/Effectiveness

Overall, the success of the Commission's grant program will be measured by the progress made toward development and implementation of climate resilience strategies, including through LCP certification, update, or amendment. The Commission will consider the likelihood of success of each proposal, including evaluating the practicality, feasibility, and effectiveness of a proposed work program that may lead to successful implementation. Proposals must address the need for coordination with the public and the Commission, and provide for practicable benchmarks for development and review of studies, plans, LCP policies, and other project-specific deliverables.

Other evidence in support of this criteria may include resolutions of intent and endorsement for the proposed work from the jurisdiction and other organizations, matching funds, or other complementary efforts (see below), or other factors that may affect the likelihood that an LCP amendment will be successfully completed. Applicants will be asked to describe any LCP planning work that has been initiated or is already underway at the local level and how this grant program is needed to substantially further that effort. A resolution from the applicant

committing to completing an LCP Amendment submittal to the Commission will be required as part of the application.

For new LCP development, the local government should demonstrate its willingness and capacity to assume local coastal development permit processing. Relatedly, some areas of the coastal zone remain uncertified because the Commission and local government have been unable to reach agreement on the resolution of issues or the issue is particularly intractable. The Commission will consider the likelihood that such areas and specific policy questions can be successfully addressed, leading to certification of the area.

Project Integration/Leverage/Matching Funds

The Commission will consider the relationship of the LCP work program to other planning work being undertaken by the jurisdiction. There are several statewide grant programs underway which may positively integrate with this LCP Planning Grant program. Applicants will be asked to describe any other related grant awards (such as through past Coastal Commission grant rounds, or from the Ocean Protection Council, Coastal Conservancy, Caltrans, or the Strategic Growth Council) that may support the LCP planning work. The Commission will consider the ability to integrate and leverage any additional program funds available that could help support LCP certification, update, or amendment.

EXHIBIT B1

BUDGET DETAIL AND PAYMENT PROVISIONS
(Local Coastal Programs)

1. **Request for Funds**

A. For performance of activities satisfactorily rendered during the term of this Agreement (as specified in EXHIBITS A and B), and upon receipt and approval of the Request for Funds Form described below (also referred to as the "RFF Form"), the Commission agrees to reimburse Grantee for actual expenditures incurred in accordance with the rates specified herein or attached hereto.

B. Grantee shall submit each RFF form no more frequently than monthly (except as requested by the Commission) but no less frequently than quarterly (assuming activity occurred within that quarter) in arrears via email to your LCP grant coordinator or mailed in triplicate to:

California Coastal Commission
Attn: [*Your LCP Grant Coordinator*]
Statewide Planning Division
725 Front Street, Suite 300
Santa Cruz, CA 95060

C. Each RFF form shall contain the following information:

1. Grantee's name and address as shown in this Agreement.
2. Invoice number and date of the RFF
3. Time period covered by the RFF form during which work was actually done.
4. Agreement number as shown on this Agreement.
5. Original signature of the Grantee, specifically the Project Representative, as identified in EXHIBIT A.
6. Itemized costs by tasks and source of funds as listed in the Scope of Work for the billing period in the same or greater level of detail as indicated in the Project Budget (see EXHIBIT B), with supporting documentation. Only those costs and/or cost categories expressly identified in this Agreement may be reimbursed.
7. Remaining balance listed by task number from the Scope of Work including the cumulative expenditures to date, the expenditures during the reporting period, and the unexpended balance of funds under this Agreement.
8. The total amount of all other funds, including matching funds, under the Grantee Matching Funds section of the RFF.

EXHIBIT B1

D. Attached to the RFF form, the Grantee shall submit a supporting progress report summarizing the work that was completed during the invoice period and the current status of the work for which disbursement is sought, including work by any consultant, and comparing it to the status required by the Scope of Work (budget, timeline, tasks, etc.). Progress reports must be submitted no less frequently than on a quarterly basis, even if an RFF is not submitted.

E. Notwithstanding the foregoing, the Grant Manager of the Commission may request, and the Grantee shall provide, receipts or other source documents for any other direct expenditure or cost as described in the RFF form, as and when necessary to resolve any issue concerning reimbursement.

F. The Grantee's failure to fully execute and submit a RFF form, including attachment of supporting documents, may relieve the Commission of its obligation to disburse funds to the Grantee unless and until the Grantee corrects all deficiencies.

G. Any RFF form that is submitted without the required itemization and documentation will be considered "disputed" and will not be authorized. If the RFF form package is incomplete, inadequate or inaccurate, the Commission will inform the Grantee and will withhold payment until all required information is received or corrected. In the case of non-compliance, the Commission will issue a formal Invoice Dispute Notification [STD (209)] and take necessary action in resolving any disputed matter(s). Any penalties imposed on the Grantee by a consultant, or other consequence, because of delays in payment will be paid by the Grantee and is not reimbursable under this Agreement.

H. Grant Funds in this award have a limited period in which they must be expended. Grantee expenditures funded by the Commission must occur within the term of the Grant Agreement and before the Termination Date.

I. The Grantee shall expend Grant Funds in the manner described in the Scope of Work and Project Budget approved by the State. Expenditure on items contained in the approved Project Budget may vary by as much as ten percent with prior approval by the Commission Grant Manager, provided the grantee first submits a revised Project Budget for the purpose of amending the Project Budget. In any event, the total amount of the Grant Funds may not be increased, except by written amendment to this agreement and only if approved by the Commission.

2. **<u>Budget Contingency Clause</u>**

A. It is mutually agreed that if the final Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the Grant Program, this Agreement shall be of no further force and

EXHIBIT B1

effect, and the Commission shall have no liability to pay any funds whatsoever to Grantee or to furnish any other consideration under this Agreement and Grantee shall not be obligated to continue performance under the provisions of this Agreement.

B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Grant Program, the Commission shall have the option at its sole discretion to either cancel this Agreement with no liability accruing to the Commission or enter into an agreement amendment with Grantee to reflect the reduced amount.

3. **Prompt Payment Clause**

Payment will be made no later than 45 days following receipt of properly submitted, undisputed invoices except as otherwise set forth in, and in each case in accordance with, the California Prompt Payment Act, Government Code section 927, et seq.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the California Coastal Commission. Grantee may not commence performance until such approval has been obtained.

2. AMENDMENTS: This Agreement may only be amended by mutual agreement in writing between Grantee and the Commission. Any request by the Grantee for an amendment must state the amendment request and reason for the request and shall be submitted in writing, such as by email or letter. The Grantee shall strive to make requests immediately upon discovering that an amendment may be needed. No oral understanding or agreement not incorporated into the Agreement in writing is binding on the parties.

   Except as otherwise provided herein, the Grantee shall expend Grant Funds in the manner described in the Scope of Work (EXHIBIT A) and Project Budget (EXHIBIT B) approved by the Commission. In any event, the total amount of the Grant Funds may not be modified, except by written amendment to this Agreement. Any subsequent changes or additions to the Scope of Work and Project Budget approved by the Commission in writing are hereby incorporated by reference to this Agreement as though set forth in full in this Agreement. Changes to the grant term and/or the total amount of Grant Funds will require a formal amendment, while changes to Scope of Work (EXHIBIT A) and the Project Budget (EXHIBIT B) may be done through an informal amendment, found in EXHIBIT F.

3. ASSIGNMENT: This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the Commission in the form of a formal or informal written amendment.

4. INDEMNIFICATION: Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all consultants, subconsultants, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of this Agreement.

5. DISPUTES: Grantee shall continue with the responsibilities under this Agreement during any dispute.

6. NO CREATION OF AGENT RELATIONSHIP*:* Grantee, and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

EXHIBIT C

7. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Grantee and its consultants, subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40*),* marital status, and denial of family care leave. Grantee and consultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and consultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its consultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

   Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

8. CERTIFICATION CLAUSES: The GRANTEE CERTIFICATION CLAUSES contained in the document GCC-1/2019 are hereby incorporated by reference and made a part of this Agreement (EXHIBIT E) by this reference as if attached hereto.

9. TIMELINESS: Time is of the essence in this Agreement.

10. COMPENSATION: The consideration to be paid Grantee, as provided herein, shall be in compensation for all of Grantee's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

11. GOVERNING LAW: This agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

12. ANTITRUST CLAIMS: The Grantee by signing this agreement hereby certifies that if services or goods are obtained through a public purchase by means of a competitive bid, the Grantee shall comply with the requirements of the Government Codes Sections set out below.

    a. The Government Code Chapter on Antitrust claims contains the following definitions:

EXHIBIT C

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

13. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of $100,000, the Grantee acknowledges in accordance with Public Contract Code 7110, that:

a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

EXHIBIT C

b. The Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

14. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

15. PRIORITY HIRING CONSIDERATIONS: If this Agreement includes services in excess of $200,000, the Grantee shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

16. AUDIT REQUIREMENTS AND FINANCIAL RECORDKEEPING: Commission projects are subject to audit by the State annually and for three (3) years following the payment of Grant Funds. Accordingly, Grantee shall maintain orderly, accurate and complete documents and records of all financial accounts, costs, disbursements, receipts and other matters relating to this Agreement consistent with the policies outlined in EXHIBIT C, hereto, for the Project and shall make them available to the State or the Commission for auditing, inspecting and copying at reasonable times. Grantee agrees to allow the auditor(s) to interview any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896). Grantee shall also retain such documents and records for three (3) years after final payment and one (1) year following an audit unless a longer period of records retention is stipulated. The documents for audit should be retained onsite.

Grantee shall use applicable Generally Accepted Accounting Principles published by the American Institute of Certified Public Accountants.

If Grantee stated in the Project Budget that other sources of funding will be used to complete the Project, the Grantee shall establish internal systems to track expenditures of matching or in-kind funds on a regular basis and will make the documentation available to the Commission upon request.

EXHIBIT D

Special Terms and Conditions

1. PROJECT EXECUTION:

   A. Grantee shall complete the Project before the Termination Date.

   B. Subject to the availability of funds, the Commission hereby grants to the Grantee the sum $###,### (Grant Funds) not to exceed the amount stated on the signature page in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the terms and conditions set forth in this Agreement.

   C. Prior to the commencement of any Project work, Grantee agrees to submit in writing to the Commission for prior approval any deviation from the original Scope of Work pursuant to EXHIBIT A and the Project Budget pursuant to EXHIBIT B. Changes in the Scope of Work or Project Budget must continue to ensure timely and effective completion of the Project, including where applicable a new or updated Local Coastal Program for certification by the Commission. Any modification or alteration in the Scope of Work or Project Budget on file with the Commission must be submitted to the Commission for approval. Changes to the Scope of Work or Project Budget shall require an amendment to this Agreement (see “Amendments” under EXHIBIT C).

   D. Grantee shall furnish any and all additional funds that may be necessary to complete the Project.

   E. As applicable, Grantee shall ensure that Project work excludes any and all Project work that was funded through previously awarded grants or the matching funds identified through previously awarded grants so as to ensure that current grant funding is not duplicative of previous grant funding. Such grants include, but are not limited to, WHALE TAIL® Grants, grants previously awarded by the Coastal Commission, grants awarded by the Ocean Protection Council as well as grants awarded by the State Coastal Conservancy.

   F. Final invoicing shall be submitted promptly following the termination date of the grant or upon a date mutually agreed upon by the Grantee and the Grant Manager.

   G. Grantee certifies that the Project does and will continue to comply with all current laws and regulations which apply to the Project, including, but not limited to, the California Coastal Act, health and safety codes, and disabled access laws.

EXHIBIT D

2. POTENTIAL CONSULTANTS/CONTRACTORS

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Commission and any consultants, and no contract shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible for the acts and omissions of its consultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its consultants is an independent obligation from the Commission's obligation to make payments to the Grantee. As a result, the Commission shall have no obligation to pay or to enforce the payments of any moneys to any consultants.

The Grantee agrees to include in any agreement with any consultant and/or subconsultant under the Grant Project terms that preserve the rights, interests, and obligations for the benefit of the Commission and its funding sources as described in EXHIBIT C ("General Terms and Conditions") and EXHIBIT D/D1/D2 ("Special Terms and Conditions") of this Grant Agreement.

If all or any part of the Project to be funded under this Agreement will be performed by third parties under contract with the Grantee, prior to executing an agreement for services, the Grantee shall inform the Grant Manager of the selection of the third party.

Grantees seeking subcontractors under this Agreement to perform any services exceeding the cost of $10,000.00 shall select those contractors pursuant to a process that seeks three competitive quotations or adequate justification for the absence of bidding.

All consultants and subcontractors are subject to all terms and conditions of this agreement in accordance with the California State Contracting Manual. Consultants seeking travel reimbursement see "Travel Reimbursement" clause below.

3. TRAVEL REIMBURSEMENT

The Commission will reimburse travel and related expenses at actual costs not to exceed the State rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations. Grantees may seek reimbursement for any travel expenses that are in excess of these state rates, but only if the Grantee has received *prior* written approval of the Commission's Chief Deputy Director or his/her designee permitting the expenses in excess of state rates on the basis that state rates were not reasonably available. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. Receipts will be required for all travel related reimbursements. All travel costs are inclusive within the budgeted amount referenced in this Agreement. Grantees shall ensure that travel and related expenses, including Grantee's consultant and subconsultant travel and related

EXHIBIT D

expenses, submitted to the Commission for reimbursement, do not exceed the State rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations, unless prior written approval permitting the expenses to be in excess of state rates was obtained, as noted above.

4. PROPERTY PURCHASED

The Grantee agrees to continue using property purchased under this Agreement for the purposes outlined in this Agreement or similar activities until it is fully consumed (*i.e.*, is either fully distributed, damaged, worn-out, or becomes obsolete).

Grantees shall receive prior authorization in writing by the Commission before reimbursement for any purchase order or subcontract exceeding $10,000.00 for any articles, supplies, equipment, or services. The contractor shall provide in the request for authorization all particulars necessary for evaluation of the necessity or desirability of incurring such cost and the reasonableness of the price or cost.

5. SETTLEMENT OF DISPUTES

If the Grantee believes that there is a dispute or grievance between Grantee and the Commission arising out of or relating to this Agreement, the Grantee shall first discuss and attempt to resolve the issue with the Commission's Grant Manager. If the issue cannot be resolved at this level, the Grantee shall follow the following procedures:

If the issue cannot be resolved directly with the Grant Manager, the Grantee shall submit, in writing, a grievance report together with any evidence to the Chief Deputy Director of the Commission. The grievance report must state the issues in the dispute, the legal authority, or other basis for the Grantee's position and the remedy sought. Within ten (10) days after receipt of the grievance report, the Chief Deputy Director, or his/her designee, shall meet in person or via phone with the Grantee and the Grant Manager for purposes of resolving the dispute. The decision of the Chief Deputy Director following such a meeting shall be final.

6. WAIVER AND RELEASE

Grantee hereby waives all claims and recourses against the Commission, including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Agreement, except for claims for reimbursement of costs due under this Agreement, recovery of which shall be limited to the total amount properly incurred hereunder and in no event exceed the total amount of Grant Funds provided for hereunder. Grantee acknowledges that it is solely responsible for its compliance with the terms of this Agreement.

EXHIBIT D

7. REALLOCATION OF FUNDS

If Grantee fails to meet the performance criteria and/or Benchmarks in this Agreement, the Executive Director or his designee may immediately upon written notice cancel this Agreement or request to amend the Agreement, and as feasible, re-allocate any unspent funds to one or more of the other approved Grantees that needs additional funding or whose grant was not fully funded.

Should a Grantee not need the full amount of funds awarded by the Commission, they shall notify the Grant Manager as soon as possible so that any remaining allocated but unspent funds may be redistributed, as feasible. In addition, should Grantee fail to enter into an agreement necessary for its performance hereunder in a timely manner, the Executive Director or his designee may, upon Commission approval, reallocate funds to supplement an already awarded grant.

8. SURVIVAL

The obligations in the "INDEMNIFICATION" and "AUDIT REQUIREMENTS AND FINANCIAL RECORDKEEPING "clauses of the General Terms and Conditions (EXHIBIT C), and in the "ACKNOWLEDGMENT" and "WORK PRODUCT" clauses in the Special Terms and Conditions (EXHIBIT D1), as well as any other provisions in this Agreement that by their nature are intended to survive termination or expiration, shall survive the termination of this Agreement.

9. WAIVERS GENERALLY

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether expressed or implied, will constitute consent to, waiver of or excuse of any other, different or subsequent breach by either party.

10. EXECUTIVE DIRECTOR'S DESIGNEE

The Executive Director shall designate a Commission staff Grant Manager who shall have authority to act on behalf of the Executive Director with respect to this Agreement. Grantee shall be notified of such designation in writing.

EXHIBIT D1

Local Coastal Program (LCP) Terms and Conditions

Definitions

1. The term "Benchmark"; specific tasks or project deliverables identified in the Scope of Work as approved by the Commission.

2. The term "Disadvantaged Community" refers to communities identified by the California Environmental Protection Agency as the top 25% most impacted census tracts in CalEnviroScreen 4.0, a screening tool used to help identify communities disproportionally burdened by multiple sources of pollution and with population characteristics that make them more sensitive to pollution.

3. The term "General Fund" or the acronym "GF" all refer to the General Fund.

4. The term "LCP" refers to Local Coastal Program.

5. The term "Local Coastal Program Local Assistance Grant Program" refers to the Coastal Commission's grant program to support local governments in planning for sea level rise and climate change, and developing new or updating existing Local Coastal Programs (LCP), consistent with the California Coastal Act. *CA Code of Reg. Title 14 Division 5.5 Ch. 8 Sub. 2*

6. The term "Low-Income Community" refers to communities and households that are found within census tracts and households, respectively, that are either at or below 80 percent of the statewide median income, or at or below the threshold designated as low-income by the California Department of Housing and Community Development's adopted list of state income limits.

7. The term "Materials"; all data, plans, drawings, specifications, surveys, studies, and other written or graphic work produced in the performance of this Agreement and are identified as "deliverables" in the Scope of Work of this Grant Agreement.

8. The term "Other Sources of Funds"; cash or in-kind contributions that are required or used to complete the Project beyond the Grant Funds provided by this Agreement.

9. The term "Pooled Money Investment Account" (PMIA) refers to the account through which the State Treasurer invests taxpayers' money to manage the State's cash flow and strengthen the financial security of local governmental entities. The rate of interest earned on the Pooled Money Investment Account serves as a benchmark for setting interest rates in several provisions of state law, and is the rate that is used for purposes of this Agreement. *GC Title 2. Government of the Statute of CA [8000-22980], Division 4. Fiscal Affairs [16100-1777], Part 2. State Funds [16300-16649.95], Ch. 1.16314*

EXHIBIT D1

10. The term “Request for Funds Form” or “RFF Form”; the form that will be submitted requesting payment and which is described in EXHIBIT B1.

11. The term “Round 1” refers to the Commission’s first round of LCP grant funding that commenced in Fiscal Year 2013-2014 under the Local Coastal Program Local Assistance Grant Program.

12. The term “Round 2” refers to the Commission’s second round of LCP grant funding that commenced in Fiscal Year 2014-2015 under the Local Coastal Program Local Assistance Grant Program.

13. The term “Round 3” refers to the Commission’s third round of LCP grant funding that commenced in Fiscal Year 2016-2017 under the Local Coastal Program Local Assistance Grant Program.

14. The term “Round 4” refers to the Commission’s fourth round of LCP grant funding that commenced in Fiscal Year 2017-2018 under the Local Coastal Program Local Assistance Grant Program.

15. The term “Round 5” refers to the Commission’s fifth round of LCP grant funding that commenced in Fiscal Year 2018-2019 under the Local Coastal Program Local Assistance Grant Program.

16. The term “Round 6” refers to the Commission’s sixth round of LCP grant funding that commenced in Fiscal Year 2019-2020 under the Local Coastal Program Local Assistance Grant Program.

17. The term “Round 7” refers to the Commission’s seventh round of LCP grant funding that commenced in Fiscal Year 2021-2022 under the Local Coastal Program Local Assistance Grant Program.

18. The term “Round 8” refers to the Commission’s eighth round of LCP grant funding that commenced in Fiscal Year 2022-2023 under the Local Coastal Program Local Assistance Grant Program.

19. The term “Sea Level Rise Guidance” refers to the Coastal Commission’s Sea Level Rise Policy Guidance document adopted in August 2015 and updated in 2018. The document provides an overview of best available science on sea level rise for California and recommended steps for addressing sea level rise in Coastal Commission planning and regulatory actions under the Coastal Act.

EXHIBIT D1

LCP Terms and Conditions

1. PURPOSE OF GRANT FUNDING

Grant funds shall be used to fulfill the goals of the California Climate Investments program, including planning for strategies to reduce greenhouse gas emissions, adapt to the impacts of climate change, and maximize benefits to disadvantaged and low-income communities.

2. ACKNOWLEDGEMENT

In order to acknowledge the Commission's support of the project, the Commission's name and logo shall be included in a prominent location in all materials related to the LCP Grant Project, including, but not limited to: Grantee reports or website postings about the grant program; draft and final work products, such as vulnerability assessments, adaptation plans, land use plans and implementation plans; and public outreach-related materials, including workshop announcements, press releases, contacts with the media, signage, invitations, and other media-related and public outreach products. Less formal materials, such as stakeholder participation rosters and outreach agendas, do not need to include acknowledgement of Commission support. The Grantee shall include in any agreement with any consultant or subconsultant under the LCP Grant Program terms that preserve the rights, interests, and obligations created by this section, and that identify the Commission as third-party beneficiaries of those provisions. The Commission shall have the right to republish any material generated as a result of this Agreement.

3. WORK PRODUCT

It shall be the Commission's Grant Manager's sole determination as to whether grant materials (*i.e.*, project deliverables in Scope of Work) have been successfully completed and are acceptable to the Commission. The Commission reserves the right to withhold reimbursement under the REIMBURSEMENT clause for materials deemed incomplete or substandard. For materials that constitute LCPs, including Land Use Plans and Implementation Plans, the standard of review in determining whether a LCP is successfully completed and acceptable as a work product under the Scope of Work of this Grant Agreement, is the Coastal Act.

The Grantee agrees that all materials are subject to the unqualified and unconditional rights of the Commission as set forth in this section. The Commission shall have the right to reproduce, publish, display and make derivative use all such work, or any part thereof, free of charge in any manner and for any purposes whatsoever and to authorize others to do so. If any of the work material is subject to copyright, trademark, service mark, or patent, the Commission is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of

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derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

Grantee agrees that it shall use the materials developed with Grant Funds only for the purpose for which the Grant Funds were requested and no other use of the materials shall be permitted (including use of the work produced under this Agreement for any profit-making venture, or the sale or grant of rights thereto for that purpose) except as otherwise agreed to in an Amendment.

Grantee must certify the materials developed with Grant Funds under this Agreement shall remain available for public request. This Agreement shall not prevent the transfer of the materials from the Grantee to a Public Agency if the successor Public Agency assumes the obligations imposed by this Agreement.

If the use of the materials is changed to a use that is not permitted by the Agreement, or if the materials are sold or otherwise disposed of, at the Commission's sole discretion, an amount equal to (1) the total amount of the Grant Funds, or (2) the proceeds from the sale or other disposition, whichever is greater, shall be promptly reimbursed to the Commission by Grantee.

The Grantee agrees to include in any agreement with any consultant and/or subconsultant under the Grant Project terms that preserve the rights, interests, and obligations created by this section, and that identify the Commission as a third-party beneficiary of those provisions.

Commission staff will be available to support the development of the Project through regular coordination and assistance. Commission staff support includes regular coordination meetings, timely review of reports, and participation in stakeholder advisory groups, as feasible, to ensure timely and successful completion of the Project.

4. PUBLIC ENGAGEMENT and TRIBAL CONSULTATION

Public outreach shall target all interested members of the public, including visitors and other non-residents to the maximum extent feasible for the purpose of meaningful engagement in policy development, technical studies, and other tasks conducted pursuant to the grant Project. All public outreach activities related to the Project shall, to the maximum extent feasible, proactively engage those who already face disproportionate environmental burdens or vulnerabilities to environmental hazards, and/or those who come from communities of existing social inequalities, including members of the public and organizations from the following communities: disadvantaged communities, communities of color and/or low income, communities with low capacity to adapt to climate change, and communities not in close proximity to the shoreline but who visit and recreate there. Outreach activities shall seek to provide maximum opportunities for these groups to engage with and provide input on the tasks

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of the Project. Grantees shall also seek to engage with California Native American Tribes in line with the Coastal Commission's Tribal Consultation Policy (adopted August 2018).

5. REIMBURSEMENT

Complete reimbursement of Task funds under this Agreement will be dependent upon successful completion of the Task deliverable(s) of this Agreement. Grantee agrees that up to 20% of each Task and the total Task Budget hereunder may not be reimbursable until each Task and all final Task deliverables have been completed, delivered by the Grantee to Commission Staff, and accepted by the Commission's Grant Manager.

6. DIGITAL AND PAPER SUBMITTAL OF MATERIALS

Prior to the Executive Director's determination and reporting of certification pursuant to Section 13544 of the California Code of Regulations of a grant-funded LCP project, grantees shall submit LCP documents and maps in both paper and editable digital format to the Coastal Commission.

7. INSURANCE

Throughout the term of this Agreement, for the life of any asset funded by the grant monies awarded pursuant to this Agreement, or for any period of project implementation after the termination date of this Agreement, the Grantee shall maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the Grantee or its agents, representatives, employees, volunteers, or consultants associated with the Project undertaken pursuant to this Agreement.

If the Grantee provides funds to any consultants to accomplish any of the work of this Agreement or provides grant funds to any contractor to carry out a project under this Agreement, the Grantee shall first enter into an agreement with each consultant requiring it to obtain and maintain liability and property-damage insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the consultant, or its agents, representatives, employees, or volunteers, associated with the project undertaken pursuant to this Agreement. As an alternative, with the written approval of the Executive Director, the consultant may satisfy the coverage required by this section in whole or in part through its participation in a "risk management" plan, self-insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section. Required insurance shall be maintained from the commencement date through the Termination Date of any work undertaken by the consultant under the approved Scope of Work.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

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1. Insurance Services Office ("ISO") Commercial General Liability coverage (occurrence Form CG 0001) or ISO Comprehensive General Liability form (1973) or comparable with Broad Form Comprehensive General Liability endorsement.
2. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
3. Workers' Compensation insurance as required by the Labor Code of the State of California.

B. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:

1. General Liability: (Including operations, products and completed operations, as applicable)	$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this Agreement or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:	$1,000,000 per accident for bodily injury and property damage.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Director.

D. Required Provisions. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by certified mail, return receipt requested, has been given to the Executive Director. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:

1. The State of California, its officers, agents and employees are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Grantee; and with respect to liability arising out of work or operations performed by or on behalf of the Grantee including materials, parts or equipment furnished in connection with such work or operations.
2. For any claims related to this Agreement, the Grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees.
3. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

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E. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Commission and approved in writing by the Executive Director.

F. Verification of Coverage. The Grantee shall furnish the Grant Manager with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Grant Manager within 30 working days from the start date of the Grant Project. The Commission reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.

G. Premiums and Assessments. The Commission is not responsible for premiums and assessments on any insurance policy

8. COASTAL COMMISSION SEA LEVEL RISE GUIDANCE

Grantees shall use the Commission's Sea Level Rise Policy Guidance, Critical Infrastructure Guidance, Local Government Working Group Baseline SLR LCP policies, and other information to inform the development of sea level rise impact assessments, vulnerability assessments, and LCP Land Use Plan and Implementation Plan completion or updates.

9. VULNERABILITY ASSESSMENTS and ADAPTATION PLANNING

In addition to the general recommendations contained within the Commission's Sea Level Rise Policy Guidance, and unless otherwise provided in the Scope of Work of this Agreement, vulnerability assessment and adaptation planning work shall include: (1) analysis of storm and non-storm scenarios, including maximum daily and annual tidal inundation, (2) assessment of sea level rise vulnerability with and without key development that is currently vulnerable and/or protected by a revetment, such as Highway 1, railroad tracks, and/or a row of residences, (3) anticipated changes in beach width and other habitat areas under future sea level rise scenarios, (4) evaluation of the feasibility and effectiveness of various protection, accommodation, and retreat strategies, including nature-based adaptation strategies like living shorelines, sediment management, and beach nourishment,(5) evaluation of sea level rise vulnerability of existing and planned segments of the California Coastal Trail, (6) incorporation of the subject of environmental justice by, to the extent feasible, analyzing the differential impacts of sea level rise upon various demographics and community groups, and (7) consideration of the latest reports on sea level rise science and recommendations from the state of California, including Rising Seas in California (Griggs et al. 2017), the most recently adopted update to the State Sea-Level Rise Guidance, and the most recent version of the Safeguarding California Plan. Scenarios analyzed should include Medium-high Risk Aversion and Extreme Risk Aversion scenarios per the Commission's

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Sea Level Rise Policy Guidance and the State Sea-Level Rise Guidance recommendations to aid in planning and understanding the worst-case scenario for projected time horizons.

10. COORDINATION OF SEA LEVEL RISE PLANNING WORK

Sea level rise work completed under the Local Coastal Grant Program shall be coordinated regionally to the extent feasible with other jurisdictions and entities working on sea level rise projects within the same county or broader regional area relevant for sea level rise adaptation, such as the watershed, littoral cell, or area with similar geologic characteristics. Entities working on sea level rise projects include, but are not limited to, the State Coastal Conservancy, the Ocean Protection Council, The Nature Conservancy, NOAA, and USGS. Coordination includes early coordination meetings among the different entities, sharing of technical analyses and lessons learned as well as consideration of regional adaptation policies, and development of LCP policies.

11. TERMINATION

Except as otherwise set forth in this Agreement, this Agreement may be terminated or suspended (a) by the Commission for any reason upon thirty (30) days prior written notice to the Grantee, (b) by Grantee for any reason upon thirty (30) days prior written notice to the Commission subject to the approval of the Commission in its sole discretion, and (c) immediately upon written notice by either party “for cause”. The term “for cause” shall mean that either the Grantee or the Commission fails to meet any material terms, conditions, and/or responsibilities of the Agreement.

In the event of a termination or suspension, the Grantee shall immediately stop work and take all reasonable measures to prevent further costs requiring reimbursement by the Commission. The Commission shall then only be responsible for any reasonable and non-terminable obligations incurred by the Grantee in the performance of this Agreement prior to the date of the notice to terminate or suspend, but not to exceed the balance of the total funds which remains unencumbered under this Agreement at the time of termination.

On or before the date of termination of this Agreement, whether terminated by the Grantee or the Commission, the Grantee shall provide the Commission with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this Agreement (whether completed or partial), in appropriate, readily useable form.

The Grantee expressly agrees to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this Agreement.

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The Grantee shall include in any agreement with any consultant retained for work under this Agreement a provision that entitles the Grantee to immediately suspend or terminate the agreement with the consultant for any reason on written notice.

Notwithstanding the foregoing, Grantee acknowledges (and waives any defense based on a claim) that monetary damages may not be an adequate remedy to redress a breach by Grantee hereunder and that a breach by Grantee hereunder may cause irreparable harm to the Commission. Accordingly, Grantee agrees that upon a breach of this Agreement by Grantee, the remedies of injunction, declaratory judgment and specific performance shall be available to the Commission.

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CERTIFICATION (GCC-1/2019)

The Grantee's signor CERTFIES UNDER PENALTY OF PERJURY that they are duly authorized to legally bind the Grantee to the clauses below. This certification is made under the laws of the State of California.

GRANTEE CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Grantee has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

   a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

   b. Establish a Drug-Free Awareness Program to inform employees about:
      1) the dangers of drug abuse in the workplace;
      2) the person's or organization's policy of maintaining a drug-free workplace;
      3) any available counseling, rehabilitation and employee assistance programs; and,
      4) penalties that may be imposed upon employees for drug abuse violations.

   c. Every employee who works on the proposed Agreement will:
      1) receive a copy of the company's drug-free workplace policy statement; and,
      2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

   Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the Coastal Commission determines that any of the following has occurred: (1) the Grantee has made false certification, or (2) violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two-year period because of Grantee's failure to comply with an order of a Federal court which orders Grantee to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

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4. CONTRACTS FOR LEGAL SERVICES $50,000 OR MORE- PRO BONO REQUIREMENT: Grantee hereby certifies that Grantee will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

   Grantee agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

   Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Grantee hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

   a. All Grantees contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Grantee further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

   b. The Grantee agrees to cooperate fully in providing reasonable access to Grantee records, documents, agents or employees, or premises if reasonably required by authorized officials of the Coastal Commission, the Department of Industrial Relations, or the Department of Justice to determine Grantee compliance with the requirements under paragraph (a).

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7. DOMESTIC PARTNERS: For Grantee Agreements of $100,000 or more, Grantee certifies that the Grantee and/or its subcontractors/consultants are in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For Grantee Agreements of $100,000 or more, Grantee certifies that Grantee is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

   Current State Employees (Pub. Contract Code §10410)

   1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
   2) No officer or employee shall contract on his or her own behalf as an independent Grantee with any state agency to provide goods or services.

   Former State Employees (Pub. Contract Code §10411):

   1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the agreement while employed in any capacity by any state agency.
   2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

   If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void. (PCC 10420)

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Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. GRANTEE NAME CHANGE: An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
   a. When agreements are to be performed in the state by corporations, the Coastal Commission will be verifying that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
   b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Grantee performing within the state not be subject to the franchise tax.
   c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. The Coastal Commission will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Grantee shall not be*:* (1) in violation of any order or resolution not subject to review promulgated

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by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all Grantees that are not another state agency or other government entity

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert Harary, P.E, Director of Public Works
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-082, rejecting all bids received for four Facility Renovation Projects, and directing staff to evaluate alternative contracting methods before re-advertising for bids

RECOMMENDATION:

Adopt Resolution 2023-082, rejecting all bids received for four Facility Renovation Projects, and directing staff to evaluate alternative contracting methods before re-advertising for bids.

BACKGROUND/SUMMARY:

In June 2022, Council adopted Resolution 2022-048 approving the Capital Improvement Program (CIP) Budget for Fiscal Year (FY) 2022/23, which included six (6) Facility Renovation Projects described below. All funded by Measure C, the initial budget for these projects was $715,000.

These six facility renovations were bundled into one design and construction project with the intent that a larger, all facility maintenance-oriented project would attract more construction contractors, be more cost-effectiveness due to economies of scale, and be more efficient for our consultants, contractors, and staff by having to manage one consolidated construction contract rather than four or more separate contracts.

- **City Hall Roof Replacement:** The City Hall roof was last replaced in 1984 and is well past its warranty. Roof leaks have been increasing as the roof progressively deteriorates. The Project was initially funded with $100,000.

- **Sunset Center Hazardous Materials Abatement and Exterior Painting:** The exterior of the historic Sunset Center has not been painted in many decades. Prior to painting, lead paint must be remediated. An initial budget of $150,000 was established with the understanding that future project phases would be necessary.

- **Sunset Center Cottage Window Repairs:** This project would remediate asbestos and lead paint around the windows of the historic Sunset Center Cottages, and repair these imminently-failing windows. The project budget was set at $105,000.

- **Harrison Memorial Library Renovations Exterior and Interior Painting:** A City investment of $100,000 to paint the exterior of the library, plus $100,000 to paint the interior, (combined $200,000) was established to satisfy the City's deferred and ongoing maintenance obligation for this historic building. This was planned to inspire private donations associated with a separate, longer-range Libraries Master Planning initiative and future renovations.

- **Harrison Memorial Library – Carpet Replacement:** An initial budget of $100,000 was established to replace the carpeting. During design development of this project, it became clear from the Libraries Master Plan Project, that it would be prudent to defer carpet replacement until the larger renovation projects and phases were developed.

- **Harrison Memorial Library – IT Backup Generator:** A budget of $60,000 was established to install a new generator to backup essential IT servers in the basement of the library. Several alternatives were evaluated before it was determined that the project would be infeasible from a Building Code perspective without significant impacts to the Library and/or much higher costs.

In August 2022, Council adopted Resolution 2022-065, awarding a Professional Services Agreement to Ausonio, Inc. for Project Management services for nine facility renovation projects, including these six projects. In February 2023, Council adopted Resolution 2023-041, approving Amendment No. 1 to the Professional Services Agreement with Ten Over Studio to design five of these projects for a fee of $78,900.

In June 2023, Council adopted Resolution 2023-067 approving the carry-over of 25 prior FY CIP projects, including the remaining Facility Renovation Projects with a carryover budget at $649,000, and approving a new CIP Contingency Fund with a budget of $500,000 to cover anticipated shortfalls due to rising construction costs.

In July 2023, Council adopted Resolution 2023-073 approving Amendment No. 1 to the Professional Services Agreement with Ausonio for a FY 2023/24 fee of $125,000, to continue to implement these, and other, facility renovation projects.

Project Development and Bidding Results:

The design plans and technical specifications for the initial six, and remaining four projects, were prepared by Ten Over Studio. M3 Environmental performed hazardous materials sampling and laboratory testing, and prepared remediation specifications. A local craftsman was hired to disassemble and reassemble one Cottage window to better understand exactly how they were assembled. Ausonio provided day-to-day project management, checked plans, assembled contract documents, and led the public bidding process. Historic evaluations were performed for the City Hall Roof and Cottage Windows by Planning staff and an historic preservation consultant. Representatives of Sunset Center, Library, Planning, Building, Facility Maintenance, Public Works, and IT were also very involved with project development. Finally, the project was deemed to be Building Permit-ready, and the Project was approved for construction.

The Project was extensively advertised for construction bids. Notices were published twice in the Carmel Pine Cone and Monterey County Weekly. Notices were also posted on the Central Coast Builders Association website, other public purchasing websites, and the City's website. In addition, courtesy calls/emails were made to 38 building contractors, including painting, roofing, carpentry, and hazardous material abatement specialists.

On August 1st, 14 contractors attended the pre-bid meeting and toured all four facilities. A Public Bid

Opening was held on August 22, 2023, at which time two bid proposals were received and read aloud. The table below includes the key results:

No.	Project Element	Pro-Ex Construction	Commercial Solutions Group
1	City Hall Roof Replacement	$365,970	$631,171
2	Sunset Center Painting	246,696	194,268
3	Cottage Windows	213,345	145.393
4	HML Exterior Painting	200,956	158,909
5	HML Interior Painting	90,000	95,042
6	Hazardous Materials Testing	52,800	31,775
7	Mobilization and Misc.	104,250	64,692
	Total	**$1,274,017**	**$1,321,250**

When the project was advertised for bids, the construction cost estimate was $675,000, approximately half the cost of these bids. While both bid proposals were responsive, certain bid prices in both bids are unreasonable. With additional funding, Council does have the option to award the project to the low bidder, Pro-Ex Construction, but due to the high bids, staff is recommending that both bids be rejected.

Bid Evaluation:

Ausonio and staff are currently scrutinizing these bid prices to gain a better understanding of why such high bids were proposed, and to consider potential cost-cutting measures prior to re-advertising for bids. The following lists the preliminary results of this exercise.

1. The project was bid in the summer. Contractors in our region are already very busy and may not be aggressively seeking more jobs. Bidders may be more inclined to “sharpen their pencils” in the off season when there is less work.

2. There is a construction labor shortage in our region, and in most areas of California. Contractors are paying increasingly higher wages to retain crews.

3. Material prices continue to escalate due to inflation and supply chain issues.

4. While there were many subcontractors at the pre-bid meeting, a majority were painters. Only three general contractors attended the pre-bid, and two submitted bids. We need to attract more general contractors or split the project out to allow painters and roofers to directly bid those portions. However, the downside of splitting projects would be more funds needed for project management and architectural consultants, as well as a longer timeline to execute all projects.

5. For example, the City Hall roof replacement project budget was based on a preliminary quote we received less than two years ago for under $100,000. We will consider extracting the roof as a stand-alone project to seek more competition directly from roofing contractors and cut out the general contractor’s overhead costs.

6. The City Hall roof bid was based on upgraded, cedar shingles with alternates to compare with less-costly composition shingles. However, the bidders did not provide reasonable cost reductions for the composition roof, and, in fact, one bidder actually increased their bid using the less costly

roofing materials. When re-bid, only composition shingles should be specified.

7. We have reason to believe that at least two quotes submitted by specialty subcontractors, such as for painting Sunset Center's north wing and the City Hall roof replacement, may have been marked up substantially by the general contractors.

8. During the pre-bid meeting, several contractors expressed concerns that all of the buildings were historic and would be occupied during the work. Phasing the work with reduced occupancy where feasible should be considered.

9. The City should remove the hazardous materials testing and reporting duties out of the bid documents, and hire a qualified consultant directly to reduce general contractor markups.

10. The contract documents and specifications manual were complete and met the City, architects, and industry standards, but was an onerous 407 pages long. Ausonio and staff should remove every general and special conditions that is not essential to achieving a high-quality end product.

FISCAL IMPACT:

Council initially appropriated $715,000 for these projects in FY 2022/23 with $649,00 carried over into the FY 2023/24 CIP. The total project development costs expended and encumbered to date for these projects, excluding construction, are listed below.

No.	Company	Services	Cost
1	Ausonio, Inc.	Project Management, Contract Documents, and Permitting	$85,750
2	Ten Over Studio	Architectural Design Plans and Specifications	$78,900
3	M3 Environmental	Hazardous Materials Testing and Specifications	$7,166
4	Meg Clovis	Historical Evaluation – Cottage Windows	$1,000
		Total Project Development Cost	$172,816

The FY 2023/24 CIP also included a Contingency Fund, with an initial budget of $500,000, to pay for carry-over capital projects that have become costlier to execute. An allocation of $42,378 was previously approved for the recent Mission Trail Nature Preserve Tank/Pump House/Well Removal contract leaving a contingency balance of $457,622. Since there are a number of other construction bids coming in in the near future, using up this entire contingency balance for construction of this one project is not recommended.

The maximum combined amount that could be available to award this construction contract would be the $715,000 initial project budget plus the full, $457,622 contingency balance, less the total project development costs of $172,816, totaling = $999,806. Even at this upper budget limit, the low bid is out of reach without an additional General Fund allocation of $274,211, plus another, say 5%, or $63,700, for construction contingencies, for a total of $337,911.

Original Project funding, plus the Contingency Fund, are both in CIP Account Number 301-311-00-43008.

Budgets for these construction projects will likely need to be increased with the Mid-Year Budget

Adjustment process, or sooner, to more accurately reflect the adjusted cost estimates and/or bids available at that time.

PRIOR CITY COUNCIL ACTION:

In June 2022, Council adopted Resolution 2022-048 approving the CIP for FY 2022/23, which included six Facility Renovation Projects.

In August 2022, Council adopted Resolution 2022-065, awarding a Professional Services Agreement to Ausonio for Project Management services for nine facility renovation projects. In February 2023, Council adopted Resolution 2023-041, approving Amendment No. 1 to the Professional Services Agreement with Ten Over Studio to design five of these projects for a fee of $78,900.

In June 2023, Council adopted Resolution 2023-067 approving the carry-over of 25 prior FY CIP projects, including the remaining Facility Renovation Projects with a carryover budget at $649,000, and approving a new CIP Contingency Fund with a budget of $500,000 to cover anticipated shortfalls due to rising construction costs.

In July 2023, Council adopted Resolution 2023-073 approving Amendment No. 1 to the Professional Services Agreement with Ausonio for a FY 2023/24 fee of $125,000, to continue to implement these, and other, facility renovation projects.

ATTACHMENTS:

Attachment 1) Resolution 2023-082

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA REJECTING ALL BIDS RECEIVED FOR FOUR FACILITY RENOVATION PROJECTS AND DIRECTING STAFF TO EVALUATE ALTERNATE CONTRACTING METHODS BEFORE RE-ADVERTISING FOR BIDS

WHEREAS, in June 2023, Council adopted Resolution 2023-067 approving 25 carry-over Capital Improvement Program projects, including four facility renovation projects that were designed in FY 2022/23 but not yet constructed, with a budget of $649,000; and

WHEREAS, plans and specifications were prepared for the following four projects that were packaged together for efficiency and cost-effectiveness: City Hall Roof Replacement, Sunset Center Hazardous Materials Remediation and Exterior Painting of the North Wing, Sunset Center Cottage Window Repairs, and Harrison Memorial Library Hazardous Materials Remediation and Exterior and Interior Painting; and

WHEREAS, despite extensive advertising for bids and having 14 contractors attend the pre-bid meeting and tour these facilities, only two bids were received from general building contractors at the Public Bid Opening held on August 22, 2023, and

WHEREAS, although both bid proposals were responsive, the bid prices were $1,274,017 and $1,321,250, nearly twice the project team's cost estimate of $675,000, well above available funding, and, in some cases, unreasonably high costs for individual project components; and

WHEREAS, the consulting project managers, architect, and staff will evaluate these bid results, scrutinize the contract documents, and develop alternative contracting methods including, but not limited to, breaking the project into component roofing, painting, and carpentry contracts, before the projects are re-advertised for bids.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Reject all bids received for the four Facility Renovation Projects and direct staff to evaluate alternative contracting methods before re-advertising for bids.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Dave Potter
Mayor

ATTEST:

Nova Romero, MMC
City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert Harary, P.E, Director of Public Works
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-083, authorizing the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with BKF Engineers for the Concrete Streets Repair Project, for a not-to-exceed fee of $49,092

RECOMMENDATION:

Adopt Resolution 2023-083 authorizing the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with BKF Engineers for the Concrete Streets Repair Project, for a not-to-exceed fee of $49,092.

BACKGROUND/SUMMARY:

In June 2022, the City Council adopted Resolution 2022-048, approving 25 Fiscal Year (FY) 2022/23 Capital Improvement Projects, including the Concrete Street Repairs Project with an allocated budget of 1,005,000. In July 2022, Council adopted Resolution 2022-058, awarding a Processional Services Agreement to Wallace Group for Project Management services for delivery of four civil engineering-oriented Capital Improvement Projects, including this Project.

In January 2023, Council adopted Resolution 2023-004, awarding a Professional Services Agreement to BKF Engineers for the Concrete Streets Repair Project for a not-to-exceed fee, with contingency, of $189,667. In June 2023, Council adopted Resolution 2023-067, approving the carry-over of 25 prior FY CIP project, including this Project.

The Concrete Streets Repair Project scope is to repair damaged concrete street segments and intersections as follows:

1. Resurface Ocean Avenue, from Monte Verde Street to San Antonio Avenue.
2. Reconstruct the intersection of Ocean and San Antonio Avenues
3. Reconstruct the intersection of San Carlos Street and Fifth Avenue
4. Reconstruct the intersection of San Carlos Street and Sixth Avenue
5. Resurface intermittent areas of San Carlos Street, between Fifth and Sixth Avenues
6. Install curb bulb-outs and ADA ramps at Junipero Street/Seventh Avenue

During design, several treatment options were evaluated to ensure the most durable treatment at the best value. Complete removal and replacement of the concrete street was determined to be cost-prohibitive. Several variations of grinding the edges and/or surface also proved to be costly. The most economical approach is to remove and replace only those structurally-damaged sections of concrete, in squares, much like the methods used to remove failed sections of asphalt pavement and patch pave, prior to placing an overlay.

As the project design was advancing to 95%, it became clear that the following three (3) additional improvements need to be incorporated into the Project along Ocean Avenue, so that the repairs would appear to be complete renovation along this iconic arterial street leading down to Carmel Beach.

1. The intersecting streets along Ocean Avenue, namely Carmelo Street, Camino Real, and Casanova Street, on both sides of Ocean Avenue, also need pavement repairs up to the crosswalks between sidewalks which also require new ADA ramps.
2. The parking lot areas on both sides of Ocean Avenue, between Monte Verde Street and Camino Real, also require spot repairs and resurfacing.
3. Ocean Avenue should receive an asphalt overlay over the entire concrete surface so that the street surface does not appear to be an unsightly patchwork of concrete squares.

Amendment No. 1 to the Professional Services Agreement was negotiated with BKF for a not-to-exceed fee increase of $49,092, to include these improvements into the final plans, specifications, and cost estimates. The additional services will include field surveying of the side streets, additional improvement plans and technical specifications, and modifying the bidding documents to include multiple bid additives so that Council can award the construction contract with as many improvements as possible within the available budget.

The remaining design work is anticipated to be completed within three months of issuance of the Notice to Proceed. Bidding is tentatively scheduled to occur during the winter months with construction progressing in early Spring 2024.

This project is managed by one of the City's project management consultants, Wallace Group. The Project Manager will continue lead the Project to complete the design and manage the bidding and construction phases.

FISCAL IMPACT:

The total budget for the Concrete Streets Repair Project is $1,005,000. This budget includes $441,000 from external funds, including Gas Tax, SB 1, Measure X, and Regional Surfaced Transportation Improvement Program (RSTIP) funds via the Transportation Agency of Monterey County (TAMC), plus a General Fund allocation of $564,000 for the City's "Maintenance of Effort" match.

Of the $1,005,000 budget, $67,350 was allocated for Wallace Group for Project Management services, with $19,235 expended to date.

The original fee for BKF Engineers for design was $158,904 which has been fully expended. A Supplemental Services budget of $30,763 was included in the Agreement, and unspent to date. This amount should be used for engineering support services during construction, such as for checking technical submittals, supporting change orders, and developing the punch list. The fee for additional services in Amendment No 1 of $49,092 results in a total fee allocation to BKF of $238,759.

The balance remaining for construction is $698,891. Based on the current bidding climate, it is most unlikely that all improvements contemplated and designed in the Project can be constructed. This bidding

documents will include multiple bid additives so that Council can award as many improvements as possible within the available budget.

All fees for this Project will be charged to the Capital Project Fund, Account No. 301-311-00-43008.

PRIOR CITY COUNCIL ACTION:

In June 2022, the City Council adopted Resolution 2022-048, approving 25 Fiscal Year (FY) 2022/23 Capital Improvement Projects, including the Concrete Street Repairs Project with an allocated budget of 1,005,000. In July 2022, Council adopted Resolution 2022-058, awarding a Processional Services Agreement to Wallace Group for Project Management services for delivery of four civil engineering-oriented Capital Improvement Projects, including this Project.

In January 2023, Council adopted Resolution 2023-004, awarding a Professional Services Agreement to BKF Engineers for the Concrete Streets Repair Project for a not-to-exceed fee, with contingency, of $189,667. In June 2023, Council adopted Resolution 2023-067, approving the carry-over of 25 prior FY CIP project, including this Project.

ATTACHMENTS:

Attachment 1) Resolution 2023-083
Attachment 2) Amendment No. 1 with BKF Engineers for Concrete Streets Repair Project

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-083

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BKF ENGINEERS FOR THE CONCRETE STREETS REPAIR PROJECT, FOR A NOT-TO-EXCEED FEE OF $49,092

WHEREAS, in June 2022, Council adopted Resolution 2022-048 approving 25 Capital improvement Program (CIP) projects for Fiscal Year (FY) 2022/23, including the Concrete Streets Repair Project (Project), with an initial budget of $1,005,000; and

WHEREAS, in January 2023, Council awarded a Professional Services Agreement with BKF Engineers for a not-to-exceed fee, including contingency, of $189,667 for design of the Project; and

WHEREAS, in June 2023, Council adopted Resolution 2023-067 approving the carry-over of prior FY CIP projects into FY 2023/24, including this Project; and

WHEREAS, during design, treatment options were evaluated to ensure the most durable treatment at the best value, and it was determined that the most economical approach is to remove and replace only structurally-damaged sections of concrete streets, in squares; and

WHREAS, as the design progressed to 95%, it became clear that the intersecting streets along Ocean Avenue also need pavement repairs, the crosswalks between sidewalks require new ADA ramps, the parking lots need resurfacing, and an asphalt overlay is needed over the entire concrete surface on Ocean Avenue so that the street does not appear as an unsightly patchwork of concrete squares along this iconic arterial street leading down to Carmel Beach; and

WHEREAS, Amendment No. 1 to the Professional Services Agreement was negotiated with BKF Engineers to provide these additional services for a not-to-exceed fee of $49,092; and

WHEREAS, sufficient funding is available for these additional services in the Capital Projects fund account, leaving a balance of approximately $700,000 for subsequent construction.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with BKF Engineers for the Concrete Streets Repair Project for a not-to-exceed fee of $49,092.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dave Potter
Mayor

ATTEST:

Nova Romero, MMC
City Clerk

AMENDMENT NO. 1 TO AGREEMENT #PWD-BKF-22-23

ADDITIONAL PROFESSIONAL CIVIL ENGINEERING SERVICES FOR THE CONCRETE STREETS REPAIR PROJECT

1. This amendment (the "Amendment") is made by **City of Carmel-by-the-Sea** and **BKF Engineers** to Agreement #PWD-BKF-22-23 (the "Agreement") executed on January 23, 2023.

2. The Agreement is amended as follows:

   a. Section 1, Services, is amended to include the following professional Civil Engineering design services, as further described in the Scope of Services in Exhibit A.1:

      - Additional site visits to extend the project limits along Ocean Avenue.
      - Additional surveying for the following Ocean Avenue cross streets up to 10' past the crosswalks at San Antonio Avenue, Carmelo Street, Camino Real, and Casanova Street, and for the parking areas between Monte Verde Street and Camino Real.
      - Following the supplemental survey, the 95% plans will be revised to include detailed design for the three intersections along Ocean Avenue at Carmelo Street, Camino Real, and Casanova Street. This will include pavement reconstruction, new pathway ramps, adjustment of drainage facilities including valley gutters, and additional curbs.
      - The 95% plans will also revise the pavement rehabilitation along Ocean Avenue to include a wedge grind and HMA overlay over repaired concrete digouts.
      - Technical specifications and Engineer's Cost Estimate will be revised for these additional improvements.
      - Additional bid alternatives will be incorporated in the project to allow the City flexibility in prioritizing improvement to be constructed based on available budget.
      - The 100% plans, specifications, and cost estimate will include all additional improvements that were added to the 95% submittal.

   b. Section 2, Compensation, of the Agreement is amended and restated as follows:

      Subject to any limitations set forth in this Agreement, the City agrees to pay and Consultant agrees to accept as full and fair consideration for the performance of this Amendment No. 1, hourly fees as set forth in Consultant's Fee Schedule (Exhibit "B.1"), in a total amount not-to-exceed Forty-Nine Thousand Ninety-Two Dollars ($49,092).

      Therefore, the "Maximum Authorized Expenditure" under this Agreement, including the original Agreement amount of One Hundred Fifty-Eight Thousand Nine Hundred and Four Dollars ($158,904), plus the unused Supplemental Services Budget of Thirty Thousand Seven Hundred and Sixty-Three Dollars ($30,763), plus this Amendment No. 1, is Two Hundred Thirty-Eight Thousand Seven Hundred and Fifty-Nine Dollars ($238,759).

   c. Section 3, Agreement Term, of the Agreement is amended and restated as follows:

The Agreement Term remains unchanged. Consultant will perform Amendment No. 1 services in a timely manner and in accordance with the Updated Project Schedule in Exhibit C.1.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.

4. Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Amendment and to bind the parties to the performance of its obligations.

5. This Amendment may be executed in counterparts, each of which will be deemed an original, and all of which, when taken together, constitute one and the same instrument. The Amendment will be considered executed when the signature of a party is delivered by facsimile or other electronic transmission. Such facsimile or other electronic signature will have the same effect as an original signature.

6. If any term, condition, or covenant of this Amendment is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Amendment will not be affected and the Amendment will be read and construed without the invalid, void or unenforceable provision.

CONSULTANT:

By: _____ Date: _____

CITY:

By: _____ Date: _____
Chip Rerig, City Administrator

ATTEST:

By: _____ Date: _____
Nova Romero, MMC, City Clerk

Exhibit A.1 – Scope of Services for Amendment No. 1

The Scope of additional services for the Concrete Streets Repair Project is described as follows:

1. Project Information and Field Investigation
   BKF's original scope included one site walkthrough with the City to establish the limits for the project which occurred on 9/15/2022. To this date, BKF met with the City in the field three more times on 2/7/23, 5/11/23, and 6/14/23. One more field visit for final investigation is also needed before the 100% submittal.

2. Project Control and Field Survey
   BKF collected survey data along Ocean Avenue up to 5' past the valley gutters. BKF will collect supplemental survey data for the extended limits of work. BKF will collect survey data on the following cross streets up to 10' past the projected crosswalk along San Antonio Avenue, Carmelo Street, Camino Real, and Casanova Street. We will also pick up survey data for the parking areas between Camino Real and Monte Verde Street.

3. 95% Submittal
   BKF submitted 95% plans to the City on 8/11/23. This submittal showed the full scope of the Project, including the 7 intersection improvements, and pavement rehabilitation along Ocean Avenue and San Carlos Street via concrete dig-out replacements. The intersection improvements shown for the intersections along Ocean Avenue at Carmelo Street, Camino Real, and Casanova Street were shown conceptually, pending the supplemental survey information.

   Following the supplemental survey, the 95% plans will be revised to include detailed design for the three intersections along Ocean Avenue at Carmelo Street, Camino Real, and Casanova Street. This will include design for pavement reconstruction, new pathway ramps, adjustment of drainage facilities, including valley gutters, grading, and additional curbs. BKF will revise the pavement rehabilitation along Ocean Avenue to include a wedge grind and HMA overlay (overlay thickness to be determined). The 95% plans will be resubmitted to the City for review and comment. This submittal will also include technical specifications and an Engineer's Cost Estimate for the additional improvements.

   BKF also submitted an engineering estimate between the 35% and 95% submittals per the City's request. This effort is included in the fee for the 95% submittal.

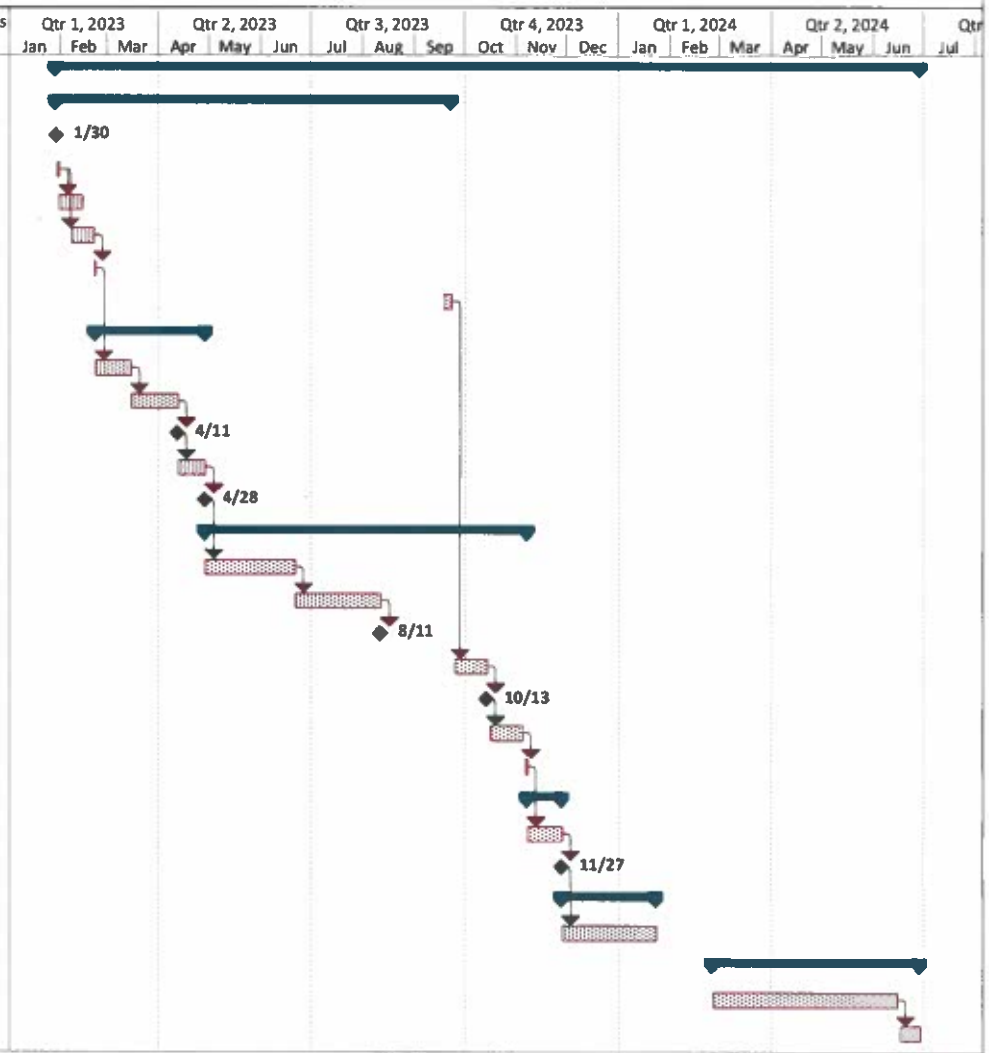
4. 100% (Bid Issue) Submittal
   BKF will further the 95% plans, specifications, and estimate to develop the 100% Bid Issue package. The 100% bid package will include all additional scope items that were added to the 95% submittal. It is assumed by BKF that the City will provide direction on how the construction documents should be packaged into multiple bid alternatives to allow the City flexibility in prioritizing improvement to be constructed based on available budget. BKF will update the plans, specs, and estimate to identify the multiple bid alternatives. BKF assumes that multiple bid alternatives will be included under one bid package.

EXHIBIT C.1

CITY OF CARMEL-BY-THE-SEA
Concrete Streets Repair Project

BKF Engineers

ID	Task Name	Duration	Start	Finish	Predecessors
1	**Total Duration**	**370 days**	**Mon 1/30/23**	**Fri 6/28/24**	
2	**Preliminary Investigation/ Project Coordination**	**170 days**	**Mon 1/30/23**	**Fri 9/22/23**	
3	Notice to Proceed	0 days	Mon 1/30/23	Mon 1/30/23	
4	Kick off Meeting with Staff	1 day	Mon 1/30/23	Mon 1/30/23	
5	Base Mapping and Plan Set Up (for Field Investigation)	2 wks	Tue 1/31/23	Mon 2/13/23	4
6	Field/Geotechnical Investigations	2 wks	Tue 2/7/23	Mon 2/20/23	4FS+5 days
7	Field Investigation Review Meeting	1 day	Tue 2/21/23	Tue 2/21/23	6
8	Supplemental Field Survey	5 days	Mon 9/18/23	Fri 9/22/23	
9	**30% Plans & Engineering Estimate**	**47.5 days**	**Wed 2/22/23**	**Fri 4/28/23**	
10	Coordination Meetings with the City	3 wks	Wed 2/22/23	Tue 3/14/23	7
11	Prepare 30% P&E	4 wks	Wed 3/15/23	Tue 4/11/23	10
12	30% Submittal to the City	0 days	Tue 4/11/23	Tue 4/11/23	11
13	City Review Period	2.5 wks	Wed 4/12/23	Fri 4/28/23	12
14	Comment Review Meeting	0 days	Fri 4/28/23	Fri 4/28/23	13
15	**95% PS&E Submittal**	**136.5 days**	**Fri 4/28/23**	**Mon 11/6/23**	
16	Coordination Meetings with the City	7.5 wks	Fri 4/28/23	Tue 6/20/23	14
17	Prepare 95% PS&E	7.5 wks	Wed 6/21/23	Fri 8/11/23	16
18	95% Submittal to the City	0 days	Fri 8/11/23	Fri 8/11/23	17
19	Prepare Revised 95% Submittal	3 wks	Mon 9/25/23	Fri 10/13/23	8
20	Revised 95% Submittal to City	0 wks	Fri 10/13/23	Fri 10/13/23	19
21	City Review Period	3 wks	Mon 10/16/23	Fri 11/3/23	20
22	Comment Review Meeting	1 day	Mon 11/6/23	Mon 11/6/23	21
23	**100% PS&E (Bid Issue) Submittal**	**15 days**	**Tue 11/7/23**	**Mon 11/27/23**	
24	Prepare 100% PS&E (Bid Issue) Submittal	3 wks	Tue 11/7/23	Mon 11/27/23	22
25	100% PS&E (Bid Issue) Submittal to City	0 wks	Mon 11/27/23	Mon 11/27/23	24
26	**Bidding**	**40 days**	**Tue 11/28/23**	**Mon 1/22/24**	
27	Council Action, Advertise, Bid, and Award	2 mons	Tue 11/28/23	Mon 1/22/24	25
28	**Construction**	**90 days**	**Mon 2/26/24**	**Fri 6/28/24**	
29	Construction	4 mons	Mon 2/26/24	Fri 6/14/24	
30	Construction Close-Out (Post Construction)	2 wks	Mon 6/17/24	Fri 6/28/24	29



Task	Split	Inactive Summary	Finish-only
Milestone	External Tasks	Manual Task	Progress
Summary	Project Summary	Duration-only	Deadline
Rolled Up Task	Group By Summary	Manual Summary Rollup	
Rolled Up Milestone	Inactive Task	Manual Summary	
Rolled Up Progress	Inactive Milestone	Start-only	

Attachment 2

EXHIBIT B.1

CITY OF CARMEL-BY-THE -SEA
CONCRETE STREET REPAIR PROJECTS - ASR 02

		STAFF CATEGORY														
	Key Staff Names	Gordon Sweet	Marcelo Cosentino	Jeff Wong	Carmelo Cecilio	Davis Thrash	Chiaming Chi									
	Project Role	Principal In Charge	Project Manager	Traffic	QA/QC	Survey/ Right of Way	Project Engineer									
	Title	Principal	Associate	Associate	Senior Project Manager	Principal	Project Manager	Senior Project Engineer/ Surveyor	Project Engineer/ Surveyor	Design Engineer/ Staff Surveyor	Engineering Tech IV	Survey Party Chief	Survey Chainperson	Admin	Total Hrs	EST. FEE
	BKF Engineers	$288.00	$260.00	$265.00	$247.00	$288.00	$247.00	$212.00	$186.00	$162.00	$194.00	$212.00	$136.00	$87.00		
TASK 1	PROJECT MANAGEMENT AND INVESTIGATIONS															
1.1	Project Management and Meetings														0	$ -
1.2	Project Information and Field Investigation		8				4								12	$ 3,068.00
1.3	Project Control and Field Survey								10	10		20	20		60	$ 10,440.00
1.4	Coring and Geotechnical Investigation (See Subconsultants)														0	$ -
1.5	Preliminary (30%) Plans and Engineers Estimate														0	$ -
	Subtotals	0	8	0	0	0	4	0	10	10	0	20	20	0	72	$ 13,508.00
TASK 2	95% SUBMITTAL															
2.1	Review/Resolve Comments from 30% Submittal		2				2								4	$ 1,014.00
2.2	Prepare 95% Plans		2				8	4	24		24				62	$ 12,464.00
2.3	Prepare 95% Specifications		2				4	4							10	$ 2,356.00
2.4	Prepare 95% Cost Estimate		2				4	6	6						18	$ 3,896.00
2.5	Quality Assurance/Quality Control (QA/QC)				2										2	$ 494.00
	Subtotals	0	8	0	2	0	18	14	30	0	24	0	0	0	96	$ 20,224.00
TASK 3	100% SUBMITTAL															
3.1	Review/Resolve Comments from 95% Submittal		2				2								4	$ 1,014.00
3.2	Prepare 100% Plans		2				4	4	10		10				30	$ 6,156.00
3.3	Prepare 100% Specifications		2				4	2							8	$ 1,932.00
3.4	Prepare 100% Cost Estimate		2				4	2	4						12	$ 2,676.00
3.5	Quality Assurance/Quality Control (QA/QC)				2										2	$ 494.00
3.6	Preparation of Bid Documents						2	2	4		4				12	$ 2,438.00
	Subtotals	0	8	0	2	0	16	10	18	0	14	0	0	0	68	$ 14,710.00
TASK 4	Bid Support															
4.1	Respond to Bidder's Questions														0	$ -
4.2	Prepare Contract Addendum (Up to one addendum)														0	$ -
	Subtotals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	$ -

	STAFF CATEGORY														
BKF Titles	Principal	Associate	Associate	Senior Project Manager	Principal	Project Manager	Senior Project Engineer/ Surveyor	Project Engineer/ Surveyor	Design Engineer/ Staff Surveyor	Engineering Tech IV	Survey Party Chief	Survey Chainperson	Admin	Total Hrs	Total Labor
Totals By Classifications	0	24	0	4	0	38	24	58	10	38	20	20	0	236	
Total Direct Labor	$ -	$ 6,240.00	$ -	$ 988.00	$ -	$ 9,386.00	$ 5,088.00	$ 10,788.00	$ 1,620.00	$ 7,372.00	$ 4,240.00	$ 2,720.00	$ -	$ 48,442.00	$ 48,442.00

Reimbursables	
Printing, Postage, and Travel	$650.00
Subtotal - Reimbursables	$650.00

Project Total (Time and Materials, Not to Exceed Fee)	$ 49,092.00

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Ashlee Wright, Director, Libraries & Community Activities
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-084 authorizing the City Administrator to execute Amendment No.1 with Digital Deployment, Inc. for website and hosting services for a new not to exceed amount of $181,150 and extend the contract through June 30, 2028

RECOMMENDATION:

Adopt Resolution 2023-084 authorizing the City Administrator to execute Amendment No.1 with Digital Deployment, Inc. for website and hosting services for a new not to exceed amount of $181,150 and extend the contract through June 30, 2028.

BACKGROUND/SUMMARY:

In 2017 staff issued a Request for Proposals (RFP) for a new City website and hosting services and after a robust evaluation project entered into a contract with Digital Deployment, Inc. with a not-to-exceed amount of $109,450 for the development of a new City website and yearly hosting costs through FY 2028. Prior to this the previous website was over ten years old and complicated and cumbersome to update to the point that staff could not update the website without the support of a 3rd party.

A change order to that contract was issued for FY 2022-2023, extending the contract and providing funds in the amount of $10,500 to work with Digital Deployment on a refresh of the City's website, including updating the color scheme and adding some additional functionalities to further improve staff's ability to display and provide information to the public. Digital Deployment excels at responsiveness to staff questions and has continued to develop and grow its training library. Staff with little to no website update experience are able to make website updates with relative ease to keep website content up-to-date.

FISCAL IMPACT:

In 2017 Council adopted Resolution 2017-081 authorizing the City Administrator to enter into a professional services agreement with Digital Deployment, Inc. with a not-to-exceed amount of $109,450 for the development of a new City website and yearly hosting costs through FY 2021-2022.

In 2022 the change order extended the contract through 2023 and increased the not-to-exceed amount

$20,700 ($10,200 for annual maintenance and hosting costs and $10,500 for the website refresh) for a new not-to-exceed amount of $130,150.

Staff recommends adopting Resolution 2023-084 authorizing the amendment of the contract to extend the term through June 30, 2028 and a new not-to-exceed amount $181,150 ($10,200 annually for maintenance and hosting each year for five years).

PRIOR CITY COUNCIL ACTION:

In 2017 Council adopted Resolution 2017-081 authorizing the City Administrator to enter into a professional services agreement with Digital Deployment, Inc. with a not-to-exceed amount of $109,450 for the development of a new City website and yearly hosting costs through FY 2021-2022.

ATTACHMENTS:

Attachment 1) Resolution 2023-084
Attachment 2) Contract Amendment 1 - Digital Deployment

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-084

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING CITY ADMINISTRATOR TO EXECUTE AMENDMENT NO.1 WITH DIGITAL DEPLOYMENT, INC. FOR WEBSITE AND HOSTING SERVICES FOR A NEW NOT TO EXCEED AMOUNT OF $181,150 AND EXTEND THE CONTRACT THROUGH JUNE 30, 2028

WHEREAS, Digital Deployment, Inc. provides website design and hosting services; and

WHEREAS, in 2017 the City entered into a contract with Digital Deployment, Inc. with a not-to-exceed amount of $109,450 for the development of a new City website and yearly hosting costs through FY 2021-2022; and

WHEREAS, a change order to that contract was issued for FY 2022-2023, extending the contract and providing funds in the amount of $10,500 to work with Digital Deployment on a refresh of the City's website, including updating the color scheme and adding some additional functionalities; and

WHEREAS, Digital Deployment provides excellent customer service, excels at responsiveness to staff questions and has continued to develop and grow its training library.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute Amendment No.1 with Digital Deployment, Inc. for website and hosting services for a new not to exceed amount of $181,150 and extend the contract through June 30, 2028.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: ATTEST:

_____ _____

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

AMENDMENT NO. 1
AGREEMENT NUMBER ADMIN-DIGIT-058-17-18
Digital Deployment, Inc.
Website Design and Hosting Services

1. This amendment (the "Amendment") is made by **City of Carmel-by-the-Sea** and **Digital Deployment, Inc. ("Consultant"),** parties to agreement ADMIN-DIGIT-058-17-18 (the "Agreement") executed on September 13, 2023.

