



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, April 4, 2023

THIS MEETING WILL BE HELD IN PERSON IN THE COUNCIL CHAMBERS AND VIA TELECONFERENCE. This meeting will be held via teleconference and in-person in the City Council Chambers at City Hall located on Monte Verde Street between Ocean and Seventh Avenues. To participate via teleconference click the following link to attend via Zoom (or copy and paste link in your browser):

<https://ci-carmel-ca-us.zoom.us/j/89151237783> Meeting ID: 891 5123 7783 Passcode: 090102 Dial in: (253) 215-8782

The COVID-19 Community Level for Monterey County as of the date of this agenda posting on 3/29/2023 is LOW. Per Urgency Ordinance 2022-006, wearing a face mask to attend a meeting of a legislative body inside a City facility is optional when the community level is low. Seating will be limited and available on a first come first served basis.

The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received 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 added to the agenda and made part of the record.

OPEN SESSION 4:30 PM

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

- A. Central Coast Community Energy Annual Update
- B. Presentation on PARS (Public Agency Retirement Services) 115 Trust

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. February 6, 2023, Special Meeting Minutes, March 6, 2023, Special Meeting Minutes, and March 7, 2023, Regular Meeting Minutes
- 2. February 2023 Monthly Reports
- 3. February 2023 Check Register Summary
- 4. Resolution 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually
- 5. Resolution 2023-032, Declaring the continued existence of a local emergency due to the 2022-23 Atmospheric River Winter Storm Event
- 6. Resolution 2023-033 approving a list of street projects for Fiscal Year 2023/24 partially funded by SB1: The Road Repair and Accountability Act of 2017
- 7. Resolution 2023-034, authorizing the City Administrator to execute a Construction Contract with Rehak General Engineering, in the amount of \$128,600, including a 15% contingency, for the City Hall Wall Repair Project, and approving a Capital Project Budget Adjustment of \$113,600 to complete the Project
- 8. Resolution 2023-035 authorizing the City Administrator to Execute Amendment No. 3 to a Professional Services Agreement with Joseph Systems Inc. for a new not-to-exceed amount of \$41,840.70 and extending the term through June 30, 2023
- 9. Resolution 2023-036, authorizing the serving of alcohol on public property, and/or the erection of tents on public property for 1. Monterey County Vintners Winemakers' Celebration, and 2. Carmel Art Festival

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council, Board or Commission discussion, debate, direction to staff, and/or action.

- 10. Mills Act Policy Discussion

11. Policy Discussion on Potential Reinstatement of the Design Review Board
12. Consider the total funding amount to authorize for the current Council Discretionary Grant Program cycle and provide direction to staff for the FY 2023-2024 budget
13. Consider Adoption of Urgency Ordinance 2023-002 to Repeal and Replace Urgency Ordinance 2022-006, adopting amended rules of conduct for attending meetings of legislative bodies at City facilities

PUBLIC HEARINGS

14. Scout House Request for Proposals, and Resolution of Intent to Lease Real Property and Surplus Lands Act Resolution, and CEQA findings
15. Resolution 2023-041 Establishing the Electronic Form of Payment (Online) and Amending the Credit Card Fee in the Adopted Administrative Fee Schedule
16. Consideration of a Mills Act Contract Application, MA 21-238 (L' Auberge Carmel Hotel), submitted by Mr. David Fink on behalf of Esperanza Carmel Commercial, LLC for the L' Auberge Carmel Hotel located on Monte Verde Street 2 northeast of 7th Avenue in the Residential and Limited Commercial (RC) Zoning District - Continued from December 6, 2022

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

April 4, 2023
EXTRAORDINARY BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Chip Rerig, City Administrator

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Central Coast Community Energy Annual Update

RECOMMENDATION:

Receive an annual update presentation from a representative from Central Coast Community Energy (CCCE).

BACKGROUND/SUMMARY:

Receive an annual update presentation from a representative from Central Coast Community Energy (CCCE).

FISCAL IMPACT:

None for this item.

PRIOR CITY COUNCIL ACTION:

Council received an annual update last year from Central Coast Community Energy.

ATTACHMENTS:



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

April 4, 2023
EXTRAORDINARY BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Chip Rerig, City Administrator
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Presentation on PARS (Public Agency Retirement Services) 115 Trust

RECOMMENDATION:

Receive a presentation on the City's PARS (Public Agency Retirement Services) 115 Trust.

BACKGROUND/SUMMARY:

Receive a presentation on the City's PARS (Public Agency Retirement Services) 115 Trust.

FISCAL IMPACT:

None for this item.

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:



CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

Staff Report

April 4, 2023
CONSENT AGENDA

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Nova Romero, City Clerk

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: February 6, 2023, Special Meeting Minutes, March 6, 2023, Special Meeting Minutes, and March 7, 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) February 6, 2023, Minutes

Attachment 2) March 6, 2023, Minutes

Attachment 3) March 7, 2023, Minutes

**CITY COUNCIL
SPECIAL MEETING MINUTES
FEBRUARY 6, 2023**

OPEN SESSION 4:30 PM

CALL TO ORDER AND ROLL CALL

Mayor 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 present.

CLOSED SESSION

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT
CODE SECTION 54957 Title: City Administrator

City Attorney Pierik read the closed session title.

Public comment: None

ADJOURNMENT

Council adjourned to closed session at 4:31 p.m.

SIGNED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk

**CITY COUNCIL
SPECIAL MEETING MINUTES
MARCH 6, 2023**

CALL TO ORDER AND ROLL CALL

Mayor 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 present.

PUBLIC APPEARANCES

Michael McWalters addressed the Council regarding the cost of drafting the Wireless Ordinance.

CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8: Property: Scout House located at northeast corner of Mission Street and Eight Avenue in the City of Carmel by-the-Sea Agency negotiators: City Administrator, Director of Public Works and City Attorney Negotiating parties: Interested Parties Under negotiation: Amount of rent and terms of payment of rent

City Attorney Pierik read the closed session title.

Public comment: none.

ADJOURNMENT

Council adjourned to closed session at 4:35 p.m.

SIGNED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk

**CITY COUNCIL
REGULAR MEETING MINUTES
MARCH 7, 2023**

OPEN SESSION 4:30 PM

CALL TO ORDER AND ROLL CALL

Mayor 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 present.

PLEDGE OF ALLEGIANCE

City Administrator Rerig led the pledge of allegiance.

PUBLIC APPEARANCES

Dan Ripke read the proclamation issued by the Mayor declaring March 2023 as American Red Cross Month. Jorge Gonzalez, Carmel's Postmaster, spoke about post office hours being extended, ADA ramp being worked on, adding package lockers, and more use of the lockers for package deliveries.

ANNOUNCEMENTS

City Administrator - Announced that staff is preparing for another rain and wind storm coming into town this week and weekend, and Farmer's Market is canceled this week.

City Attorney - No reports from Closed Session on 3/6.

City Council - No announcements

CONSENT AGENDA

Councilmember Dramov pulled Item 7 from Consent.

Motion by Mayor Pro Tem Richards to approve consent items #1-6, 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 - January 31, 2023, Special Meeting Minutes, February 7, 2023, Regular Meeting Minutes, and February 21, 2023, Special Meeting Minutes

Item 2 - January 2023 Monthly Reports

Item 3 - January 2023 Check Register Summary

Item 4 - Resolution 2023-027, Declaring the continued existence of a local emergency due to the 2022-23 Atmospheric River Winter Storm Event

Item 5 - Resolution 2023-028, authorizing the City Administrator to execute On-Call Tree Maintenance Service Contracts with Community Tree Service, Tope's Tree Service, and West Coast Arborists, with initial terms of three years, expiring June 30, 2026, and fees for the remainder of Fiscal Year 2022/23 of \$30,000, \$60,000, and \$60,000 respectively

Item 6 - Adopt Resolution 2023-029 adopting the City of Carmel-by-the-Sea Temporary/Hourly (at-will/unrepresented) classification salary plan in accordance with Municipal Code 2.52.520 as of March 1, 2023

ITEMS PULLED FROM CONSENT

Item 7 - Resolution 2023-030 Opposing Initiative No. 21-0042A1, the Taxpayer Protection and Government Accountability Act

Councilmember Dramov pulled Item 7 from Consent to make a comment that supports the Initiative, so she does not support approval of a Resolution to oppose the initiative.

Motion by Councilmember Ferlito to approve Resolution 2023-030, 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 - Receive a presentation on Car Week 2023 planning

Library and Community Activities Director Ashlee Wright gave a brief presentation to Council and answered questions. Council discussed the option of having smaller events throughout car week, since the larger Concourse on the Avenue annual event is not happening this year. Council voiced concerns about keeping pedestrians safe, the noise, and car racing.

Public Comment:

Carrie Anne commented in favor of the smaller car week events but brought up concerns about keeping the city safe during the event. Richard Kreitman commented about crowd control and visitation numbers.

Council received the presentation, no action was taken.

Item 9 - Receive a presentation and provide direction to staff regarding the proposed paving, bike route, and median island projects along San Carlos Street, between Eighth and Thirteenth Avenues

Public Works Director Bob Harary gave a presentation to Council on the item and answered questions. Council discussed the topics of median islands, sharrows and bike route signs, and trees planted on San Carlos Street.

Public comment:

Katherine McFarlane, Norm McFarlane, Yung Sun, Don Huber, Cindy Lloyd representing the Carmel Residents Association, and Stacey Steele spoke in opposition to a bike route on San Carlos.

Chris Mack, Steven Wilson, Carlyana Gillian, Francisco Belaunzaran, and Karen Gelf spoke in favor of bike lanes and/or median islands on San Carlos.

Council discussion resumed, and consensus direction to staff to not to put in the median islands on San Carlos Street.

Motion by Mayor Pro Tem Richards to not put in median islands on San Carlos Street, seconded by Councilmember Dramov, and approved 4-1-0-0 by the following roll call vote:

AYES: Councilmembers Baron, Dramov, Richards, and Mayor Potter

NOES: Councilmember Ferlito

ABSENT: None

ABSTAIN: None

Council discussion resumed, and consensus direction to staff approving the painted sharrows on the road and no green signs.

Motion by Councilmember Baron to paint the sharrows for a bike route and no green signs on San Carlos Street, seconded by Ferlito, 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

Council discussion resumed, and consensus direction to staff to plant replacement trees on both sides of San Carlos Street.

Motion by Mayor Potter to plant replacement on both sides of San Carlos Street, 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

Council took a 10 min recess at 6:30 p.m. Council reconvened at 6:40 p.m.

Item 10 - Second Reading and Adoption of Ordinance No. 2022-007 - Amending Carmel Municipal Code (CMC) Sections 17.14.040, 17.28.010, and 17.70.020, to prohibit timeshare and fractional interest uses, as well as advertising and sale thereof, in a manner fully in conformity with the California Coastal Act (CA Section 30510)

City Attorney Brian Pierik gave a brief summary of the discussion with the Monterey County Assessor's office regarding the property tax implications of fractional ownership properties. He summarized that the threshold for a property tax assessment occurs when there is a 50% ownership change, and the responsibility for reporting falls on LLC.

Public Comment: Mike Coughlin spoke in opposition to the Ordinance.

City Attorney Pierik read the title of the Ordinance.

Motion by Councilmember Baron to read by title only, waive full reading, and adopt Ordinance 2023-007, seconded by Councilmember Ferlito, 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 11 - Early policy discussion of Draft Ordinance Amending Municipal Code Section 17.20.200 E (Recreational Beach Fires on Carmel Beach)

Community Planning and Building Director Brandon Swanson gave a brief presentation of the item. Council directed staff to include air quality and health concerns in the Ordinance.

Public comment: None

Item 12 - Receive a report on the outcome of the January 31, 2023, City Council strategic workshop, and provide direction to staff regarding the projects remaining as "top priorities" and those to be elevated to a "top priority" as discussed at the workshop.

Community Planning and Building Director Brandon Swanson gave a brief overview of the direction for the Council priorities. Councilmember Dramov asked that a discussion be brought back to consider funding the 3 police officer positions that were removed last year during POA negotiations. City Administrator Rerig said that discussion on adding the police officer positions back can be brought up during the budget cycle meetings.

KEEP as top priority project (11 total)

- Explore Parking and Traffic Management program (35% Complete)
- Plan for natural areas, reduce fire risk (55% Complete)
- Review opportunities for enhanced fire/ambulance service (50% Complete)
- Develop forest management plan and update tree ordinance (35% Complete)
- Update zoning code & design guidelines (65% Complete)

- ADU ordinance (65% Complete)
- Wireless ordinance (75% Complete)
- Stormwater ordinance update (85% Complete)
- Review barriers to affordable housing (45% Complete)
- Explore street addresses (30% Complete)

ELEVATE to top priority project (7 total)

- Update purchasing Ordinance (10% Complete)
- Increase beautification efforts (35% Complete)
- Develop a facilities master plan (45% Complete)
 - Split into two projects (both elevated)
 1. Develop a facilities Master Plan
 2. Police/Public Works Building Renovation
- Underground utility Rule 20A (10% complete)
- Explore reinstatement of the design review board (65% complete)
 - combined with “update zoning code and design guidelines”
- Opportunities for Flanders mansion (0% complete)

NOT a top priority project (7 total)

- Volunteer group facilitation (70% complete)
- Review/reformulate approach to reserves/update financial policies (15% complete)
- Explore dining in the public right-of-way (25% complete)
- Explore redevelopment of Sunset Center North lot (0% complete)
- Develop and implement a social media plan (10% complete)

MOVE to another list (3 total)

- Filling vacancies
 - Moved to the “completed” list
- Pandemic Recovery
 - Moved to the “completed” list
- Climate Action and Adaptation Plans
 - Moved to “Active” list until Sea Level Rise Analysis is complete

Public comment: none.

Council agreed with the staff summary of the priorities list as presented, and gave direction to staff to move forward as discussed.

Item 13 - Resolution 2023-026 Rescinding Resolution 2020-021 and Terminating the Proclamation of a Local Emergency within the City due to COVID-19

City Attorney Pierik gave a brief summary of the item. He explained that the termination of the State emergency by the Governor on February 28, 2023, ended the ability of legislative bodies to teleconference under AB 361. He summarized that as of now, either the traditional Brown Act teleconference rules or AB 2449 teleconference rules must be used for meetings moving forward.

Community Planning and Building Director Brandon Swanson said that once Council adopts Resolution 2023-026, the approval granted under the proclamation by the City Administrator that allowed outdoor dining and outdoor wine tasting to operate outside of City regulations during COVID without requiring a permit will also go away. He added that as a result, a number of restaurants and wine tasting establishments in town will be immediately in non-compliance with either the Muni code or their use permit. He asked for Council direction on when to begin enforcing compliance with outdoor dining and outdoor wine tasting regulations after tonight. He asked whether Council would consider giving businesses a grace period to allow time for them to revert back to pre-COVID regulations or apply for a new use permit.

Public comment: Wendy Black, Toby Rowland-Jones, Kim Stemler, Steven Wilson, and Kristin addressed the Council requesting more time for businesses to comply with the pre-COVID regulations regarding outdoor seating and/or wine tasting once the emergency Resolutions are terminated.

Council discussion resumed. Council consensus was to adopt the Resolution as presented and make a separate motion to address the issue of granting amnesty to businesses that will become out of compliance as of tomorrow.

Motion by Mayor Potter to adopt Resolution 2023-026, seconded by Councilmember Dramov, 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

Council discussed when to begin enforcing the outdoor dining and outdoor wine tasting regulations after the adoption of Resolution 2023-026. Council consensus was to give businesses notice within the next 90 days to let them know what they need to do to become in compliance with the City's existing outdoor dining and wine tasting regulations. Council discussed giving businesses amnesty until December to begin the process of taking action to bring their businesses into compliance regarding allowing continued outdoor dining through the Planning Commission. Council discussed that through the Design Traditions Review process, suggestions on how to change the municipal code to allow continued outdoor wine tasting could be considered and brought to Council for approval.

Motion by Councilmember Baron to extend amnesty to December 31, 2023, and for staff to return with an update at the July Council Meeting with the full scope of the issues with the existing businesses, as well as a recipe for code amendments or use permits to address the issues, second 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 14 - Consider Adoption of Urgency Ordinance 2023-001 to Rescind Urgency Ordinances 2020-002, 2020-004, 2020-005, 2022-001, 2022-002, and 2022-006, Regarding Various Health and Safety Measures as a result of the Covid-19 Pandemic

City Attorney Pierik gave a brief summary of the item and answered questions from Council.

Public comment: none

Council consensus to rescind all COVID-related Urgency Ordinances, except 2022-006. Council discussed bringing back Urgency Ordinance 2022-006 at the next Council meeting to repeal and replace it with new language stating that masks are only required when attending meetings of legislative bodies in City facilities when the CDC Community COVID level is “high”, instead medium or high.

Motion by Mayor Potter to adopt Urgency Ordinance No. 2023-03, with the amendment that Urgency Ordinance 2023-006 not be rescinded, seconded by Mayor Pro Tem Richards and adopted 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

FUTURE AGENDA ITEMS

None

ADJOURNMENT

Council adjourned the meeting at 8:08 PM.

SIGNED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk



CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

Staff Report

April 4, 2023
CONSENT AGENDA

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Nova Romero, City Clerk

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: February 2023 Monthly Reports

RECOMMENDATION:

Review and receive monthly reports.