2. The Agreement is amended as follows:

a. Section 3.A (Term) of the Agreement is amended and restated as follows:

The work under this Agreement will commence by September 13, 2023 and must be completed by June 30, 2028 unless sooner terminated or the City grants an extension of time in writing pursuant to the terms of this Agreement, except for provisions in this Agreement that will survive the termination or completion of this Agreement. Consultant will perform Change Order services as set out in Section 1.B, "Amendment of Services (Change Orders)", in a timely manner or in accordance with the agreed upon Change Order Project Schedule.

b. Section 2.A (Compensation) of the Agreement is amended and restated as follows:

Subject to any limitations set forth in this Agreement, the City agrees to pay and Consultant agrees to accept as full and fair consideration for the performance of this Agreement, in a total amount not-to-exceed One Hundred Eighty-One Thousand One hundred and fifty Dollars ($181,150.00). Such compensation is the "Maximum Authorized Expenditure" under this Agreement. The Fee Schedule includes, but is not limited to, fees for each phase and task, not-to-exceed total fee, hourly rates, reimbursable rates and subconsultant mark-up rates. The use of subconsultants will not be considered a reimbursable expense, and such costs must be applied towards the approved budgeted amount. Payment of any compensation to Consultant is contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If the City determines that the Services set forth in the written invoice have not performed in accordance with the terms of this Agreement, the City is not responsible for payment until the Services have been satisfactorily performed.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.

4. Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Amendment and to bind the parties to the performance of its obligations.

5. This Amendment may be executed in counterparts, each of which will be deemed an original, and all of which, when taken together, constitute one and the same instrument. The Amendment will be considered executed when the signature of a party is delivered by facsimile or other electronic transmission. Such facsimile or other electronic signature will have the same effect as an original signature.

6. If any term, condition, or covenant of this Amendment is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Amendment will not be affected and the Amendment will be read and construed without the invalid, void or unenforceable provision.

CONSULTANT:

By: _____ Date: _____

CITY:

By: _____ Date: _____
Chip Rerig, City Administrator

ATTEST:

By: _____ Date: _____
Nova Romero, MMC, City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Jane Hogan, Accountant
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-085 authorizing the City Administrator to execute a Professional Services Agreement with Carmel Chamber of Commerce for Visitor Center operations and services for a not-to-exceed amount of $60,000 and a term expiring on June 30, 2024

RECOMMENDATION:

Adopt Resolution 2023-085 authorizing the City Administrator to execute a Professional Services Agreement with Carmel Chamber of Commerce for Visitor Center operation and services for a not-to-exceed amount of $60,000 and a term expiring on June 30, 2024.

BACKGROUND/SUMMARY:

The purpose of this agenda item is to authorize the City Administrator to execute an agreement with the Carmel Chamber of Commerce for Visitor Center operations and services for fiscal year 2023-2024. The Carmel Chamber of Commerce operates the Visitor Center located in the Carmel Plaza on Ocean Avenue between Junipero and Mission, which helps provide assistance and referrals to visitors regarding lodging, dining, retail and cultural and recreational activities. The Center is open seven days a week and closed on major holidays. According to the Chamber, the cost of operating the center is estimated a $135,500 a year. The proposed agreement with the Chamber will provide $60,000 to support the operating costs associated with the Center. The Carmel Municipal Code requires contracts of $60,000 or more be approved by Council resolution.

Staff supports a new annual agreement with the Carmel Chamber of Commerce based on the organization's 100 year expertise in promoting and understanding Carmel-by-the-Sea businesses and ensuring continuity and consistency of operations and services provided to locals and visitors alike.

FISCAL IMPACT:

The FY 23-24 Adopted Budget includes $60,000 for Carmel Chamber of Commerce to perform Visitor Center operations and services.

PRIOR CITY COUNCIL ACTION:

The City has historically authorized similar annual agreements with the Carmel Chamber of Commerce.

ATTACHMENTS:

Attachment 1) Resolution 2023-085
Attachment 2) PSA Carmel Chamber of Commerce

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

RESOLUTION NO. 2023-085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH THE MONTEREY COUNTY CONVENTION AND VISITORS BUREAU FOR DESTINATION MARKETING FOR THE TERM OF JULY 1, 2023 TO JUNE 30, 2024 IN AN AMOUNT NOT TO EXCEED $204,030

WHEREAS, transient occupancy tax and sales and use tax contribute to the City of Carmel-by-the-Sea's revenue sources and are heavily influenced by tourism; and

WHEREAS, the Monterey County Convention and Visitors Bureau possesses specialized knowledge and benefits from economy of scale in advertising and other marketing efforts in order to promote tourism within the Monterey Peninsula region and the City of Carmel-by-the-Sea; and

WHEREAS, in accordance with the Carmel Municipal Code, contracts of $60,000 or more require Council approval, and

WHEREAS, a true copy of the Agreement with the Monterey County Convention and Visitors Bureau for Destination Marketing for the Term of July 1, 2023 to June 30, 2024, will be on file in the City Clerk's Office.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute an agreement with the Monterey County Convention and Visitors Bureau for destination marketing for the term of July 1, 2023 through June 30, 2024 in an amount not to exceed $204,030.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

_____
Dave Potter
Mayor

ATTEST:

_____
Nova Romero, MMC
City Clerk

PROFESSIONAL SERVICES AGREEMENT
for the
Carmel Chamber of Commerce Visitors Center

THIS AGREEMENT is executed this ____ day of September, 2023, by and between the City of Carmel-By-The-Sea, a municipal corporation, (hereinafter "City"), and the Carmel Chamber of Commerce, Inc., a 501(c)(3) organization (hereinafter "Consultant"), collectively referred to herein as the "parties".

WHEREAS, the City wishes to engage Consultant to perform the services required by this Agreement; and

WHEREAS, Consultant is willing to render such professional services, as hereinafter defined, on the following terms and conditions; and

WHEREAS, Consultant represents that it is trained, experienced and competent and holds all necessary licenses and certifications to perform the services required by this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties hereby covenant and agree as follows:

1. SERVICES

A. **Scope of Services**. Consultant agrees to provide to the City, as the scope of services ("Scope of Services") under this Agreement, the following: operating the Carmel Chamber of Commerce Visitors Center and providing information and assistance to visitors regarding lodging, shopping, dining, cultural and recreational opportunities within the City. Consultant agrees to all of the following:

i. Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculations, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary to perform the services required of Consultant under this Agreement.

ii. Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement is the Executive Director of the Carmel Chamber of Commerce.

iii. Consultant represents that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant must employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

iv. City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. Acceptance of any of Consultant's work by City will not constitute a waiver of any of the provisions of this Agreement.

v. The Consultant must maintain any work site in the City in a safe condition, free of hazards to persons and property resulting from its operations.

B. **Change Orders**.

i. Agreements and Change Orders exceeding $59,999 require City Council approval to be valid.

ii. The City may order changes to the Scope of Services, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and City. The cost or credit to City resulting from changes in the services will be determined by the written agreement between the parties. However, any increase in compensation beyond the compensation limit amount approved by the City Council must be authorized in advance by the City Council and any service provided by Consultant in the absence of such approval are at Consultant's sole risk.

iii. Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Scope of Services or otherwise required by this Agreement, unless such additional services are authorized in advance and in writing by City.

iv. If Consultant believes that additional services are needed to complete the Scope of Services, Consultant will provide the City Administrator with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.

C. **Familiarity with Services and Site.**

i. By executing this Agreement, Consultant represents that Consultant:

a. has thoroughly investigated and considered the Scope of Services to be performed;
b. has carefully considered how the services should be performed;
c. understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement; and
d. possesses all licenses required under local, state or federal law to perform the services contemplated by this Agreement, and will maintain all required licenses during the performance of this Agreement.

ii. If services involve work upon any site, Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing its services. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform City of such fact and will

not proceed except at Consultant's own risk until written instructions are received from City.

2. COMPENSATION

A. **Total Fee**. Subject to any limitations set forth in this Agreement, the City agrees to pay and Consultant agrees to accept as full and fair consideration for the performance of this Agreement, a total amount not-to-exceed Sixty Thousand Dollars ($60,000). Such compensation is the "Maximum Authorized Expenditure" under this Agreement. Payment of any compensation to Consultant is contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If the City determines that the Services set forth in the written invoice have not performed in accordance with the terms of this Agreement, the City is not responsible for payment until the Services have been satisfactorily performed.

B. **Invoicing**. Consultant must submit to the City two (2) biannual written invoices, to the City's Project Representative, identified in Section 5 below, for Thirty Thousand ($30,000) each.

The City will review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid.

Except as to any charges for work performed or expenses incurred by Consultant that are disputed by City, the City will pay on each such invoice within thirty (30) days of receipt; provided, however, that Consultant submits an invoice which is not incorrect, incomplete, or not in accord with the provisions of this Agreement. If any charges or expenses are disputed by City, the invoice will be returned by City to Consultant for correction and resubmission, and the City will not be obligated to process any payment to Consultant until thirty (30) days after a correct and complying invoice has been submitted by Consultant. Payment to Consultant for services performed under this Agreement may not be deemed to waive any defects in the services performed by Consultant, even if such defects were known to City at the time of payment. City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work is found to be non-conforming to the terms of this Agreement.

The City is not obligated to pay Consultant a greater percentage of the Maximum Authorized Expenditure than the actual percentage of services completed as of the invoice date.

Consultant agrees to remit and is responsible for all withholding taxes, income taxes, unemployment insurance deductions, and any other deductions required by applicable federal, state or local laws and regulations for Consultant, its employees, subconsultants and vendors of services or goods.

C. **Adjustment of Maximum Authorized Expenditure**. The City may increase or decrease the Maximum Authorized Expenditure by issuing a Change Order to the Agreement in accordance with Section 1.B "Change Orders" above. Should Consultant consider that any request or instruction from the City's Project Representative constitutes a change in the scope of services, Consultant will advise the City's Project Representative, in writing, within fourteen (14) calendar days of such request or instruction. Without said written advice within the time period specified, the City is not obligated to make any payment of additional compensation to Consultant.

D. **Audit and Examination of Accounts**:

i. Consultant must keep and will cause any assignee or subconsultant under this Agreement to keep accurate books of records and accounts, in accordance with sound accounting principles, which pertain to services to be performed under this Agreement.

ii. Any audit conducted of books of records and accounts must be kept in accordance with generally accepted professional standards and guidelines for auditing.

iii. Consultant must disclose and make available any and all information, reports, books of records or accounts pertaining to this Agreement to the City and any city of the County of Monterey, or other federal, state, regional or governmental agency which provides funding for these Services.

iv. All records provided for in this Section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than four (4) years after full completion of the Services. All records, which pertain to actual disputes, litigation, appeals or claims, must be maintained and made available for a period of not less than four (4) years after final resolution of such disputes, litigation, appeals or claims.

3. AGREEMENT TERM

A. **Term**. The work under this Agreement will commence by July 1, 2023 and must be completed by June 30, 2024 unless sooner terminated or the City grants an extension of time in writing pursuant to the terms of this Agreement, except for provisions in this Agreement that will survive the termination or completion of this Agreement. Consultant will perform Change Order services as set out in Section 1.B, "Amendment of Services (Change Orders)," in a timely manner or in accordance with the agreed upon Change Order Project Schedule.

B. **Timely Work**. Consultant will perform all Services in a timely fashion, as set forth more specifically in Section 3.A, "Term," ~~and Section 3.C, "Project Schedule,"~~ of this Agreement. Failure to perform is deemed a material breach of this Agreement, and the City may terminate this Agreement with no further liability hereunder, or may authorize, in writing, an extension of time to the Agreement.

4. CONSULTANT'S EMPLOYEES AND SUBCONSULTANTS

A. **Not an Agent of the City.** Nothing in this Agreement will be interpreted to render the City the agent, employer, or partner of Consultant, or the employer of anyone working for or subcontracted by Consultant, and Consultant must not do anything that would result in anyone working for or subcontracted by Consultant being considered an employee of the City. Consultant is not, and must not claim to be, an agent of the City.

B. **Independent Contractor**:

i. Consultant is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture. The City may not control or

direct the details, means, methods or processes by which Consultant performs the Services. Consultant is responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for in this Agreement. Consultant is solely liable for the work quality and conditions of any partners, employees and subconsultants.

ii. No offer or obligation of permanent employment with the City or particular City department or agency is intended in any manner, and Consultant may not become entitled by virtue of this Agreement to receive from the City any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Consultant will be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Consultant's performance of Services under this Agreement. Consultant will defend, indemnify and hold the City harmless from any and all liability, which the City may incur because of Consultant's failure to pay such taxes.

5. REPRESENTATIVES AND COMMUNICATIONS

A. **City's Project Representative.** The City appoints the individual named below as the City's Project Representative for the purposes of this Agreement ("City's Project Representative"). The City may unilaterally change its project representative upon notice to Consultant.

Name:	Chip Rerig
Title:	City Administrator
Address:	P.O. Box CC, Carmel-by-the-Sea, CA 93921
Telephone:	831-620-2058
Email:	crerig@ci.carmel.ca.us

B. **Consultant's Project Manager.** Consultant appoints the person named below as its Project Manager for the purposes of this Agreement ("Consultant's Project Manager").

Name:	Lance Wills
Title:	Executive Director
Company:	Carmel Chamber of Commerce
Address:	P.O. Box 444, Carmel-by-the-Sea, CA 93921
Telephone:	831-624-3877
Email:	execdir@carmelchamber.org

C. **Meet and Confer**. Consultant agrees to meet and confer with the City's Project Representative, its agents or employees with regard to Services as may be required by the City to insure timely and adequate performance of this Agreement.

D. **Communications and Notices**. All communications between the City and Consultant regarding this Agreement, including performance of Services, will be between the City's Project Representative and Consultant's Project Manager. Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing and will be validly given to and received by the addressee, if delivered personally, on the date of such

personal delivery, if delivered by email, on the date of transmission, or if by mail, seven (7) calendar days after posting.

6. **INDEMNIFICATION**

Consultant hereby agrees to the following indemnification clause:

To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), Consultant will defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, designated agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against claims, loss, cost, damage, injury expense and liability (including incidental and consequential damages, Court costs, reasonable attorneys' fees as may be determined by the Court, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent they arise out of, pertain to, or relate to, the negligence, recklessness, or willful misconduct of Consultant, any subconsultant or subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnitee will not apply to the extent that such Liabilities are caused in part by the active negligence or willful misconduct of such Indemnitee.

Notwithstanding the provisions of the above paragraph, Consultant agrees to indemnify and hold harmless the City from and against all claims, demands, defense costs, liability, expense, or damages arising out of or in connection with damage to or loss of any property belonging to Consultant or Consultant's employees, subconsultants, representatives, patrons, guests or invitees.

In no event will the obligation of the Consultant exceed the limitations on the duty to defend and indemnify as set forth in Civil Code Sections 2782, 2782.6, and 2782.8.

7. **INSURANCE**

Consultant must submit and maintain in full force all insurance as described herein. Without altering or limiting Consultant's duty to indemnify, Consultant must maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

A. Commercial General Liability Insurance including but not limited to premises, personal injuries, bodily injuries, property damage, products, and completed operations, with a combined single limit of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate.

B. Professional Liability Insurance with limits of not less than $1,000,000 per occurrence or claim and $2,000,000 in the aggregate. Consultant will have a policy for professional liability coverage that provides coverage on an occurrence basis or obtain extended reporting (tail) coverage (with the same liability limits) for at least three years following the City's acceptance of the work.

C. Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing Services under this Agreement, with a combined single limit of not less than $1,000,000 per occurrence.

D. Workers' Compensation Insurance. If Consultant employs others in the performance of this Agreement, Consultant must maintain Workers' Compensation insurance in accordance with California Labor Code section 3700 and with a minimum of $1,000,000 per occurrence.

E. Other Insurance Requirements:

i. All insurance required under this Agreement must be written by an insurance company either:

a. admitted to do business in California with a current A.M. Best rating of no less than A:VI; or
b. an insurance company with a current A.M. Best rating of no less than A:VII. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

ii. Each insurance policy required by this Agreement may not be canceled, except with prior written notice to the City.

iii. All liability and auto policies must:

a. Provide an endorsement naming the City of Carmel-by-the-Sea, its officers, officials, employees, and volunteers as additional insureds. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

b. Provide that such Consultant's insurance is primary as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City is excess to the Consultant's insurance and will not contribute with it.

c. Contain a "Separation of Insureds" provision substantially equivalent to that used in the ISO form CG 00 01 10 01 or their equivalent.

d. Provide for a waiver of any subrogation rights against the City via an ISO CG 24 01 10 93 or its equivalent.

iv. Prior to the start of work under this Agreement, Consultant will file certificates of insurance and endorsements evidencing the coverage required by this Agreement with the City. Consultant will file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

v. Neither the insurance requirements hereunder, nor acceptance or approval of Consultant's insurance, nor whether any claims are covered under any insurance, may in any way modify or change Consultant's obligations under the indemnification clause in this Agreement, which will continue in full force and effect. All coverage available to the Consultant as named insured will also be available and applicable to the additional

insured. Notwithstanding these insurance requirements, Consultant is financially liable for its indemnity obligations under this Agreement.

vi. All policies must be written on a first dollar coverage basis or contain a deductible provision. Any deductibles or self-insured retentions ("SIR") must be declared to and approved by the City. At the option of the City, either: the insured will reduce or eliminate such deductibles or SIR as respects the City, its officers, officials, employees and volunteers; or Consultant will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. In no event will any SIR or insurance policy contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured, or by any means including other insurance, or which is intended to defeat the intent or protection of an additional insured.

vii. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

viii. Consultant must require and verify that all subconsultants and subcontractors maintain insurance meeting all the requirements in this Agreement.

ix. If Consultant, for any reason, fails to have in place at all times during the term of this Agreement all of the required insurance coverage, the City may, but is not obligated to, obtain such coverage at Consultant's expense and deduct the cost from the sums due Consultant. Alternatively, City may terminate the Agreement.

x. The existence of the required insurance coverage under this Agreement will not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Should any coverage carried by the Consultant or any subcontractor of any tier have limits of liability that exceed the limits or have broader coverage than required in this Agreement, those higher limits and that broader coverage are deemed to apply for the benefit of any person or organization included as an additional insured and those limits and broader coverage will become the required minimum limits and insurance coverage in all sections of this Agreement. Any insurance proceeds available to City in excess of the limits and coverages required by this Agreement, and which is applicable to a given loss, must be made available to City to compensate it for such losses.

xi. Consultant must give City prompt notice of claims made of lawsuits initiated that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability insurance policies.

xii. The Consultant hereby waives any right of subrogation that any of its insurers may have or that they may accrue out of the payment of any claim related to the Consultant's performance of this Agreement, regardless of whether any endorsements required by this section are obtained.

8. PERFORMANCE STANDARDS

A. Consultant shall operate the Center for eight (8) hours on Mondays-Saturdays and six (6) hours on Sundays for 362 days of the year.

9. CONFIDENTIALITY

A. **No Disclosure.** Consultant must keep confidential and may not disclose, publish or release any information, data, or confidential information of the City to any person other than representatives of the City duly designated for that purpose in writing by the City. Consultant may not use for Consultant's own purposes, or for any purpose other than those of the City, any information, data, or confidential information Consultant may acquire as a result of the performance of the Services under this Agreement. Consultant must promptly transmit to the City any and all requests for disclosure of any such confidential information or records. The obligations under this Section will survive the expiration or earlier termination of this Agreement.

B. **California Public Records Act.** Consultant acknowledges that the City is subject to the California Public Records Act (Government Code Section 6250 et seq.), known as the "PRA," and agrees to any disclosure of information by the City as required by law. Consultant further acknowledges that it may have access to personal information as defined under the PRA, and Consultant will not use any such personal information for any purposes other than for the performance of Services under this Agreement without the advance written approval of the City.

All Scopes of Services and related documents received will be public records, with the exception of those elements, identified by the Consultant as business trade secrets and are plainly marked "Trade Secret," "Confidential," or "Proprietary." If disclosure is required under the PRA or otherwise by law, the City will not be liable or responsible for the disclosure of any such records and the Consultant will indemnify, defend, and hold the City harmless for any such disclosure.

10. CONFLICT OF INTEREST

Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City relating to this Agreement or that would in any way hinder Consultant's performance of services under this Agreement. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 and following) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.), and California Government Code section 1090.

Consultant is required to file a Form 700 in compliance with the City's Conflict of Interest Code unless a written determination by the City Administrator is made modifying or eliminating said requirement, or unless otherwise exempted by law.

In addition, Consultant, Consultant's employees, and subconsultants agree as follows:

A. That they will conduct their duties related to this Agreement with impartiality, and must, if they exercise discretionary authority over others in the course of those duties, disqualify themselves

from dealing with anyone with whom a relationship between them could bring the impartiality of Consultant or its employees into question;

B. May not influence, seek to influence, or otherwise take part in a decision of the City knowing that the decision may further their private interests;

C. May not accept any commission, discount, allowance, payment, gift, or other benefit connected, directly or indirectly, with the performance of Services related to this Agreement, that causes, or would appear to cause, a conflict of interest;

D. May have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of the Services related to this Agreement, and if such financial interest is acquired during the term of this Agreement, Consultant must promptly declare it to the City, and;

E. May not, during the term of this Agreement, perform a service for, or provide advice to, any person, firm, or corporation, which gives rise to a conflict of interest between the obligations of Consultant under this Agreement and the obligations of Consultant to such other person, firm or corporation.

11. DISPUTE RESOLUTION

A. **Dispute Resolution Procedures.** The parties will make reasonable efforts to promptly resolve any dispute, claim, or controversy arising out of or related to this Agreement ("Dispute") using the Dispute Resolution Procedures set forth in this Section.

B. **Negotiations.** First, the City's Project Representative and Consultant's Project Manager will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations. Should these negotiations be unsuccessful in resolving the Dispute, the matter will be promptly referred to the City Administrator or designee, and the Consultant's Principal, who will meet and confer, in good faith, to resolve the Dispute to mutual satisfaction of the parties.

C. **Mediation.** If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days of the date that the matter was referred to the City Administrator pursuant to subsection B above, either party may, by notice to the other party, submit the Dispute for formal mediation to a mediator selected mutually by the parties from the Monterey Superior Court's Court-Directed Mediator Panel list. The duration of any such mediation may not exceed 2 hours unless otherwise agreed to by the parties. The cost of the mediation (including fees of mediators) will be borne equally by the parties, and each party will bear its own costs of participating in mediation. The mediation will take place within or in close proximity to the City of Carmel-by-the-Sea.

In any mediation conducted pursuant to this section, the provisions of California Evidence Code section 1152 will be applicable to limit the admissibility of evidence disclosed by the parties in the course of the mediation. In the event the parties are unsuccessful in resolving the dispute through the mediation process, then the parties agree that the dispute will be submitted to Binding Arbitration to a single Arbitrator in accordance with the existing Rules of Practice and

Procedure of the Judicial Arbitration and Mediation Services, Inc. (JAMS) within thirty (30) days of the close of mediation as declared by the mediator.

D. **Arbitration.** The submission to Mediation and Arbitration in accordance with the requirements of this section of any and all agreements, differences, or controversies that may arise hereunder is made a condition precedent to the institution of any action or appeal at law or in equity with respect to the controversy involved. The award by the arbitrator will have the same force and effect and may be filed and entered, as a judgment of the Superior Court of the State of California and is subject to appellate review upon the same terms and conditions as the law permits for judgments of Superior Courts. A "Prevailing Party" will be determined in the Arbitration, and the prevailing party will be entitled to reasonable attorney's fees and costs incurred, and accrued interest on any unpaid balance that may be due. Costs will include the cost of any expert employed in the preparation or presentation of any evidence. All costs incurred and reasonable attorney fees will be considered costs recoverable in that proceeding, and be included in any award.

12. TERMINATION OF AGREEMENT

A. **Termination for Convenience.** Either party may terminate this Agreement, in whole or in part, with or without cause, at any time during the Agreement Term upon ninety (90) days written notice. Upon termination of this Agreement by either party for any reason, the Consultant will refund the City for prepaid amounts prorated based on the date or termination through the end of the invoiced period.

13. LEGAL ACTION / VENUE

A. Should either party to this Agreement bring legal action against the other, the validity, interpretation and performance of this Agreement will be controlled by and construed under the laws of the State of California, excluding California's choice of law rules.

B. Venue for any such action relating to this Agreement will be in Monterey County.

C. If any legal action or proceeding, including action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement, the prevailing party may recover reasonable attorneys' fees as may be determined by the Arbitrator, experts' fees, and other costs, in addition to any other relief to which the party may be entitled.

14. MISCELLANEOUS PROVISIONS

A. **Non-discrimination**. During the performance of this Agreement, Consultant, and its subconsultants, may not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, or sexual orientation, either in Consultant's employment practices or in the furnishing of services to recipients. Consultant further acknowledges that harassment in the workplace is not permitted in any form, and will take all necessary actions to prevent such conduct.

B. **Acceptance of Services Not a Release**. Acceptance by the City of the Services to be performed under this Agreement does not operate as a release of Consultant from professional responsibility for the Services performed.

C. **Force Majeure**. Either party is absolved from its obligation under this Agreement when and to the extent that performance is delayed or prevented, and in the City's case, when and to the extent that its need for vehicles, materials, or Services to be supplied hereunder are reduced or eliminated by any course, except financial, for reasons beyond its control. Such reasons include, but are not limited to: earthquake, flood, epidemic, fire, explosion, war, civil disorder, act of God or of the public enemy, act of federal, state or local government, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

D. **Headings**. The headings do not govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement. The headings are for convenience only.

E. **Entire Agreement**. This Agreement, including the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the terms, conditions, and Services and supersedes any and all prior proposals, understandings, communications, representations and agreements, whether oral or written, relating to the subject matter thereof pursuant to Section 1B, "Change Order of Services." Any Change Order to this Agreement will be effective only if it is in writing signed by both parties hereto and will prevail over any other provision of this Agreement in the event of inconsistency between them.

F. **Conflict between Agreement and Exhibits**. In the event of a conflict between a provision in this Agreement and a provision in an Exhibit attached to this Agreement, the provisions in this Agreement will take precedence.

G. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and may be signed in counterparts, but all of which together will constitute one and the same Agreement.

H. **Multiple Copies of Agreement**. Multiple copies of this Agreement may be executed, but the parties agree that the Agreement on file in the office of the City's City Clerk is the version of the Agreement that governs should any difference exist among counterparts of this Agreement.

I. **Authority**. Any individual executing this Agreement on behalf of the City or Consultant represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

J. **Severability**. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired thereby. Limitations of liability and indemnities will survive termination of the Agreement for any cause. If a part of the Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

K. **Non-exclusive Agreement**. This Agreement is non-exclusive and both the City and Consultant expressly reserve the right to enter into agreements with other Consultants for the same or similar services, or may have its own employees perform the same or similar services.

L. **Assignment of Interest**. The duties under this Agreement are not assignable, delegable, or transferable without the prior written consent of the City. Any such purported assignment, delegation, or transfer constitutes a material breach of this Agreement upon which the City may terminate this Agreement and be entitled to damages.

M. **City Business License**. Prior to receiving a Notice to Proceed from the City, Consultant will obtain and maintain a valid City of Carmel-by-the-Sea Business License for the duration of the Agreement. Costs associated with the license are the responsibility of Consultant.

N. **Laws**. Consultant agrees that in the performance of this Agreement it will comply with all applicable federal, state and local laws and regulations. This Agreement will be governed by and construed in accordance with the laws of the State of California and the City of Carmel-by-the-Sea.

IN WITNESS WHEREOF, the parties enter into this Agreement hereto on the day and year first above written in Carmel-by-the-Sea, California.

CITY OF CARMEL-BY-THE-SEA

_____
City Administrator

_____
Printed Name Date

CONSULTANT

_____
Consultant Signature

_____
Printed Name Date

_____
Title

_____
Consultant Legal Company Name

APPROVED AS TO FORM:

By: _____ Date: _____
Brian Pierik, Esq., City Attorney

ATTEST:

By: _____ Date: _____
Nova Romero, MMC, City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Chip Rerig, City Administrator
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-086 authorizing and approving the City of Carmel-by-the-Sea current pay rates and ranges (salary schedule)

RECOMMENDATION:

Adopt Resolution 2023-086 authorizing and approving the City of Carmel-by-the-Sea current pay rates and ranges (salary schedule).

BACKGROUND/SUMMARY:

Pursuant to Municipal Code 2.52.520, the salary resolution is adopted by the City Council establishing the legal current salary range from the salary schedule for each class of position. The salary resolution is adopted annually or periodically by the City Council upon review and recommendation of the City Administrator.

Additionally, California Public Employee's Retirement Law (PERL) and Section 570.5 of the California Code of Regulations (CCR) Title 2 requires the City Pay Rates and Ranges document published on the City's internet site meet required elements and be approved, it its entirety, by the City Council each time a modification is made.

The following are the salary schedules:

- At-Will (Unrepresented) – no modifications
- Management Unit, an affiliate of LiUNA – no modifications
- General Unit, an affiliate of LiUNA – no modifications
- Police – no modifications
- Ambulance – no changes
- Temporary/Hourly –hourly rates increased to the corresponding classification salary schedule (General, Management, At-Will) effective July 1, 2023.

Although the salary schedules were approved with the corresponding labor unit Memorandum of

Understanding (MOU), as a Human Resources best practice and to comply with the regulations of PERL, the salary plan in its entirety will be submitted for Council approval each time a modification is made and/or on a fiscal basis.

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Attachment 1) Resolution 2023-086
Attachment 2) Exhibit A-1 Pay Schedule for At-Will (Unrepresented)
Attachment 3) Exhibit A-2 Pay Schedule for Management Unit, and affiliate of LiUNA General Classifications
Attachment 4) Exhibit A-3 Pay Schedule for General Unit, an affiliate of LiUNA Management Classifications
Attachment 5) Exhibit A-4 Pay Schedule for Police Officers Association Classifications
Attachment 6) Exhibit A-5 Pay Schedule for Fire and Ambulance
Attachment 7) Exhibit A-6 Pay Schedule for At-Will Classifications

Attachment 1

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-086

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA APPROVING THE CLASSIFICATION SALARY PLAN FOR AT-WILL (UNREPRESENTED), MANAGEMENT UNIT (AN AFFILIATE OF LIUNA), GENERAL UNIT (AN AFFILIATE OF LIUNA), POLICE OFFICERS ASSOCIATION (POA), AMBULANCE, AND TEMPORARY/HOURLY IN ACCORDANCE WITH MUNICIPAL CODE 2.52.520

WHEREAS, Municipal Code 2.52.520 and amendments thereto provide, among other things that the City Council establish the legal current salary range from the salary schedule for each class of position.

WHEREAS, the salary resolution is adopted annually or periodically by the City Council upon review and recommendation of the City Administrator; and

WHEREAS, the California Public Employee's Retirement Law, at Section 570.5 of the California Code of Regulations Title 2, requires the City to publish pay rates and ranges on the City's internet site and the City Council to approve the pay rates and range in its entirety each time a modification is made; and

WHEREAS, the temporary/hourly classifications do not receive Cost of Living Adjustments (COLA) or salary adjustments on an annual basis such as employees represented by bargaining units; and

WHEREAS, the temporary/hourly classifications hourly rates increased to the corresponding hourly rate reflected on the classification salary schedule (General, Management, At-Will) effective July 1, 2023

WHEREAS, staff recommends that the City Council adopt the increased City pay rates and ranges for Temporary/Hourly (at-will/unrepresented) classifications.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

The City of Carmel-by-the-Sea City Council authorizes and approves the City of Carmel-by-the-Sea current pay rates and ranges (salary schedule) for City of Carmel-by-the-Sea At-Will (Unrepresented), Management Unit (an affiliate of LiUNA), General Unit (an affiliate of LiUNA), Police Officers Association (POA), Ambulance, and Temporary/Hourly Classifications **(Exhibit A)**

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: ATTEST:

_____ .
Dave Potter, Mayor Nova Romero, MMC, City Clerk

City of Carmel by the Sea

SALARY SCHEDULE

Effective January 1, 2023

AT-WILL (UNREPRESENTED) CLASSIFICATIONS

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

Pay Band	Classification	Grade	Resolution #	Effective Date	Minimum Annual Salary	Maximum Annual Salary
	City Administrator	W-1CA	Resolution 2022-103	10/1/2022		$231,815.00
1	Assistant City Administrator	W-1ACA	Reso. 2023-021	1/1/2023	$179,135.12	$217,739.65
	Public Safety Director	W-1	Reso. 2023-021	1/1/2023	$179,135.12	$217,739.65
2	Public Works Director	W-1PWD	Reso. 2023-021	1/1/2023	$175,503.54	$213,325.90
	Community Planning and Building Director	W-2CPBD	Reso. 2023-021	1/1/2023	$175,503.54	$213,325.90
3	Police Commander	W-443PC	Reso. 2023-021	1/1/2023	$154,930.65	$188,320.00
	Library and Community Activities Director	W-440DL	Reso. 2023-021	1/1/2023	$154,930.65	$188,320.00
4	Finance Manager	W-459FM	Reso. 2023-021	1/1/2023	$140,406.47	$170,665.00
	Human Resources Manager		Reso. 2023-021	1/1/2023	$140,406.47	$170,665.00
	Information Services/Network Manager	W-403IS	Reso. 2023-021	1/1/2023	$140,406.47	$170,665.00
	City Clerk	W-400CC	Reso. 2023-021	1/1/2023	$140,406.47	$170,665.00
5	Environmental Compliance Manager	W-377EC	Reso. 2023-021	1/1/2023	$115,975.16	$140,946.82
	Project Manager	W-10	Reso. 2023-021	1/1/2023	$115,975.16	$140,946.82
	Building Official	W-366BO	Reso. 2023-021	1/1/2023	$115,975.16	$140,946.82
6	Senior Human Resources Analyst	W-362SA	Reso. 2023-021	1/1/2023	$95,647.30	$119,742.63
7	Deputy City Clerk	W-342DC	Reso. 2023-021	1/1/2023	$82,617.70	$100,413.08
	Administrative Analyst	W-7AA	Reso. 2023-021	1/1/2023	$82,617.70	$100,413.08
8	Executive Assistant*	W-3EXA	Reso. 2023-021	1/1/2023	$83,100.48	$89,880.00
9	Administrative Technician	W-9AT	Reso. 2023-021	1/1/2023	$70,188.42	$85,352.30

City of Carmel by the Sea

SALARY SCHEDULE

Effective January 1, 2024

AT-WILL (UNREPRESENTED) CLASSIFICATIONS

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

					4% effective January 1, 2024	
Pay Band	**Classification**	**Grade**	**Resolution #**	**Effective Date**	**Minimum Annual Salary**	**Maximum Annual Salary**
	City Administrator	W-1CA	Resolution 2022-103	10/1/2022		$231,815.00
1	Assistant City Administrator	W-1ACA	Reso. 2023-021	1/1/2024	$186,300.52	$226,449.24
	Public Safety Director	W-1	Reso. 2023-021	1/1/2024	$186,300.52	$226,449.24
2	Public Works Director	W-1PWD	Reso. 2023-021	1/1/2024	$182,523.68	$221,858.94
	Community Planning and Building Director	W-2CPBD	Reso. 2023-021	1/1/2024	$182,523.68	$221,858.94
3	Police Commander	W-443PC	Reso. 2023-021	1/1/2024	$161,127.88	$195,852.80
	Library and Community Activities Director	W-440DL	Reso. 2023-021	1/1/2024	$161,127.88	$195,852.80
4	Finance Manager	W-459FM	Reso. 2023-021	1/1/2024	$146,022.73	$177,491.60
	Human Resources Manager		Reso. 2023-021	1/1/2024	$146,022.73	$177,491.60
	Information Services/Network Manager	W-403IS	Reso. 2023-021	1/1/2024	$146,022.73	$177,491.60
	City Clerk	W-400CC	Reso. 2023-021	1/1/2024	$146,022.73	$177,491.60
5	Environmental Compliance Manager	W-377EC	Reso. 2023-021	1/1/2024	$120,614.17	$146,584.69
	Project Manager	W-10	Reso. 2023-021	1/1/2024	$120,614.17	$146,584.69
	Building Official	W-366BO	Reso. 2023-021	1/1/2024	$120,614.17	$146,584.69
6	Senior Human Resources Analyst	W-362SA	Reso. 2023-021	1/1/2024	$99,473.19	$124,532.34
7	Deputy City Clerk	W-342DC	Reso. 2023-021	1/1/2024	$85,922.41	$104,429.60
	Administrative Analyst	W-7AA	Reso. 2023-021	1/1/2024	$85,922.41	$104,429.60
8	Executive Assistant*	W-3EXA	Reso. 2023-021	1/1/2024	$86,424.50	$93,475.20
9	Administrative Technician	W-9AT	Reso. 2023-021	1/1/2024	$72,995.96	$88,766.39

City of Carmel by the Sea

SALARY SCHEDULE

Effective July 1, 2023

MANAGEMENT EMPLOYEES UNIT (affiliated unit of LiUNA)

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

4% effective July 1, 2023								Longevity*
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Accountant	M-351	Hourly:	$56.26	$59.07	$62.02	$65.12	$68.38	$70.43
		Monthly:	$9,751.73	$10,238.80	$10,750.13	$11,287.47	$11,852.53	$12,207.87
		Annual:	$117,020.80	$122,865.60	$129,001.60	$135,449.60	$142,230.40	$146,494.40
Associate Planner	M-284	Hourly:	$40.28	$42.29	$44.40	$46.62	$48.95	$50.42
		Monthly:	$6,981.87	$7,330.27	$7,696.00	$8,080.80	$8,484.67	$8,739.47
		Annual:	$83,782.40	$87,963.20	$92,352.00	$96,969.60	$101,816.00	$104,873.60
Building (Facility) Maint Supervisor	M-298	Hourly:	$43.19	$45.35	$47.62	$50.00	$52.50	$54.08
		Monthly:	$7,486.27	$7,860.67	$8,254.13	$8,666.67	$9,100.00	$9,373.87
		Annual:	$89,835.20	$94,328.00	$99,049.60	$104,000.00	$109,200.00	$112,486.40
City Forester	M-357	Hourly:	$57.99	$60.89	$63.93	$67.13	$70.49	$72.60
		Monthly:	$10,051.60	$10,554.27	$11,081.20	$11,635.87	$12,218.27	$12,584.00
		Annual:	$120,619.20	$126,651.20	$132,974.40	$139,630.40	$146,619.20	$151,008.00
Principla Planner	M-363	Hourly:	$62.02	$65.12	$68.38	$71.80	$75.39	$77.65
		Monthly:	$10,750.13	$11,287.47	$11,852.53	$12,445.33	$13,067.60	$13,459.33
		Annual:	$129,001.60	$135,449.60	$142,230.40	$149,344.00	$156,811.20	$161,512.00
Public Works Superintendent	M-357	Hourly:	$57.99	$60.89	$63.93	$67.13	$70.49	$72.60
		Monthly:	$10,051.60	$10,554.27	$11,081.20	$11,635.87	$12,218.27	$12,584.00
		Annual:	$120,619.20	$126,651.20	$132,974.40	$139,630.40	$146,619.20	$151,008.00
Senior Planner	M-351	Hourly:	$56.26	$59.07	$62.02	$65.12	$68.38	$70.43
		Monthly:	$9,751.73	$10,238.80	$10,750.13	$11,287.47	$11,852.53	$12,207.87
		Annual:	$117,020.80	$122,865.60	$129,001.60	$135,449.60	$142,230.40	$146,494.40

Notes:

**Longevity: Refer to MOU Article 3: Longevity/Merit Step Increase*

Resolution #2022-103

City of Carmel by the Sea

SALARY SCHEDULE

Effective July 1, 2023

GENERAL EMPLOYEES UNIT (affiliated unit of LiUNA)

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

4% effective July 1, 2023								Longevity*
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Administrative Coordinator	G-229	Hourly:	$30.62	$32.15	$33.76	$35.45	$37.22	$38.34
		Monthly:	$5,307.47	$5,572.67	$5,851.73	$6,144.67	$6,451.47	$6,645.60
		Annual:	$63,689.60	$66,872.00	$70,220.80	$73,736.00	$77,417.60	$79,747.20
Assistant City Forester	G-296	Hourly:	$42.78	$44.92	$47.17	$49.53	$52.01	$53.57
		Monthly:	$7,415.20	$7,786.13	$8,176.13	$8,585.20	$9,015.07	$9,285.47
		Annual:	$88,982.40	$93,433.60	$98,113.60	$103,022.40	$108,180.80	$111,425.60
Assistant Planner	G-264	Hourly:	$36.47	$38.29	$40.20	$42.21	$44.32	$45.65
		Monthly:	$6,321.47	$6,636.93	$6,968.00	$7,316.40	$7,682.13	$7,912.67
		Annual:	$75,857.60	$79,643.20	$83,616.00	$87,796.80	$92,185.60	$94,952.00
Building Inspector	G-314	Hourly:	$46.79	$49.13	$51.59	$54.17	$56.88	$58.59
		Monthly:	$8,110.27	$8,515.87	$8,942.27	$9,389.47	$9,859.20	$10,155.60
		Annual:	$97,323.20	$102,190.40	$107,307.20	$112,673.60	$118,310.40	$121,867.20
Building Maintenance Specialist (Facilities)	G-253	Hourly:	$34.38	$36.10	$37.91	$39.81	$41.80	$43.05
		Monthly:	$5,959.20	$6,257.33	$6,571.07	$6,900.40	$7,245.33	$7,462.00
		Annual:	$71,510.40	$75,088.00	$78,852.80	$82,804.80	$86,944.00	$89,544.00
Circulation Supervisor	G-244	Hourly:	$33.01	$34.66	$36.39	$38.21	$40.12	$41.32
		Monthly:	$5,721.73	$6,007.73	$6,307.60	$6,623.07	$6,954.13	$7,162.13
		Annual:	$68,660.80	$72,092.80	$75,691.20	$79,476.80	$83,449.60	$85,945.60
Code Compliance Coordinator	G-284	Hourly:	$40.29	$42.30	$44.42	$46.64	$48.97	$50.44
		Monthly:	$6,983.60	$7,332.00	$7,699.47	$8,084.27	$8,488.13	$8,742.93
		Annual:	$83,803.20	$87,984.00	$92,393.60	$97,011.20	$101,857.60	$104,915.20
Community Activities Asssistant**	G-272	Hourly:	$37.96	$39.86	$41.85	$43.94	$46.14	$47.52
		Monthly:	$6,579.73	$6,909.07	$7,254.00	$7,616.27	$7,997.60	$8,236.80
		Annual:	$78,956.80	$82,908.80	$87,048.00	$91,395.20	$95,971.20	$98,841.60
Community Activities Asssistant I	G-242	Hourly:	$32.69	$34.32	$36.04	$37.84	$39.73	$40.92
		Monthly:	$5,666.27	$5,948.80	$6,246.93	$6,558.93	$6,886.53	$7,092.80
		Annual:	$67,995.20	$71,385.60	$74,963.20	$78,707.20	$82,638.40	$85,113.60
Community Activities Assistant II	G-272	Hourly:	$37.96	$39.86	$41.85	$43.94	$46.14	$47.52
		Monthly:	$6,579.73	$6,909.07	$7,254.00	$7,616.27	$7,997.60	$8,236.80
		Annual:	$78,956.80	$82,908.80	$87,048.00	$91,395.20	$95,971.20	$98,841.60
Finance Analyst	G-294	Hourly:	$41.31	$43.38	$45.55	$47.83	$50.22	$51.73
		Monthly:	$7,160.40	$7,519.20	$7,895.33	$8,290.53	$8,704.80	$8,966.53
		Annual:	$85,924.80	$90,230.40	$94,744.00	$99,486.40	$104,457.60	$107,598.40

4% effective July 1, 2023								Longevity*
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Finance Specialist	G-239	Hourly:	$32.20	$33.81	$35.50	$37.28	$39.14	$40.31
		Monthly:	$5,581.33	$5,860.40	$6,153.33	$6,461.87	$6,784.27	$6,987.07
		Annual:	$66,976.00	$70,324.80	$73,840.00	$77,542.40	$81,411.20	$83,844.80
Information Technology Technician	G-262	Hourly:	$35.10	$36.86	$38.70	$40.64	$42.67	$43.95
		Monthly:	$6,084.00	$6,389.07	$6,708.00	$7,044.27	$7,396.13	$7,618.00
		Annual:	$73,008.00	$76,668.80	$80,496.00	$84,531.20	$88,753.60	$91,416.00
Library Assistant	G-204	Hourly:	$27.05	$28.40	$29.82	$31.31	$32.88	$33.87
		Monthly:	$4,688.67	$4,922.67	$5,168.80	$5,427.07	$5,699.20	$5,870.80
		Annual:	$56,264.00	$59,072.00	$62,025.60	$65,124.80	$68,390.40	$70,449.60
Librarian I	G-234	Hourly:	$31.40	$32.97	$34.62	$36.35	$38.17	$39.32
		Monthly:	$5,442.67	$5,714.80	$6,000.80	$6,300.67	$6,616.13	$6,815.47
		Annual:	$65,312.00	$68,577.60	$72,009.60	$75,608.00	$79,393.60	$81,785.60
Librarian II	G-254	Hourly:	$34.70	$36.44	$38.26	$40.17	$42.18	$43.45
		Monthly:	$6,014.67	$6,316.27	$6,631.73	$6,962.80	$7,311.20	$7,531.33
		Annual:	$72,176.00	$75,795.20	$79,580.80	$83,553.60	$87,734.40	$90,376.00
Permit Technician	G-239	Hourly:	$32.20	$33.81	$35.50	$37.28	$39.14	$40.31
		Monthly:	$5,581.33	$5,860.40	$6,153.33	$6,461.87	$6,784.27	$6,987.07
		Annual:	$66,976.00	$70,324.80	$73,840.00	$77,542.40	$81,411.20	$83,844.80
Planning Technician	G-248	Hourly:	$33.66	$35.34	$37.11	$38.97	$40.92	$42.15
		Monthly:	$5,834.40	$6,125.60	$6,432.40	$6,754.80	$7,092.80	$7,306.00
		Annual:	$70,012.80	$73,507.20	$77,188.80	$81,057.60	$85,113.60	$87,672.00
Program Supervisor (Recreation)	G-252	Hourly:	$34.35	$36.07	$37.87	$39.76	$41.75	$43.00
		Monthly:	$5,954.00	$6,252.13	$6,564.13	$6,891.73	$7,236.67	$7,453.33
		Annual:	$71,448.00	$75,025.60	$78,769.60	$82,700.80	$86,840.00	$89,440.00
Maintenance Worker I	G-214	Hourly:	$28.42	$29.84	$31.33	$32.90	$34.55	$35.59
		Monthly:	$4,926.13	$5,172.27	$5,430.53	$5,702.67	$5,988.67	$6,168.93
		Annual:	$59,113.60	$62,067.20	$65,166.40	$68,432.00	$71,864.00	$74,027.20
Maintenance Worker II	G-224	Hourly:	$31.26	$32.82	$34.46	$36.18	$37.99	$39.13
		Monthly:	$5,418.40	$5,688.80	$5,973.07	$6,271.20	$6,584.93	$6,782.53
		Annual:	$65,020.80	$68,265.60	$71,676.80	$75,254.40	$79,019.20	$81,390.40
Maintenance Worker III	G-253	Hourly:	$34.38	$36.10	$37.91	$39.81	$41.80	$43.05
		Monthly:	$5,959.20	$6,257.33	$6,571.07	$6,900.40	$7,245.33	$7,462.00
		Annual:	$71,510.40	$75,088.00	$78,852.80	$82,804.80	$86,944.00	$89,544.00
Streets Supervisor	G-288	Hourly:	$41.10	$43.16	$45.32	$47.59	$49.97	$51.47
		Monthly:	$7,124.00	$7,481.07	$7,855.47	$8,248.93	$8,661.47	$8,921.47
		Annual:	$85,488.00	$89,772.80	$94,265.60	$98,987.20	$103,937.60	$107,057.60
Tree Climber & Care Specialist	G-253	Hourly:	$34.38	$36.10	$37.91	$39.81	$41.80	$43.05
		Monthly:	$5,959.20	$6,257.33	$6,571.07	$6,900.40	$7,245.33	$7,462.00
		Annual:	$71,510.40	$75,088.00	$78,852.80	$82,804.80	$86,944.00	$89,544.00

City of Carmel by the Sea

POLICE OFFICERS ASSOCIATION

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

SALARY SCHEDULE

Effective July 1, 2023

POLICE SWORN CLASSIFICATIONS

Effective July 1, 2023			0-12 months	12-120 months	120 months +
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**
Police Officer	P-3	Hourly:	$62.13	$65.40	$67.36
		Monthly:	$10,769.20	$11,336.00	$11,675.73
		Annual:	$129,230.40	$136,032.00	$140,108.80
Police Sergeant	P-5	Hourly:	$71.46	$75.22	$77.48
		Monthly:	$12,386.40	$13,038.13	$13,429.87
		Annual:	$148,636.80	$156,457.60	$161,158.40

POLICE NON-SWORN CLASSIFICATIONS

3% effective July 1, 2023								Longevity Step
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Community Services Officer	P-1	Hourly:	$28.96	$30.41	$31.93	$33.53	$35.21	$36.27
		Monthly:	$5,019.73	$5,271.07	$5,534.53	$5,811.87	$6,103.07	$6,286.80
		Annual:	$60,236.80	$63,252.80	$66,414.40	$69,742.40	$73,236.80	$75,441.60
Police Services Officer	P-2	Hourly:	$31.23	$32.79	$34.43	$36.15	$37.96	$39.10
		Monthly:	$5,413.20	$5,683.60	$5,967.87	$6,266.00	$6,579.73	$6,777.33
		Annual:	$64,958.40	$68,203.20	$71,614.40	$75,192.00	$78,956.80	$81,328.00

Notes:
Resolution #2022-082 approved 9/13/22

City of Carmel by the Sea

POLICE OFFICERS ASSOCIATION

SALARY SCHEDULE

Effective July 1, 2024

POLICE SWORN CLASSIFICATIONS

Effective July 1, 2024			0-12 months	12-120 months	120 months +
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**
Police Officer	P-3	Hourly:	$62.13	$65.40	$67.36
		Monthly:	$10,769.20	$11,336.00	$11,675.73
		Annual:	$129,230.40	$136,032.00	$140,108.80
Police Sergeant	P-5	Hourly:	$71.46	$75.22	$77.48
		Monthly:	$12,386.40	$13,038.13	$13,429.87
		Annual:	$148,636.80	$156,457.60	$161,158.40

POLICE NON-SWORN CLASSIFICATIONS

3% effective July 1, 2024								Longevity Step
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Community Services Officer	P-1	Hourly:	$29.83	$31.32	$32.89	$34.53	$36.26	$37.35
		Monthly:	$5,170.53	$5,428.80	$5,700.93	$5,985.20	$6,285.07	$6,474.00
		Annual:	$62,046.40	$65,145.60	$68,411.20	$71,822.40	$75,420.80	$77,688.00
Police Services Officer	P-2	Hourly:	$32.17	$33.78	$35.47	$37.24	$39.10	$40.27
		Monthly:	$5,576.13	$5,855.20	$6,148.13	$6,454.93	$6,777.33	$6,980.13
		Annual:	$66,913.60	$70,262.40	$73,777.60	$77,459.20	$81,328.00	$83,761.60

Notes:
Resolution #2022-082 approved 9/13/22

City of Carmel by the Sea

SALARY SCHEDULE

Effective July 1, 2022

CARMEL FIRE AMBULANCE ASSOCIATION

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

								Longevity*
Classification	**Grade**	**Pay**	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**	**Step 6**
Firefigher/Paramedic	A-1	Hourly:	$33.94	$35.42	$36.98	$38.62	$40.36	$41.56
		Monthly:	$7,794.66	$8,134.56	$8,492.83	$8,869.47	$9,269.08	$9,544.67
		Annual:	$93,535.92	$97,614.69	$101,913.92	$106,433.63	$111,228.93	$114,536.04

Notes:

*Step 6: Association members are eligible for a one-time 6th step after completing ten (10) continuous years of service with the City of Carmel by the Sea, three percent (3%) longevity/merit increase, per MOU Resolution #2022-062

City of Carmel by the Sea

SALARY SCHEDULE

Effective September 1, 2023

City Council Meeting: September 12, 2023 | Reso #2023 - XXX

TEMPORARY/HOURLY CLASSIFICATIONS

Classification	Grade	Pay	Step 1	Step 2	Step 3	Step 4	Step 5
Administrative Analyst	Z-264	Temp/Hourly	$39.72	$41.71	$43.80	$45.99	$48.29
Administrative Coordinator	Z-229	Temp/Hourly	$30.62	$32.15	$33.76	$35.45	$37.22
Community Activities Assistant I	Z-242	Temp/Hourly	$32.69	$34.32	$36.04	$37.84	$39.73
Finance Specialist		Temp/Hourly	$32.20	$33.81	$35.50	$37.28	$39.14
Forest Care Worker		Temp/Hourly	$28.42	$29.84	$31.33	$32.90	$34.55
Intern		Temp/Hourly	$17.86	$18.75	$19.69	$20.67	$21.70
Librarian I	Z-234	Temp/Hourly	$31.40	$32.97	$34.62	$36.35	$38.17
Library Assistant	Z-204	Temp/Hourly	$27.05	$28.40	$29.82	$31.31	$32.88
Maintenance Worker I		Temp/Hourly	$28.42	$29.84	$31.33	$32.90	$34.55
Maintenance Worker II		Temp/Hourly	$31.26	$32.82	$34.46	$36.18	$37.99
Police Services Officer		Temp/Hourly	$31.23	$32.79	$34.43	$36.15	$37.96
Tree Climber & Care Specialist		Temp/Hourly	$34.38	$36.10	$37.91	$39.81	$41.80

Classification	Pay	Minimum Hourly	Maximum Hourly
Project Manager	Temp/Hourly	$55.75	$67.76
Extra-Help Retired Annuitant	Temp/Hourly	$30.00	$100.00

Notes:
Resolution #2023-029

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Jeff Watkins, Acting Police Chief
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-087 Accepting a Donation of $7,500 for the Carmel-by-the-Sea Police Department

RECOMMENDATION:

Adopt Resolution 2023-087 Accepting a Donation of $7,500 for the Carmel-by-the-Sea Police Department.

BACKGROUND/SUMMARY:

On July 31, 2023, the City received a letter stating that the Crawford Lee-Mills Fund of the Petoskey Harbor Springs Area Community Foundation is awarding a $7,500 grant to the City of Carmel-by-the-Sea in "support the Carmel-by-the-Sea Police Department in appreciation of Jeff Watkins' service" (**Attachment 2**).

The Petoskey-Harbor Springs Area Community Foundation ("Community Foundation") is a Michigan-based non-profit whose mission is to *"help enrich the lives of our elders, supporting programs for children, reaching out to friends and neighbors in need, expanding parks and recreational activities, protecting our environment, enhancing health services and bringing more music, art, and cultural opportunities to our area."*

The grant is awarded in honor of Acting Police Chief Watkins on behalf of Catherine, Nicola, and Blitzen Sebastiani. The grant funds will be earmarked towards outfitting a new police vehicle for the Carmel Police Department as we update our aging fleet and outdated technological equipment.

The City already received the check for $7,500 from the Community Foundation. In accordance with the City Council Donation and Gift Policy (Policy 2017-02), City Council must authorize acceptance of any grant funds over $2,500.

FISCAL IMPACT:

None.

PRIOR CITY COUNCIL ACTION:

None for this item.

ATTACHMENTS:

Attachment 1) Resolution 2023-087
Attachment 2) Grant award letter

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-087

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ACCEPTING A DONATION OF $7,500 FOR THE POLICE DEPARTMENT IN HONOR OF JEFF WATKINS' SERVICE FROM THE CRAWFORD LEE-MILLS FUND OF THE PETOSKEY HARBOR SPRINGS AREA COMMUNITY FOUNDATION

WHEREAS, the Crawford Lee-Mills Fund of the Petoskey Harbor Springs Area Community Foundation wishes to donate $7,500 to the City of Carmel-by-the-Sea Police Department; and

WHEREAS, the grant is awarded to the Carmel-by-the-Sea Police Department on behalf of Catherine, Nicola, and Blitzen Sebastian in honor of Acting Police Chief Jeff Watkins for his service; and

WHEREAS, City Council is required to accept donations of $2,500 or more in accordance with the City Council Donation and Gift Policy (Policy 2017 -02).

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Approve the acceptance of a $7,500 donation from the Crawford Lee-Mills Fund of the Petoskey Harbor Springs Area Community Foundation to be applied to the vehicle & equipment replacement fund (**Exhibit A**).

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: ATTEST:

_____ _____

Dave Potter, Mayor Nova Romero, MMC, City Clerk

Exhibit A

Attachment 1

General Ledger Account	Account Name	Purpose	FY 23/24 Adopted Budget	Adjustment Amount	FY 23/24 Amended Budget
503-000-00-38020	Vehicle & Equipment Replacement Revenue - Other Miscellaneous	To recognize donation from the Crawford Lee-Mills Fund of the Petoskey Harbor Springs Area Community Foundation	$ 275,000	$ 7,500	$ 282,500
503-513-00-43005	Vehicle & Equipment Replacement Fund Expenditures - Vehicles & Fire Trucks	Donated: $7,500 in honor of Acting Police Chief Jeff Watkins for his service	$ 1,075,000	$ 7,500	$ 1,082,500

Petoskey-Harbor Springs Area
community foundation

July 13, 2023

City of Carmel By The Sea
P.O. Box CC
Carmel by the sea, CA 93921

Greetings!

This letter is to notify you of a grant from a donor advised fund at Petoskey-Harbor Springs Area Community Foundation.

Fund Name:	Crawford Lee-Mills Fund
Donor Advisor(s):	Catherine Sebastiani
Grant Amount:	$7,500.00
Grant Purpose:	To support the Carmel By The Sea Police Department and in appreciation of Jeff Watkins' service. Catherine, Nicola and Blitzen Sebastiani

A tax receipt for this grant is not necessary. The donor advisor(s) were issued a tax receipt at the time they contributed to their donor advised fund. However, you are still welcome to thank the donor advisor(s) directly if you have their contact information on file.

Endorsement of the enclosed check constitutes your agreement to the conditions outlined below. Failure to comply with these conditions could result in a Community Foundation request for the return of all or part of the grant funds. City of Carmel By The Sea agrees to:

- Use the grant for the purpose stated in this letter, as directed by the donor advisor(s).
- Maintain your status as a charitable organization, according to the Internal Revenue Code.
- Avoid use of these funds for lobbying activities.
- Provide no benefits to the donor advisor(s) in exchange for this grant.

Many grants are made through the Community Foundation each year. With generous donors and capable nonprofit organizations, we are all working together for good, for ever, for everyone.

Sincerely,

Loriel K. Grigsby
Program and Accounting Associate

Enclosure

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Emily Garay, Administrative Analyst
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-088 Accepting a Donation of Twenty-Five Thousand Dollars ($25,000.00) to the City of Carmel-by-the-Sea's Forest Hill Park

RECOMMENDATION:

Adopt Resolution 2023-088 Accepting a Donation of Twenty-Five Thousand Dollars ($25,000.00) to the City of Carmel-by-the-Sea's Forest Hill Park.

BACKGROUND/SUMMARY:

On August 29, 2023, the City's Public Works Department completed a collaborative installation of new nature play and inclusive elements equipment, including an outdoor classroom, a braille board panel, two (2) owl boxes, and a hawk perch at Forest Hill Park. The playground equipment donated is valued to be Twenty-Five Thousand Dollars ($25,000.00).

The donation is made by the Carmel-based non-profit, Carmel Chamber of Commerce Foundation's Leadership Carmel Program's Class of 2023 ("Leadership Carmel"), consisting of: Leslie Altherr, Michael Bruno, Jahre Carver, Emily Garay, Bill Kerr, Gianna Malfitano, Elizabeth O'Malley, Cyndi Silva, and program directors Barry Frew and Jeanne Frew. This donation is designated as Leadership Carmel's "Legacy Gift" to the City of Carmel-by-the-Sea in alignment with the Leadership Carmel Program's mission of applying a deeper of understanding of leadership, effectively leading change, and community awareness to have a positive impact within and for the community in Carmel-by-the-Sea.

Leadership Carmel presented the equipment and project proposal for the Forest Hill Park donation to the Forest & Beach Commission in February 2023 and March 2023, with unanimous approval in March 2023.

The collaborative installation project between Leadership Carmel and the City of Carmel-by-the-Sea's Public Works Department of the donated equipment was completed on August 29, 2023. City Council is required to accept donations of $2,500 or more in accordance with the City Council Donation and Gift Policy (Policy 2017 -02).

FISCAL IMPACT:

None.

PRIOR CITY COUNCIL ACTION:

None for this item.

ATTACHMENTS:

Attachment 1) Resolution 2023-088

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-088

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ACCEPTING A DONATION OF TWENTY-FIVE THOUSAND DOLLARS ($25,000) TO THE CITY OF CARMEL-BY-THE-SEA'S FOREST HILL PARK FROM THE CARMEL CHAMBER OF COMMERCE FOUNDATION LEADERSHIP CARMEL PROGRAM CLASS OF 2023

WHEREAS, the Carmel Chamber of Commerce Foundation Leadership Carmel Program Class of 2023 wishes to donate nature play and inclusive playground equipment valued at Twenty-Five Thousand Dollars to the City of Carmel-by-the-Sea Forest Hill Park; and

WHEREAS, the donation is given to the City of Carmel-by-the-Sea's Forest Hill Park as a "Legacy Gift" by the Leadership Carmel Class 2023 participants Leslie Altherr, Michael Bruno, Jahre Carver, Emily Garay, Bill Kerr, Gianna Malfitano, Elizabeth O'Malley, Cyndi Silva, and program directors Barry Frew and Jeanne Frew; and

WHEREAS, City Council is required to accept donations of $2,500 or more in accordance with the City Council Donation and Gift Policy (Policy 2017-02).

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

1. Accept the donation with a value of Twenty-Five Thousand Dollars ($25,000.00) from the Carmel Chamber of Commerce Foundation Leadership Carmel Program Class of 2023; and

2. Approve a budget amendment to the Fiscal Year 2023/2024 Adopted Budget, as shown in the attached Exhibit A, to recognize the donation of equipment and other goods.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dave Potter, Mayor

ATTEST:

Nova Romero, MMC, City Clerk

Exhibit A

General Ledger Account	Account Name	Purpose	FY 23/24 Adopted Budget	Adjustment Amount	FY 23/24 Amended Budget
301-311-000-43008	Capital Projects Fund Expenditures - Construction in Progress	To recognize donation from Carmel Chamber of Commerce Foundation Leadership Carmel Program	$ 9,761,100	$ 25,000	$ 9,786,100
301-000-00-38004	Capital Projects Fund Revenue - Donations	Donated: Forest Hill Park Playground Equipment	$ 125,000	$ 25,000	$ 150,000

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Katherine Wallace, Associate Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Adopt Resolution 2023-089 authorizing a refund of a Mills Act application fee in the amount of $2,688 to Chris Fenton.

RECOMMENDATION:

Adopt Resolution 2023-089 authorizing a refund of a Mills Act application fee in the amount of $2,688 to Chris Fenton.

BACKGROUND/SUMMARY:

On June 30, 2023, Chris Fenton submitted a Mills Act Contract application for the property located at the northeast corner of Forest Road and 8th Avenue in the Single-Family Residential (R-1) District. The application fee was $3,584. On July 21, 2023, Chris Fenton submitted a request to withdraw the application.

This item is on the Council's agenda to authorize a refund of 75% of the permit fee cost in accordance with CMC Section 17.02.120 (Fees), which allows a partial refund of fees in the amount of 75% for applications that are withdrawn before a determination has been made as to whether the application is complete.

CMC Section 3.06.060 (Return of Funds) requires refunds of $1,000 or more to be approved by Council. Specifically, Section 3.06.060 states that "from time to time it becomes necessary to refund certain permit fees, taxes, licenses, etc., in the normal course of City business. Upon recommendation from the Assistant City Administrator, the City Administrator or his/her duly authorized representative is authorized to approve such refunds in an amount not to exceed $1,000. All refunds over $1,000 shall require approval by the City Council."

FISCAL IMPACT:

Other than the cost of processing the refund, there is no fiscal impact to the City for issuing the fee refund.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

Attachment 1 - Resolution 2023-089

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-089

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING A REFUND OF A MILLS ACT CONTRACT APPLICATION FEE IN THE AMOUNT OF $2,688.00 TO CHRIS FENTON

WHEREAS, the applicant, Chris Fenton, submitted a Mills Act Contract (MA 23-190 application on June 30, 2023; and

WHEREAS, the application fee was $3,584 for the review of the application; and

WHEREAS, the permit fee was paid by Katherine Shaw on July 5, 2023; and

WHEREAS, staff performed a completeness review and determined that the application was incomplete on July 21, 2023; and

WHEREAS, on July 21, 2023 the applicant submitted a request to withdraw the application; and

WHEREAS, CMC Section 17.02.120 (Fees) allows a partial refund of permit fees in the amount of 75% for applications that are withdrawn before a determination that the application is complete is made; and

WHEREAS, the applicant withdrew the application on July 21, 2023 prior to staff deeming the application complete; and

WHEREAS, the applicant is entitled to a 75% refund of the permit fee which amounts to $2,688.00; and

WHEREAS, CMC Section 3.06.060 (Return of Funds) requires refunds of $1,000 or more to be approved by the City Council.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize a refund of $2,688.00 to Chris Fenton, which is 75% of the total collected permit fees for a Mills Act Contract (MA 23-190) application submitted on June 30, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Dave Potter
Mayor

ATTEST:

_____
Nova Romero
City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Katherine Wallace, Associate Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Adopt Resolution 2023-090 authorizing a refund of a Mills Act Contract application fee in the amount of $2,688 to Katherine Shaw

RECOMMENDATION:

Adopt Resolution 2023-090 authorizing a refund of a Mills Act Contract application fee in the amount of $2,688 to Katherine Shaw.

BACKGROUND/SUMMARY:

On December 6, 2022, Katherine Shaw submitted a Mills Act Contract application for the property located on Monte Verde Street 5 northwest of 4th Avenue in the Single-Family Residential (R-1) District. The application fee was $3,584. On August 8, 2023, Katherine Shaw submitted a request to withdraw the application.

This item is on the Council's agenda to authorize a refund of 75% of the permit fee cost in accordance with CMC Section 17.02.120 (Fees), which allows a partial refund of fees in the amount of 75% for applications that are withdrawn before a determination has been made as to whether the application is complete.

CMC Section 3.06.060 (Return of Funds) requires refunds of $1,000 or more to be approved by Council. Specifically, Section 3.06.060 states that "from time to time it becomes necessary to refund certain permit fees, taxes, licenses, etc., in the normal course of City business. Upon recommendation from the Assistant City Administrator, the City Administrator or his/her duly authorized representative is authorized to approve such refunds in an amount not to exceed $1,000. All refunds over $1,000 shall require approval by the City Council."

FISCAL IMPACT:

Other than the cost of processing the refund, there is no fiscal impact to the City for issuing the fee refund.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

Attachment 1) Resolution 2023-090

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2023-090

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING A REFUND OF A MILLS ACT CONTRACT APPLICATION FEE IN THE AMOUNT OF $2,688.00 TO KATHERINE SHAW

WHEREAS, the applicant, Katherine Shaw submitted a Mills Act Contract (MA 22-386 application on December 6, 2022; and

WHEREAS, the application fee was $3,584 for the review of the application; and

WHEREAS, the permit fee was paid by Katherine Shaw on January 17, 2023; and

WHEREAS, staff performed a completeness review and determined that the application was incomplete on August 8, 2023; and

WHEREAS, on August 8, 2023 the applicant submitted a request to withdraw the application; and

WHEREAS, CMC Section 17.02.120 (Fees) allows a partial refund of permit fees in the amount of 75% for applications that are withdrawn before a determination that the application is complete is made; and

WHEREAS, the applicant withdrew the application on August 8, 2023 prior to staff deeming the application complete; and

WHEREAS, the applicant is entitled to a 75% refund of the permit fee which amounts to $2,688.00; and

WHEREAS, CMC Section 3.06.060 (Return of Funds) requires refunds of $1,000 or more to be approved by the City Council.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize a refund of $2,688.00 to Katherine Shaw, which is 75% of the total collected permit fees for a Mills Act Contract (MA 22-386) application submitted on December 6, 2022.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Dave Potter
Mayor

ATTEST:

_____
Nova Romero
City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
PUBLIC HEARINGS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Consideration of initiating amendments to the General Plan and Local Coastal Plan to change the General Plan land use designation for the Pine Inn parking lot (APN 010-212-010) from Single-Family Residential to Multi-Family Residential and facilitate the transfer of hotel rooms from the Pine Inn to the Pine Inn parking lot.

RECOMMENDATION:

Provide early policy direction to staff and the applicant regarding a request to initiate a General Plan and Local Coastal Plan Amendment at the Pine Inn Parking lot site to change the General Plan land use designation from Single-Family Residential to Multi-Family Residential and facilitate the transfer of hotel rooms from the Pine Inn to the Pine Inn parking lot.

BACKGROUND/SUMMARY:

Executive Summary:
The Pine Inn has recently begun exploring the possibility of moving eight (8) of their existing hotel rooms across the street to their current guest parking lot location at the northeast corner of Monte Verde Street and 6th Avenue. For this to occur, the parking lot's zoning would need to be changed, which would also require amendments to the City's General Plan and Local Coastal Plan. In an effort to get feedback on the City's appetite to rezone this property, the applicant is requesting early policy-level feedback from the Council. Essentially, the Council is being asked if the concept has a 'red light' or 'green light' to proceed through the complicated public process of General Plan and Local Coastal Plan amendments and rezoning of the property.

Background/Summary:
The 49-room Pine Inn Hotel is located at the northeast corner of Ocean Avenue and Monte Verde Street in the Central Commercial (CC) Zoning District. Parking for hotel employees and guests is provided on a separate parcel located at the northeast corner of Monte Verde Street and 6th Avenue in the Single-Family Residential (R-1) Zoning District. Land uses surrounding the parking lot include the First Murphy House and park to the east, the First Church of Christ Scientist to the north, the Tally Ho Inn to the southwest, and single-family residences to the west/northwest. The Pine Inn Hotel is located to the south of the parking lot. The Pine Inn parking lot is 8,000 square feet in size. It was established in 1960 and contains 21 parking spaces for guests and employees of the hotel.

Zoning History
In 1957, an effort to rezone the site from R-1 to C-1 was undertaken but unsuccessful. On January 25, 1960, the City Council adopted Ordinance No. 10 C.S. (**Attachment 1**), rezoning the property to R-1-P-3 and allowing commercial parking lots as a conditionally permitted use. On January 20, 1960, the Planning Commission adopted Resolution No. 417 (**Attachment 2**), approving the construction of the parking lot, which has been in continuous use since that time.

By 1995, the zoning was referred to simply as R-1. The zoning code continued to allow parking lots a conditionally permitted use provided they existed before 1 January 1988 and were part of an adjacent commercial use.

Proposed Project
The Pine Inn is requesting initiation of a General Plan and Local Coastal Plan Amendment to change the General Plan land use designation from Single Family Residential to Multi Family Residential to facilitate the relocation of eight hotel rooms from the Pine Inn Hotel site to the parking lot site while preserving existing parking for overnight guests of the hotel. There would be no net increase in the number of hotel rooms and no net reduction in the number of existing parking spaces. The applicant proposes one of the eight hotel units to be occupied as on-site employee housing, similar to a manager's unit but not necessarily limited to a hotel manager. The project would also require rezoning to a Community Plan (CP) District with an underlying Multi-Family Residential (R-4) zoning designation.

Because a General Plan and Local Coastal Plan amendment requires staff resources beyond what is typical for the construction of a new building, and because rezoning of this site involves complicated policy considerations, staff and the applicant are seeking early direction from the City Council on this request. If the City Council is not interested in amending the General Plan and Local Coastal Plan at this time, it would be better to know that now, before a considerable amount of staff time and resources, as well as expense by the applicant, is devoted to the project. In other words, the Council is being requested to provide 'red light' or 'green light' feedback on the overall concept of a General Plan and Local Coastal Plan Amendment to facilitate the transfer of hotel rooms to the parking lot.

The applicant's request letter is included in **Attachment 3**. A project description and conceptual renderings are included in **Attachment 4**. The applicant will be in attendance at the meeting to answer any questions the Council may have.