BACKGROUND/SUMMARY:

This is a monthly series of reports:

- City Administrator Contract Log (no contracts for February)
- 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) Community Planning and Building Department Reports

Attachment 2) Police, Fire, and Ambulance Reports

Attachment 3) Public Records Act Requests

Attachment 4) Public Works Department Reports



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:	March 8, 2023
APPROVED BY:	Brandon Swanson, Director of Community Planning and Building

FEBRUARY 2023 – DEPARTMENT ACTIVITY REPORT

I. PLANNING PERMIT APPLICATIONS:

In February 2023, **39** planning permit applications were received.

II. BUILDING PERMIT APPLICATIONS:

In February 2023, **40** building permit applications were received.

III. CODE COMPLIANCE CASES:

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

IV. TRANSIENT RENTAL COMPLIANCE CASES:

In February 2023, **1** new transient rental compliance cases were created.

V. ENCROACHMENT PERMIT APPLICATIONS:

In February 2023, **15** encroachment permit applications were received.

VI. YEAR-TO-DATE TRENDS

Table 1 includes the following February 2023 totals: planning and building permit applications, code compliance and transient rental compliance cases, and encroachments. February 2023 totals are provided alongside February 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 32.72%**
- Building Permit Applications – **increase of 19.28%**
- Code Compliance Cases – **decrease of 9.09%**
- Transient Rental Compliance Cases – **increase of 83.33%**
- Encroachment Permit Applications – **decrease of 8.57%**

Table 1. Permit Application Totals

	PLANNING	BUILDING	CODE COMPLIANCE	TRANSIENT RENTAL COMPLIANCE	ENCROACHMENTS
2022 YTD Totals	55	83	44	6	35
2023 YTD Totals	72	99	40	11	32
YTD % Difference	+32.72%	+19.28%	-9.09%	+83.33%	-8.57%



Planning Permit Report

02/01/2023 - 02/28/2023

Permit #	Permit Type	Project Description	Address/Location	Date Received	Date Approved	Status
23060	Design Study	Replacement In-Kind of Wood Decking, Decking Framing, Stair Treads and Framing and Stair Posts of Non-Historic Front Porch of Residence that is on the Historic Inventory; Replace In-Kind with 2x6 Redwood Decking to Match Existing; Deck Framing Shall be Pressure Treated 2x8 Joists and Pressure Treated 2x12 Stair Stringers; For this Project, the Deck and Stair Areas Shall Not Change in Size. Rim Joists and Stair Stringers will be Clad to Match Existing with 1x Redwood Fascia; Finished Deck, Stair Treads, Risers and Deck Fascia will be Finished with a Semi-Transparent Stain -- Color to Match Existing Natural Dark Brown Deck Color; Remove Existing Deck and Stair Hand Railing/Guard Railing Balusters and Finials, Store on Site and Repair as Needed Prior to Re-Installation at the Same Heights. Replace Existing Stair Baluster Posts with In-Kind 4x4 Posts; Guardrail and Stair Baluster Post Finished Paint Color Shall be White to Match Existing White Woodwork Color. There Will be No Change to Site Coverage; No Trees Shall be Removed as Part of this Project.	Monte Verde Street 2 SE of 5th Avenue			In Review
23059	Historic Evaluation	New tile below bay windows facing Lincoln St. at the 1-story commercial building.	Lincoln 3 SW of Ocean	2/24/2023		In Review
23058	Design Review	Installation of tile below bay windows facing Lincoln St. at the 1 story commercial building	Lincoln 3 SW of Ocean	3/24/2023		In Review
23057	Banners	Installation of ten double sided banners along Ocean Ave from Monte Verde to Junipero from 5/30/2023 to 6/12/2023.	Ocean Ave, from Monte Verde to Junipero	2/24/2023	2/24/2023	Approved
23056	Preliminary Site Assessment	Remodel and Addition to Existing SFD	Dolores Street, 2 SE of 9th			In Review

23055	Sign	NEW SIGN: Sandblasted Cedar 1.5" thick, double-sided 20" by 20" square, white writing with small white border and gold heart on black background. LOCATION: Front of building mounted on existing sign hanger.	Lincoln 2 SW of Ocean Avenue	2/7/2023		In Review
23054	Sign	New sign for Stillwater Capital Management	NW corner of 8th Ave & San Carlos (Designated office 2)	2/8/2023		In Review
23053	Design Study	Remove siding above garage, wall to wall. Replace failed flashing. Replace siding above garage, wall to wall. No changes.	Scenic Road 5 SE of 10th Avenue	2/16/2023		In Review
23052	Design Study	ASSOCIATED PERMIT: BP 21-266. Modify interior and exterior of existing residence. Replace existing windows and new glass doors. CHANGE PROPOSED IRON RAILING TO CLEAR GLASS RAILING SYSTEM.	Ocean 2 NW Guadalupe	2/3/2023		In Review
23051	Design Study	Demolition of exterior second story deck and replacement with a shallow depth balcony.	Mission 2 SW of Ocean	2/22/2023		In Review
23050	Design Study	Construction of a 6' high, 63' long fence with a 1' open lattice at the top, along Carpenter Street.	SE Corner of Carpenter & 2nd	2/22/2023		In Review
23049	Historic Evaluation	Residential Restoration	NW Corner of 12th and Casanova	2/18/2023		In Review
23048	Design Study	Establishing a parking pad and removing a portion of a structure to address existing non-conformities on a site.	Santa Fe 3 SW of Mt. View	2/22/2023		In Review
23047	Historic Evaluation	Residential Restoration	NW Corner of 12th and Casanova			Closed
23046	Use Permit	Temporary use permit for private birthday party at Edwin's, 02/18/2023. Conditions: Extended hours authorized, restaurant to be closed, dark, and empty no later than 1:00 AM. Noise not to be audible outside of building. No guests congregating on the street. Max occupancy is 47 people.	SW Corner of San Carlos & 6th	2/16/2023	2/17/2023	Approved

23045	Design Study	Remove an existing glass solarium, and replace it with new roofing, walls, windows, and skylights to match existing.	Monte Verde Street 2 SE of 12th Avenue	2/1/2023		In Review
23044	Design Study	REMODEL: door and window replacments, additions and removals. Kitchen & bathroom remodel. Update electrical. (N) On-demand water heater w/ recirculation pump. Replace rotten deck and add (N) 90 SF. Paint: Trim and body. N & W side (N) fence.	CAMINO REAL 3 NW OF 4TH	2/15/2023		In Review
23043	Sign	New sign. Hand-painted wood, hanging on existing bracket.	San Carlos Street 2 NW of 7th Avenue	2/14/2023		In Review
23042	Historic Evaluation	Historic Evaluation	SE Corner of Forest Road & Oak Knoll Way	2/14/2023		In Review
23041	Volume Deposit	VOID - DUPLICATE APP	Monte Verde 3 NW of 11th			Closed
23040	Sign	New sign for "C Carmel"	Dolores 3 NE of 6th	2/9/2023		In Review
23039	Bench Dedication	--Honoree's name: Charles & Shirley Steele --Adopt existing bench; new plaque --Plaque size: 3 3/4" x 1 1/4" .	(1) Devendorf Park, (2) Harrison Library	1/24/2023		In Review
23038	Historic Evaluation	Historical Evaluation	Santa Fe 4 SE of Ocean	2/9/2023		In Review
23037	Historic Evaluation	Historical Evaluation	Santa Fe 3 SE of Ocean	2/9/2023		In Review
23036	Design Study	Demolition of an existing house and construction of a new 2-story house.	Torres Street 4 SE of 4th Avenue	2/9/2023		In Review
23035	Design Study	Demolish Window and Replace with French Doors in Existing Opening	Scenic 6 SE 8th			In Review
23034	Lot Line Adjustment	Lot Line Adjustment	2nd NW of 4th Avenue on San Carlos Stree			In Review
23033	Design Review	Demolition of existing and construction of a new hotel	2nd NW of 4th Avenue on San Carlos Stree			In Review

23032	Conceptual Review	EXTERIOR RESTORATION & REPAIRS: ROOFS, SKYLIGHTS, FOUNDATION DRAINAGE, WOOD ROT AT COLUMNS. REMOVE NON-HISTORIC SPIRAL STAIR AND GLASS RAILING. ALTERATION TO (E) SUNROOM: MODIFY FIX GLASS TO OPERABLE DOORS. UPGRADE: REPLACE SINGLE GLAZING TO LOW E, INSULATING GLASS. PAINT, STAIN EXTERIOR SIDING AND FASCIA.	25987 Mission St, CARMEL, CA	2/7/2023		In Review
23031	Appeal	APPEAL HRB DECISION. RESOLUTION NUMBERS 2023-001-HRB & 2023-002-HRB. Demolition of 2 buildings, trash enclosure, 2 trellis structures, & 2 parking areas. Relocation of 1 building (community building) to adjacent lot. The whole lot shall be excavated for underground parking garage & a 2 story building shall be constructed above it. Ground floor shall serve commercial uses with 11 tenant spaces. The 2nd floor shall contain 8 apartments of various sizes (2 bedroom & 1 bedroom units).	Dolores Street 2 SE of 7th Avenue	2/6/2023		In Review
23030	Design Study	REVISIONS TO ATTACHED GARAGE: 1) Revise concrete ext. side walls at South and North to wood siding (match house). 2) Delete window at East elevation. 3) Revise green roof to standing metal seam to match house (not visible from ROW). 4) Fixed window sash at living room, West elevation. 5) Delete high window at living room, SW corner.	Monte Verde 3 SE of 11th	1/30/2023		In Review
23029	Preliminary Site Assessment	254 SQ FT addition to an existing 1459 SQ FT single family residence. Project also includes a 731 SQ FT attached ADU and a 202 SQ FT detached carport.	Santa Rita 2 NW of 4th	1/23/2023		In Review
23028	Design Study	ASSOCIATED BUILDING PERMIT: BP 22-132 (A & C Properties). ASSOCIATED PLANNING PERMIT: DS 22-152 (A&C Properties, Inc). Close off one exterior window and door at existing kitchen to allow for additional kitchen cabinets.	2nd Avenue 2 NW of Lincoln	2/2/2023		In Review
23027	Planning Permit Revision	REVISION TO PLANNING APP. DS 22-028: Change to wood clad windows. Change garage door style.	Lincoln 2 NW of 5th	2/1/2023		In Review

23026	Design Study	BUILDING FOOTPRINT WILL NOT BE MODIFIED 1. DEMOLISH EXISTING KITCHEN CABINETS, EXISTING 2ND BEDROOM AND 2ND BATHROOM. 2. RELOCATE KITCHEN, SECOND BEDROOM AND SECOND BATHROOM 3. SAND AND RE-FINISH EXISTING WOOD FLOORS. REPLACE TILE FLOOR IN KITCHEN WITH NEW WOOD FLOOR. 4. REMOVE SECOND BEDROOM WINDOW AND REPLACE WITH SMALLER WINDOW, SAME KIND. REMOVE SECOND BATHROOM WINDOW AND REPLACE WITH 12' WIDE FOLDING DOORS TO BACK PATIO. REMOVE KITCHEN SLIDING DOORS. 5. INSTALL GAS FIRED LOG SET IN EXISTING INTERIOR AND EXTERIOR FIREPLACES.	Casanova 2 North East of 7th	2/1/2023		In Review
23025	Historic Evaluation	Historic Eval - Initial	Santa Fe Street 3 NE of 5th Avenue	2/1/2023		In Review

Records: 36 + 3 Business Licenses = 39 TOTAL RECORDS

3/3/2023



Building Permit Report

02/01/2023 - 02/28/2023

Permit #	Date Submitted	Date Approved	Project Description	Valuation	Permit Type	Property Location
230097	2/28/2023		Addition of a redwood arbor to replace previous existing arbor gate.	250	Building	Lopez 8 SE of 2nd
230096	2/28/2023	2/28/2023	Remove 350sf guest cottage roof. Replace existing wood roof with new wood roof. Contact: Alta-Cal Roofing (831) 524-8070	15,000	Building	NW Corner of Casanova & 11th
230095	2/28/2023		Beam 6"x12"-8' dryrot to be replaced with a new one with Pressure-Treated	5,860	Building	Lincoln 2 NW of 9th
230094	2/28/2023	2/28/2023	remove comp shingles Replace with comp shingles.	12,000	Roofing	NW Corner of Mission & 7th
230093			Encroachment Permit to Locate a 250 Volt Electrical Vehicle Charging Outlet Box for Property Owner's Use Only on Embankment 14'-6" from Existing Property Line and 5'-5" Away from Edge of Existing Asphalt of Monte Verde Street. Scope of Work to Include: Trenching Electrical Service Line from Main Residence on Property, Water Jetting for Electrical Conduit Access Route Under Existing Historic Stone Wall and Existing Asphalt Sidewalk; (4) New Sand Set 4"Dx 12"Wx 24"L Limestone Stepping Stones in Cream Color to Access Electrical Vehicle Charging Outlet from Monte Verde Street. All Exposed Soil on Embankment Shall be Planted with Drought Tolerant Low-Growing Succulents.	1,000	Electrical	Monte Verde street 2 SE 5th Avenue
230092	2/24/2023		Repair Existing Exterior Deck.	7,000	Building	Junipero 5 SW of 10th
230091	2/23/2023		Tear off (e) roof and install (n) built up roofing system.	30,560	Building	Camino Real 7 SE of 2nd

230090	2/23/2023	2/23/2023	Repair 200 sf of tan built up roof from storm damage.	5,000	Roofing	San Antonio 2 NE of 4th
230089	2/23/2023		Replace exterior stairwy, repair exterior landing, and remodel existing studio. Contact: Dry Creek Construction (831) 320-1221	38,000	Building	Monte Verde 2 NE of 9th
230088	2/22/2023	2/22/2023	Remove (1) old FAU and install (1) new 96% FAU 60k BTU in same location.	8,500	Mechanical	Forest 6 SW of Ocean
230087	2/22/2023		Relocate hot tub to clear NOV.	7,000	Building	SE Corner of Palou and Casanova
230086	2/22/2023	3/3/2023	Replace existing fence that was damaged during the storm. Remove and discard old fence including support posts, install approx 100' with new 6' grapestake fence side. Remove and replace 136' of front fence with 6' grapestake fence. Repair existing 4' fence on setback line. Contact: Bruce Westphal (925) 330-7571	0	Exempt Work	SW Corner of Santa Fe & Mountain View
230085	2/28/2023		Remove (e) undercounter bar equipment and refrigeration. Clean floors and walls, replace with upgraded equipment in existing footprint. Plumbing and electrical work as necessary. No changes to walls or countertops.	10,800	Building	NW Corner of Junipero & 6th
230084	2/17/2023	3/2/2023	Installation of a gas fireplace insert and installation of electrical starter inside fireplace. Contact: Jason Gaynor (831) 905-6265	6,000	Mechanical	Santa Fe 4 NE of 2nd
230083	2/17/2023		Internal construction. Moving 2 walls back to create 418sf. Add a sink. Paint, new floors, can lighting, Electrical and plumbig	50,000	Building	Ocean 4 NW of San Carlos
230082	2/16/2023	2/17/2023	Painting exterior lower level of two-story mixed use building to match existing color.	0	Exempt Work	Mission 4 NW of 6th
230081	2/16/2023		Addition of 62 S.F. 2nd Floor Bath o/ existing Laundry Room and exterior trellis	70,000	Building	Monte Verde 5 SW of 13th
230080	2/15/2023	2/15/2023	Upgrade from 100amp to 200amp main service. Contact: Seidel Electrical Services, Inc (831) 998-9106	3,500	Electrical	San Carlos 2 NW of 12th

230079	2/15/2023	2/16/2023	Remove (e) 58"x42" concrete landing area and replace with (n) 58"x42" concrete landing area to fix tripping hazard.	0	Exempt Work	NE Corner of Guadalupe & 2nd
230078	2/15/2023		Exploratory demolition to expose framing, plumbing, and electrical to determine scope of future kitchen/bathroom remodel	2,000	Building	NW Corner of Casanova & 12th
230077	2/14/2023	2/23/2023	Installation of a new 24kW Generac generator and new slab. Contact: Vincent Bruno (831) 595-3076	10,000	Mechanical	Santa Lucia 2 NE of Mission
230076	2/14/2023	2/14/2023	Replace tile in guest bathroom and light fixtures in guest bathroom. Contact: NC Construction (831) 206-2403	0	Exempt Work	NW Corner of Camino Real & 13th
230075	2/14/2023		Interior remodel of (e) SFR including replacement of windows/doors, demolition of chimney, and no increase in water fixture count. Existing footprint and height to remain the same.	160,152	Building	San Antonio 4 NE of 4th
230074	2/14/2023		Reroof and gutters on building 8. Flat section #8,8A,8E - Install new built up roof with Durolast 50mil PVC finish in color "White". Pitched Sections #8,8A - Remove existing tile, install new slate roof in color "Saxony Sun". Install 90' of stainless steel gutters.	195,445	Roofing	Carmel Plaza
230073	2/14/2023		Remove second story deck and reinstall new juliet balcony.	8,000	Building	Mission 2 SW of Ocean
230072	2/10/2023	2/10/2023	Remove (e) cedar shingle roofing and install a (n) cedar shingle roof to match. New cedar shingles will be #1 Blue Label, Class "B" fire rated and installed over one layer of #72 mineral surface cap sheet. CONDITION: House is historic, roof elements and conditions must be replaced in-kind to maintain historic nature of residence. Contact: Coastal Roofing & Waterproofing (831) 324-4809	66,000	Roofing	NE Corner of Lopez & 4th

230071	2/8/2023	2/8/2023	Remove and replace water heater. Install new Bradford White water heater.	2,900	Plumbing	Torres 3 NW of 5th #2
230070	2/8/2023	2/8/2023	Remove and replace water heater. Install new Bradford White water heater.	2,900	Plumbing	Torres 3 NW of 5th #4
230069	2/8/2023		DEMO ENTIRE HOUSE AND FOUNDATION, NEW 3 BED 2 BATH RESIDENCE (1,553 SF) WITH ATTACHED GARAGE (228 SF), NEW PAVER DRIVEWAY (333 SF), NEW REAR DECK (204 SF)	710,000	Building	Junipero 6 NE of 8th
230068	2/8/2023		Removal and replacement of tile; Removal of shower tile and enlarge shower with new pan and replace tile. Modification of closet door location	0	Plumbing	1st 2 SE of Lobos
230067	2/6/2023	2/6/2023	Replace (e) furnace with a Brigant 915SB 3.5 ton 60,000 BTU unit. Contact: All Seasons Heating & Cooling (831) 601-0351	7,600	Mechanical	San Antonio 2 NE of 9th
230066	2/6/2023	2/6/2023	Replace the existing water heater with a new Bradford White 75 gallon water heater. Contact: Rooter King (831) 394-5315	1,500	Plumbing	SW Corner of Lincoln & 7th
230065	2/6/2023	2/8/2023	Demolition of all finishes in one bathroom, replace shower pan, install new vanity and medicine cabinet, install new tile, install new shower valve and new floor drain, paint bathroom, and install new low flow toilet and faucet.	5,000	Building	SW Corner of Camino Real and 2nd
230064	2/3/2023	2/22/2023	Installation of NG emergency backup generator. Contact: Stephanie Kirz (206) 661-5946	10,000	Mechanical	Junipero 2 NW of 3rd
230063	2/2/2023	2/28/2023	Remove leaning brick wall to right of driveway and replace with concrete block covered with stucco and painted to match house. Smooth finish, 31' x 3' at tallest point. Remove small brick curb to left of driveway and replace with concrete block and stucco, smooth finish, 43' x 12" high. Contact: Cantera Masonry (831) 236-5368	0	Exempt Work	Perry Newberry 2 NW of 5th
230062	2/2/2023		Remove & replace windows like for like, no size increases or location changes.	0	Exempt Work	NW Corner of Mission & 3rd

230061	2/1/2023	2/2/2023	Removal of existing loose/flaky paint on North and East exterior elevations. Complete repaint of exterior elevations in matching color scheme.	0	Exempt Work	Lincoln 3 SW of Ocean
230060	2/1/2023	2/2/2023	Replace pressure treated retaining wall with new pressure treated wood. Use 4"x6" pressure treated posts dug in 32" to 36" under ground using the same original holes, using 2"x12" pit boards to hold back dirt. Contact: Ricardo Munoz (831) 402-5078	0	Exempt Work	Torres 4 NE of 6th
230059	2/1/2023		Creation of new detached ADU.	407,000	Building	Casanova 9 NW of Ocean
220342	9/7/2022	10/18/2022	Demolition and construction to redemise three tenant spaces into two tenant spaces, to include replacement in-kind of existing mechanical equipment, relocation electrical and plumbing service. No change in use or zoning. no structural in scope. Contact: Monterey Custom Builders (831) 206-4705	162,276	Building	SW Corner of Ocean & Junipero

Total Records: 40

3/3/2023



Code Compliance Report

02/01/2023 - 02/28/2023

Case #	Case Type:	Status	Location	Problem Description	Date Received	Date Closed
23040	Building Violation	Closed	SWC San Carlos and 8th	Construction site maintenance		2/24/2023
23039	Short-term Rental	1st NOV sent	26282 Atherton Drive	Transient Rental	2/27/2023	
23038	Fire Code Violation	1st NOV sent	SW Corner Junipero & 5th	noncompliant hood - fire suppression	2/23/2023	
23037	Public Nuisance	Open	Mission 3 SW of Alta	Hazardous tree	2/22/2023	
23036	Sign Violation	Closed	Ocean b/w Dolores & San Carlos	Neon Sign	2/19/2023	2/19/2023
23035	Sign Violation	Open	Ocean 3 SW Dolores	Illuminated Sign	2/19/2023	
23034	Right of way Violation	Closed	Junipero 4 SW Alta	Open House sign in ROW	2/19/2023	2/19/2023
23033	Right of way Violation	1st NOV sent	Lobos 5 SW of First	Portapotty in PROW	2/2/2023	2/10/2023
23032	Sign Violation	Closed	NE Corner 7th & Dolores	Large Banners in windows	2/4/2023	2/4/2023
23031	Planning/Building Violation	Open	ES Dolores b/w Ocean & 7th	Blocked Exit	2/5/2023	
23030	Building Violation	Closed	Monte Verde 2 SW 2nd	Construction on Sunday	2/5/2023	2/5/2023
23029	Right of way Violation	Closed	E/S Dolores between 7th and Ocean	Trash Receptacles in Street	2/5/2023	2/5/2023

Total Records: 12

3/3/2023



Transient Rental Report

01/01/2023 - 02/28/2023

Case #	Street	Status	Date Received	Last Status Date	Date Closed
23039	Rio Road	1st NOV sent	2/27/2023	2/27/2023	
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	STR verified	1/8/2023	1/8/2023	
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: 11

3/2/2023



Encroachment Permit Report

02/01/2023 - 02/28/2023

Permit #	Permit Type	Date Submitted	Project Description	Property Location	Date Issued	Status
230032	Temp Ench	2/28/2023	Replace 80' of 4" sewer line at 5' seep at street. Contact: Chris Wilson Plumbing (831) 393-9321	25979 Mission St	3/1/2023	Issued
230031	Temp Ench	2/27/2023	Overlash approx. 148' & access to vaults and poles for Re pad & Eq amp at multiple locations: San Carlos St & 2nd, Camino Del Monte & Junipero, Camino Del Monte & San Carlos, Dolores & 3rd, Carmelo & 4th.	San Carlos St & 2nd, Camino Del Monte & Junipero, Camino Del Monte & San Carlos, Dolores & 3rd, Carmelo & 4th	2/28/2023	Issued
230030	Temp Ench	2/24/2023	6'x18' asphalt patch for CalAm job #1286.	SW Corner of Santa Lucia & Carmelo	2/24/2023	Issued
230029	Temp Ench	2/22/2023	PG&E to complete gas maintenance, excavate a 5'x5' bellhole. Contact: PG&E (408) 510-1660	Santa Rita 2 SE of 2nd	2/24/2023	Issued
230028	Temp Ench	2/22/2023	Replace sewer lateral, 30' of 4" SDR 17 pipe. Contact: Easy Drains Plumbing (831) 521-6882	NW Corner of San Carlos & Santa Lucia	2/28/2023	Issued
230027	Temp Ench	2/22/2023	Replace sewer lateral using pipe bursting. Contact: Rooter King (831) 394-5315	San Antonio 2 SE of 10th	2/22/2023	Issued
230026	Temp Ench	2/22/2023	6'x11' asphalt patch for Cal Am, job #1342. Contact: Coastal Paving & Excavating (831) 262-1425	NE Corner of Carpenter & 2nd	2/22/2023	Issued
230025	Temp Ench	2/17/2023	Excavate 6'x6' bellhole 12" deep over city main to replace sewer lateral. Install new check valve & two way cleanout. Contact: JD's Underground (831) 394-3100	SW Corner of Camino Real & 8th	2/22/2023	Issued
230024	Temp Ench	2/16/2023	Encroachment and reservation of 6 parking stalls along Carmelo St from 2/24/23 - 5/5/23 for the installation of a new transformer and screen panels along the Carmelo Street frontage.	SE Corner of Carmelo & 8th	2/24/2023	Issued

230023	Driveway	2/10/2023	Installation of a new paver driveway. Contact: Javier Luna (831) 206-5598	NW Corner of Camino Real & 7th	2/22/2023	Issued
230022	Temp Ench	2/10/2023	Replace sewer lateral using pipe bursting. Contact: Rooter King (831) 394-5315	Casanova 2 NW of 9th	2/10/2023	Issued
230021	Temp Ench	2/8/2023	Remove sand from two existing tree well areas and install "Granite Creete" which is a mixutre of concrete and granite that allows water to percolate through and resemble sand. Contact: Mark Porter (831) 646-5200	NW Corner of San Carlos & 7th	2/14/2023	Issued
230020	Temp Ench	2/6/2023	New sewer lateral connection to city main. CONDITION: SOUTHBOUND TRAFFIC TO BE DETOURED WEST ON 6TH AND DOWN JUNIPERO. Contact: Edgars Plumbing (831) 601-5557	SW Corner of Carpenter & 10th	2/10/2023	Approved
230019	Temp Ench	2/3/2023	Replace sewer yard trap in the city sidewalk. Contact: Perkins Grading & Underground (831) 236-1101	NE Corner of Lincoln & 7th	2/6/2023	Issued
230018	Temp Ench	2/2/2023	Close road to allow access for concrete pump truck to pour slab and walls. CONDITIONS: CHANGE DTOR TO WEST ON 10TH TO MISSION ST, ADD DO NOT ENTER SIGN ON THE SOUTHBOUND LANE OF JUNIPERO. Contact: Casas Builders (831) 601-0922	Junipero 6 NE of 10th	2/2/2023	Issued

Total Records: 15

3/3/2023



CITY OF CARMEL-BY-THE-SEA

Monthly Report

February 2023

Public Safety

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Jeff Watkins, Acting Police Chief
SUBMITTED ON:	March 13, 2023
APPROVED BY:	Chip Rerig, City Administrator

AMBULANCE REPORT

Summary of Carmel Fire Ambulance February Calls for Service

AMBULANCE PERFORMANCE MEASURE

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

52 total calls for service in CBTS Average response time: 2:57 min.

48 total Code-3 Fire calls for service with (0) Fire call over 5:00 min

MONTEREY FIRE REPORT

Summary of Monterey Fire May Calls for Service

FIRE PERFORMANCE MEASURE

The performance goal for Code-3 (life-threatening emergency lights and siren) fire calls with a response time of 5 minutes or less from dispatch to arrival is 95%. For February 2023, the fire department was able to meet the performance measure. The response time was 95%, with (3) code-3 calls over 5 minutes.

68 total calls for service in CBTS Average response time: 5:13 min.

56 total Code-3 Fire calls for service with (3) Fire call over 5:00 min

02/12/2023 – Code 3 response 07:32 min – Lobos St/2nd Ave – ME11 responded as E15 was committed.

02/12/2023 – Code 3 response 08:48 min – Ocean Ave/Lincoln St – Delay due to issue with dispatch. Attachment 2

02/16/2023 – Code 3 response 09:46 min – Dolores St/9th Ave – E11 responded from Station 11 to cover.

BEACH FIRES

-

(0) Illegal beach fires were recorded during the month of February



RESPONSE SUMMARY REPORT BY INCIDENT TYPE
27060 CARMEL-BY-THE-SEA
Alarm Date From: 02/01/2023 To: 02/28/2023



Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
300-321 Series (EMS)						
Medical assist, assist EMS crew	2/4/2023 8:26 PM	230204-MNT01080	0:02:32	DOLORES ST	OCEAN AVE	3
Medical assist, assist EMS crew	2/16/2023 8:28 AM	230216-MNT01370	0:03:32	OCEAN AVE	LINCOLN ST	3
Medical assist, assist EMS crew	2/18/2023 7:30 AM	230218-MNT01420	0:03:37	DOLORES ST	9TH AVE	3
Medical assist, assist EMS crew	2/26/2023 9:07 AM	230226-MNT01649	0:03:39	3080 RIO RD		3
EMS call, excluding vehicle accident with injury	2/19/2023 11:28 PM	230219-MNT01469	0:00:09	5TH AVE	DOLORES ST	3
EMS call, excluding vehicle accident with injury	2/12/2023 1:36 PM	230212-MNT01277	0:01:29	OCEAN AVE	JUNIPERO AVE	3
EMS call, excluding vehicle accident with injury	2/19/2023 7:48 PM	230219-MNT01465	0:01:55	3RD AVE	DOLORES ST	3
EMS call, excluding vehicle accident with injury	2/11/2023 7:23 PM	230211-MNT01255	0:02:01	OCEAN AVE	MONTE VERDE ST	3
EMS call, excluding vehicle accident with injury	2/12/2023 1:17 PM	230212-MNT01275	0:02:05	DOLORES ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	2/1/2023 3:39 PM	230201-MNT01005	0:02:06	6TH AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	2/8/2023 4:14 PM	230208-MNT01181	0:02:15	CARMELO ST	10TH AVE	3
EMS call, excluding vehicle accident with injury	2/2/2023 2:59 PM	230202-MNT01022	0:02:20	SAN ANTONIO AVE	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	2/25/2023 1:17 PM	230225-MNT01636	0:02:40	LINCOLN ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/24/2023 12:21 PM	230224-MNT01603	0:02:51	LINCOLN ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	2/18/2023 5:41 PM	230218-MNT01437	0:02:54	LINCOLN ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/17/2023 6:25 PM	230217-MNT01408	0:03:04	DOLORES ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/19/2023 7:16 PM	230219-MNT01464	0:03:13	SCENIC RD	9TH AVE	3
EMS call, excluding vehicle accident with injury	2/25/2023 1:42 AM	230225-MNT01623	0:03:13	SAN CARLOS ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/16/2023 6:45 AM	230216-MNT01368	0:03:28	SAN CARLOS ST	SANTA LUCIA AVE	3
EMS call, excluding vehicle accident with injury	2/14/2023 10:38 PM	230214-MNT01343	0:03:37	SANTA FE ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/1/2023 7:08 AM	230201-MNT00985	0:03:43	8TH AVE	S MOUNTAIN VIEW AVE	3
EMS call, excluding vehicle accident with injury	2/3/2023 2:32 AM	230203-MNT01032	0:03:47	6TH AVE	GUADALUPE ST	3
EMS call, excluding vehicle accident with injury	2/27/2023 12:57 PM	230227-MNT01673	0:03:47	DOLORES ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/13/2023 6:48 PM	230213-MNT01310	0:03:49	LINCOLN ST	4TH AVE	3
EMS call, excluding vehicle accident with injury	2/1/2023 11:28 AM	230201-MNT00992	0:03:54	26246 DOLORES ST		3
EMS call, excluding vehicle accident with injury	2/19/2023 8:51 AM	230219-MNT01449	0:03:57	CASANOVA ST	12TH AVE	3
EMS call, excluding vehicle accident with injury	2/23/2023 12:16 PM	230223-MNT01571	0:04:06	LINCOLN ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/1/2023 12:11 PM	230201-MNT00993	0:04:23	SAN CARLOS ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/20/2023 4:13 AM	230220-MNT01473	0:04:34	SAN CARLOS ST	13TH AVE	3
EMS call, excluding vehicle accident with injury	2/23/2023 12:44 PM	230223-MNT01573	0:04:46	JUNIPERO AVE	ALTA AVE	3
EMS call, excluding vehicle accident with injury	2/22/2023 2:07 AM	230222-MNT01530	0:05:00	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	2/12/2023 10:48 PM	230212-MNT01292	0:07:32	LOBOS ST	2ND AVE	3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
300-321 Series (EMS) cont.						
EMS call, excluding vehicle accident with injury	2/16/2023 8:38 AM	230216-MNT01371	0:09:46	DOLORES ST	9TH AVE	3
33			0:03:30			
322-399 Series (Rescues)						
Motor vehicle/pedestrian accident (MV Ped)	2/21/2023 6:35 PM	230221-MNT01512	0:12:30	6TH AVE	MISSION ST	2
1			0:12:30			
400 Series (Hazardous Material)						
Oil or other combustible liquid spill	2/21/2023 8:26 AM	230221-MNT01495	0:03:48	SANTA RITA ST	3RD AVE	2
Arcing, shorted electrical equipment	2/21/2023 7:33 PM	230221-MNT01519	0:02:22	CARPENTER ST	OCEAN AVE	3
Accident, potential accident, other	2/14/2023 1:04 PM	230214-MNT01328	0:00:11	CAMINO REAL ST	4TH AVE	3
Accident, potential accident, other	2/21/2023 6:58 PM	230221-MNT01516	0:03:57	MISSION ST	ALTA AVE	3
4			0:02:34			
500 & 600 Series (Service Calls)						
Water or steam leak	2/25/2023 5:50 PM	230225-MNT01641	0:02:50	SAN CARLOS ST	OCEAN AVE	2
Water or steam leak	2/24/2023 11:03 AM	230224-MNT01602	0:02:57	JUNIPERO AVE	7TH AVE	3
Water or steam leak	2/26/2023 2:43 AM	230226-MNT01643	0:04:06	DOLORES ST	OCEAN AVE	3
Water or steam leak	2/24/2023 2:26 PM	230224-MNT01605	0:04:39	SAN ANTONIO AVE	4TH AVE	2
Water or steam leak	2/26/2023 5:29 AM	230226-MNT01646	0:04:53	7TH AVE	DOLORES ST	2
Assist police or other governmental agency	2/21/2023 9:34 PM	230221-MNT01525	0:04:22	8 CARMEL WAY		2
Police matter	2/27/2023 12:51 PM	230227-MNT01672	0:02:45	CARPENTER ST	1ST AVE	3
Public service	2/24/2023 3:58 PM	230224-MNT01609	0:02:59	OCEAN AVE	SANTA RITA ST	3
Public service	2/1/2023 6:35 PM	230201-MNT01012	0:03:31	OCEAN AVE	DEL MAR AVE	2
Public service	2/23/2023 9:11 AM	230223-MNT01563	0:03:53	CAMINO REAL ST	4TH AVE	3
Public service	2/5/2023 10:43 PM	230205-MNT01113	0:03:56	TORRES ST	5TH AVE	3
Public service	2/22/2023 7:52 AM	230222-MNT01535	0:04:22	LINCOLN ST	9TH AVE	2
Public service	2/22/2023 5:37 PM	230222-MNT01550	0:09:12	SCENIC RD	13TH AVE	2
Assist invalid	2/17/2023 12:36 PM	230217-MNT01399	0:02:30	DOLORES ST	5TH AVE	3
Assist invalid	2/26/2023 11:08 PM	230226-MNT01663	0:03:39	LINCOLN ST	7TH AVE	2
Assist invalid	2/4/2023 6:37 AM	230204-MNT01065	0:03:48	LINCOLN ST	7TH AVE	2
Assist invalid	2/24/2023 8:18 AM	230224-MNT01597	0:03:58	3RD AVE	SANTA FE ST	3
Assist invalid	2/6/2023 4:44 AM	230206-MNT01117	0:04:15	JUNIPERO AVE	5TH AVE	2
No incident found on arrival at dispatch address	2/8/2023 3:09 PM	230208-MNT01179	0:03:42	MISSION ST	VISTA AVE	3
No incident found on arrival at dispatch address	2/5/2023 8:10 PM	230205-MNT01106	0:03:48	7TH AVE	DOLORES ST	3
EMS call, party transported by non-fire agency	2/17/2023 5:20 AM	230217-MNT01393	0:04:54	GUADALUPE ST	5TH AVE	3
21			0:04:03			
700 Series (False Alarms)						
Smoke detector activation due to malfunction	2/13/2023 5:21 AM	230213-MNT01294	0:04:27	MONTE VERDE ST	OCEAN AVE	3
Heat detector activation due to malfunction	2/3/2023 7:23 PM	230203-MNT01052	0:02:08	JUNIPERO AVE	4TH AVE	3
Heat detector activation due to malfunction	2/12/2023 5:32 PM	230212-MNT01283	0:03:04	DOLORES ST	OCEAN AVE	3
Alarm system sounded due to malfunction	2/2/2023 7:03 PM	230202-MNT01027	0:02:05	SAN CARLOS ST	OCEAN AVE	3
Alarm system sounded due to malfunction	2/12/2023 1:26 PM	230212-MNT01276	0:08:48	OCEAN AVE	LINCOLN ST	3
Detector activation, no fire - unintentional	2/27/2023 10:35 PM	230227-MNT01691	0:02:42	SAN CARLOS ST	5TH AVE	3
Alarm system activation, no fire - unintentional	2/25/2023 12:47 PM	230225-MNT01634	0:03:05	JUNIPERO AVE	7TH AVE	3
Alarm system activation, no fire - unintentional	2/6/2023 5:57 PM	230206-MNT01131	0:03:50	SCENIC RD	5 SE OF OCEAN AVE	3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
700 Series (False Alarms) cont.						
Carbon monoxide detector activation, no CO	2/10/2023 12:31 PM	230210-MNT01221	0:01:25	JUNIPERO AVE	4TH AVE	3
9			0:03:30			