General Plan/Local Coastal Plan Amendment, Rezoning
The Single-Family Residential land use allows residential densities of 2-11 units per acre and overnight accommodations currently operating under a use permit. Above-ground building intensity is limited to a floor area ratio of 45 percent with at least 45 percent open space. The R-1 single-family zoning district is consistent with the General Plan Land Use of Single-Family Residential. Hotels and Motels are prohibited in the R-1 district unless established prior to January 1, 1967, and/or authorized by a use permit issued between 1967 and 1990.

The Multi-Family Residential land use allows residential densities of up to 33 units per acre; densities of up to 44 units per acre are allowed when affordable housing is provided. Existing hotel and motel uses are allowed and may be reconstructed. Maximum building intensity is limited to a floor area ratio of 80 to 90 percent with at least 45 percent open space. The R-4 multi-family zoning district is consistent with the General Plan Land Use of Multi-Family Residential. Hotels and Motels are allowed with the approval of a use permit in the R-4 district.

Community Plan Districts and Specific Plans

The Carmel Municipal Code allows the establishment of Community Plan Districts and Specific Plans for defined planning areas within the City. The Community Plan District sets forth the permitted and conditional uses within the District, which must also be consistent with the General Plan land use designation. The District can also establish development regulations (i.e., building height, setbacks, floor area, parking, etc.) specific to the District. Examples of existing Community Plan Districts include Trevvett Court, Forest Cottages, Block 45, Larson Field, and Carmel Plaza.

FISCAL IMPACT:

All costs associated with processing the General Plan and Local Coastal Amendments and rezoning will be paid for by the applicant in accordance with the City's adopted fee schedule.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

Attachment 1) City Council Ordinance No. 10 C.S.
Attachment 2) Planning Commission adopted Resolution No. 417
Attachment 3) General Plan/Local Coastal Plan Amendment Request
Attachment 4) Project Description and Rendering

ORDINANCE NO. 10 C.S.

AN ORDINANCE ESTABLISHING ZONING DISTRICTS FOR PARKS AND BEACHES, RECREATION AREAS, AND OFF-STREET PARKING WITH LANDSCAPING; AND RECLASSIFYING LOTS 18 and 20, BLOCK 54, CARMEL-BY-THE-SEA, TO DISTRICT R-1-P-3

Attachment 1

BE IT ORDAINED by the City Council of the City of Carmel-by-the-Sea as follows:

Section 1. That the Municipal Code be amended by the addition of a new article to Part X thereof, which article shall be entitled Article 3-A, and shall read as follows:

"Article 3-A

District P-1 Regulations

Section 1305.7. Purpose. In order to preserve publicly owned park and beach lands for the benefit and enjoyment of present and future generations, and to prevent inharmonious use of such lands and to prevent the destruction of the city's beautiful natural open spaces through inappropriate development, District P-1 is hereby established.

Section 1305.71. Use. The following use only is permitted in District P-1, namely, the maintenance of such property primarily in its natural state with the addition thereto of only such improvements and maintenance as would enhance such natural state, or enable the better enjoyment thereof."

Section 2. That the Municipal Code be amended by the addition of an article to Part X thereof, to be known as Article 3-B, which shall read as follows:

"Article 3-B

District P-2 Regulations

Section 1305.8. Purpose. To provide appropriately

"

located areas for recreation and recreation facilities needed by the residents of the city and the surrounding area, District P-2 is hereby established.

Section 1305.81. Uses. The following uses only are permitted in District P-2: All uses permitted in District P-1 and in addition thereto, facilities and structures devoted to public recreation."

Attachment 1

Section 3. Part X of the Municipal Code is hereby amended by the addition thereto of an article to be known as Article 3-C, which shall read as follows:

"Article 3-C

District P-3 Regulations

Section 1305.9. Purpose. In order to enable the city to suitably locate off-street parking facilities to the best advantage of the city and its residents, considering traffic flow, traffic congestion, density of business development, the need for off-street parking facilities both in the city at large and in specific areas thereof, and like matters, District P-3 is hereby established.

Section 1305.91. Use. The use permitted by District P-3 shall be off-street parking with landscaping. Property zoned as belonging in District P-3 shall retain such other use and be subject to such other regulation as may apply to the basic zoning of such property, it being the intention of this section that District P-3 property shall not lose any other zoning district classification such property might have upon being zoned District P-3.

Section 1305.92. Development Regulations. Before any property ~~being~~ zoned as belonging in District P-3 be used for off-street parking, the owner of such property must first apply for and obtain from the Planning Commission approval of said owner's plan of development, and no person, firm or corporation shall

develop or use property in District P-3 for off-street parking except in conformance with a resolution of the Planning Commission approving such a plan of development. The owner's application should be accompanied by a plot plan showing location and number of driveways and the grade thereof at the property line, areas devoted to landscaping and the type thereof, and the number and location of parking stalls and aisles. Said application shall be certified by the Superintendent of Streets to the effect that the driveways shown on said plot plan and the grades thereof comply with all municipal ordinances and regulations regulating driveways. The Planning Commission shall thereupon determine if the proposed development of the parking use provides for safe driveway access and for sufficient landscaped areas and properly located landscaped areas, considering in this connection the desirability of shielding parking areas from the contiguous properties and the public street, and shielding adjacent structures from public view. In general, landscaped areas shall occupy not less than 20% of the property. All frontages on streets or public ways, exclusive of driveways, shall be landscaped; not less than 75% of such landscaping shall be at least five (5) feet in height. All property lines contiguous to residential property shall be likewise landscaped by hedge or suitable material not less than five feet in height along the entire property line. All landscaping requirements of this section may be varied by the Planning Commission not more than 20% so as to either increase or decrease said requirements by such percentage, depending on location, topography or other circumstances unique to the property in question. Any other provision of this section notwithstanding, all areas not devoted to parking stalls, aisles or driveways in the use of said property for off-street parking, shall be landscaped. Insofar as the requirements of this section are concerned, the owner shall be entitled to proceed with his plan of development upon the Planning Commission's adopting its resolution approving same, which resolution may reasonably limit the time of commencement of development under it. The application

Attachment 1

required by this section may be filed by any property owner together with, or any time after, he has applied to have his property reclassified as District P-3. The Planning Commission may consider and issue its resolution approving the property owner's plan of development any time after it has formally approved and recommended the redistricting of owner's property to District P-3, without waiting for Council action. Property owner shall be entitled to proceed with his use of the property for off-street parking when he has obtained Planning Commission approval of his plan of development and his property redistricted as District P-3 without regard to which action became final first in point of time.

Attachment 1

No property shall be devoted to P-3 usage if such usage will impinge on or reduce the minimum building site requirements or other site requirements of the zoning law. Any property, after being devoted to P-3 usage, may not be used to constitute or fulfill any building site requirement or other site requirement of the zoning law so long as the P-3 usage is continued. P-3 usage, once commenced, shall be deemed continued until the owner of the property ceases to devote it to such usage and files with the Planning Commission a notice of abandonment of such usage. Upon the filing of such notice of abandonment, the resolution approving plan of development for P-3 usage shall be of no further force and effect."

Section 4. That Lots 18 and 20, Block 54, as said lots and block are shown on Map of "Carmel-By-The-Sea, Monterey County, California", filed for record March 7, 1902 in the office of the County Recorder of the County of Monterey, State of California, in Volume 1 of Maps, "Cities and Towns", at page 2, be and they are hereby ordered reclassified to District R-1-P-3, and Section 1390 of the Municipal Code is hereby ordered amended accordingly to show said reclassification.

PASSED AND ADOPTED by the City Council of the City of Carmel-by-the-Sea this 25th day of January, 1960, by the following vote:

AYES: COUNCILMEN: CHITWOOD, BUFFINGTON, KNIGHT, MAY, NORBERG

NOES: COUNCILMEN: None

ABSENT: COUNCILMEN: None

APPROVED:

John A. Chitwood
Mayor of said city.

ATTEST:

City Clerk thereof.

Attachment 1

CERTIFICATION OF ORDINANCE

I, the undersigned, City Clerk of the City of Carmel-by-the-Sea, California, do hereby certify that the foregoing is a true and correct copy of City Ordinance No. 10 C.S. , which has been published or posted pursuant to the laws of the State of California and the City of Carmel-by-the-Sea.

DATED this 25th day of February, 19 60.

CITY CLERK

THE PLANNING COMMISSION

CITY OF CARMEL-BY-THE-SEA

RESOLUTION NO. 417

WHEREAS KATHLEEN G. PREWETT has applied for a permit to construct a parking lot on Lots 18 and 20, Block 54, Carmel-by-the-Sea, California;

AND WHEREAS this Commission has, by previous action, adopted certain Reports of its Committees, namely:

Attachment 2

PC 2.38 A Land Use Committee
Public Improvements Committee

which find affirmatively where required by the Laws of the City of Carmel-by-the-Sea;

NOW THEREFORE, BE IT RESOLVED that those certain reports hereinbefore referred to be and they are hereby made a part of this Resolution;

AND BE IT FURTHER RESOLVED, the Commission having previously recommended to the Council the rezoning of this property to R-1-P-3, that the application is approved;

AND BE IT FURTHER RESOLVED that the applicant be required to notify the Building Inspector of the commencement of the improvements hereby authorized and thereafter to obtain from the Building Inspector from time to time such inspections as may be necessary to assure the improvement of the property in conformity with the plans heretofore approved;

AND BE IT FURTHER RESOLVED that this Resolution shall be without force and effect if construction has not commenced within six months of this date.

PASSED AND ADOPTED by the Planning Commission of Carmel-by-the-Sea, California, this 20th day of January, 19 60, by the following vote:

AYES:	COMMISSIONERS:	WILLOX, BLANKS, GOTTFRIED, JOSSELYN, KEEBLE, MACGREGOR, SMITH
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	None

APPROVED:

Geo. L. Willox
Chairman

ATTEST:

Secretary

C I T Y O F CARMEL - BY - THE - SEA

THE PLANNING COMMISSION

A. SUBJECT: OFF-STREET PARKING LOT) REPORT OF COMMITTEE, GENERAL
)
LOCATION: NE Monte Verde & 6th)
Lots 18 and 20, Block 54)
NAME: HARRISON GODWIN d/b/a Pine Inn) PC No. 2.38 A

B. CONSIDERATIONS: Location and number of driveways; grade at property line; areas devoted to landscaping and the type thereof; number and location of parking stalls and aisles.

Attachment 2

C. FINDINGS: 1. That the proposed development provides for safe driveway access, and for sufficient landscaped areas and properly located landscaped areas to shield the parking areas from the contiguous properties and the public street, and to shield adjacent structures from public view.

D. RECOMMENDATIONS:

Approved

Committees on Land Use / Public Improvements — (SIGNED) Herbert B.Blanks, L.U. Committee Member

Date: 12-16-59 — (SIGNED) Hugh Smith, P.I. Committee Member

E. ENDORSEMENTS:

Steering Committee

Date: 1-20-60 — (SIGNED) Herbert B. Blanks, Chairman

F. ACTION IN COMMISSION:

1-20-60 Report adopted. Resolution No. 417 adopted.

(SIGNED) L. D. Rose, Secretary

X PC File	X X Bldg Insp	Cit Att	GW	X FJ	X HS
X Res.	Fire Ch	Con Eng	FK	X HB	X JM
	Pol Ch		LG		
	St Supt		Cit Con		

C I T Y O F CARMEL - BY - THE - SEA

THE PLANNING COMMISSION

A. SUBJECT: **ADDITIONAL LIGHTING FOR PARKING LOT**) REPORT ON BUILDING SITE
) PLANS AND APPLICATION
LOCATION: **NE Corner Monte Verde and 6th**
Lots 18 and 20, Block 54)
NAME: **Harrison Godwin d/b/a Pine Inn**) PC No. **2.38 A**

B. PROJECT: **To add 13 lights to those approved under original permit dated 20 January, 1960, Resolution No. 417.**

Attachment 2

C. CONSIDERATIONS:

	Required	Item	Endorsement
1.	X	Application is in conformance with Zoning Laws.	BLDG. INSP. ( )
2.		Proposed use is compatible in type of use with surrounding area.	LAND USE ( )
3.	X	Lighting ~~xxxxxxxxxxxxxxxxxxxx~~ of the structure is in accord with the General Area.	ARCH. MTRS. ( )
4.		Provision of_____off-street parking spaces and/or_____off-street loading zones is adequate.	LAND USE ( )
5.		In case of dwellings, the population density involved is suitable to the immediate vicinity and general area.	LAND USE ( )
6.		Setbacks, open spaces and provisions for permanent landscaping are adequate.	PUB. IMPR. ( )

D. RECOMMENDATIONS:

In view of the foregoing findings in Committee, which have been considered in accordance with the requirements of the Municipal Code, the Steering Committee recommends APPROVAL - DISAPPROVAL of the Application.

Date: 4-27-60

(SIGNED) H. E. SMITH
Chairman, Steering Committee

E. ACTION IN COMMISSION:

4-27-60 Report adopted.

(SIGNED) L. D. ROSE
Secretary

X PC File
(X) Res.

X Bldg Insp
Fire Ch
Pol Ch
St Supt

Cit Att
Con Eng

GW
FK
LG

Cit Con

FJ
HB

HS
JM

HORAN | LLOYD

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MICHAEL J. HARRINGTON

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(1929-2012)
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(1935-2023)

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Mark A. Blum
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File No. 8543.01

June 21, 2023

VIA HAND DELIVERY

City of Carmel-by-the-Sea
City Council
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Re: Pine Inn; Block 54, Lots 18 and 20

Dear Mayor Potter and City Council Members:

The Pine Inn is proposing a project for the Pine Inn and its R-1 designated commercial parking lot situated on Block 54, Lots 18 and 20.

Recognizing that the surrounding church, hotels and community uses create a commercial atmosphere unsuitable to residential purposes on Lots 18 and 20, in 1960 the Planning Commission authorized demolition of an existing house, rezoning of Lots 18 and 20 to off street parking (R-1-P-3) and issued a use permit for construction of the existing surface parking lot. The legal, conforming use of the lots has been commercial parking for the Pine Inn ever since. However, the surface parking is a poor transition to the R-1 neighborhood and precludes superior uses. The Pine Inn's proposal seeks to remedy this.

The Community Plan sections of the General Plan and LUP provide a mechanism to achieve this goal with procedures for designating Community Plan areas and adopting Specific Plans. This letter transmits a preliminary proposal for a General Plan and Local Coastal Plan amendment, including such a zoning reclassification and a specific plan for the hotel/parking lot.

The project is designed to be fully consistent with the General Plan and LUP, including retaining the existing land use pattern and providing a transitional R-4 designation buffering the R-1 district.

Key Proposal Features –

- Solves the long-recognized problem of a commercial atmosphere unsuitable to residential purposes on these R-1 designated lots
- R-4 planning and zoning designation creates a transitional buffer between commercial and residential districts (LUP Policy P1-59, P1-70)
- Facilitates superior community design compared to what base R-1 district regulations allow
- Facilitates development that is compatible with design standards reflecting increased on-street parking, reduction in curb cuts, increased setbacks, preservation and improvement of public views of the ocean from community facilities, preservation of trees, and increased open space and landscaping (LUP Policy P1-70)
- Elimination of off-street surface parking would minimize unrelieved expanses of pavement devoted to parking (CMC Section 17.64.120.D)
- Net reduction of one lodging unit is consistent with numerical unit cap (LUP Policy P1-17; Table 17.56.A)
- Designation of one workforce housing unit for on-site management
- No change in commercial/residential boundary (LUP Policy P1-2)
- Maintains existing mix of commercial uses (LUP Objective O1-4)
- Proposal is for allowed uses in the R-4 District (CMC Section 17.02.060.A)
- Consistent with the GP/LUP, Camel Municipal Code, design guidelines and compatible with surrounding development
- No debit to city's water allocation or increased demand on city services (CMC Section 17.56.060.A.7)
- Small increase in parking spaces per unit and consistent with CMC Section 17.38.020, Table A parking requirements
- No creation, increase or expansion of any non-conformities (CMC Section 17.64.100.E)
- GPA tied to a specific project approval provides certainty and complete city control over any future use/development. Neither precedential nor detrimental to the city (CMC Section 17.64.010.A.3)

The precise project description can be stated as follows:

> CUP/Coastal Permit for reconstruction of Pine Inn commercial parking structure located on Block 54, Lots 18 and 20, including: converting 21 surface parking spaces to 21 covered and underground parking spaces on the ground level; reducing the total number of existing Pine Inn rooms by one; relocating and reconstructing eight of the remaining lodging units to the second level of the new structure on Lots 18 and 20, including

conversion of one guest room to workforce housing for an on-site manager; remodeling of eight of the forty-one remaining lodging units in the Pine Inn; changing the zoning designation of Lots 18 and 20 from their current R-1 designation to R-4 multi-family residential; and adoption of a Community Plan Overlay District designation; GPA to revise the Land Use Map; and adoption of a Specific Plan.

The accompanying letter from Dyar Architecture describes the proposal from an architectural and aesthetic perspective. Staff has received a thorough policy and regulatory consistency analysis.

Respectfully submitted,

Mark Blum

MAB/ab

Mark A. Blum

DYAR ARCHITECTURE

June 30, 2023

Mayor Potter and Members of the City Council
City of Carmel-by-the-Sea
P.O. Box CC
Carmel-by-the-Sea, California, 93921

RE: Proposed Pine Inn Cottage Suites and Garage Project Description

Dear Mr. Mayor and Council Members,

This letter is to give an introduction and description of what we are calling the Pine Inn Cottage Suites and Garage project, located at Block 54, Lots 18 and 20 at the NE corner of Monte Verde Street and Sixth Avenue, directly across the street from the Pine Inn.

BACKGROUND

The property was rezoned for a commercial Pine Inn parking structure back in 1960 and has been utilized consistently from then until today for this use. While having a parking structure adjacent to the 49-room, historic Pine Inn has been functionally important, a large, open parking area with parked cars and exposed asphalt has really been an *eye-sore* for this area of town. The current condition provides a poor relationship to the adjacent First Murphy Park to the East, with tall retaining walls dropping to asphalt; does not provide a proper transition from the downtown core to the residential district; and certainly does not contribute to the design sensibilities of the town nor comply with the commercial design guidelines.

Over the years since the purchase of the property in the 1980's, City officials, Staff and the owner, Richard Gunner, have discussed remedying this condition by creating a covered parking structure here with a few hotel units above. Mr. Gunner, in fact, did successfully pursue and construct a project to cover an open asphalt parking lot with hotel units and green roofs for the directly adjacent Tally Ho Inn to the West. It can be said there was, for many, a general consensus that a project on this parcel which maintained the same amount of parking spaces, covering them with a structure which also had green roofs, open space and hotel units above would be a significant improvement over the existing condition.

The existing zoning (R-1) is a strange aberration and is not consistent with the existing use nor the current community design objectives which would discourage large, open parking areas in R-1 district.

This property is directly adjacent to the very large Pine Inn structure and across the street from the Tally Ho Inn, both zoned Commercial and up against the large, Christian Science Church. It has never made sense to have this island of R-1 in the middle of this kind of density. The way Carmel-by-the-Sea has developed and been planned is clearly based on having the most density and mass at the central commercial district centered along Ocean Avenue with the gradual reduction of density, transitioning this out toward the residential neighborhoods-- Central Commercial, Service Commercial, Residential Commercial, R-4, then R-1. The zoning of our Pine Inn parking lot property has always seemed some sort of mistake from the beginning. There are virtually no other examples of Central Commercial being directly up against R-1 zoning, except at the Carmel Plaza which is separated by the wide Junipero Street boulevard from the First Presbyterian Church.

A change in the zoning and planning designation of this property is the only way to solve a currently highly unsatisfactory situation for the City. Having an empty, open asphalt parking structure in this wonderful part of downtown Carmel is not only under-utilized and inappropriate, but really a waste of what could provide a much more vital and important contribution to the City. We can do much better

Our proposal addresses the following:

1. It maintains the number of existing parking places while covering and obscuring the parked cars and asphalt from public view, while adding one additional street parking space along Sixth Avenue.

2. It enhances the pedestrian path from First Murphy Park down to Monte Verde while providing a subtle, easy transition from park into the project.

3. It dramatically improves the transition from the commercial downtown core to the residential district with a more natural and consistent reduction of mass and scale from Ocean Avenue to the residential neighborhood, as well as, enhancing the visual quality of this property with the elimination of the inappropriate parking lot from public view, and replacing it with a structure with beautiful natural materials, forms and scale that are generated from the residential character of Carmel.

4. It creates a new workforce/employee housing unit on the property.

5. It maintains all the existing trees on the site, including the planter along Sixth Avenue and provides open space through the use of terraces, the open courtyard and the "landscape buffer" between First Murphy Park and the cottage site.

6. It provides a landscaped courtyard which is open to the public and does provide an intra-block walkway through the property from the SE corner on Sixth to the NW corner on Monte Verde.

7. The project upgrades a portion of the current hotel room stock in the Pine Inn, while not increasing the number of rooms.

8. The project follows and exemplifies the Commercial Design Guideline which states, "new buildings should not imitate styles of the past but strive to achieve compatibility with the old."

Parking

The project keeps the same number of parking spaces as the existing structure while meeting current accessibility and EV regulations. In order to do this, while maintaining the existing trees and planters, the spaces need to be in the approximately same existing location. This does require the parking structure, in order to cover the spaces, to extend to the property line at Monte Verde. Please note, even while the lower stone form extends to the front property line, the hotel rooms above are setback 11'-4" from this front property line. The existing parking area entrance and curb cut is maintained on Monte Verde, while the curb cut along Sixth Avenue is eliminated thereby adding one additional public parking space.

Water Use, Number of Hotel Rooms and Workforce/Manager's Unit

The water for the project is provided by consolidating and upgrading 18 of the hotel rooms in the existing 49-room Pine Inn, reducing the number of rooms in the existing Pine Inn to 40. The project proposes transferring (7) hotel rooms to the adjacent parking lot property (which is considered by MPWMD to be the same site, is owned by the same entity, and is currently used as part of the Pine Inn for their parking). The additional water provided by the (2) other rooms eliminated will be used for a workforce/employee housing unit and landscaping. The MPWMD has verified that this is consistent with their rules and regulations.

Enhancing the Pedestrian Path

As discussed above, First Murphy Park currently abruptly terminates into the subject property with retaining walls dropping to asphalt. The meandering path through First Murphy just meets an unimproved concrete sidewalk. This project has its courtyard level and landscape "buffer" at the approximate same elevation at the property line as the park. This allows for the much subtler, easy transition from

park to hotel property. In terms of building mass, only the smaller elevator form is near this corner; the rest of this area on our parcel is given to landscape which creates the perception of a merging of park with the new development. As a pedestrian walks down the path through the park, they look towards landscape plantings and trees within the development site and then meet, instead of swaths of concrete like the existing condition, another path of permeable pavers which meanders downhill with Carmel stone planters and garden/park-like landscaping toward Monte Verde.

After walking through the park, pedestrians can also stroll up the steps and walk through the open, landscape courtyard. They can turn back or can also take the steps down exiting to Monte Verde Street, thus providing another of Carmel's intra-block walkways. Many hotels have these open courtyards and this design continues this tradition exemplified with such properties as the Pine Inn, Lobos Lodge, Lamp Lighter Inn, and Cypress Inn.

Transition from Central Commercial

This project proposes a relatively modest density, only using 7 rooms of the 49-rooms in the main hotel structure (with 1 new workforce housing unit) and uses forms and materials derived from the residential character of the town, stays withing the residential 24-foot height limit, and allows for generous open space with the courtyard, the terraces and landscape buffer toward the park. All this while providing a new structure that is of an appropriate use and Per General Plan Policy I-60: enhances the visual quality of the area and improves the transition between the commercial and R-1 districts. The large stone planters are maintained and enhanced on Sixth Avenue, as well as, on the North and East property lines to preserve trees while greatly improving the landscaping.

The Architecture

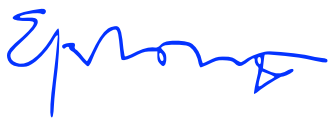
Rather than the rooms being within a larger solid like the adjacent Pine Inn, this project breaks down the mass so that the individual rooms are expressed in form, as a way to connect more to the human scale and aid in transitioning to the residential neighborhood. The rooms along Monte Verde Street use gable forms with slate roofs and wood ceilings revealing the warm interior, while the rooms facing Sixth Avenue are stone with flat green roofs. These forms will seem to emerge from the existing stone planters and, with a flat roof, stay low so the view from the First Murphy Park deck is maintained and enhanced. This deck will now look out beyond our site toward a peek of the ocean as it did before, but instead of looking at parked cars and asphalt, people will look down on green roofs, garden courtyards and slate roofs.

The stone two-story structure at the NE corner of the property, pulls back from the existing terraced planters, but still stays clear from interfering with the views from the First Murphy deck. This stone form will still be very much screened by the existing trees. The 2nd story, room no. 7, is clearly above the underground portion of the garage and thus cannot be considered a 3rd story. While still under the 24-foot height limit, it is the most vertical form proposed and we see it as inspired by Jeffer's Tor House and Hawk's tower.

In many ways, the proposed design is inspired by the historic architecture of Carmel. The gable forms of the front room relate to the town's myriad of cottages and the nearby Seven Arts building and the Lamp Lighter Inn. The use of the slate roofs to the English and Storybook architecture in the village. The use of stucco connects to the Pine Inn, the Tally Ho Inn addition and the Lobos Lodge, but also to the Cypress Inn and the many Spanish colonial buildings. The use of the stone connects the building back to the existing site with its stone retaining walls and planters, as well as, to the wonderful tradition of stone masonry seen throughout Carmel—the Fire Station, the garden walls of the Art Association, the Tor House and Frank Lloyd Wright Walker house. The window design incorporates narrow muntins creating rectilinear window lights which can be seen across the street at the Pine Inn; custom wood shutters will be integrated into the street-facing doors and windows to provide warm privacy screening.

As explained, the architecture is indeed inspired by the history and context of Carmel making a new interpretation and striving for, yes, compatibility, but more to the point, creating a rich dialog with the past while creating something new and appropriate for the present and future.

Sincerely,



Erik D. Dyar, AIA

DYAR ARCHITECTURE

June 28, 2023

Pine Inn Cottage Suites and Garage Data:

Proposed Building Coverage

Garage Level Above Ground**	=	2,858 sf
Main Hotel Structure Above Underground garage	=	1,739 sf
Workforce Unit and Room 7	=	608 sf
Elevator	=	80 sf
Total Proposed Building Coverage	**=**	**5,285 sf or 66%**
Max. Allowable Building Coverage in R-4	=	5,440 sf or 68%***

** Per Section 17.14.210.F.1. The maximum height of the finished floor level above an underground parking garage facing any public street, way, place or park, shall not be higher than five feet above the existing grade or the official street grade, whichever measurement results in the lower height.

***Per Section 17.14.130

Proposed Floor Area

Rooms 1-6	=	3,701 sf
Upper Level Room 7	=	390 sf
Workforce/Employee Unit	=	518 sf
Elevator	=	80 sf
Garage Area Above Grade	=	2,507 sf
Total Proposed Floor Area	**=**	**7,196 sf or 89.9%**
Max. Allowable Floor Area ****	=	7,200 sf or 90.0%

**** Per Section 17.14.140.B. Courtyard and Intrablock Walkway bonus

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Attachment 4

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
PUBLIC HEARINGS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Evan Kort, Associate Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Review the Historic Resources Board's July 17, 2023 decision to issue a Determination of Consistency with the Secretary of the Interior's Standards for the construction of a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site, and consider adoption of Resolution 2023-091 upholding the Determination of Consistency and conditions of approval for the construction project DR 23-140 (Esperanza Carmel Commercial – JB Pastor Building)

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution issuing a Determination of Consistency with the Secretary of the Interior's Standards for the construction a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site located at Dolores Street 2 southeast of 7th Avenue in the Service Commercial (SC) Zoning District. APNs 010-145-012, 010-145-023, 010-145-024

BACKGROUND/SUMMARY:

EXECUTIVE SUMMARY

The applicant is proposing to construct a mixed-use building with subterranean garage on a portion of the Northern California Savings & Loan Complex site. This project has been considered multiple times before in other forms which have included the demolition or relocation of the Community Room. Those projects were not support by the Historic Resources Board nor City Council on appeal. The applicant is no longer proposing to move or alter the Community Room building but build around it.

While the Northern California Savings & Loan Bank Building and Community Room are proposed to be preserved, construction is proposed on the southern two lots of the complex site (lots 6 & 8) and therefore the Board is required to adopt a Determination of Consistency for the project.

The Historic Resources Board considered the project at their July 17, 2023 meeting and adopted Resolution 2023-009-HRB issuing a Determination of Consistency. During the 10-day appeal period for the decision, the two members of the City Council enacted the City Council Right of Review (CMC

2.04.160) to call up and review the decision made by the Historic Resources Board.

BACKGROUND AND PROJECT DESCRIPTION

The Palo Alto Savings and Loan Complex ("complex"), consisting of Lots 2, 4, 6, and, 8, of Block 91 is located at the southeast corner of 7th Avenue and Dolores Street. The complex was listed on the Carmel Inventory and Register on April 4, 2023 by the City Council, following the denial of an appeal (APP 23-031) by Esperanza Carmel Commercial appealing the HRB's January 23, 2023 decision to list the property on the Carmel Inventory and Register.

The complex, designed by noted architects Walter Burde and William Shaw, is representative of the Bay Region Modern Style and maintains the following character defining features:

- Building integrated with surrounding landscape;
- Horizontal or Vertical massing with shed roofs;
- Existing spatial relationship between the bank building and Community Room;
- Detached Community Room building connected by a wood-clad upper walkway;
- Projecting shed or boxy volumes;
- Exposed structural elements;
- Wide expanses of glass set within wood frames;
- Wood siding as exterior cladding; and
- Copper sheet roof cladding.

The applicant is proposing to construct a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the complex site. The project is proposed to be constructed on lots 6 and 8, as well as lot 10 – lot 10 is not part of the complex site. While the community room is located on lot 6, the project is proposed to be built around the community room leaving the structure intact with no alteration proposed to the Bank Building or Community Room. However, the proposed project does require the ornamented concrete wall to the south of the Community Room to be removed. The potential for relocation of this wall to the Bank Building or some other site is discussed later in this report.

The application was considered by the Historic Resources Board at their July 17, 2023 meeting. The Board adopted Resolution 2023-009-HRB issuing a Determination of Consistency for the project. During the 10-day appeal period for the decision, two members of the City Council, Council Member Ferlito and Council Member Dramov, enacted the City Council Right of Review (CMC 2.04.160) to review the decision made by the Historic Resources Board both specifically noting the relocation of the concrete wall as the primary concern in the written request for the review. Both Council Member will address their specific concerns during the hearing.

In accordance with CMC 2.04.160.B, when a project is called up by the Council, *"the Council may uphold the decision of the board […], amend the decision and/or conditions attached to the decision, overturn the decision, or remand the matter to the board […], for further consideration."*

As a de novo hearing, the Council has full review authority of the entirety of the project (not just limited to the concerns surround the concrete wall). Effectively, Council is acting in the capacity of the Historic Resources Board in making a Determination of Consistency with the Secretary's Standards on the proposed project.

> ***"Determination of consistency"*** *shall mean a finding adopted by the City that the proposed new construction, addition, alteration, and/or relocation complies with all of the provisions of this*

chapter (CMC 17.32) *and the Secretary's Standards.* (CMC 17.32.230.L)

STAFF ANALYSIS

Evaluation Process

Although the proposed project does not include any alterations to the Bank Building or Community Room , it still constitutes a "major alteration" to a historic resource as defined in CMC 17.32.160.A since the project is taking place on the overall Palo Alto Savings and Loan "Complex". In accordance with CMC 17.32.160.B, "Determinations of consistency for major alterations shall be prepared by a qualified professional and shall be supported by written documentation that (1) identifies which of the Secretary's Standards are applicable to the project, (2) reviews the proposed project, and (3) explains the basis of the determination. If a proposed major alteration is found by the qualified professional to be consistent with the Secretary's Standards, the project shall be presumed to be consistent for purposes of making a preliminary determination regarding any required environmental documentation and staff shall forward the application and evaluation to the Board for action."

The City contracted with qualified professional historian Seth Bergstein from PAST Consultants to prepare the Determination of Consistency (Phase II Evaluation; refer to **Attachment 3**). The evaluation concluded the project is consistent with the Secretary's Standards –evaluation provided below.

As prescribed in CMC 17.32.160.B.1, the Council, taking the place of the Historic Resources Board, may take one of two actions:

1. If the Board [Council] concurs with the evaluation, the Board [Council] shall issue a determination of consistency and adopt any appropriate conditions of approval. Any finding of compliance by the Board [Council] shall be supported by substantial evidence.
2. If the Board [Council] does not concur, the Board [Council] may request additional information prior to issuance of a determination of consistency, or may issue a finding of noncompliance with the Secretary's Standards. Any finding of noncompliance by the Board [Council] shall be supported by substantial evidence.

As noted above, the Council may:

1. uphold the decision of the board;
2. amend the decision and/or conditions attached to the decision;
3. overturn the decision; or,
4. remand the matter back to the Historic Resources Board for further consideration.

In keeping with past practice relating to decisions of junior boards and commissions, staff supports the decision of the the Historic Resources Board decision recommends the Council uphold the decision, as found in **Attachment 1**.

Secretary of the Interior's Standards: To render a decision about whether a project will have an impact on a historic resource, the Historic Resources Board (HRB), or in this case, the City Council, must consider and make findings of consistency related to the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards).

The Standards provides the framework for evaluating the impacts of additions and alterations to historic buildings. The Standards describe four treatment approaches: preservation, rehabilitation, restoration and reconstruction. The Standards require that the treatment approach be determined first, as a different set of standards apply to each approach. For the proposed project, the treatment approach is rehabilitation.

In preparing for this determination to be made, the City's practice is to have one of its professional contracted historians evaluate the proposed project for consistency prior to the hearing by the HRB.

Seth Bergstein, of PAST Consultants, evaluated the project for consistency with the Secretary of the Interior's Ten Standards for Rehabilitation (Attachment 3). Mr. Bergstein found that Standards #1, 2, 3, 5, 6, and 7 are applicable to the project. The evaluation concluded that the project as proposed is consistent with all applicable standards.

Standard 1: A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

Phase II Response: "Although the subject property has changed from a commercial bank to a commercial restaurant use, the subject building's current use has required minimal changes to its distinctive exterior materials, features, spaces, and spatial relationships in keeping with this Standard."

Staff Response: Staff concurs with the Phase II response.

Standard 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property will be avoided.

Phase II Response: "The original spatial relationship between the bank building and the Community Room is a primary character-defining feature of the site. The proposed project allows the spatial relationship between the Bank Building and the Community Room to remain, as well as the elevated walkway connecting the two buildings."

Staff Response: Staff concurs with the Phase II response.

Standard 3: Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

Phase II Response: "The proposed project does not add conjectural features or elements from other historic properties that would confuse the remaining character-defining features of the subject property. The project is consistent with this Standard."

Staff Response: Staff concurs with the Phase II response.

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Phase II Response: "With the exception of the ornamented concrete wall, the original landscape and paving features of the 1972 Burde/Shaw design have been removed or obscured. Maintaining the entirety of the Bank Complex, including the Bank Building, the Community Room and the elevated walkway connecting the buildings, is in conformance with this Standard. A recommendation for the removed section of the ornamented concrete wall is included at the end of this document."

Staff Response: Staff concurs with the Phase II response. An analysis in respect to the concrete wall is provided below as well as an associated Condition of Approval for the recommended

preservation of said wall included in the resolution. Moving and retaining the wall is not required for consistency with the secretary's standards -it is only a recommendation.

Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

- Phase II Response: "It is recommended that any deteriorated exterior cladding and roof elements for the Community Room be repaired, rather than replaced, in conformance with this Standard."

- Staff Response: Staff concurs with the Phase II response. Repairs or alterations have not been proposed to the exterior of the community room as part of this project. Should repairs be proposed in the future, staff has included Condition of Approval #1 stating the applicant shall submit in writing to the Community Planning and Building Department an application outlining the details of any proposed repairs for review and approval prior to commencement of work.

Standard 7: Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

- Phase II Response: "Physical treatments to repair exterior cladding for the Community Room shall use the safest methods for a given substrate, in conformance with this Standard."

- Staff Response: Staff concurs with the Phase II response. As noted under Standard 6, repairs have not proposed to the exterior of the Community Room as part of this project. Should repairs be proposed in the future, staff has included Condition of Approval #1 stating the applicant shall submit in writing to the Community Planning and Building Department an application outlining the details of any proposed repairs for review and approval prior to commencement of work.

Concrete Wall: While the Phase I evaluation (**Attachment 4**) notes the site landscaping as a character defining feature of the site, the Phase II report (Attachment 3) describes numerous alterations to the site and the original Burde/Shaw landscape design. The Phase II report concludes that the original landscape design south and east of the Community Room has lost substantial historic integrity with the exception of the south portion of the ornamented concrete wall remains intact enough to reveal the original stone pattern.

According to the Phase II report, the concrete wall was designed and built by Ornamented Concrete, Incorporated, [which] was founded by Brad Bowman of Carmel Valley. The company specialized in handmade site alterations rendered in concrete and stucco. Bowman pioneered a process for using exposed aggregate concrete in construction projects, developing a methodology for using various aggregate combinations to create artistic compositions that were used as building walls, concrete paving or landscape walls. Bowman used a simple technique: a V-shaped blade stamped patterns within the concrete, a term he labeled "Ornamented Concrete." Exposed aggregate, rocks or pebbles were inserted into the wet concrete in various patterns. This revolutionary process labeled Bowman the "father of stamped concrete."

At the subject site, a 1972 photograph of the wall's installation appeared in local newspapers. While Brad Bowman designed these site features, his daughter, Tani Bowman assisted in design and application. Local newspapers indicate that the selection and placement of each rounded stone was meticulous, with each stone's size and shape being important to the overall pattern (refer to Attachment 3, page 6).

In review of the property file, permit history, and online records for the Complex, staff notes the following

regarding the timeline wall (the information below is not intended to be an all-encompassing timeline, but is intended to provide additional context to materials and information already provided in the past staff reports and attachments) - **See Attachment 8 for information and records located in the property file, permit history, and online records.**

As noted in the Phase II report, a remaining intact section of the Bowman-designed ornamented concrete wall is located on the south side of the community room. This section still reveals its original stone pattern and sand finish. The report prepared by PAST recommends that the original intact section of the wall proposed for removal be preserved and replaced at another location on the site. A potential location would be in the parking lot within proximity of the ornamented concrete wall on the east elevation of the Bank Building. This location would allow interpretation of the removed feature on the original site and provide a link to the original Burde/Shaw design. This recommendation has been included as Condition of Approval #2. Moving and retaining the wall is not required for consistency with the secretary's standards -it is only a recommendation.

The applicant does not have control of the bank building site (lots 2 and 4), so the exact location of the wall cannot be conditioned or guaranteed. The locations identified below (refer to Figure 1-3, below) are just two of many options, and would be subject to the two property owners working together at a civil level. However, at the July 17, 2023 HRB hearing, the property owner noted that had begun conversation with the owner of the 7th and Dolores property and the proposed re-location of the wall seemed to be favorable.



Figure 1. Potential wall locations on the Bank Building site. Blue and red lines in figure above denote approximate possible location for the relocation of the concrete wall. The wall is not limited to these locations but would ideally be preserved and replaced on the site.



Figure 2. Approximate location of blue line shown in Figure 1, above. Location related to adjacent pebbled concrete wall on adjacent building. Blue wall in Figure 2 is not to scale –for illustrative purposes only.



Figure 3. Approximate location of red line shown in Figure 1, above. Red wall in Figure 3 is not to scale –for illustrative purposes only.

Historic Evaluation Summary: The California Environmental Quality Act (CEQA) requires environmental review for alterations to historic resources that are not consistent with the Secretary of the Interior's Standards. The proposed alterations to the Northern California Savings and Loan Complex were reviewed by the City's Historic Preservation Consultant and a Phase II Historic Assessment was prepared for the project (refer to Attachment 3). The Assessment includes an analysis of the proposed changes based on the Secretary of the Interior's Standards for the Treatment of Historic Properties. The Assessment concludes that the project meets the Secretary of the Interior's Standards for rehabilitation. The proposed alterations to the Northern California Savings and Loan Complex do not impact the character-defining features or overall historic integrity of the complex.

FISCAL IMPACT:

There is no fiscal impact associated with the consideration of a Determination of Consistency. Staff time associated with processing this application is captured in the adopted FY2022-23 budget.

PRIOR CITY COUNCIL ACTION:

The City Council has not previously considered a Determination of Consistency for this specific project. However, the Council has considered a number of items for the Complex previously.

The City Council considered adding the property to the Carmel Historic Inventory in 2006 when the property

was 34 years old and determined it was not eligible for listing as a historic resource at that time.

In 2020, the City Council made the determination that that a property does not qualify for the Carmel Inventory and issued a "Determination of Ineligibility" for the property. The item was brought before the City Council following the appeal of the Historic Resources Board's decision to add the property to the City's Historic Inventory. The associated Determination of Ineligibility expired on October 26, 2022.

In 2021, the City Council adopted a Resolution (Reso. 2021-043), denying an appeal by Christopher Mitchell (APP 21-197) and upholding the Historic Resources Board's decision to issue a Finding of Noncompliance with the Secretary of the Interior's Standards for the demolition of the Palo Alto Savings and Loan Bank Community Room. While the Determination of Ineligibly described in the paragraph above was still valid, this project was required to be reviewed by the HRB as the complex is eligible for listing on the California Register of Historic Resources, as previously described.

In 2023 the Council adopted two Resolutions at their April 4, 2023 hearing:

1. Resolution 2023-051 denying the appeal by Esperanza Carmel (APP 23-031) and upholding the Historic Resources Board's decision to list the Northern California Savings and Loan Complex on the Carmel Inventory of Historic Resources and Carmel Register of Historic Resources, and

2. Resolution 2023-052 denying the appeal by Esperanza Carmel (APP 23-031) and upholding the Historic Resources Board's decision to issue a Finding of Noncompliance with the Secretary of the Interior's Standards for the demolition of the Palo Alto Savings and Loan Bank Community Room.

ATTACHMENTS:

Attachment 1) Resolution 2023-091
Attachment 2) Adopted HRB Resolution - Reso. 2023-009-HRB
Attachment 3) Phase II Evaluation
Attachment 4) DRP 523A
Attachment 5) Project Plans
Attachment 6) Renderings
Attachment 7) Story Pole Plan
Attachment 8) Property file, permit history, and online supplemental records and information

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

CITY COUNCIL RESOLUTION NO. 2023-091

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ISSUING A DETERMINATION OF CONSISTENCY WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE CONSTRUCTION A 15,351-SQUARE-FOOT MIXED-USE BUILDING WITH A 9,805-SQUARE-FOOT SUBTERRANEAN GARAGE ON A PORTION OF THE NORTHERN CALIFORNIA SAVINGS & LOAN COMPLEX SITE LOCATED AT DOLORES STREET 2 SOUTHEAST OF 7TH AVENUE IN THE SERVICE COMMERCIAL (SC) ZONING DISTRICT. APNS 010-145-012, 010-145-023, 010-145-024

WHEREAS, on May 11, 2023, Jason Diaz of International Design Group (IDG), ("Applicant") submitted an application (DR 23-140) on behalf of Esperanza Carmel, on May 24, 2022 requesting the construction of a mixed use building located on Lots 6, 8, and 10 of Block 91; and

WHEREAS, the project is partially location on a historic property is known as the Northern California Savings and Loan Complex ("Complex"); and; and

WHEREAS, the Complex consists of Lots 2, 4, 6, and 8 located on Block 91 and is currently comprised of Assessor Parcel Numbers (APNs: 010-145-002, 010-145-023, 010-145-024); and

WHEREAS, APN 010-145-002 is comprised of lots 2 & 4 and is owned by D&K Dolores, LLC ("D&K Dolores"). APN 010-145-023 and 010-145-024 are comprised of lot 6 and 8 respectively. Both lots 6 & 8 are owned by Esperanza Carmel Commercial LLC ("Esperanza Carmel"); and

WHEREAS, the applicant is proposing to construct a portion of a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on lots 6 and 8 of the Northern California Savings & Loan Complex site; and

WHEREAS, the project qualifies as a Major Alteration to a Historic Resource pursuant to CMC 17.32.160; and

WHEREAS, pursuant to CMC 17.32.120 (Alteration of Historic Resources), a determination of consistency with the Secretary's Standards shall be obtained prior to altering, remodeling, demolishing, grading, relocating, reconstructing or restoring any historic resource; and

WHEREAS, pursuant to CMC 17.32.120.B, determinations of consistency for major alterations shall be prepared by a qualified professional and shall be supported by written documentation that (1) identifies which of the Secretary of the Interior's Standards for Rehabilitation are applicable to the project, (2) reviews the proposed project, and (3) explains the basis of the determination; and

WHEREAS, a Phase II report was prepared by a qualified professional, Seth Bergstein of PAST Consultants, dated June 30, 2023, and found the proposed amendments to be consistent with the Secretary of the Interior's Standards for Rehabilitation provided the recommendations outlined in the report were carried out; and

WHEREAS, on July 17, 2023, the Historic Resources Board held a public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the Planning Commission by City staff and through public testimony on the application; and

WHEREAS, on July 17, 2023, the Historic Resources Board adopted Resolution 2023-009-HRB issuing a Determination of Consistency for the construction a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site; and

WHEREAS, on August 3, 2023, during the 10-business day appeal period of the Historic Resources Board's decision, two City Council members requested the Council's Right of Review of the Historic Resources Board's decision consistent with CMC 2.04.160; and

WHEREAS, the Right of Review hearing was scheduled for the next available hearing date, August 12, 2023; and

WHEREAS, on September 1, 2023, a notice of the public hearing scheduled for September 12, 2023, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before September 1, 2023, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on September 12, 2023, the City Council held a de novo public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the City Council by City staff and through public testimony on the application; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the City Council at the hearing including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the City Council did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, adoption of a finding of consistency is "not a project" pursuant to section 15378 of the CEQA Guidelines. Adoption of a finding of consistency does not grant any permits or entitlements approving a project which would result in a direct or indirect physical change in the environment; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW THEREFORE, LET IT BE RESOLVED, based on the above findings and evidence, that the City Council of the City of Carmel-By-The-Sea does hereby **issue a Determination of Consistency with the Secretary of the Interior's Standards** for the construction a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site, and upholding the Historic Resources Board decision made on July 17, 2023, as found in by the Historic Resources Board Resolution 2023-009-HRB including the adopted Conditions of Approval.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:	ATTEST:
_____	_____
Dave Potter	Nova Romero
Mayor	City Clerk

DocuSign Envelope ID: 4A807153-6389-4F80-A9E4-14A5A689EDFB

Attachment 2
Amended July 17, 2023

CITY OF CARMEL-BY-THE-SEA
HISTORIC RESOURCES BOARD

HISTORIC RESOURCES BOARD RESOLUTION NO. 2023-009-HRB

A RESOLUTION OF THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA ISSUING A DETERMINATION OF CONSISTENCY WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR ADOPT A RESOLUTION ISSUING A DETERMINATION OF CONSISTENCY WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE CONSTRUCTION A 15,351-SQUARE-FOOT MIXED-USE BUILDING WITH A 9,805-SQUARE-FOOT SUBTERRANEAN GARAGE ON A PORTION OF THE NORTHERN CALIFORNIA SAVINGS & LOAN COMPLEX SITE LOCATED AT DOLORES STREET 2 SOUTHEAST OF 7TH AVENUE IN THE SERVICE COMMERCIAL (SC) ZONING DISTRICT. APNS 010-145-012, 010-145-023, 010-145-024

WHEREAS, on May 11, 2023, Jason Diaz of International Design Group (IDG), ("Applicant") submitted an application (DR 23-140) on behalf of Esperanza Carmel, on May 24, 2022 requesting the construction of a mixed use building located on Lots 6, 8, and 10 of Block 91; and

WHEREAS, the project is partially location on a historic property is known as the Northern California Savings and Loan Complex ("Complex"); and; and

WHEREAS, the Complex consists of Lots 2, 4, 6, and 8 located on Block 91 and is currently comprised of Assessor Parcel Numbers (APNs: 010-145-002, 010-145-023, 010-145-024); and

WHEREAS, APN 010-145-002 is comprised of lots 2 & 4 and is owned by D&K Dolores, LLC ("D&K Dolores"). APN 010-145-023 and 010-145-024 are comprised of lot 6 and 8 respectively. Both lots 6 & 8 are owned by Esperanza Carmel Commercial LLC ("Esperanza Carmel"); and

WHEREAS, the applicant is proposing to construct a portion of a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on lots 6 and 8 of the Northern California Savings & Loan Complex site; and

WHEREAS, the project qualifies as a Major Alteration to a Historic Resource pursuant to CMC 17.32.160; and

WHEREAS, pursuant to CMC 17.32.120 (Alteration of Historic Resources), a determination of consistency with the Secretary's Standards shall be obtained prior to altering, remodeling, demolishing, grading, relocating, reconstructing or restoring any historic resource; and

WHEREAS, pursuant to CMC 17.32.120.B, determinations of consistency for major alterations shall be prepared by a qualified professional and shall be supported by written documentation that (1) identifies which of the Secretary of the Interior's Standards for

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Rehabilitation are applicable to the project, (2) reviews the proposed project, and (3) explains the basis of the determination; and

WHEREAS, a Phase II report was prepared by a qualified professional, Seth Bergstein of PAST Consultants, dated June 30, 2023, and found the proposed amendments to be consistent with the Secretary of the Interior's Standards for Rehabilitation provided the recommendations outlined in the report were carried out; and

WHEREAS, on July 7, 2023, a notice of the public hearing scheduled for July 17, 2023, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before July 7, 2023, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on July 17, 2023, the Historic Resources Board held a public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the Planning Commission by City staff and through public testimony on the application; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the Board at the hearing including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the Historic Resources Board did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, adoption of a finding of consistency is "not a project" pursuant to section 15378 of the CEQA Guidelines. Adoption of a finding of consistency does not grant any permits or entitlements approving a project which would result in a direct or indirect physical change in the environment; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

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NOW THEREFORE, LET IT BE RESOLVED, based on the above findings and evidence, that the Historic Resources Board of the City of Carmel-By-The-Sea does hereby **issue a Determination of Consistency with the Secretary of the Interior's Standards** for the construction a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site being in general conformance with the attached sketches and plans, all being attached hereto and incorporated herein by reference. This Determination of Consistency is further predicated on the following Recommended Condition(s) of Approval being accepted and approved by the City of Carmel-by-the-sea Planning Commission as part of the discretionary permit for this project:

Recommended Conditions of Approval		
No.		
1.	**Community Room Repairs.** If repairs or alteration of any nature are proposed for the Community Room, the applicant shall submit in writing to the Community Planning and Building Department an application outlining the details of any proposed work for review and approval prior to commencement of work. Any deteriorated exterior elements for the Community Room should be repaired, rather than replaced.	✓
2.	**Concrete Wall.** Prior to issuance of a demolition permit, the applicant shall seek options to preserve the remaining original intact section of the concrete wall on the south end of the Community Room as detailed in the Historic Resources Board staff report dated July 17th, 2023 ("Wall"). Options for preservation shall be explored in the following order: 1) Make a good faith effort to work with the adjacent property owner (D&K Dolores, LLC, or owner at the time) to find an option for moving the Wall to the 7th & Dolores Restaurant site as detailed in the Historic Resources Board staff report dated July 17th, 2023. This relocation is subject to all separate required City approvals and permits. 2) Make a good faith effort to find an off-site location to place the Wall that is acceptable to the Community Planning and Building Department. This relocation is subject to all separate required City approvals and permits. Prior to exploring this option, the applicant will provide the Community Planning and Building Department with a signed written explanation of the efforts taken to satisfy Option 1, and the reason why an agreement could not be reached with the adjacent property owner. 3) If the applicant is unable to find a suitable location for placement of the Wall after the good faith efforts listed in options 1 and 2 above, the applicant will provide the Community Planning and Building Department with a signed written	✓

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	explanation of the efforts taken to satisfy both Options 1 and 2, and the reasons why the wall could not be relocated. The subject wall shall not be demolished or relocated prior to issuance of a demolition permit by the City.	
3.	**Conditions of Approval.** The Conditions of Approval listed above (HRB Conditions of Approval) shall be incorporated into the Design Review Conditions of Approval and any action taken by the Planning Department or Planning Commission, as necessary.	✓
4.	**Concrete Wall Fronting Dolores Street.** The portion of the concrete wall fronting (parallel to) Dolores Street is to be preserved up to the southernmost edge of the Community Room.	✓

PASSED AND ADOPTED BY THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA this 17th day of July, 2023, by the following vote:

AYES: Dyar, Pomeroy, Hall

NOES: Goodhue

ABSENT: Chroman

ABSTAIN:

APPROVED:

DocuSigned by:
Karyl Hall
9D4944E1931B44A...

Karyl Hall
Vice Chair

ATTEST:

DocuSigned by:
Leah R. Young
2960DA9BEC1C495...

Leah Young
Historic Resources Board Secretary

PAST
CONSULTANTS LLC

Seth A. Bergstein
415.515.6224
seth@pastconsultants.com

June 30, 2023

Evan Kort, Associate Planner
City of Carmel-by-the-Sea
PO Box CC
Carmel, CA 93921

Re: SE Corner Dolores St. and 7th Ave., Carmel-by-the-Sea, CA
APN 010-145-022/023/024; DR 23-140: Northern California Savings & Loan

Dear Mr. Kort:

This letter evaluates the proposed alterations to the property located at the SE corner of Dolores Street and 7th Avenue, in Carmel-by-the-Sea, CA. PAST Consultants, LLC (PAST) completed a site visit to the property on June 20, 2023 to view the property's existing conditions and to evaluate project drawings for proposed alterations to the subject property.

The subject property contains the Northern California Savings & Loan Complex, constructed in 1972 in the Bay Region Modern style. Designed and executed by prominent local architects Walter Burde & Associates and Will Shaw & Associates, the building complex consists of a primary bank building located on the southeast corner of Dolores Street and 7th Avenue and a detached Community Room, whose shed-roofed design complements the larger bank building. An elevated walkway connects the bank building to the Community Room, creating a complex of two buildings integrated within the site. In 2023, the building was listed on the Carmel Historic Resources Inventory as an outstanding example of Modernist design by a prominent architectural team.

Previously, the Northern California Savings & Loan project has been featured in numerous publications, including:

- *Architecture of the Monterey Peninsula*, a book/exhibit at the Monterey Peninsula of Art, 1976;
- *Documentation and Conservation of the Modern Movement – Monterey*: A tour of the Monterey Region's iconic Modernist buildings conducted by DOCOMOMO, 2003;
- *Carmel, A History in Architecture,* Kent Seavey, 2007; and
- *Carmel Modernism:* A museum exhibit by the Monterey Area Architectural Resources Archive (MAARA) held at the Carl Cherry Center for the Arts, Carmel, 2016.

Proposed project

The property owner proposes the construction a mixed-use, commercial and residential project on the lot containing the Community Room (APN 010-145-023) and the adjacent lot to the south (APN 010-145-024). The proposed design does not include construction on the lot containing the Bank Building (APN 010-145-022). Design drawings by Jun A. Sillano, AIA, of International Design Group and dated 5/11/2023, were the documents reviewed for this historic assessment.

The project will allow retention of the Bank Complex, which includes the Bank Building, the Community Room and the Elevated Walkway connecting the two building masses. However, to facilitate the proposed project, the ornamented concrete wall to the south of the Community Room will be removed.

The following Historic Assessment Report provides a methodology, summarizes the historic status of the subject property, provides a property description and building chronology and an evaluation of the proposed alterations for conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Project Methodology

PAST reviewed all relevant project files located at the City of Carmel-by-the-Sea planning and building departments as part of the project. A review of the relevant sections of the Carmel by-the-Sea Historic Context Statement (Carmel Historic Context Statement) was also conducted. A site visit was completed on June 20, 2023 to assess the building's existing conditions and to understand the proposed building alterations.

In addition, PAST performed research in local and regional repositories to determine the history of the ornamented concrete wall to the south and west of the Community Room.

Summary Property History

The subject property contains the Northern California Savings & Loan building complex. Completed in 1972 by Walter Burde and Associates and Will Shaw and Associates, the subject property was listed on the Carmel Historic Resources Inventory in 2023 under the Historic Context Statement's theme of Architectural Development in Carmel as a rare commercial example of the Bay Region Modern style. All relevant project data, property history and an evaluation of historic significance are presented on the DPR523 forms completed in January 2023.[1]

[1] PAST Consultants, LLC. *Northern California Savings and Loan* (DPR523 forms), 1/3/2023. These forms update and replace the DPR523 forms prepared by Richard N. Janick, architectural historian in 2001.

Property Description

The DPR523 forms provide a comprehensive set of photographs of the bank building and the Community Room. The following description focuses on the Community Room, and its surrounding ornamented concrete wall as the project proposes to remove one of the remaining site features dating to the building's period of significance.

The ornamented concrete wall frames the Community Room and runs in an El-shaped pattern along Dolores Street and turns to the east within the lot. Designed by Brad Bowman and completed in 1972 by Ornamented Concrete, Inc. of Carmel-by-the-Sea, the wall was commissioned by Burde and Shaw as part of the overall project. Originally, the south section of the wall returned toward the Community Room. In 2014, the Dolores Street section of the ornamented concrete wall was cut down and the portion of the southern wall that returned toward the building was removed. A small stucco wall was also constructed (**Figures 1 - 3**).



Figures 1 and 2. Left image looks north at the site. Constructed in 2014, the wall in the foreground is not a historic addition to the site. The original ornamented concrete wall is shown with an arrow. Right image details the Community Room looking northwest, with the 2014 stucco wall shown.



Figure 3. View of Community Room taken from Dolores Street, showing the wall cut down (arrow). The southern section retains its original height.

Community Room and Site Landscape: Building Chronology

1. Permit # 72-80, 10/26/1972: $250,000 for construction of bank and Community Room. Will Shaw and Associates and Walter Burde, architects; Carl Swenson, Inc., contractor. Landscape walls designed and constructed by Ornamental; Concrete, Inc. of Carmel
2. Permit # 78-132, 8/4/1978: $30,000 for interior remodel. Holowinski & Blevins, planning architect; Hampshire Construction, contractor.
3. Permit #13-170C, 9/5/2013: Interior remodel. Adam Jeselnick, architect; Hare Construction, contractor. Design review for this permit completed in 2014.
7. Permit #DR 14-23C. As built drawings submitted and design review approved for interior remodel of Community Room and site landscape modifications:
- Site: Install new asphalt overlay, install two freestanding trellises between Bank Building and Community Room. Remove original wall at southwest corner of site and install new concrete planter. Remove existing wood fence at south property line and install new stucco wall. Install small concrete wall and planter southeast of Community Room. Install new trash bin enclosure at southeast corner of site.
- Ornamented Concrete Wall: Modify original ornamented concrete wall: cut down section running along Dolores Street; removes section of ornamented concrete wall south of the Community Room where it returns to the building. Construct new stucco wall to the east (**Figure 4**).

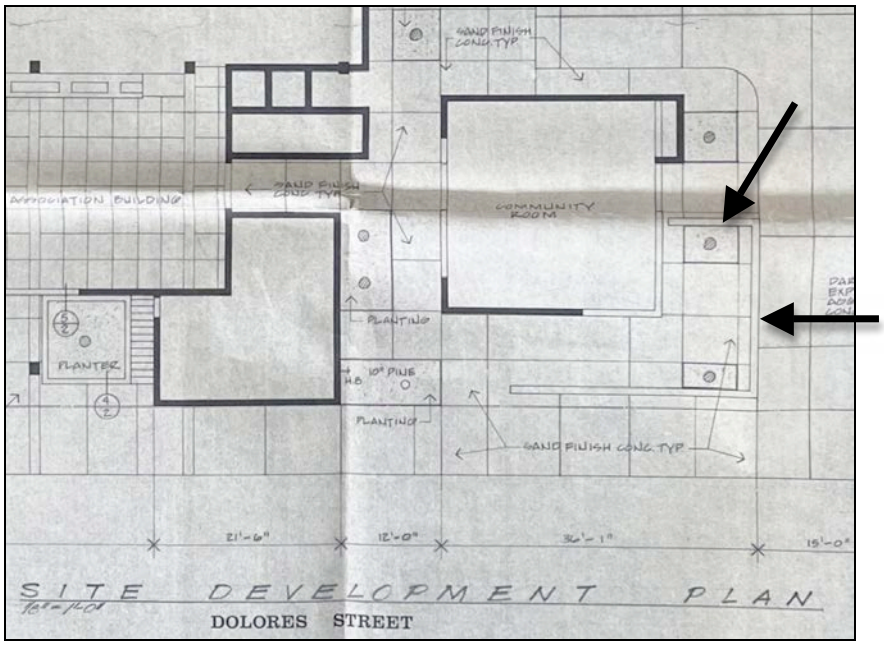


Figure 4. Detail of March 15, 1972 Site Plan showing the original layout of the ornamented concrete wall. The top arrow indicates the section of wall that was removed. Bottom arrow indicates the remaining intact wall section.

Ornamented Concrete Wall: History

Ornamented Concrete, Incorporated was founded by Brad Bowman of Carmel Valley. The company specialized in handmade site alterations rendered in concrete and stucco. Ornamented concrete became popular with Mid-Century architects as Brad Bowman perfected his process in the late 1950s. On the Northern California Savings and Loan complex, the method was applied to the landscape walls framing the Community Room, and to the east wall of the Bank Building. The use of the ornamented concrete method on both the Bank Building and the site originally linked the building to its surroundings (**Figure 5**).



Figure 5. Looking northwest at the east elevation of the Bank Building, the ornamented concrete wall shown.

The Ornamented Concrete firm's work also includes site work and fountains for Edward Durell Stone's Community Hospital of the Monterey Peninsula, as well as ornamented concrete site features and the decorative shell motifs installed on the Shell Gas Station on San Carlos Street and Fifth Avenue, designed by Burde and Shaw and listed on the Carmel-by-the-Sea Historic Resources Inventory.[2]

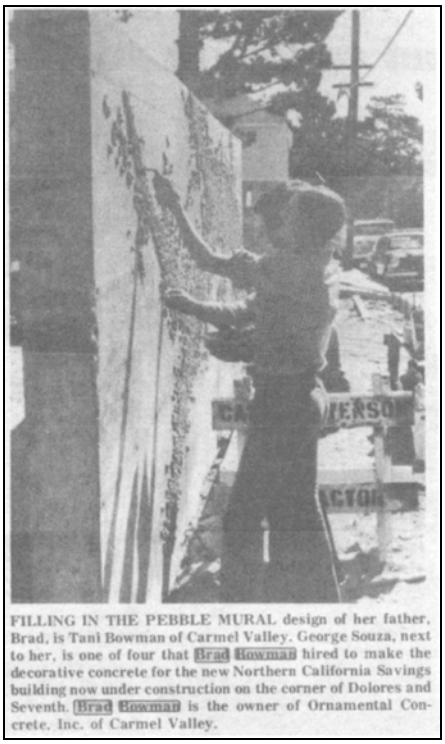
A camouflage expert during World War II, Brad Bowman pioneered a process for using exposed aggregate concrete in construction projects, developing a methodology for using various aggregate combinations to create artistic compositions that were used as building walls, concrete paving or landscape walls. Brad Bowman used a simple technique: a V-shaped blade stamped patterns within the concrete, a term he labeled "Ornamented Concrete." Exposed aggregate, rocks or pebbles were inserted into the wet concrete in various patterns. This revolutionary process labeled Brad Bowman the "father of stamped concrete."

Bowman formulated his stamped-concrete idea when he practiced imprinting patterns in wet sand on the beach at the end of Ocean Avenue in Carmel. Early commissions included ornamented concrete driveways for luxury homes in Carmel and Pebble Beach. In 1970 Brad Bowman founded the Bomanite Corporation in Madera, California. He patented his early ornamented concrete process

[2] See *Carmel Pine Cone*, 4/19/1962, p4; "Brad Bowman," *Carmel Valley Outlook*, 10/18/1962, p8 and "Rustic Atmosphere," *Carmel Pine Cone*, 5/12/1966, p20, courtesy Harrison Memorial Library, Carmel.

as "Bomanite" and developed international licenses in the 1980s and 1990s. The Bomanite Corporation remains in business today. In 2012, Brad Bowman was honored with induction into the Decorative Concrete Hall of Fame.[3]

For the subject building, a 1972 photograph of the wall's installation appeared in local newspapers. While Brad Bowman designed these site features, his daughter, Tani Bowman assisted in design and application. Local newspapers indicate that the selection and placement of each rounded stone was meticulous, with each stone's size and shape being important to the overall pattern (**Figure 6**).



FILLING IN THE PEBBLE MURAL design of her father, Brad, is Tani Bowman of Carmel Valley. George Souza, next to her, is one of four that Brad Bowman hired to make the decorative concrete for the new Northern California Savings building now under construction on the corner of Dolores and Seventh. Brad Bowman is the owner of Ornamental Concrete, Inc. of Carmel Valley.

Figure 6. Image of Tani Bowman adding stones to the ornamented concrete wall during project construction in 1972 (*Courtesy: Harrison Memorial Library, Carmel)*[4]

Historic Integrity of the Site Features

The original parking lot paving, including the indication of individual parking stalls, both of which used contrasting exposed aggregate concrete, has been removed and/or covered with asphalt paving as part of the 2014 site improvements. Sand finish concrete also served as paving around the Bank Building and between the Bank Building and the Community Room. This finish was also replaced in 2014. Original fencing on the south and east property lines and most original tree plantings have been removed.

[3] *Polk's City Directories*: 1958 – 1970; "Bowmanite's Culture of Invention with Concrete," Joe Maty, *Concrete Décor*, Vol. 16, No. 1, January 2016.
[4] Image from the *Carmel Valley Outlook*, 10/19/1972, p15, courtesy Harrison Memorial Library, Carmel.

In 2014, the ornamented concrete wall around the Community Room's southeast corner was altered with the Dolores Street-facing wall cut down and the south section removed where it returned toward the Community Room building. A poorly designed stucco wall was placed to the east of the original wall at this time (**Figures 1 and 2**).

Based on the numerous alterations to the site and the original Burde/Shaw landscape design, this report concludes that the original landscape design south and east of the Community Room has lost substantial historic integrity. However the south portion of the ornamented concrete wall remains intact enough to reveal the original stone pattern.

Evaluation of Proposed Alterations

The Secretary of the Interior's Standards

The *Secretary of the Interior's Standards for the Treatment of Historic Properties* (*Standards*) provides the framework for evaluating the impacts of additions and alterations to historic buildings. The *Standards* describe four treatment approaches: preservation, rehabilitation, restoration and reconstruction. The *Standards* require that the treatment approach be determined first, as a different set of standards apply to each approach. For the proposed project, the treatment approach is rehabilitation. The *Standards* describe rehabilitation as:

> In *Rehabilitation*, historic building materials and character-defining features are protected and maintained as they are in the treatment Preservation; however, an assumption is made prior to work that existing historic fabric has become damaged or deteriorated over time and, as a result, more repair and replacement will be required. Thus, latitude is given in the Standards for Rehabilitation and Guidelines for Rehabilitation to replace extensively deteriorated, damaged, or missing features using either traditional or substitute materials. Of the four treatments, only Rehabilitation includes an opportunity to make possible an efficient contemporary use through alterations and additions.[5]

The ten *Standards* for rehabilitation are:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

[5] *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (accessed via http://www.nps.gov/hps/tps/standguide/).

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Evaluation of Proposed Alterations

Comments on Design Drawings

Based on a review of the design drawings, the following is recommended:

- Sheet A1.0, Site Plan: Elevated walkway between Community Room and Bank Building is not shown. Please indicate the elevated walkway clearly.
- Sheet A1.1, Site Demolition Plan: Elevated walkway appears to be shown as dashed lines. Please add note that the elevated walkway is to remain. Add to note in middle of drawing: “All structures & pavement inside property lines shall be demolished U.O.N. except for existing Community Room Building and Elevated Walkway.
- Sheet A6.0, West Elevation. Recommend the removal of decorative ceramic tile from the west elevation of Building 2 and replace it with the same stucco finish as Building 1. This will allow the proposed west elevation to read like an arcaded block and will allow the Community Room building to stand out.

Evaluation of Proposed Project

The proposed building alterations do not include construction on the lot containing the Bank Building (APN 010-145-022). Proposed alterations to the adjacent southern lot containing the Community Room (APN 010-145-023) include the removal of the ornamented concrete wall south of the Community Room and the proposed project to the south and east of the Community Room.

The following lists the ten *Standards* for rehabilitation in italics, with an evaluation given below each *Standard*.

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships*.

Although the subject property has changed from a commercial bank to a commercial restaurant use, the subject building's current use has required minimal changes to its distinctive exterior materials, features, spaces, and spatial relationships in keeping with this *Standard*.

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The original spatial relationship between the bank building and the Community Room is a primary character-defining feature of the site. The proposed project allows the spatial relationship between the Bank Building and the Community Room to remain, as well as the elevated walkway connecting the two buildings.

The distinctive concrete site features, original paving and fencing have been removed to the south and east of the Community Room, with the exception of the ornamented concrete wall. A recommendation for the ornamented concrete wall's removal is proposed and included at the end of this document.

The proposed project is in conformance with this *Standard*.

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken*.

The proposed project does not add conjectural features or elements from other historic properties that would confuse the remaining character-defining features of the subject property. The project is consistent with this *Standard*.

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved*.

This *Standard* does not apply because no changes to the property have acquired historic significance.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved*.

With the exception of the ornamented concrete wall, the original landscape and paving features of the 1972 Burde/Shaw design have been removed or obscured. Maintaining the entirety of the Bank Complex, including the Bank Building, the Community Room and the elevated walkway connecting the buildings, is in conformance with this *Standard*. A recommendation for the removed section of the ornamented concrete wall is included at the end of this document.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.*

It is recommended that any deteriorated exterior cladding and roof elements for the Community Room be repaired, rather than replaced, in conformance with this *Standard*.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used*.

Physical treatments to repair exterior cladding for the Community Room shall use the safest methods for a given substrate, in conformance with this *Standard*.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

This *Standard* does not apply, as the identification of archaeological features is not within the scope of work for this Phase Two historical report.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.*

This *Standard* does not apply as no alterations are proposed for the Bank Complex, with the exception of the removal of the ornamented concrete wall.

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

This *Standard* does not apply as no alterations are proposed for the Bank Complex, with the exception of the ornamented concrete wall.

Conclusions on Proposed Project

The proposed project is in conformance with the *Standards* because they allow Bank Complex, including the Bank Building, the Community Room and the elevated walkway connecting the buildings to remain. This will retain the original spatial relationships between the separate building masses and provide sufficient historic integrity for the Building Complex to maintain listing on the Carmel Historic Resources Inventory.

However, the proposed project removes the remaining intact section of the ornamented concrete wall south of the Community Room. A recommendation for this loss is proposed below.

Ornamented Concrete Wall: Proposed Recommendation for Project Consistency



Figure 7. Remaining intact section of the ornamented concrete wall.

The remaining intact section of the Bowman-designed ornamented concrete wall is shown above (**Figure 7**). This section still reveals its original stone pattern and sand finish. This report recommends that the removed section of the wall be preserved and replaced at another location on the site. A potential location would be in the parking lot within proximity of the ornamented concrete wall on the east elevation of the Bank Building. This location would allow interpretation of the removed feature on the original site and provide a link to the original Burde/Shaw design.

Conclusion

In conclusion, the proposed project is consistent with the *Secretary of the Interior's Rehabilitation Standards*.

Please contact me if you have any questions about this evaluation.

Sincerely,

Seth Bergstein

Seth A. Bergstein, Principal

PAST
CONSULTANTS LLC

Seth A. Bergstein
415.515.6224
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January 3, 2023

Evan Kort, Associate Planner
City of Carmel-by-the-Sea
PO Box CC
Carmel, CA 93921

Re: Phase One Historic Assessment, SE Corner Dolores St. and 7th Ave., Carmel-by-the-Sea
APN. 010-145-022/023/024

Dear Mr. Kort:

This letter presents the results of our historic assessment of the property located at the SE Corner of Dolores Street and 7th Avenue, in Carmel-by-the-Sea, California. PAST Consultants, LLC (PAST) completed the site visit, conditions assessment, historic research and report preparation during December 2022. The attached DPR523 forms provide the formal assessment of the subject property and conclusions of historic significance.

The subject property encompasses Block 91, Lots 2,4,6 and 8. The lots contain the following:

- Lot 2, APN 010-145-022: Contains northern portions of the bank building and east portions of the parking lot.
- Lot 4, APN 010-145-022: Contains southern portions of the bank building and east portions of the parking lot.
- Lot 6, APN 010-145-023: Contains the southern edge of the bank building, the Community Room, the elevated walkway connecting the bank building with the Community Room, and east portions of the parking lot.
- Lot 8, APN 010-145-024: Contains the south portions of the parking lot.

The bank building, Community Room and associated parking lot contain the Northern California Savings and Loan Bank Complex (formerly the Palo Alto Savings and Loan) designed and executed by the prominent regional architectural team of Walter Burde & Associates/Will Shaw and Associates in 1972. The site contains a bank building and detached Community Room – the complex being an intact and outstanding example of the Bay Region Modern style in downtown Carmel-by-the-Sea.

The buildings' significant Modernist design has been featured in various architectural exhibits and/or journals, including:

- *Architecture of the Monterey Peninsula*, a book/exhibit at the Monterey Peninsula of Art, 1976;
- *Documentation and Conservation of the Modern Movement – Monterey*: A tour of the Monterey Region's iconic Modernist buildings conducted by DOCOMOMO, 2003;
- *Carmel, A History in Architecture,* Kent Seavey, 2007; and
- *Carmel Modernism:* A museum exhibit by the Monterey Area Architectural Resources Archive (MAARA) held at the Carl Cherry Center for the Arts, Carmel, 2016.

In 2006, State of California Historic Preservation Officer Milfred Wayne Donaldson, FAIA, wrote a letter to Carmel Mayor Sue McCloud and the Carmel City Council advocating for the building. His letter states:

> The former Palo Alto Savings Building, designed by noted architect Walter Burde at the southeast corner of Dolores and Seventh in Carmel, represents an important period in the City of Carmel's and the State of California's architectural heritage. The sixties and seventies formed a period when many financial institutions hired prominent architects to design buildings intended as iconic architectural statements. The Palo Alto Savings Building was one of only two such buildings to be built in the City of Carmel by the Sea; the second, designed by Olaf Dahlstrand and built in the sixties, was the Wells Fargo Building on San Carlos Street (*Letter from Milford Wayne Donaldson, FAIA, State Historic Preservation Officer to Mayor Sue McCloud*, April 28, 2006, Carmel Planning Department Files).

The subject bank complex is in largely unaltered condition and possesses all seven aspects of historic integrity. Our historic assessment concludes that the subject property is eligible under the California Register of Historical Resources under Criterion 3 in the area of architecture and eligible for listing on the Carmel-by-the-Sea Historic Resources Inventory (HRI) supporting the theme, "Architectural Development in Carmel." Please see the attached DPR523 forms for detailed property description, list of character defining features and evaluation of historic significance.

Please contact me if you have any questions about this evaluation.

Sincerely,

Seth Bergstein

Seth A. Bergstein, Principal

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #
HRI #
Trinomial
NRHP Status Code
Other Listings
Review Code Reviewer Date

***Resource Name or #:** (assigned by recorder) Northern California Savings & Loan Complex

P1. Other Identifier:

***P2. Location:** ■ **Not for Publication** ☐ **Unrestricted** ***a. County:** Monterey

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

***b. USGS 7.5' Quad:** N/A **Date:** N/A **T** ; **R** ; **¼ of** **¼ of Sec** ; M.D. **B.M.**

c. Address: SE Corner Dolores St. and 7th Ave. City: Carmel-by-the-Sea Zip: 93923

d. UTM: Zone: 10 ; mE/ mN (G.P.S.)

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate): APN. 010-145-022 (Lots 2 & 4); APN. 010-145-023 (Lot 6); APN. 010-145-024 (Lot 8)

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The subject property contains a one-and one-half story, steel and wood framed commercial building constructed in the Bay Region Modern style. The building features a primary gable roof, with a large, east-facing shed-roofed dormer. Building walls consist of alternating stucco blocks and full-height glass walls framed with Redwood and steel. The roof contains wide overhangs with exposed beams. The Dolores Street elevation contains the primary entrance, sheltered by a deep overhang supported by dramatic Redwood rafters and columns. Walls consist of alternating blocks of stucco, steel-framed glass curtain walls and expanses of vertical Redwood siding boards. An elevated, Redwood-clad walkway leads to the stucco-clad, shed-roofed Community Room south of the bank building and facing Dolores Street. See continuation sheets, pages 3 - 5, for copies of plans and current photographs (Figures 1 - 8).

***P3b. Resource Attributes:** (List attributes and codes) HP13: Community Center

***P4. Resources Present:** ■Building ☐Structure ☐Object ☐Site ☐District ☐Element of District ☐Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)



P5b. Description of Photo: (View, date, accession #)
North and West Elevations, 2022

***P6. Date Constructed/Age and Sources:**
■Historic ☐Prehistoric ☐Both
1972

***P7. Owner and Address:**
APN 010-145-022
D & K Dolores, LLC
1777 S. Bascom Ave.
Campbell, CA 95008

APN 010-145-023/024
Esperanza Carmel
P.O. Box 134
Carmel, CA 93921

***P8. Recorded by:** (Name, affiliation, and address)
Seth A. Bergstein, Principal
PAST Consultants, LLC
P.O. Box 721
Pacific Grove, CA 93950

***P9. Date Recorded:** 12/30/22

***P10. Survey Type:** (Describe)
Owner-requested

***P11. Report Citation:** None

***Attachments:** ☐NONE ☐Location Map ☐Sketch Map ■Continuation Sheet ■Building, Structure, and Object Record ☐Archaeological Record ☐District Record ☐Linear Feature Record ☐Milling Station Record ☐Rock Art Record ☐Artifact Record ☐Photograph Record ☐ Other (List):

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Primary #
HRI#

BUILDING, STRUCTURE, AND OBJECT RECORD

***NRHP Status Code** 5S1

***Resource Name or #** (Assigned by recorder) Northern California Savings & Loan Complex

B1. Historic Name: Palo Alto Savings & Loan Complex
B2. Common Name:
B3. Original Use: Commercial Bank B4. Present Use: Commercial Restaurant

***B5. Architectural Style:** Bay Region Modern

***B6. Construction History:** (Construction date, alterations, and date of alterations)
The Permit Record is: 1. Permit #72-80, October 26, 1972: Construction of bank building and Community Room. See continuation sheet, page 6, for the complete construction history.

***B7. Moved?** ■No ☐Yes ☐Unknown **Date:** **Original Location:** Same

***B8. Related Features:** N/A

B9a. Architect: Walter Burde & Associates/Will Shaw & Associates b. Builder: Carl Swenson, Inc.

***B10. Significance: Theme:** Architectural Development **Area:** Carmel-by-the-Sea
Period of Significance: 1972 **Property Type:** Commercial: Bank **Applicable Criteria:** CR#3
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)
See continuation sheets, pages 7-11.

B11. Additional Resource Attributes: (List attributes and codes) HP13: Community Center

***B12. References:**

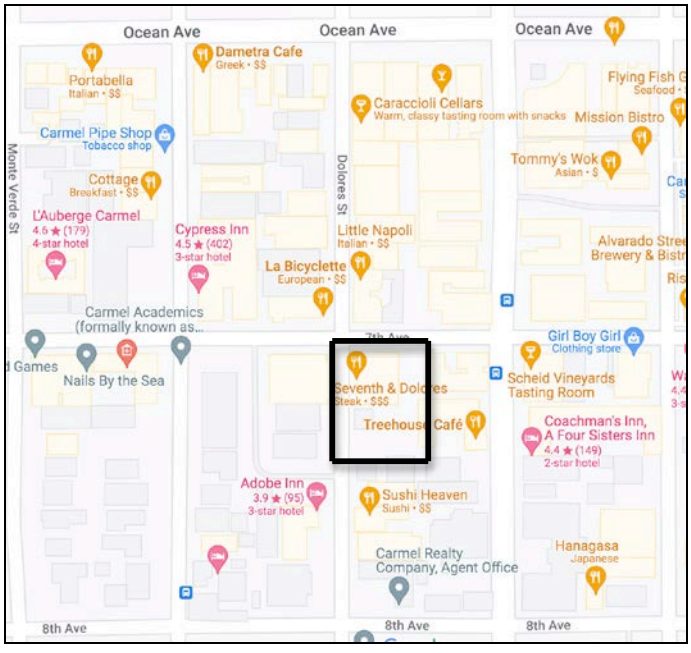
- *Architecture of the Monterey Peninsula*, Monterey Peninsula Museum of Art, 1976.
- AIA, Monterey Bay, *A Guide to Contemporary Architecture of the Monterey Bay Region 1947-2008*, 2008.
- Carmel-by-the-Sea Planning Department Files (original building and landscape specifications present).
- *Carmel Modernism: A Retrospective*, Carl Cherry Center for the Arts, 2016.
- *Carmel Pine Cone*: 3/23/1972; 8/10/1972.
- Grimes, Teresa, Leslie Heumann, Architectural Resources Group, PAST Consultants, LLC. *Historic Context Statement Carmel-by-the-Sea*, 1994, 1997, 1998, 2022.
- Janick, Richard N., *Northern California Savings and Loan (DPR523 Forms)*, 2001.
- Seavey, Kent, *Carmel, A History in Architecture*, 2007.

B13. Remarks::

***B14. Evaluator:** Seth A. Bergstein, Principal
PAST Consultants, LLC

***Date of Evaluation:** 12/30/22

(This space reserved for official comments.)



*Required information

P3a. Description: Historic Drawings

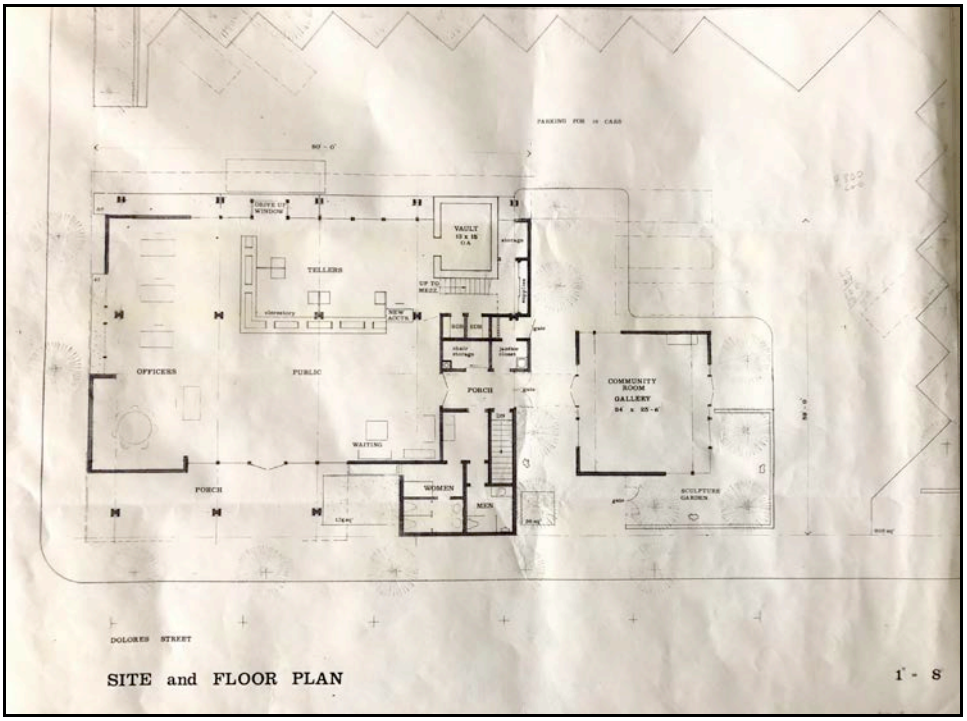


Figure 1. 1972 Site and Floor Plan.



Figure 2. 1972 Rendering of Dolores Street (West) elevation.

P3a. Description: Site Description and Photographs

The subject property encompasses Block 91, Lots 2,4,6 and 8. The lots contain the following:

- Lot 2, APN 010-145-022: Contains northern portions of the bank building and east portions of the parking lot.
- Lot 4, APN 010-145-022: Contains southern portions of the bank building and east portions of the parking lot.
- Lot 6, APN 010-145-023: Contains the southern edge of the bank building, the Community Room, the elevated walkway connecting the bank building with the Community Room, and east portions of the parking lot.
- Lot 8, APN 010-145-024: Contains the south portions of the parking lot.



Figure 3. North and west elevations.



Figure 4. North (7th Ave.) elevation.

P3a. Description: Current Photographs



Figure 5. North and east elevations.



Figure 6. South elevation, with Community Room.



Figure 7. South and east elevations of Community Room.

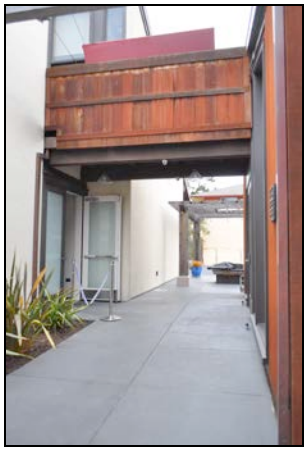


Figure 8. Walkway connecting bank to Community Room.

B6. Construction History:

1. Permit # 72-80, 10/26/1972: $250,000 for construction of bank and community room. Will Shaw and Associates, architects; Carl Swenson, Inc., contractor.
2. Permit # 78-132, 8/4/1978: $30,000 for interior remodel. Holowinski & Blevins, planning architect; Hampshire Construction, contractor.
3. Permit #83-103, 7/27/1983: $15,500 for installation of ATM machines.
4. Permit #86-9, 1/8/1986: $3,700 for repair of roof beams.
5. Permit #11-232C, 12/2/2011: $5,000 for repair to beams due to truck collision.
6. Permit #13-170C, 9/5/2013: Interior remodel. Adam Jeselnick, architect; Hare Construction, contractor. Design review for this permit completed in 2014.
7. Permit #DR 14-23C. As built drawings submitted and design review approved for interior remodel and site modifications:
- Site: Install new asphalt overlay, install two freestanding trellises between bank building and community room. Remove original wall at southwest corner of site and install new concrete planter. Remove existing wood fence at south property line and install new concrete wall. Modify original site wall and install small concrete wall and planter southeast of Community Room. Install new trash bin enclosure at southeast corner of site.
- Bank Building West Elevation: Install new-paired entrance doors; install new sconces on exterior columns; install exhaust kitchen vents on upper part of elevation.
- Bank Building East Elevation: Replace ATM openings with windows for menus; install new four-panel door for entrance to raised outdoor seating area; install exhaust kitchen vents.
- Bank Building North Elevation: Install restaurant signage.
- Community Room: Install fireplace vent on east elevation; replace entrance doors on north and south elevations.
8. Permit #UP16-191, 10/12/2016. Use permit granted for "Seventh and Dolores Steakhouse."

Character Defining Features:

The *Carmel-by-the-Sea Historic Context Statement* lists the following character defining features of the Bay Region Modern style (page 59), with an evaluation in italics:

- Building integrated with surrounding landscape. *Yes.*
- Horizontal or Vertical massing with shed roofs. *Horizontal massing with dramatic shed roofs present. Community Room serves as an additional shed-roofed mass, integrated with the bank building through its volume, massing and connection to the bank building with an elevated, wood-clad walkway.*
- Existing spatial relationship between the bank building and Community Room.
- Detached Community Room building connected by a wood-clad upper walkway.
- Projecting shed or boxy volumes. *Present.*
- Exposed structural elements. *Present, particularly with the dramatic expression of structural elements on the northwest building envelope.*
- Wide expanses of glass set within wood frames. *Present, integrating the building and its landscape.*
- Wood siding as exterior cladding. *Present.*
- Copper sheet roof cladding.

***B10. Significance**:

The present bank building complex replaced the first Palo Alto Savings and Loan building constructed on the same lot, as shown on the 1962 Sanborn map (**Figure 9**).

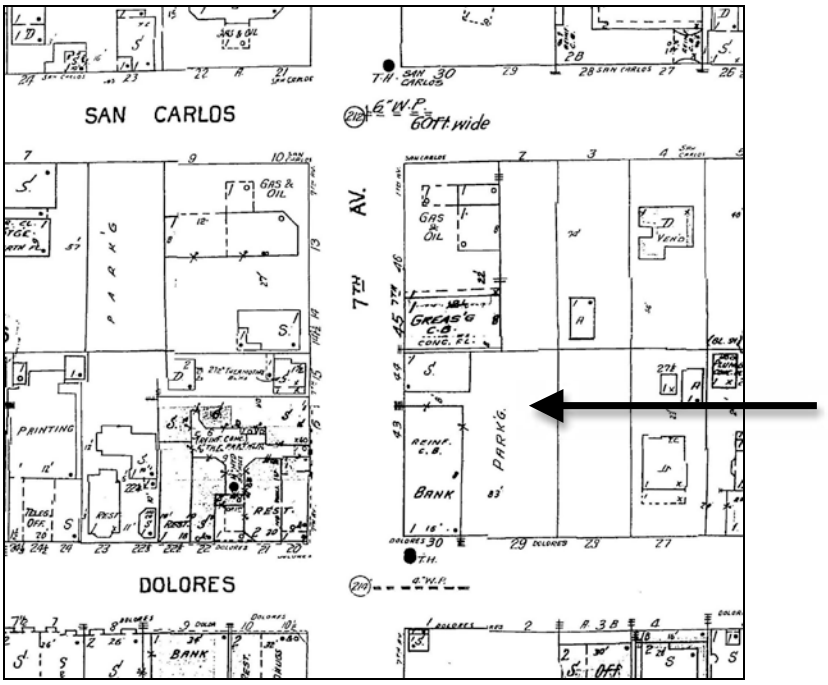


Figure 9. 1962 Sanborn map, showing the previous bank on the subject property (arrow).

The *Carmel Pine Cone* covered the demolition of the building and construction of the present bank complex consistently beginning in November of 1971, when the plans for the Burde/Shaw complex were presented formerly to the Planning Commission. The *Carmel Pine Cone* noted the demolition of the former and aesthetically unpopular bank building in March of 1972, stating, "Hard to believe anyone could be nostalgic about a hulking building, which back in 1957, created rage and outcry among the Carmel citizenry." ("Notes on the Yellow Brick Wall," *Carmel Pine Cone*, 3/23/1972, p.4) Disdainful comments about the former structure's boxy appearance, clad with yellow clay tile and often compared to a shower stall, were common as the former building's appearance was not popular, particularly given its prominent location on Dolores Street and 7th Avenue.

Carmel would receive one of its more significant Modernist buildings shortly thereafter. Designed by the local architectural team of Walter Burde and Will Shaw, a partnership that contributed numerous buildings in the region, the duo envisioned a commercial example of the Second Bay Region style, one that embraced the surrounding street views of the Carmel landscape; and designed two-building complex – a bank building and detached Community Room – with soaring vertical spaces, wide expanses of glass and an elevated walkway connecting the bank to the Community Room. Charles Lent, Jr., the bank's new manager noted: "Heavy beams, 24 new trees in a landscaping package, much more Carmelish style, that will fit in with what is already here." ("Notes on the Yellow Brick Wall," *Carmel Pine Cone*, 3/23/1972, p.4).

***B10. Significance**:

Copies of original plans in the Carmel-by-the-Sea Planning Department files include a site plan and colored renderings of the elevations (**see Figures 1 and 2**). The Dolores Street elevation shows the building set within the numerous trees designed for the surrounding landscape. Copies of circa-1970s photographs of the building show the building was painted with a much more active color palette than seen today. Walter Burde's design included the painting of the roof beams a bright orange color, an homage to Burde's ongoing interest in Japanese design. Other aspects of Japanese design include the detached Community Room building, whose shed-roofed massing integrates seamlessly with the larger bank building. The Community Room serves as a Japanese pavilion, a detached public space that connects to the bank building via an elevated walkway, a feature that allows patrons to take in views of the Carmel streetscape.

Construction of the bank complex was completed in September 1972. A photograph of the Community Room under construction appeared in the *Carmel Pine Cone* on August 10, 1972. The caption states: "The Community Room is a daytime reading room, with free coffee, cookies, magazines and The Wall St. Journal provided. The room will be available in the evening for the use of groups in the community, without charge (*Carmel Pine Cone*, 8/10/1972, p.30). The caption also notes the contributions of the architects, Walter Burde & Associates the primary designer; and Will Shaw & Associates, design and execution of the bank complex.

Walter Burde and Will Shaw, Architects

Walter Burde (FAIA) graduated from the Miami University (Ohio) School of Architecture in 1934 and began his career locally designing hospitals and residences in the Toledo, Ohio area. Following World War II, he began his private practice in 1950, as chief designer for Robert Jones, AIA, aiding design in the award winning Monterey Airport. Walter Burde has won numerous architectural awards, including the American Institute of Architects (AIA) National Honor Award (1969), the Governor's Design Award (1966), the Monterey Bay Chapter Awards of Merit (1959 and 1976), and became a Fellow at the American Institute of Architects in 1987. His work has been published in numerous architectural journals. Walter Burde was active in the local community and held every office in the Monterey Bay Chapter of the AIA, receiving the Robert Stanton, FAIA award in recognition of his outstanding service. He designed numerous commercial, civic and residential buildings in the region and collaborated with fellow architect Will Shaw under the firm name Burde Shaw Associates.

Born in Los Angeles in 1924, William Vaughn Shaw (FAIA) received his Bachelor of Architecture at the University of California, Berkeley in 1950. Shortly thereafter, he moved to Carmel, where he established his own firm. Will Shaw was admitted to the American Institute of Architects in 1957, served as president of the local Monterey Chapter in 1964 and was awarded his fellowship to the AIA in 1984. Will Shaw was active in local community development and served in various civic capacities. In 1978 Will Shaw, along with Ansel Adams and Fred Farr, founded the Big Sur Foundation, dedicated to the preservation of the Big Sur coastal environment.

***B10. Significance**:

Walter Burde joined Will Shaw's practice in Carmel, California in 1953 when the latter renamed the firm Burde, Shaw and Kearns, Associates (later Burde Shaw Associates). The partners developed a symbiotic partnership, with Walter Burde reportedly being the more artistic of the two partners and Will Shaw the pragmatist. The firm designed numerous successful and significant commercial, civic and residential projects in the greater Monterey Peninsula area. In Carmel, significant commercial buildings include the Palo Alto-Salinas Savings and Loan Association building (the building's original name) on the corner of Dolores Street and Seventh Avenue (1972); and the Shell Oil Gas Station on the corner of San Carlos Street and Fourth Avenue (1963). The latter project received a Governor's Design Award in 1966 for its outstanding design. In 1969, the partners split the two firm offices, with Walter Burde retaining the Carmel office; and Will Shaw retaining the Monterey office. However, the two continued to collaborate both professionally and in their various civic endeavors (Grimes, Teresa, Leslie Heumann, Architectural Resources Group, PAST Consultants, LLC, *Historic Context Statement Carmel-by-the-Sea*, 1994, 1997, 1998, 2022, p.116).

Historic Integrity

With the exception of entrance-door modifications and selective window glazing replacement, the exterior of the bank complex is essentially intact, with no square footage additions to the original footprints of both the bank building and the Community Room. Interior alterations in 1978, 2013 and 2018 have removed the original bank infrastructure and finishes. The following is the historic integrity assessment:

1. *Location*. The bank complex is in its original location and maintains integrity of location.
2. *Design*. The bank complex maintains integrity of design with the presence of all of its exterior character-defining features.
3. *Setting.* The setting within the shopping district of downtown Carmel-by-the-Sea remains intact.
4. *Workmanship.* Integrity of workmanship is retained and highlighted by the dramatic expression of structural elements, the exterior wall cladding and the wide expanses of glass of the bank building and Community Room.
5. *Materials.* Original materials of steel, glass, wood structural elements and wood wall cladding remain on the building, giving it integrity of materials.
6. *Feeling.* The building complex maintains integrity of feeling as a commercial building complex designed in the Bay Region Modern style, as reflected by its intact design elements and retention of character defining features.
7. *Association.* The building complex maintains integrity of association as a commercial building complex designed in the Bay Region Modern style, as reflected by its intact design elements and retention of character defining features

***B10. Significance**:

California Register of Historical Resources (CR) Significance

Criterion 1. *Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States.*
The subject property is not eligible under this Criterion, as no specific event led to the development of the bank complex. The subject bank complex was designed to replace the first Palo Alto Savings & Loan building at the same location and not because of a specific historic event.

Criterion 2. *Associated with the lives of persons important to local, California or national history.*
The subject property is associated with significant local architects Walter Burde and Will Shaw who designed the building in 1971 and supervised its construction in 1972. According to California Register criteria, associations with significant architects, landscape architects, or builders should be under Criterion 3.

Criterion 3. *Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values*.
The building complex on the subject property is significant under this Criterion as an example of the Bay Region Modern style in Carmel-by-the-Sea, designed by the prominent architectural partnership of Walter Burde, AIA and Will Shaw, AIA. The partners worked together in a combined practice before forming separate architectural firms in 1969. In 1971, the two partners combined for the design and execution of the buildings on the subject property.

The building complex's soaring roof forms, dramatic expression of structure, wide expanses of glass, use of native Redwood for structural framing and exterior wall cladding and the integration of the structures within the landscape are all character defining features of the Bay Region Modern style in Carmel. The two buildings are nearly intact on the exterior and retain all seven aspects of historic integrity.

Criterion 4. *Has yielded, or has potential to yield, information important to the prehistory or history of the local area, California or the nation*.
Referred to as the archeological criterion, the subject property does not have the potential to yield any important prehistorical information.

California Register Significance Conclusion

The subject property is eligible for the California Register under Criterion 3, in the area of architecture, for its intact Bay Region Modern-stylistic elements designed by prominent local architects Walter Burde & Associates and Will Shaw & Associates. The building complex, consisting of a bank building and detached Community Room connected by an elevated walkway, maintains all of its character defining features and possesses all seven aspects of historic integrity.

B10. Significance:

Carmel-by-the-Sea HRI Significance

The subject property satisfies all four aspects of the Carmel-by-the-Sea Historic Resources Inventory (HRI):

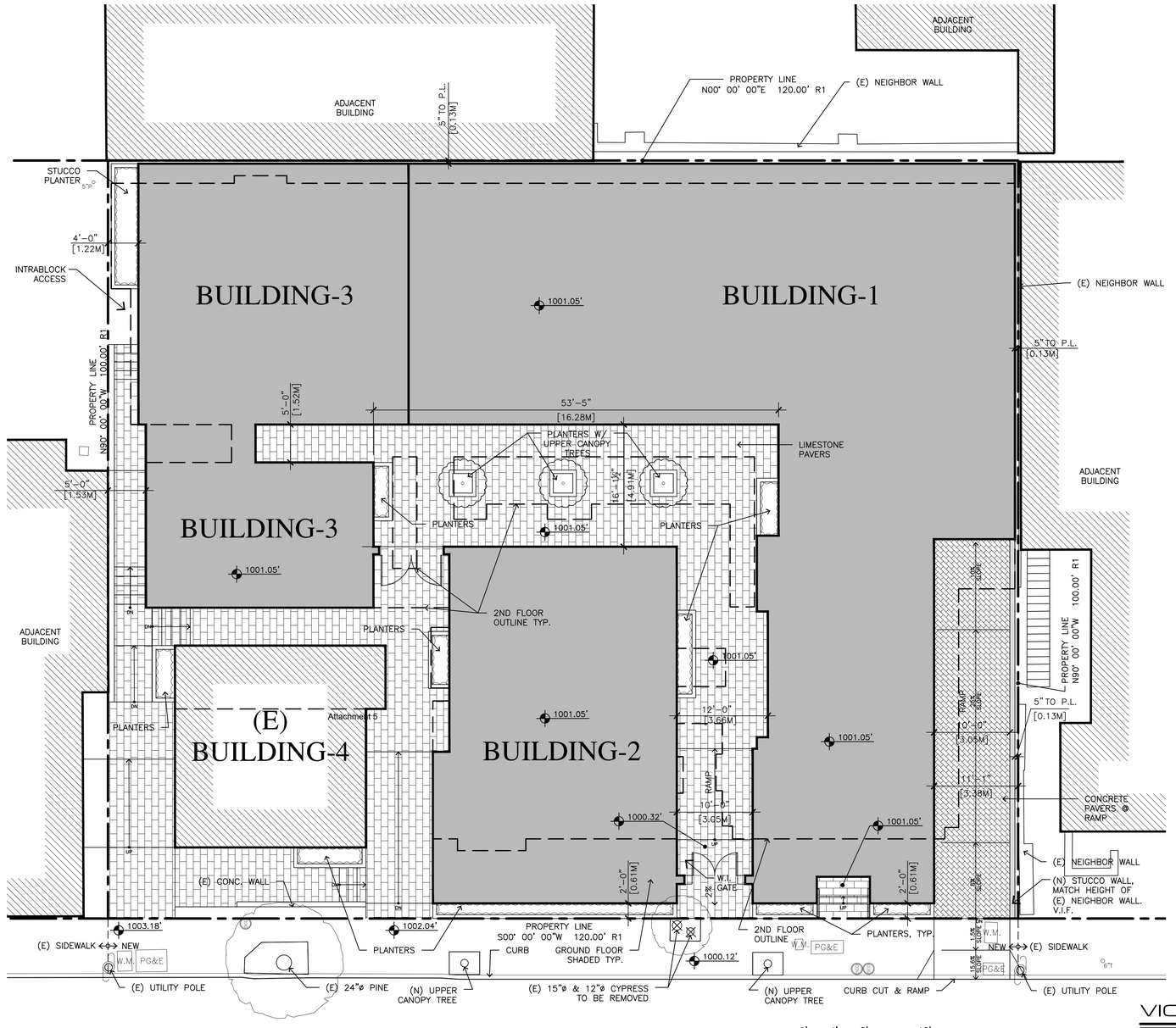
A. *Should be representative of at least one theme included in the Historic Context Statement.*
Completed in 1972, the subject bank complex supports the theme, Architectural Development in Carmel, as a commercial property type constructed in the Bay Region Modern style, a significant architectural style noted in the Carmel Historic Context Statement.

B. *Shall retain substantial integrity according to the Federal definition and evaluation methodology for historic integrity as detailed in National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*.
The bank complex maintains all seven aspects of historic integrity, as described previously on Page 9.

C. *Should be a minimum of 50 years of age and shall meet at least one of the four criteria for listing on the California Register at a national or statewide level of significance (primary resource) or at a regional or local level of significance (local resource) per CEQA Guidelines Section 15064.5(a)(3).*
The bank complex on the subject property is greater than 50 years old and is California-Register eligible.

D. *To qualify for the Carmel Inventory, an historic resource eligible under California Register Criterion No. 3 (subsection (C)(3) of this section) only, should have been designed and/or constructed by an architect, designer/builder or contractor whose work has contributed to the unique sense of time and place recognized as significant in the Historic Context Statement*.

The bank complex was designed and executed by the partnership of Walter Burde, AIA and Will Shaw, AIA, listed as significant architects in the Carmel Historic Context Statement. The bank complex represents one of the few intact examples of a commercial building complex constructed in downtown Carmel-by-the-Sea in the Bay Region Modern style. It is eligible under California Register Criterion 3, in the area of architecture, as an outstanding example of Modernist design by a significant team of California architects.



SITE PLAN

1/8"=1'-0"

SHEET INDEX

ARCHITECTURAL

A1.0	SITE PLAN
1	TOPOGRAPHICAL SURVEY
A1.1	SITE DEMO & HISTORIC BLDG. PROTECTION PLAN
A1.2	EXITING, F.A.R. & BUILDING COVERAGE DIAGRAMS
A2.0	BASEMENT PLAN
A3.0	GROUND FLOOR PLAN
A4.0	2ND FLOOR PLAN
A5.0	ROOF PLAN
A6.0	ELEVATIONS
A6.1	ELEVATIONS
A6.2	ELEVATIONS & SECTIONS
A6.3	ELEVATIONS & SECTIONS
A6.4	ELEVATIONS & SECTIONS
A6.5	SECTIONS
A6.7	TERRACE DETAILS
A6.8	TERRACE DETAILS
A8.1	JB-PASTOR STREETSCAPES
A8.2	ADJACENT BUILDING ELEVATIONS
A9.2	COLOR & MATERIAL BOARD

FOREST & BEACH COMMISSION NOTES:

TOTAL SIZE OF OPEN SPACE:
AREA: 1,920 S.F.

LANDSCAPING AREA REQUIRED:
1,920 / 2 = 960 S.F.

PLANT ALTERNATIVES ALLOWED:
960 X 0.25 = 240 S.F.

LANDSCAPE AREA REQUIRED W/ 25% PLANT ALTERNATIVES:

720 S.F.

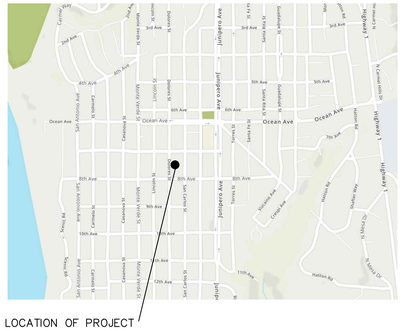
LANDSCAPE AREAS PROVIDED:
GROUND FLOOR: 176 S.F.
GREEN ROOF: 1,026 S.F.
TOTAL: 1,202 S.F.

NEW TREE SUMMARY:
UPPER CANOPY ON PRIVATE PROPERTY: 3
UPPER CANOPY ON PUBLIC PROPERTY: 2
TOTAL: 5

LOWER CANOPY TREES ON ROOF: 3
(SEE SHEET A5.0)

NOTE:
SEE SECTION D/A6.3 FOR TYPICAL EXCAVATION CUT

VICINITY MAP



LOCATION OF PROJECT

PLANNING INFO.

- PROPERTY OWNER:
  ESPERANZA CARMEL COMMERCIAL, LLC
  ATTN: RYAN AESCHLIMAN
  C/O INTERNATIONAL DESIGN GROUP, INC.
  721 LIGHTHOUSE AVENUE
  PACIFIC GROVE, CA 93950
- ARCHITECT
  INTERNATIONAL DESIGN GROUP LLC
  JUN A. SILLANO, AIA
  JUN@IDG-INC.NET
  PHONE: (831) 646-1261
- PROJECT ADDRESS:
  DOLORES ST.
  2 SE OF 7TH AVE,
  CARMEL-BY-THE-SEA, CA 93921
- PROJECT SCOPE:
  DEMOLITION OF 2 EXISTING BUILDINGS. NEW CONSTRUCTION FOR PARKING GARAGE, COMMERCIAL SPACES ON GROUND FLOOR, & 8 RESIDENTIAL APARTMENTS ON 2ND FLOOR.
- OCCUPANCY: A-2, B, M, R-2, S-2
- CONST. TYPE: V-B, TYPE I-GARAGE
- A.P.N. 010-145-012, 023, & 024
- LEGAL DESC.: LOTS: 6, 8, & 10 BLOCK: 91
- ZONE: SC (SERVICE COMMERCIAL)
- STORIES: 2 + UNDERGROUND GARAGE
- MAX BLDG. HT: 30 FT ALLOWED
- CUT/FILL: 5,368 C.Y. CUT / 0 C.Y. FILL
- CUT / FILL CALCULATIONS
  1002.33' = AVERAGE GRADE
  988' = B.O. GARAGE SLAB & SUBSTRATE (SAND, ROCK)
  1002.33' - 988' = 14.33 X 9,805 = 144,946 C.F. = 5,368 C.Y.
- TREE REMOVAL: SEE A1.1
- TOPOGRAPHY: SEE TOPOGRAPHIC MAP, SHEET 1 OF 1
- PROJECT CODE COMPLIANCE:
  2023 CBC, CMC, CPC, CFC, CEC, CALIFORNIA GREEN BUILDING CODE & 2023 CALIFORNIA ENERGY CODE
- LOT AREA: 12,000 S.F. (0.276 AC.)
- BUILDING COVERAGE ALLOWED:
  17.14.130
  A. EXCEPTIONS MAY BE GRANTED UP TO A MAXIMUM BUILDING COVERAGE OF 95 PERCENT = 95% (11,400 SF)
- BUILDING COVERAGE CALCULATIONS

	EXISTING TO BE REMOVED	EXISTING TO REMAIN	PROPOSED
	-2,269 S.F.	692 S.F.	8,930 S.F.
TOTAL	-18.9%	5.77%	74.42%

TOTAL: EXISTING TO REMAIN + PROPOSED = 9,622 SF (80.18%)

- FLOOR AREA RATIO (FAR) ALLOWED:
  FOR 2 STORIES = 135% (16,200 S.F.)
  + INTRABLOCK ACCESS = 10% (1,200 S.F.)
  TOTAL = 145% (17,400 S.F.)
- FAR CALCULATIONS

	EXISTING TO BE REMOVED	EXISTING TO REMAIN	PROPOSED
GROUND FLOOR	-2,269 S.F.	692 S.F.	7,620 S.F.
SECOND FLOOR	-1,597 S.F.		7,731 S.F.
TOTAL	-3,866 S.F.	692 S.F.	15,351 S.F.

TOTAL: EXISTING TO REMAIN + PROPOSED = 16,043 (133.7%)

- NOT INCLUDED IN FAR CALCULATIONS

	EXISTING	PROPOSED
BASEMENT (GARAGE)	0	9805 S.F.

- PARKING REQUIREMENTS
  COMMERCIAL RETAIL REQ. 1 PER 600 SQ. FT.
  7476 / 600 S.F. = 12.46 = 13 SPACES
  RESIDENTIAL REQUIRES 1 PER UNIT
  8 UNITS = 8 SPACES
  TOTAL REQ. = 21 SPACES
  ACCESSIBILITY REQ.
  VAN PARKING REQ. = 1 PER 25 SPACES

  TOTAL REQ. = 10 COMPACT PARKING SPACES
  10 STANDARD PARKING SPACES
  1 ACCESSIBLE VAN PARKING SPACES
  21 SPACES

  TOTAL PROVIDED = 10 COMPACT PARKING SPACES
  10 STANDARD PARKING SPACES
  1 ACCESSIBLE VAN PARKING SPACES
  21 SPACES

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STAMPS:

PROJECT/CLIENT:

JB PASTOR BUILDING

PROJECT ADDRESS:

DOLORES, 2ND SE OF 7TH
CARMEL, CA
93921

APN: 010-145-012
022, & 023

DATE: MAY 11, 2023
HRB SUBMITTAL

REVISIONS:

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4 _____
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SITE PLAN

SHEET NO.

A1.0



NOTES:

1. BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY DATA SHOWN HEREON ARE FROM THE RECORDS.

2. THIS TOPOGRAPHIC SURVEY HAS BEEN COMBINED WITH A PREVIOUSLY MAPPED RASMUSSEN LAND SURVEYING INC TOPOGRAPHIC SURVEY MAP (LOT 6 AND 8) TO PROVIDED AN OVERALL PROJECT BASEMAP. L&S ENGINEERING AND SURVEYING INC IS NOT RESPONSIBLE FOR THE TOPOGRAPHIC MAPPING ACCURACY FROM THE RASMUSSEN MAPPING, HOWEVER AN EFFORT HAS BEEN MADE TO COMBINE MAPS AND REVIEW FOR COMPLETENESS.

3. DISTANCES SHOWN ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

4. TREE TYPES ARE INDICATED WHERE KNOWN. DIAMETERS OF TREES ARE SHOWN IN INCHES AND ARE APPROXIMATE ONLY, TO BE VERIFIED BY AN APPROVED ARBORIST. TREES SMALLER THAN 6" ARE NOT NECESSARILY SHOWN. DIRECTION OF GROWTH AND DRIP LINE SHAPE TO BE VERIFIED BY OTHERS.

5. ELEVATION SHOWN ARE BASED ON AN ASSUMED DATUM. PROJECT BENCHMARK ELEVATION – CUT CROSS – ON PAVERS BETWEEN PLANTERS AS SHOWN ABOVE. ELEV=1000.55

6. POSITION AND DIMENSIONS (IF ANY) OF BUILDINGS AND OTHER STRUCTURES ARE SHOWN HEREON APPROXIMATE ONLY DUE TO MEASUREMENT LIMITATIONS, IRREGULAR SHAPE OF BRICK FACING, POP-OUTS, BULL NOSE CORNERS, ETC.

7. ENTITLEMENTS OR ENCUMBRANCES AFFECTING THIS PROPERTY MAY NOT NECESSARILY BE SHOWN.

L&S ENGINEERING AND SURVEYING, INC
2460 Garden Road, Suite G, Monterey, California 93940
P: 831.655.2723 F: 831.655.3425
LandSengineers.com

DRAWN BY: P/M
DESIGNED BY: N/A
DATE: 12/21/18
SCALE: 1" = 8'
JOB NUMBER: 19-47
LAST REVISED: 7/27/20
REVISED BY: CJS

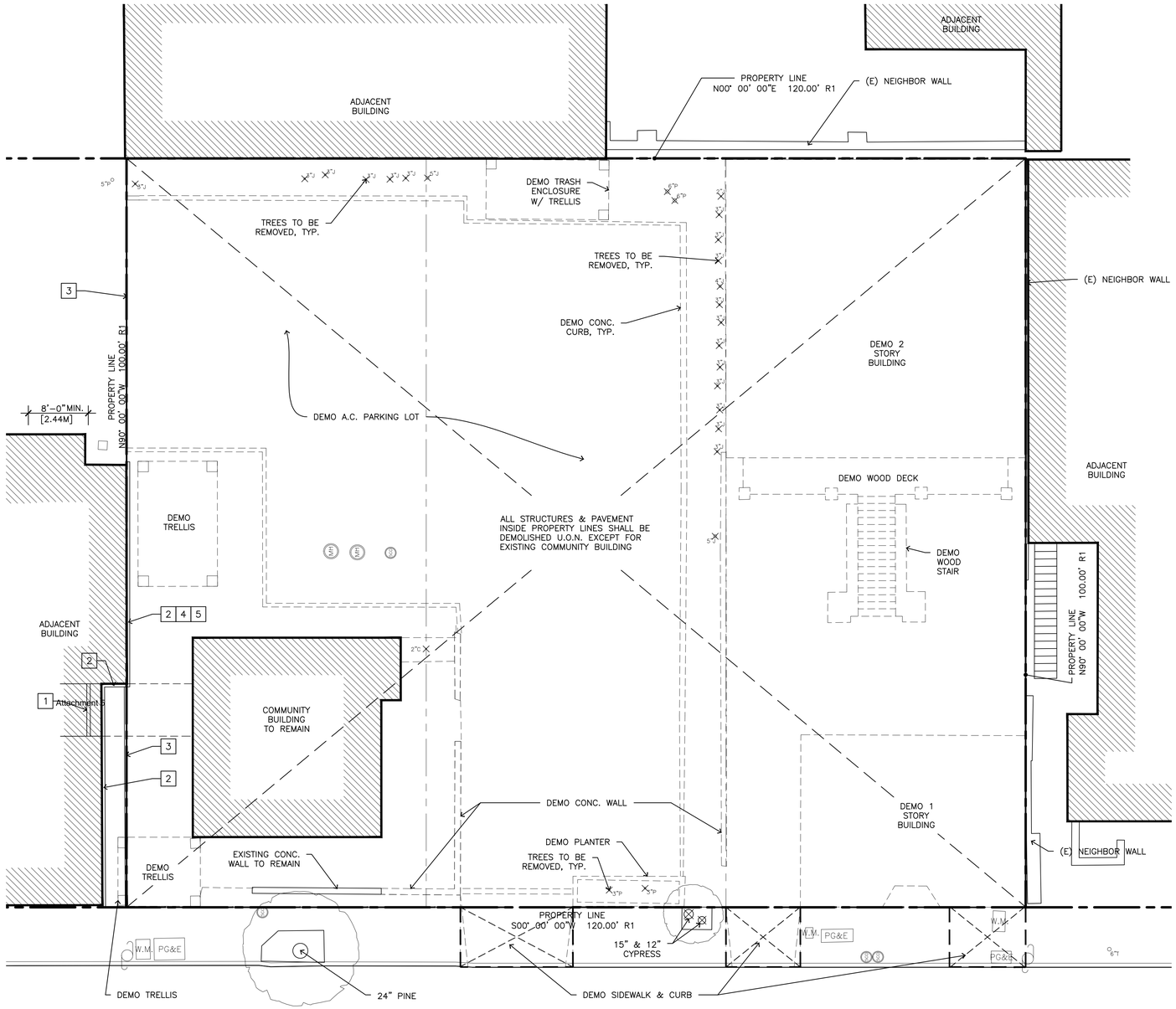
PREPARED FOR:
INTERNATIONAL DESIGN GROUP, INC.
721 LIGHTHOUSE AVE
PACIFIC GROVE, CA

TOPOGRAPHIC SURVEY
DOLORES, 2SE OF 7TH
LOTS 6, 8, & 10
CARMEL-BY-THE-SEA

SHEET 1 OF 1 SHEET

PROFESSIONAL LAND SURVEYOR FRANK LUCIDO JR. No. 8368 STATE OF CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER CHRISTOPHER J. DUTRA No. 59685 EXP. 12-31-21 CIVIL STATE OF CALIFORNIA



SITE DEMOLITION PLAN

1/8"=1'-0"

0' 4' 8' 16'

0 1.25M 2.5M 5M

N

TREE REMOVAL

TREE	SIZE	QUANTITY
JUNIPER	5"ø	2
JUNIPER	4"ø	1
JUNIPER	3"ø	17
JUNIPER	2"ø	1
PINE	6"ø	2
PINE	3"ø	2
CHERRY	2"ø	1

TOTAL TO BE REMOVED: 26 – PRIVATE PROPERTY

CYPRESS	15"ø	1
CYPRESS	12"ø	1

TOTAL TO BE REMOVED: 2 – PUBLIC PROPERTY

26 PRIVATE + 2 PUBLIC

TOTAL TO BE REMOVED: 28

HISTORIC BUILDING PROTECTION PLAN KEY NOTES

1. CONSTRUCT BARRICADE WALL TO CLOSE OPENING TO BRIDGE–WALK INSIDE OF (E) BUILDING PRIOR TO ANY DEMOLITION WORK.
2. PROVIDE FULL HEIGHT VINYL SHEET TO WALL FOR DUST PROTECTION. ALSO IT SHALL SEAL DOORS, WINDOWS & OTHER OPENINGS PRIOR TO ANY DEMOLITION WORK.
3. CONSTRUCT 6' HIGH SELF–SUPPORTING PLYWOOD BARRICADE WALL
4. ITEM 3 OVER ITEM 2. DEVELOPMENT TEAM SHALL DESIGN THIS WALL W/O ANY ATTACHMENTS TO (E) BUILDING.
5. DEVELOPMENT TEAM TO DESIGN & PROVIDE UNDERPINNING OF (E) BUILDING. FOOTING AS REQUIRED BY THE CONSTRUCTION OF BASEMENT GARAGE.

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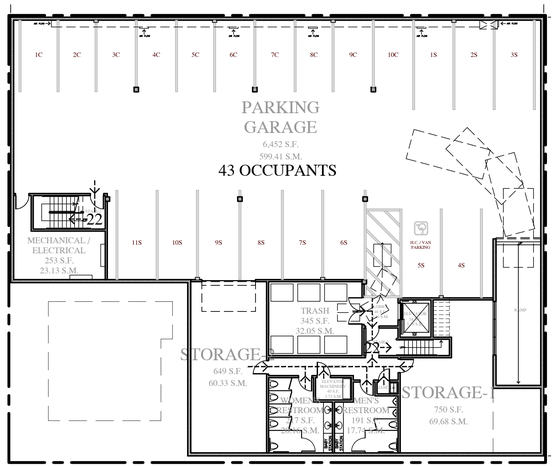
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SITE DEMO & HISTORIC BLDG. PROTECTION PLAN

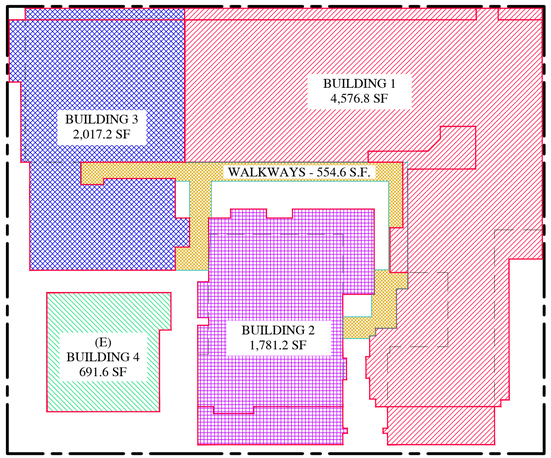
SHEET NO.

A1.1



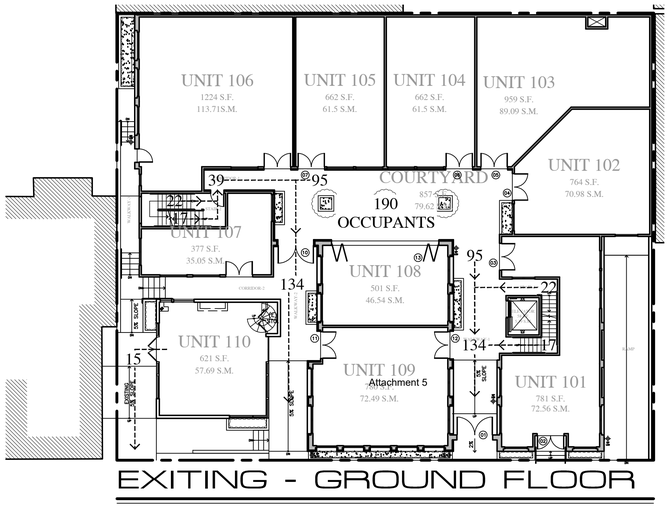
EXITING - BASEMENT PLAN

1/16"=1'-0"



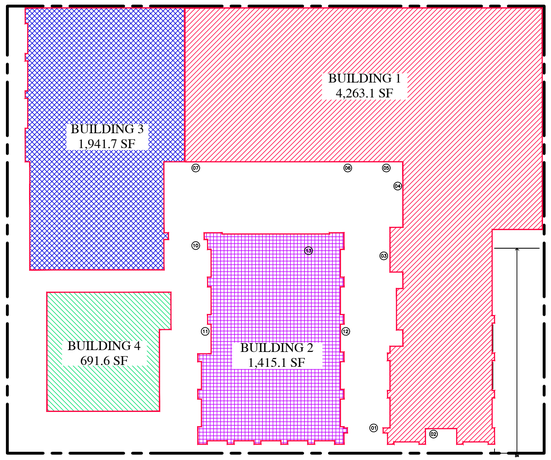
BUILDING COVERAGE

1/16"=1'-0"



EXITING - GROUND FLOOR

1/16"=1'-0"



F.A.R. - GROUND FLOOR

1/16"=1'-0"

EXITING - 2ND FLOOR

1/16"=1'-0"

N

F.A.R. - 2ND FLOOR

1/16"=1'-0"

EXIT ANALYSIS

BASEMENT

TYPE S-2 OCCUPANCY
PARKING GARAGE = 6,452/200 GROSS = 32.26 = 33 OCCUPANTS

TYPE S-3 OCCUPANCY

STORAGE-1	= 750 SF
STORAGE-2	= 649 SF
MECHANICAL/ELECTRICAL	= 253 SF
STAIR-1	= 89 SF
STAIR-2	= 121 SF
TRASH	= 345 SF
ELEVATOR	= 58 SF
LOBBY	= 48 SF
MEN'S RESTROOM	= 191 SF
WOMEN'S RESTROOM	= 217 SF
ELEVATOR MECHANICAL	= 40 SF
JANITOR	= 12 SF
TOTAL	= 2,773 SF/300 GROSS = 9.24 = 10 OCCUPANTS

S-2, & S-3 OCCUPANT LOAD = 43 OCCUPANTS > 2 EXITS REQUIRED > 22 OCCUPANTS EACH

EXIT WIDTH REQUIRED:
48 X 0.2" = 9.6" @ DOOR > 72" PROVIDED
48 X 0.3" = 14.4" @ STAIR > 88" PROVIDED

GROUND FLOOR

TYPE A-2 OCCUPANCY (ASSEMBLY)

UNIT-108	= 501 SF/15 NET = 33.4 = 34 OCCUPANTS
UNIT-109	= 780 SF/15 NET = 52 = 52 OCCUPANTS

TYPE B OCCUPANCY (BUSINESS) 100 SF GROSS = OCCUPANTS
TYPE M OCCUPANCY (MERCANTILE) 60 SF GROSS = OCCUPANTS

CALCULATED FOR TYPE M

UNIT-101	= 781 SF
UNIT-102	= 764 SF
UNIT-103	= 959 SF
UNIT-104	= 662 SF
UNIT-105	= 662 SF
UNIT-106	= 1,224 SF
UNIT-107	= 377 SF
UNIT-110	= 766 SF
TOTAL	= 6,195 SF/60 GROSS = 103.25 = 104 OCCUPANTS

A-2 + M(B) OCCUPANT LOAD = 190 OCCUPANTS > 2 EXITS REQUIRED > 95 OCCUPANTS EACH

EXIT WIDTH REQUIRED:
95 X 0.2" = 19" @ DOOR > 72" PROVIDED
95 X 0.3" = 28.5" @ STAIR > 88" PROVIDED

2ND FLOOR

TYPE R-2 OCCUPANCY

APARTMENT-2A	= 1,308 SF
APARTMENT-2B	= 821 SF
APARTMENT-2C	= 589 SF
APARTMENT-2D	= 1,139 SF
APARTMENT-2E	= 608 SF
APARTMENT-2F	= 608 SF
APARTMENT-2G	= 1,200 SF
APARTMENT-2H	= 466 SF
TOTAL	= 6,739 SF/200 GROSS = 33.7 = 34 OCCUPANTS

R-2 OCCUPANT LOAD = 34 OCCUPANTS > 2 EXITS REQUIRED > 17 OCCUPANTS EACH

EXIT WIDTH REQUIRED:
17 X 0.2" = 3.4" @ DOOR > 72" PROVIDED
17 X 0.3" = 5.1" @ STAIR > 88" PROVIDED

F.A.R. CALCULATIONS

GROUND FLOOR		FAR BY BUILDING:
BUILDING 1	= 4,263 SF	
BUILDING 2	= 1,415 SF	BUILDING 1:
BUILDING 3	= 1,942 SF	8,256 SF
BUILDING 4	= 692 SF	
TOTAL	= 8,312 SF	BUILDING 2:
		2,933 SF
2ND FLOOR		
BUILDING 1	= 3,993 SF	BUILDING 3:
BUILDING 2	= 1,518 SF	3,930 SF
BUILDING 3	= 1,988 SF	
BUILDING 4	= 232 SF	BUILDING 4:
TOTAL	= 7,731 SF	924 SF

GROUND FLOOR + 2ND FLOOR (8,312 + 7,731) = 16,043 SF

16,043 / 12,000 = 133.7%

BUILDING COVERAGE SUMMARY

BUILDING COVERAGE	
BUILDING 1	= 4,577 SF
BUILDING 2	= 1,781 SF
BUILDING 3	= 2,017 SF
BUILDING 4 (EXISTING)	= 692 SF
WALKWAYS	= 555 SF
TOTAL	= 9,622 SF

9,622 / 12,000 = 80.18%

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JB PASTOR
BUILDING

PROJECT ADDRESS:

DOLORES, 2ND SE
OF 7TH
CARMEL, CA
93921

APN: 010-145-012
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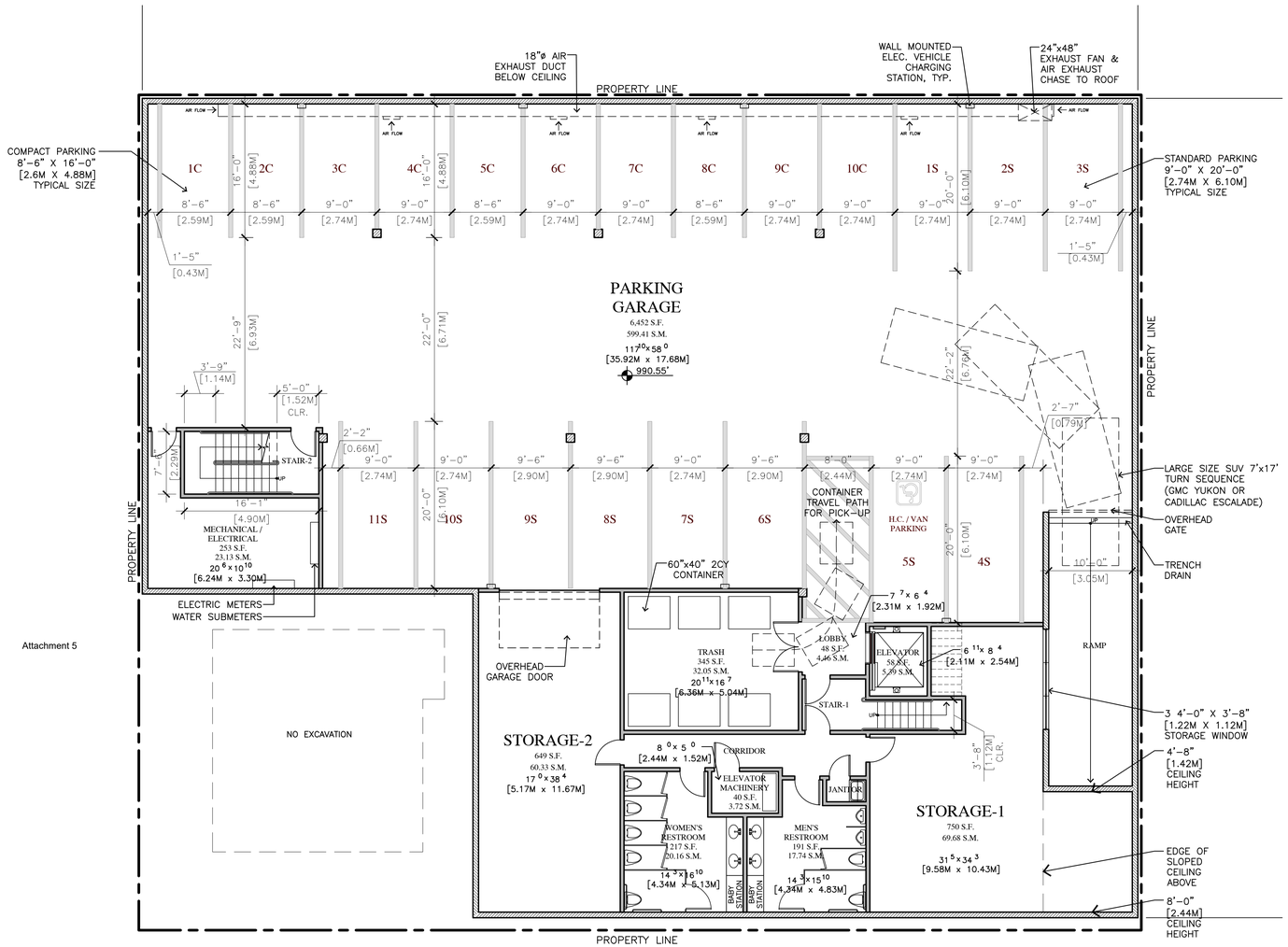
DATE: MAY 11, 2023
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EXITING, F.A.R. &
BUILDING COVERAGE
DIAGRAMS

SHEET NO.

A1.2



Attachment 5

BASEMENT PLAN

1/8"=1'-0"

WALL LEGEND

- 2X6 EXTERIOR STUD FRAMED WALL
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.

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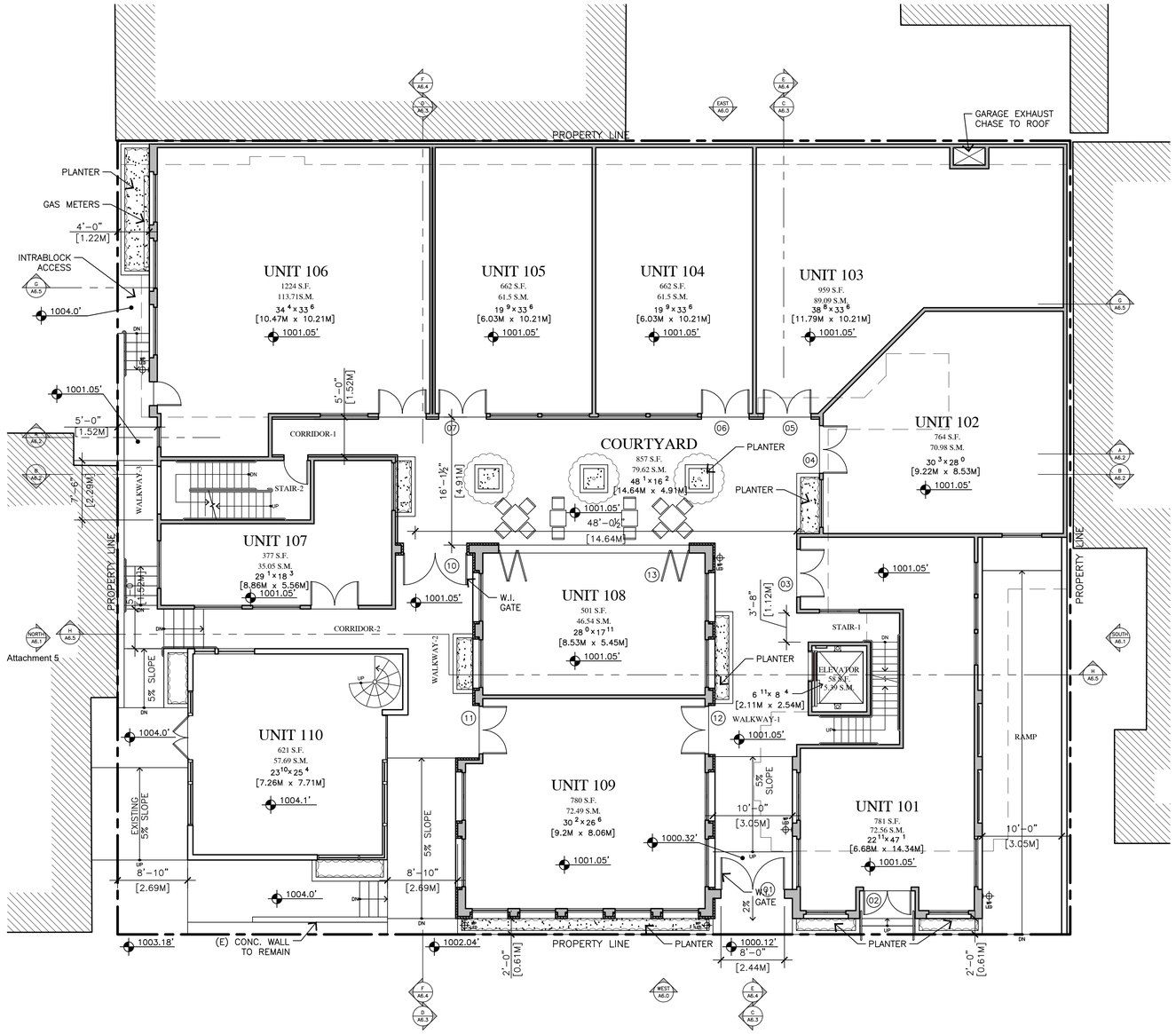
REVISIONS:

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BASEMENT PLAN

SHEET NO.

A2.0



GROUND FLOOR PLAN

0' 4' 8' 16'
0 1.25M 2.5M 5M
1/8"=1'-0"

WALL LEGEND

- 2X6 EXTERIOR STUD FRAMED WALL
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.

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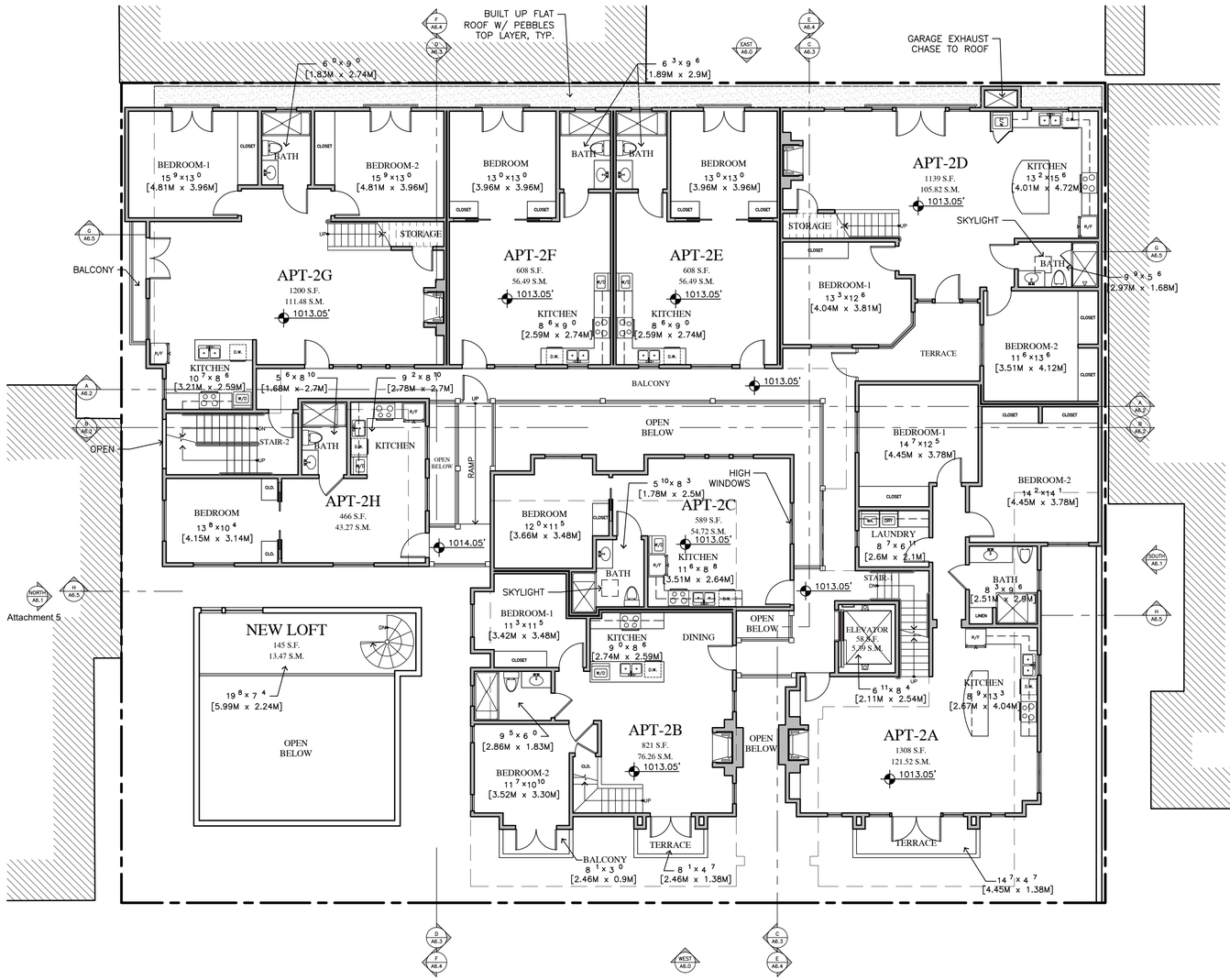
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GROUND FLOOR PLAN

SHEET NO.

A3.0



SECOND FLOOR PLAN

0' 4' 8' 16'

0 1.25M 2.5M 5M

1/8"=1'-0"

WALL LEGEND

- 2X6 EXTERIOR STUD FRAMED WALL
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.
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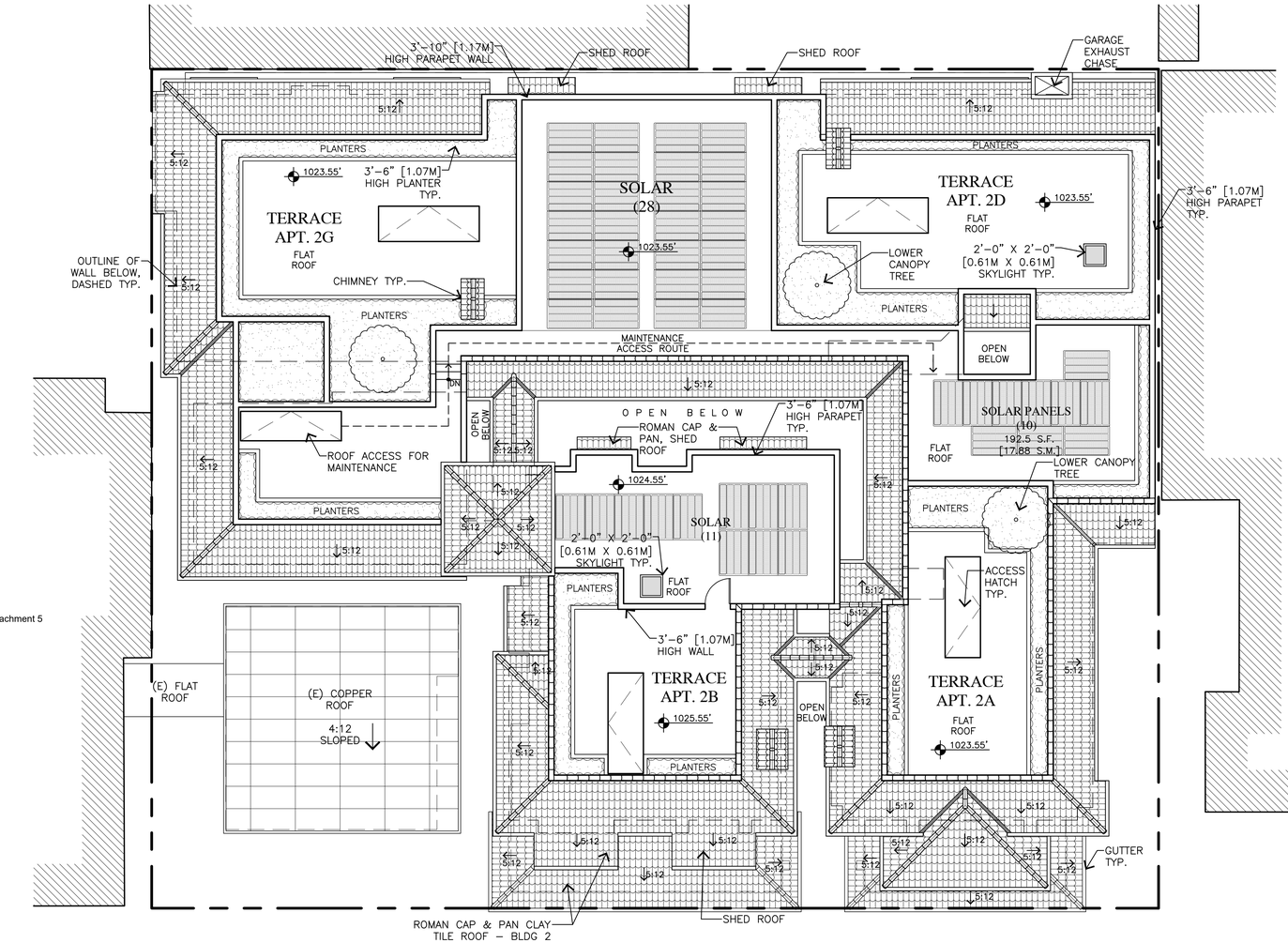
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SECOND FLOOR PLAN

SHEET NO.