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

230212-MNT01292

E15 delay due to issue with dispatch

230216-MNT01371

E11 responded from St.11, normal response time

230212-MNT01276

ME11 responded from St.11, E15 was committed

Code 2 Calls	12
Code 3 Calls	56
Total # of Incidents	68
% Under 5 Minute Response Time	95%



RESPONSE SUMMARY REPORT BY DISTRICT
27015 CARMEL-BY-THE-SEA FIRE AMBULANCE
Alarm Date From: 02/01/2023 To: 02/28/2023



Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
300-321 Series (EMS)						
Medical assist, assist EMS crew	2/13/2023	230213-CFA00239	00:03:00	LINCOLN ST	4TH AVE	3
EMS call, excluding vehicle accident with injury	2/1/2023	230201-CFA00182	00:03:23	8TH AVE	S MOUNTAIN VIEW	3
EMS call, excluding vehicle accident with injury	2/1/2023	230201-CFA00183	00:03:51	26246 DOLORES ST		3
EMS call, excluding vehicle accident with injury	2/1/2023	230201-CFA00185	00:01:23	6TH AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	2/2/2023	230202-CFA00190	00:02:00	SAN ANTONIO AVE	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	2/3/2023	230203-CFA00192	00:04:05	6TH AVE	GUADALUPE ST	3
EMS call, excluding vehicle accident with injury	2/4/2023	230204-CFA00201	00:01:59	DOLORES ST	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	2/8/2023	230208-CFA00216	00:02:58	CARMELO ST	10TH AVE	3
EMS call, excluding vehicle accident with injury	2/10/2023	230210-CFA00225	00:05:14	JUNIPERO AVE	4TH AVE	2
EMS call, excluding vehicle accident with injury	2/11/2023	230211-CFA00228	00:01:51	OCEAN AVE	MONTE VERDE ST	3
EMS call, excluding vehicle accident with injury	2/12/2023	230212-CFA00230	00:01:48	DOLORES ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	2/13/2023	230213-CFA00234	00:04:18	MONTE VERDE ST	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	2/14/2023	230214-CFA00243	00:04:19	SANTA FE ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/16/2023	230216-CFA00249	00:02:30	OCEAN AVE	LINCOLN ST	3
EMS call, excluding vehicle accident with injury	2/17/2023	230217-CFA00253	00:04:45	GUADALUPE ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/17/2023	230217-CFA00255	00:02:36	DOLORES ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/18/2023	230218-CFA00256	00:02:30	DOLORES ST	9TH AVE	3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00258	00:04:14	CASANOVA ST	12TH AVE	3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00262	00:03:16	DEL MAR AVE	OCEAN AVE	3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00264	00:02:16	3RD AVE	DOLORES ST	3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00265	00:03:30	5TH AVE	DOLORES ST	3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00277	00:04:29	26010 RIDGEWOOD RD		3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00279	00:00:26	TORRES ST	4TH AVE	3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00283	00:03:30	CARMELO ST	9TH AVE	3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00284	00:01:03	JUNIPERO AVE	4TH AVE	3
EMS call, excluding vehicle accident with injury	2/24/2023	230224-CFA00294	00:02:20	LINCOLN ST	7TH AVE	3
EMS call, excluding vehicle accident with injury	2/25/2023	230225-CFA00300	00:03:38	SAN CARLOS ST	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/25/2023	230225-CFA00302	00:01:45	LINCOLN ST	8TH AVE	3
EMS call, excluding vehicle accident with injury	2/26/2023	230226-CFA00308	00:03:33	3080 RIO ROAD		3
EMS call, excluding vehicle accident with injury	2/27/2023	230227-CFA00311	00:02:45	CARPENTER ST	1ST AVE	3
30			0:02:59			

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
322-399 Series (Rescues)						
Motor vehicle accident with injuries	2/20/2023	230220-CFA00266	00:04:39	SAN CARLOS ST	13TH AVE	3
Motor vehicle accident with injuries	2/21/2023	230221-CFA00273	00:00:05	6TH AVE	MISSION ST	3
2			0:02:22			

400 Series (Hazardous Material)

Hazardous condition, other	2/14/2023	230214-CFA00240	00:00:17	CAMINO REAL ST	4TH AVE	3
Hazardous condition, other	2/21/2023	230221-CFA00269	00:03:52	SANTA RITA ST	3RD AVE	3
Hazardous condition, other	2/21/2023	230221-CFA00274	00:03:22	CARPENTER ST	OCEAN AVE	3
Hazardous condition, other	2/21/2023	230221-CFA00275	00:04:56	8 CARMEL WAY		3
Hazardous condition, other	2/23/2023	230223-CFA00288	00:03:21	CAMINO REAL ST	4TH AVE	3
Hazardous condition, other	2/24/2023	230224-CFA00296	00:04:35	OCEAN AVE	SANTA RITA ST	3
6			0:03:24			

500 & 600 Series (Service Calls)

Water or steam leak	2/24/2023	230224-CFA00293	00:02:53	JUNIPERO AVE	7TH AVE	2
Water or steam leak	2/26/2023	230226-CFA00307	00:05:02	7TH AVE	DOLORES ST	2
Public service assistance, other	2/5/2023	230205-CFA00204	00:02:26	7TH AVE	DOLORES ST	3
Public service assistance, other	2/19/2023	230219-CFA00263	00:03:03	SCENIC RD	9TH AVE	3
Assist invalid	2/5/2023	230205-CFA00205	00:03:33	TORRES ST	5TH AVE	3
Assist invalid	2/6/2023	230206-CFA00206	00:01:18	JUNIPERO AVE	5TH AVE	2
Assist invalid	2/26/2023	230226-CFA00310	00:03:50	LINCOLN ST	7TH AVE	2
Vicinity alarm (incident in other location)	2/12/2023	230212-CFA00232	00:03:05	DOLORES ST	OCEAN AVE	3
Smoke scare, odor of smoke	2/8/2023	230208-CFA00215	00:04:48	MISSION ST	VISTA AVE	3
9			0:03:20			

700 Series (False Alarm)

False alarm or false call, other	2/3/2023	230203-CFA00195	00:02:20	JUNIPERO AVE	4TH AVE	3
False alarm or false call, other	2/17/2023	230217-CFA00254	00:02:52	DOLORES ST	5TH AVE	3
False alarm or false call, other	2/25/2023	230225-CFA00301	00:03:05	JUNIPERO AVE	7TH AVE	3
Alarm system activation, no fire - unintentional	2/2/2023	230202-CFA00191	00:02:19	SAN CARLOS ST	OCEAN AVE	3
Alarm system activation, no fire - unintentional	2/27/2023	230227-CFA00316	00:02:44	SAN CARLOS ST	5TH AVE	3
5			0:02:40			

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

Code 2 Calls	5
Code 3 Calls	47
Total # of Incidents	52
% Under 5 Minute Response Time	100%
Total Average Response Time	0:02:57



RESPONSE SUMMARY REPORT BY DISTRICT
27015 CARMEL-BY-THE-SEA FIRE AMBULANCE
Alarm Date From: 02/01/2023 To: 02/28/2023



Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
CARMEL HIGHLAND						
EMS call, excluding vehicle accident with injury	2/20/2023	230220-CFA00267	00:10:24	15 YANKEE POINT DR	AURORA DEL MAR	3
EMS call, excluding vehicle accident with injury	2/8/2023	230208-CFA00218	00:09:14	75 CORONA RD		3
EMS call, excluding vehicle accident with injury	2/2/2023	230202-CFA00188	00:24:07	HWY 1		3
EMS call, excluding vehicle accident with injury	2/15/2023	230215-CFA00247	00:08:33	120 HIGHLAND DR		3
False alarm or false call, other	2/16/2023	230216-CFA00251	00:15:57	30740 AURORA DEL MAR		3
False alarm or false call, other	2/27/2023	230227-CFA00315	00:11:10	228 LOWER WALDEN RD		3
6			0:13:14			
CARMEL VALLEY						
EMS call, excluding vehicle accident with injury	2/21/2023	230221-CFA00271	00:45:17	37144 NASON RD		3
Cover assignment, standby, moveup	2/19/2023	230219-CFA00260	00:08:18	5315 CARMEL VALLEY RD		3
2			0:26:48			
CYPRESS						
Fire, other	2/18/2023	230218-CFA00257	00:06:09	26533 WILLOW PL	5TH AVE	3
EMS call, excluding vehicle accident with injury	2/27/2023	230227-CFA00312	00:01:42	DOLORES ST		3
EMS call, excluding vehicle accident with injury	2/26/2023	230226-CFA00309	00:07:14	25344 PINE HILLS DR		3
EMS call, excluding vehicle accident with injury	2/23/2023	230223-CFA00285	00:07:12	5 CROSSROADS MALL		3
EMS call, excluding vehicle accident with injury	2/15/2023	230215-CFA00246	00:06:46	25383 FLANDERS DR		2
EMS call, excluding vehicle accident with injury	2/13/2023	230213-CFA00238	00:03:51	26408 MISSION FIELDS RD		3
EMS call, excluding vehicle accident with injury	2/7/2023	230207-CFA00213	00:04:57	CARMEL RANCHO LN	CARMEL RANCHO SHOPPING CENTER	3
EMS call, excluding vehicle accident with injury	2/6/2023	230206-CFA00207	00:05:31	Rio Rd / Crossroads Blvd		3
EMS call, excluding vehicle accident with injury	2/3/2023	230203-CFA00196	00:06:20	5 CROSSROADS MALL		3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00261	00:05:07	26135 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/16/2023	230216-CFA00248	00:06:03	26349 MONTE VERDE ST		3
EMS call, excluding vehicle accident with injury	2/15/2023	230215-CFA00244	00:07:06	26265 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/12/2023	230212-CFA00233	00:06:32	3771 RIO RD		3
EMS call, excluding vehicle accident with injury	2/12/2023	230212-CFA00231	00:04:57	26245 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/10/2023	230210-CFA00223	00:05:48	3665 RIO RD		3
EMS call, excluding vehicle accident with injury	2/9/2023	230209-CFA00222	00:05:21	24743 SAN CARLOS ST		3
EMS call, excluding vehicle accident with injury	2/9/2023	230209-CFA00220	00:05:29	3020 RIBERA RD		3
EMS call, excluding vehicle accident with injury	2/9/2023	230209-CFA00219	00:04:05	25009 HATTON RD		3
EMS call, excluding vehicle accident with injury	2/6/2023	230206-CFA00211	00:06:03	26245 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/6/2023	230206-CFA00210	00:05:20	3640 VIA MAR MONTE		3
EMS call, excluding vehicle accident with injury	2/6/2023	230206-CFA00208	00:05:21	26245 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/4/2023	230204-CFA00200	00:07:07	26245 CARMEL RANCHO BLVD		2
EMS call, excluding vehicle accident with injury	2/2/2023	230202-CFA00189	00:04:43	26245 CARMEL RANCHO BLVD		3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
CYPRESS cont.						
EMS call, excluding vehicle accident with injury	2/2/2023	230202-CFA00187	00:06:12	5 CROSSROADS MALL		3
EMS call, excluding vehicle accident with injury	2/28/2023	230228-CFA00318	00:07:18	26245 CARMEL RANCHO BLVD		3
EMS call, excluding vehicle accident with injury	2/25/2023	230225-CFA00305	00:06:20	5 CROSSROADS MALL		3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00280	00:08:57	275 CROSSROADS BLVD		3
EMS call, excluding vehicle accident with injury	2/21/2023	230221-CFA00272	00:08:20	4060 ARROYO TRL		2
EMS call, excluding vehicle accident with injury	2/20/2023	230220-CFA00268	00:05:06	26510 FISHER DR		3
Motor vehicle accident with no injuries.	2/28/2023	230228-CFA00320	00:03:54	HWY 1	CARPENTER ST	3
Assist invalid	2/23/2023	230223-CFA00291	00:05:59	2665 15TH AVE		3
False alarm or false call, other	2/23/2023	230223-CFA00290	00:05:37	24324 SAN JUAN RD		3
32			0:05:50			
MARINA						
EMS call, excluding vehicle accident with injury	2/1/2023	230201-CFA00184	00:14:11	3095 MARINA DR		3
EMS call, excluding vehicle accident with injury	2/13/2023	230213-CFA00237	00:19:44	3128 CRESCENT AVE		2
2			0:16:58			
MID COAST						
EMS call, excluding vehicle accident with injury	2/4/2023	230204-CFA00199	00:18:13	37029 PALO COLORADO RD		3
1			0:18:13			
MONTEREY						
EMS call, excluding vehicle accident with injury	2/14/2023	230214-CFA00242	00:06:26	696 CASANOVA AVE		3
EMS call, excluding vehicle accident with injury	2/13/2023	230213-CFA00236	00:08:45	1230 SYLVAN RD		3
EMS call, excluding vehicle accident with injury	2/12/2023	230212-CFA00229	00:08:28	1501 SKYLINE DR		2
EMS call, excluding vehicle accident with injury	2/4/2023	230204-CFA00198	00:02:59	2041 N FREMONT ST		3
EMS call, excluding vehicle accident with injury	2/28/2023	230228-CFA00321	00:10:47	399 DRAKE AVE		3
EMS call, excluding vehicle accident with injury	2/28/2023	230228-CFA00317	00:09:03	1131 10TH ST		3
Motor vehicle accident with injuries	2/27/2023	230227-CFA00314	00:06:13	MTY SNS HWY	OLMSTED RD	3
Motor vehicle accident with injuries	2/27/2023	230227-CFA00314	00:06:13	MTY SNS HWY	OLMSTED RD	3
Cover assignment, standby, moveup	2/4/2023	230204-CFA00197	00:01:02	HWY 1	CANYON DEL REY BLVD	2
Cover assignment, standby, moveup	2/23/2023	230223-CFA00287	00:00:02	SOLEDAD DR	MUNRUS AVE	2
Cover assignment, standby, moveup	2/22/2023	230222-CFA00281	00:00:03	HWY 1	CANYON DEL REY BLVD	2
11			0:05:27			
PACIFIC GROVE						
EMS call, excluding vehicle accident with injury	2/23/2023	230223-CFA00292	00:13:09	700 BRIGGS AVE		2
1			0:13:09			
PEBBLE BEACH						
EMS call, excluding vehicle accident with injury	2/8/2023	230208-CFA00217	00:08:03	1500 CYPRESS DR		3
EMS call, excluding vehicle accident with injury	2/23/2023	230223-CFA00289	00:11:17	3055 SLOAT RD		3
EMS call, excluding vehicle accident with injury	2/23/2023	230223-CFA00286	00:10:34	1260 CANTERA CT		3
EMS call, excluding vehicle accident with injury	2/19/2023	230219-CFA00259	00:08:06	4136 SUNSET LN		3
EMS call, excluding vehicle accident with injury	2/3/2023	230203-CFA00193	00:11:03	SEVENTEEN MILE DR	SIGNAL HILL RD	3
EMS call, excluding vehicle accident with injury	2/11/2023	230211-CFA00226	00:09:18	3071 SLOAT RD		3
EMS call, excluding vehicle accident with injury	2/9/2023	230209-CFA00221	00:09:28	3300 PORTOLA RD		2
EMS call, excluding vehicle accident with injury	2/5/2023	230205-CFA00203	00:11:18	1700 SEVENTEEN MILE DR		3
EMS call, excluding vehicle accident with injury	2/3/2023	230203-CFA00194	00:09:30	CARMEL WAY	SEVENTEEN MILE DR	3
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00278	00:12:53	3307 SEVENTEEN MILE DR		3

Incident	Alarm Date	Incident Number	Response Time	Combined Address	Cross Street	Priority
PEBBLE BEACH cont.						
EMS call, excluding vehicle accident with injury	2/22/2023	230222-CFA00276	00:09:24	3258 ONDULADO RD	RD AS	3
Motor vehicle/pedestrian accident (MV Ped)	2/15/2023	230215-CFA00245	00:14:51	SEVENTEEN MILE DR	PORTOLA RD	3
12			0:10:29			

SEASIDE

EMS call, excluding vehicle accident with injury	2/16/2023	230216-CFA00250	00:17:44	1201 LA SALLE AVE		3
EMS call, excluding vehicle accident with injury	2/7/2023	230207-CFA00212	00:15:09	2200 NOCHE BUENA ST		2
EMS call, excluding vehicle accident with injury	2/21/2023	230221-CFA00270	00:08:04	1206 LA SALLE AVE		3
Rescue or EMS standby	2/14/2023	230214-CFA00241	00:06:00	DEL MONTE BLVD	CANYON DEL REY BLVD	2
Cover assignment, standby, moveup	2/24/2023	230224-CFA00297	00:00:57	HWY 1	CANYON DEL REY BLVD	2
5			0:09:35			

Code 2 Calls	13
Code 3 Calls	59
Total # of Incidents	72
Total Average Response Time	0:08:23



CITY OF CARMEL - FIRE AMBULANCE DEPARTMENT

FEBRUARY 2023

Response Summary Report by District Type

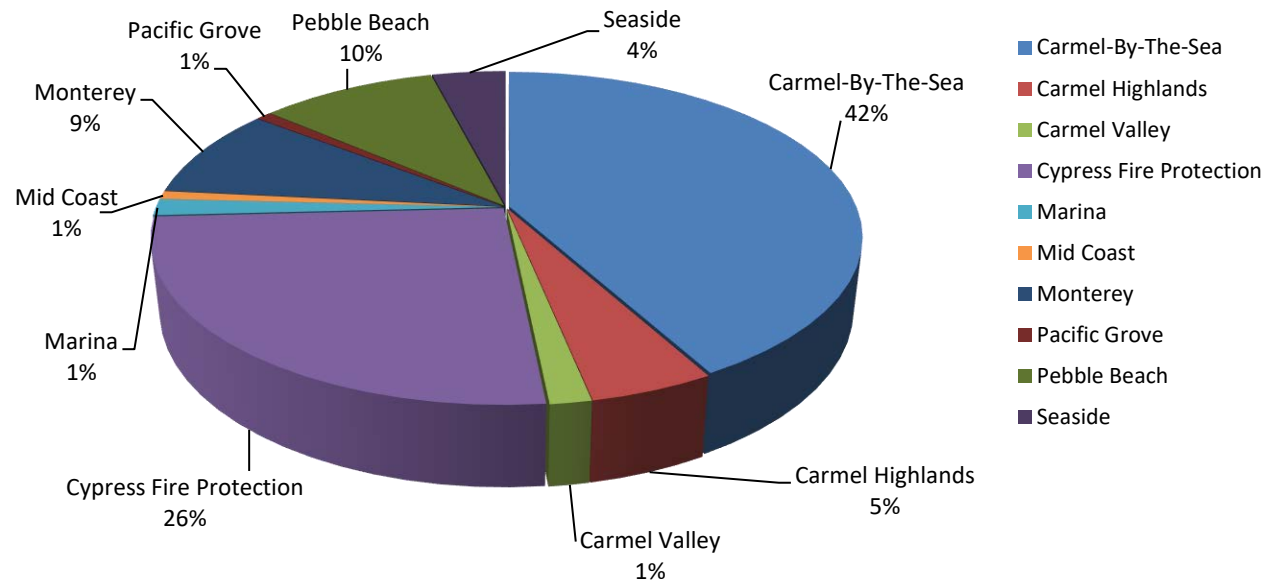


<u>District Response</u>	<u>Number</u>	<u>Average Response Time</u>
Carmel-By-The-Sea	52	2:57
Carmel Highlands	6	13:14
Carmel Valley	2	26:48
Cypress Fire Protection	32	5:50
Marina	2	16:58
Mid Coast	1	18:13
Monterey	11	5:27
Pacific Grove	1	13:09
Pebble Beach	12	10:29
Seaside	5	9:35

Total Responses

124

12:16



Total Code 3 Calls:

48

CFA Code 3 Response Times Calls ≤ 5 minutes:

100%

Police Records Request Log

February 2023

14-Day Ext. Date	Date Completed by PSO	Requestor	Info Requested	Status	Date & PSO Mailed
	2/10 DNA	Lana Ushakoff	CG2200486	report not complete	letter mailed 2/10
	2/8 DA	Lexis Nexis	CFS 011220230017	completed	mailed by DA
	2/11 DA	Philip Finnerman	CG2300026	completed	redacted report awaiting release at front counter by DA
		Louise Wood	CG2200573 report & photos	completed	mailed by DA
	2/10 DNA	Todd Knapp	CG2300060	completed	picked up
	2/11/22 DA	George Rabe	CG2300062	completed	mailed by DA
	2/11 DA	Lexis Nexis	Accident Report	No report	mailed by DA
	2/11 DA	Lexis Nexis	CA2300033	completed	mailed by DA
	2/11 DA	Lexis Nexis	CG2300037	completed	mailed by DA
	2/11 DA	Lexis Nexis	Accident Report	No report	mailed by DA
	2/11 DA	Lexis Nexis	Accident Report/Stolen Vehicle	No report	mailed by DA, possible occd in Los Angeles
2/27/2023	2/15 DA	Catherwood, Lisa	CC2300041	completed	mailed by DA
2/26/2023	2/13/2023	Kuhnen, Todd	CFS, 01/12/2023,CAD 17	Completed	Mailed
	2/15 DA	Lexis Nexis	CA2300031	completed	mailed by DA
	2/15 DA	Lexis Nexis	CA2300048	completed	mailed by DA
	2/15 DA	Lexis Nexis	CG2300034	completed	mailed by DA
	2/15 DA	Lexis Nexis	CA2300048	completed	mailed by DA
	2/16 DA	Jennifer Nobis	CG2300037	completed	picked up
	2/25/2023	Lexis Nexis	CA2300056	completed	mailed by DA
	2/25/2023	Metropolitan Report Bureau	23-00561	completed/no report	mailed back and referred to MCSO
	2/25/2023	Katherine Bennett	CC2300048	completed	mailed by DA
	02/27/23 mw	Ando Masa	CC2300072	completed	Mailed by MW

**City Clerk PRA Log
February 2023**

Attachment 3

request number	Date Requested	10-day response date	records requested	requestor	date completed	notes
2023-15	2/6/2023	2/16/2023	City's comprehensive annual financial report for FY ending June 30, 2021	Andy Duarte	2/6/2023	link to online records sent
2023-16	2/6/2023	2/16/2023	Planning and Building permits for San Antonio 3 SW of 13th, Carmel, CA (APN: 010-293-004) from 2020 to present	Hansen Reed, Esq. Walker & Reed	2/7/2023	link to online records sent by CPB
2023-17	2/6/2023	2/16/2023	City Attorney Brian Pierik's contract	Christy Hollenbeck	2/8/2023	records sent
2023-18	2/6/2023	2/16/2023	Legal bills and invoices for Brian Pierik, Bail Karich, and BBK, 7-14-22 to present re: Drafting Wireless Ordinance	Christy Hollenbeck	2/22/2023	sent email to requester to clarify request, extended deadline to 2/27/2023. Sent response to requester on 2/22/2023 (no responsive documents)
2023-19	2/6/2023	2/16/2023	legal costs to date for drafting the operation and maintenance agreement for the Scout House	Christy Hollenbeck	2/16/2023	sent response
2023-20	2/14/2023	2/24/2023	Tree or shrub permits issued for Lincoln 2 NW of 9th, between 2009 to present	Don Rose	2/15/2023	records sent. Sent additional permit issued 2019 on 3/6/23
2023-21	2/14/2023	2/24/2023	2022 Employee compensation (wages, benefits, OT, etc)	Mary Schley	3/29/2023	pending - extended deadline to 3/10/2023, extended deadline to 3/31/2023. Records sent 3/29/23
2023-22	2/15/2023	2/27/2023	1. Property and Casualty insurance renewal summary for all lines of insurance purchased by the city (general liability, auto, workers comp, professional, directors, and officers) that summarizes the insurance terms, limits, deductibles, premium, and exclusions. 2. Copy of the last employee benefits insurance renewal summary for health, dental, vision plans sponsored by the City.	Public Records, Allium Data (publicrecords@alliumdata.com)	3/9/2023	pending review-extended deadline to 3/14/2023. Records Sent 3/9/2023

request number	Date Requested	10-day response date	records requested	requestor	date completed	notes
2023-23	2/23/2023	3/6/2023	BBK and Telecom accounts payable detail, check by date from Oct. 2022 -Jan. 2023	Michael McWalters	3/2/2023, & 3/14/2023	sent records - Oct. 2022-December 2022 a/p checks paid. Jan.-Feb 2023 sent 3/14/23
2023-24	2/28/2023	3/10/2023	See email, any and all records pertaining to Ocean Avenue 4 NE Guadalupe Street, Carmel-by-the-Sea, California with APN: 010-033-011.	Alondra Valdez Klemek, Paralegal, Walker & Reed, PC	3/23/2023	property files not scanned, sent msg to Planning. Sent msg to requestor regarding clarification on 3/6/23. Sent email to requester regarding paper files ready to view by appt., and communications request deadline extended to 3/24/2023. Appt. made for 3/23/23 to view property files.
2023-25	2/28/2023	3/10/2023	"all the records and documents that the Roses provided to the City in order to obtain Tree Removal Permit #18146, Receipt 2473 approved 5.21.2019 including application for permit with a site plan, and any other records or documents pertaining to this permit	David Hutchings	3/6/2023	records sent
2023-26	2/22/2023	3/6/2023	1.Minutes - Forest and Beach Commission's March 12, 2020 meeting, 2-6. Emails between Sara Davis and Joni Janecki, and Toni Lombardi regarding an agreed upon plan for the public right of way fronting 4 North San Antonio on specific dates (See email)	Mark O'Connor	3/21/2023	sent FB minutes on 3/8/2023. requested extension to 3/20/23 for emails per GC 7922.535(c)(4), pending legal review. Records sent on 3/21/2023.



CITY OF CARMEL-BY-THE-SEA

Monthly Report

Public Works Department

February 2023

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert M. Harary, P.E., Director of Public Works
SUBMITTED ON:	March 1, 2023
APPROVED BY:	Chip Rerig, City Administrator

City Council Meeting of February 7, 2023

- Adopted Resolution 2023-013, declaring six City vehicles as surplus and authorizing their sale at public auction. Total value is estimated at \$27,000.
- Adopted Resolution 2023-014, approving Amendment No. 1 to the Professional Services Agreement with Ten Over Studios, for a fee not-to-exceed \$78,900, for architectural and engineering services associated with five facility renovation projects.
- Adopted Resolution 2023-015, approving Purchase Orders to John Ley's Tree Service and Tope's Tree Service, in the amounts of \$50,000 and \$40,000 respectively, for storm-related tree removals and tree debris clearing.
- The Police Building Project's Ad Hoc Committee received full Council approval to authorize staff to issue a Request for Proposals (RFP) for architectural services, for firms with expertise in Police operations and facilities design, to conduct a thorough code, operational, safety, and deferred maintenance evaluation of the Police building.

Planning Commission Meeting of February 8, 2023

- Approved a Coastal Development Permit for the Mission Trail Nature Preserve (MTNP) Well Abandonment, and Tank/Pump House Removal Project, subject to certain environmental conditions.
- Approved a Coastal Development Permit for the MTNP – 3 Drainage Project, which includes piping, a hardened swale, and a short, elevated boardwalk, subject to certain environmental conditions.
- Notices of Exemption for both MTNP Projects were filed and recorded.

Forest and Beach Commission Meeting of February 9, 2023

- Horticulture professor Alan Wheat introduced an alternative landscaping design for the Ocean Avenue Median Islands, as a public comment. This item will return to the Commission for detailed review.
- Due to a medical emergency by the Applicant's attorney, the Public Hearing for TR 23-017 (Purcell & Tutelian), regarding hedges along San Antonio Avenue southwest of Second Avenue, was postponed to a date uncertain.
- Representatives of the Leadership Carmel class of 2023 introduced two potential Legacy Projects: improvements to memorials at Devendorf Park, and play equipment at Forest Hill Park. Based on initial feedback, the Applicant will return for approval at the March meeting.
- Presented the Forester's and Public Works Reports for January 2023.

City Council Special Meeting of February 21, 2023

- Public Works received a \$370,000 supplemental budget allocation, predominantly to cover additional Facility Maintenance contract services and materials (\$187k), storm recovery expenses (\$100k), and Environmental Compliance services (\$28k).

Traffic Safety Committee Meeting of February 28, 2023

- Reviewed Monterey Salinas Transit's request to remove 4 parking stalls in front of bus stops at N/E Junipero Street & Fourth Avenue and N/E San Carlos Street & Ninth Avenue, and a request for a red curb at the Rio Road & Lasuen Drive bus stop. The red curb on Rio Road was approved. Further review, mapping, and discussions with adjacent businesses will be conducted for the remaining sites.
- A decision regarding an Applicant's request to install a wooden fence along the west side of Carpenter Street, 2 NW of First Avenue, was deferred pending a speed study and discussion with Monterey County regarding potential speeding concerns along Carpenter Street north of the City Limits.
- Reviewed traffic and parking issues along Dolores Street, between Vista and First Avenues, particularly during drop off and pick up of students at Stevensen School. Representatives of the school provided excellent comments about their efforts to reduce impacts to date. Code Enforcement to address neighboring property's efforts to block parking in the public right-of-way, and Public Works and the School will evaluate signage for alternative routes for drivers not needing to go to the school during drop off times, and potentially other signs and/or street markings, to reduce impacts.
- Denied a request to make the south curb along Fourth Avenue, between San Carlos and Dolores Street, a no parking zone.
- Denied a request to reinstall a wooden railing, removed years ago, on the east side of Dolores and Third Avenue. Applicant advised to submit for a permanent encroachment permit if so desired.
- Approved a request to install one, 25 mph speed limit sign on Santa Lucia, just north of Rio Road.
- Introduced and preliminarily-reviewed Assembly Bill 1909: Bicycle Omnibus Bill, related to increasing permitted uses of e-bikes, effective January 1, 2024, unless otherwise restricted by future ordinance.

Administration

- Environmental Compliance Manager Agnes Martelet left the City on February 7th, and City Forester Sara Davis left on February 15th. Both positions have been posted for recruitment.
- Project Manager Javier Hernandez started with the City on February 16th. Initial projects include: Rule 20A Undergrounding, Coastal Engineering Study, MTNP – 3 Drainage Project, Wave Broadband permitting, and EV charging stations at the Vista Lobos Parking Lot.
- Provided documentation for FEMA reimbursement, related to out of pocket expenditures to date (\$119k), staff costs to date (\$64k), and anticipated future costs (\$400k) associated with infrastructure-related recovery from the January storms.
- Finalized the Operations and Maintenance Agreement, prepared by the City Attorney's office, and a Site Lease, for the upcoming RFP for the Scout House Project.
- Prepared a Council report for the March 7 meeting to review the San Carlos Median Islands, Bike Route, and Paving Project, with a recommendation to remove the medians from the Project.
- Reviewed the proposed Hofsas House redevelopment project, and introduced potential conditions of approval at a Development Review meeting with the Applicant.
- Began to compile project requests for the Fiscal Year 2023/24 Capital Improvement Program.