A4.0



Attachment 5

ROOF PLAN

0' 4' 8' 16'

0 1.25M 2.5M 5M

1/8"=1'-0"

N

DOOR/WINDOW LEGEND

XX
X'-X" x X'-X"
DENOTES A WINDOW

XX
DENOTES A DOOR

NOTE:
SEE DOOR & WINDOW SCHEDULE FOR CORRESPONDING DOOR & WINDOW INFORMATION

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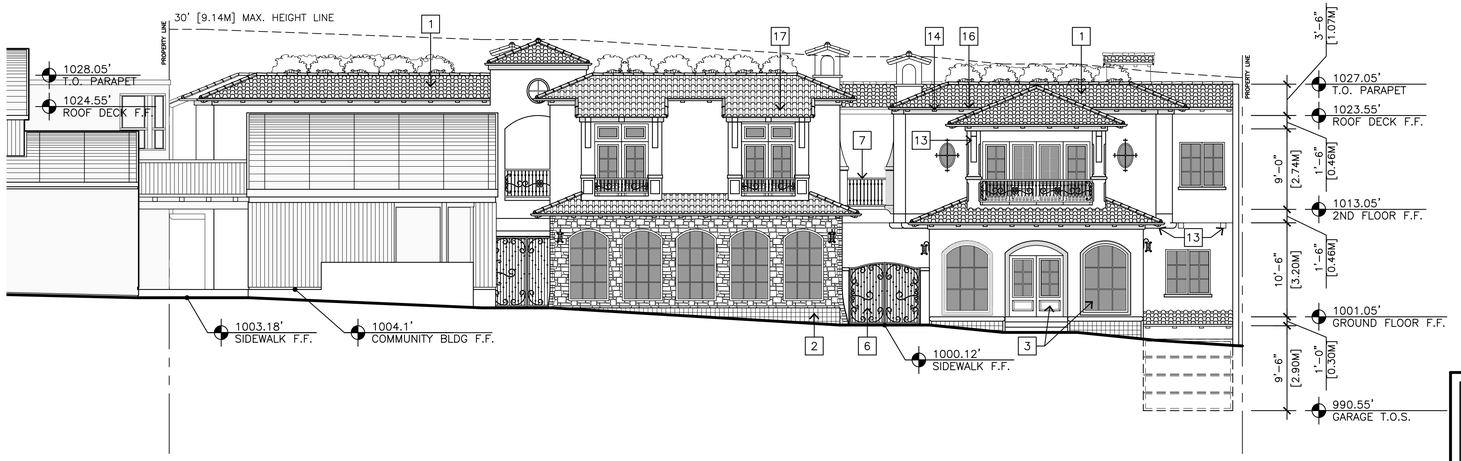
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ROOF PLAN

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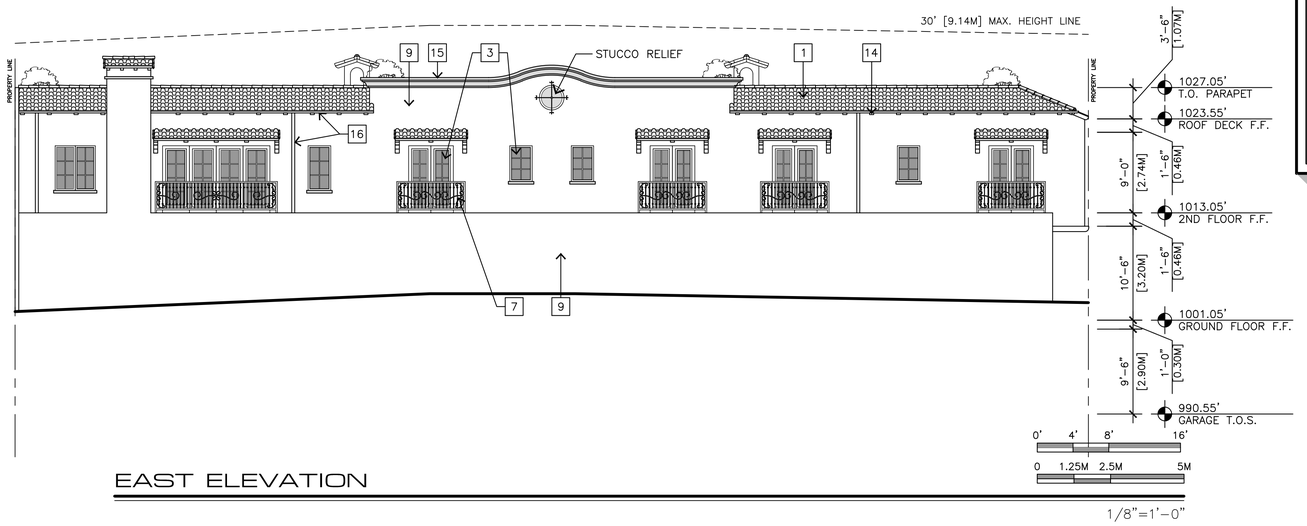
A5.0



WEST ELEVATION

1/8"=1'-0"

Attachment 5



EAST ELEVATION

1/8"=1'-0"

EXTERIOR FINISH LEGEND

1	MISSION STYLE CLAY TILE ROOF
2	DECORATIVE CERAMIC TILE
3	METAL CLAD WOOD DOORS & WINDOWS
4	PAINTED WOOD DOORS & WINDOWS
5	TRANSOM WINDOW
6	WROUGHT IRON GATE
7	WROUGHT IRON RAILING
9	STUCCO FINISH
10	RANDOM EXTERIOR STONE
11	SIMULATED LIMESTONE SILL, SURROUND & HORIZONTAL BAND
12	REDWOOD POST
13	REDWOOD BEAMS & CORBELS
14	REDWOOD RAFTER TAILS
15	SIMULATED LIMESTONE PARAPET CAP
16	PAINTED GALVANIZED GUTTERS & DOWNSPOUTS
17	ROMAN STYLE CAP & PAN CLAY TILE ROOF

JUN A. SILLANO, AIA

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022, & 023

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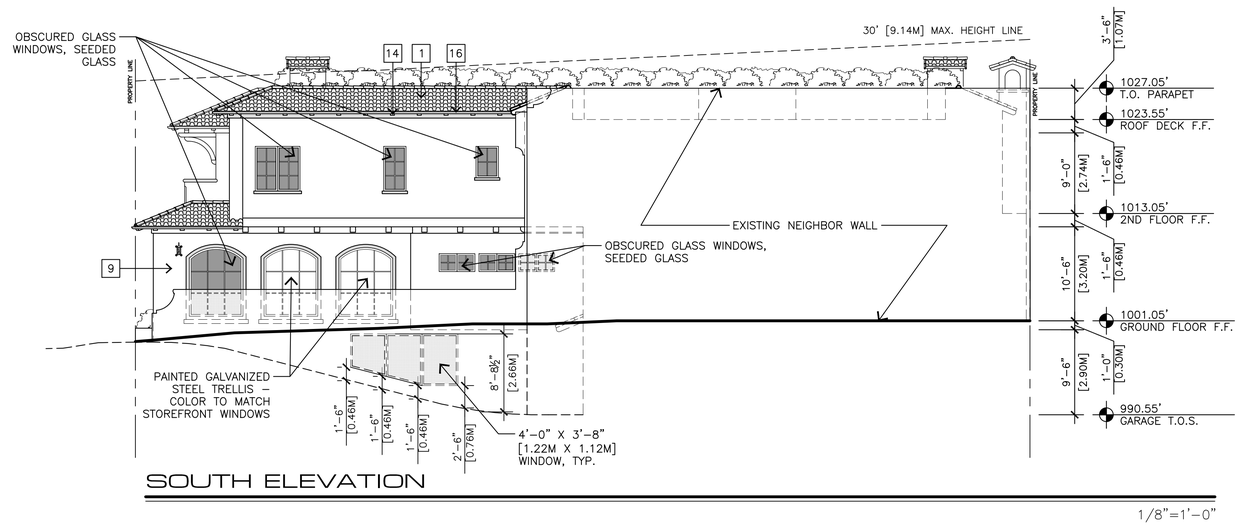
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ELEVATIONS

SHEET NO.

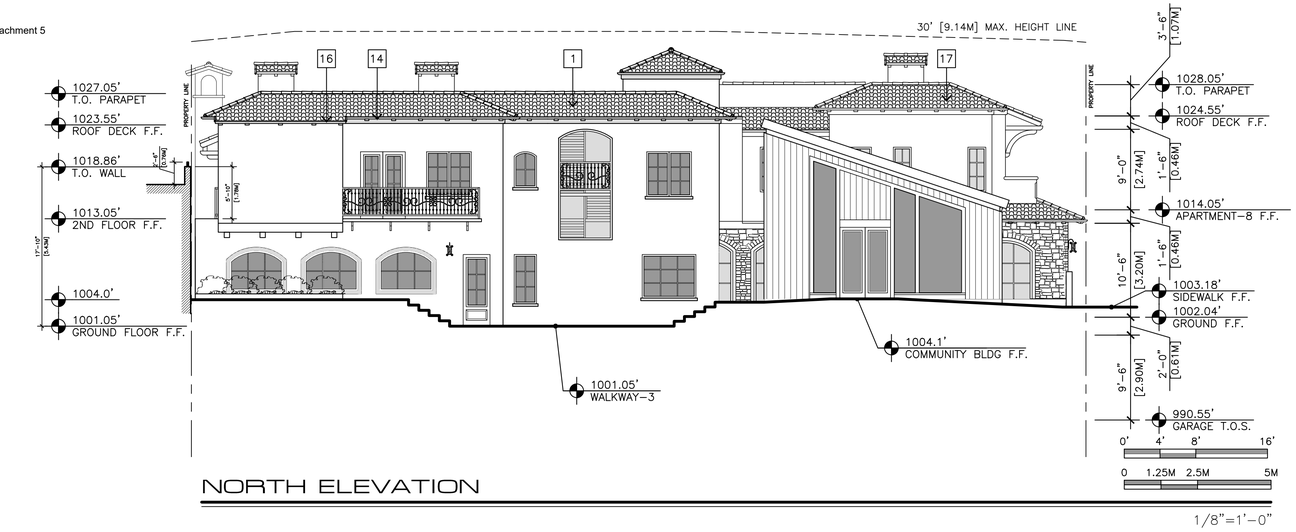
A6.0



SOUTH ELEVATION

1/8"=1'-0"

Attachment 5



NORTH ELEVATION

1/8"=1'-0"

EXTERIOR FINISH LEGEND

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16	PAINTED GALVANIZED GUTTERS & DOWNSPOUTS
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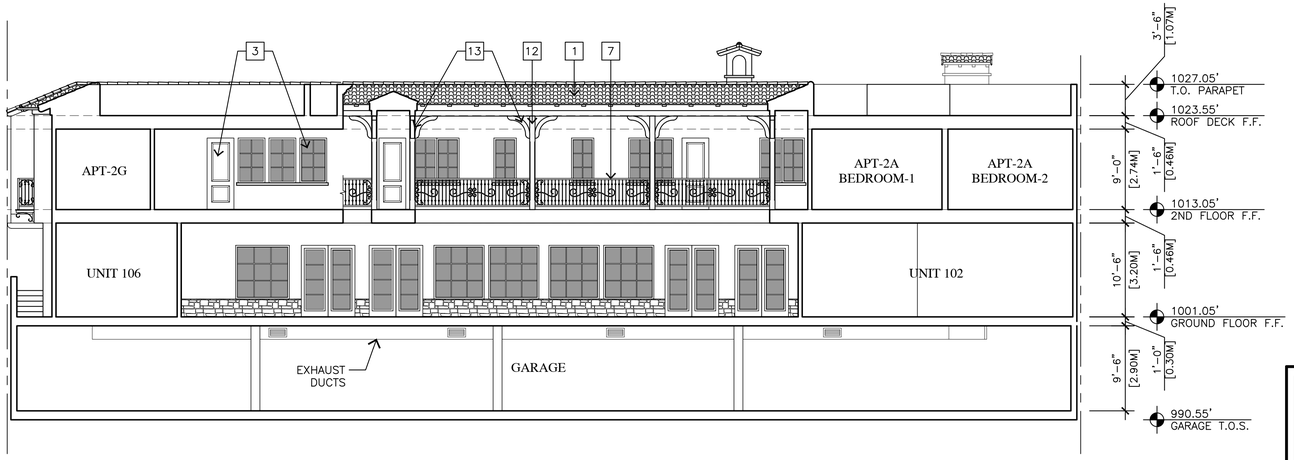
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ELEVATIONS

SHEET NO.

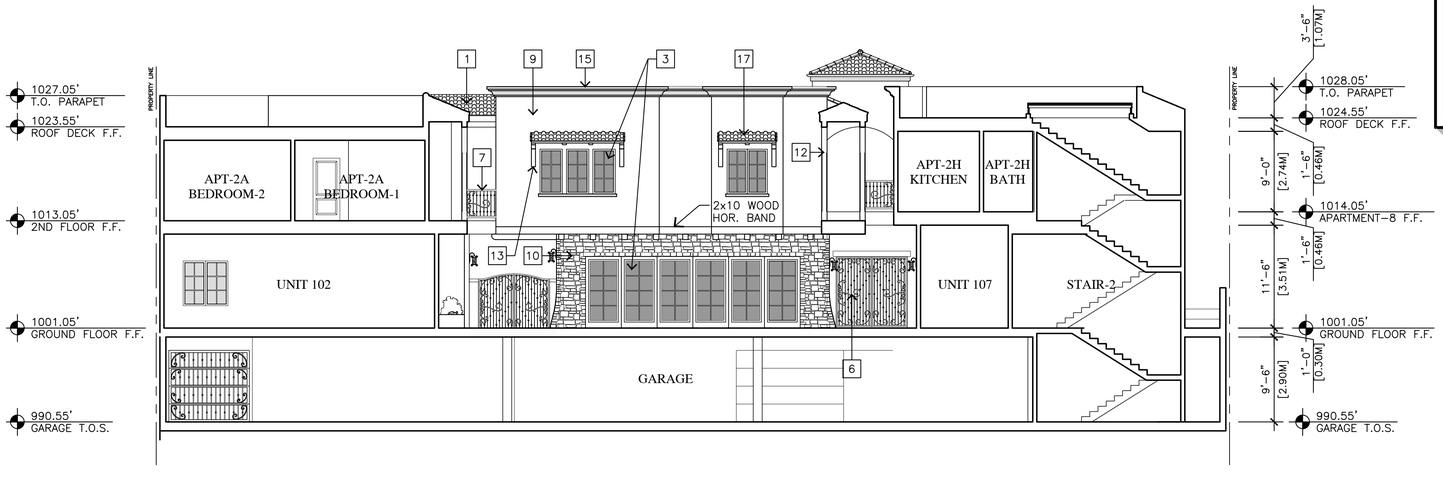
A6.1



EAST COURTYARD / SECTION A

1/8"=1'-0"

Attachment 5



WEST COURTYARD / SECTION B

1/8"=1'-0"

EXTERIOR FINISH LEGEND

1	MISSION STYLE CLAY TILE ROOF
2	DECORATIVE CERAMIC TILE
3	METAL CLAD WOOD DOORS & WINDOWS
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17	ROMAN STYLE CAP & PAN CLAY TILE ROOF

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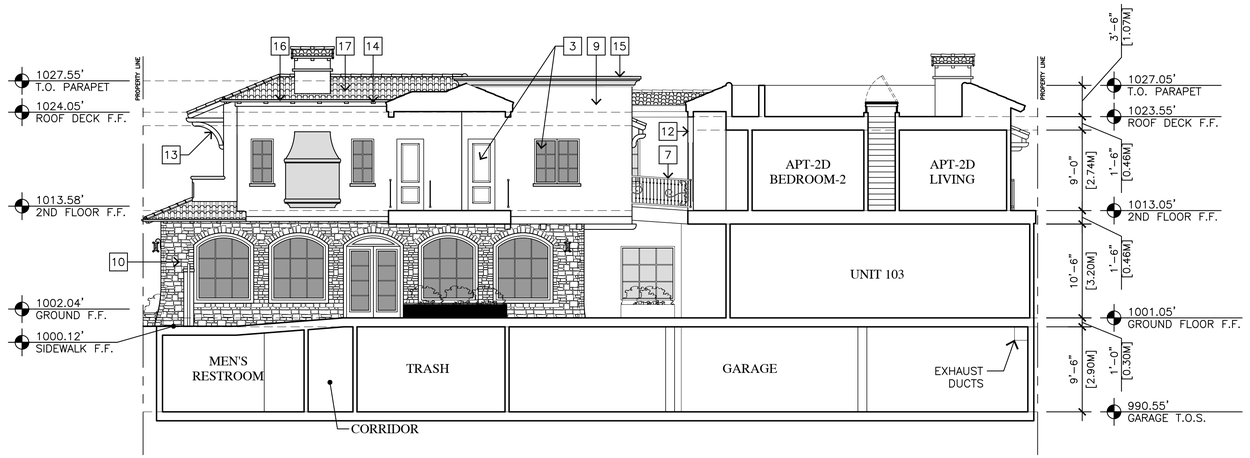
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ELEVATIONS
& SECTIONS

SHEET NO.

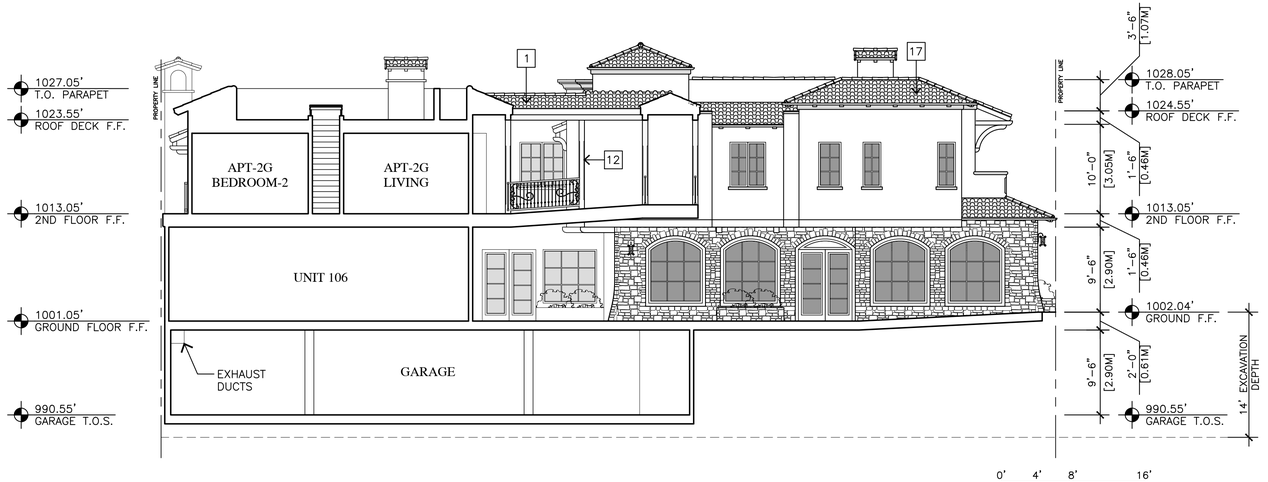
A6.2



SOUTH WALKWAY-1 / SECTION C

1/8"=1'-0"

Attachment 5



NORTH WALKWAY-2 / SECTION D

1/8"=1'-0"

EXTERIOR FINISH LEGEND

1	MISSION STYLE CLAY TILE ROOF
2	DECORATIVE CERAMIC TILE
3	METAL CLAD WOOD DOORS & WINDOWS
4	PAINTED WOOD DOORS & WINDOWS
5	TRANSOM WINDOW
6	WROUGHT IRON GATE
7	WROUGHT IRON RAILING
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15	SIMULATED LIMESTONE PARAPET CAP
16	PAINTED GALVANIZED GUTTERS & DOWNSPOUTS
17	ROMAN STYLE CAP & PAN CLAY TILE ROOF

JUN A. SILLANO, AIA

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ELEVATIONS & SECTIONS

SHEET NO.

A6.3



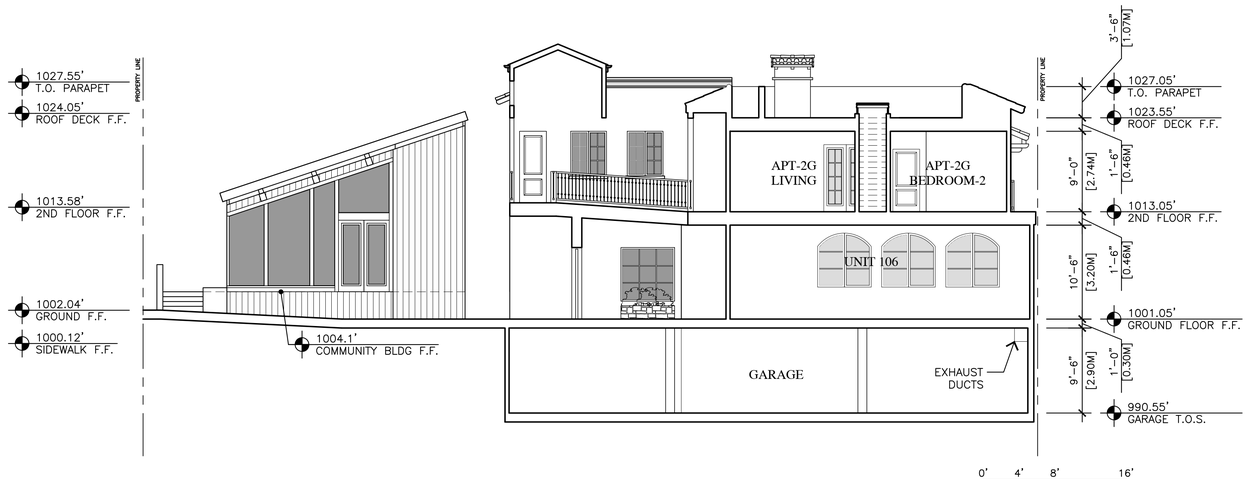
NORTH WALKWAY-1/ SECTION E

1/8"=1'-0"

EXTERIOR FINISH LEGEND

1	MISSION STYLE CLAY TILE ROOF
2	DECORATIVE CERAMIC TILE
3	METAL CLAD WOOD DOORS & WINDOWS
4	PAINTED WOOD DOORS & WINDOWS
5	TRANSOM WINDOW
6	WROUGHT IRON GATE
7	WROUGHT IRON RAILING
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15	SIMULATED LIMESTONE PARAPET CAP
16	PAINTED GALVANIZED GUTTERS & DOWNSPOUTS
17	ROMAN STYLE CAP & PAN CLAY TILE ROOF

Attachment 5



SOUTH COMMUNITY BUILDING / SECTION F

1/8"=1'-0"

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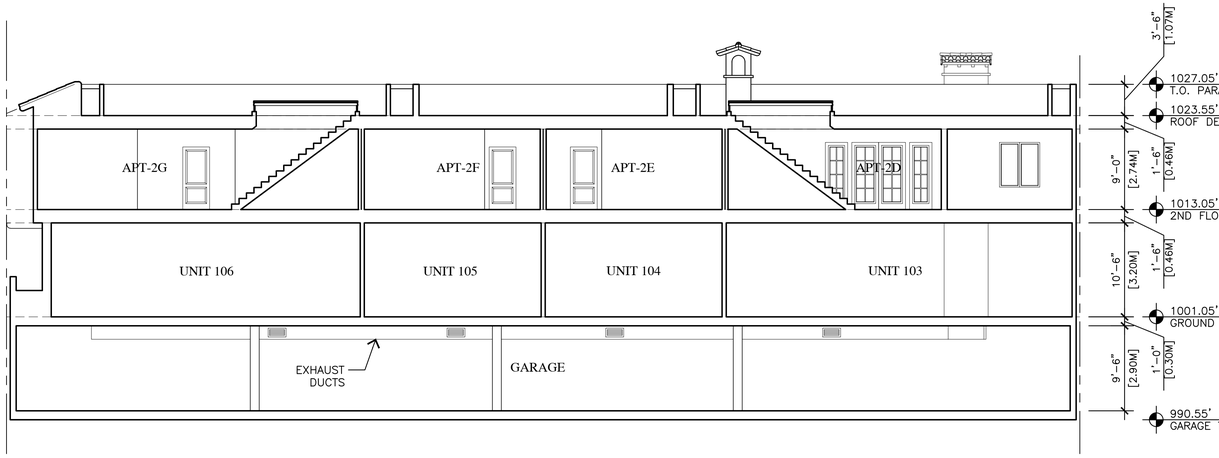
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ELEVATIONS & SECTIONS

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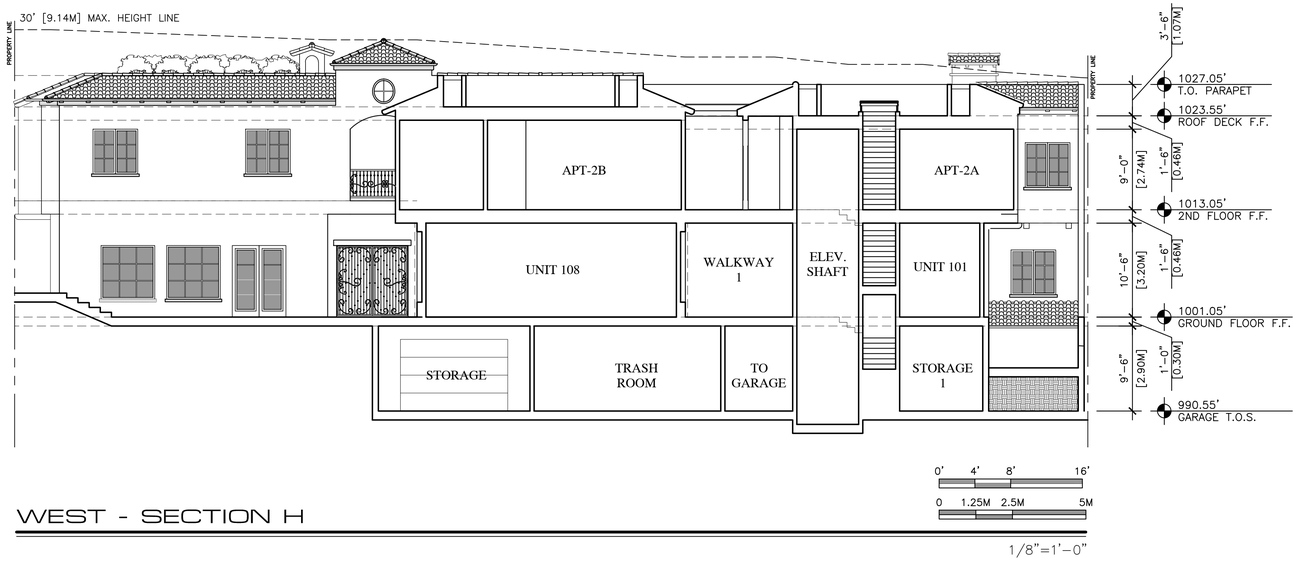
A6.4



WEST - SECTION G

1/8"=1'-0"

Attachment 5



WEST - SECTION H

1/8"=1'-0"

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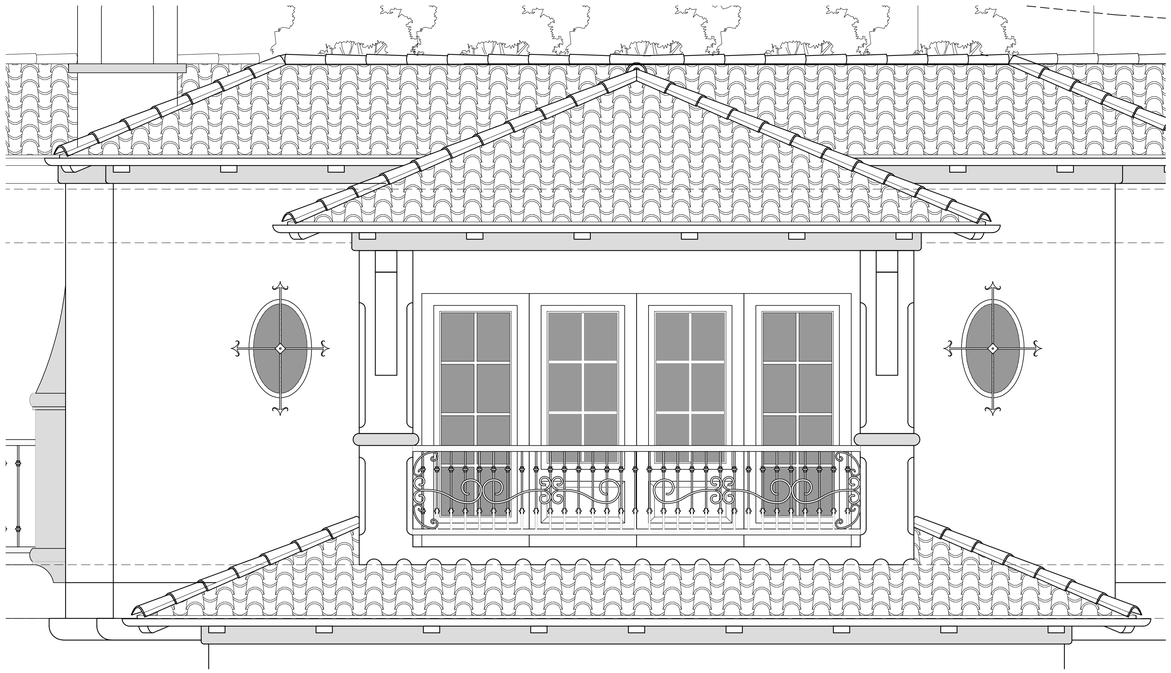
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SECTIONS

SHEET NO.

A6.5



APARTMENT-2A TERRACE

1/2"=1'-0"



APARTMENT-2B TERRACES

1/2"=1'-0"

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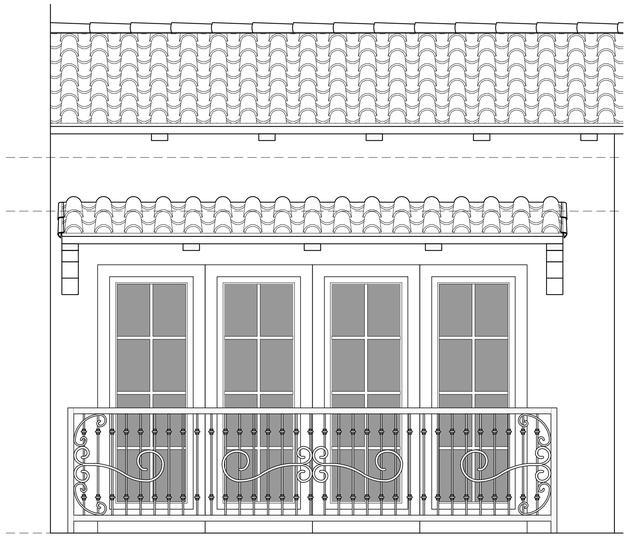
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TERRACE
DETAILS

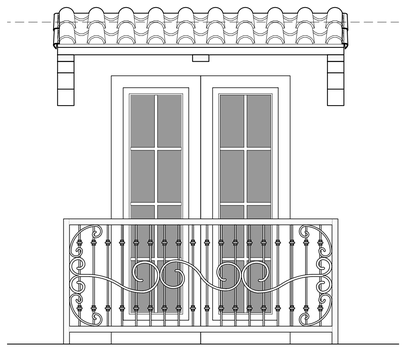
SHEET NO.

A6.7



APARTMENT-2D BALCONY

1/2"=1'-0"



TYP. BALCONY (APT. 2E, 2F, 2G)

1/2"=1'-0"

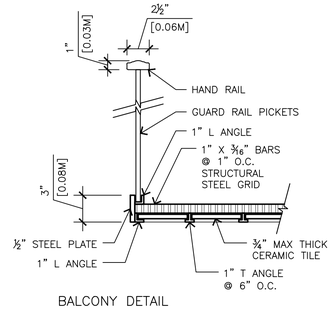


APARTMENT-2G BALCONY

1/2"=1'-0"

STAIR OPENING

1/2"=1'-0"



BALCONY DETAIL

1-1/2"=1'-0"



BALCONY PROFILE TYP.

1/2"=1'-0"

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TERRACE DETAILS

SHEET NO.

A6.8



DOLORES STREETSCAPE - EAST SIDE

0' 10' 21' 32'

Attachment 5



DOLORES STREETSCAPE - WEST SIDE

0' 10' 21' 32'

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STAMPS:

PROJECT/CLIENT:

JB PASTOR
BUILDING

PROJECT ADDRESS:

DOLORES, 2ND SE
OF 7TH
CARMEL, CA
93921

APN: 010-145-012
022, & 023

DATE: MAY 11, 2023
HRB SUBMITTAL

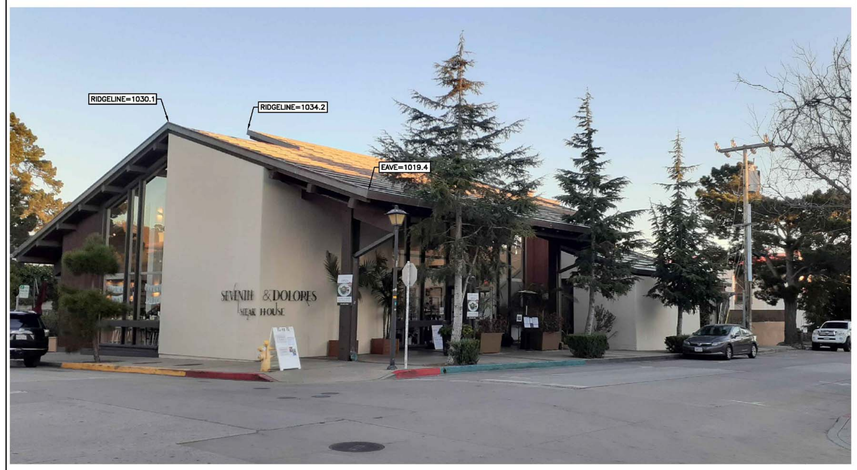
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STREETSCAPE
ELEVATIONS

SHEET NO.

A8.1



NOTE: A LOCAL BENCHMARK FOR THIS PROJECT IS A CUT CROSS ON PAVERS IN COURTYARD LOCATED AT DOLORES 2SE OF 7TH AVENUE, HAVING AN ELEVATION OF 1000.55, BASED ON ASSUMED DATUM.

LS ENGINEERING AND SURVEYING, INC.

PREPARED FOR: INTERNATIONAL DESIGN GROUP 721 LIGHTHOUSE AVENUE PACIFIC GROVE, CA 93950

DOLORES STREET ELEVATIONS EXHIBIT

SHEET 2 OF 3 SHEETS

ADJACENT BUILDING

N.T.S.



DOLORES STREETSCAPE - EAST SIDE



DOLORES STREETSCAPE - WEST SIDE

NOTE: A LOCAL BENCHMARK FOR THIS PROJECT IS A CUT CROSS ON PAVERS IN COURTYARD LOCATED AT DOLORES 2SE OF 7TH AVENUE, HAVING AN ELEVATION OF 1000.55, BASED ON ASSUMED DATUM.

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DOLORES STREET ELEVATIONS EXHIBIT

SHEET 1 OF 3 SHEETS

ADJACENT BUILDING

N.T.S.



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LS ENGINEERING AND SURVEYING, INC.

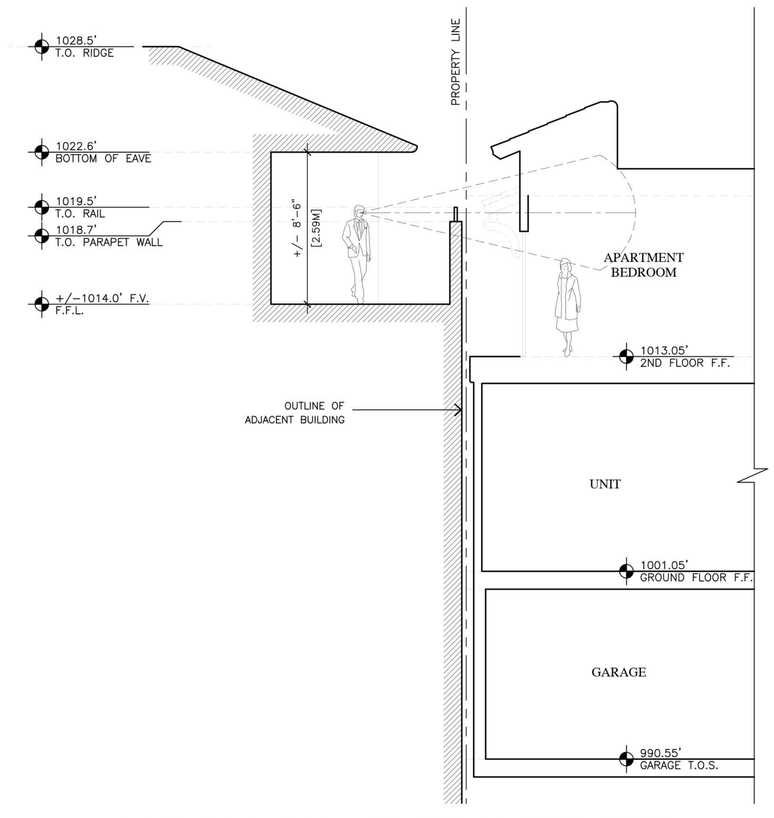
PREPARED FOR: INTERNATIONAL DESIGN GROUP 721 LIGHTHOUSE AVENUE PACIFIC GROVE, CA 93950

DOLORES STREET ELEVATIONS EXHIBIT

SHEET 3 OF 3 SHEETS

ADJACENT BUILDING

N.T.S.



SECTION THRU ADJACENT BUILDING

1/4"=1'-0"

JUN A. SILLANO, AIA

IDG

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PROJECT/CLIENT:

JB PASTOR BUILDING

PROJECT ADDRESS:

DOLORES, 2ND SE OF 7TH
CARMEL, CA
93921

APN: 010-145-012, 022, & 023

DATE: MAY 11, 2023
HRB SUBMITTAL

REVISIONS:

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ADJACENT BUILDING ELEVATIONS

SHEET NO.

A8.2





MISSION STYLE CAP & PAN CLAY TILE ROOF, TYP.



LIGHT FIXTURES - TYP.



HLS4212 Windsor Toffee

PAINT SWATCH - TYP.



PAINTED IRON RAILINGS BRONZE COLOR - TYP.



DOOR & WINDOW COLOR - TYP.



SIMULATED LIMESTONE SURROUNDS & ACCENTS



LIMESTONE TILE



DRIVEWAY PAVERS



PLANTER CERAMIC TILE



PAINTED GALVANIZED
GUTTERS & DOWNSPOUTS



OBSCURED GLASS

METAL CLAD EXTERIOR DOORS & WINDOWS -TYP.

BUILDING-2 ACCENTS



ROMAN STYLE CAP & PAN CLAY TILE ROOF, BUILDING-2







EXTERIOR RANDOM
STONE VENEER
BUILDING-2

PAINT SWATCH - BUILDING-2



DOOR & WINDOW COLOR - BUILDING-2

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APN: 010-145-012
022, & 023

DATE: MAY 11, 2023
HRB SUBMITTAL

REVISIONS:

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COLOR & MATERIAL
SAMPLES

SHEET NO.

A9.2



PROPOSED STREETSCAPE RENDER

N.T.S.

Attachment 6



EXISTING STREETSCAPE PHOTO

N.T.S.

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OF 7TH
CARMEL, CA
93921

APN: 010-145-012
022, & 023

DATE: MAY 11, 2023
HRB SUBMITTAL

REVISIONS:

1 JUNE 6, 2023
STREETSCAPE RENDERS
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STREETSCAPE
RENDERINGS

SHEET NO.

A8.3



PROPOSED STREETSCAPE RENDER

N.T.S.

Attachment 6



EXISTING STREETSCAPE PHOTO

N.T.S.

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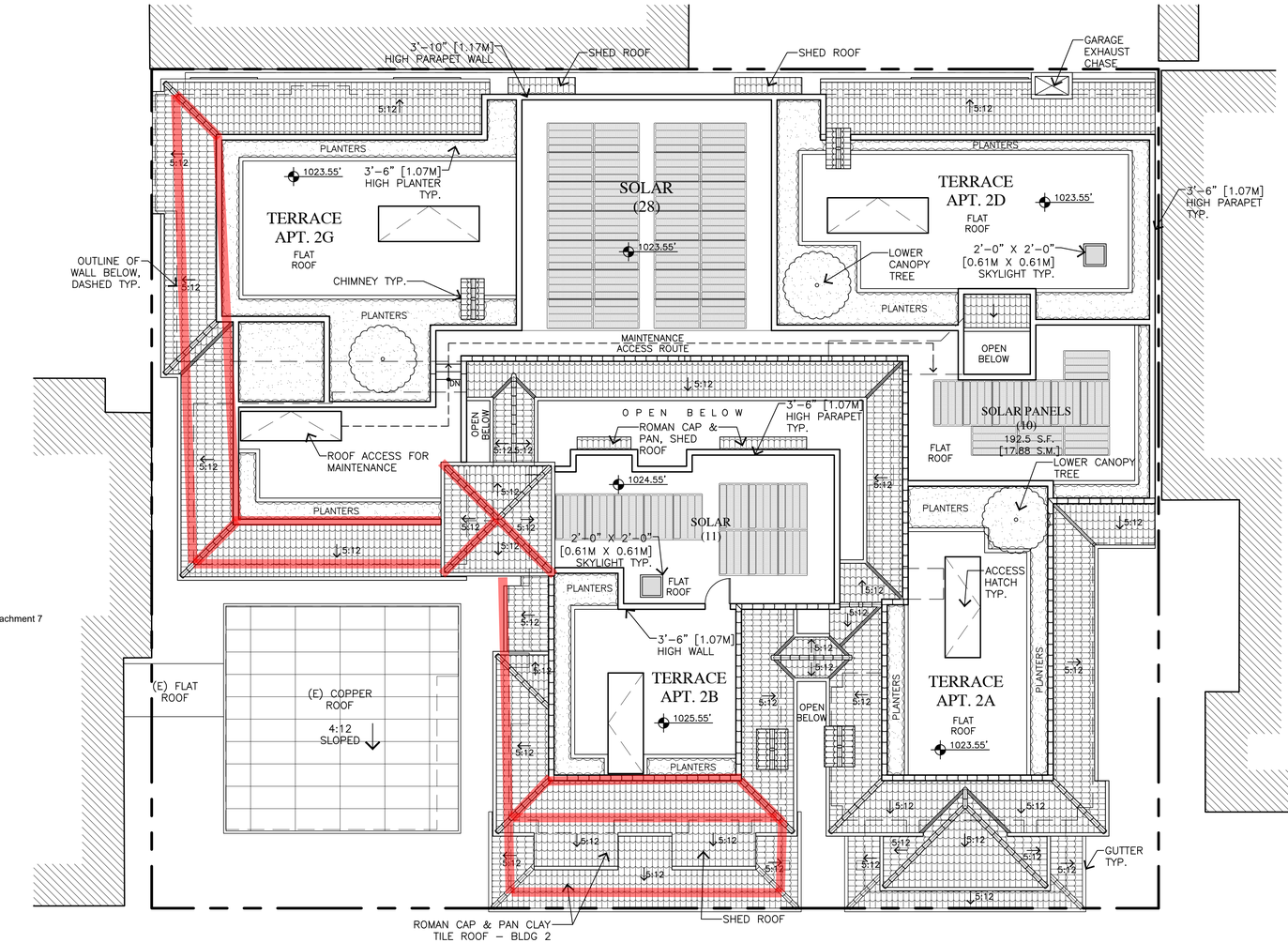
REVISIONS:

1 JUNE 6, 2023 STREETSCAPE RENDERS
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STREETSCAPE
RENDERINGS

SHEET NO.

A8.4



Attachment 7

ROOF PLAN

0' 4' 8' 16'

0 1.25M 2.5M 5M

1/8"=1'-0"

N

DOOR/WINDOW LEGEND

XX
X'-X" x X'-X" DENOTES A WINDOW

XX DENOTES A DOOR

NOTE:
SEE DOOR & WINDOW SCHEDULE FOR CORRESPONDING DOOR & WINDOW INFORMATION

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93921

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022, & 023

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HRB SUBMITTAL

REVISIONS:

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ROOF PLAN

SHEET NO.

A5.0

In review of the property file, permit history, and online records for the Complex, staff notes the following regarding the timeline wall (the information below is not intended to be an all-encompassing timeline, but is intended to provide additional context to materials and information already provided in the past staff reports and attachments).

- Plans from a 1978 office remodel (BP# 78-132) show the wall running parallel to Dolores Street, making a 90-degree turn east following the driveway, then making another 90-degree turn north, returning to the building. Heights of the wall are not noted.

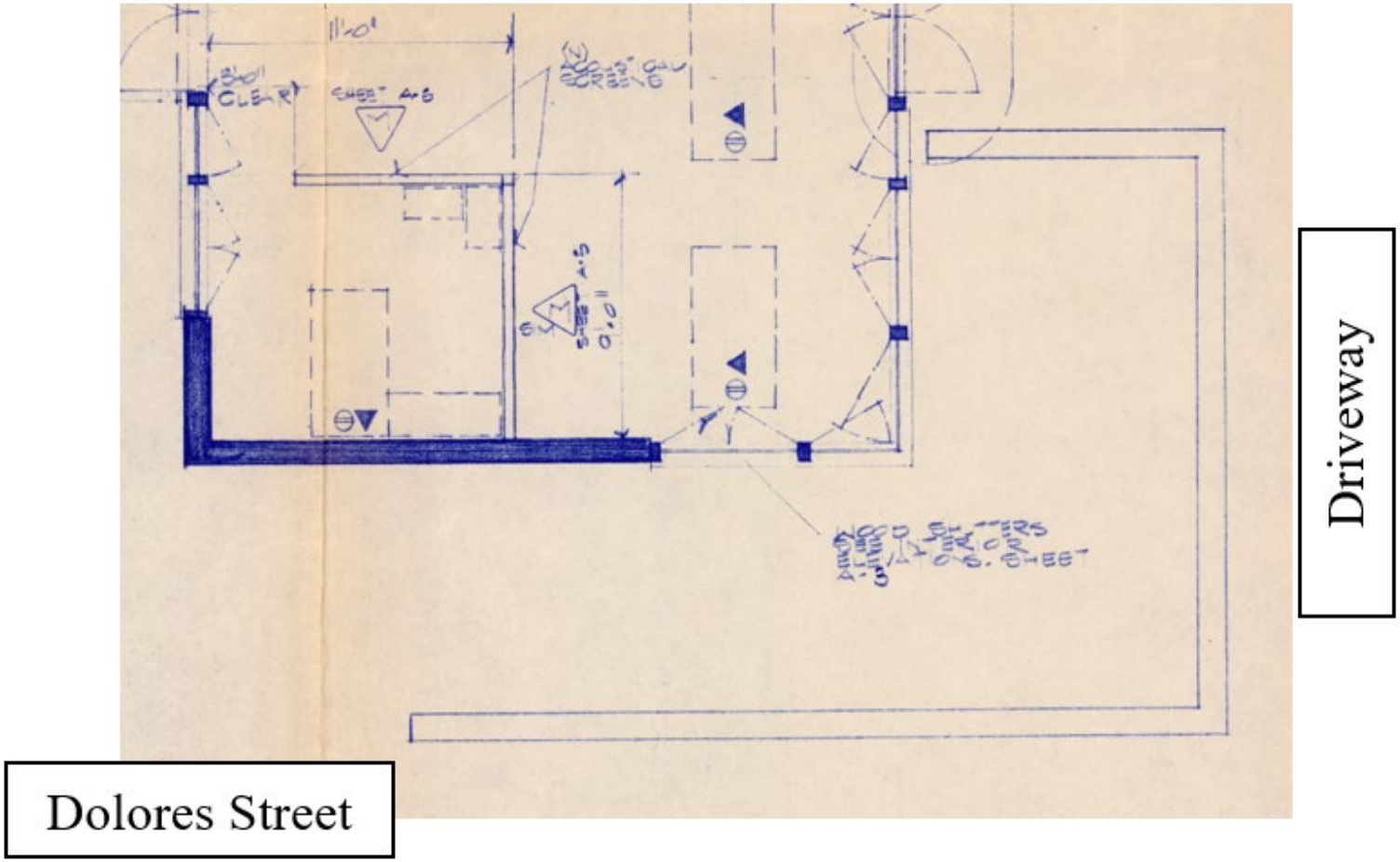


Figure 1. Partial Floor Plan.

- On November 10, 1999, the Planning Commission approved a Design Review Application (DR 99-35) to "remove concrete wall." Photos of existing wall from application materials below (see Figures 2-3)
    - The application submitted by the applicant at the time states the design objective project was for "*accessibility and greater versatility of the building instead of an ugly concrete wall*."

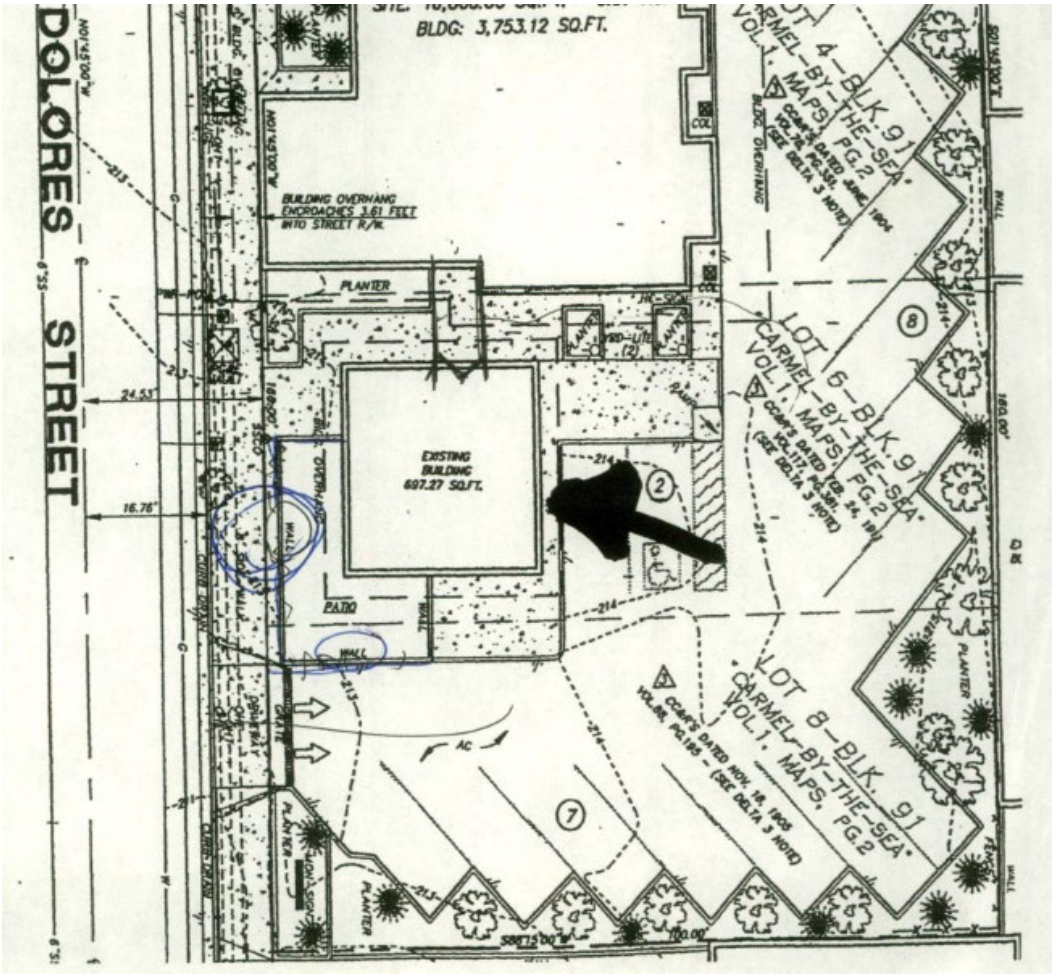


Figure 2. Partial Site Plan



Figure 3a. Photo of original concrete wall submitted as part of application materials for DR 99-35.



Figure 3b. Photo of original concrete wall submitted as part of application materials for DR 99-35.



Figure 3c. Photo of original concrete wall submitted as part of application materials for DR 99-35.



Figure 3d. Photo of original concrete wall submitted as part of application materials for DR 99-35.



Figure 3e. Photo of original concrete wall submitted as part of application materials for DR 99-35.

- *"Four-foot concrete walls define a small garden area visible through floor to ceiling windows on the south facade of the community room."* (Richard Janick, Historic Evaluation – DPR Form, 2001)
    - Height of walls noted above is unclear. Existing walls (measured from inside of courtyard area) range between ~3'6" – ~5'6" though the four-foot height may allude to the height of the wall fronting Dolores Street. Staff presumes the walls had been cut/demolished as part of the November 1999 approval when the 2001 Janick report was prepared.

- Photo from Google Street View – Jan 2008:



Figure 4. Wall viewed from Dolores Street. January 2008. Image shows wall had been cut down on Dolores Street Elevation with planter on top.

- Photo from Google Street View – June 2011:



Figure 5. Wall viewed from Dolores Street. June 2011. Image shows wall had been cut down on Dolores Street Elevation with planter on top. Portion of wall returning to Community Room visible beyond.

- On August 27, 2013, a Design Review Application (DR 13-24) for "*the installation of new glass doors on the east elevation, construction of two new wood trellises and restoration of the concrete wall along the west property line*."
    - From email correspondence from project applicant regarding the project: "*Please find copied below photographs of the existing concrete site walls. We propose to remove the existing 12" planter (photo 1+2) from the top of the west wall, and repair the finish to match the original concrete design with exposed rock aggregate (photo 3). We will submit samples for approval prior to completing this work."*
    - It is unclear as to when the planter was installed on the top portion of the wall (record could not be located). It also appears that the wall was partially covered with plaster.



Figure 6a. Photos from application materials submitted with DR 13-24 (Photo 1). Photo is a of the northern most portion of the wall fronting Dolores Street where the wall connects to a steel gate (see Figure 5, above). Wall has been installed with a planter, a lip has been added to the top area around the planter, and the wall appears to have been partially plastered over.



Figure 6b. Photos from application materials submitted with DR 13-24 (Photo 2). Photo is of the mid-section of the wall fronting Dolores Street (see Figure 5, above). Wall has been installed with a planter, a lip has been added to the top area around the planter, and the wall appears to have been partially plastered over. Original aggregate is shown on the right with plastered area shown on the planter lip and left side of the wall.

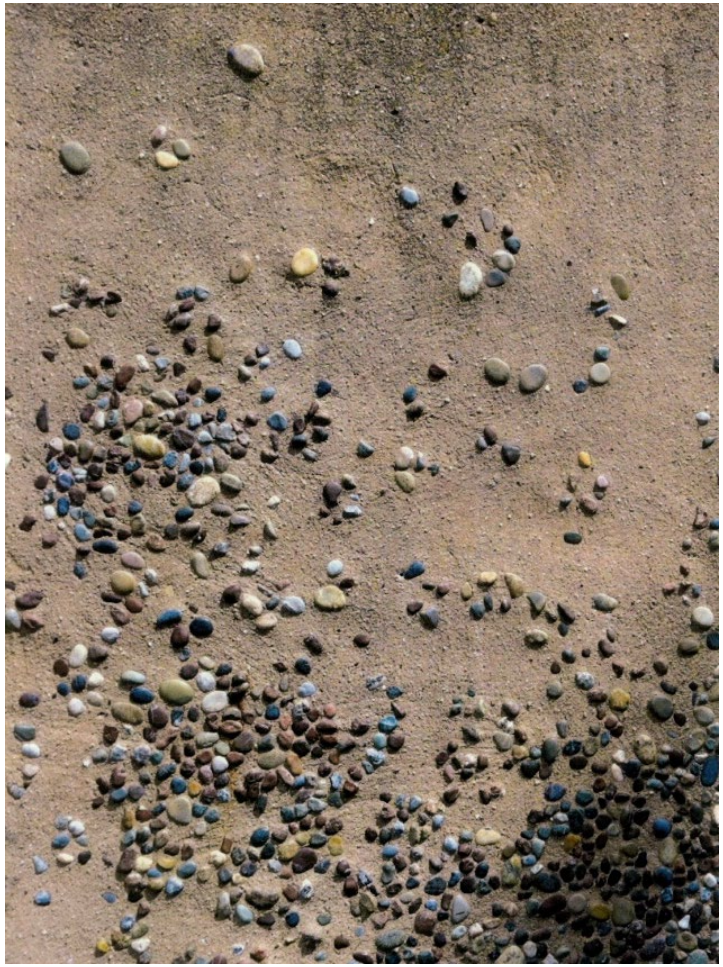


Figure 6c. Photos from application materials submitted with DR 13-24 (Photo 3).

- In July 2014, a Design Review Application, DR 14-23C was submitted. The approval included recognition of "as-built" drawings for interior remodel and site modifications. The as-built drawings show the wall in its current configuration with the portion of the wall returning to the building demolished, and the new eastern (non-original) wall addition. It is unclear if the walls were demolished as part of this approval or previously.

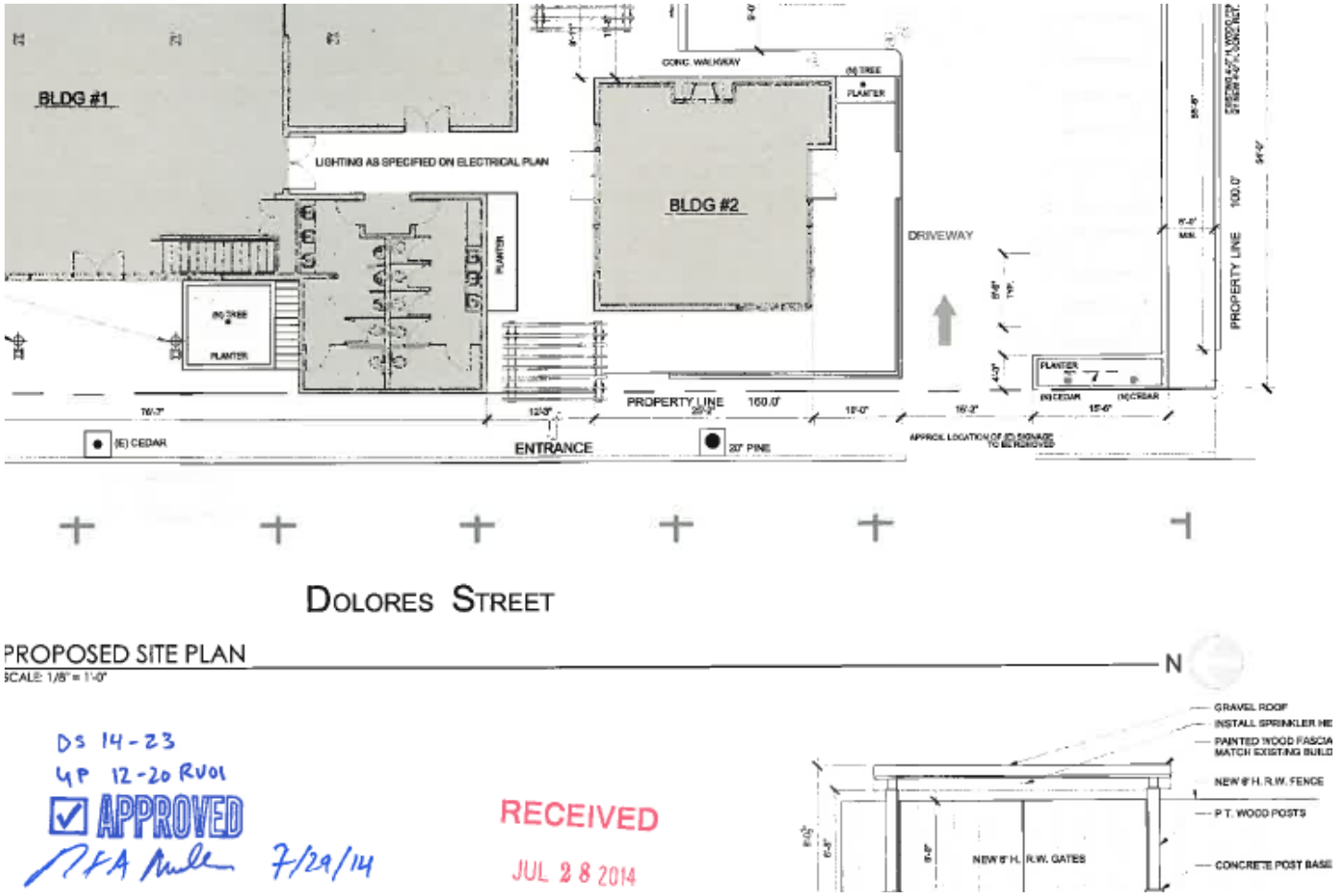


Figure 7. Partial as-built approved site plan. Wall shown in existing configuration. Return to community room demolished and new wall addition constructed.

- Photo from Google Street View – December 2016:



Figure 8. Wall viewed from Dolores Street. December 2016. Wall on fronting Dolores is repaired. All wall portions appear to be painted or stained from previous condition (see Figures 3, 5, and 6)

- Photo from Google Street View – October 2018:



Figure 9. Wall viewed from Dolores Street. October 2018.

- The existing concrete walls were proposed to be demolished entirety as part of a 2019 proposal to construct a multi-family project on the southern two lots of the complex site (DR 19-463). As part of the HRB's consideration of the project, HRB also listed the site Carmel Inventory.
    - The project (including the demolition of the walls) was found to be consistent with the Secretary's Standards, however, the decision to list the property on the local inventory was appealed to the City Council and the appeal was granted (APP 19-486). While the Determination of Consistency was granted by the HRB, formal Design Review Approval was never sought and an entitlement for the project was never granted. Ownership of the property was transferred to the current property owner who has proposed an alternate project (this subject application).

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

September 12, 2023
PUBLIC HEARINGS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Brandon Swanson, Community Planning & Building Director
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Introduction of Ordinance No. 2023-006 (first reading), which would amend the Carmel Municipal Code (CMC) Title 17 (Zoning) by repealing and replacing chapter 17.46 (Telecommunications and Wireless Facilities) and making conforming amendments to Zoning Code sections 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 and 17.70.020 and to municipal code sections 12.08.050, 12.08.060, 13.28.070; and finding the same exempt from the California Environmental Quality Act and in full conformance with the City's Local Coastal Program and the California Coastal Act

RECOMMENDATION:

It is recommended that the City Council:

1. Request the City Attorney to read the title of Ordinance 2023-006

2. Waive further reading and introduce Ordinance No. 2023-006, which would amend the Carmel Municipal Code (CMC) Title 17 (Zoning) by repealing and replacing chapter 17.46 (Telecommunications and Wireless Facilities) and making conforming amendments to Zoning Code sections 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 and 17.70.020 and to municipal code sections 12.08.050, 12.08.060, 13.28.070; and finding the same exempt from the California Environmental Quality Act and in full conformance with the City's Local Coastal Program and the California Coastal Act.

BACKGROUND/SUMMARY:

Background

At the Direction of City Council, the Community Planning and Building Department, with support from the City Attorney and special outside Counsel, has been drafting updates to the City's telecommunications and wireless facility regulations. From the outset, the policy direction from City Council was to draft the strongest wireless ordinance possible to protect the special and unique characteristics of Carmel-by-the-Sea while remaining consistent with relevant State and Federal Telecommunication Laws. Since that time, multiple drafts of the ordinance package have been prepared for community and Planning Commission feedback, ultimately leading to

a final draft that is now being considered by Council.

In an effort to walk City Council through this progression, staff has prepared three (3) matrices that show comments received on each draft package, along with if/how those comments were addressed in the subsequent draft package. Ultimately, the process resulted in a final-draft ordinance that is attached to this report as a "clean" version (Attachment 1) and "redline" version which shows all of the changes being recommended by the Planning Commission to the first-draft that was released in mid-February, 2023 (**Attachment 2**). A "redline" version showing the changes from the City's existing wireless ordinance was not prepared, since Ordinance No. 2023-006 would fully repeal and replace those regulations.

The following sections are meant to show the progression of the wireless ordinance package leading up to Council's consideration at the September 12th hearing:

First Draft

At their March 29th, 2023 Special Workshop, the Planning Commission (PC) was presented with a first-draft wireless ordinance package consisting of an ordinance amending Chapter 17.46 of the Carmel Municipal Code, and "companion" administrative documents* comprised of Application Checklists, Design Guidelines, Standard Conditions of Approval, and an Application Form. This package had been released to the public and PC for review on February 17th 2023. At the March workshop, staff received specific comments from the PC in addition to those received from the public over the preceding month. The full staff report package, including all of the first-draft documents that were presented on March 29th, 2023 can be found by clicking HERE.

> *It should be noted that unlike the ordinance amending Chapter 17.46, the "companion" administrative documents mentioned above only required PC approval, since they do not amend the City's Municipal Code. Section 17.46.020 'General Development Standards' grants authority to the Planning Commission to establish application submittal standards via resolution for Telecommunication and Wireless Facilitates. These documents, however, were part of the overall "ordinance package" that is explained in this report and have received comments and edits throughout the various draft versions leading up to their approval by the Planning Commission in August, 2023.

Second Draft:

Following the March 29th PC Workshop, staff worked with the City's outside legal counsel, Gail Karish of the firm BBK, LLP, to prepare a second-draft version of the wireless ordinance package. The second-draft sought to address substantive comments received from both the public and the Planning Commission on the first-draft ordinance package. These comments were collected, and placed into a document called "Comment Matrix #1" (**Attachment 3**). Many of the comments received were addressed through edits to one or more of the documents in the first-draft ordinance package. Some comments, however, were not incorporated for various reasons. The comment matrix includes a brief explanation of how and why comments were addressed in the second-draft ordinance package. This second-draft package was released for review by the public and PC approximately three weeks prior to a Special PC hearing on August 23rd, 2023. The full staff report package, including all of the second-draft documents, correspondences, and materials distributed at the PC hearing on August 23rd, 2023 can be found by clicking HERE.

In the days just prior to the August 23rd PC hearing, the City received substantive last minute comment

letters on the second-draft ordinance package from three wireless carriers (AT&T, T-Mobile, Verizon) and the local citizen group known as "Stop Cell Towers in Carmel Neighborhoods", (SCTCN). To assist the PC in digesting these late comments, staff prepared a second comment matrix called "Comment Matrix #2" (**Attachment 4**). This second comment matrix was formatted the same as the first one, and was used to illustrate if/how each late comment was addressed in a second set of redline documents that were presented at the hearing (these last minute redlines can also be found in the August 23rd staff report linked above by clicking on *"Materials Provided to the Commission at the August 23rd Hearing").*

Final Draft

At the August 23rd, 2023 PC hearing, the Commission considered the second-draft (released three-weeks prior on August 5th), along with the late comment letters and testimony received at the hearing. Ultimately, the PC approved a final draft for recommendation to Council which was a blend of the second-draft released on August 5th, and edits in response to the late correspondences received just before the hearing. For the most part, the ordinance version being recommended by the PC is the same as the version released on August 5th. However, since some minor changes were made in response to the late correspondences, staff has prepared a third comment matrix called "Comment Matrix #3" (**Attachment 5**). This third matrix represents all of the additional changes made by the PC to the second-draft ordinance package that was originally released on August 5th.

Hearing Process

Only Ordinance No. 2023-006 requires a formal decision by the City Council, which is comprised of a first and second reading of the ordinance for adoption. The "companion" administrative documents mentioned earlier in this report have already been approved by the PC as part of their action at the August 23rd, 2023 hearing in accordance with section 17.46.020 of the Carmel Municipal Code. This section explains approval paths for both Ordinance No. 2023-006 and the "companion" administrative documents.

- ***Ordinance*** - For all ordinances amending the City's Zoning Code (Title 17), the Planning Commission must adopt a resolution which provides a formal recommendation to the City Council regarding adoption of the subject ordinance. Attached to this report is Resolution No. 2023-044-PC (**Attachment 6**) which was adopted by the Planning Commission at their August 23rd hearing. This is the formal recommendation from the OC for the City Council to adopt Ordinance No. 2023-006. The Council now must conduct a first and second reading of the ordinance at two separate hearings. If the Council approves as-is, or only makes minor modifications to the final-draft ordinance at the first reading, then the second reading will take place the following month for adoption. If the Council wishes to make substantive changes to the final-draft being recommended by the PC, then a revised draft will either need to return to Council for another first reading, or be remanded back to the PC with direction from Council. Following approval at a first, and adoption at a second reading by Council, the ordinance must still be considered and certified by the California Coastal Commission (CCC) as part of a Local Coastal Program (LCP) amendment prior to becoming effective. The ordinance would become effective immediately upon certification by the CCC.

- ***"Companion" Administrative Documents*** – As previously mentioned, the remainder of the "companion" administrative regulatory documents in the wireless ordinance package (Application Checklist, Design Guidelines, etc.) required only Planning Commission approval at a public hearing to become effective. Review and approval by City Council or the Coastal Commission is not needed for these documents to become effective or to be amended in the future. In other words, the formal ordinance and the companion regulatory documents are not tied to the same approval process. The

major benefit of these companion regulatory documents requiring only Planning Commission approval, is the efficiency with which they can be amended in the future if needed. For example, if new State or Federal laws take effect that create a gap in the Application Checklist, the document can be amended in one to two months since only Planning Commission approval would be required. If amendments needed to be made within the ordinance (Title 17), this would require a formal recommendation by the Planning Commission, two readings by the City Council, and approval by the Coastal Commission, which would take approximately one-year.

FISCAL IMPACT:

Staff time associated with development and processing of the wireless ordinance amendments is covered in the City's adopted FY 2023-24 budget. Time spent by the City's outside legal counsel is covered as part of specialized legal services, under the Contract Support line item for City Attorney services in the FY 2023-24 adopted City Budget.

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Attachment 1) Chapter 17.46 Ordinance (CLEAN)
Attachment 2) Chapter 17.46 Ordinance (REDLINE SHOWING CHANGES FROM FIRST DRAFT)
Attachment 3) Comment Matrix #1 (Changes after March 29 PC Workshop)
Attachment 4) Comment Matrix #2 (Changes the Day Before August 23 PC Hearing)
Attachment 5) Comment Matrix #3 (Changes made by PC at August 23 Meeting)
Attachment 6) Comment Matrix #3 (Changes made by PC at August 23 Meeting)

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

ORDINANCE NO. 2023-006

AN ORDINANCE OF THE CITY COUNCIL OF CARMEL-BY-THE-SEA AMENDING THE CARMEL MUNICIPAL CODE (CMC) TITLE 17 (ZONING) BY REPEALING AND REPLACING CHAPTER 17.46 (TELECOMMUNICATIONS AND WIRELESS FACILITIES) AND MAKING CONFORMING AMENDMENTS TO ZONING CODE SECTIONS 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 AND 17.70.020 AND TO MUNICIPAL CODE SECTIONS 12.08.050, 12.08.060, 13.28.070; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Carmel-by-the-Sea currently regulates the placement of wireless facilities throughout the City under Title 17, Chapter 17.46 of the Municipal Code; and

WHEREAS, Chapter 17.46 was last amended in 2004; and

WHEREAS, there have been significant changes in state and federal law affecting local authority over wireless siting since Chapter 17.46 was last amended, including the passage of new federal laws and state laws, the adoption of new Federal Communications Commission regulations and orders, the amendment of California Public Utility Commission orders related to utility infrastructure, and various judicial decisions interpreting those laws and regulations; and

WHEREAS, notwithstanding the various changes in state and federal law, local governments continue to retain authority to regulate the placement, construction, and modification of personal wireless service facilities, subject to those matters where local authority has been limited or removed by state or federal law; and

WHEREAS, Carmel-by-the-Sea has made longstanding and sustained efforts to preserve its distinct “village in a forest, by the sea” character, the natural beauty of its shoreline environment, and its charm as a popular visitor destination, by not allowing incompatible development that degrades the visual and economic value of adjoining properties, especially in residential areas; and

WHEREAS, Carmel-by-the-Sea’s topography, forested nature, location partially within and partially adjacent to California’s High Fire-Threat District (HFTD), and narrow streets, with few gutters or sidewalks or streetlights, gives rise to many unique concerns

and situations relating to fire safety, traffic circulation, parking and pedestrian safety; and

WHEREAS, if not adequately regulated, the installation of personal wireless services facilities within the City can pose a threat to the public health, safety, and welfare; traffic and pedestrian safety hazards; negative impacts to trees; creation of visual and aesthetic blights and potential safety concerns arising from improper design or excessive size, heights, noise, or lack of camouflaging; and

WHEREAS, the City therefore intends to exercise its powers to regulate personal wireless service facilities to the maximum extent allowed by law, to protect its residents and visitors, promote public health, safety and community welfare, preserve the natural resources and unique scenic quality of Carmel-by-the-Sea, and protect the character of the City's residential neighborhoods, while nonetheless respecting and adhering to the law as it is today and may change in the future; and

WHEREAS, the City Council and Planning Commission held a joint special meeting on wireless regulation on February 28, 2022 to receive an update on changes to the law, to receive public feedback and to provide general direction to staff on an update to the City's wireless regulations; and

WHEREAS, the Planning Commission conducted a duly noticed public workshop on a draft of the wireless regulations (ordinance, design guidelines, standard conditions of approval, and application forms) on March 29, 2023 to receive public feedback; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed ordinance, design guidelines, standard conditions of approval, and application forms on August 23, 2023 at which it took public testimony, held a discussion, and voted to adopt the design guidelines, standard conditions of approval, and application forms, and to recommend that City Council adopt of the proposed code amendments (Resolution No.2023.044-PC);

WHEREAS, on September 12, 2023 the City Council held a duly noticed public hearing on the proposed code amendments;

WHEREAS, the City determined this ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines; and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (Public Resources Code Section 30510 et seq.)

SECTION 1. CEQA Review. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an

application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the applicant would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Monterey within five working days of the passage and adoption of the Ordinance.