Environmental Programs

- Continued planning for Earth Day/Arbor to be held on April 22nd in Devendorf Park.
- Continued working with Save the Whales and CSUMB students regarding the dog waste campaign.
- Posted information pertaining to the Resilient Central Coast Campaign, sponsored by Ecology Action, in the Friday Letter.
- Researched benefits and budgetary costs for the City to join the Green Business Network to support SB 1383 compliance (waste reduction/recycling) and Climate Action Plan measures.

- As a member of the Plastic Pollution Coalition, attended a Community-Based Social Marketing Workshop. CBSM utilizes social psychology to implement behavioral change related to environmental initiatives.

Facility Maintenance

- For Storm Recovery: finished repairs of 16 of the 17 roof leaks resulting from the January storms. Only one costly roof repair remains at Forest Theater.
- The electrical contractor substantially completed reconstruction of electrical switches in the back of the Public Works Garage with new, waterproof panels.
- A structural engineer provided a general analysis of the condition of the combined Police/Public Works building and recommended repairing all leaks to maintain long-term structural integrity of the facility.
- For the front Public Work Office renovation, old paneling was removed, walls were patched and painted, and new, refurbished modular furniture was installed. Staff is moving back in as time permits.
- Repaired door knobs, sink, and exhaust fan in the Fire Station.
- With funding approved with the supplemental mid-year budget allocation, initiated vendor purchase orders to repair a broken sewer pipe at Flander's Mansion, install EV charging connections at the north driveway of City Hall and in the Public Works garage, and repair the concession counter at Sunset Center.

Project Management for Capital Improvement Program

Wallace Group Projects:

- For the Concrete Streets Repair Project, Notice to Proceed was issued to BKF Engineers, and the consultant performed field surveying and mapping, obtained utility information, and began to develop 30% design plans of alternative street repair treatments.
- For the MTNP Well Abandonment and Water Tank/Pump House Removal Project, technical specifications and environmental exhibits were substantially completed, and bid documents are being compiled. Construction is anticipated to begin this summer.
- The Storm Drain Master Plan Update, by Schaaf & Wheeler Consulting Engineers, was presented to staff. The analysis of accommodating 20-year storm events (due to Climate Change), rather than 10-year storm events, as most of the drainage infrastructure in the City was designed, results in some additional pipe enlargements and an increased need for peak flow retention along Junipero and/or in MTNP, but otherwise does not impact much else of the City-wide storm drainage system.

Ausonio, Inc. Projects:

- For the City Hall Retaining Wall Repair Project, the Project was advertised for bids, and a pre-bid meeting was held on February 23rd. The Bid Opening is scheduled for March 16th.
- For the combined City Hall Roof Replacement, Harrison Memorial Library (HML) Exterior/Interior Painting, Sunset Center Exterior Painting, and Cottage Windows Repairs Projects, a kickoff and several progress meetings were held with Ten Over Studios. The architectural team toured these facilities and developed insightful recommendations for these renovations.
- However, for the HML generator, there does not appear to be a solution that meets building code requirements without costly modifications to a stone wall and planter area in front of the building. An alternate battery back-up system for the IT servers in the HML basement is also being evaluated.

4 Leaf Projects:

- For the Police Building Project, following approval from the City Council on February 7th, the RFP to hire an architectural firm, with police building expertise, was finalized, existing plans were made available, and the RFP was advertised. Courtesy notices were also sent to numerous architects.

Approximately 12 consultants attended the mandatory Pre-Proposal Meeting and Site Tour on February 28th. Proposals are due on March 14th.

Additional CIP Projects:

- For the Coastal Engineering Study Project, reviewed the preliminary results of Task 1 – Coastal Engineering Condition Evaluation, with Integral Consultants and Haro Kashunich. Preliminarily, there are only a few repairs needed on the 11 existing sea walls, several of the 6 rock revetments will need to be reconstructed, and most significantly, most of the 11 beach access stairs will need to be repaired or reconstructed. Task 1 findings will be presented at the March 9th Forest and Beach Commission meeting.

Street Maintenance

- For Storm Recovery: finished filling in potholes, and repairing fallen traffic signs and damaged fencing.
- Installed Visit Carmel's new campaign, "*Love Carmel Like a Local*," banners along Ocean Avenue and 3-dimensional carved wooden signs on the sides of newspaper racks.
- Met with NCE, the consultant who recently performed the City-wide Pavement Condition Survey, to review the survey results, update the "*Street Saver*" computer program to include alternative pavement rehabilitation strategies, update unit costs, and plan for future year repaving projects. For the prior survey performed in 2018, our City-wide Pavement Condition Index was 78 - the highest in Monterey County. Since we have not completed paving projects in the past couple of years due to the Pandemic, our overall PCI slipped slightly down to 75, as expected. However, of the other local cities surveyed in 2022, we are still #1!
- The Public Works Superintendent resumed supervision of forestry field crews upon the vacancy of the City Forester.
- Began to prioritize the removal of numerous tree stumps and differentiate the list of stumps to be removed by staff, vs. minor, relatively less costly stumps to be removed by tree contractors, and finally, the largest stumps that will be most costly and deferred until budget allows. Focus will be on reducing the backlog and prioritizing stump removals in the downtown area.
- Made repairs to damaged post and cable fencing in the North Dunes.
- Continued with the Annual Sidewalk Survey and making priority sidewalk repairs.

Forestry Parks and Beach Report (Forestry Report)

- For Storm Recovery: John Ley's Tree Service and Tope's Tree Service substantially completed January storm-related emergency tree removals and tree debris hauling.
- Six bid proposals were received at the public Bid Opening held on February 14th for On-Call Tree Care Services Contracts. These contracts include the option for the City to retain a qualified consulting arborist, as well as to perform tree planting, watering, pruning, removal, and stump grinding services. Recommendations to award contracts to three firms, Community Tree Service, Tope's Tree Service, and West Coast Arborists, are scheduled for the March 7th City Council meeting.
- PG&E and City Forestry staff have continued working in tandem to identify trees in the public right-of-way which are in poor condition and in close proximity to power lines, posing a potential electrical and/or fire hazard if affected by strong storms. As a result, trees marked for PG&E removal display a yellow placard, and will be removed by Community Tree Service, under contract to PG&E, in the coming weeks. These trees have been assessed by our consultant arborist, Justin Ono, and/or Forestry staff. Up to 29 trees are planned for removal at this time.
- 20 new trees were planted in February!
- Davey Resource Group, the consultant who is preparing the Urban Forest Master Plan, continues to collect inventory data.

- The grand total of calls, voicemails, and emails received by Public Works with Forestry-related matters between January 1 and February 28 is estimated to be 1,116, of which 327 have been resolved.
- Justin Ono of Ono Consulting has been providing consulting arborist services on a part time basis. Temporary help is also being scheduled with a staffing agency to support data entry efforts associated with Tree Permits.
- The Ocean Avenue Pathway, between Carpenter and Junipero Streets, was spruced up. The work included pruning trees and hedges, removal of invasive ivy and Acacia tree seedlings, weed whacking, sight clearance for stop signs, removal of debris, and spreading fresh mulch.
- Continued to coordinate with Leadership Carmel regarding their proposed Legacy Project in Forest Hill Park. This will be submitted for approval at the March 9th Forest and Beach Commission meeting.
- Twenty-eight (28) potential Task Orders were prepared and issued to Town & Country for pricing. Once these Task Orders are approved, it will cover ongoing landscape maintenance tasks for the balance of this Fiscal Year.

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	Plant Upper	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	5
February	23	22	1	24	15	9	15	10	0	0	25
March											
April											
May											
June											
July											
August											
September											
October											
November											
December											
2023 totals	51	28		36	18	16	20	11	0	2	30

Historic Permitted Removals and Required Planting

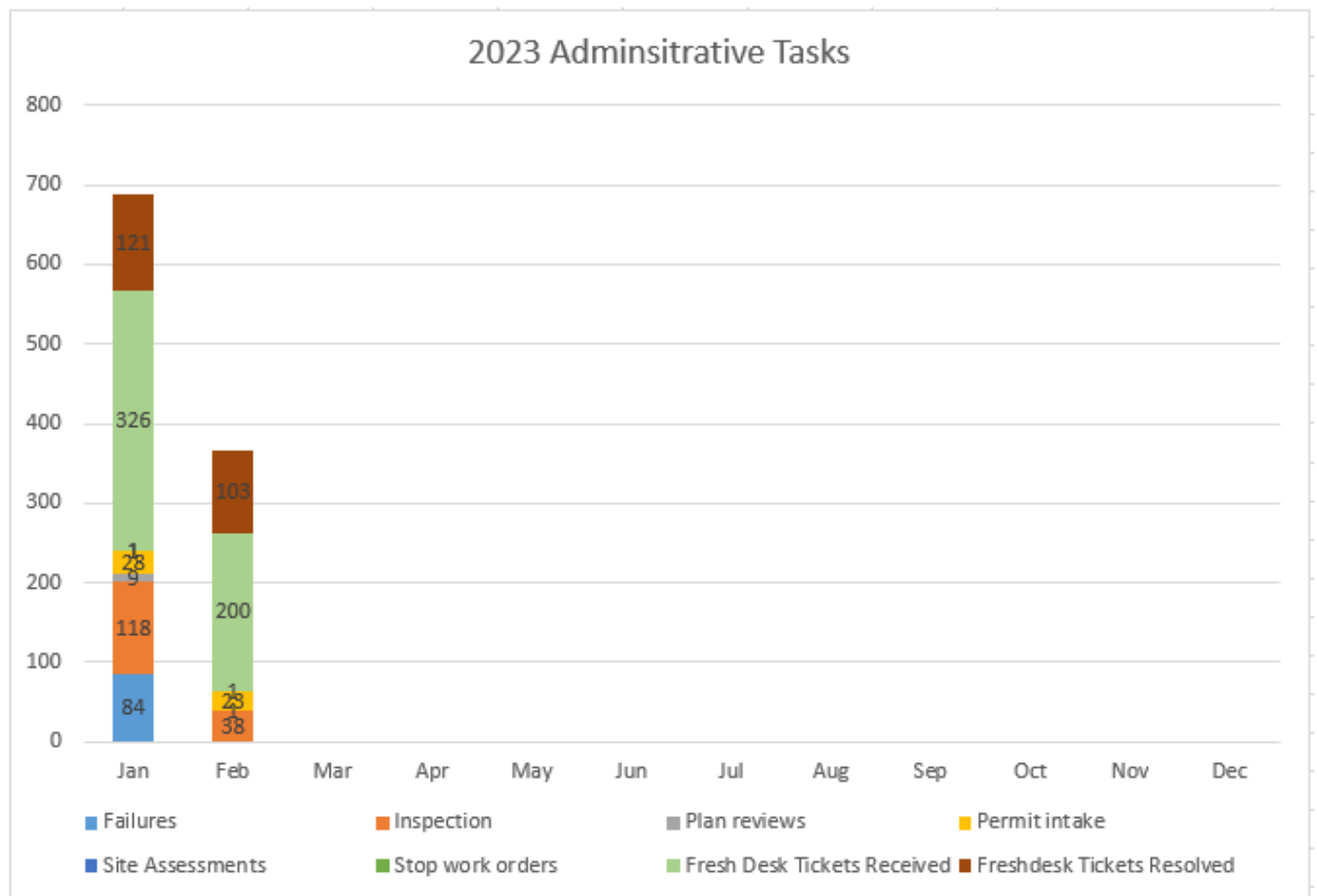
	Removal permits	Removal of upper	Removal of lower	Replanting Required	Replanting of upper	Replanting of lower	Replanting %
2012	96			20			20.83%
2013	123	60	63	59	31	29	47.97%
2014	145	64	81	49	35	20	33.79%
2016	90			37			41.11%
2017	119	50	69	43	15	28	36.13%
2018	77	37	60	20	1	18	20.62%
2019	170	107	63	116	53	63	68.24%
2020	98	57	41	93	67	26	94.90%

	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

City Forestry, Parks, and Beach Activities

City Performed Tree Work Year By Year Comparison			
	Removal	Prunning	Planting
2011	71	207	74
2012	96	256	75
2013	67	556	38
2014	139	425	40
2015	165	163	105
2016	149	107	113
2017	176	187	66
2018	165	115	72
2019	132		59
2020	159	101	62
2021	88	96	55
2022	135	675	45
2023*	7	7	20
*Year To Date			

2023 CityTree Removals, Pruning, and Planting			
	Removal	Pruning	Planting
Jan	5	5	0
Feb	2	2	20
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			
Total:	7	7	20





CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

Staff Report

April 4, 2023
CONSENT AGENDA

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Nova Romero, City Clerk

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: February 2023 Check Register Summary

RECOMMENDATION:

Approve the check register for February 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 February 2023.

FISCAL IMPACT:

The check register summary for February 2023 totals \$955,258.30.

PRIOR CITY COUNCIL ACTION:

Council ratified the January 2023 check register at its March 7, 2023, regular meeting.

ATTACHMENTS:

Attachment 1) February 2023 Check Register Summary

February 2023 Check Register

Check No.	Vendor/Employee	Transaction Description	Date Attachment 1	Amount
Department: 000 ____				
50654	Dept of Health Care Services-Accounting/Cashiers	GEMT QAF Current fiscal year	02/10/2023	17,955.12
50703	Monterey County Convention & Visitors Bureau	TID Remittance Nov-Dec 2022	02/17/2023	38,306.07
50710	Visit Carmel	CHID Remittance Nov-Dec 22	02/17/2023	248,550.58
Total for Department: 000 ____				304,811.77
Department: 110 City Council				
50634	League of California Cities	Membership calendar year 2023	02/03/2023	2,786.00
50660	Karen Ferlito	Reimburse for lecture ticket:Cal Housing Crisis	02/10/2023	27.72
50666	Peninsula Messenger LLC	Mail service sorting and delivery	02/10/2023	5,229.00
50673	US Bank	Cal Chamber of Commerce ticket event expense	02/10/2023	752.23
50700	League of California Cities-Monterey Bay Division	Monterey Bay Division Membership dues	02/17/2023	300.00
Total for Department: 110 City Council				9,094.95
Department: 111 City Administration				
50622	Alhambra	Water service City Hall	02/03/2023	99.92
50623	AT&T	Telephone service citywide	02/03/2023	3,031.00
50626	City of Foster City	Calopps Recruitment services	02/03/2023	540.00
50630	Digital Deployment	Website support agreement:Maint, training, security and updates	02/03/2023	700.00
50635	Liebert Cassidy Whitmore	Mty Bay Emp Relations Consortium with Library subscription	02/03/2023	4,850.00
50637	Office Depot, Inc.	Office supplies - Finance and Admin	02/03/2023	408.06
50641	Sprint	Cell service fees, usage and purchases	02/03/2023	29.99
50642	T-Mobile	Monthly cell service, usage and purchases	02/03/2023	1,468.04
50644	US Bank	IT monthly subscriptions & storage fees	02/03/2023	1,919.10
50644	US Bank	Metrofax Subscription	02/03/2023	11.95
50644	US Bank	IT Telephone expense - Junction Networks, Inc.	02/03/2023	1,977.49
50644	US Bank	IT Equipment & Supplies - Sticker Mule, Amazon, Costco	02/03/2023	825.87
50644	US Bank	HR Training	02/03/2023	229.00
50644	US Bank	Finance Software training expense	02/03/2023	900.00
50644	US Bank	NYT digital subscription	02/03/2023	17.00
50644	US Bank	Admin meeting expense	02/03/2023	62.50
50644	US Bank	Admin meeting expense	02/03/2023	175.59
50644	US Bank	NYT Digital subscription	02/03/2023	17.00
50644	US Bank	IT training expense	02/03/2023	75.00
50645	Wageworks,Inc	Healthcare monthly Admin and Compliance Fee	02/03/2023	509.44
50649	Carmel Pine Cone	Legal noticing	02/10/2023	472.50
50651	City of Del Rey Oaks	Lunch 1/20/23	02/10/2023	30.00
50652	Code Publishing Company	Municipal code updates, electronic, web and paper	02/10/2023	830.00
50657	Image Sales	Employee ID Badges	02/10/2023	22.83
50658	Iron Mountain	Records storage service	02/10/2023	503.51
50663	Office Depot, Inc.	Office supplies - Finance and Admin	02/10/2023	43.30
50667	Robert Half	Temporary payroll assistance services	02/10/2023	19,260.34
50669	Southern Computer Warehouse	1 APC Smart Rack/Tower	02/10/2023	3,500.85
50672	Universal Staffing Inc	Temporary staffing services:Front desk, City Hall	02/10/2023	2,318.00
50673	US Bank	Form W-2 and 1099 supplies	02/09/2023	280.00
50673	US Bank	Clerk and council misc expenses	02/10/2023	505.71
50674	Verizon Wireless	Cell phone usage and sales	02/10/2023	326.98
50676	YourMembership.com, Inc	Recruitment posting on California Library Association website -	02/10/2023	199.00
50690	Carl Warren & Company	13% Recovery fee/ K Lambert Claim 3034418	02/17/2023	4,030.00
50692	Comcast Business	NonNGEN internet and recurring charges	02/17/2023	644.82
50693	Copies By-The-Sea	Agenda printing services	02/17/2023	190.62
50696	DocuSign, Inc	eSignature Enterprise Pro Edition	02/17/2023	4,995.90
50698	Image Sales	Employee ID Badges	02/17/2023	24.21
50699	J 4 Systems	Billable services for Systems Engineer	02/17/2023	1,480.00
50701	Minuteman Press	Envelopes, stationary, business card and business license form p	02/17/2023	138.83
50704	Office Depot, Inc.	Office supplies - Finance and Admin	02/17/2023	16.38
50706	Robert Half	Temporary payroll assistance services	02/17/2023	4,394.40
50708	Universal Staffing Inc	Temporary staffing services:Front desk, City Hall	02/17/2023	2,318.00
50709	US Bank	Form 1099 supplies - Staples	02/17/2023	38.77
50709	US Bank	Council retreat lunch expense	02/17/2023	718.31
50709	US Bank	IT Equipment	02/17/2023	720.16
50709	US Bank	CA Meetings expense	02/17/2023	487.87
50709	US Bank	NYT Digital subscription	02/17/2023	17.00
50709	US Bank	Employee Appreciation Expense - ROAM	02/17/2023	1,328.16
50718	Carmel Pine Cone	Legal noticing	02/27/2023	754.00
50722	Comcast	City Hall business cable service	02/27/2023	73.46
50723	Corbin Willits System	MOM Financial system monthly fee	02/27/2023	720.79
50739	Image Sales	Employee ID Badges	02/27/2023	22.83