SECTION 2. Repeal and Replacement of Chapter 17.46. Chapter 17.46 of Title 17 of the Carmel-by-the-Sea Municipal Code is hereby repealed in its entirety and replaced with the following:

Chapter 17.46
TELECOMMUNICATIONS AND WIRELESS FACILITIES

Sections:

17.46.010 Purpose and Findings.
17.46.020 Definitions.
17.46.030 Applicability.
17.46.040 General Development Standards.
17.46.050 Wireless Application Types and Submittal Requirements.
17.46.060 Application Review Procedures.
17.46.070 Public Notices, Public Hearings and Appeals.
17.46.080 Findings Required.
17.46.090 Standard Conditions of Approval.
17.46.100 Violations

17.46.010 Purpose and Findings.

A. **Purpose**. The purpose of this chapter is to establish comprehensive requirements and development standards for the siting, design, construction, maintenance and modification of wireless facilities in Carmel-by-the-Sea, including on public and private property and in public rights-of way, in order to manage their deployment and minimize adverse aesthetic impacts to Carmel-by-the-Sea's unique village character, consistent with and to the full extent of the City's authority under federal and California law.

B. **Findings**. The City Council hereby finds that:

1. Limitations on the placement of wireless facilities within the City limits are necessary to:

a. Protect Carmel-by-the-Sea's distinct "village in a forest, by the sea" character with its centralized commercial core surrounded by residential land uses.

b. Protect Carmel-by-the Sea's charm as a popular visitor destination, known as much for its spectacular coast as for its unique community character.

c. Recognize and respect that Carmel-by-the-Sea is among a limited number of California coastal communities where nearly the entire shoreline from the first public road to the sea is open to the public and easily accessible, and that over the years, Carmel has maintained a balance between preserving the beauty of the shoreline environment and adding the physical improvements that make the Carmel shoreline accessible and enjoyable to the public, keeping the entire beach and bluff as natural appearing as possible consistent with public access, habitat protection, safety and provision of limited recreational support facilities.

d. Recognize and respect that Carmel-by-the-Sea's streets are narrow in width, 26 to 34 feet, with few gutters or sidewalks and that this lack of formal development of streets throughout Carmel (with the exception of some of the downtown thoroughfares) has been a conscious effort on the part of residents to maintain a "village in a forest" atmosphere, and gives rise to many unique situations relating to traffic, circulation, parking and pedestrian safety.

2. Personal wireless services can serve as an important and effective part of Carmel-by-the-Sea's emergency response and communications.

3. The regulations contained herein are designed to promote public health, safety and community welfare, preserve the natural resources and scenic quality of Carmel-by-the-Sea and protect the character of the City's residential neighborhoods, recognizing that the preservation of the residential character in Carmel is central to all land uses, consistent with the findings in (1) and (2), while regulating managed development of wireless infrastructure throughout the City.

4. The provisions of this chapter are intended to:

a. Comply with all applicable goals, objectives and policies of the General Plan, the City's Local Coastal Program and the California Coastal Act.

b. Minimize adverse aesthetic impacts associated with wireless facilities in all districts.

c. Preserve Carmel's primarily residential character by keeping business and commerce subordinate to its residential character.

d. Comply with all federal law, Federal Communications Commission rules, regulations and standards, California law, and California Public Utilities Commission regulations and standards.

e. Ensure the safe installation and maintenance of wireless facilities to protect against fire hazards made more prevalent by Carmel's unique urbanized forest, topography and accessibility.

17.46.020 Definitions.

The definitions in this Section apply to this chapter. Undefined terms shall have the meaning assigned to them in Chapter 17.70. Per Section 17.02.090(C), to the extent that this chapter quotes or paraphrases any State or Federal Statute for convenience and any conflict is discovered, or is created through amendment, the State or Federal Statute shall control and shall be cause for an amendment to this chapter.

A. Generally Applicable Definitions

1. "**accessory equipment**" means equipment other than antennas used in connection with a wireless facility. The term includes transmission equipment.

2. "**amateur station**" means the same as defined by the FCC in 47 C.F.R. § 97.3, which means a station in an amateur radio service consisting of the apparatus necessary for carrying on radio communications. This term includes amateur radio antennas and related facilities used for amateur radio services.

3. "**antenna**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), which means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services.

4. "**base station**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(1), which means:

> A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower or any equipment associated with a tower.
>
> > (i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. § 1.6100(b)(1)(i) through (ii) of 47 C.F.R. § 1.6100 that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. § 1.6100(b)(1)(i)–(ii) of 47 C.F.R. § 1.6100.

5. "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), which means (1) Mounting or installing an antenna facility on a pre-existing structure; and/or (2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure. For eligible facilities requests, the definition of collocation in B.1 below applies instead of this definition.

6. "**CPUC**" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

7. "**Director**" means the City of Carmel-by-the-Sea Community Planning and Building Director or the Director's designee.

8. **"EFR" or** "**eligible facilities request**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3) which means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

9. "**FCC**" **or "Commission"** means the Federal Communications Commission, as constituted by the Communications Act of 1934, Pub. L: 73-416, 48 Stat. 1064, codified as 47 U.S.C. §§ 151 *et seq.* or its duly appointed successor agency.

10. "**Fire Safety Authority**" means the Chief Building Official of the City of Carmel-by-the-Sea or the Fire Safety Authority's designee.

11. "**historic resource**" means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places, the California Register of Historical Resources, the "Carmel Inventory of Historic Resources" or the "Carmel Inventory" as defined in code Section 17.32.230, the "Carmel Register of Historic Resources" or the "Carmel Register" as defined in code Section 17.32.230, or any "historic resource" or "historical resource" as defined in code Section 17.32.230. The term includes artifacts, records and remains related to or located within such properties. The term also includes properties with traditional religious and/or cultural importance to any Native American tribe.

12. "**OTARD**" means any "over-the-air reception device" subject to the FCC rules in 47 C.F.R. §§ 1.4000 *et seq.*, which generally includes satellite television dishes and antennas, and certain fixed wireless antennas not greater than one meter in diameter.

13. "**personal wireless service facility**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(i) which means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

14. "**personal wireless services**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i) which means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

15. "**public right-of-way**" or "**public rights-of-way**" means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes. The term does not include private or public utility easements unless such easement is reserved for or dedicated to or open to the use by the general public for road or highway purposes.

16. "**reviewing authority**" means the City official or appointed/elected body responsible for application review and vested with authority to approve, approve with modifications and/or conditions, or deny such applications.

17. "**RF**" means radiofrequency.

18. "**small wireless facility**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(*l*), which means a personal wireless service facility that meets each of the following conditions:

(a) The facilities (i) are mounted on structures 50 feet or less in height including their antennas; or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures; or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(b) Each antenna associated with the deployment is no more than three (3) cubic feet in volume, excluding associated antenna equipment;

(c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment, cumulatively total no more than twenty-eight (28) cubic feet in volume;

(d) The facility does not require antenna structure registration under 47 CFR Part 17 (Construction, Marking and Lighting of Antenna Structures);

(e) The facility is not located on tribal land; and

(f) The facility will not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards set forth within Table 1 of 47 CFR §1.1310(E)(1).

19. "**FCC shot clock**" means the time defined by the FCC in 47 C.F.R. § 1.6003 or 1.6100(c) (as applicable) in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless services facilities.

20. "**stealth**" means concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment and adjacent uses to screen all transmission equipment from public view and integrate the wireless facility into the built or natural environment such that, given the particular context, the reasonable person would not recognize the structure as a wireless facility. Stealth concealment techniques include, without limitation: (1) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying structure; (2) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality such that they appear part of the original structure's design; and (3) concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment or adjacent uses

21. **"structure"** means the same as defined by the FCC in 47 C.F.R. § 1.6002(m) which means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services). A tree including live, dead, partially cut down or limbed tree is not a structure and may not be used for placement of wireless facilities.

22. **"tower"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9) which means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

23. "**transmission equipment**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8) which means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

24. "**Type I application**" means an application type that shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application.

25. "**Type II application**" means an application type that shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR.

26. "**Type III application**" means an application type that shall be limited to applications seeking to install and/or construct a new small wireless facility that involves placement of a new or replacement structure.

27. "**Type IV application**" means an application type that shall include any applications for the installation of a new personal wireless service facility which does not meet the criteria for Type I, Type II, Type III or Type V.

28. "**Type V application**" means an eligible facilities request or EFR as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), which is any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

29. "**utility pole**" means a wood or steel vertical structure in the public right-of-way designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

30. "**visibility triangle**" means that portion of both the public and private property at any corner bounded by the curb line or edge of roadway of the intersecting streets and a line joining points on the curb or edge of roadway a distance in feet equivalent to the width of the roadway from the point of intersection of the extended curb lines or edges of roadway.

31. "**wireless facility**" means the transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), structure(s), and base station(s).

B. **Additional Definitions Applicable to Eligible Facilities Requests (EFRs) Only**

1. "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), which means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

2. "**eligible support structure**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4) which means any tower or base station, provided that it is existing at the time the relevant eligible facilities request application is filed with the State or local government.

3. "**existing**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4) which means a constructed tower or base station is "existing" for purposes of an EFR, if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

4. "**site**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(6), which means that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and

any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

5. "**substantial change**" or "**substantially change**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), which establishes different criteria based on the particular facility type and location. For clarity, the definition in this chapter reorganizes the FCC's criteria and thresholds for a substantial change according to the facility type and location.

a. For towers outside the public rights-of-way, a substantial change occurs when:

    i. the proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet (whichever is greater); or

    ii. the proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or

    iii. the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or

    iv. the proposed collocation or modification involves excavation or deployment outside the current boundaries of the leased or owned property surrounding the wireless tower by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:

    i. the proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or

ii. the proposed collocation or modification increases the width more than 6 feet from the edge of the wireless tower or base station; or

iii. the proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or

iv. the proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets; or

v. the proposed collocation or modification involves excavation or deployment outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

c. In addition, for all towers and base stations wherever located, a substantial change occurs when:

i. the proposed collocation or modification would defeat the existing concealment elements of the eligible support structure as determined by the reviewing authority; or

ii. the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this definition.

d. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits from the originally-permitted eligible support structure. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted eligible support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites that existed prior to February 22, 2012, the cumulative limit for vertically separated deployments is measured from the permitted site dimensions as they existed on February 22, 2012—the date that P.L. 112-96 was signed into law.

17.46.030 Applicability.

A. **General.** This chapter applies to all requests for the City's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities on property within the City's territorial and jurisdictional boundaries, unless expressly exempted pursuant to subsection (B). This includes permit applications submitted to the City for decision in its regulatory capacity for wireless facilities on property or structures owned or controlled by the City and located within the City, including in public rights-of-way; provided, however, that this chapter does not govern whether or under what terms and conditions the City, in its capacity as the property or structure owner, would lease, license or otherwise allow a wireless facility on such property or structures.

B. This chapter shall not be applicable to the following:

1. wireless facilities installed completely indoors and used to extend personal wireless services into a business or the subscriber's private residence, such as a "femtocell" or indoor distributed antenna system;

2. OTARD antennas which are regulated pursuant to Chapter 15.40 (Antennas and Satellite Dishes);

3. antennas and related transmission equipment used in connection with a duly authorized amateur station operated by a federally licensed amateur radio operator as part of the Amateur Radio Service; provided, that its maximum height does not exceed the height requirements of the zoning district;

4. wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-D;

5. temporary wireless facilities parked in a fixed location within the public rights-of-way for no longer than 10 days under an approved special events permit pursuant to Chapter 12.48.

17.46.040 General Development Standards.

A. **Location Standards.** When considering compatibility of a location and structure for Type I, Type II, Type III and Type IV wireless facilities, the City requires applicants to propose those that will be the least intrusive to community character and values. Subsection B provides a ranking that describes Zoning Districts where wireless facilities are least compatible to most compatible with other uses. Subsection C provides the City's preference for placements on parcels over public rights-of-way. Subsection D provides structure rankings. Subsection E provides additional special considerations for site selection on public right-of-way.

B. **Ranked Locations.** Applicants must propose placement in locations with the least intrusive land use designation (i.e.: Zoning) technically feasible and potentially available. Applications proposing placement in Tier I or II must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows no location in a Tier III land use tier is technically feasible and available. The following land use tiers are ranked from least compatible to most compatible:

Tier I (Least Compatible):
Senior Citizen Facility (A-3), Multi-Family Residential (R-4), Single-Family Residential (R-1), and Residential and Limited Commercial (RC).

Tier II:
Improved Parklands (P-2), Natural Parklands and Preserves (P-1), and Theatrical (A-1).

Tier III (Most Compatible):
Central Commercial (CC), Service Commercial (SC), and Community and Cultural (A-2).

C. **Preference for Placement on Public and Private Parcels Over on Public Right-of-Way.**

Placement on public and private parcels is strongly preferred over placements in the public rights-of-way because Carmel's public rights-of-way are narrow in width (26 to 34 feet), with few gutters or sidewalks. Limiting wireless facilities in public rights-of-way is necessary: (i) to ensure that the flow of pedestrian and vehicular traffic, including ingress to, or egress from, any residence, public building, or place of business or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles is maintained; (ii) to provide reasonable access for the use and maintenance of sidewalks, pathways, hydrants, restrooms, trash receptacles, firefighting apparatus, as well as access to locations used for public transportation services; (iii) to ensure no interference to the performance of police, firefighter, and other emergency medical personal; and (iv) to maximize public access in the commercial districts and along the coast which have unusually high pedestrian and vehicular traffic volumes. Applications proposing placement in the public right-of-way must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows placement on a parcel is not technically feasible and available

D. **Structure Selection.** Applicants shall propose placement on the most-compatible structure that is technically feasible and available. Any application to place a wireless facility on a structure other than the most compatible structure

must include a written justification, based on factual and verifiable evidence, that shows no more compatible structure is technically feasible and available.

1. **Structure Selection on Parcels.** The following structures are ranked from least compatible to most compatible on parcels:

   a. new (non-replacement) structures.
   b. residential historic structures
   c. existing building rooftops.
   d. existing (or replacement) non-building structures without existing wireless facilities.
   e. existing non-building structures with existing wireless facilities.

2. **Structure Selection on Public Rights-of-Way.** New (non-replacement) structures of any type (pole or non-pole) are the least compatible structures to use on public rights-of-way. Existing (or replacement) utility poles are the most compatible structures. Selection of structures/locations in the public right-of-way is also subject to the limitations in Subsection E below.

E. **Additional Special Considerations for Locations in the Public Right-of-Way.**

1. **Highly Incompatible Locations in the Public Right-of-Way.** Applicants shall not propose to install wireless facilities in/on a highly incompatible location in the public right-of-way unless the application is accompanied by a request for a special exception finding under Subsection 17.46.080(C). The following is a list of highly incompatible locations:

   a. any location in the public right-of-way within the Single-Family Residential Zoning District.
   b. any location in the public right-of-way that would trigger review of consistency with the Secretary of the Interior's Standards for potential impacts to a historic resource on a residential parcel in any Tier I zone in B above;
   c. any location in the public right-of-way within the area depicted in Figure 1 below.

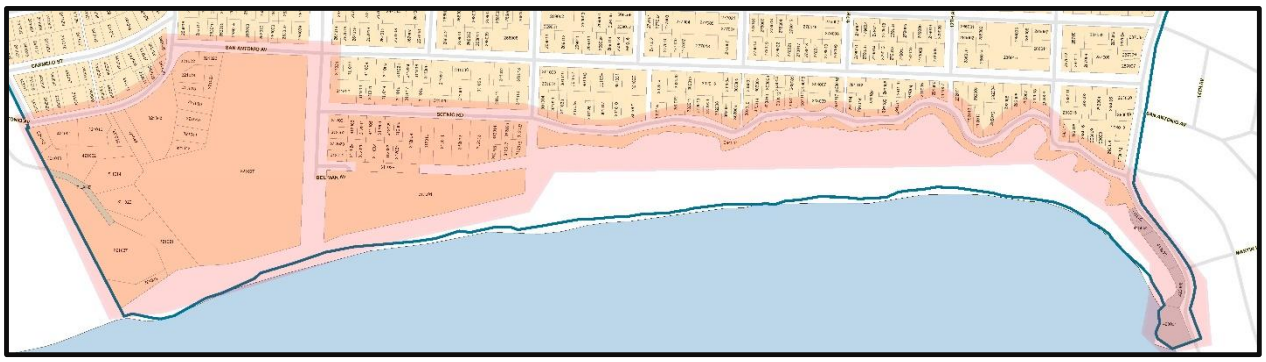


FIGURE 1

2. **Additional Public Right-of-Way Location Selection Standards.** Applicants shall not select existing structures and shall not propose new (non-replacement) structures in the following locations unless the application includes a written justification, based on factual and verifiable evidence, that shows no structure/location is technically feasible and available outside these locations:

   a. directly in front of the areas which are five feet in either direction from the centerline of each entry door or window in the front façade of any occupied residential building.

   b. within a 500-foot radius from another wireless facility within the public rights-of-way.

3. **Public Right-of-Way Location Safety Considerations**. Applicants shall not propose adding new structures in the following locations:

   a. Any location that would create a hazard to public health or safety.

   b. Any location that would adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public.

   c. Any location that would adversely affect vehicular and/or pedestrian traffic or the parking of vehicles including placements in any visibility triangle that obstructs or restricts the view necessary for the safe operation of motor vehicles as determined by the Traffic Safety Committee.

   d. Any location that would adversely affect the root structure of any existing trees, or significantly reduce greenbelt area that may be used for tree planting.

e. Any location within 10 feet away from any driveways for police stations, fire stations, or other emergency responder facilities.

f. Any location that would physically interfere with or impede access to any: (i) above-ground or underground infrastructure for traffic control, or public transportation, including, without limitation, any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (ii) public transportation vehicles, shelters, street furniture, or other improvements at any public transportation stop; (iii) above-ground or underground infrastructure owned or operated by any public or private utility agency; (iv) fire hydrant or water valve; (v) doors, gates, sidewalk doors, passage doors, stoops, or other ingress and egress points to any building appurtenant to the right-of-way; or (vi) fire escape.

F. Design Standards

1. **General Requirements**. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E).

a. **Stealth/Concealment.** All wireless facilities must be stealth to the maximum extent feasible. Colors and materials for wireless facilities shall be muted, subdued, non-reflective and chosen to minimize visibility to the greatest extent feasible.

b. **Overall Height.** On public and private parcels, wireless facilities may not exceed more than 10 feet above the maximum height allowed by this code for the underlying zoning district where the facility is proposed. In the public right-of-way, wireless facilities on an existing pole may not have an overall height that exceeds the height of the existing pole by more than 10 feet and wireless facilities that involve a replacement pole or a new pole may not have an overall height that is more than 10 feet above the height of the replaced pole or existing poles in the vicinity unless additional height necessary to comply with CPUC safety standards such as General Order 95.

c. **Finishes.** All exterior surfaces shall be painted, colored, and/or wrapped in flat, muted, subdued, non-reflective hues that match the underlying structure or blend with the surrounding environment. All exterior surfaces on wireless facilities shall be constructed from, or coated with, graffiti-resistant materials. All finishes shall be subject to the reviewing authority's prior approval.

d. **Noise.** All wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in this

code. The reviewing authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigation strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

e. **Lights.** Wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC, other applicable federal or state governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from public view. Any light beacons or lightning arresters shall be included in the overall height calculation.

f. **Trees and Landscaping.** Wireless facilities shall not be installed (in whole or in part) on new poles within any tree drip line. Wireless facilities may not displace any existing tree or landscape and/or hardscape features. All wireless facilities proposed to be placed in a landscaped area must include landscape and/or hardscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The existing native vegetation shall be maintained to the maximum extent feasible. The reviewing authority may require additional landscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this chapter. All plants proposed or required must be reviewed as part of a formal landscaping plan and approved by the City.

g. **Signage; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the reviewing authority, required by law or recommended under FCC or other federal governmental agencies for compliance with RF emissions regulations.

h. **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth, and the reviewing authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Alarm systems shall not include any visible alarms or audible sirens or other sounds.

i. **Fire Safety.** All wireless facilities shall be designed by qualified, licensed persons to provide the maximum protection that is technically feasible to prevent electrical and fire hazards. All wireless facilities shall be proactively monitored and maintained to continue and if possible, improve the safety design.

j. **Compliance with Laws.** All wireless facilities must be designed and sited in compliance with all applicable federal, state, regional, and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, general plan and any applicable specific plan, this code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

k. **View Protection**. Wireless facilities shall be located and designed to preserve significant coastal views from the public right-of-way in conformance with Section 30251 of the California Coastal Act. The protection of public views should not prevent reasonable development of the site, yet development shall not preclude reasonable protection of any significant coastal view. Designs should respect views enjoyed by neighboring parcels and should not present excess visual mass or bulk to public view or to adjoining properties. Wireless communications facilities, to every extent possible, should be sited to not create visual clutter or negatively affect important public or private views as determined by the reviewing authority. Collocation is encouraged when it will decrease visual impact. This objective is intended to balance the private rights to views from all parcels that will be affected by a proposed wireless facility. No single parcel should enjoy a greater right than other parcels except the natural advantages of each site's topography. Wireless facilities which substantially eliminate an existing significant view enjoyed on another parcel should be avoided.

2. **Administrative Detailed Wireless Facility Design Guidelines.** The Planning Commission may develop, and from time to time amend, Administrative Detailed Wireless Facility Design Guidelines consistent with the generally applicable design standards contained in this ordinance to clarify the aesthetic and public safety goals and standards in this chapter for City staff, applicants and the public. The Administrative Detailed Wireless Facility Design Guidelines shall provide more detailed standards to implement the general principals articulated in this section and may include specific standards for particular wireless facilities or site locations, but shall not unreasonably discriminate between functionally equivalent service providers. If a conflict arises between the development standards specified in this chapter and the Administrative Detailed Wireless Facility Design Guidelines, the development standards specified in this chapter shall control.

G. **Standards Applicable to Type V Wireless Facilities.** Type V applications are evaluated under the criteria for an eligible facilities request established by federal law and FCC regulations to determine whether or not the request involves a "substantial change" to an "eligible support structure" as these terms are defined in Section 17.46.020. Type V applications also must comply with any generally applicable law, regulation, rule or standard or permit condition reasonably related to public health or safety.

17.46.050 Wireless Application Types and Submittal Requirements.

A. **Application Types**

1. **Conditional Use Permit Applications**. There shall be four (4) specific types of applications for conditional use permits under this section, which shall include Type I, Type II, Type III, and Type IV applications. The Planning Commission is the initial reviewing authority for Type I-IV applications. Decisions of the Planning Commission may be appealed to the City Council.

   a. **Type I Applications: Collocations of Small Wireless Facilities.** Type I applications shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application.

   b. **Type II Applications: Collocations which do not qualify as a Small Wireless Facility Collocation or EFR.** Type II applications shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR.

   c. **Type III Applications: New Small Wireless Facilities on New or Replacement Structures.** Type III applications shall be limited to applications seeking to install and/or construct a new small wireless facility that involves placement of a new or replacement structure.

   d. **Type IV Applications: New Towers and All Other Wireless Facilities, Except EFRs.** Type IV applications shall include any applications for the

installation of a new personal wireless service facility which does not meet the criteria for Type I, Type II, Type III or Type V applications.

2. **Administrative Use Permit Applications.** There shall be one type of application for an administrative use permit under this section, which shall be a Type V application. The Director is the initial reviewing authority for Type V applications. Decisions of the Director may be appealed to the City Council.

   a. **Type V Applications: Eligible Facilities Requests or EFRs.** Type V applications shall include any applications that purport to meet the criteria for an eligible facilities request under federal law and FCC regulations.

B. **Submittal Requirements.**

1. **Application Content.** All applications for a permit under this Chapter must include all the information and materials required by the Application for Wireless Facility form and the applicable Wireless Facility Application Checklist adopted by resolution of the Planning Commission. The Planning Commission is authorized to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Planning Commission finds necessary, appropriate or useful for processing any application governed under this chapter. All such requirements must be in written form and publicly stated and available. All applications shall, at a minimum, require the applicant to submit probative evidence to demonstrate that the proposed project will be in compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. It shall be the obligation of any applicant to use the correct forms and explicitly and correctly identify which type of application they are filing.

2. **Application Fee/Deposit.** The applicant shall submit with its written materials the full application fee or deposit amount established by City Council resolution. If no application fee has been adopted at the time of application, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application, including costs of consultants retained by City. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be refunded to the applicant.

3. **Application Submittal.** All applications submitted under this chapter must be submitted to the City during the office hours specified for intake of applications submitted under this chapter as established by the Community Planning and Building Department and posted on the City's webpage. Applicants may submit one application or multiple applications whenever feasible and not prejudicial to other applicants. Any application received in a different manner or outside those

established intake hours, whether delivered in-person, by mail or through any other means, will not be considered duly filed whether the City retains the submitted materials or not.

4. **Other Permits and Reviews That May Be Required.** In addition to any permit required by this Chapter, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state, or local laws or regulations for the construction of the proposed facility, which includes, without limitation, any applicable permits or reviews listed below:

    a. **Forest and Beach Commission Review**. Any proposed project that involves a request to remove or prune any tree type identified in Chapter 17.48 must be approved by the Forest and Beach Commission prior to determining completeness of the application.

    b. **Historic Resources Board Review**. In accordance with Section 17.32.220, facilities proposed within a historic district or within the boundaries of an historic property included in the inventory are subject to additional review under Chapter 17.32 prior to consideration by the Planning Commission.

    c. **Coastal Development Permit Review**. In accordance with Section 17.52.090, any person wishing to undertake any development in the coastal zone shall obtain a coastal development permit unless excluded from coastal permit requirements pursuant to Section 17.52.100.

5. **Voluntary Community Meetings**. The City strongly encourages, but does not require, prospective applicants and applicants to schedule, notice, arrange, and attend one or more voluntary community meetings with all interested members of the public. Community meetings may be conducted before or after application submittal. This community meeting is intended to give applicants the opportunity to hear from members of the public regarding the proposed project and any alternative locations or designs. Voluntary community meetings do not cause any FCC shot clock to begin.

17.46.060 Application Review Procedures.

A. **Completeness Review by Director**

1. In addition to exercising other duties and powers listed in Section 17.52.030 and elsewhere in this Title relevant to the application, the Director shall review each application and determine whether or not the application is complete and inform the applicant in writing that the application is complete or that additional information is needed to complete the application consistent with timeline in Section 17.52.020 and the applicable FCC shot clock.

2. If the Director determines that the application is defective or incomplete, they shall promptly deliver a Notice of Incompleteness to the applicant in order to pause the applicable FCC shot clock.

3. The Director may take such other steps as may be required for the City to timely act upon applications for placement of wireless facilities, including entering into agreements with applicants to extend the time for action on any application under the applicable FCC shot clock.

B. **Consultants**

1. **Use of Consultants**. Where deemed reasonably necessary by the City, the City may retain the services of professional consultants to assist the City in carrying out its duties in reviewing and making decisions on applications. The applicant and private landowner, if applicable, shall be jointly and severally responsible for payment of all the reasonable and necessary costs incurred by the City for such services. The City shall provide the Applicant with a detailed invoice of time spent and the nature of the review. In no event shall that responsibility be greater than the actual cost to the City of such engineering, legal, or other consulting services.

2. **Advance Deposits for Consultant Costs**. The City may require advance periodic monetary deposits held by the City on account of the applicant or landowner to secure the reimbursement of the City's consultant expenses. The City Council shall establish policies and procedures for the fixing of escrow deposits and the management of payment from them. When it appears that there may be insufficient funds in the account established for the applicant or landowner by the City to pay current or anticipated vouchers, the City shall cause the applicant or landowner to deposit additional sums to meet such expenses or anticipated expenses in accordance with policies and procedures established by the City Council. No reviewing agency shall be obligated to proceed unless the applicant complies with escrow deposit requirements.

3. **Independent Consultants Retained by Fire Safety Authority**. The Fire Safety Authority has the authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Safety Authority in connection with any application. The Fire Safety Authority may request independent consultant review on any matter committed to the Fire Safety Authority for review or approval. Subject to applicable laws, if the Fire Safety Authority elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the actual and reasonable costs in connection with the services provided, which may include without limitation any actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings. The same procedures for fee deposits, cost reimbursements and refunds to the applicant as described in this Section shall be applicable to independent consultant review required by the Fire Safety Authority.

D. **Director Denial Without Prejudice Due to Failure to Respond to Notice(s) of Incompleteness.** To promote efficient review and timely decisions, any application governed under this chapter regardless of type may be denied by the Director without prejudice when the applicant fails to tender a substantive response to the City within 120 calendar days after the Director deems the application incomplete in a written notice to the applicant. The Director, in the Director's discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 120th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control.

E. **Environmental Review**. Environmental review of the proposed project to protect and assure that citizens of the community contribute to the preservation and the enhancement of the environment shall be performed in accordance with Chapter 17.60 of the City's Municipal Code.

F. **Fire Safety Authority Review**. After submittal by the applicant, the relevant application materials shall be transmitted to the Fire Safety Authority for their review and any recommended conditions.

G. **Staff Report and Recommendations**. A staff report shall be prepared for Type I-IV applications involving a public hearing. Staff reports shall evaluate the compliance of the proposed project with the applicable City policies, regulations and requirements. The report shall recommend, with appropriate findings, the approval, approval with conditions, or disapproval of the application, based on the project evaluation. The report and supporting materials will be made available to the public in advance of the public hearing.

17.46.070 Public Notices, Public Hearings, Decision Notices and Appeals.

A. Application Submittal Notices – For Types I-V

1. **Posted and Hand-Delivered Notices.** Within five days after an application is duly filed with the Director, the applicant shall (1) post notice on the proposed project site in a location near to and visible from the public rights-of-way or in the public right-of-way if the project site is in the public right-of-way; (2) provide a hand-delivered postcard notice to neighbors within 100-feet radius of the site; and (3) provide the Director an affidavit that such notice has been posted and hand-delivered. The applicant is responsible for maintaining and replacing the posted notice as necessary during the duration of the application review process until the reviewing authority acts on the application. The posted notice shall be composed from durable quality and weather-resistant materials that will not deteriorate under normal circumstances for the duration of the notice period. The posted notice shall be no more than two square feet and not violate Section 17.40.070. The notice/sign shall not be placed in any

location where it would obstruct travel or visibility for vehicles, bicycles, pedestrians or other users in the public right-of-way. The City encourages applicants to consult with the department on placement locations to avoid any potential hazards.

2. **City Website Notice.** Within 10 days after an application is duly filed with the department, the Director shall post notice of the submittal on the City's website.

3. **Notice Content**. The notices required by this Section 17.46.070(A) shall include: (1) the project location with both an approximate street address and GPS coordinates; (2) the City's permit application number; (3) the application type and a general project description with photo simulations; (4) the applicant's contact information as provided on the application submitted to the City; (5) a URL for the City's website page where application information can be obtained once uploaded in accordance with Section 17.46.070(A)(2); and (6) a statement as to whether a public hearing will be required for the application.

B. **Public Hearing Notices (For Types I-IV).** Public hearing notices shall be provided consistent with the requirements of Section 17.52.110, except that the mailing radius shall be 500 feet.

C. **Public Hearings (For Types I-IV).** The Planning Commission shall conduct a public hearing upon each conditional use permit application, consistent with the procedures in §17.52.160.

D. **Decision Notices.**

1. **For Types I-V**. Within five calendar days after the Planning Commission makes a decision on a Type I, II, III or IV application or the Director makes a decision on a Type V application, the Director shall: (1) deliver a written decision notice to the applicant; (2) post written notice of the decision at the proposed project site; (3) provide a hand-delivered written notice of the decision to neighbors within 100-feet radius of the site; and (4) post the decision on the City's website.

2. **Content of Decision Notices for Types I-V**. The written notice sent to the applicant, posted at the proposed project site and hand-delivered to neighbors must contain: (1) the decision made (approval or denial); (2) either the reasons for the decision or where the reasons for the decision are available; (3) if the decision is a denial, a statement whether the denial is with prejudice or without prejudice for the purposes of CMC 17.52.170(D); and (4) instructions for how and when to file any appeal.

3. **For Director Denials Without Prejudice**. The Director must send a written notice to the applicant to deny an application without prejudice due

to failure to respond to notice(s) of incompleteness pursuant to Section 17.46.060(D)(1). The written notice shall state: (1) the number of days that have passed without the applicant tendering a substantive response to the City after the Director last deemed the application incomplete in a written notice to the applicant; (2) a statement that denial is without prejudice; and (3) instructions for how and when to file any appeal.

E. **Appeals.**

1. **For Types I-V.** Within ten calendar days after the Director issues the decision notices pursuant to Section 17.46.070(D)(1) or (3), any interested person may file a written appeal for cause in accordance with the provisions in Chapter 17.54; provided, however, that (1) the time for filing an appeal and the notice provisions in this chapter shall control over those in Chapter 17.54 and (2) appeals from an approval shall not be permitted when based solely on environmental effects from RF emissions exposure from the approved facility that was found compliant with applicable FCC regulations and guidelines.

2. **For Director Denials Without Prejudice.** Within ten calendar days after the Director issues the decision notice pursuant to Section 17.46.070(D)(3) denying an application without prejudice, the applicant may file a written appeal for cause in accordance with the provisions in Chapter 17.54; provided, however, that the time for filing an appeal and notice provisions in this chapter shall control over those in Chapter 17.54.

3. **Appeals to City Council**. The City Council shall be the appellate authority for all appeals in accordance with the provisions of Chapter 17.54. The City Council shall issue a written decision that contains the reasons for the decision, and such decision shall be the final action of the City and not subject to any further administrative appeals.

17.46.080 Findings Required.

A. **Types I to IV Applications**

1. **Required Findings for Approval.** The reviewing authority may approve wireless facility applications only when the reviewing authority makes all the following findings:

a. the proposed wireless facility will not result in adverse visual impacts because it complies with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines;

b. if applicable, to the extent the proposed wireless facility does not comply with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines, the applicant has requested a special exception and the findings for granting a special exception pursuant to Section 17.46.080(C) can be made;

c. the proposed wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions and will not, either individually or cumulatively with other transmitters in the vicinity, result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population;

d. the proposed wireless facility will comply with all applicable fire safety and public safety standards;

e. the proposed wireless facility will comply with fall zone requirements in the Administrative Detailed Wireless Facility Design Guidelines;

f. all public notices required for the application have been given;

g. all the findings required for a use permit pursuant to Section 17.64.010;

h. all the findings for discretionary design review approval pursuant to Section 17.58.060;

i. if applicable, all the findings required for a Coastal Development Permit.

2. **Conditional Approvals.** Subject to any applicable federal or state laws, nothing in this chapter is intended to limit the reviewing authority's ability to conditionally approve any application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, this code, or this chapter.

B. **Type V Applications (EFRs)**

1. **Required Findings for Approval.** The reviewing authority may approve or conditionally approve an application for an EFR administrative design review approval when the reviewing authority finds that the proposed project:

a. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

b. does not substantially change the physical dimensions of the existing wireless tower or base station in that it meets each and every one of the applicable criteria for an eligible facilities request stated in the definition of

"substantial change," after application of the definitions in 47 C.F.R. 1.6100(b). The reviewing authority shall make an express finding for each criterion.

2. **Findings for Denial.** The reviewing authority may deny without prejudice any application for an EFR administrative design review approval when the reviewing authority finds that the proposed project:

   a. does not meet the findings required in Section 17.46.080(B)(1);

   b. involves the replacement of the entire eligible support structure; or

   c. violates any generally applicable law, regulation, rule or standard or permit condition reasonably related to public health or safety.

3. **Conditional Approvals.** Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the reviewing authority's authority to conditionally approve an application for an EFR administrative design review approval to comply with all generally applicable laws and to protect and promote the public health and safety.

C. **Special Exceptions for Federal or State Preemption or Minor Deviations in Design (Types I to IV only)**

1. **Preface.** The provisions in this section establish the circumstances under which the City may grant a special exception to the standards in this chapter, Chapter 17.58 or the Administrative Detailed Wireless Facility Design Guidelines, but only if specifically requested by the applicant in writing at the time of application submittal and only to the extent necessary to avoid conflict with applicable federal or state law or it is a minor deviation that achieves all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted Design Guidelines. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

2. **Required Findings.** The reviewing authority shall not grant any special exception unless the reviewing authority finds the following:

   a. the applicant has shown that denial of an application will result in an effective prohibition or otherwise violate federal law; OR the applicant has shown that denial of an application will violate state law; OR the applicant has shown that it is a minor deviation that achieves all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted design guidelines.

b. the special exception requested by the applicant does not compromise or excuse compliance with any fire safety or other public health and safety requirements; and

c. the special exception is narrowly tailored such that any deviation from the requirements of this chapter is only to extent necessary for compliance with federal or state law or to achieve all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted Design Guidelines.

3. **Evidentiary Standard.** The applicant shall have the burden to prove to the reviewing authority that an exception should be granted pursuant to this section. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for a special exception.

17.46.090 Standard Conditions of Approval.

A. **Wireless Facility Standard Terms and Conditions**. All wireless facilities approved under this chapter or deemed approved by the operation of law shall be automatically subject to the Wireless Facility Standard Terms and Conditions adopted by the Planning Commission by resolution, unless modified by the reviewing authority in an approval decision.

B. **Modified Approval Conditions**. The reviewing authority, when granting approval of a permit application, may modify, add to or remove standard conditions set forth in the Wireless Facility Standard Terms and Conditions adopted by the Planning Commission by resolution, as the reviewing authority deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions to the particular facts and circumstances associated with the project; and/or (3) memorialize any changes to the proposed project needed for compliance with the City's Municipal Code, generally applicable health and safety requirements and any other applicable laws.

17.46.100 Violations

Any use or condition caused or permitted to exist in violation of any provision of this chapter shall be and hereby is declared a public nuisance and may be subject to administrative citations as set forth in Chapter 18.04 of this code, summary abatement pursuant to Chapter 15.57 of this code, California Code of Civil Procedure § 731, or any other remedy available to the City.

SECTION 3. Conforming Amendments to Title 17. The following Sections of Title 17 of the Carmel-by-the-Sea Municipal Code are amended as follows (all other sections remain unchanged):

Section 17.08.040: the residential uses table listing for “Communications” uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities			
Antennas and Transmission Towers – Telecommunications	C	C	See Chapter 17.46 for findings
Antennas and Transmission Towers – Other	-	C	
Facilities Within Buildings	C	C	

Section 17.12.020.H. shall read:

“H. Outdoor Antennas. Except as provided in Chapter 17.46 CMC, Telecommunications and Wireless Facilities and antennas used by Federal Communications Commission licensed ham operators or operators certified by RACES or ARES, both of which are excluded from the application of these provisions, antennas erected in the R-4 land use district shall be subject to the following standards:

1. No antenna or its supporting structure shall be located in the area between the front property line and the portion of the main structure or building located closest to the front property line.

2. No antenna shall be roof-mounted except on a flat portion of the roof structure with parapets, and/or architecturally matching screening plan.

3. All ground-mounted antennas shall be camouflaged by walls, antenna color, fences, or landscaping. Landscaping shall be of a type and variety capable of growth within one year to a landscape screen that obscures the visibility of the antenna. The landscaping plan shall be approved by the City Forester before it is implemented.

4. No antenna shall be erected within the public viewshed as identified in CMC 17.12.050, Preservation of Public Viewshed.

5. No part of any antenna shall be higher than 24 feet.”

Section 17.14.030: the commercial uses table listing “Communications” uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities				
Antennas and Transmission Towers – Telecommunications	C	C	C	
Antennas and Transmission Towers – Other	-	-	-	
Facilities Within Buildings	P	P	C	

Section 17.14.220.F. shall read:

"F. Antennas. ~~Except for antennas preempted by Federal law, antennas in the commercial districts shall be located and screened to reduce their visibility from the public right-of-way and adjacent properties~~. All antenna installations must be reviewed and approved through the commercial design review procedures. Except as provided in Chapter 17.46 CMC, Telecommunications and Wireless Facilities, antennas located in any commercial land use district shall conform to the following standards:

1. All ground-mounted antennas shall be required to maintain their supporting structures at least three feet from any property line.

2. All ground-mounted antennas shall be screened by walls, color, fences or landscaping. Landscaping shall be of a type and variety capable of growing within one year to a landscape screen, which obscures the visibility of the antenna. The landscaping plan shall be approved by the City Forester before it is implemented.

3. No part of any antenna shall be higher than the maximum height allowed in the underlying land use district.

4. A maximum of one antenna shall be allowed on a building site.

5. All roof-mounted antennas are prohibited except as provided in CMC ~~17.46.020(E)~~17.46.030(B) (general development standards)."

Section 17.18.030: the public and quasi-public uses table listing for "Communications" uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities			
Communication Facilities			
Antennas and Transmission Towers – Telecommunications	C	C	See Chapter 17.46 CMC
Antennas and Transmission Towers – Other	-	C	
Facilities Within Buildings	C	C	

Section 17.40.070.H. shall read:

"H. Signs in the public right-of-way, except for signs posted by a Federal, State, or local governmental entity with permission of the City and application notices posted in accordance with CMC 17.46.070(A)(1)."

Section 17.52.150.C shall read:

"C. Appeals. All final actions of the Director may be appealed to the Planning Commission in accordance with Chapter 17.54 CMC, Appeals, except for Director

decisions pursuant to CMC 17.46.050(A)(2) and 17.46.060(D) which may only be appealed to the City Council."

Section 17.54.010.E. shall read:

"E. The findings and actions of the Planning Director shall be final and conclusive from and after the date of final action unless an appeal is filed with the Planning Commission Secretary pursuant to CMC 17.54.040(A), Appeals to the Forest and Beach Commission or the Planning Commission, or CMC 17.54.040(B), Appeals to the Historic Resources Board, or with the Coastal Commission pursuant to CMC 17.54.040(D) and 17.54.050, or with the City Clerk pursuant to CMC 17.54.040(C), Appeals to City Council. "

Section 17.54.040.C. shall read:

"C. Appeals to the City Council. Decisions to approve or deny projects made by the Planning Commission, Forest and Beach Commission, or the Historic Resources Board may be appealed to the City Council by filing a notice of appeal in writing in the office of the City Clerk within 10 working days following the date of action by the decision-making body and paying the required filing fee as established by City Council resolution. Notwithstanding the foregoing, decisions for projects subject to Chapter 17.46 (Telecommunications and Wireless Facilities) made by the Planning Director or by the Planning Commission must be appealed within the time periods specified in CMC 17.46.070(E). "

Section 17.54.080.A. shall read:

"A. Appeals of Decisions on Permits. Any decision to approve, deny or conditionally approve any permit made by the Director (except for denials without prejudice made pursuant to CMC 17.46.060(D)), the City Forester, the Planning Commission, or the Historic Resources Board may be appealed by any aggrieved party. Coastal Commissioners may appeal these decisions pursuant to CMC 17.54.020 and 17.54.050."

Section 17.58.030.B.1.d. shall read:

"d. Installation of antennas and associated equipment."

Section 17.58.040.B.1 and the introductory part of B.2 shall read:

B. Residential Track Two Design Study. Track two is a discretionary review process for projects that require a public hearing with the Planning Commission. All track two projects shall require public notice and a hearing pursuant to CMC 17.52.110, Notice of Public Hearing.

1. Applicability. Residential district track two design review is for the construction of new dwellings, rebuilds, substantial alterations, installation of antennas and associated equipment, and other projects that comply with applicable zoning standards and design review guidelines but do not qualify for track one processing.

2. Procedures. Except for the installation of antennas and associated equipment which shall be subject to the procedures in CMC 17.58.030.B.2, d~~D~~esign review for track two projects is a three-phase process requiring: (1) preliminary site assessment, (2) design concept review, and (3) final details review. The application shall not be deemed complete until the preliminary site assessment has occurred and the City has received a complete application for design concept review. When a use permit, variance, or other land use permit is required, the application shall not be deemed complete until design concept review is completed and the City has received a complete application for final details review and for the applicable land use permit. The procedure for track two projects includes the following:

Section 17.68.070 "Communication Facilities" uses shall read:

Antennas and Transmission Towers - Telecommunications. Communication services accomplished through electronic or telephonic mechanisms, as well as structures designed to support one or more reception or transmission systems. Examples of transmission towers - telecommunications are limited to telephone exchange or microwave relay towers, and cellular telephone transmission or personal communications systems towers.

Antennas and Transmission Towers - Other. Broadcasting, recording, and other ~~communication~~ services accomplished through electronic ~~or telephonic~~ mechanisms, as well as structures designed to support one or more reception or transmission systems. Examples of transmission towers- other are limited to radio towers, television towers, ~~telephone exchange or microwave relay towers, and cellular telephone transmission or personal communications systems towers~~and other towers that are not used for telecommunications.

Facilities Within Buildings. Includes radio, television, or recording studios and telephone switching centers; excludes antennas and transmission devices.

Section 17.70.010 and Section 17.70.020 shall be amended to repeal the following listed terms and corresponding definitions:

Amateur Radio Antenna (See Antenna);

Antenna; Monopole (See Telecommunications Terms);

Satellite Antenna (See Antenna);

Telecommunications Facility, Co-Located (See Telecommunications Terms);

Telecommunications Facility (See Telecommunications Terms);

Telecommunications Terms (Building-Mounted Telecommunications Facility; Monopole; Telecommunications Facility; Telecommunications Facility, Co-Located).

Section 17.70.010 shall be further amended to add to the listed terms the following:

"Telecommunications and Wireless Terms. See Chapter 17.46."

SECTION 4. Conforming Amendments to Titles 12 and 13. The following Sections of Title 12 and 13 of the Carmel-by-the-Sea Municipal Code are amended to read (all other sections remain unchanged):

Section 12.08.050 shall be amended to add a new subsection E as follows:

"E. Notwithstanding Section 12.080.040.A. and Section 12.08.050.A, B, C and D, for applications that are subject to both Ch. 17.46 and Ch. 12.08, the reviewing authority under Ch. 17.46 shall process and decide both applications concurrently under the procedures in Ch. 17.46, including any appeals."

Section 12.08.060 shall be amended to add a new subsection I as follows:

"I. For applications that are subject to both Ch. 17.46 and Ch. 12.08, only the standards in Ch. 17.46 and the applicable administrative guidelines shall apply."

Section 13.28.070.E. shall be amended to read as follows:

"E. Antennae, associated equipment that is within the supporting structure or integrated with the antennae, and supporting structures, used by a utility for furnishing communication services."

SECTION 5. Effective Date. This Ordinance shall take effect 30 days after its adoption by the City Council of the City of Carmel-by-the-Sea and after approval by the California Coastal Commission.

SECTION 6. Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining sections, subsections, provisions, sentences, clauses, phrases or words of this Ordinance.

INTRODUCED at a Regular City Council Meeting on September 12, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this __ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: ATTEST:

_____ _____

Mayor City Clerk

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

ORDINANCE NO. 2023-XXX

AN ORDINANCE OF THE CITY COUNCIL OF CARMEL-BY-THE-SEA AMENDING THE CARMEL MUNICIPAL CODE (CMC) TITLE 17 (ZONING) BY REPEALING AND REPLACING CHAPTER 17.46 (TELECOMMUNICATIONS AND WIRELESS FACILITIES) AND MAKING CONFORMING AMENDMENTS TO ~~SECTIONS [TBD];~~ ZONING CODE SECTIONS 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 AND 17.70.020 AND TO MUNICIPAL CODE SECTIONS 12.08.050, 12.08.060, 13.28.070; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Carmel-by-the-Sea currently regulates the placement of wireless facilities throughout the City under Title 17, Chapter 17.46 of the Municipal Code; and

WHEREAS, Chapter 17.46 was last amended in 2004; and

WHEREAS, there have been significant changes in state and federal law affecting local authority over wireless siting since Chapter 17.46 was last amended, including the passage of new federal laws and state laws, the adoption of new Federal Communications Commission regulations and orders, the amendment of California Public Utility Commission orders related to utility infrastructure, and various judicial decisions interpreting those laws and regulations; and

WHEREAS, notwithstanding the various changes in state and federal law, local governments continue to retain authority to regulate the placement, construction, and modification of personal wireless service facilities, subject to those matters where local authority has been limited or removed by state or federal law; and

WHEREAS, Carmel-by-the-Sea has made longstanding and sustained efforts to preserve its distinct “village in a forest, by the sea” character, the natural beauty of its shoreline environment, and its charm as a popular visitor destination, by not allowing incompatible development that degrades the visual and economic value of adjoining properties, especially in residential areas; and

WHEREAS, Carmel-by-the-Sea’s topography, forested nature, location partially within and partially adjacent to California’s High Fire-Threat District (HFTD), and narrow streets, with few gutters or sidewalks or streetlights, gives rise to many unique concerns

and situations relating to fire safety, traffic circulation, parking and pedestrian safety; and

WHEREAS, if not adequately regulated, the installation of personal wireless services facilities within the City can pose a threat to the public health, safety, and welfare; traffic and pedestrian safety hazards; negative impacts to trees; creation of visual and aesthetic blights and potential safety concerns arising from improper design or excessive size, heights, noise, or lack of camouflaging; and

WHEREAS, the City therefore intends to exercise its powers to regulate personal wireless service facilities to the maximum extent allowed by law, to protect its residents and visitors, promote public health, safety and community welfare, preserve the natural resources and unique scenic quality of Carmel-by-the-Sea, and protect the character of the City's residential neighborhoods, while nonetheless respecting and adhering to the law as it is today and may change in the future; and

WHEREAS, the City Council and Planning Commission held a joint special meeting on wireless regulation on February 28, 2022 to receive an update on changes to the law, to receive public feedback and to provide general direction to staff on an update to the City's wireless regulations; and

WHEREAS, the Planning Commission conducted a duly noticed public workshop on a draft of the wireless regulations (ordinance, design guidelines, standard conditions of approval, and application forms) on ~~[~~TBD~~]~~March 29, 2023 to receive public feedback; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed ordinance, design guidelines, standard conditions of approval, and application forms on ~~[~~TBD~~]~~August 23, 2023 at which it took public testimony, held a discussion, and voted to adopt the design guidelines, standard conditions of approval, and application forms, and to recommend that City Council adopt of the proposed code amendments (Resolution No.__);

WHEREAS, on ~~_____~~,September 12, 2023 the City Council held a duly noticed public hearing~~, etc~~ on the proposed code amendments;

WHEREAS, the City determined this ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines; and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (Public Resources Code Section 30510 et seq.)

SECTION 1. CEQA Review. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly

or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the applicant would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Monterey within five working days of the passage and adoption of the Ordinance.

SECTION 2. Repeal and Replacement of Chapter 17.46. Chapter 17.46 of Title 17 of the Carmel-by-the-Sea Municipal Code is hereby repealed in its entirety and replaced with the following:

Chapter 17.46
TELECOMMUNICATIONS AND WIRELESS FACILITIES

Sections:

17.46.010 Purpose and Findings.
17.46.020 Definitions.
17.46.030 Applicability.
17.46.040 General Development Standards.
17.46.050 Wireless Application Types and Submittal Requirements.
17.46.060 Application Review Procedures.
17.46.070 Public Notices, Public Hearings and Appeals.
17.46.080 Findings Required.
17.46.090 Standard Conditions of Approval.
17.46.100 ~~Enforcement~~Violations

17.46.010 Purpose and Findings.

A. **Purpose**. The purpose of this chapter is to establish comprehensive requirements and development standards for the siting, design, construction, maintenance and modification of wireless facilities in Carmel-by-the-Sea, including on public and private property and in public rights-of way, in order to manage their deployment and minimize adverse aesthetic impacts to Carmel-by-the-Sea's unique

village character, consistent with and to the full extent of the City's authority under federal and California law.

B. **Findings**. The City Council hereby finds that:

1. Limitations on the placement of wireless facilities within the City limits are necessary to:

a. Protect Carmel-by-the-Sea's distinct "village in a forest, by the sea" character with its centralized commercial core surrounded by residential land uses.

b. Protect Carmel-by-the Sea's charm as a popular visitor destination, known as much for its spectacular coast as for its unique community character.

c. Recognize and respect that Carmel-by-the-Sea is among a limited number of California coastal communities where nearly the entire shoreline from the first public road to the sea is open to the public and easily accessible, and that over the years, Carmel has maintained a balance between preserving the beauty of the shoreline environment and adding the physical improvements that make the Carmel shoreline accessible and enjoyable to the public, keeping the entire beach and bluff as natural appearing as possible consistent with public access, habitat protection, safety and provision of limited recreational support facilities.

d. Recognize and respect that Carmel-by-the-Sea's streets are narrow in width, 26 to 34 feet, with few gutters or sidewalks and that this lack of formal development of streets throughout Carmel (with the exception of some of the downtown thoroughfares) has been a conscious effort on the part of residents to maintain a "village in a forest" atmosphere, and gives rise to many unique situations relating to traffic, circulation, parking and pedestrian safety.

2. Personal wireless services can serve as an important and effective part of Carmel-by-the-Sea's emergency response and communications.

3. The regulations contained herein are designed to promote public health, safety and community welfare, preserve the natural resources and scenic quality of Carmel-by-the-Sea and protect the character of the City's residential neighborhoods, recognizing that the preservation of the residential character in Carmel is central to all land uses, consistent with the findings in (1) and (2), while regulating managed development of wireless infrastructure throughout the City.

4. The provisions of this chapter are intended to:

a. Comply with all applicable goals, objectives and policies of the General Plan, the City's Local Coastal Program and the California Coastal Act.

b. Minimize adverse aesthetic impacts associated with wireless facilities in all districts.

c. Preserve Carmel's primarily residential character by keeping business and commerce subordinate to its residential character.

d. Comply with all federal law, Federal Communications Commission rules, regulations and standards, California law, and California Public Utilities Commission regulations and standards.

e. Ensure the safe installation and maintenance of wireless facilities to protect against fire hazards made more prevalent by Carmel's unique urbanized forest, topography and accessibility.

17.46.020 Definitions.

The definitions in this Section apply to this chapter. Undefined terms shall have the meaning assigned to them in Chapter 17.70. Per Section 17.02.090(C), to the extent that this chapter quotes or paraphrases any State or Federal Statute for convenience and any conflict is discovered, or is created through amendment, the State or Federal Statute shall control and shall be cause for an amendment to this chapter.

A. **Generally Applicable Definitions**

1. "**accessory equipment**" means equipment other than antennas used in connection with a wireless facility. The term includes transmission equipment.

2. "**amateur station**" means the same as defined by the FCC in 47 C.F.R. § 97.3, which means a station in an amateur radio service consisting of the apparatus necessary for carrying on radio communications. This term includes amateur radio antennas and related facilities used for amateur radio services.

3. "**antenna**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), which means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services.

4. "**base station**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(1), which means:

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast,

and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. § 1.6100(b)(1)(i) through (ii) of 47 C.F.R. § 1.6100 that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. § 1.6100(b)(1)(i)–(ii) of 47 C.F.R. § 1.6100.

5. "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), which means (1) Mounting or installing an antenna facility on a pre-existing structure; and/or (2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure. For eligible facilities requests, the definition of collocation in B.1 below applies instead of this definition.

6. "**CPUC**" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

7. "**Director**" means the City of Carmel-by-the-Sea Community Planning and Building Director or the Director's designee.

8. **"EFR" or** "**eligible facilities request**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3) which means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

9. "**FCC**" **or "Commission"** means the Federal Communications Commission, as constituted by the Communications Act of 1934, Pub. L: 73-416,

48 Stat. 1064, codified as 47 U.S.C. §§ 151 *et seq.* or its duly appointed successor agency.

10. "**Fire Safety Authority**" means the Chief Building Official of the City of Carmel-by-the-Sea or the Fire Safety Authority's designee.

11. "**historic resource**" means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places, the California Register of Historical Resources, the "Carmel Inventory of Historic Resources" or the "Carmel Inventory" as defined in code Section 17.32.230, the "Carmel Register of Historic Resources" or the "Carmel Register" as defined in code Section 17.32.230, or any "historic resource" or "historical resource" as defined in code Section 17.32.230. The term includes artifacts, records and remains related to or located within such properties. The term also includes properties with traditional religious and/or cultural importance to any Native American tribe.

~~12. "**non-pole concealment structure**" means a structure within the public rights-of-way, other than a pole, that can be adapted (either in its current form or through a replacement) to conceal antennas and/or accessory equipment for wireless facilities. Examples may include, without limitation, monuments, kiosks, bus shelters and other street furniture.~~

~~13.~~12. "**OTARD**" means any "over-the-air reception device" subject to the FCC rules in 47 C.F.R. §§ 1.4000 *et seq.*, which generally includes satellite television dishes and antennas, and certain fixed wireless antennas not greater than one meter in diameter.

~~14.~~13. "**personal wireless service facility**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(i) which means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

~~15.~~14. "**personal wireless services**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i) which means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

~~16.~~15. "**public right-of-way**" or "**public rights-of-way**" means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes. The term does not include private or public utility easements unless such easement is reserved for or dedicated to or open to the use by the general public for road or highway purposes.

~~17.~~16. "**reviewing authority**" means the City official or appointed/elected body responsible for application review and vested with authority to approve, approve with modifications and/or conditions, or deny such applications.

~~18.~~17. "**RF**" means radiofrequency.

~~19.~~18. "**small wireless facility**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(*l*), which means a personal wireless service facility that meets each of the following conditions:

(a) The facilities (i) are mounted on structures 50 feet or less in height including their antennas; or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures; or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(b) Each antenna associated with the deployment is no more than three (3) cubic feet in volume, excluding associated antenna equipment;

(c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment, cumulatively total no more than twenty-eight (28) cubic feet in volume;

(d) The facility does not require antenna structure registration under 47 CFR Part 17 (Construction, Marking and Lighting of Antenna Structures);

(e) The facility is not located on tribal land; and

(f) The facility will not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards set forth within Table 1 of 47 CFR §1.1310(E)(1).

~~20.~~19. "**FCC shot clock**" means the time defined by the FCC in 47 C.F.R. § 1.6003 or 1.6100(c) (as applicable) in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless services facilities.

~~21.~~20. "**stealth**" means concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment and adjacent uses to screen all transmission equipment from public view and integrate the wireless facility into the built or natural environment such that, given the particular context, the ~~average, untrained observer~~reasonable person would not recognize the structure as a wireless facility. Stealth concealment techniques include, without limitation: (1) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying structure; (2) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality such that they appear part of the original structure's design; and (3) concealment elements, measures and techniques that mimic or

blend with the underlying structure, surrounding environment ~~and~~or adjacent uses

~~22.~~21. **"structure"** means the same as defined by the FCC in 47 C.F.R. § 1.6002(m) which means a pole, tower, base station, or other building,~~-~~ whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services). A tree including live, dead, partially cut down or limbed tree is not a structure and may not be used for placement of wireless facilities.

~~23.~~22. **"tower"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9) which means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

~~24.~~23. "**transmission equipment**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8) which means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

~~25. "**Type I application**" means a collocation of a small wireless facility on an existing structure.~~

~~26. "**Type II application**" means a collocation on an existing structure which does not qualify as a Type I small wireless facility collocation or a Type V EFR.~~

24. "**Type I application**" means an application type that shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application.

25. "**Type II application**" means an application type that shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a

small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR.

~~27.~~26. "**Type III application**" means an application type that shall be limited to applications seeking to install and/or construct a new small wireless facility ~~on~~that involves placement of a new or replacement structure.

~~28.~~27. "**Type IV application**" means ~~a new tower or~~ an application type that shall include any ~~other~~applications for the installation of a new personal wireless service facility ~~that is~~which does not ~~a~~meet the criteria for Type I, Type II, Type III~~,~~ or Type V ~~application~~.

~~29.~~28. "**Type V application**" means an eligible facilities request or EFR as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), which is any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

~~30.~~29. "**utility pole**" means a wood or steel vertical structure in the public right-of-way designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

~~31.~~30. "**visibility triangle**" means that portion of both the public and private property at any corner bounded by the curb line or edge of roadway of the intersecting streets and a line joining points on the curb or edge of roadway a distance in feet equivalent to the width of the roadway from the point of intersection of the extended curb lines or edges of roadway.

~~32.~~31. "**wireless facility**" means the transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), structure(s), and base station(s).

B. **Additional Definitions Applicable to Eligible Facilities Requests (EFRs) Only**

1. "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), which means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

2. "**eligible support structure**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4) which means any tower or base station, provided that it is existing at the time the relevant eligible facilities request application is filed with the State or local government.

3. "**existing**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4) which means a constructed tower or base station is "existing" for purposes of an EFR, if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

4. "**site**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(6), which means that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the Section 6409(a) process.

5. "**substantial change**" or "**substantially change**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), which establishes different criteria based on the particular facility type and location. For clarity, the definition in this chapter reorganizes the FCC's criteria and thresholds for a substantial change according to the facility type and location.

   a. For towers outside the public rights-of-way, a substantial change occurs when:

      i. the proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet (whichever is greater); or

      ii. the proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or

iii. the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or

iv. the proposed collocation or modification involves excavation or deployment outside the current boundaries of the leased or owned property surrounding the wireless tower by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:

i. the proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or

ii. the proposed collocation or modification increases the width more than 6 feet from the edge of the wireless tower or base station; or

iii. the proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or

iv. the proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets; or

v. the proposed collocation or modification involves excavation or deployment outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

c. In addition, for all towers and base stations wherever located, a substantial change occurs when:

i. the proposed collocation or modification would defeat the existing concealment elements of the eligible support structure as determined by the reviewing authority; or

ii. the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this definition.

d. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits from the originally-permitted eligible support structure. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted eligible support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites that existed prior to February 22, 2012, the cumulative limit for vertically separated deployments is measured from the permitted site dimensions as they existed on February 22, 2012—the date that P.L. 112-96 was signed into law.

17.46.030 Applicability.

A. **General.** This chapter applies to all requests for the City's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities on property within the City's territorial and jurisdictional boundaries, unless expressly exempted pursuant to subsection (B). This includes permit applications submitted to the City for decision in its regulatory capacity for wireless facilities on property or structures owned or controlled by the City and located within the City, including in public rights-of-way; provided, however, that this chapter does not govern whether or under what terms and conditions the City, in its capacity as the property or structure owner, would lease, license or otherwise allow a wireless facility on such property or structures.

B. This chapter shall not be applicable to the following:

~~1. wireless facilities operated by the City for public purposes;~~

~~2.~~1. wireless facilities installed completely indoors and used to extend personal wireless services into a business or the subscriber's private residence, such as a "femtocell" or indoor distributed antenna system;

~~3.~~2. OTARD antennas which are regulated pursuant to Chapter 15.40 (Antennas and Satellite Dishes);

~~4.~~3. antennas and related transmission equipment used in connection with a duly authorized amateur station operated by a federally licensed amateur radio operator as part of the Amateur Radio Service; provided, that its maximum height does not exceed the height requirements of the zoning district;

~~5.~~4. wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-D;

~~6.~~5. temporary wireless facilities parked in a fixed location within the public rights-of-way for no longer than 10 days under an approved special events permit pursuant to Chapter 12.48.

17.46.040 General Development Standards.

A. **Location Standards.** When considering compatibility of a location and structure for Type I, Type II, Type III and Type IV wireless facilities, the City requires applicants to propose those that will be the least intrusive to community character and values. Subsection B provides a ranking that describes Zoning Districts where wireless facilities are least compatible to most compatible with other uses. Subsection C provides the City's preference for placements on parcels over public rights-of-way. Subsection D provides structure rankings. Subsection E provides additional special considerations for site selection on public right-of-way.

B. **Ranked Locations.** Applicants must propose placement in locations with the least intrusive land use designation (i.e.: Zoning) technically feasible and potentially available. Applications proposing placement in Tier I or II must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows no location in a Tier III land use tier is technically feasible and available. The following land use tiers are ranked from least compatible to most compatible:

Tier I (Least Compatible):
Senior Citizen Facility (A-3), Multi-Family Residential (R-4), ~~and~~ Single-Family Residential (R-1), and Residential and Limited Commercial (RC).

Tier II:
Improved Parklands (P-2), Natural Parklands and Preserves (P-1), and Theatrical (A-1).

Tier III (Most Compatible):
Central Commercial (CC), Service Commercial (SC), and Community and Cultural (A-2~~), Residential and Limited Commercial (RC)~~).

C. **Preference for Placement on Public and Private Parcels Over on Public Right-of-Way.**

Placement on public and private parcels is strongly preferred over placements in the public rights-of-way because Carmel's public rights-of-way are narrow in width (26 to 34 feet), with few gutters or sidewalks. Limiting wireless facilities in public rights-of-way is necessary: (i) to ensure that the flow of pedestrian and vehicular traffic, including ingress to, or egress from, any residence, public building, or place of business or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles is maintained; (ii) to provide reasonable access for the use and maintenance of sidewalks, pathways, hydrants, restrooms, trash receptacles, firefighting apparatus, as well as access to locations used for public transportation services; (iii) to ensure no interference to the performance of police, firefighter, and other emergency medical personal; and (iv) to maximize public access in the commercial districts and along the coast which have unusually high pedestrian and vehicular traffic volumes. Applications proposing placement in the public right-of-way must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows placement on a parcel is not technically feasible and available

D. **Structure Selection.** Applicants shall propose placement on the most-compatible structure that is technically feasible and available. Any application to place a wireless facility on a structure other than the most compatible structure must include a written justification, based on factual and verifiable evidence, that shows no more compatible structure is technically feasible and available.

1. **Structure Selection on Parcels.** The following structures are ranked from least compatible to most compatible on parcels:

   a. new (non-replacement) structures.
   b. residential historic structures
   c. existing building rooftops.
   d. existing (or replacement) non-building structures without existing wireless facilities.
   e. existing non-building structures with existing wireless facilities.

2. **Structure Selection on Public Rights-of-Way.** New (non-replacement) structures of any type (pole or non-pole) are the least compatible structures to use on public rights-of-way. Existing (or replacement) utility poles are the most compatible structures. Selection of structures/locations in the public right-of-way is also subject to the limitations in Subsection E below.

E. **Additional Special Considerations for Locations in the Public Right-of-Way.**

1. **Highly Incompatible Locations in the Public Right-of-Way.** Applicants shall not propose to install wireless facilities in/on a highly incompatible location in the public right-of-way unless the application is accompanied by a

request for a special exception finding under Subsection 17.46.080(C). The following is a list of highly incompatible locations:

a. any location in the public right-of-way within the Single-Family Residential Zoning District.
b. any location in the public right-of-way that would trigger review of consistency with the Secretary of the Interior's Standards for potential impacts to a historic resource on a residential parcel in any Tier I zone in B above;
c. any location in the public right-of-way within the area depicted in Figure 1 below.

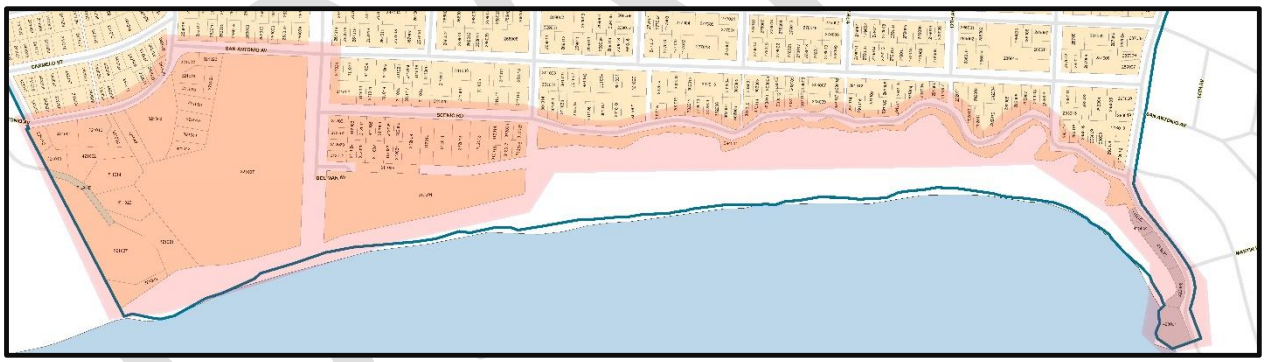


FIGURE 1

2. **Additional Public Right-of-Way Location Selection Standards.** Applicants shall not select existing structures and shall not propose new (non-replacement) structures in the following locations unless the application includes a written justification, based on factual and verifiable evidence, that shows no structure/location is technically feasible and available outside these locations:

a. directly in front of the areas which are five feet in either direction from the centerline of each entry door or window in the front façade of any occupied residential building.

b. within a ~~250~~500-foot radius from another wireless facility within the public rights-of-way.

3. **Public Right-of-Way Location Safety Considerations**. Applicants shall not propose adding new structures in the following locations:

a. Any location that would create a hazard to public health or safety.

b. Any location that would adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public.

c. Any location that would adversely affect vehicular and/or pedestrian traffic or the parking of vehicles including placements in any visibility triangle that obstructs or restricts the view necessary for the safe operation of motor vehicles as determined by the Traffic Safety Committee.

d. Any location that would adversely affect ~~any public property, including existing vegetation or its~~the root structure of any existing trees, or significantly reduce greenbelt area that may be used for tree planting.

e. Any location within 10 feet away from any driveways for police stations, fire stations, or other emergency responder facilities.

f. Any location that would physically interfere with or impede access to any: (i) above-ground or underground infrastructure for traffic control, or public transportation, including, without limitation, any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (ii) public transportation vehicles, shelters, street furniture, or other improvements at any public transportation stop; (iii) above-ground or underground infrastructure owned or operated by any public or private utility agency; (iv) fire hydrant or water valve; (v) doors, gates, sidewalk doors, passage doors, stoops, or other ingress and egress points to any building appurtenant to the right-of-way; or (vi) fire escape.

~~4. **Encroachments Over Parcels.** No wireless facility, antenna, accessory equipment, or other improvements associated with a wireless facility placed in the public right-of-way, and no RF emissions that would render any portion of any private or public parcel outside the public right-of-way inaccessible to the general public or hinder future development of the parcel, may extend onto or over such parcel without the property owner's prior written consent.~~

F. **Design Standards**

1. **General Requirements**. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E).

a. **Stealth/Concealment.** All wireless facilities must be stealth to the maximum extent feasible. Colors and materials for wireless facilities shall be muted, subdued, non-reflective and chosen to minimize visibility to the greatest extent feasible.

b. **Overall Height.** ~~To maintain the natural forested character of the community~~On public and private parcels, wireless facilities may not exceed more than 10 feet above ~~the average height of mature natural trees within the vicinity or~~ the maximum height allowed by this code for the underlying zoning district where the facility is proposed~~, whichever is more restrictive.~~. In the public right-of-way, wireless facilities on an existing pole may not have an overall height that exceeds the height of the existing pole by more than 10 feet and wireless facilities that involve a replacement pole or a new pole may not have an overall height that is more than 10 feet above the height of the replaced pole or existing poles in the vicinity unless additional height necessary to comply with CPUC safety standards such as General Order 95.

c. **Finishes.** All exterior surfaces shall be painted, colored, and/or wrapped in flat, muted, subdued, non-reflective hues that match the underlying structure or blend with the surrounding environment. All exterior surfaces on wireless facilities shall be constructed from, or coated with, graffiti-resistant materials. All finishes shall be subject to the reviewing authority's prior approval.

d. **Noise.** All wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in this code. The reviewing authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigation strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

e. **Lights.** Wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC, other applicable federal or state governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from public view. Any light beacons or lightning arresters shall be included in the overall height calculation.

f. **Trees and Landscaping.** Wireless facilities shall not be installed (in whole or in part) on new poles within any tree drip line. Wireless facilities may not displace any existing tree or landscape and/or hardscape features. All wireless facilities proposed to be placed in a landscaped area must include landscape and/or hardscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The existing native vegetation shall be maintained to the maximum extent feasible. The reviewing authority may require additional landscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this chapter. All plants proposed or required must be reviewed as part of a formal landscaping plan and approved by the City.

g. **Signage; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the reviewing authority, required by law or recommended under FCC or other federal governmental agencies for compliance with RF emissions regulations.

h. **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth, and the reviewing authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Alarm systems shall not include any visible alarms or audible sirens or other sounds.

i. **Fire Safety.** All wireless facilities shall be designed by qualified, licensed persons to provide the maximum protection that is technically feasible to prevent electrical and fire hazards. All wireless facilities ~~should~~shall be proactively monitored and maintained to continue and if possible, improve the safety design.

j. **Compliance with Laws.** All wireless facilities must be designed and sited in compliance with all applicable federal, state, regional, and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, general plan and any applicable specific plan, this code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

k. **View Protection**. Wireless facilities shall be located and designed to preserve significant coastal views from the public right-of-way in conformance with Section 30251 of the California Coastal Act. The protection of public views should not prevent reasonable development of the site, yet development shall not preclude reasonable protection of any significant coastal view. ~~Designs should respect views enjoyed by neighboring parcels.~~Designs should respect views enjoyed by neighboring parcels and should not present excess visual mass or bulk to public view or to adjoining properties. Wireless communications facilities, to every extent possible, should be sited to not create visual clutter or negatively affect important public or private views as determined by the reviewing authority. Collocation is encouraged when it will decrease visual impact. This objective is intended to balance the private rights to views from all parcels that will be affected by a proposed wireless facility. No single parcel should enjoy a greater right than other parcels except the natural advantages of each site's topography. Wireless facilities which substantially eliminate an existing significant view enjoyed on another parcel should be avoided.