50742	J 4 Systems	Billable services for Systems Engineer Fy 22-23	02/27/2023	6,630.00
50744	Jeffrey's Grill and Catering	City Staff Appreciation lunch expense	02/27/2023	2,932.00
50758	Robert Half	Temporary payroll assistance services	02/27/2023	4,394.40
50766	Universal Staffing Inc	Temporary staffing services:Front desk, City Hall	02/27/2023	6,954.00
50767	US Bank	Sandwiches for mtg. w/ City Counc. & Ad Hoc Committee	02/27/2023	58.26
50768	Verizon Wireless	Cell phone usage and sales	02/27/2023	1,313.22
50769	Wageworks,Inc	Healthcare monthly Admin and Compliance Fee	02/27/2023	220.00

Total for Department: 111 City Administration 91,756.36

Department: 112 City Attorney

50647	Best Best & Krieger, Attorney At Law	Legal fees:Telecommunications issue, Verizon litigation	02/10/2023	23,551.00
50689	Burke,Williams & Sorensen, LLP	City Attorney services-Personnel	02/17/2023	15,874.50
50707	Sloan Sakai Yeong & Wong	Legal services	02/17/2023	253.00

Total for Department: 112 City Attorney 39,678.50

Department: 115 Community Planning & Building

50656	IAMP Pro Audio/Anthony J. Nocita	Meeting audio/visual services	02/10/2023	2,548.00
50727	CSG Consultants, Inc.	FY 22-23: Building Dept. - Plan Review Svcs.	02/27/2023	301.50
50728	De Lage Landen Financial	FY 22-23: Planning Dept. - Financial Svcs.	02/27/2023	212.22
50732	Engineered Fire Systems	FY 22-23: Fire Inspection Plan Reviews	02/27/2023	437.50
50734	FedEx	FY 22-23: Planning Dept. - Shipping Fees, Volume Studies	02/27/2023	27.70
50740	Iron Mountain	Scanning & Digitizing Property Files - Storage	02/27/2023	1,029.57
50741	IWORQ	PAYP - Payment Processing (Payroc)	02/27/2023	13,125.00
50745	Margaret Clovis	NIELSEN BROS. MARKET MAP BOARD	02/27/2023	1,320.00
50751	Office Depot, Inc.	Office Supplies, INV#286653490001 (split btw. accts)	02/27/2023	91.96

Total for Department: 115 Community Planning & Bu 19,093.45

Department: 116 Police

50628	Comcast	PD Cable services	02/03/2023	268.83
50639	Proforce Law Enforcement	Replace duty firearms-Police Dept	02/03/2023	6,559.97
50640	San Diego Police Equipment Co Inc	9mm Sim rounds - Safety supplies	02/03/2023	1,663.75
50643	Uretsky Security	Professional services: Background investigations for PD	02/03/2023	1,322.50
50644	US Bank	PD Training-Behavioral Analysis	02/03/2023	100.00
50644	US Bank	PD Training-Seminar	02/03/2023	459.00
50644	US Bank	PD Office supplies	02/03/2023	139.19
50650	Carmel Towing & Garage	PD Misc auto repairs and maint	02/10/2023	4,144.16
50662	Motorola Solutions Credit Co. LLC	PD Radio Service 11-21-22 to11-20-2024	02/10/2023	1,620.00
50663	Office Depot, Inc.	Police Dept office supplies	02/10/2023	576.41
50670	T2 Systems Canada Inc.	PD:Digital iris services	02/10/2023	75.00
50671	United Public Safety, Inc	Ticketing Platform for PD:Hardware, software, tech support and d	02/10/2023	10.82
50673	US Bank	PD Uniform expense	02/10/2023	139.19
50673	US Bank	Seniors Helping/CERT expenses	02/10/2023	523.68
50673	US Bank	PD Safety Equipment	02/10/2023	1,398.36
50673	US Bank	PD Office supplies	02/10/2023	164.97
50673	US Bank	PD Equipment maint expense	02/10/2023	114.13
50687	Alhambra	Water service Police Dept	02/17/2023	178.72
50691	Comcast	PD Cable services	02/17/2023	62.29
50694	De Lage Landen Financial	Police Dept copier lease	02/17/2023	169.79
50695	Department of Justice/Accounting Office	PD:Fingerprinting services	02/17/2023	96.00
50709	US Bank	PD Expenses Safety equipmmt	02/17/2023	2,005.87
50722	Comcast	PD Cable services	02/27/2023	268.84
50724	County of Monterey, Dept of Emerg Communications	Service costs 911 Dispatch and other services	02/27/2023	10,585.00
50725	Creative Services of New England	Junior officer star badges/Gold & blue foil	02/27/2023	370.95
50747	Monterey Tire Service Inc	PD-New tire purchase and installation	02/27/2023	621.59
50764	Transunion Risk & Alterna	PD: Monthly fee for information services	02/27/2023	90.20

Total for Department: 116 Police 33,729.21

Department: 117 Fire

50622	Alhambra	Water service Fire Dept	02/03/2023	165.16
50627	City Of Monterey	FY 22-23 Fire Dept vehicle repairs	02/03/2023	241,639.70
50636	Mission Linen Service	Fire Dept laundry service	02/03/2023	121.09
50646	American Supply Company	Housekeeping supplies-Fire Dept	02/10/2023	140.82
50650	Carmel Towing & Garage	Fire Dept gas expense (E15)	02/10/2023	945.77
50661	Mission Linen Service	Fire Dept laundry service	02/10/2023	121.09
50702	Mission Linen Service	Fire Dept laundry service	02/17/2023	242.18
50713	Alhambra	Water service Fire Dept	02/27/2023	167.96
50724	County of Monterey, Dept of Emerg Communications	Service costs 911 Dispatch and other services	02/27/2023	6,059.00
50746	Mission Linen Service	Fire Dept laundry service	02/27/2023	121.09

Total for Department: 117 Fire 249,723.86

Department: 118 Ambulance

50624	Bound Tree Medical LLC	Medical supplies	02/03/2023	2,083.24
50627	City Of Monterey	FY 2022-23 Ambulance-Overtime reimbursment for staffing Mty Fire	02/03/2023	14,277.68
50631	Dr. James Stubblefield, MD, Inc	Annual contract:Medical director Fire Agency Provider Controlled	02/03/2023	7,000.00
50632	Isaac Eckel	Reimburse for CAEMSA license	02/03/2023	250.00
50650	Carmel Towing & Garage	Amb Dept gas expense (7166)	02/10/2023	1,119.47
50653	De Lage Landen Financial	Ambulance Copier lease	02/10/2023	71.01
50675	Wittman Enterprises, LLC	Ambulance billing service	02/10/2023	2,873.83
50688	Bound Tree Medical LLC	Medical supplies	02/17/2023	1,221.97
50733	Entermann-Rovin Co	Replacement badges	02/27/2023	151.58

Total for Department: 118 Ambulance	29,048.78

Department: 119 Public Works

50655	Granite Rock Company	Supplies for PW	02/10/2023	1,992.65
50659	John Ley's Tree Service	Tree work as directed by City Forester-Storm 2023	02/10/2023	19,575.08
50668	Scarborough Lumber & Building	FACILITY MAINT DIVISION - Hardware supplies	02/10/2023	5.16
50673	US Bank	Supplies for FM - Uline	02/10/2023	535.80
50673	US Bank	Supplies for FM - Home Depot	02/10/2023	399.35
50712	Ailing House Pest Control	City Wide Pest Control	02/27/2023	354.00
50713	Alhambra	Water for PW Department FY 21/22	02/27/2023	875.84
50719	Carmel Towing & Garage	PW Streets - Fuel for PW vehicles	02/27/2023	3,197.10
50720	Cintas Corporation	PW Uniform Service 21/22 FY	02/27/2023	327.78
50728	De Lage Landen Financial	PW Copier monthly lease-	02/27/2023	410.80
50730	Edges Electrical Group	Electrical supplies for City Facilities	02/27/2023	3,028.36
50735	Ferguson Enterprises, Inc.	Plumbing supplies for city facilities	02/27/2023	560.02
50736	Golden State Portables	Porta-Potties FT & Events	02/27/2023	3,186.57
50737	Granite Rock Company	Supplies for PW	02/27/2023	305.48
50738	Hayward Lumber	PW Streets - Supplies	02/27/2023	244.76
50748	Napa Auto Parts	PW Streets - Vehicle Supplies	02/27/2023	474.90
50750	Nicole Nedeff	On-call Biological Services for MTNP	02/27/2023	1,072.50
50752	Otis Elevator Company	HML Contract #SJM066500	02/27/2023	611.09
50757	Pureserve Building Service	Janitorial services	02/27/2023	21,141.35
50760	Sentry Alarm Systems	Alarm monitoring for City buildings	02/27/2023	708.15
50765	Uline Inc.	PW Streets - Safety Supplies	02/27/2023	2,139.59

Total for Department: 119 Public Works	61,146.33

Department: 120 Library

50665	Pacific Grove Self Storage	Storage Unit - Document storage	02/10/2023	353.00

Total for Department: 120 Library	353.00

Department: 121 Community Activities

50673	US Bank	Supplies - Home Depot	02/10/2023	402.21
50697	Good Roots Events, Inc.	Farmers' Market production costs - signage, bags, promotions	02/17/2023	12,900.00
50709	US Bank	gift cards to thank Carmel VIP's for helping us with events	02/17/2023	200.00
50767	US Bank	cord covers, speaker & cable, broom, storage bin	02/27/2023	791.88

Total for Department: 121 Community Activities	14,294.09

Department: 122 Economic Revitalization

50648	Carmel Chamber of Commerce	Visitor Center operations support-current year	02/10/2023	30,250.00

Total for Department: 122 Economic Revitalization	30,250.00

Department: 130 Non-Departmental

50625	Cal-Am Water Company	Closing bill 1015-210020645198	02/03/2023	92.05
50638	Pacific Gas & Electric	Citywide gas & electric services	02/03/2023	15,727.34
50664	Pacific Gas & Electric	Citywide gas & electric services	02/10/2023	1,795.47
50705	Prism Public Risk Innovation	Gen Liability Program Q2 Oct-Dec 2022/Ded bill 21-22, 22-23	02/17/2023	14,892.72
50714	Alliant Insurance Services	Public official bond	02/27/2023	315.00
50715	Cal-Am Water Company	Water service citywide	02/27/2023	9,055.37
50754	Pacific Gas & Electric	Citywide gas & electric services	02/27/2023	195.57
50756	Prism Public Risk Innovation	Enterprise Risk Consultant Program-Wilmes Jan 23	02/27/2023	2,235.00

Total for Department: 130 Non-Departmental	44,308.52

Department: 311 Capital Projects

50633	IT Management Corp	Cap project:Police dispatch renovation/IT reorg: Verkada Camera	02/03/2023	2,761.03
50717	California Dept of Fish & Wildlife	Permit Fee Mission Trail drainage improvement	02/27/2023	4,294.25
50740	Iron Mountain	Scanning & Digitizing Property Files: CIP - 123IT-PAPROPR / C	02/27/2023	509.01
50749	Neill Engineers Corp.	MTNP drainage engineering project	02/27/2023	1,974.00
50759	Schaaf & Wheeler Civil Engineers	Storm Drain Master Plan	02/27/2023	10,425.00
50762	SyTech Solutions	Prof services: Digitalize planning records-123IT-PAPROPR / C	02/27/2023	19,028.74

Total for Department: 311 Capital Projects	38,992.03

Department: 513 Veh & Equip Replacement				
50753	Pacific Coast Trane Controls	Sunset Center HVAC Emergency replacement.	02/27/2023	8,070.90

Total for Department: 513 Veh & Equip Replacement		Attachment 1 8,070.90
Grand Total		955,258.30

Schedule of Contract Payments - February

Vendor	Contract Amt	Paid thru Feb	Contract Balance
Pen Messenger	\$ 107,730.00	\$ 9,789.00	\$ 97,941.00
City of Monterey *	\$ 2,839,443.00	\$ 1,818,626.07	\$1,020,816.93
J4 Systems (Expired Contract)	\$ 38,840.70	\$ 36,809.00	\$ 2,031.70
J4 Systems (New Contract)	\$ 41,840.70	\$ -	\$ 41,840.70
Pureserve *	\$ 250,000.00	\$ 147,989.45	\$ 102,010.55
4Leaf Inc.	\$ 179,800.00	\$ 22,832.50	\$ 156,967.50

Fire Admin

* FY2022-2023 Budget



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

April 4, 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 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually

RECOMMENDATION:

A motion to approve Resolution 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually.

BACKGROUND/SUMMARY:

EXECUTIVE SUMMARY

Police agencies have used cameras and Automated License Plate Reader (ALPR) technology to help solve crimes, especially when an automobile has been used. ALPR technology has continued to evolve and has become less cost prohibitive. Traditional ALPR systems included expensive fixed camera locations or mobile devices mounted on patrol cars. The Carmel Police Department currently uses mobile ALPRs for parking management and is now looking to expand this beneficial tool to fixed locations throughout the ingress and egress locations of the city.

BACKGROUND

The Carmel Police Department is constantly looking for new opportunities and cutting-edge technology to support our public safety measures. Some of the most proven effective preventative and investigative tools available to police departments are license plate reader cameras.

The Flock safety automated license plate reader (ALPR) system is a deployment of cameras throughout

the city to serve as an additional investigative resource for the police department. The flock safety lease proposed here would include twenty-four (24) Falcon ALPR cameras and six (6) Wing software overlays on existing cameras. The twenty-four (24) Cameras would be strategically spread throughout the ingress and egress areas of the city. Flock safety's camera system captures the date, time, location, license plate number, license plate state, vehicle details (type and color), as well as objects (bicycles). The vehicle also alerts the Police Department when the system identifies a stolen or wanted vehicle within second.

The key benefits of Flock Safety are that they charge an annual flat rate lease per camera of \$2500, which is wireless, free of infrastructure set up, and has the option for solar or direct power. They also include a two-year warranty, criminal justice information services compliant cloud-based hosting, unlimited user licenses, ongoing software enhancements, camera set up, mounting, shipping, handling, and a cellular connection. The flock lease program prevents the city from being burdened with maintaining costly equipment at the end of the agreement, which could require replacement.

Flock safety provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the flock system provides the ability to cover more areas of the city with system maintenance provided by the vendor rather than the staff. The flock safety system is an all-inclusive model for deploying the ALPR cameras within the ingress and egress areas of the city. There are several other differences between flock safety and other ALPR companies. Most notably, they are the only manufacturer and service provider that leases ALPR services. Compared to others, which require the purchase of equipment. The technology is also different because the falcon camera system captures motion and not just the license plate of the vehicle. Flock is also the only ALPR system partnered with Evidence.com which is our current evidence storage system for the police department.

It is believed that the entire peninsula is either exploring Flock Safety or has signed contracts for Flock Safety to be installed in their cities to assist with crime prevention. Due to multiple surrounding police agencies investing in flock safety, Carmel would benefit from sharing and accessing data from other cities should a crime take place. Flock Safety would only be used for criminal investigations and serve as a deterrent to crime. Flock Safety does not share data, and all data is only retained for 30 days. Data would only be used for crime vehicles that are uploaded to the database and when investigating crimes. The system does not capture occupants in vehicles or obtain personal information. Once purchased, we will implement a policy to support the program and the privacy of those not associated with crimes. Flock safety has data that indicates significant reductions in violent crime throughout the nation.

The Carmel Police Department will not share any data with law enforcement agencies for purposes outside of solving criminal activity or locating vehicles on the "hotlist" (stolen cars, missing persons, crime vehicles). The system is not designed to capture human beings, nor will the system be used for random checks of vehicles. All inquiries and entries into our system will be login protected an officer must identify who they are and why they are checking data in the system. We will only maintain data in the cloud for 30 days and we will not authorize Flock Safety to share our data. The intention is to keep Carmel safe through objective, fair, and ethical measures.

The price for Flock Safety cameras will increase in April 2023 from \$2500 per camera to \$3000. We recommend City Council approve a two-year contract to lock us at a lower rate before the price increase takes effect.