2. **Administrative Detailed Wireless Facility Design Guidelines.** The Planning Commission may develop, and from time to time amend, Administrative Detailed Wireless Facility Design Guidelines consistent with the generally applicable design standards contained in this ordinance to clarify the aesthetic and public safety goals and standards in this chapter for City staff, applicants and the public. The Administrative Detailed Wireless Facility Design Guidelines shall provide more detailed standards to implement the general principals articulated in this section and may include specific standards for particular wireless facilities or site locations, but shall not unreasonably discriminate between functionally equivalent service providers. If a conflict arises between the development standards specified in this chapter and the Administrative Detailed Wireless Facility Design Guidelines, the development standards specified in this chapter shall control.

G. **Standards Applicable to Type V Wireless Facilities.** Type V applications are evaluated under the criteria for an eligible facilities request established by federal law and FCC regulations to determine whether or not the request involves a "substantial change" to an "eligible support structure" as these terms are defined in Section 17.46.020. Type V applications also must comply with any generally applicable law, regulation, rule or standard or permit condition reasonably related to public health or safety.

17.46.050 Wireless Application Types and Submittal Requirements.

A. **Application Types**

1. **Conditional Use Permit Applications**. There shall be four (4) specific types of applications for conditional use permits under this section, which shall include Type I, Type II, Type III, and Type IV applications. The Planning Commission is the initial reviewing authority for Type I-IV applications. Decisions of the Planning Commission may be appealed to the City Council.

   a. **Type I Applications: Collocations of Small Wireless Facilities.** Type I applications shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application.

   b. **Type II Applications: Collocations which do not qualify as a Small Wireless Facility Collocation or EFR.** Type II applications shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR.

   c. **Type III Applications: New Small Wireless Facilities on New or Replacement Structures.** Type III applications shall be limited to applications seeking to install and/or construct a new ~~Small~~small wireless facility that involves placement of a new or replacement structure.

   d. **Type IV Applications: New Towers and All Other Wireless Facilities, Except EFRs.** Type IV applications shall include any applications for the installation of a new personal wireless service facility which does not meet the criteria for Type I, Type II, Type III or Type V applications.

2. **Administrative Use Permit Applications.** There shall be one type of application for an administrative use permit under this section, which shall be a Type V application. The Director is the initial reviewing authority for Type V applications. Decisions of the Director may be appealed to the City Council.

   a. **Type V Applications: Eligible Facilities Requests or EFRs.** Type V applications shall include any applications that purport to meet the criteria for an eligible facilities request under federal law and FCC regulations.

B. **Submittal Requirements.**

1. **Application Content.** All applications for a permit under this Chapter must include all the information and materials required by the Application for Wireless Facility form and the applicable Wireless Facility Application Checklist adopted by resolution of the Planning Commission. The Planning Commission is authorized to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Planning Commission finds necessary, appropriate or useful for processing any application governed under this chapter. All such requirements must be in written form and publicly stated and available. All applications shall, at a minimum, require the applicant to submit probative evidence to demonstrate that the proposed project will be in compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. It shall be the obligation of any applicant to use the correct forms and explicitly and correctly identify which type of application they are filing.

2. **Application Fee/Deposit.** The applicant shall submit with its written materials the full application fee or deposit amount established by City Council resolution. If no application fee has been adopted at the time of application, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application, including costs of consultants retained by City. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be refunded to the applicant.

3. **Application Submittal.** All applications submitted under this chapter must be submitted to the City ~~at a pre-scheduled appointment with~~during the office hours specified for intake of applications submitted under this chapter as established by the Community Planning and Building Department~~.~~ and posted on the City's webpage. Applicants may submit one application ~~per appointment but may schedule successive appointments for~~or multiple applications whenever feasible and not prejudicial to other applicants. ~~The Community Planning and Building Department shall use reasonable efforts to provide the applicant with an appointment in writing within five working days after the Community Planning and Building Department receives a written request.~~ Any application received ~~without an appointment~~in a different manner or outside those established intake hours, whether delivered in-person, by mail or through any other means, will not be considered duly filed whether the City retains the submitted materials or not.

4. **Other Permits and Reviews That May Be Required.** In addition to any permit required by this Chapter, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state, or local laws or regulations for the construction of the proposed facility, which includes, without limitation, any applicable permits or reviews listed below:

a. **Forest and Beach Commission Review**. Any proposed project that involves a request to remove or prune any tree type identified in Chapter 17.48 must be approved by the Forest and Beach Commission prior to determining completeness of the application.

b. **Historic Resources Board Review**. In accordance with Section 17.32.220, facilities proposed within a historic district or within the boundaries of an historic property included in the inventory are subject to additional review under Chapter 17.32 prior to consideration by the Planning Commission.

c. **Coastal Development Permit Review**. In accordance with Section 17.52.090, any person wishing to undertake any development in the coastal zone shall obtain a coastal development permit unless excluded from coastal permit requirements pursuant to Section 17.52.100.

5. **Voluntary Community Meetings**. The City strongly encourages, but does not require, prospective applicants and applicants to schedule, notice, arrange, and attend one or more voluntary community meetings with all interested members of the public. Community meetings may be conducted before or after application submittal. This community meeting is intended to give applicants the opportunity to hear from members of the public regarding the proposed project and any alternative locations or designs. Voluntary community meetings do not cause any FCC shot clock to begin.

17.46.060 Application Review Procedures.

A. Completeness Review By Director

1. In addition to exercising other duties and powers listed in Section 17.52.030 and elsewhere in this Title relevant to the application, the Director shall review each application and determine whether or not the application is complete and inform the applicant in writing that the application is complete or that additional information is needed to complete the application consistent with timeline in Section 17.52.020 and the applicable FCC shot clock.

2. If the Director determines that the application is defective or incomplete, they shall promptly deliver a Notice of Incompleteness to the applicant in order to pause the applicable FCC shot clock.

3. The Director may take such other steps as may be required for the City to timely act upon applications for placement of wireless facilities, including entering into agreements with applicants to extend the time for action on any application under the applicable FCC shot clock.

B. Consultants

1. **Use of Consultants**. Where deemed reasonably necessary by the City, the City may retain the services of professional consultants to assist the City in carrying out its duties in reviewing and making decisions on applications. The applicant and private landowner, if applicable, shall be jointly and severally responsible for payment of all the reasonable and necessary costs incurred by the City for such services. The City shall provide the Applicant with a detailed invoice of time spent and the nature of the review. In no event shall that responsibility be greater than the actual cost to the City of such engineering, legal, or other consulting services.

2. **Advance Deposits for Consultant Costs**. The City may require advance periodic monetary deposits held by the City on account of the applicant or landowner to secure the reimbursement of the City's consultant expenses. The City Council shall establish policies and procedures for the fixing of escrow deposits and the management of payment from them. When it appears that there may be insufficient funds in the account established for the applicant or landowner by the City to pay current or anticipated vouchers, the City shall cause the applicant or landowner to deposit additional sums to meet such expenses or anticipated expenses in accordance with policies and procedures established by the City Council. No reviewing agency shall be obligated to proceed unless the applicant complies with escrow deposit requirements.

~~3. **Liability for Consultant Expenses**. For an application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal, and other consulting fees incurred by the City. If different from the applicant, the owner(s) of the subject real property shall be jointly and severally responsible for reimbursing the City for funds expended to compensate services rendered to the City under this section by private engineers, attorneys, or other consultants. The applicant and the owner shall remain responsible for reimbursing the City for its consulting expenses, notwithstanding that the escrow account may be insufficient to cover such expenses. No conditional use permit, building permit or other permit shall be issued until reimbursement of costs and expenses determined by the City to be due. In the event of failure to reimburse the City for such fees, the following shall apply:~~

~~a. The City may seek recovery of unreimbursed engineering, legal, and consulting fees by court action in an appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney's fees expended by the City in prosecuting such action.~~

~~b. Alternatively, and at the sole discretion of the City, a default in reimbursement of such engineering, legal and consulting fees expended by the City shall be remedied by charging such sums against the real property that is the subject of the conditional use permit application, by~~

~~adding that charge to and making it a part of the next annual real property tax assessment roll of the City. Such charges shall be levied and collected simultaneously and in the same manner as City-assessed taxes and applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the City Council to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.~~

~~4.~~3. **Independent Consultants Retained by Fire Safety Authority**. The Fire Safety Authority has the authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Safety Authority in connection with any application. The Fire Safety Authority may request independent consultant review on any matter committed to the Fire Safety Authority for review or approval. Subject to applicable laws, if the Fire Safety Authority elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the actual and reasonable costs in connection with the services provided, which may include without limitation any actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings. The same procedures for fee deposits, cost reimbursements and refunds to the applicant as described in this Section shall be applicable to independent consultant review required by the Fire Safety Authority.

D. **Director Denial Without Prejudice Due to Failure to Respond to Notice(s) of Incompleteness.** To promote efficient review and timely decisions, any application governed under this chapter regardless of type may be denied by the Director without prejudice when the applicant fails to tender a substantive response to the City within 120 calendar days after the Director deems the application incomplete in a written notice to the applicant. The Director, in the Director's discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 120th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control.

E. **Environmental Review**. Environmental review of the proposed project to protect and assure that citizens of the community contribute to the preservation and the enhancement of the environment shall be performed in accordance with Chapter 17.60 of the City's Municipal Code.

F. **Fire Safety Authority Review**. After submittal by the applicant, the relevant application materials shall be transmitted to the Fire Safety Authority for their review and any recommended conditions.

G. **Staff Report and Recommendations**. A staff report shall be prepared for Type I-IV applications involving a public hearing. Staff reports shall evaluate the compliance of the proposed project with the applicable City policies, regulations and requirements. The report shall recommend, with appropriate findings, the approval, approval with conditions, or disapproval of the application, based on the project evaluation. The report and supporting materials will be made available to the public in advance of the public hearing.

17.46.070 Public Notices, Public Hearings, Decision Notices and Appeals.

A. **Application Submittal Notices – For Types I-V**

1. **Posted and Hand-Delivered Notices.** Within five days after an application is duly filed with the Director, the applicant shall (1) post notice on the proposed project site in a location near to and visible from the public rights-of-way or in the public right-of-way if the project site is in the public right-of-way; (2) provide a hand-delivered postcard notice to neighbors within 100-feet radius of the site; and (3) provide the Director an affidavit that such notice has been posted and hand-delivered. The applicant is responsible for maintaining and replacing the posted notice as necessary during the duration of the application review process until the reviewing authority acts on the application. The posted notice shall be composed from durable quality and weather-resistant materials that will not deteriorate under normal circumstances for the duration of the notice period. The posted notice shall be no more than two square feet and not violate Section 17.40.070. The notice/sign shall not be placed in any location where it would obstruct travel or visibility for vehicles, bicycles, pedestrians or other users in the public right-of-way. The City encourages applicants to consult with the department on placement locations to avoid any potential hazards.

2. **City Website Notice.** Within 10 days after an application is duly filed with the department, the Director shall post notice of the submittal on the City's website.

3. **Notice Content**. The notices required by this Section 17.46.070(A) shall include: (1) the project location with both an approximate street address and GPS coordinates; (2) the City's permit application number; (3) the application type and a general project description with photo simulations; (4) the applicant's contact information as provided on the application submitted to the City; (5) a URL for the City's website page where application information can be obtained once uploaded in accordance with Section 17.46.070(A)(2); and (6) a statement as to whether a public hearing will be required for the application.

B. **Public Hearing Notices (For Types I-IV).** Public hearing notices shall be provided consistent with the requirements of Section 17.52.110, except that the mailing radius shall be 500 feet.

C. **Public Hearings (For Types I-IV).** The Planning Commission shall conduct a public hearing upon each conditional use permit application, consistent with the procedures in §17.52.160.

D. **Decision Notices.**

1. **For Types I-V**. Within five calendar days after the Planning Commission makes a decision on a Type I, II, III or IV application or the Director makes a decision on a Type V application, the Director shall: (1) deliver a written decision notice to the applicant; (2) post written notice of the decision at the proposed project site; (3) provide a hand-delivered written notice of the decision to neighbors within 100-feet radius of the site; and (4) post the decision on the City's website.

2. **Content of Decision Notices for Types I-V**. The written notice sent to the applicant, posted at the proposed project site and hand-delivered to neighbors must contain: (1) the decision made (approval or denial); (2) either the reasons for the decision or where the reasons for the decision are available; (3) if the decision is a denial, a statement whether the denial is with prejudice or without prejudice for the purposes of CMC 17.52.170(D); and (4) instructions for how and when to file any appeal.

3. **For Director Denials Without Prejudice**. The Director must send a written notice to the applicant to deny an application without prejudice due to failure to respond to notice(s) of incompleteness pursuant to Section 17.46.060(D)(1). The written notice shall state: (1) the number of days that have passed without the applicant tendering a substantive response to the City after the Director last deemed the application incomplete in a written notice to the applicant; (2) a statement that denial is without prejudice; and (3) instructions for how and when to file any appeal.

E. **Appeals.**

1. **For Types I-V.** Within ten calendar days after the Director issues the decision notices pursuant to Section 17.46.070(D)(1) or (3), any interested person may file a written appeal for cause in accordance with the provisions in Chapter 17.54; provided, however, that (1) the time for filing an appeal and the notice provisions in this chapter shall control over those in Chapter 17.54 and (2) appeals from an approval shall not be permitted when based solely on environmental effects from RF emissions exposure from the approved facility that was found compliant with applicable FCC regulations and guidelines.

2. **For Director Denials Without Prejudice.** Within ten calendar days after the Director issues the decision notice pursuant to Section 17.46.070(D)(3) denying an application without prejudice, the applicant may file a written appeal for cause in accordance with the provisions in Chapter 17.54; provided, however, that the time for filing an appeal and notice provisions in this chapter shall control over those in Chapter 17.54.

3. **Appeals to City Council**. The City Council shall be the appellate authority for all appeals in accordance with the provisions of Chapter 17.54. The City Council shall issue a written decision that contains the reasons for the decision, and such decision shall be the final action of the City and not subject to any further administrative appeals.

17.46.080 Findings Required.

A. **Types I to IV Applications**

1. **Required Findings for Approval.** The reviewing authority may approve wireless facility applications only when the reviewing authority makes all the following findings:

a. the proposed wireless facility will not result in adverse visual impacts because it complies with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines;

b. if applicable, to the extent the proposed wireless facility does not comply with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines, the applicant has requested a special exception and the findings for granting a special exception pursuant to Section 17.46.080(C) can be made;

c. the proposed wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions and will not, either individually or cumulatively with other transmitters in the vicinity, result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population;

d. the proposed wireless facility will comply with all applicable fire safety and public safety standards;

e. the proposed wireless facility will comply with fall zone requirements in the Administrative Detailed Wireless Facility Design Guidelines;

f. all public notices required for the application have been given;

g. all the findings required for a use permit pursuant to Section 17.64.010;

h. all the findings for discretionary design review approval pursuant to Section 17.58.060;

i. if applicable, all the findings required for a Coastal Development Permit.

2. **Conditional Approvals.** Subject to any applicable federal or state laws, nothing in this chapter is intended to limit the reviewing authority's ability to conditionally approve any application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, this code, or this chapter.

B. **Type V Applications (EFRs)**

1. **Required Findings for Approval.** The reviewing authority may approve or conditionally approve an application for an EFR administrative design review approval when the reviewing authority finds that the proposed project:

a. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

b. does not substantially change the physical dimensions of the existing wireless tower or base station in that it meets each and every one of the applicable criteria for an eligible facilities request stated in the definition of "substantial change," after application of the definitions in 47 C.F.R. 1.6100(b). The reviewing authority shall make an express finding for each criterion.

2. **Findings for Denial.** The reviewing authority may deny without prejudice any application for an EFR administrative design review approval when the reviewing authority finds that the proposed project:

a. does not meet the findings required in Section 17.46.080(B)(1);

b. involves the replacement of the entire eligible support structure; or

c. violates any generally applicable law, regulation, rule or standard or permit condition reasonably related to public health or safety.

3. **Conditional Approvals.** Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the reviewing authority's authority to conditionally approve an application for an EFR administrative design review approval to comply with all generally applicable laws and to protect and promote the public health and safety.

C. **Special Exceptions for Federal or State Preemption or Minor Deviations in Design (Types I to IV only)**

1. **Preface.** The provisions in this section establish the circumstances under which the City may grant a special exception to the standards in this chapter, Chapter 17.58 or the Administrative Detailed Wireless Facility Design Guidelines, but only if specifically requested by the applicant in writing at the time of application submittal and only to the extent necessary to avoid conflict with applicable federal or state law or it is a minor deviation that achieves all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted Design Guidelines. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

2. **Required Findings.** The reviewing authority shall not grant any special exception unless the reviewing authority finds the following:

   a. the applicant has shown that denial of an application will result in an effective prohibition or otherwise violate federal law; OR the applicant has shown that denial of an application will violate state law; OR the applicant has shown that it is a minor deviation that achieves all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted design guidelines.

   b. the special exception requested by the applicant does not compromise or excuse compliance with any fire safety or other public health and safety requirements; and

   c. the special exception is narrowly tailored such that any deviation from the requirements of this chapter is only to extent necessary for compliance with federal or state law or to achieve all of the applicable design objectives of this Chapter, as well as, or better than, would be achieved by adherence to the adopted Design Guidelines.

3. **Evidentiary Standard.** The applicant shall have the burden to prove to the reviewing authority that an exception should be granted pursuant to this section. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for a special exception.

17.46.090 Standard Conditions of Approval.

A. **Wireless Facility Standard Terms and Conditions**. All wireless facilities approved under this chapter or deemed approved by the operation of law shall be

automatically subject to the Wireless Facility Standard Terms and Conditions adopted by the Planning Commission by resolution, unless modified by the reviewing authority in an approval decision.

B. **Modified Approval Conditions**. The reviewing authority, when granting approval of a permit application, may modify, add to or remove standard conditions set forth in the Wireless Facility Standard Terms and Conditions adopted by the Planning Commission by resolution, as the reviewing authority deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions to the particular facts and circumstances associated with the project; and/or (3) memorialize any changes to the proposed project needed for compliance with the City's Municipal Code, generally applicable health and safety requirements and any other applicable laws.

17.46.100 Violations

Any use or condition caused or permitted to exist in violation of any provision of this chapter shall be and hereby is declared a public nuisance and may be subject to administrative citations as set forth in Chapter 18.04 of this code, summary abatement pursuant to Chapter 15.57 of this code, California Code of Civil Procedure § 731, or any other remedy available to the City.

SECTION 3. Conforming Amendments To ~~Code. [TBD]~~ Title 17. The following Sections of Title 17 of the Carmel-by-the-Sea Municipal Code are amended as follows (all other sections remain unchanged):

~~SECTION 4.~~Section 17.08.040: the residential uses table listing for "Communications" uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities			
Antennas and Transmission Towers – Telecommunications	C	C	See Chapter 17.46 for findings
Antennas and Transmission Towers – Other	-	C	
Facilities Within Buildings	C	C	

Section 17.12.020.H. shall read:

"H. Outdoor Antennas. Except as provided in Chapter 17.46 CMC, Telecommunications and Wireless Facilities and antennas used by Federal Communications Commission licensed ham operators or operators certified by RACES or ARES, both of which are excluded from the application of these provisions, antennas erected in the R-4 land use district shall be subject to the following standards:

1. No antenna or its supporting structure shall be located in the area between the front property line and the portion of the main structure or building located closest to the front property line.

2. No antenna shall be roof-mounted except on a flat portion of the roof structure with parapets, and/or architecturally matching screening plan.

3. All ground-mounted antennas shall be camouflaged by walls, antenna color, fences, or landscaping. Landscaping shall be of a type and variety capable of growth within one year to a landscape screen that obscures the visibility of the antenna. The landscaping plan shall be approved by the City Forester before it is implemented.

4. No antenna shall be erected within the public viewshed as identified in CMC 17.12.050, Preservation of Public Viewshed.

5. No part of any antenna shall be higher than 24 feet."

Section 17.14.030: the commercial uses table listing "Communications" uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities				
Antennas and Transmission Towers – Telecommunications	C	C	C	-
Antennas and Transmission Towers – Other	-	-	-	
Facilities Within Buildings	P	P	C	-

Section 17.14.220.F. shall read:

"F. Antennas. ~~Except for antennas preempted by Federal law, antennas in the commercial districts shall be located and screened to reduce their visibility from the public right-of-way and adjacent properties~~. All antenna installations must be reviewed and approved through the commercial design review procedures. Except as provided in Chapter 17.46 CMC, Telecommunications and Wireless Facilities, antennas located in any commercial land use district shall conform to the following standards:

1. All ground-mounted antennas shall be required to maintain their supporting structures at least three feet from any property line.

2. All ground-mounted antennas shall be screened by walls, color, fences or landscaping. Landscaping shall be of a type and variety capable of growing within one year to a landscape screen, which obscures the visibility of the antenna. The landscaping plan shall be approved by the City Forester before it is implemented.

3. No part of any antenna shall be higher than the maximum height allowed in the underlying land use district.

4. A maximum of one antenna shall be allowed on a building site.

5. All roof-mounted antennas are prohibited except as provided in CMC ~~17.46.020(E)~~17.46.030(B) (general development standards)."

Section 17.18.030: the public and quasi-public uses table listing for "Communications" uses in the Transportation, Communications and Utilities uses table shall read:

Transportation, Communication and Utilities			
Communication Facilities	-	-	-
Antennas and Transmission Towers – Telecommunications	C	C	See Chapter 17.46 CMC
Antennas and Transmission Towers – Other	-	C	
Facilities Within Buildings	C	C	

Section 17.40.070.H. shall read:

"H. Signs in the public right-of-way, except for signs posted by a Federal, State, or local governmental entity with permission of the City and application notices posted in accordance with CMC 17.46.070(A)(1)."

Section 17.52.150.C shall read:

"C. Appeals. All final actions of the Director may be appealed to the Planning Commission in accordance with Chapter 17.54 CMC, Appeals, except for Director decisions pursuant to CMC 17.46.050(A)(2) and 17.46.060(D) which may only be appealed to the City Council."

Section 17.54.010.E. shall read:

"E. The findings and actions of the Planning Director shall be final and conclusive from and after the date of final action unless an appeal is filed with the Planning Commission Secretary pursuant to CMC 17.54.040(A), Appeals to the Forest and Beach Commission or the Planning Commission, or CMC 17.54.040(B), Appeals to the Historic Resources Board, or with the Coastal Commission pursuant to CMC 17.54.040(D) and 17.54.050, or with the City Clerk pursuant to CMC 17.54.040(C), Appeals to City Council. "

Section 17.54.040.C. shall read:

"C. Appeals to the City Council. Decisions to approve or deny projects made by the Planning Commission, Forest and Beach Commission, or the Historic Resources Board may be appealed to the City Council by filing a notice of appeal in writing in the office of

the City Clerk within 10 working days following the date of action by the decision-making body and paying the required filing fee as established by City Council resolution. Notwithstanding the foregoing, decisions for projects subject to Chapter 17.46 (Telecommunications and Wireless Facilities) made by the Planning Director or by the Planning Commission must be appealed within the time periods specified in CMC 17.46.070(E).“

Section 17.54.080.A. shall read:

“A. Appeals of Decisions on Permits. Any decision to approve, deny or conditionally approve any permit made by the Director (except for denials without prejudice made pursuant to CMC 17.46.060(D)), the City Forester, the Planning Commission, or the Historic Resources Board may be appealed by any aggrieved party. Coastal Commissioners may appeal these decisions pursuant to CMC 17.54.020 and 17.54.050.”

Section 17.58.030.B.1.d. shall read:

“d. Installation of antennas and associated equipment.”

Section 17.58.040.B.1 and the introductory part of B.2 shall read:

B. Residential Track Two Design Study. Track two is a discretionary review process for projects that require a public hearing with the Planning Commission. All track two projects shall require public notice and a hearing pursuant to CMC 17.52.110, Notice of Public Hearing.

1. Applicability. Residential district track two design review is for the construction of new dwellings, rebuilds, substantial alterations, installation of antennas and associated equipment, and other projects that comply with applicable zoning standards and design review guidelines but do not qualify for track one processing.

2. Procedures. Except for the installation of antennas and associated equipment which shall be subject to the procedures in CMC 17.58.030.B.2, d~~D~~esign review for track two projects is a three-phase process requiring: (1) preliminary site assessment, (2) design concept review, and (3) final details review. The application shall not be deemed complete until the preliminary site assessment has occurred and the City has received a complete application for design concept review. When a use permit, variance, or other land use permit is required, the application shall not be deemed complete until design concept review is completed and the City has received a complete application for final details review and for the applicable land use permit. The procedure for track two projects includes the following:

Section 17.68.070 “Communication Facilities” uses shall read:

Antennas and Transmission Towers - Telecommunications. Communication services accomplished through electronic or telephonic mechanisms, as well as structures designed to support one or more reception or transmission systems. Examples of transmission towers - telecommunications are limited to telephone exchange or microwave relay towers, and cellular telephone transmission or personal communications systems towers.

Antennas and Transmission Towers - Other. Broadcasting, recording, and other ~~communication~~ services accomplished through electronic ~~or telephonic~~ mechanisms, as well as structures designed to support one or more reception or transmission systems. Examples of transmission towers- other are limited to radio towers, television towers, ~~telephone exchange or microwave relay towers, and cellular telephone transmission or personal communications systems towers~~and other towers that are not used for telecommunications.

Facilities Within Buildings. Includes radio, television, or recording studios and telephone switching centers; excludes antennas and transmission devices.

Section 17.70.010 and Section 17.70.020 shall be amended to repeal the following listed terms and corresponding definitions:

Amateur Radio Antenna (See Antenna);

Antenna; Monopole (See Telecommunications Terms);

Satellite Antenna (See Antenna);

Telecommunications Facility, Co-Located (See Telecommunications Terms);

Telecommunications Facility (See Telecommunications Terms);

Telecommunications Terms (Building-Mounted Telecommunications Facility; Monopole; Telecommunications Facility; Telecommunications Facility, Co-Located).

Section 17.70.010 shall be further amended to add to the listed terms the following:

"Telecommunications and Wireless Terms. See Chapter 17.46."

SECTION 4. Conforming Amendments to Titles 12 and 13. The following Sections of Title 12 and 13 of the Carmel-by-the-Sea Municipal Code are amended to read (all other sections remain unchanged):

Section 12.08.050 shall be amended to add a new subsection E as follows:

"E. Notwithstanding Section 12.080.040.A. and Section 12.08.050.A, B, C and D, for applications that are subject to both Ch. 17.46 and Ch. 12.08, the reviewing authority

under Ch. 17.46 shall process and decide both applications concurrently under the procedures in Ch. 17.46, including any appeals."

Section 12.08.060 shall be amended to add a new subsection I as follows:

"I. For applications that are subject to both Ch. 17.46 and Ch. 12.08, only the standards in Ch. 17.46 and the applicable administrative guidelines shall apply."

Section 13.28.070.E. shall be amended to read as follows:

"E. Antennae, associated equipment that is within the supporting structure or integrated with the antennae, and supporting structures, used by a utility for furnishing communication services."

SECTION 5. Effective Date. This Ordinance shall take effect 30 days after its adoption by the City Council of the City of Carmel-by-the-Sea and after approval by the California Coastal Commission.

SECTION 6. Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining sections, subsections, provisions, sentences, clauses, phrases or words of this Ordinance.

INTRODUCED at a Regular City Council Meeting on _____, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this __ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: ATTEST:

_____ _____

Mayor City Clerk

COMMENT MATRIX #1

PC MEETING AUGUST 2023
RESPONSE TO COMMENTS ON PC WORKSHOP DRAFT ORDINANCE

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
	PLANNING COMMISSION		
ORD/CL	An attorney (Andrew Campaneli) hired by the SCTCN Citizens Group provided a sample ordinance with specific language requiring applicants to offer Probative Evidence proving gaps in coverage and/or deficient capacity by conducting Drive Tests and providing Drop Call Data. It also offers a specific definition of "Adequate Coverage." I would like to understand why such language is not included in our new draft. In my own research I have discovered several other municipalities that have included this language.	Y & N	Section 17.46.080(C) of the ordinance establishes the circumstances under which the City may grant a special exception to the standards in this chapter, Chapter 17.58 or the Administrative Detailed Wireless Facility Design Guidelines if the applicant makes a claim that granting a special exception is necessary to avoid conflict with applicable federal or state law. The application checklist (Types I-IV) then addresses the proof required for various special exception claims. For example various types of "effective prohibition" claims may be made requiring different evidence. The City's draft ordinance has not been revised to add submittal requirements for special exception requests but revisions have been made to the checklist to require information to support effective prohibition claims. The Campanelli ordinance purports to deal with one type of special exception request, that is federal (not state) preemption claims in what Campanelli ordinance calls a Notice of Effective Prohibition Conditions but it defines an effective prohibition using an "adequate coverage" test that is different from the significant gap/least intrusive means test developed in Ninth Circuit case law interpreting what is an effective prohibition. Further, the Campanelli ordinance does not attempt to address or require any proof for other types of federal effective prohibition claims (such as the materially inhibits claims discussed in the FCC Small Cell Order and the Ninth Circuit decision related to that Order), nor does it address state preemption claims. In other words, the draft ordinance prepared by the City more comprehensively covers ALL of the potential Special Exemption Requests.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD/CL	I would furthermore suggest language that calls for any/all approved wireless facilities to be active before any proof of need testing is done, and that such testing be submitted as part of an application and if missing, the application would be deemed incomplete.	Y & N	Added to checklist a requirement for modeling to include coverage of recently approved/not yet operable sites. However, requiring sites to be *operable* has not been added. It is not uncommon for applicants to pursue multiple applications at the same time and the FCC rules recognize batching applications can occur (see 47 CFR 1.6003(c)(2)). Further, under the FCC's 2018 Moratoria Order, local governments cannot impose an express or de facto moratorium on the processing of applications. Per the FCC Moratoria Order: De facto moratoria are "…state or local actions that are not express moratoria, but that effectively halt or suspend the acceptance, processing, or approval of applications or permits for telecommunications services or facilities in a manner akin to an express moratorium." (¶139) In light of this, requiring an applicant to complete construction of a facility before applying for another facility would put the City at risk of claims that the City is unlawfully refusing to process of applications.
ORD	Type I, II, III and IV applications are first defined on page 9 (in Definitions) and then much more language is added beginning on page 19 (17.46.050 A – Application Types), and then again on the second page of the Application for Wireless Facility. While the wording in each is similar, I think it should be identical and clear.	Y	Cleaned up as suggested.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	Also, I get confused by the use of the terms “existing structure” and “new structure”. I believe the intent here is that an “existing structure” is a structure that already has a wireless facility on it and a “new structure” is one that does not. But what if the proposal is to place a new wireless facility on an existing building’s roof where no wireless facility currently exists? That building is a structure (per definition on page 22), it does exist, and it is not new, so I would call it an existing structure, yet I think the current language would call it a new structure. Perhaps we should introduce more descriptive terms like “structure already supporting one or more wireless facilities” instead of “existing structure” and “structure not currently supporting wireless facilities or a new structure or a replacement structure” instead of “new structure.”	N	The defined term “existing” only applies to EFRs. The specialized meaning for EFRs essentially means the structure has a wireless facility already on it. Where the code is addressing EFRs, the terms used are existing tower or base station (all of which are defined). Where the code is not addressing EFRs, the distinction is generally between existing and new structures, and “existing” has its normal meaning, that the structure currently exists. Note the FCC definition of “structure” included in the Code does not require a wireless facility on it. Where the proposal is to place a new wireless facility on a rooftop where no wireless facility currently exists that would be a placement on an existing structure.
ORD	Adding an example of an application for each Type would be helpful.	N	Would be difficult to cover all application types as part of a regulatory document. Consider creating as part of a separate guidance document that is less formal.
ORD	Page 7. 12. “non-pole concealment structure” – do we really want to offer a list of examples here ? I doubt we’ll see public support for antennas on monuments, kiosk, bus shelters and street furniture, so why include it here suggesting it’s ok ?	Y	The definition is not used and has been removed.
ORD	Page 7. 16. “public right of way” – “The term does not include private or public utility easements….” Language elsewhere addresses wireless facilities in the PROW and utility poles are the prime structure that Telecom Companies would be wanting to use. I assume such poles are in a Utility Easement so we better include such easements in the PROW we’re trying to regulate.	N	The utility poles in Carmel are mainly in public rights-of-way, not utility easements. The definition is limited because later constraints on placements in public rights of way (highly incompatible locations) are imposed to address traffic/pedestrian access and other safety concerns in streets. Utility poles that are on private parcels are also regulated just not a strictly.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	Page 12. B.1 – "wireless facilities operated for the City for public purposes" Why are these excluded? I think we want to hold the City accountable to the same standards as all wireless providers. I understand it is customary to exclude City Government from it's own ordinances, but in this case I strongly disagree. Local governments elsewhere have realized the revenue potential of streetlights, parking meters and other city property when allowed to support wireless facilities – let's nor open that door.	Y	Amended to delete exclusion. Please note that the Small Cell Order in effect requires local governments to make structures they own in the public rights-of-way available for placement wireless facilities at cost-based rates. However, local governments retain full proprietary authority over whether to allow wireless facilities on non-ROW public land.
ORD	Page 13 – Tier III includes RC as most compatible. I'd suggest it be in Tier I or at least Tier II.	N	Not changed, as this is policy matter for the full Planning Commission to consider – RC is technically one of the City's commercial districts, so staff is recommending leaving as-is. One consideration is that moving RC to a different Tier could create a situation where we're excluding too much land (40% of total commercial is RC)
ORD	Page 14 D.1 – See previous comments on "new" and "existing" structures	N	see above regarding same topic.
ORD	Page 14 E.1 – See previous comments on Utility Easements being excluded from the PROW definition. Let's be sure not to inadvertently exclude utility poles from inclusion here as highly incompatible.	N	See discussion above on page 3. WCFs on utility poles not in public right-of-way would be subject to other standards for placements on parcels.
ORD	Page 15 2 – again, see prior comments re" "new" and "existing" For 2.a, why not 10 feet instead of 5? Also, consider adding language from the Original Draft that prohibited (or at least strongly discouraged?) structures within 10 feet of a driveway or primary walkway to a residence. For 2.b, why not 500 or even 1000 feet instead of 250?	Y & N	See earlier discussion re new and existing. 5ft. criteria not changed–10 ft becomes problematic with overlap of other regulations such as placement in front of doors and windows. 250ft. criteria was changed – Staff changed to 500 feet. 1,000 feet would not be reasonable because of city size

COMMENT MATRIX #1

PC MEETING AUGUST 2023
RESPONSE TO COMMENTS ON PC WORKSHOP DRAFT ORDINANCE

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	Page 15 3.c, third line, add “distracts” – that obstructs, restricts or distracts the view…..	N	Leave as-is. “Distracts” is more subjective than “obstruct” or “restrict” since those both deal with an object directly in a line of sight to a view, as opposed to just being in an undetermined periphery area
ORD	Page 16 F.1.3 – Do we need definition for “average height of mature natural trees”?	Y	Removed “average height” standard. Upon investigation, this is an overly complicated measurement. Also, it is likely that in most cases, the number of trees over 24-feet (many well over 50-feet) would cause the average height to almost always be greater than the maximum height of the zoning district. So, this was modified to just use the standard of no-taller than 10-feet above the max height of the zoning district.
ORD	Page 17 f. “within any tree drip line” – do we want to clarify that this applies whether above or below the tree canopy ?	N	No need to clarify, this is defined in CMC 17.60
ORD	Page 18 k. View Protection – I think this should be MUCH stronger. “Substantially Eliminate an existing significant view” would be very difficult to achieve while a view is still significantly impacted. This would seem to be an important design guidelines tool.	N	Keeping the same as test for all other development 17.10.010.K
ORD	Page 21 1 5. Voluntary Community Meetings – why can’t these be mandatory?	N	A mandatory community meeting before application submittal would trigger the FCC shot clock. As a practical matter, there is not a lot of time for community meetings. The FCC shot clocks are short and leave little time for the public hearing already required for all discretionary reviews and potential appeals.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	Page 27. E. Do fall zone requirements apply to all wireless facilities including those mounted on utility poles? I believe they should and not just for habitable structures intended for residential occupancy but any for of occupancy (specifically hotels).	Y	CPUC regulates the safe installation of electric and communications utility infrastructure including attachments of wireless facilities on utility poles. See for e.g., CPUC General Order 95 which was updated in 2020 to strengthen pole safety requirements. The fall zone in the Administrative Detailed Wireless Facility Design Guidelines does not apply. Bear in mind that the Code favors the use of existing poles and not the construction of new poles, so the fall zone is already fixed by the original placement of the pole. Further, if the applicant does not own the structure or pole, the applicant must include with the application a written authorization executed by the owner(s) that authorizes the applicant to file the application and perform the work to the extent described in the application. Pole owner's will review proposals for compliance with CPUC rules (and their own requirements which may be more stringent) before granting such authorization.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
COA	General – Can we add language for annual RF Compliance reporting ?	N	City can and does require demonstration of compliance with RF emissions standards in the application and post-installation in the COA. The COA also provides that Director may ask for a report if Director has good cause to believe the facility is not in compliance. The FCC has compliance and enforcement authority. Thus, local regulation of the facility's compliance on an ongoing operation may be subject to legal challenge in the courts or at the FCC as unlawful supplemental regulation e.g.Crown Castle USA Inc, v. City of Calabasas, Superior Court of California, County of Los Angeles, Case No. BS140933, January 24, 2014 (Chalfant, J.); see also Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934, FCC 00-408 (rel. Nov. 17, 2000). Concerns about suspected non-compliance should be reported to the FCC for enforcement action. Phone: 1-888-225-5322 (1-888-CALL-FCC); E-mail: rfsafety@fcc.gov
	General – Do we have a stated policy of undergrounding utilities? It would seem that if we did and if we made clear that anything on a utility pole that is later undergrounded must also be placed underground or eliminated might provide Telecom providers some pause before investing in pole mounted antennas.	Y & N	CMC Chapter 13.28 (Underground Utilities) provides the process for establishing underground districts by City Council resolution. Once an underground district is established, unless the resolution provides otherwise, undergrounding requirements do not apply to certain types of facilities, including "antennae, associated equipment and supporting structures, used by a utility for furnishing communication services." See CMC Section 13.28.070(E). In the proposed conforming amendments (Section 4) 13.28.070.E, a change is proposed to ensure remaining equipment is not visible.
ORD	General – my comments on "new and existing structures" apply throughout these documents. I have not cited every instance.	Y	see earlier comments on this matter

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
	SCTCN COMMENTS		
ORD	(1) Start with the Campanelli Ordinance for Carmel (March 2022) as the framework and make any additions to make it stronger; rather than starting with the City Wireless Ordinance Draft and trying to strengthen it to the level of the Campanelli Ordinance….we find that overall, the Andrew Campanelli Ordinance we submitted to the city last March 2022 is a stronger wireless ordinance than the city's draft because: (i) Everything is included within the ordinance for transparency to the public and the courts , (ii) The description and explanation of the application types are clearer and more defined, (iii) The critical role of the Planning Commissioner's authority to render factual determinations and the findings are covered in 6 pages within the ordinance: articulating 8 zoning impacts and 4 effective prohibition conditions to determine adequate coverage, significant gap/capacity deficiency, and least intrusive means, and (iv) the Campanelli ordinance outshines the city's draft it it's ability for the Planning Commission to be able to make factual determinations on significant gap and capacity deficiency claims when an applicant has effective prohibition claims.	N	Relevant topics from the Campanelli Ordinance are already addressed in the draft ordinance and the specific comments made at the workshop were responded to and changes made in the current draft to the extent deemed advisable (as explained in this chart). The Campanelli Ordinance would require major revisions if the city were to use it. Among other things, the Campanelli Ordinance is not complete misstates certain legal requirements, and does not address California law.
CL	(2) The role of The Planning Commission as the discretionary reviewing authority of evidentiary findings must be clearly articulated within the ordinance and the Wireless Ordinance Facility Application Checklist Types I-IV.Add language from Andrew Campanelli's Wireless Ordinance Refering to Evidentiary Standards for Effective Prohibition conditions (p. 22-24) and rendering evidence for significant gap and capacity deficiency claims (page 30-36) in the Campanelli Ordinance 17.46.100	Y & N	No changes have been made to the ordinance. See comments on page 1 above regarding special exception findings and why we have not incorporated Campanelli ordinance language regarding effective prohibition in the City's ordinance. Some revisions to the checklist for Type I-IV applications have been made to require information to support effective prohibition claims.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD/CL	(3) The city draft's "Wireless Ordinance Application Types I-IV" do not require applicants to provide all of the probative evidence necessary for the Planning Commission to make factual determinations as to whether a denial of the application would materially inhibit an identified wireless carrier from providing personal wireless services. All the evidence necessary should also be articulated in the ordinance. ***17.46.080 Effective prohibition claims*** --We recommend the language used in Sonoma's June 21, 2022 ordinance under 5.30.120 exceptions B. as such,"An applicant may request an exception only at the time of applying for a wireless telecommunications facility permit and not at any time thereafter. The request must include both the specific provision(s) of this chapter from which the exception is sought and the basis of the request. Any request for an exception after the city has deemed an application complete shall be treated as a new application." ***Checklists-***The application instructions must, "require" applicants to make a showing of all probative evidence necessary for the Planning Commission to make factual determinations as to whether a denial of the application would materially inhibit an identified wireless carrier from providing personal wireless services. ***Drive test data***--include the "history of effective prohibition claims" and the "specific drive test data and map evidence" an applicant must provide for the Planning Commission to be able to make factual determinations about significant gap claims. Include the specific language and testing criteria outlined in Andrew Campanelli's ordinance (effective prohibition claims/drive test data and maps) ***Connect to landline***-add a checkbox requiring applicants to make a showing as to whether "mobile wireless services could connect to a landline", and if so, all results and data together with a report that describes how and when the applicant conducted such test(s), so that the Planning Commission may fully determine significant gap claims. ***Denial of service*** - add in a checkbox on the city application instructions requiring applicants make a showing of denial of service and/or dropped call records so that the Planning Commission may determine capacity deficiency claims. We recommend the specific language from Andrew Campanelli's ordinance as such (denial of service and/or dropped call records)	Y & N	See edit to Ordinance Section 17.46.080(C)(1) to address the timing of claims for special exceptions (only one special exception claim involves effective prohibition. It is inappropriate to put detailed requirements "effective prohibition" showings in an ordinance because the tests for effective prohibition are multiple and evolving as case law develops. Putting a specific judicial test in the ordinance would require frequent amendments to keep the ordinance current with the law, which could leave it vulnerable to challenge during the long process of updating. Further, the Campanelli ordinance only addresses one of the several judicial tests and not quite as formulated in the Ninth Circuit. Most of the requested items have been added to the checklist where appropriate for the Ninth Circuit. Additional items have been added to address other effective prohibition tests.

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ORD/CL	(4) All the Evidentiary Standards to be rendered by the Planning Commission must be within the ordinance or in both the ordinance and the checklist.	Y & N	Some revisions have been made to the checklist. The ordinance now references the requirement for applications to contain probative evidence in order to strengthen the requirement for those materials to be included, but the specific application requirements have not been added to the ordinance and have been included in the checklist for the reasons discussed above.
CL	(5) The city draft's Wireless Ordinance Application Types I-IV & V must include a fire safety and engineering checklist outlined by consultant Susan Foster in an attachment	N	Fire safety and engineering were already addressed in the previous ordinance and checklist drafts and remain sufficient in staff's opinion.
ORD	(7) The city draft's public noticing to neighbors is limited to a 100-foot radius. The city draft's public noticing to neighbors by the applicant must be expanded from a 100 foot radius of the site to a 300-foot radius of the site. In addition to hand delivery, require the applicant to send public mailings within a 300-foot radius of the site and require the applicant to file an Affidavit of Delivery and Mailing. Example: from Andrew Campanelli's wireless ordinance for CBTS	N	The ordinance is consistent with the current city permit procedures in Section 17.52.110 for hearing notices. 100 ft hand deliver and 300 ft mailing. Further, hand delivery is being done by the City for wireless applications to make sure that it is timely done.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	(6) The city draft ordinance omits the finding of "adverse impacts upon real estate values" to be determined by the Planning Commission. Add as stated in Andrew Campanelli's ordinance (p.34) (potential adverse impacts upon real estate values)	N	Development within the City is regulated through design and location guidelines. Example – viewshed is already regulated to an extent. All development standards implicitly serve to protect property values already. Adding this finding will unnecessarily put the City at risk of legal challenge. Courts have cautioned that requirements or decisions that are ostensibly concerned with property values may be found to be unlawfully based on concerns about RF emissions. For example, in a California federal district court case in which a city had denied a wireless facility application based on the city's finding that the wireless facility would "negatively affect property values of nearby homes based upon the perceived fear of the health effects cause by the RF emissions," the court held against the city since it may not regulate based on the "direct or indirect concerns over the health effects of RF." The court explained that the denial could not be based on substantial evidence (as required by law) "…if the fear of property value depreciation is based on concerns over the health effects caused by RF emissions." See AT&T Wireless Servs. v. City of Carlsbad, 308 F. Supp. 2d 1148 (S.D. Cal. 2003). This ruling is relevant because the proposed wireless regulations already have detailed aesthetic and safety standards, and it is not clear on what basis --other than an unlawful concern over the health effects of RF emissions-- would a finding be made that a facility that is found to meet those design and development requirements nonetheless creates adverse impacts upon real estate values and must be denied. .

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	(8) The city draft's "View Protection" language is weak and does not fully protect view impacts to individual properties and neighborhoods. ***Add***: ++Wireless communications facilities, to every extent possible, should not be sited to create visual clutter or negatively affect important public or private views as determined by the Planning Commission. ++During the site visit, the City Planner shall annotate the survey regarding the potential view and privacy issues on neighboring lots. ++The project does not present excess visual mass or bulk to public view or to adjoining properties. ++Mitigate impacts on visual quality, circulation and ambience to the extent possible. ++Co-location is encouraged when it will decrease visual impact. ***Delete***: "No single parcel should enjoy a greater right than other parcels except the natural advantages of each site's topography."	Y & N	Added the following suggestions to 17.46.040.F.1.K (View Protection). The remainder were not added due to redundancy or lack or relevance to View Protection • Wireless communications facilities, to every extent possible, should be sited to not create visual clutter or negatively affect important public or private views as determined by the reviewing authority • The project does not present excess visual mass or bulk to public view or to adjoining properties • Collocation is encouraged when it will decrease visual impact Deletion Request – Not done. This language is part of municipal code under 17.10.10 that is standard for all development projects in the City.
ORD	(9) The city draft's 250 feet spacing requirement between wireless facilities in the public-rights-of-way results in a proliferation effect of about 2 facilities per block. The city staff must do a technical analysis to determine the maximum public-rights-of-way distance between facilities that does not create an effective prohibition. e.g. Sonoma has 1500 feet	Y	Spacing was changed to 500 ft. It is not possible for staff to do a meaningful technical analysis to determine the maximum public-rights-of-way distance between facilities that does not create an effective prohibition. Each carrier can make an effective prohibition claim based on its own service capabilities and circumstances and these change over time.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	(10) The city draft's "Purpose & Findings statements" are lacking protections of Carmel-by-the-Sea's character and safety elements in 5 areas. Include additional language: ++ The preservation of the residential character in Carmel is central to all land uses. ++ Respecting the past as a continuing legacy that challenges each citizen to preserve the City's character in spite of on-going change. ++ Preserving Carmel's primarily residential character with business and commerce subordinate to its residential character. ++ The encroachment shall not create, extend, or be reasonably likely to lead to an undesirable land use precedent ++ SCALE. Underlying much of Carmel's design character is a respect for scale. Scale can be defined as a relationship of size among two or more objects. In Carmel, the scale tends to be small and related to human size. The City itself is compact, its lots are small, and its streets are narrow. The character established by existing small homes and cottages reinforces this intimate size relationship. All of these contribute to a human scale and a pedestrian-friendly, built environment. ++ Designing buildings, infrastructure, and other improvements to a human scale ++ Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and shall be avoided. ++ That the project will preserve the community character and will be compatible with the streetscape, mass, bulk and height of the surrounding neighborhood context. ++ Each site shall contribute to neighborhood character including the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping. It is intended by this objective that diversity in architecture be encouraged while preserving the broader elements of community design that characterize the streetscape within each neighborhood. ++ Carmel by-the-Sea's urban forest poses significant fuel source for fire within the Community ++ High density of structures within the Carmel residential areas and business districts among numerous trees increase the hazard	Y & N	Added the following to the ordinance: • Ensure the safe installation and maintenance of wireless facilities to protect against fire hazards made more prevalent by the City's unique urbanized forest, topography and accessibility. • Preserve Carmel's primarily residential character by keeping business and commerce subordinate to its residential character • … recognizing that the preservation of the residential character in Carmel is central to all land uses… The remaining suggestions were not added due to redundancy, or because they were not appropriate to be put in the purpose statement as they were specific design guidelines, or codes that are already captured elsewhere in the wireless regulations. Some were not relevant to wireless facilities, such as the concept of "human scale", which has to do with architectural elements of a building meant for human habitation.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
	(cont. from previous page) ++Many buildings in the commercial district are very closely located with many building having common walls; ++Many of the commercial buildings and residential dwellings are older without fire sprinklers or fire resistant building materials; ++Of the approximately 250 commercial buildings in Carmel, more than half are equipped with fire alarm systems, and approximately 20 percent have automatic fire sprinkler systems. ++Most construction within Carmel contains wood; most roofs are made of combustible materials; ++High-density development with small setbacks increase fire spread and limit effectiveness of fire fighting efforts; ++The most significant factor increasing fire risk is human proximity; ++Areas with limited access prevent containment goals; ++Coastal windstorms and hillsides promote strong gusts of wind toward the city; ++Steep slopes promote spreading of wildfire through increased speed and preheating of vegetation; ++Risk of burning embers pushed by wind-blown wildfires from igniting building through small setbacks and vegetation; ++The village layout creates access challenges for the emergency vehicles. Many of the roads in the residential districts are very narrow and lack adequate turnaround space for larger emergency vehicles, such as fire trucks; ++In addition to constricted access, the tightly knit community of houses and trees doesn't provide adequate fuel breaks throughout the City; ++Another aspect of the "village" character that creates an obstacle to emergency response is lack of addresses. The lack of house numbers in response to		***(cont. from previous page)***

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
	(cont. from previous page) emergencies such as fire, or flooding may not have a significant impact on the ability of emergency responders to find a property, as these are highly visible events. However, in case of medical emergency, lack of the house number may delay the arrival of the medical team. ++Dry summer and fall seasons with no precipitation create ideal conditions for fire spreading; ++A combination of generous rainy season followed by dry summer can result in large amounts of vegetation for fire fuel; ++Accidents related to spark charges from overhead transmission lines have started fires, as well as embers from wood burning stoves and faulty electrical wiring; ++ aleady included~~We have 4 very high severity hazard zones within the community (Pescadero Canyon, Forest Hill Park, Del Monte Forest and Mission Trails Nature Preserve~~); ++As discussed in the Public Facilities and Services Element, the water supply is one of the biggest challenges for Carmel and other Monterey Peninsula Cities. The City and its emergency responders have a limited supply of water. In case of a large, regional fire incident, where adjoining cities would be also drawing on water supply, the City of Carmel may experience inadequate water supply to fight fires.		***(cont. from previous page)***

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
CL	(11) The city draft is missing "visual impact analysis from the perspectives of the properties situated in closest proximity to the location" of a proposed facility. ***Add*** a checkbox in this section from Andrew Campanelli's ordinance:"Visual Impact Analysis A completed visual impact analysis, which, at a minimum, shall include the following: (a) Small Wireless Facilities For applications seeking approval for the installation of a small wireless facility, the applicant shall provide a visual impact analysis which shall include photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed for the siting of the facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a "clear line of sight" between the tower location and their location."	Y& N	See addition to Type I-IV Checklist 3.1. The city may not require photos from private property to which the applicant may not have access, but language has been added requiring the applicant to attempt to obtain pictures or provide proof that they could not get permission.
CL	(12) The city does not require the applicant to construct "a real-world mock-up" of the mass, scale, and height of the structure as field evidence necessary for the Planning Commission to be able to make factual determination on visual impacts to neighboring properties. Require balloon test (Campanelli ordinance) or mock-up for community meeting (Sonoma ordinance)	Y& N	. Amendments made to Design Review Chapters in Municipal Code which make the City's Story Pole Policy applicable to all wireless applications now, which will serve the same purpose as a mock-up. "Balloon tests" are a method of perceiving the height of much taller, free standing towers that is not applicable in the context of the facilities that would be applied for in the City.
CL	(13) The city does not ask applicants to explore co-location of service opportunities outside of city limits before adding a new facility in Carmel as least intrusive means. Specify applicants to plot existing and predicted co-location opportunities in a geographic radius of 45 miles from the city as co-location opportunities to provide service to the area proposed, as least intrusive means before adding a new wireless facility in Carmel. All results and data together with a report that describes how and when and how far away the applicant conducted such test(s)," so that the Planning Commission can determine the full-range of co-location opportunites a carrier has available to provide to existing and predicted facilities aready in Carmel.	Y& N	We require justification analysis for deviating from the most compatible location and/or structure. We have removed the requirement to identify existing wireless facilities only within the City. See 12.3. For significant gap/least intrusive means we require an alternatives analysis that is not limited to City locations. See 15.2.1(c). It does not specify the mileage but 45 miles is not a viable requirement. The appropriate radius will depend on the size of the gap and the available means to fill the gap.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	(14) The city draft's ordinance is missing "Definitions" necessary to give full explanation, distinction, and clarity to the document. ADD from Campanelli ordinance: ADEQUATE COVERAGE; DBM; NOTICE OF EFFECTIVE PROHIBITION CONDITIONS; PROBATIVE EVIDENCE; SITE DEVELOPER; SMALL WIRELESS FACILITY SUBSTANTIAL EVIDENCE; TOLLING OR TOLLED	N	Already have small wireless facility. The others are not necessary in the ordinance or generally are not used.
	VERIZON WIRELESS		
ORD	A problematic new Draft Ordinance provision prefers private parcels over the right-of-way. Draft Ordinance § 17.46.040(C). This directly contradicts California Public Utilities Code Section 7901 which grants telephone corporations such as Verizon Wireless a statewide right to place their equipment along any right-of-way, including new poles. Accordingly, the City cannot deny a proposed right-of-way facility due to a preference for private parcels, nor can it require applicants to demonstrate that private parcels are infeasible or unavailable. The justification for the private parcel preference—that it is necessary to ensure access for pedestrians, vehicles, and emergency personnel, among other motives—is lifted verbatim from the City's code regarding sidewalk vendors. Code § 12.46.010(B). However, those concerns are misplaced as applied to small cells in the right-of-way. State safety regulations already require that small cell equipment be elevated on utility poles, posing no impediment to circulation or access by pedestrians and motorists. Draft Ordinance Section 17.46.040(E)(3)(f) includes safety standards to protect access to transportation, fire hydrants and other public infrastructure along the right-of-way. New poles would have the same minimal footprint as utility poles. Consistent with the statewide franchise to use the right-of-way granted by Section 7901, numerous California cities including San Francisco, San Jose, San Bruno and Salinas have adopted distinct wireless regulations for private property and the right-of-way, with separate permit requirements and standards. Carmel would invite legal challenges by adopting a preference for private parcels over the right-of-way. Section 17.46.040(C) must be deleted.	N	The City disagrees that this is a prohibition. It is a rationale level of preference based on the reality of the physical circumstances of the City streets.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	The Draft Ordinance would subject small cells to a host of vague standards. These include a location that is "least intrusive to community character and values." Draft Ordinance § 17.46.040(A), (B). A "stealth" design is required, defined to require a facility to "mimic or blend" with surroundings, with all equipment screened from view. Draft Ordinance §§ 17.46.020(A)(21), 17.46.040(F)(1)(a). Such broad stealth criteria are unrealistic for small cells in the right-of-way, which are not "out-of-character" compared to other utility infrastructure such as utility poles, transformers, and utility lines.	N	The City disagrees that the standards are vague or unrealistic. Per the Ninth Circuit ruling, small cells do not have to be limited to "objective" standards.
ORD	In a major reversal from the original version, which required administrative design review for right-of-way facilities, the revised Draft Ordinance now requires the vague findings for conditional use permits, discretionary design review and coastal development permits. Draft Ordinance §§ 17.46.080(A)(1)(g), (h), (i). Those findings include "compatible with surrounding land uses," "contributes to neighborhood character," "sensitive to the natural features," "modesty and simplicity" and other criteria inappropriate for needed utility infrastructure. Code §§ 17.58.060, 17.64.010. Further, the referenced code findings require compliance with the General Plan, the various zone purposes and standards, and the local coastal program, all of which involve additional vague, excessive criteria. Alone or in combination, the various vague standards could be used to deny small cells that otherwise satisfy specific criteria such as volume thresholds. For small cells, vague standards unrelated the FCC's goal of avoiding "out-of-character deployments" are "unreasonable" and prohibitive. Federal courts have ruled that vague, generalized concerns or opinions about the aesthetics of wireless facilities do not constitute substantial evidence upon which a city can deny a permit. See City of Rancho Palos Verdes v. Abrams (2002) 101 Cal. App. 4th 367, 381. By contrast, the Draft Guidelines provide specific direction, which benefits applicants and City decision-makers alike. Our minor suggested revisions below would ensure that the Draft Guidelines are technically feasible. The Draft Ordinance should be revised to eliminate any vague standards and findings for small cells in the right-of-way, and instead simply require compliance with the Design Guidelines.	N	There is no legal requirement for administrative review for right of way facilities. An initial draft set of wireless regulations did have administrative design review, but based on public feedback the workshop draft went back to the existing Code's approach. The City disagrees that the findings are inappropriate. The Guidelines inform the decisions on the findings.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	Draft Ordinance Section 17.46.040(E)(1) requires a "special exception" for right-of-way facilities in the R1–Residential zone that covers most of Carmel, as well as the many City historic sites and coastal sites. The exception scheme is problematic because it requires an applicant to show that denial would violate federal or state law. Draft Ordinance § 17.46.080(C). The exception findings are not based on reasonable aesthetic criteria, and they inappropriately place City officials in a quasi-judicial position. By relying on "exceptions" that would be required over and over, the City would concede that its location standards are unreasonable and preempted.*** In the right-of-way, small cells serve targeted areas with a limited coverage footprint. Steering a small cell too far from a proposed location would leave a target coverage area underserved or unserved, constituting a prohibition of service. Accordingly, we suggest that instead of requiring exceptions for residential rights-of-way, the City add a reasonable search distance of 500 feet for any preferred locations or structures. Section 17.46.040(E)(1) must be deleted. Sections 17.46.040(B) and (D) should be revised to allow a less-preferred location or structure if there is no preferred option "...within 500 feet along the right-of-way that is technically feasible and available."	N	The City disagrees that requiring a special exception is inappropriate or a concession that the standards are unreasonable.
CL	To prove that denial would violate federal law, Item 15 of the proposed Type I-IV application checklist requires applicants to demonstrate an effective prohibition by providing information regarding coverage gaps, which the FCC found are not pertinent to small cells. Infrastructure Order, ¶ 40. Instead, the FCC determined that local requirements constitute an effective prohibition of service if they "materially inhibit" the goals of "densifying a wireless network, introducing new services or otherwise improving service capabilities." Id., ¶ 37. The FCC emphasized that "a legal requirement can 'materially inhibit' the provision of services even if it is not an insurmountable barrier." Id., ¶ 35. The hurdle of requiring a special exception to site in residential rights-of-way is one such barrier that is preempted by the FCC's Infrastructure Order.	Y & N	This section of the checklist has been updated to expand the alternative bases for an effective prohibition claim. The city does not agree that the requirement to demonstrative a special exception was itself preempted by the FCC Order.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	17.46.040 – General Development Standards E(3)(d). No new pole in right-of-way that would affect existing vegetation or root structure. Portions of some Carmel rights-of-way are covered with vegetation that in many cases extends from adjacent private property. While installation of a new pole foundation may require minimal vegetation removal, a pole itself has a very small footprint. Roots of established trees can be protected by a specific standard. This provision should be replaced with a requirement that a new pole not be installed within a tree's existing drip line.	Y	Modified to protect tree roots and preserve open space/possible future tree locations.
ORD	E(4). Encroachments over parcels (RF emissions). This provision attempts to regulate radio frequency emissions based on a subjective determination of whether the emissions would render a private parcel "inaccessible" or hinder future development, potentially requiring property owner consent. However, the federal Telecommunications Act clearly bars such local regulation of wireless facilities that comply with the FCC's exposure limits. 47 U.S.C. § 332(c)(7)(B)(iv). If a licensed engineer confirms that a proposed facility will not exceed the FCC's general population exposure limits, then the City cannot impose its own supplemental regulations pertaining to RF emissions. This reference to RF emissions must be deleted.	Y	The intention was not to regulate RF emissions but to preserve existing property/development rights on private property, for example if a wireless facility is placed in ROW adjacent to a parking lot and the lot later gets developed into housing. To better express this intent, the development standard has been deleted from the ordinance and new language has been added to the standard COA related to compliance with applicable laws. See Exhibit C Standard Conditions of Approval, revised Item 11.
ORD/DG	F(1)(b). Overall height. This would limit the height of any facility to 10 feet over mature trees in the vicinity or zone height limits, whichever less. On private property, this could prohibit facilities on rooftops already reaching the zone height limit. Tree screening is unnecessary because the Draft Guidelines already require full concealment. Draft Guidelines § I(B)(1). In the right-of-way, state safety rules require that pole-top antennas be elevated six feet above electric supply conductors, in which case the proposed height limits would be technically infeasible. Public Utilities Code General Order 95, Rule 94.4(C). With greater height, antennas provide a larger coverage footprint, and fewer facilities are needed to serve an area. For private property, we suggest allowing antennas to extend up to 10 feet over the height of the existing building or the zone height limit, whichever greater. For the right-of-way, we suggest allowing an antenna to extend up to 10 feet over the height of an existing utility pole, to accommodate the antenna plus the required six-foot separation distance.	Y	Modified to let view impacts rules guide, rather than limiting simply because of height. Generally, allow 10' over height for district and in right-of-way, existing utility poles.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	F(1)(f). Trees and landscaping. This would prohibit right-of-way facilities within a tree's drip line, but that should not apply to facilities placed on existing/replacement utility poles where tree branches have grown nearby. Public utility companies may prune branches as needed for safety without compromising a tree's health, obtaining a permit if needed, and a tree can provide screening of small cell accessory equipment. The first sentence should be revised to apply only to new poles, but not to facilities on existing/replacement poles.	Y	Wording change – addressed new poles and equipment
ORD	F(1)(k). View protection. This requires a location and design that preserves significant coastal views from the right-of-way while "respecting" views from neighboring parcels, referencing "private rights to views." This is another vague standard that could be used to deny a small cell that satisfies the Design Guidelines and is not "out-of-character" compared to existing right-of-way utility infrastructure. Curtailing antenna height to satisfy this provision could be technically infeasible by compromising signal propagation. Ultimately, this standard would be unreasonable. The FCC's Infrastructure Order preempts both City regulations and the referenced California Coastal Act. This provision should be deleted.	N	A site might meet all design guidelines and then still fail the view impact test but coastal view protection is a well-documented and important aesthetic concern not only for Carmel but statewide under the Coastal Act. The concerns expressed about implementation are speculative. The City does not agree that state and local laws protecting coastal views are facially unlawful and preempted by the FCC Small Cell Order as Verizon appears to suggest.
ORD	17.46.050 – Wireless Application Types and Submittal Requirements B(4). Other permits and reviews that may be required. This provision does not address the encroachment permits required for right-of-way facilities. The findings for an encroachment permit include vague, discretionary determinations such as "public interest" and "enjoyment" as well as "justifiable need." Code § 12.08.060. However, encroachments for wireless facilities are unique because Public Utilities Code Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way with no requirement to justify the need for a facility. An applicant could secure zoning permits only to be denied an encroachment permit due to these vague standards of the City's streets and sidewalks code. The Draft Ordinance should streamline the encroachment permit review process by eliminating vague code standards for wireless facilities in the right-of-way.	Y	The encroachment permit process has been modified to eliminate duplicative reviews. Encroachment permit will be considered at the same time as the Use Permit by the Planning Commission. See conforming amendments inSection 4 of Ordinance – 12.08.050 and 12.08.060

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	17.46.060 – Application Review Procedures D. Director denial without prejudice due to failure to respond to notice of incompleteness. The City cannot terminate an application if an applicant does not respond to a notice of incomplete application ("NOI") within 120 days (or any period of time). FCC rules plainly state that the Shot Clock restarts or resumes running on the date an applicant responds to a timely NOI. 47 C.F.R. §§ 1.6003(d)(1), (d)(3)(ii); 47 C.F.R. § 1.6100(c)(3)(ii). FCC rules do not allow early, unilateral termination. The City would lack substantial evidence to deny on this basis. This provision should be deleted.	N	The City would not be denying the application on the merits. The purpose of this provision is to give the City the administrative option to terminate inactive, stale applications, without prejudice to the applicant re-applying. Keeping an application "active" indefinitely presents a risk that the City will be asked to make a decision based on information that hase become dated and inaccurate with the passage of time. This provision is not inconsistent with the FCC rules; the FCC shot clocks were adopted because the industry sought to expedite application processing. Given that application requirements must be published in advance and shot clocks are as short as 60 days, giving an applicant 120 days to respond to a NOI is reasonable.
ORD	17.46.070 – Public Notices, Public Hearings, Decision Notices and Appeals A(1), D(1), E(1). Notice and appeals for eligible facilities requests. These sections apply to Type V eligible facilities requests to modify facilities, but there is no reason to require public notice or allow public appeals of these applications. For eligible facilities requests, the City may only consider the FCC's "substantial change" criteria. 47 C.F.R. §§ 1.6100(b)(7), 1.6100(c). Because these criteria are objective, the FCC emphasized that approval of eligible facilities requests is "obligatory and non-discretionary." See In Re: Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Etc., 29 FCC Rcd.12950, ¶¶ 188-89, 227, 232 (FCC October 17, 2014) (the "Spectrum Act Order"). These provisions should be revised to eliminate public notice and public appeals for Type V eligible facilities requests. Only an applicant should receive notice of a decision, with a right to appeal a denial.	N	Federal law dictates result (must approve EFR if meet criteria) but does not dictate the process.

Doc Type*	Comment Received From:	Edits Made? (Y/N)	Responses and References
ORD	17.46.080 – Findings Required B(2)(c). Denial finding for Type V eligible facilities requests. The City cannot deny an eligible facilities request due to health and safety factors, but the FCC allows a city to "condition" approval on that basis, as provided by the following provision, Draft Ordinance Section 17.46.080(B)(3). See Spectrum Act Order, ¶ 202. At the zoning stage, the Planning Division should only confirm that a proposed modification causes no "substantial change," while conditioning approval on applicable health and safety codes to be considered by the Building Safety Division in its review of a building permit. This finding should be deleted.	N	Para 202 does not say that the City cannot deny EFRs due to health and safety factors. It says cities can require compliance with generally applicable health and safety laws *and* can condition on compliance. That is broader than building permit review—e.g. noise ordinance compliance review would not be done for building permit.
DG	I – Facilities on Parcels B(2). Height limitations (building-mounted facilities). Similar to the Draft Ordinance, this limits building-mounted facilities to zone height limits, which could prohibit rooftop antennas. This provision should be revised to allow an additional 10 feet over an existing building or the zone height limit, whichever greater, if a facility is fully screened as required by Section I(B)(1).	Y	Design Guidelines updated to allow additional height in these circumstances up to 10 feet over allowable building height limit with screening
DG	II – Facilities in the Right-of-Way Verizon Wireless has deployed small cells on utility poles and new stand-alone poles in residential neighborhoods throughout California. We have attached photosimulations of three small cell designs currently under consideration as options to improve service in the western Carmel area, as well as a plan elevation of a typical small cell on a utility pole which complies with PG&E rules and General Order 95. A(2)(2). New pole designed to resemble existing poles. Given that almost all poles in Carmel rights-of-way are wood utility poles, this likely would require a new pole for a small cell to be a wood pole as well. While that is possible, it may not be aesthetically appropriate in certain areas. The City should consider allowing a new metal pole where preferred. For metal poles, network equipment can placed in a shroud at the base of the pole, on the side of the pole, or in a ground cabinet.	Y	Modified to let the ordinance and design guidelines control the design of the new stand-alone pole. Requiring only wood poles may miss opportunity for stealth.

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DG	B(1). Antenna placement. To be reasonable per the FCC's Infrastructure Order, antenna standards must be technically feasible for new and emerging technologies by accommodating the antenna and radio models available from manufacturers. In addition to the low-band frequencies long in use, Verizon Wireless recently licensed new mid- and high-band frequencies from the FCC. These require different equipment. Accordingly, certain small cells may involve several types of antennas, and up to three of each, facing different directions where they provide service. Some facilities include several small panel antennas mounted on a cross-arm attached to the side of a pole. Accordingly, antennas may be placed on top and/or on the side of a pole. For these reasons, this provision should not prefer "poletop" antennas, but should allow antennas both above and on the side of a pole, or be deleted.	Y	Changed to not prefer "top" of pole to allow for more flexibility in antenna placement to ensure the "least intrusive" and most compatible design based on site-specific circumstances.
DG	B(2). Antenna concealment. This requires all antennas to be placed within a "unified shroud to the extent technically feasible." A typical 4G "cantenna" is already manufactured with its own concealing shroud. Shrouding is infeasible for mid- and high-band antennas because it impedes their signal propagation. Further, mid- and high-band antennas are small in size, and multiple small panel antennas pose less visual impact than a shroud covering them all, which only adds bulk. As explained above, antennas may not all be placed in the same location on a pole. This shrouding provision could be technically infeasible, and it should be stated as an encouragement, but not a requirement.	N	Already states to extent technically feasible

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DG	C(1). Accessory equipment placement preference. This prefers accessory equipment in an underground vault, rather than mounted on a pole or placed in a ground cabinet, with a narrow exception for technical feasibility or compatibility. However, blanket undergrounding requirements are unreasonable in two ways. First, undergrounding generally is technically infeasible due to sidewalk space constraints or Carmel's lack of sidewalks along many streets (where parked vehicles could block vault access), plus utilities already routed underground and operational impacts of required cooling and dewatering equipment. Second, small cell accessory equipment is not "out-of-character" on the side of utility poles that support other utility infrastructure (see attached photosimulations and plans of example designs for utility poles). Rather than imposing hurdles on applicants to demonstrate infeasibility, the City should allow a reasonable volume of associated equipment on a pole. The City should allow up to 15 cubic feet of associated (non-antenna) equipment on the side of a utility pole, or six cubic feet on a new stand-alone pole, before undergrounding is considered.	Y	Allowing a minimal volume of pole mounted equipment (6 cu. ft) would be consistent with the appearance of typical utility poles and minimally visually intrusive
CL	2.2, 2.4. Site development plan, site survey (Type V). For eligible facilities requests, the City can only request information that is reasonably related to determining whether a proposed modification causes a substantial change to a wireless facility. 47 C.F.R. § 1.6100(c)(1). Section 2 of the Type V application checklist, Project Plans, asks for irrelevant information that is not pertinent to the FCC's "substantial change" criteria. For example, Section 2.2 requests depiction of non-wireless improvements elsewhere on the property (e.g., driveways, gutters, trees) or within 500 feet. Likewise, Item 2.4 seeks irrelevant survey information, such as traffic lanes, non-wireless utilities, mailboxes and trees within 75 feet, among numerous other items. A City notice of incomplete based on failure to provide such irrelevant information would not toll the Shot Clock. Ibid. For the Type V application, Section 2.2 and 2.4 should request only that information on plans that is relevant to determining if there will be a "substantial change" to an existing wireless facility.	Y	Some items were amended/removed from section 2.4 of checklist that are not relevant to the review of a type V application, including: • Removed: Show the location of benches, trash cans, mail boxes, kiosks, and other street furniture; • Removed: Show approximate topographical contour lines with elevations called out; • Removed: Show all structures or improvements within the public right-of-way within any block partially or entirely occupied by the project and any elements thereof; • Removed: Requirement for wet stamp and wet signature from preparer

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CL	2.2, 2.5. Depiction of fiber backhaul. On both checklists, these items require "depictions of the applicant's plan for electric and data backhaul utilities" and a fiber network plan, even if fiber backhaul is provided by a third party. However, fiber networks are beyond the scope of a "small wireless facility" as defined by the FCC. Fiber is regulated differently, and it is provided by other companies under distinct permits or franchises. Small cell permittees should be responsible for only their own equipment, and fiber companies cannot be subject to the conditions imposed on wireless providers. For Type V eligible facilities requests, information regarding another company's fiber backhaul is irrelevant to the "substantial change" criteria, which pertain to the modified wireless facility. These provisions should be replaced with a requirement to show the applicant's own fiber lines only up to the point of connection or "meet-me point," if relevant.	Y	The requirement has been removed for Small Wireless Facility applications. For EFRs, this could be relevant to substantial change criteria (excavation outside the "site") so not removed.
CL	11. Project purpose and technical objectives (Type I-IV). For right-of-way facilities, the City cannot require applicants to provide this information regarding the need for a facility because Public Utilities Code Section 7901 grants telephone corporations a statewide right to use any right-of-way. Further, the FCC determined that small cells are needed to densify networks and improve service, which are Verizon Wireless's objectives in placing small cells in Carmel. As noted above, the FCC disfavored dated service standards based on "coverage gaps" and the like, so the coverage/capacity information sought by this submittal requirement is preempted. Infrastructure Order, ¶¶ 37-40. This submittal requirement should be deleted, or at a minimum, it should not apply to right-of-way facilities.	N	This provision is not asking for a demonstration of need; it is simply asking for the purpose of the project. The title has been changed.
CL	12.3.1. Justification for using less-preferred locations/structures (Type I-IV). We emphasize our suggestion above that the City adopt a 500-foot search distance for any preferred locations or structures in the right-of-way. In that case, an applicant would simply submit information confirming that preferred options (if any, generally other existing poles) are technically infeasible, consistent with the FCC's direction regarding "reasonable" aesthetic criteria. The request for information regarding existing wireless facility locations and a "search ring" would be unnecessary. This section should be revised to require a demonstration of technical infeasibility for any preferred locations or structures within 500 feet along the right-of-way.	N	The City prefers the approach outlined in the documents.

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CL	15. Special exception request (Type I-IV). This would be required in most cases, because Draft Ordinance Section 17.46.040(E)(1) requires an exception for right-of-way facilities in all R1–Residential zones and certain other locations. However, the exception requirement "materially inhibits" small cell deployments, as explained above. An applicant could simply submit a simple statement that a proposed small cell will densify its network and improve service, citing the Infrastructure Order. The City should not require exceptions for certain locations.	N	The City does not agree with Verizon's unsubstantiated claim that simply requiring a special exception in certain circumstances is itself a material inhibition of service.
COA	C(1). Permit term for eligible facilities requests. This would curtail the term for a modification permit to that of the existing facility's permit, even if it was granted to a different carrier. This contradicts California Government Code Section 65964(b), which states that permit durations of less than ten years are generally presumed to be unreasonable, absent public safety or substantial land use reasons. As noted, FCC rules allow the City to condition approval on applicable safety regulations (which do not include permit terms), and a modification that causes no "substantial change" does not pose a substantial land use impact. This condition must be deleted.	N	The City does not agree with Verizon's interpretation of state law, this is consistent as there are substantial land use reasons for the EFR permit modifying the existing facility to end when the permit term for the existing facility ends
COA	C(2). Permit subject to conditions of existing permit. The City cannot subject an eligible facilities request to existing permit conditions that are not related to health and safety. Instead, the permit for an eligible facilities request should clearly state any appropriate conditions of approval, rather than referencing prior permit conditions. This condition should be deleted.	N	The City does not agree with Verizon's narrow interpretation of FCC EFR orders.

***Doc Type Key:**

- ORD = Ordinance
- DG = Design Guidelines
- CL = Application Checklist
- COA = Conditions of Approval

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
	INDUSTRY COMMENTS		
#1 ORD	**AT&T** 1. Obstructing Right-of-Way Siting. The city's proposed regulations erect a series of obstacles to placing wireless facilities in the public rights-of-way, which will violate the law in almost all situations. Section 17.46.040(C) specifically discourages all PROW sites. Section 17.46.040(E)(1) prohibits PROW sites throughout a large portions of the city, including all PROW sites in single-family residential zoning districts and all PROW sites along and near the coast. A review of the city's Zoning Map shows this restriction amounts to a very significant prohibition across the vast majority of the city. The only way around these prohibitions under the city's proposal is to obtain a special exception. But that process requires burdensome proof for each and every site, using the city's improperly limited types of evidence, and the restriction will violate state and federal laws in most (if not all) circumstances. These restrictions are also unlawful as AT&T and other telecommunications providers have the state law franchise right to construct poles and install lines and other necessary equipment in the public rights-of-way, so long as doing so does not incommode the public use of the roads and highways. Cal. Govt. Code Section 7901. While AT&T's broad right to place wireless facilities in the PROW is subject to reasonable and nondiscriminatory aesthetic requirements, those restrictions must be narrowly tailored. The city cannot simply create a process that renders impossible or nearly impossible every PROW location on the broad basis that the city prefers wireless facilities elsewhere. Moreover, the city can only apply reasonable time, place, and manner restrictions on PROW placements "to all entities in an equivalent manner." Cal. Govt. Code Section 7901.1(b). The city cannot, therefore, impose restrictions on wireless facilities that do not apply to other PROW users. Given the existence of vertical infrastructure in the PROW throughout the city, the city must abandon its proposed provisions obstructing deployments of wireless facilities in wide swaths of the city. Beyond the legal problems with this approach, it does not make practical sense to prohibit low-profile wireless facilities in the PROW where there already is a plethora of utility infrastructure.	N	***No changes to preferences are warranted based on these comments as discussed further below.*** AT&T and Verizon object to the provisions discouraging facilities in PROW. Verizon made similar comments in response to the prior draft. T-Mobile does not object – though they brought and lost the seminal case that AT&T and Verizon claim supports their positions. Previously we explained the outside ROW preference is a rationale level of preference based on the reality of the physical circumstances and spatial limitations of the City streets. AT&T overstates the limitations on local authority under state law and misinterprets the scope of PUC 7901 and 7901.1. PUC 7901.1 only addresses conditions of *accessing* ROW for construction. PUC 7901's requirement that telephone installations be placed "in such as manner and at such points as not to incommode the public use" addresses regulation of *permanent installations*. Aesthetics can be considered under 7901 per T-Mobile v. San Francisco, 438 P.3d 239, 249 (2019) ("San Francisco"); see also Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates, 583 F.3d 716, 722 (9th Cir. 2009) ("Palos Verdes Estates") (construing broadly the meaning of "incommode," which means to "subject [the public use] to inconvenience or discomfort; to trouble, annoy, molest, embarrass, inconvenience or [t]o affect with inconvenience, to hinder, impede, obstruct (an action, etc.)") (quotes omitted).

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
	Rather than encouraging specific types of deployments, the city's proposed regulations invite disputes. They will prevent city residents, businesses, and visitors from reliable access to personal wireless services. There is no reason for this; the city should delete these restrictions. The city's proposal already requires careful placements of safe and stealth facilities. AT&T recommends, instead, that the city come up with preferred design criteria that it will accept in the PROW throughout the city, including near the coast and in residential areas. One common way to do so in a win-win fashion is to implement a pre-approved design process. Such a process will not only help expedite needed deployments, it incentivizes applicants to propose pre-approved designs. AT&T would be happy to suggest language to incorporate such a process in the proposed ordinance or proposed design guidelines. **VERIZON: The Preference for Private Parcels over the Right-of-Way Violates California Public Utilities Code Section 7901.** As explained in our prior letter, the preference for private parcels over the right-of-way directly contradicts California Public Utilities Code Section 7901, which grants telephone corporations such as Verizon Wireless a statewide right to place their equipment along any right-of-way. Draft Ordinance § 17.46.040(C). In its response to public comments, City staff did not dispute the violation of Section 7901, and simply wrote that the preference is "based on the reality of the physical circumstances of the City streets." However, City streets are already lined with utility poles supporting telephone and other utility equipment, and the City can exercise reasonable aesthetic discretion over the appearance of right-of-way facilities. For over a century, the California Supreme Court has confirmed that Public Utilities Code Section 7901 grants telephone corporations a statewide franchise right to place telephone equipment in the right-of-way without charge. *See Western Union Tel. Co. v. Hopkins*, 160 Cal. 106, 123 (Cal. Sup. Ct. 1911) (statute grants "exclusive occupation of portions of the streets...free of charge"); *Pacific Tel. & Tel. Co. v. City & Cty. of San Francisco*, 51 Cal.2d 766, 771 (Cal. Sup. Ct. 1959) (statute "gives a franchise from the state to use the public highways for the prescribed purposes without the necessity for any grant by a subordinate legislative body"); *T-Mobile West LLC v. City*		City aesthetic rules for permanent installations must be reasonable but AT&T is wrong that 7901.1(b) applies. Their alleged interpretation was firmly rejected by the Cal. Sup Ct in *San Francisco* case: "Contrary to plaintiffs' argument, construing section 7901.1 in this manner does not render the scheme incoherent. It is eminently reasonable that a local government may: (1) control the time, place, and manner of temporary access to public roads during construction of equipment facilities; and (2) regulate other, longer term impacts that might incommode public road use under section 7901. Thus, we hold that section 7901.1 only applies to temporary access during construction and installation of telephone lines." Verizon likewise provides a misleading suggestion about what the *San Francisco* case stands for. The quoted text Verizon references is not a court statement of the law but rather a description of the San Francisco ordinance that was challenged. Further, we disagree with Verizon's materially inhibits argument. Wireless carriers go on private property all the time. In some states they have to pay to use ROW. The preference here is a valid exercise of regulatory authority over aesthetics and safety. Regulating design and location of development is a fundamental police power, which PUC 7901 does not preempt. In *San Francisco* case, court noted: "Municipalities may surrender to the PUC regulation of a utility's relations with its customers (§ 2901), but they are forbidden from yielding to the PUC their police powers to protect the public from the adverse impacts of utilities operations (§ 2902).Consistent with these statutes, the PUC's default policy is one of deference to

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	and County of San Francisco, 6 Cal.5th 1107, 1122 (Cal. Sup. Ct. 2019) ("Any wireless provider may construct telephone lines on the City's public roads so long as it obtains a permit, which may sometimes be conditioned on aesthetic approval"). State law is long settled on this matter. The federal Telecommunications Act neither preempts Section 7901 nor protects a preference for private property. Verizon Wireless would challenge any denial based on that preference, claiming a violation of Section 7901 and a prohibition of service under federal law. The City could not prevail under either federal prohibition standard. Under the Ninth Circuit standard, private property could not be the "least intrusive means" to fill a service gap, because the "least intrusive" standard must be based on applicable local regulations, and Section 7901 preempts any preference for private property. Under the FCC standard, a preference for private parcels would "materially inhibit" service improvements in part by imposing burdensome requirements. For example, forcing a telephone corporation to relocate to private property would require a lease, payments and restrictive terms not required for the right-of-way. That would increase costs of deployment and inappropriately involve private landowners in the site selection process and ongoing operation of a facility. The federal Telecommunications Act neither preempts Section 7901 nor protects a preference for private property. Verizon Wireless would challenge any denial based The FCC's "materially inhibit" standard is based on two Telecommunications Act provisions barring a prohibition of service. Infrastructure Order, ¶¶ 36, 82. One of these, Section 253(c), reserves the authority of state governments to manage the public rights-of-way, which the FCC found "includes any conduct that bears on access to and use of those ROW." 47 U.S.C. § 253(c); Infrastructure Order, ¶ 94. Through Section 7901, California has long granted telephone corporations a statewide right to use the right-of-way with no local franchise requirement. In sum, the City cannot justify a preference for private property over the right-of-way, which clearly violates state law and must be stricken from the Draft Ordinance. *Draft Ordinance Section 17.46.040(C) must be deleted.*		municipalities in matters concerning the design and location of wireless facilities." The court also pointed to CPUC GO 159-A (a CPUC general order deferring to local decision-making on wireless siting) which itself "acknowledges that local citizens and local government are often in a better position than the [PUC] to measure local impact and to identify alternative sites. Accordingly, the [PUC] will generally defer to local governments to regulate the location and design of cell sites.. . ." (PUC, General order No. 159-A (1996)p. 3 (General Order 159A), available at <http://docs.cpuc.ca.gov/PUBLISHED/Graphics/611.PDF> [as of April 3, 2019].) The exception to this default policy is telling: the PUC right to preempt local decisions about specific sites "when there is a clear conflict with the [PUC's] goals and/or statewide interests." (General Order 159A, supra, at p. 3.) In other words, generally the PUC will not object to municipalities dictating alternate locations based on local impacts,13 but it will step in if statewide goals such as "high quality, reliable and widespread cellular services to state residents" are threatened."

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
#2 ORD	**AT&T** 2. Subjective, Improper, and Impossible Special Exception Requirements. Proposed Section 17.46.080(C) defines how an applicant can pursue a special exception. The city needs to eliminate or rethink its special exception process, especially since it will likely be triggered by the vast majority of wireless siting applications. As an initial matter, a wireless provider should not be required to demonstrate with each and every application that the city's prohibitions and preferences will violate state and federal laws. Combined with the proofs required under the city's proposed application checklists, the burden of the required findings for a special exception are excessive to the point of prohibition. And as to the specific data the city demands as proof of effective prohibition (for each and every PROW site, among others), the city cannot demand specific types of data or specific forms of proof. A wireless provider may be materially inhibited from providing service in many ways, and its proofs will come in various forms depending on the specific nature of its needs. **VERIZON: The City Should Not Require "Special Exceptions" to Locate Small Cells in Residential Rights-of-Way.** Requiring a "special exception" for right-of-way facilities in the R1–Residential zone as well as the City's many historic and coastal sites would impose burdensome requirements that "materially inhibit" service improvements. Draft Ordinance § 17.46.040(E)(1). Given that most of Carmel is zoned residential, this "exception" generally would be the rule. To secure a "special exception," applicants would need to prove that denial of facility would violate federal and/or state law, and submit evidence regarding coverage gaps or service improvements. However, the City could disregard an applicant's legal rights and/or network engineering needs, and deny the exception request. We previously suggested that, instead of requiring "special exceptions" for certain discouraged locations, the City should allow them if there is no technically feasible preferred location within 500 feet along the right-of-way. In the alternative, the City could eliminate the "special exception" requirement for R-1 zone rights-of-way and other sites. That would still leave special exceptions available for truly exceptional deviations from other standards, similar to a variance. *Draft Ordinance Section 17.46.040(E)(1) should be deleted.*	N and Y	**No changes are warranted to the text or scope of the existing exceptions based on comments from AT&T and Verizon**. The City disagrees that requiring a special exception and proof is inappropriate or rises to the level of a prohibition. AT&T's suggestion that the City cannot require specific kinds of proof contradicts the directive of the FCC shot clock orders that cities delineate application requirements in advance. However, **language is proposed to address T-Mobile's suggestion for allowing minor deviations in limited circumstances**. T-Mobile's language and suggested placement in a different section of the ordinance (which appears below in T-Mobile's redlines list) was not accepted. Proposed below is a change to 17.46.080.C, modeling the minor deviations on an existing concept in the Carmel's municipal code17.58.060 which allows approval of deviations from design guidelines that do not have negative aesthetic consequences.

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
	T-MOBILE **1. Deviation from Design Standards** Currently, the existing draft Ordinance lacks a provision for applicants to seek limited exceptions from the prescribed design standards. For example, Section 17.46.040(F)(1)(b) imposes a 10-foot height restriction on wireless facilities above the underlying zoning district. Unlike conventional land uses, wireless antennas have distinct height requirements. The current height limitation offers only a marginal increase above the underlying zoning district, but situations may arise where additional height is essential for maintaining antenna separation in cases of colocation or ensuring clearance from nearby obstacles like trees or structures. Strict height caps might inadvertently lead to the construction of new facilities, a result contrary to the code's intent. A limited exception process would provide the Planning Commission with flexibility to allow deviations that achieve a superior aesthetic result than could be achieved with strict compliance to the design standards. T-Mobile suggests incorporating a limited exception process, as proposed in the attached redline, within Section 17.46.040(F)(3).		
#3 CL	**VERIZON: The Submittals Required to Show that Standards "Materially Inhibit" Service Improvements Cannot Include Coverage Gap Information.** The revised *Wireless Facility Application Checklist Type I-IV* now addresses a potential "materially inhibit" claim for applicants seeking a "special exception" to unreasonable Draft Ordinance standards. Checklist § 15.2.2. However, two of the required items—propagation maps and drive test data—are pertinent only to a claimed coverage gap. The FCC ruled that coverage gaps are irrelevant to the "materially inhibit" standard for a prohibition of service. Infrastructure Order, ¶¶ 38-40. Instead, the FCC determined that local requirements constitute an effective prohibition of service if they materially inhibit the goals of	N	Propagation maps are requested as evidence to demonstrate the applicant's claim whether it is that a proposed facility will densify the applicant's network, introduce new services, or otherwise improve service capabilities. Contrary to the comment, drive test data is not mandatory unless a significant gap claim is being made.

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
	"densifying a wireless network, introducing new services or otherwise improving service capabilities." *Id.,* ¶ 37. Because the FCC has clearly specified three different tests for showing that local requirements "materially inhibit" service improvements, the City cannot impose its own additional tests. *At a minimum, the propagation map and drive test submittals must be deleted from Section 15.2.2 of the checklist. In the alternative, the City could simply request that an applicant submit information confirming that a proposed facility will densify its network, introduce new services, or otherwise improve service capabilities.*		
#4 ORD	***AT&T 2. (CONT'D)*** In addition, the city's subjective aesthetic requirements are unreasonable (and therefore unlawful) because they make it impossible for providers to predict how to comply with the city's requirements, which the FCC specifically found results in an effective prohibition under the TCA.[13] AT&T echoes Verizon's comment that the city should revise its proposed regulations to provide that compliance with objective criteria under the proposed design guidelines is prima facie evidence of compliance under the proposed ordinance. **VERIZON: Vague Visual Impact and View Protection Standards Could Lead to Denial of Small Cells that Satisfy the Design Guidelines.** A proposed small cell could satisfy the City's proposed Design Guidelines, yet be denied due to the various visual impact standards of the Draft Ordinance and the code's required permit findings. The Draft Ordinance requires a "stealth" design, meaning a facility must "mimic or blend" with an underlying structure (e.g., a utility pole) as well as the surroundings (homes, streetscapes). Draft Ordinance §§ 17.46.020(A)(20), 17.46.040(F)(1)(a). Findings for approval of design review in the R-1 zone include "contributes to neighborhood character," "sensitive to the natural features," and "modesty and simplicity." Municipal Code § 17.58.060(C). Use permit findings include "compatible with surrounding land uses." Municipal Code § 17.64.010(A).	N	The City disagrees that the standards are vague or unrealistic. The City has the right to apply reasonable discretion. Per the Ninth Circuit ruling regarding the Small Cell Order, aesthetic requirements for small cells do not have to be limited to "objective" standards. The court struck that requirement and recognized that subjective standards are not out of place in zoning regulation. The City disagrees that the findings are inappropriate. The Guidelines inform the decisions on the findings. The concerns expressed about implementation are speculative.

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	Additionally, the Draft Ordinance view protection standard, which already required applicants to "respect views enjoyed by neighboring parcels," has been expanded to forbid "excess visual mass or bulk," "visual clutter," and designs that "negatively affect important public or private views as determined by the reviewing authority." Draft Ordinance § 17.64.040(F)(1)(k). These visual and view impact standards are vague compared to the specific criteria in the proposed Design Guidelines, which provide clear direction to applicants so they can design compliant facilities. The various vague standards would "materially inhibit" service improvements if used to deny small cells that satisfy the Design Guidelines and are not "out-of-character" compared to other right-of-way utility infrastructure. That would constitute an unlawful prohibition of service according to the FCC's Infrastructure Order. The Draft Ordinance grants the Planning Commission authority to develop the Design Guidelines consistent with "generally applicable design standards contained in this ordinance." Draft Ordinance § 17.64.010(F)(2). *We suggest revising Section 17.64.010(F)(2) to confirm that compliance with the Design Guidelines demonstrates prima facie compliance with the various visual impact and view protection standards of the Draft Ordinance and the Municipal Code's permit findings*		
#5 ORD	**AT&T 3.** Shot Clock Problem With Submittal Appointments. Proposed Section 17.46.050(B)(3) provides that applications for wireless facilities must be submitted during pre-scheduled appointments. The city should eliminate this requirement in order to avoid inadvertently violating the FCC's shot clock. The FCC's regulations provide the city with specific timeframes to review wireless facility applications for completeness and to take final actions on applications. The FCC has also made clear that localities may not delay commencement of the shot clock by imposing pre-submittal requirements.[14] Thus, under the city's proposed process, the shot clock would commence on the date the applicant requests to schedule the appointment. This not only cuts into the city's overall review timeframe, it may, in many instances, eliminate the city's ability to toll a shot clock for incompleteness. For example, if a pre-submittal appointment	Y and N	AT&T and T-Mobile say they will claim shot clock starts upon request for application appointment. The City believe the application appointment procedure is a convenience for the city *and* applicants and is not uncommon in smaller jurisdictions with limited staff. However, **to eliminate these types of arguments being raised in future, changes to the language are proposed to allow city to establish preset application submittal windows instead.** What this means is there will be less flexibility to arrange a submittal time convenient to applicants, and if a couple of applicants show up during the window, one may have to wait for the other to complete its submittal review before being served.

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	for a small wireless facility is set more than 10 days after the request, the city's 10-day timeframe for tolling due to incompleteness will have passed before it has the chance to begin its review. While AT&T will certainly work with the city to provide needed materials in a timely manner, the city would be much better served by removing this problem from the proposed ordinance. **AT&T** 4. EFR Shot Clock Issue. AT&T recommends the city eliminate or truncate the right to appeal approval of an eligible facilities request under Section 6409(a), 47 U.S.C. § 1455(a). The applicable shot clock is 60 days. Adding time to re-review a non-discretionary review based on the FCC's objective standards does not make practical sense and only serves to risk shot clock compliance and resulting deemed granted applications. **T-MOBILE 3. Shot Clock Concerns** Section 17.46.050(A)(1) of the draft ordinance establishes that application types I - IV necessitate initial review by the Planning Commission, with the possibility of contesting these decisions through appeals to the City Council. Section 17.46.050(A)(2) similarly indicates that Eligible Facilities Requests are also open to appeal at the City Council level. T-Mobile expresses concerns about the City's ability to carry out the application reviews and facilitate procedures for noticed hearings within the time constraints stipulated by the relevant FCC Shot Clocks. Additionally, 17.46.020(B)(3) requires that all applications must be submitted at a pre-scheduled appointment with the Community Planning and Building Department. The FCC Order clarified that all permits and authorizations necessary for the deployment of wireless facilities must be approved or denied within the applicable shot clock period.[2] Any pre-application procedures, public meetings or hearings, or appeals are included in this calculation.[3] Therefore, the applicable FCC Shot Clock would commence at the time of Applicant's request for the application intake appointment.		AT&T and T-Mobile also expressed concerns appeals will take too long to complete within shot clocks. City is aware it will have to manage process to meet shot clocks to avoid potential deemed granted remedies being invoked. **No changes have been proposed to the appeal process**.
#6 ORD	**AT&T** 5. Spacing Requirement. Section 17.46.040(E)(2)(b) prohibits wireless facilities in the PROW within 500 feet of any other wireless facility in the PROW. This is too restrictive as it creates a substantial risk for prohibitions not only in high-traffic areas where multiple providers will need facilities, but even in less dense areas where existing utility poles are already deployed closer together. This restriction also discriminates against wireless facilities vis-à-vis other PROW users, which	N	T-Mobile also objects (see T-Mobile redlined comments below). This was changed from 250 to 500 after workshop. The City believes this is reasonable. AT&T's 7901.1 argument is wrong for the reasons stated earlier.

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	contravenes Section 7901.1. Plus, there can hardly be an aesthetic justification for this separation requirement of low-profile facilities like small cells, especially given the additional proposed stealth and design requirements.		
#7 ORD	**AT&T** 6. Cost Reimbursement. Section 17.46.050(B)(2) requires payment of a fee or deposit for costs incurred in connection with the permit. It also authorizes, without setting any specific standard or basis, the city to ask for additional fees and deposits. This provision should be revised because only objectively reasonable costs that are recovered on a nondiscriminatory basis can be included in fees. To the extent the city's costs exceed the FCC's safe harbor for presumptively reasonable fees and are not objectively reasonable, the costs are preempted and unlawful. AT&T looks forward to working with the city to ensure its proposed fees comport with state and federal laws.	N	Language already says "deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application, including costs of consultants retained by City." AT&T language not necessary. No other industry commenter objected to this language. This is as applied concern.
#8 ORD	**AT&T** 7. Consultants. Section 17.46.060(B)(1) authorizes the city to engage consultants whenever they are deemed necessary, and Sections 17.46.060(B)(2)&(3) require applicants to advance and replenish deposits to cover open-ended consulting charges. While AT&T appreciates the city's desire to thoroughly review applications, consultants can unnecessarily increase the cost of deployment and slow down the permitting process. For small cell applications, the city needs to make sure that all fees, including those of a consultant, are within the FCC safe harbor or are reasonable, cost-based fees. For all applications, the city should be mindful that the cost of a consultant may not automatically pass through to an applicant as only objectively reasonable costs can be imposed.15 The city will be unable justify fees that will routinely exceed the FCC's safe harbor for small cell applications. Plus, excessive consulting fees risk disputes that may result in striking down ordinance provisions requiring the use of consultants.16 The city should limit the use of consultants to technical and objective criteria, such as a structural safety assessment or compliance with FCC regulations of radio frequency emissions, and only to the extent these topics exceed the capabilities of City Staff.	Y	While the City disagrees with many of AT&T's unsupported statements, upon closer review in response to these and T-Mobile's comments, the language in Section 17.46.060(B)(1) has been modified to require City to provide detailed invoice for consultant services and (B)(3) has been deleted. **(See comment #17 below as well)**.

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	T-MOBILE **2. Liability for Consultants Expenses.** Currently, Section 17.46.060(B)(3) requires an Applicant to submit written consent from property owners, assuming responsibility for expenses incurred by third-party consultants, including legal fees. Imposing onerous authorization requirements on property owners could materially limit or inhibit a provider's ability to provide service within the City. It could also eliminate properties where the City would prefer facilities to be located, simply because those property owners may not be willing to accept unlimited liability associated with fees charged by third-party consultants. This requirement might inadvertently create limitations on feasible locations for wireless facilities situated on privately owned parcels due to onerous demands placed on property owners. Additionally, it might steer wireless service providers towards seeking locations in the right-of-way, where this written consent is not required. This contradicts the City's stated preference in the Ordinance for facilities to be predominantly situated on private parcels. Upon comparing the City's standard Affidavit of Owner Authorization form used for standard land use categories, it's notable that the standard form only entails a property owner granting legal authorization to an Applicant for submitting planning applications on their behalf. The form does not include provisions related to the payment of consultant fees or assumption of unlimited liability. To the extent that this requirement is limited to wireless facility applications and not applied to other land use applications, it could potentially be viewed as discriminatory and should be removed. T-Mobile suggests a more workable standard in the attached redline		
#9 COA	**AT&T** 8. Indemnification. The indemnification provision in the proposed conditions of approval needs to carve out exceptions to indemnity in instances of the city's own negligence. In addition, AT&T must retain the right to select its own counsel. The second portion of the indemnity provision needs to be eliminated or significantly revised. For example, AT&T obviously cannot be made to defend the city from actions or omissions by its customers. The city also must limit the overall scope	Y	AT&T did not provide any language but raised some valid concerns about the scope of the indemnity. T-Mobile also requested an edit in their redlined comments below. Some edits are proposed that make the indemnity requirements more consistent with City's existing practice. **(Also see comment #24 below)**

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	of this provision, which must be much more narrowly tailored than referring to all activities "in connection with this permit or the wireless facility."		
	T-MOBILE REDLINES		
#10 ORD	20. "**stealth**" means concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment and adjacent uses to screen all transmission equipment from public view and integrate the wireless facility into the built or natural environment such that, given the particular context, the ~~average, untrained observer~~reasonable person would not recognize the structure as a wireless facility. Stealth concealment techniques include, without limitation: (1) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying structure; (2) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality such that they appear part of the original structure's design; and (3) concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment ~~and~~ or adjacent uses	Y	"Reasonable Person" language change has been accepted.
#11 ORD	5. **"substantial change"** c. In addition, for all towers and base stations wherever located, a substantial change occurs when: i. the proposed collocation or modification would defeat the existing concealment elements of the stealth eligible support structure as determined by the reviewing authority; or	N	This is not necessary – phrasing tracks federal language. It would defeat the concealment elements of the eligible support structure

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#12 ORD	ADD TO LIST OF EXEMPT FACILITIES IN 17.46.030.B: 6. temporary wireless facilities needed to maintain coverage provided by an existing WCF whose support structure is demolished, relocated, repaired or redeveloped in connection with new construction.	N	Temporary facilities would be tied to some sort of new construction, and should go through the standard design review process.
#13 ORD	17.46.040.E REQUESTS: 2. **Additional Public Right-of-Way Location Selection Standards.** Applicants shall not select existing structures and shall not propose new (non-replacement) structures in the following locations unless the application includes a written justification, based on factual and verifiable evidence, that shows no structure/location is technically feasible and available outside these locations: a. directly in front of the areas which are five feet in either direction from the centerline of each entry door or window in the front façade of any occupied residential building. b. within a 250~~500~~-foot radius from another provider's wireless facility within the public rights-of-way. Author: Please define this term. Author: This separation requirement is too great for SWFs that often have a range of 250-500 feet in challenging and vegetated terrain like Carmel. This also potentially sets up an unreasonable discrimination among carriers claim under the TCA because the first carrier to deploy effectively precludes other carriers from serving the same coverage area. August 4, 2023 DRAFT 3. Public Right-of-Way Safety Considerations. d. Any location that would adversely affect the root structure of any existing trees, or significantly reduce greenbelt area that may be used for tree planting. Author: Please quantify this term.	N	Factual and verifiable evidence is what is require in the checklist FOR Type I-IV, section 12.On review a typo was discovered (reference is missing that would make this more clear) which is cleaned up in the checklist As discussed earlier, separation changed from 250 to 500 after workshop. Significantly reduce greenbelt will not be quantified as it depends on context, but the term is used throughout the code, and is well understood by the department.

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#14 ORD	17.46.040.F REQUESTS: b. **Overall Height.** On public and private parcels, wireless facilities may not exceed more than 10 feet above the maximum height allowed by this code for the underlying zoning district where the facility is proposed. In the public right-of-way, wireless facilities may not increase the height of an existing pole by more than 10 feet or involve a replacement pole or a new pole that is more than 10 feet above the height of existing poles in the vicinity. **Author** At a minimum, there should be a special exception process to this restriction for towers. Lower tower heights usually require more sites - certainly something the city has an interest in avoiding. f. **Trees and Landscaping.** Wireless facilities shall not be installed (in whole or in part) on new poles within any tree drip line. Wireless facilities may not displace any existing tree or landscape and/or hardscape features. All wireless facilities proposed to be placed in a landscaped area must include landscape and/or hardscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The **Author** Please define this term. the development standards specified in this chapter shall control. 2. **Deviation from Design Standards.** 3. a. An applicant may obtain a deviation from these design standards if compliance with the standard: (i) is not technically feasible; (ii) impairs a desired network performance objective; or (iii) otherwise materially inhibits or limits the provision of wireless service. b. When requests for deviation are sought, the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the ~~Director~~Planning Commission finds the applicant's proposed design provides similar -aesthetic value when compared to strict compliance with these standards. c. The ~~Director~~Planning Commission may also allow for a deviation from these standards when it finds the applicant's proposed design provides superior aesthetic value when compared to strict compliance with these standards. d. The ~~Director~~Planning Commission will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.	N and Y	**Overall Height** – this can be subject of special exception request already. **No change needed**. **Trees and Landscaping** – hardscaping is a term of art that generally means built as part of the landscaped environment, but "hard'. For example, stone patios, low garden walls, brick walkways, etc. **There is no need to add a definition**. Deviation language -- T-Mobile request for deviations exception is OK concept but not their language or location in code. **Concept is added to Special Exception section 17.46.080.C which incorporates the minor deviation concept already existing in the City's code** in 17.58.060.D for all other Design Review applications.

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#15 Ord	17.46.050.A.c. c. **Type III Applications: New Small Wireless Facilities on New or Replacement Structures.** Type III applications shall be limited to applications seeking to install and/or construct a new Small wireless facility that involves placement of a new or replacement structure. Subject to the 90 day Shot clock. **Author** Suggest that like for like replacement structures be processed as a Type I or II as the visual impact from a replacement pole is not equivalent to the visual impact of a new pole.	N	Replacement poles require additional analysis like new poles due to excavation etc, It is not just about visual impact. The 90 day shot clock for new poles should apply.
#16 Ord	17.46.060.A. 2. If the Director determines that the application is defective or incomplete, they shall promptly deliver a Notice of Incompleteness to the applicant within the required time period under federal law in order to pause the applicable FCC shot clock.	N	Unnecessarily wordy and not needed
#17 ORD	17.46.060.B. B. **Consultants** 1. **Use of Consultants**. Where deemed reasonably necessary by the City, the City may retain the services of professional consultants to assist the City in carrying out its duties in reviewing and making decisions on applications. The applicant and private landowner, if applicable, shall be jointly and severally responsible for payment of all the reasonable and necessary costs incurred by the City for such services. The city shall provide the Applicant with a detailed invoice of time spent and the nature of the review. In no event shall that responsibility be greater than the actual cost to the City of such engineering, legal, or other consulting services. ~~2.~~ **Advance Deposits for Consultant Costs**. The City may require advance periodic monetary deposits held by the City on account of the applicant or landowner to secure the reimbursement of the City's consultant expenses. The city and the Consultant shall supply the Applicant with a reasonable estimate of anticipated costs. The City Council shall establish policies and procedures for the fixing of escrow deposits and the management of payment from them. When	Y and N	**Use of consultants: the proposed revision has been incorporated** Advance Deposits: Estimate requirement is already stated in 17.46.050.B.2 (if not established by City Council per B.1). Also the ordinance already states the City Council can establish policies and procedures. **Suggestion not incorporated**

DOC (ORD/DG/ CL/COA)	COMMENT	EDITS MADE? (Y/N)	RESPONSE AND REFERENCES
	3. **Liability for Consultant Expenses**. The City may require the Applicant to pay for independent technical review, by a consultant retained by the City, of materials submitted to demonstrate compliance Section 17.46.040 General Development Standards and with the requirements contained in the Application for Wireless Facility form and the applicable Wireless Facility Application Checklist. For an application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal, and other consulting fees incurred by the City. If different from the applicant, the owner(s) of the subject real property shall be jointly and severally responsible for reimbursing the City for funds expended to compensate services rendered to the City under this section by private engineers, attorneys, or other consultants. The applicant and the owner shall remain responsible for reimbursing the City for its consulting expenses, notwithstanding that the escrow account may be insufficient to cover such expenses. No conditional use permit, building permit or other permit shall be issued until reimbursement of costs and expenses determined by the City to be due. In the event of failure to reimburse the City for such fees, the following shall apply: a. The City may seek recovery of unreimbursed engineering, legal, and consulting fees by court action in an appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney's fees expended by the City in prosecuting such action. b. 3. Alternatively, and at the sole discretion of the City, a default in reimbursement of such engineering, legal and consulting fees expended by the City shall be remedied by charging such sums against the real property that is the subject of the conditional use permit application, by adding that charge to and making it a part of the next annual real property tax assessment roll of the City. Such charges shall be levied and collected simultaneously and in the same manner as City-assessed taxes and applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the City Council to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing. **Author** Imposing onerous authorization requirements on property owners could materially limit or inhibit a provider's ability to provide service within the City. It could also eliminate properties where the City would prefer facilities to be located, simply because those property owners may not be willing to accept unlimited liability associated with fees charged by third-party consultants. Additionally, if this requirement is limited to wireless facility applications and not applied to other land use applications, it could be seen as discriminatory		Liability – **T-Mobile edits are not incorporated** – they completely change the intent. However, on closer review other section of code 18.04.260, already covers liability for permit expenses, and the application form requires owner authorization. No need to include.B.3.

#18 DG	I. FACILITIES ON PARCELS 4. **Secondary Power Sources.** The reviewing authority may approve secondary or backup emergency power sources and/or generators ~~on a case-by-case basis~~as required by state and federal law. No permanent diesel generators or other similarly noisy or noxious generators in or within 250 feet from any residential structure are permitted absent a showing of extraordinary need, such as a declared public emergency; provided, however, the reviewing authority may approve sockets or other connections used for temporary backup generators. 5. **Utilities.** All underground cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent **Author** First, the proposed language is inconsistent with both federal and state law. Sec. 6409(a) expressly includes back-up power, and EFR's under Sec. 6409(a) are non-discretionary. Moreover, CA Gov't Code Section 65850.75 makes certain emergency generator permits non-discretionary. From a policy perspective, its unclear why the city would want to limit emergency generator deployment when generators provide backup power to sites that are crucial to emergency services.	N	The concerns are misplaced. This only applies to Types I-IV. It would not apply to EFRs for backup power. CA Gov Code provision applies to existing macro sites only and is about to expire. City policy is not to limit per se but to consider case by case.
#19 DG	II. FACILITIES IN PUBLIC RIGHTS OF WAY A. ANTENNAS 3. **Volume.** Any individual antenna shall not exceed three cubic feet in volume. The cumulative limit for all antennas (including their shrouds or other stealth or concealment devices and any accessory equipment integrated with the antennas) on a single wireless facility shall not exceed six cubic feet. However, the reviewing authority may approve a larger cumulative volume on a case-by-case basis when the applicant demonstrates that ~~additional volume will not be visually incompatible with the surrounding environment and may reduce the need for additional wireless facilities in the vicinity.~~the six cubic foot limit is technically infeasible for the facility to meet the network objective. **Author** This is inconsistent with federal law, which places no cumulative antenna volume limits. Per the FCC, each antenna may not exceed 3 cubic feet and the total volume of the additional equipment must not exceed 28 cubic feet. This provision as written contemplates configurations exceeding 6 cubic feet, but only if that configuration is not "visually incompatible." T-Mobile encourages a technical feasibility standard. II. FACILITIES IN PUBLIC RIGHTS OF WAY C. ACCESSORY EQUIPMENT mitigates unnecessary physical obstructions in the public rights-of-way. However, the reviewing authority may approve a less compatible configuration for the accessory equipment when the applicant demonstrates that more compatible configurations are technically infeasible or the reviewing authority finds that a less compatible configuration is more consistent with existing poles and the surrounding environment. 2. **Volume.** The cumulative limit for all accessory equipment (~~including~~ excluding their shrouds, cabinets or other stealth or concealment devices) for a single wireless facility shall not exceed 17 cubic feet. These limits shall not be applicable to undergrounded accessory equipment. 3. **Pole-Mounted Accessory Equipment.** These standards for pole-mounted accessory equipment apply except to the extent that different safety **Author** This is inconsistent with federal law, which places no cumulative antenna volume limits. Per the FCC, each antenna may not exceed 3 cubic feet and the total volume of the additional equipment must not exceed 28 cubic feet. This provision contemplates configurations exceeding 6 cubic feet, but only if that configuration is not "visually incompatible." T-Mobile encourages a technical feasibility standard. **Author** Concealment and shrouding are there for the benefit of the city and that volume is not required for the Applicant's deployment and should not be included in the overall volume calculation.	N	This is a valid aesthetic regulation. If unable to meet the allowed circumstances for exceeding (where not visually incompatible), applicant may alternatively seek a special exception. Federal definition of SWF with 28 cu ft is for shot clock purposes; city has authority to regulate aesthetics and may require smaller volumes. Volume itself creates an aesthetic impact, City disagrees with T-Mobile's logic that concealment is for city benefit and should not count toward volume.

#20 COA	8. **Post-Installation Certifications/RF Emissions Compliance.** Within 60 calendar days after the permittee commences full, unattended operations at the wireless facility, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the wireless facility has been installed and/or constructed in strict compliance with the Approved Plans and Laws. Such documentation shall include, without limitation, as-built drawings prepared by a California licensed civil engineer, GIS data, site photographs and a written ~~report~~statement, signed by an RF engineer under penalty of perjury, certifying that: (1) the installation is operated in compliance with 47 U.S.C. § 324 (use of minimum power); and (2) the installation complies with all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC.	N	Disagree wording change is needed.
#21 COA	10. **Landscape Features.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. If feasible, a~~A~~ny replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the City. The permittee shall, at all times, be responsible to maintain any replacement landscape features. **Author** Sometimes, transplanting a very mature tree is not advisable and a younger tree may have a better chance of surviving.	N	While the statement is correct, disagree wording change is needed. Language already contemplates City may approve alternative if circumstances warrant.

#22 COA	11. **Compliance with Applicable Laws/RF Emissions Exposure Limits.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("**Laws**") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, including any Laws applicable to human exposure to RF emissions. This permit is not granting the permittee any rights to make any portion of the adjacent properties inaccessible to the general public or to hinder future lawful development of adjacent properties as a mitigation measure to ensure the wireless facility will comply with Laws applicable to human exposure to RF emissions, absent agreement from the adjacent land owner. The permittee understands that if site conditions change in the future due to lawful development on adjacent property, the permittee may need to modify or	Y	Ok: Proposed edit is consistent with intent
#23 COA	14. **Interference with City Communications Systems.** The permittee shall not permit the wireless facility authorized under this permit to interfere with any City communication systems operating on FCC licensed frequencies. In the event that the wireless facility authorized under this permit is causing interference with any City communication systems operating on FCC licensed frequencies, p~~.~~ermitee will endeavor to investigate and resolve or mitigate any harmful interference that may impact those FCC licenses communication systems. ~~the City may notify the permittee and may order the facility to be powered down until such time as the interference has been mitigated.~~ Any mitigation required shall be at the permittee's sole cost and expense. Author Local regulation of interference is federally preempted. In the Matter of Petition of Cingular Wireless L.L.C. for a Declaratory Ruling that Provisions of the Anne Arundel County Zoning Ordinance are Preempted as Impermissible Regulation of Radio Frequency Interference Reserved Exclusively to the Federal Communications Commission, FCC Memorandum Decision and Order, DA 03-2196, 2003.	Y	Ok to accept changes as proposed. It is true that FCC is responsible.

#24 COA	19. **Indemnification.** The permittee and, if applicable, owners (other than the City) of the property and the structure upon which the wireless facility is installed, shall defend, indemnify and hold harmless the City, City Council and the City's boards, board members, commissions, commissioners, agents, officers, officials, employees and volunteers (collectively, the "**City Indemnitees**") from any and all (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings brought against any City Indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this permit, and (b) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this permit ~~or the wireless facility~~ (collectively, "Claims"). If the City becomes aware of any Claims, the City will promptly notify the permittee and the owners of the property and the structure (if applicable) and shall	Y	Some changes are made in response to these edits and AT&T's comments above to in line with City practice. **(Also See comment # 9 above)**
#25 COA	~~21.~~ ~~22.~~ **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "**Records**"). In the event the records cannot be produced by the city or the applicant, the applicant shall have the opportunity to demonstrate by other relevant evidence that the facility is compliant with the applicable code in place at the time of the construction of the original facility and any subsequent modifications to the original facility~~If the permittee does not maintain such Records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing Records will be construed against the permittee~~. The requirements in this condition shall not be construed to create any obligation on the City to create or prepare any **Author** It is the city's responsibility to keep records as a public agency. The proposed presumption is overreaching and unfair. Wireless facilities change hands over the course of time and the permit records are often not available. The City has an independent obligation to maintain permit records and is not entitled to a conclusive presumption of accuracy in the event of a conflict, especially where this presumption and burden is not imposed on other types of land use applicants. **Author**	N	The City disagrees with the premise of the comment. Permittees should keep records of their permits.

#26 COA	B. **For Facilities in the Public Right-of-Way, the following additional conditions apply.** 1. **Future Undergrounding Programs**. During the term of the permit, if other public utilities are required to underground their facilities in the segment of the public rights-of-way where the permittee's wireless facility is located, the permittee must also underground its wireless facility, except for any components of the facility that ~~are exempted under the applicable undergrounding program~~that may not technically be feasible to locate underground. At such time that other public utilities are required to be placed underground, permittee may place a wireless only pole consistent with the city's design requirements, in the right of way, provided it does not exceed the dimensions of the removed utility pole. Such undergrounding shall occur at the permittee's sole cost and expense, except as may be reimbursed through tariffs approved by the California Public Utilities Commission for undergrounding costs or other available funding mechanisms.	N	The City will regulate future undergrounding under its undergrounding resolutions and code provisions. No special requirements will go in this ordinance. However, note that the default exemption for undergrounding is being slightly modified in a conforming amendment. **Section 13.28.070.E**. shall be amended to read as follows: "E. Antennae, associated equipment that is within the supporting structure or integrated with the antennae, and supporting structures, used by a utility for furnishing communication services."
	SCTCN COMMENTS		
#27 CL	**1. Strengthen Material Inhibition Claim Information Required by the Applicant** Applicants are not required to disclose the full details of their service plans, which must be required for full transparency in the application process. a) Bullet # 3 (Application Checklist, page 14) Weakness: The statement gives the applicant a choice whether to describe new services "and/or" minimum service levels they seek to provide. Solution: Remove the word "or" which allows a choice to explain either new services or minimum services levels. Both explanations must be required. This is very important because only telephone service is protected under the Federal Telecommunications Act, while non-telephone services goals are not protected by the TCA.	Y and N	OK to delete word "or", **request "(a)" has been incorporated**.

	b) Bullet #4 (Application Checklist, page 14) Weakness: The statement gives the applicant a choice "whether" they would like to submit drive tests. Solution: Require the applicant to submit drive test data and maps as required in a significant gap/least intrusive means claim.		**Request "(b)" not accepted**. If the materially inhibits claims is based on a claim of significant gap, applicant must provide drive test data but not for other materially inhibits claims.
#28 CL	**2. The City Does Not Require Telecom Companies to Activate all Their Cell Sites Before They Apply for a New cell Site** Weakness: The City Does Not Require Telecom companies to activate all their facilities before they apply for a new facility. Because Camel-by-the Sea is only one-mile-square, it seems perfectly reasonable and logical to require all facilities to be turned on so we can see if a new facility is actually needed. Solution: Require telecom companies to turn on all their facilities before they apply for a new facility.	N	Under federal law and FCC Moratoria Order, the city may not impose a de facto moratorium on the acceptance and processing of applications. By requiring applicants to finish construction of one facility before applying for another, the city will be vulnerable to legal challenge. Further, FCC shot clock rules contemplate bulk applications as does a pending state bill.
#29 ORD	**3. The City Neglects to Include the Potential Adverse Impacts on Real Estate Values in Residential Zoning Districts** (Omitted from the Ordinance) Weakness: The City neglects the welfare of its residents by not evaluating how the close proximity of cell towers in residential neighborhoods could substantially affect their property value in the zoning district. For many residents, their home is their single greatest asset, whose real estate value is threatened by the close proximity of a cell tower whose presence is incompatible with the character of residential districts. Cell towers in residential zones put people at unnecessary fall zone and electrical fire risk with no way to indemnify themselves if a tower fails. Residents must be allowed to present	N	As previously stated, development within the City is regulated through design and location guidelines. This ordinance pays very special attention to aesthetics and things that create or detract from property value, so no need to call out property value specifically. Example – viewshed is already regulated to an extent. All development standards implicitly serve to protect property values already. Adding this finding will unnecessarily put the City at risk of legal challenge. Generalized concerns are not considered substantial evidence Further, Courts have cautioned that requirements or decisions that are ostensibly concerned with property values may be found to be unlawfully based on concerns about RF emissions. For example, in a California federal district court case in which a city had denied a wireless facility application based on the city's finding that the wireless facility would "negatively affect property values of nearby homes based upon the perceived fear of the health

	evidence at a public hearing that a cell tower in close proximity to their home affects their personal welfare. Weakness: The City incorrectly identifies just on reason a cell tower can create property devaluation; RF health emission concerns, when there are many other reasons. Federal Communications Act of 1996 says health concerns are not a valid reason for a municipality to deny zoning for a cell tower or antenna. However, Telecommunications Act of 1996 has found that property values and aesthetics are valid reason for a municipality to deny zoning for a cell tower or antenna. Evidence That Cell Towers Impact Property Values: **The Federal Telecommunications Act of 1996 has found that property values and aesthetics are valid reason for a municipality to deny zoning for a cell tower or antenna.** https://www.nytimes.com/2010/08/29/realestate/29Lizo.html https://www.ashland.or.us/SIB/files/Walker_351_PA-T1-2021-00158_Comment_Period_Oct_19.pdf The legislature could require the council to specifically consider property values, but the federal Telecommunications Act of 1996 requires specific evidence to deny an application. In other jurisdictions, courts have upheld regulators' decisions to deny applications to build telecommunication towers based on an anticipated decline in property values in some cases (see *Cellular Tel. Co. V. Zoning Bd. of Adjustment of the Borough of Ho-Ho-Kus,* 24 F. Supp. 2d 359, 364 (D.N.J. 1998)). https://www.cga.ct.gov/2014/rpt/2014-R-0281.htm		effects cause by the RF emissions," the court held against the city since it may not regulate based on the "direct or indirect concerns over the health effects of RF." The court explained that the denial could not be based on substantial evidence (as required by law) "…if the fear of property value depreciation is based on concerns over the health effects caused by RF emissions." See *AT&T Wireless Servs. v. City of Carlsbad*, 308 F. Supp. 2d 1148 (S.D. Cal. 2003). This ruling is relevant because the proposed wireless regulations already have detailed aesthetic and safety standards, and it is not clear on what basis --other than an unlawful concern over the health effects of RF emissions-- would a finding be made that a facility that is found to meet those design and development requirements nonetheless creates adverse impacts upon real estate values and must be denied.

	"You also have the right to: (a) fight against sustaining a loss to the value of your property as a result of the installation of a Cell Tower in close proximity, (b) protect yourself, your family, friends and neighbors against the dangers of Cell Tower failures and fires, which occur more often than the average person realizes and (c) fight against having the installation of a Cell Tower adversely affect the character or aesthetics of your neighborhood."- Andrew Campanelli https://campanellipc.com/practice-areas/cell-tower-opposition-nationwide/ **Studies** The Bond and Hue - Proximate Impact Study The Bond and Hue study conducted in 2004 involved the alanysis of 9,514 residential home sales in 10 suburbs. The study reflected that close proximity to a Cell Tower reduced price by 15% on average. The Bond and Wang - Transaction Based Market Study The Bond and Wang study involved the analysis of 4,283 residential home sales in 4 suburbs between 1984 and 2002. The study reflected that close proximity to a Cell Tower reduced price between 20.7% and 21%. The Bond and Beamish - Opinion Survey Study The Bond and Beamish study involved surveying whether people who lived within 100' of a tower would have to reduce the sales price of their home. 38% said they would reduce the price by more than 20%, 38% said they would reduce the price by only 1%-9%, and 24% said they would reduce their sale price by 10%-19%. United States Court of Appeals for the 11th Circuit upheld a denial of a Cell Tower application based upon testimony of residents and a real estate broker, that the Tower would reduce the values of property which were in close proximity to the Tower.		

	Cell Towers are Hazards and Nuisances to Single Family Properties **(https://ehtrust.org/cell-phone-towers-lower-property-values-documentation-research/)** • The U.S. Department of Housing and Urban Development (HUD) considers cell towers “Hazards and Nuisances” • HUD requires its certified appraisers to take the presence of nearby cell towers into consideration when determining the value of a single family property. • HUD prohibits FHA underwriting of mortgages for homes that are within the engineered fall zone of a cell tower. **Some Home Buyers Back Out of Purchases Due to Disclosure of Cell Tower as Neighborhood Nuisance** (https://ehtrust.org/wp- content/uploads/Real-Estate-Seller-Property-Questionaire- reduced-12-17-1.pdf) California Realtors are required to prepare a disclosure statement upon sale for all homes near a cell tower as a neighborhood nuisance. Disclosures cause some buyers **to back out of the sale of purchasing a home near a cell tower.** **20% Property Reduction Living Next to a Cell Tower** • Documentation of a price drop of up to 20% is found in multiple surveys and published articles. https://www.nationalbusinesspost.com/cell-towers-impact-home-values/ • Local, state and International Real Estate Agents estimate a minimum 20% property devaluation for homes next to cell towers		

	• Research finds, cell towers, high powered powerlines and electric substations near homes can drop property values up to 20%. • The National Institute for Science, Law & Public Policy (NISLAPP) reports that an overwhelming 94 percent of home buyers and renters surveyed say they are less interested and would pay less for a property located near a cell tower or antenna. https://www.businesswire.com/news/home/20140703005726/en/survey-National-Institute-Science-Law-Public-Policy#.U8muiLGO1oY **Property Appraisers Recognize Property Values are Impacts by Adverse Aesthetics in Proximity to Cell Towers** • "In 32 years of experience as a Real Estate Appraiser specializing in detrimental conditions, takings, adverse impacts and right-of-way, I have found that aesthetics (or rather the adverse impact on aesthetics) of externalities routinely has the largest impact on property values. As a result, proximity to towers of all types (cell, wind turbine, and electric transmission) has an impact on property values. The same is true with all sorts of surface installations such as pump stations and communication equipment boxes. This would apply to new small cell and DAS equipment, although again, one would expect that the less intrusive the facility, the less significant the impact. Small cell and DAS installations can be unsightly, bulky, inconsistent, and even noisy." "Impact of Communication Towers and Equipment on Nearby Property Values" prepared by Burgoyne Appraisal Company, March 7, 2017 Weakness: The City also justifies that allowing a negative impact to property value finding to the wireless ordinance opens the city to litigation. *However,* no city can control whether telecoms will bring forth litigation. When a telecom does choose to litigate, it doesn't mean that they win their legal battles, as proven		

	with the most recent Carmelo Tower litigation. Also, cities are not required to compensate telecoms for their losses. The City can and does include insurance compensation protection for the City and City Officials in the ordinance. While the City and City Officials can seek protective compensations for losses from a cell tower approval, residents have no way to indemnify themselves should a cell tower located in close proximity fail and cause physical harm or property loss. Local, state and international realtors document multiple reasons, including negative aesthetics and neighborhood nuisance disclosure statements as reasons to not risk purchase a home next to a cell tower. The City must block residential property owners from making the case in a public hearing that a cell tower located near their residential property would create a negative effect on their welfare. Solution: The City must add the legally viable “Potential Adverse Impact Impact to Real Estate Value” as a finding in the wireless ordinance to protect the welfare of its residents and the essential residential character of Carmel-by-the-Sea.		
#30 --	**4. Wireless Facility Shot Clock Noticing & Community Outreach Must Be Strengthened** Weakness: Wireless facility developments are public utilities that affect the entire community. The FCC shot clock is a unique timeline than any other planned development in the City. Residents could miss important shot clock timelines or pauses and restarts in the shot clock due to lack of community-wide noticing.	N/A	The City understands this request is not seeking any changes to the ordinance or companion documents but the City will explore this as part of department operating procedures to ensure the greatest amount of public awareness that is practically possible.

	Solution: Once the shot clock starts, inform the community at the same time through public email notices, including shot clock stop and restart times.		
#31 ORD	**5. Increase Public Noticing Distance** Weakness: The current draft ordinance only provides hand-delivered postcard notice to neighbors within 100-feet radius of the site. Solution: Increase the radius to 500-1,000 feet. The rule is, the higher the structure, the further the noticing. Petaluma does 1,000 feet.	Y	Section 17.46.070.B language proposed to expand the mailing radius to 500 ft. Hand delivery is being done by the City for wireless applications to make sure that it is timely done but the radius will not be expanded for hand delivery.
#32 CL	***Error?-** Wireless Facility Application Check list Type I-IV (**page 9**) 12.1 Incompatibility items The project is proposed in a location that it is: **(Last square) in the public right-of-way within a **250-foot radius (should be 500 feet. On Page 16 of the ordinance , this was changed to 500 ft**	Y	Typo corrected
#33 ORD	***Fire Safety**- All wireless facilities (**page19**) ***says, " should" We need to change this to, " shall be** *proactively monitored."*	Y	Typo corrected
	END		

CC MEETING SEPTEMBER 2023
MODIFICATIONS DIRECTED BY PC AT AUGUST 23 MEETING

ITEM	PC DIRECTION	REDLINED CHANGE
PC CHANGES TO ORDINANCE		
Ord	Add full definitions of each of the five application types listed in the "Definitions" section.	**17.46.020 Definitions.** A. **Generally Applicable Definitions** 24. "**Type I application**" means an application type that shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application~~described in 17.46.050(A)(1)(a)~~. 25. "**Type II application**" means an application type that shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR~~described in 17.46.050(A)(1)(b)~~. 26. "**Type III application**" means an application type that shall be limited to applications seeking to install and/or construct a new small wireless facility that involves placement of a new or replacement structure~~described in 17.46.050(A)(1)(c)~~. 27. "**Type IV application**" means an application type that shall include any applications for the installation of a new personal wireless service facility which does not meet the criteria for Type I, Type II, Type III or Type V applications~~described in 17.46.050(A)(1)(d)~~. 28. "**Type V application**" means an eligible facilities request or EFR as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), which is any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

CC MEETING SEPTEMBER 2023
MODIFICATIONS DIRECTED BY PC AT AUGUST 23 MEETING

ITEM	PC DIRECTION	REDLINED CHANGE
Ord	Treat Residential and Limited Commercial (RC) like R-1 with respect to location rankings	**17.46.040 General Development Standards.** **B. Ranked Locations.** Applicants must propose placement in locations with the least intrusive land use designation (i.e.: Zoning) technically feasible and potentially available. Applications proposing placement in Tier I or II must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows no location in a Tier III land use tier is technically feasible and available. The following land use tiers are ranked from least compatible to most compatible: *Tier I (Least Compatible):* Senior Citizen Facility (A-3), Multi-Family Residential (R-4), ~~and~~ Single-Family Residential (R-1), and Residential and Limited Commercial (RC). *Tier II:* Improved Parklands (P-2), Natural Parklands and Preserves (P-1), and Theatrical (A-1). *Tier III (Most Compatible):* Central Commercial (CC), Service Commercial (SC), and Community and Cultural (A-2)~~, Residential and Limited Commercial (RC)~~
Ord	Add some of the clarifying language from the Design Guidelines about the equipment also counting towards height into the ordinance itself	**17.46.040 General Development Standards.** F. **Design Standards** 1. **General Requirements**. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E). b**. Overall Height.** On public and private parcels, wireless facilities may not exceed more than 10 feet above the maximum height allowed by this code for the underlying zoning district where the facility is proposed. In the public right-of-way, wireless facilities on an existing pole may not have an overall ~~increase the~~ height that exceeds the height of ~~an~~the existing pole by more than 10 feet and wireless facilities that ~~or~~involve a replacement pole or a new pole may not have an overall height that is more than 10 feet above the height of the replaced pole or existing poles in the vicinity unless additional height necessary to comply with CPUC safety standards such as General Order 95.

CC MEETING SEPTEMBER 2023
MODIFICATIONS DIRECTED BY PC AT AUGUST 23 MEETING

ITEM	PC DIRECTION	REDLINED CHANGE
Ord	Add a ban on visible alarms	**17.46.040 General Development Standards.** F. **Design Standards** 1. **General Requirements**. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E). h. **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth, and the reviewing authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Alarm systems shall not include any visible alarms or audible sirens or other sounds.
Ord	Add no adverse impact to property values to findings for approval.	**17.46.080 Findings Required.** A. **Types I to IV Applications** 1. **Required Findings for Approval.** The reviewing authority may approve wireless facility applications only when the reviewing authority makes all the following findings: 1. the proposed wireless facility will not result in adverse visual impacts or have an adverse impact on property values because it complies with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines;

ITEM	PC DIRECTION	REDLINED CHANGE
OTHER PC CHANGES		
CL	For the significant gap showing, require probative evidence to take into account all existing and approved facilities	**15.2.1 SIGNIFICANT GAP/LEAST INTRUSIVE MEANS CLAIM** If an applicant asserts that: (i) an identified wireless provider suffers from a significant gap in its personal wireless services within the City, (ii) that the applicant's proposed facility is the least intrusive means of remedying such gap in services, having considered alternatives and (iii) that under the circumstances pertaining to the application, a denial of the application would constitute an "effective prohibition" under Section 47 U.S.C. §332, then, the applicant shall be required to file the following information: If an applicant makes a significant gap/least intrusive means claim, then the applicant shall be required to submit probative evidence taking into account all existing and approved facilities of the carrier serving the City, including the following:
CL	For other effective prohibition claims, do not refer to the materially inhibits explicitly	**15.2.2 ~~MATERIALLY INHIBITS~~ OTHER EFFECTIVE PROHIBITION CLAIMS** If an applicant asserts that (i) one or more City requirement(s) will have the effect of prohibiting wireless telecommunications services because it inhibits the provision of personal wireless services because, for example, it inhibits an identified wireless provider's ability to densify a wireless network, introduce new services to a new or existing geographic area or otherwise improve existing service capabilities, or restricts the entry of a new wireless provider in providing personal wireless service in a particular area, and (ii) the inability to meet the identified service and performance goals ~~materially inhibits~~ effectively prohibits the wireless provider's ability to compete in a fair and balanced legal and regulatory environment, and (iii) that under the circumstances pertaining to the application, a denial of the application would constitute an "effective prohibition" under Section 47 U.S.C. §332, then, the applicant shall be required to file the following information: If the ~~materially inhibits~~ other effective prohibition claim is based on a claim of the existence of a significant gap, the applicant shall provide the information in 15.2.1 above. If the ~~materially inhibits~~ other effective prohibition claim is based on grounds other than the existence of a significant gap, the applicant shall provide: a street-level map that shows the general geographic area of the service area(s) to be densified, to be improved, to receive

ITEM	PC DIRECTION	REDLINED CHANGE
		new services through the proposed wireless facility (the “Service Area”); - full-color signal propagation maps in scale with the street level map that show current and predicted service coverage in the area for all active frequencies in RSRP (or other relevant signal level or quality indicator) and with a legend that describes the objective signal levels in dBm that correspond to any colors used to depict signal levels on such propagation maps. Graduations between signal levels shown on the map shall not exceed 3 dBm; - a written narrative that describes the new services and minimum service levels the applicant seeks to provide within the Service Area, the uses (commercial, residential, primary thoroughfare, highway, etc.) within the Service Area, and the manner in which those uses would be negatively affected if the Service Area were to remain unaddressed; - a statement as to whether the applicant conducted any drive test(s) and, if so, all drive test results and data (in .XLS or .CSV or similar format) together with a report that describes how and when the applicant conducted such test(s). - an explanation of how the inability to meet the identified service and performance goals due to a City denial on the basis of the City requirement effectively prohibits~~materially inhibits~~ the wireless provider’s ability to compete in a fair and balanced legal and regulatory environment.
COA	Allow for City to perform annual RF emissions test	**11. Compliance with Applicable Laws/RF Emissions Exposure Limits.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“**Laws**”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, including any Laws applicable to human exposure to RF emissions. This permit is not granting the permittee any rights to make any portion of the adjacent properties inaccessible to the general public or to hinder future lawful development of adjacent properties as a mitigation measure to ensure the wireless facility will comply with Laws applicable to human exposure to RF emissions, absent agreement from the adjacent land owner. The permittee understands that if site conditions change in the future due to lawful development on adjacent property, the permittee may need to modify or remove its wireless facility or obtain adjacent property owner consent to mitigation measures on the adjacent property if required to maintain compliance with any Laws applicable to human exposure to RF emissions. If the Director finds good cause to believe that the wireless facility is not in compliance with any Laws applicable to human exposure to RF emissions, the Director may require the permittee to submit a

ITEM	PC DIRECTION	REDLINED CHANGE
		written report, signed by an RF engineer under penalty of perjury, that: (1) the installation is operated in compliance with 47 U.S.C. § 324 (use of minimum power); and (2) the installation complies with all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC. Further, the City or its contractors may perform an annual RF emissions exposure compliance test without notice to the permittee. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws.
CONFORMING CHANGE TO WIRELESS APPLICATION FORM		
APP	PC recommended ordinance had change to Section 17.46.050.B.3 to have City establish application submittal hours rather than application appointments due to shot clock concerns which requires a conforming modification to wireless application form	All applications submitted under this chapter must be submitted to the City during the office hours specified for intake of applications submitted under this chapter as established by the Community Planning and Building Department and posted on the City's webpage. Applicants may submit one application or multiple applications whenever feasible and not prejudicial to other applicants. Any application received in a different manner or outside those established intake hours, whether delivered in-person, by mail or through any other means, will not be considered duly filed whether the City retains the submitted materials or not INSTRUCTIONS: Applicants that wish to submit an application for a wireless facility must fill out this Application for Wireless Facility form and not the General Planning Application form. All applications must be submitted in person to the Community Planning and Building Department ~~at a pre-scheduled appointment.~~ during the office hours specified for intake of wireless facility applications as established by the Community Planning and Building Department and posted on the City's webpage. ~~To schedule an appointment email: planning@ci.carmel.ca.us.~~ For questions about the application requirements or process call: (831) 620-2010 or email: planning@ci.carmel.ca.us. Emails and calls will be responded to during normal City business hours.

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CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

RESOLUTION NO. 2023-044-PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA:

1. **MAKING A FORMAL RECOMMENDATION TO THE CITY COUNCIL TO ADOPT ORDINANCE NO. 2023-006, WHICH WOULD AMEND THE CARMEL MUNICIPAL CODE (CMC) TITLE 17 (ZONING) BY REPEALING AND REPLACING CHAPTER 17.46 (TELECOMMUNICATIONS AND WIRELESS FACILITIES) AND MAKING CONFORMING AMENDMENTS TO ZONING CODE SECTIONS 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 AND 17.70.020 AND TO MUNICIPAL CODE SECTIONS 12.08.050, 12.08.060, 13.28.070; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND IN FULL CONFORMANCE WITH THE CITY'S LOCAL COASTAL PROGRAM AND THE CALIFORNIA COASTAL ACT; AND,**

2. **APPROVING AND ADOPTING THE FOLLOWING COMPANION ADMINISTRATIVE DOCUMENTS ASSOCIATED WITH ORDINANCE NO. 20023-006 WHICH INCLUDE: "APPLICATION FOR WIRELESS FACILITY FORM"; "WIRELESS FACILITY APPLICATION CHECKLIST - TYPE I-IV"; "WIRELESS FACILITY APPLICATION CHECKLIST - TYPE V ELIGIBLE FACILITIES REQUEST"; "ADMINISTRATIVE DETAILED WIRELESS FACILITY DESIGN GUIDELINES"; AND "WIRELESS FACILITY STANDARD CONDITIONS OF APPROVAL"**

WHEREAS, the City of Carmel-by-the-Sea currently regulates the placement of wireless facilities throughout the City under Title 17, Chapter 17.46 of the Municipal Code; and

WHEREAS, Chapter 17.46 was last amended in 2004; and

WHEREAS, there have been significant changes in state and federal law affecting local authority over wireless siting since Chapter 17.46 was last amended, including the passage of new federal laws and state laws, the adoption of new Federal Communications Commission regulations and orders, the amendment of California Public Utility Commission orders related to utility infrastructure, and various judicial decisions interpreting those laws and regulations; and

WHEREAS, notwithstanding the various changes in state and federal law, local governments continue to retain authority to regulate the placement, construction, and modification of personal wireless service facilities, subject to those matters where local authority has been limited or removed by state or federal law; and

WHEREAS, Carmel-by-the-Sea has made longstanding and sustained efforts to preserve its distinct "village in a forest, by the sea" character, the natural beauty of its shoreline environment, and its charm as a popular visitor destination, by not allowing incompatible development that degrades the visual and economic value of adjoining properties, especially in residential areas; and

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WHEREAS, Carmel-by-the-Sea's topography, forested nature, location partially within and partially adjacent to California's High Fire-Threat District (HFTD), and narrow streets, with few gutters or sidewalks or streetlights, gives rise to many unique concerns and situations relating to fire safety, traffic circulation, parking and pedestrian safety; and

WHEREAS, if not adequately regulated, the installation of personal wireless services facilities within the City can pose a threat to the public health, safety, and welfare; traffic and pedestrian safety hazards; negative impacts to trees; creation of visual and aesthetic blights and potential safety concerns arising from improper design or excessive size, heights, noise, or lack of camouflaging; and

WHEREAS, the City therefore intends to exercise its powers to regulate personal wireless service facilities to the maximum extent allowed by law, to protect its residents and visitors, promote public health, safety and community welfare, preserve the natural resources and unique scenic quality of Carmel-by-the-Sea, and protect the character of the City's residential neighborhoods, while nonetheless respecting and adhering to the law as it is today and may change in the future; and

WHEREAS, on February 29, 2022, the City Council and Planning Commission held a joint special meeting on wireless regulation to receive an update on changes to the law, to receive public feedback and to provide general direction to staff on an update to the City's wireless regulations; and

WHEREAS, on March 29, 2023, the Planning Commission conducted a duly noticed public workshop on a draft of the wireless regulations (ordinance, design guidelines, standard conditions of approval, and application forms) to receive public feedback; and

WHEREAS, on August 11, 2023, notice of a public hearing of the Planning Commission was published in compliance with State law (California Government Code 65091); and

WHEREAS, on August 23, 2023, the Planning Commission held a public hearing to consider making a recommendation to the City Council regarding Ordinance No. 2023-006 amending regulations pertaining to telecommunication and wireless facilities and received public testimony, including without limitation, information provided to the Planning Commission by City staff and through public testimony; and

WHEREAS, section 17.46.020 'General Development Standards' grants authority to the Planning Commission to establish via resolution application submittal standards for Telecommunication and Wireless Facilitates; and

WHEREAS, on August 23, 2023, the Planning Commission also considered the companion administrative documents and forms associated with Ordinance No. 2023-006 (design guidelines, standard conditions of approval, and application forms) and received public testimony, including without limitation, information provided to the Planning Commission by City staff and through public testimony; and

WHEREAS, On August 23, 2023, the Planning Commission found that the draft Ordinance 2023-006 and the companion administrative documents, as amended by the Commission at the hearing, were consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations; and

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WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require the review of certain projects for environmental impacts and preparation of environmental documents; and

WHEREAS, the Planning Commission finds that pursuant to CEQA regulations, the project will have no impact on the environment and is not considered a project requiring compliance with the California Environmental Quality Act (Section 21065 of the California Public Resources Code); and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (Public Resources Code Section 30510 et seq.); and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, THAT THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY recommend the Carmel-by-the-Sea City Council adopt Ordinance No. 2023-006, as amended by the Commission on August 23, 2023, which would amend the Carmel Municipal Code (CMC) Title 17 (Zoning) by repealing and replacing chapter 17.46 (Telecommunications and Wireless Facilities) and making conforming amendments to Zoning Code sections 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 and 17.70.020 and to CMC sections 12.08.050, 12.08.060, 13.28.070; and finding the same exempt from the California environmental quality act and in full conformance with the City's Local Coastal Program and the California coastal act.

BE IT FURTHER RESOLVED, THAT THE PLANNING COMMISSION DOES HEREBY approve the following administrative documents associated with Ordinance No. 2023-006: "Application for Wireless Facility Form"; "Wireless Facility Application Checklist - Type I-IV"; "Wireless Facility Application Checklist - Type V Eligible Facilities Request"; "Administrative Detailed Wireless Facility Design Guidelines"; and "Wireless Facility Standard Conditions of Approval"

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 23rd day of August, 2023, by the following vote:

AYES: Allen, Delves, Karapetkov, LePage, Locke
NOES: N/A
ABSENT: N/A
ABSTAIN: N/A

APPROVED: 9/5/2023

DocuSigned by:
M. LePage
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Michael LePage, Chair

ATTEST: 9/5/2023

DocuSigned by:
Leah R. Young
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9.5.23
Leah Young, Planning Commission Secretary
Brandon Swanson, Director