To continue our efforts to enhance the safety of our community, we strongly believe this technology will deter crime and assist our officers in responding to and solving crime in a more expedient manner.

FISCAL IMPACT:

Start-up cost with equipment and installation: \$77,900.00 (24 solar-powered ALPR cameras and 6 software

camera overlays on existing cameras). Annual program costs: \$69,000 (after year 1). Funding Source: 101-116-00-42104 General Fund Expenditures Police: Safety Equipment and Supplies.

PRIOR CITY COUNCIL ACTION:

On February 21, 2023, Council adopted the 22-23 FY mid year budget adjustment to cover the cost of ALPR cameras and software.

ATTACHMENTS:

- Attachment 1) Resolution 2023-031
- Attachment 2) Flock Safety FAQ's
- Attachment 2) Flock Safety Sole Source Letter
- Attachment 3) Flock Overview for Cities
- Attachment 4) Flock Safety ALPR Privacy and Ethics
- Attachment 5) Flock Group Inc. Agreement

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

RESOLUTION NO. 2023-031

RESOLUTION 2023-031 AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A 24-MONTH SERVICE AGREEMENT WITH FLOCK SAFETY GROUP INC. FOR THE LEASE OF TWENTY-FOUR (24) FALCON AUTOMATED LICENSE PLATE READER (ALPR) CAMERAS AND SIX (6) WING (ALPR) SOFTWARE OVERLAYS ONTO EXISTING CITY CAMERAS, FOR A YEAR 1 COST OF \$77,900 AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A TWO-YEAR RENEWAL AGREEMENT TO MAINTAIN THE PROGRAM, NOT TO EXCEED \$69,000 ANNUALLY

WHEREAS, Police agencies have used cameras and Automated License Plate Reader (ALPR) technology to help solve crimes, especially when an automobile has been used. ALPR technology has continued to evolve and has become less cost prohibitive; and

WHEREAS, the Carmel Police Department currently uses mobile ALPRs for parking management and is now looking to expand this beneficial tool to fixed locations throughout the ingress and egress locations of the city; and

WHEREAS, Flock Safety Group is the only ALPR system that partners with Evidence.com, which is the current evidence storage system the Carmel Police Department uses. Flock manufacturer is also the only service provider that leases ALPR services, which will prevent the city from being burdened with maintaining costly equipment that would need replacement; and

WHEREAS, it is believed that the entire peninsula is either exploring flock Safety or has signed contracts for flock Safety to be installed in their cities to assist with crime prevention. Due to multiple surrounding police agencies investing in flock safety, Carmel would benefit from sharing and accessing data from other cities should a crime take place; and

WHEREAS, to continue our efforts to enhance the safety of our community, we strongly believe this technology will deter crime and assist our officers in responding to and solving crime in a more expedient manner; and

WHEREAS, the Flock ALPR start-up cost with equipment and installation is \$77,900.00 (24 solar-powered ALPR cameras and 6 software camera overlays on existing cameras). Annual program costs: \$69,000 (after year 1), and the annual program costs \$69,000; and

WHEREAS, on February 21, 2023, Council adopted Resolution 2023-025, which approved a mid-year budget adjustment for FY 22/23 to cover the first year start up cost of \$77,900 in fund 101-116-00-42104 for Police Safety Equipment and Supplies, which sufficient to cover the first year of the contract; and

WHEREAS, the annual renewal costs for the Flock Safety System ALPR program for \$69,000 per year will be submitted in the budget for Council approval in FY 23-24 and subsequent years.

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 a Professional Service Agreement with with Flock Safety Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 14th day of March, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

About Automatic License Plate Readers (ALPR)

The Problem: Violent Crime Is Not Going Away

Nationwide, cities are experiencing a disturbing rise in homicides and violence. The FBI's 2020 Crime Report shows a 30% increase in homicides from 2019 to 2020, the largest single-year increase recorded.

Over two-thirds of the country's most populous cities saw [even more homicides](#) in 2021.

One Solution: Technology that Detects Objective Evidence to Clear More Cases

Automated License Plate Readers (ALPR) capture computer-readable images of license plates and vehicles, allowing officers to compare plate numbers against those of stolen cars or wanted individuals on a crime database like the NCIC.

ALPR devices assist law enforcement in solving crime in two ways:

- Proactive - ALPR devices provide real-time alerts when a vehicle that is stolen or associated with a known suspect is detected.
- Investigative - ALPR cameras help determine whether and which vehicle(s) were at the scene of a crime.

Is ALPR effective ?

According to the National Conference of State Legislatures, when employed ethically and objectively, ALPRs are an effective tool for law enforcement, cutting down on the time required for investigations and acting as a force multiplier. In 2011, a study by the Police Executive Research Forum concluded that ALPRs used by the Mesa, Ariz., Police Department resulted in "nearly 3 times as many 'hits' for stolen vehicles, and twice as many vehicle recoveries."

Communities with ALPR systems report crime reductions of up to 70 percent. In some areas, that included a 60 percent reduction in non-residential burglaries, 80 percent reduction in residential burglary, and a 40 percent reduction in robberies.

ALPR Provides Objective Evidence While Protecting Privacy

ALPR does not include facial recognition capabilities and does not capture personally identifiable information (PII). While eyewitnesses and individual officers are subject to inherent human bias, ALPR cameras capture wholly-objective images of vehicles and license plates, providing a clear and actionable investigative lead.

ALPR Use Cases Include:

- **AMBER Alerts:** License plate readers in metro Atlanta were able to find a vehicle containing a kidnapped one-year-old, who had been taken from his mother at random off the street. The child was recovered unharmed. Some ALPR systems integrate directly with the National Center for Missing and Exploited Children's AMBER Alert system, sending real-time alerts to officers in seconds. [[New information released about 1-year-old's kidnapping](#)]
- **Silver Alerts:** Knoxville Police were able to locate a missing elderly man who suffers from dementia after he drove away in a family vehicle. ALPR technology has helped solve hundreds of Silver Alerts across the country. [[Missing man with dementia found using Flock camera](#)]
- **Firearm violence:** The Las Vegas Trail, a high-crime area in Fort Worth, TX, saw violent crime decrease by 22% in 2021 compared with the first nine months of 2019. Fort Worth Police attributed this drop partially to the license plate reader system implemented in the neighborhood during the same period of time. [[Crime is down 22% in Fort Worth's Las Vegas Trail. How neighbors and police made it safer](#)]
- **Organized theft:** Grafton, a growing village with a bustling retail district, is dealing with increased organized retail theft – Two-thirds of all the crimes reported to Grafton police in 2020 were retail thefts. Grafton Police have implemented a license plate reader system to identify vehicles that have been involved in thefts or have been stolen themselves. In one week alone, they recovered three stolen vehicles with drivers planning to engage in retail theft. [[Losses mount as retailers fight theft rings, accuse online storefronts of doing little to stop resale of stolen goods](#)]

Sole Source Letter for Flock Safety™ ALPR Cameras and Solution

Flock Safety is the sole manufacturer and developer of the Flock Safety ALPR Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety ALPR Camera.

The Flock Safety ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:

1. Vehicle Fingerprint Technology™:

- Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
- Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
- Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
- Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
- Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Falcon Flex ties seamlessly into the Flock ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge

2. Integrated Cloud-Software & Hardware Platform:

- Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
- Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
- Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
- Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection
- Utilizes motion capture to start and stop recording without the need for a reflective plate

flock safety

- Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
 - On device machine processing to limit LTE bandwidth consumption
 - Cloud storage of footage
 - Covert industrial design for minimizing visual pollution
3. Transparency & Ethical Product Design:
- One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock system
 - Built-in integration with NCMEC to receive AMBER Alerts to find missing children
 - Privacy controls to enable certain vehicles to “opt-out” of being captured
4. Integrated Audio & Gunshot Detection:
- Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)
5. Live Video Integration:
- Ability to apply computer vision to third-party cameras using Wing™ LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon™ ALPR cameras
 - Wing™ Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
 - Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety’s Wing™ Suite
 - Access Wing™ Replay to unlock enhanced situational awareness with 7-day footage retention, Hot List Live Video Instant Replay, and downloadable MP4
6. Partnerships:
- Flock Safety is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com
 - Flock Safety is the only LPR provider to be fully integrated into a dynamic network of Axon’s Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety’s Falcon cameras
 - Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost
-

7. Warranty & Service:

- Lifetime maintenance and support included in subscription price
- Flock Safety is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
- Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,



Garrett Langley CEO, Flock Safety

flock safety

Attachment 4

Let's defeat crime together

Help your city reduce crime with cameras that see like a detective

"Flock Safety made my job easy. The system was up and running in just a few weeks, and has proven to help our police department find the evidence to solve more crime."

City Manager in Ohio

Flock Safety provides an affordable, infrastructure-free automatic license plate reading (ALPR) camera system for cities who want to reduce crime within a principled framework. Unlike traditional ALPR, Flock uses Vehicle Fingerprint™ technology to transform hours of footage into a searchable database to find the single piece of evidence needed, even when a license plate isn't visible.

Not your average security cameras

Infrastructure-Free and Discreet Design

With solar power and LTE connectivity, we can install the devices almost anywhere. And the beautiful design means it will blend in with your city's aesthetic.

Safety-as-a-Service

We install and maintain the devices, so you can focus on running the city. That means we will support you from procurement, through permitting, and even preparing you to present this project to the city council.

Vehicle Fingerprint Technology

Your officers can find vehicle evidence by vehicle type, make, color, license plate state, missing and covered plates, and other unique features like bumper stickers, decals, and roof racks.



Join 2500+ cities using Flock Safety to eliminate crime

Attachment 4



Detect

objective evidence your police need to solve crime



Decode

footage with machine learning so your police can investigate



Deliver

real-time alerts to police if a wanted or stolen vehicle drives by

Public Safety Technology Built with Principles

You own the footage

We won't share it or sell it. It's 100% yours for your law enforcement to use to solve crime.

Protect resident privacy

All data automatically deletes by default every 30 days on a rolling basis and is encrypted with AES-256 encryption.

Promote transparency and accountability

Flock provides a transparency portal to share data with your community about how the devices work on an ongoing basis. Flock requires an investigative reason to search and proactively provides an audit report to city leadership.

Clear pricing and infrastructure free

\$2500 per camera / year. All the footage is stored in the cloud at no additional fee and there are no hidden costs.

Protect the Whole Community

It takes all community members working together to eliminate crime, which is why we created a public-private partnership that enables businesses, neighborhoods, schools, and others to partner with your city and police department to build your network.

Learn More:



"Flock Safety continues to enhance and help our police department capture these vehicles and return the assets to their owners."

-Council member Josh McCurn of Lexington, KY



About Flock Safety ALPR

Privacy and Ethics Factsheet

How does Flock Safety keep devices and data secure?

Flock Safety holds itself to the highest level of security. We have implemented the following security policies and features:

- Flock Safety data and footage is encrypted throughout its entire lifecycle. All data is securely stored with AES256 encryption with our cloud provider, Amazon Web Services.
- On-device, data is only stored temporarily for a short time until it is uploaded to the cloud, at which point it is removed automatically from the local device. This means the data is secure from when it is on the Flock Safety device to when it is transferred to the cloud, using a secure connection to Flock Safety servers. While stored in the cloud, all data (both footage and metadata) is fully encrypted at rest.
- Flock Safety defaults to permanently deleting all data after 30 days on a rolling basis, setting a new standard in the industry.

Who has access to data collected by Flock Safety devices?

- Flock Safety's customers own 100% of their data and determine who has access. Flock Safety will never share or sell the data, per our privacy policy.
- With explicit written permission from the customer, Flock Safety does have the ability to grant law enforcement access to specific footage for a short period (24 hours, 48 hours, or however long the customer desires) in the event of an investigation following a crime. Access can only be granted through the approval of the customer.
- Flock Safety has maintenance software in place to measure device performance and image capture quality. This is used to diagnose issues preemptively and schedule service calls in the event of a device malfunction or emergency.

About Flock Safety ALPR

Privacy and Ethics Factsheet

How long does Flock Safety keep data?

- Flock Safety stores footage for only 30 days on a rolling basis by default, after which the footage is automatically hard deleted. The only exception to this is if a democratically-elected governing body or official legislates a different data retention period.

What features do Flock Safety devices have that enable audits and oversight?

- While searching for footage or other evidence on the Flock Safety platform, law enforcement agencies must enter reason codes to verify the legitimacy of the search and create an audit trail.
- Authorized users go through training to properly use our system and communicate with their dispatch teams.
- Flock Safety customers commit not to use the data collected to work with third-party repossession companies, traffic enforcement, revenue collection, unpaid fines, or towing companies. We do not use facial recognition or capture any personally identifiable information such as name, phone number, or address, and we do not work with federal government agencies for immigration enforcement purposes.
- Flock Safety's ALPR Transparency Portal, an optional free feature for all law enforcement customers, is the first public-facing dashboard for law enforcement agencies, city leaders, and local government officials to share policies, usage, and public safety outcomes related to ALPR technology. The ALPR Transparency Portal helps promote transparency and accountability in the use of policing technology in order to build community trust while creating a safer, more equitable society.

FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: CA – City of Carmel, Police Department	Contact Name: Jeff Watkins
Legal Entity Name: City of Carmel by the Sea, a municipal corporation	
Address: 4th Ave Carmel by the Sea, California 93921	Phone: (831) 624-6403 E-Mail: jwatkins@ci.carmel.ca.us
Expected Payment Method:	Billing Contact: (if different than above)

Initial Term: 24 months Renewal Term: 24 months	Billing Term: Billing Term: Invoice Plan payment due Net 30 per terms and conditions Billing Frequency: 1 year invoices broken into 3 payments. 1st invoice: All professional services/implementation costs and 50% of Annual Recurring Subtotal. 2nd Invoice: 25% of Annual Recurring Subtotal. 3rd Invoice: 25% of Annual Recurring Subtotal. Annual payment at annual subscription term date invoiced for the remainder subscription term after initial 12 months.

Professional Services and One-Time Purchases

Name	Price/Usage Fee	QTY	Subtotal
Professional Services - Standard Implementation Fee	\$350.00	24.00	\$8,400.00
Professional Services - Advanced Implementation Fee	\$500.00	1.00	\$500.00

Hardware and Software Products

Annual recurring amounts over subscription term

Name	Price/Usage Fee	QTY	Subtotal
Falcon	\$2,500.00	24.00	\$60,000.00
Wing LPR	\$1,500	6.00	\$9,000.00

Subtotal Year 1:	\$77,900.00
Subscription Term:	24 Months
Annual Recurring Total:	\$69,000.00
Estimated Sales Tax:	\$0.00
Total Contract Amount:	\$146,900.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: CA – City of Carmel by the Sea

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Advanced Search**” means the provision of Services, via the web interface using Flock’s software applications, which utilize advanced evidence delivery capabilities including convoy analysis, multi-geo search, visual search, cradlepoint integration for automatic vehicle location, and common plate analysis.

1.2 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.3 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.4. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.6 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.7 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

1.8 “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.9 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.10 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.11 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.12 “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.13 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.15 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.17 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.18 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.19 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined below.

1.20 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.21 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.22 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.23 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.24 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.25 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.26 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.27 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.28 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.29 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.30 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency’s sole and exclusive remedy and Flock’s sole and exclusive liability with regard to such third-party services, including without limitation hosting the Web Interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 Wing Suite License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 **Flock IP.** The permitted purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency (“**Permitted Purpose**”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. **Flock Hardware.** Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 **Retained Rights; Ownership.** As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock’s sole discretion. There are no implied rights.

2.7 Suspension.

2.7.1 **Service Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for

anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Agency's account ("**Service Suspension**"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.8 Installation Services.

2.8.1 Designated Locations. For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("**Designated Location**") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan ("**Reinstalls**") will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

2.8.2 Agency Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency (“**Agency Installation Obligations**”). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.3 Flock’s Obligations. Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

2.8.4 Ownership of Hardware. Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any

payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right.

2.9 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.10 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com, at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 Special Terms. From time to time, Flock may offer certain special terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency's prior written consent ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 Upgrades to Platform. Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency

will not share its account or password with anyone and must protect the security of its account and password. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing

Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.5. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

4.4 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.5 Aggregated Data. Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1.1 Software Product Fees. For Order Forms listing Wing Suite, Advanced Search and other software-only products, Agency will pay Flock the fees for the Initial Term (as described on the Order Form attached hereto) on or before the 30th day from the date of invoice. For any Renewal Terms, Agency shall pay invoice on or before the 30th day from the date of renewal invoice.

5.1.2 Hardware Product Fees. For Order Forms listing Falcon, Sparrow, Raven and Falcon Flex products, Agency will pay Flock fifty percent (50%) of the fees for the Initial Term as set forth on the Order Form on or before the 30th day from date of invoice. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of total fees, and Agency shall pay on or before 30th day following date of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay on or before 30th day following date of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For any Renewal Terms, Agency shall pay the total invoice on or before the 30th day from the date of renewal invoice.

5.2 Notice of Changes to Fees. Flock reserves the right to change the fees or applicable charges and to institute new charges and fees on subsequent terms by providing sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email).

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the receipt of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income. If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to

receive an adjustment or credit. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

6. TERM AND TERMINATION

6.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form and shall commence at the time outlined in this section below (the “**Term**”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.
- e. For Advanced Search products: the Term shall commence upon execution of this Agreement.

6.2 **Termination for Convenience.** At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products and Advanced Search are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock’s own convenience, within a commercially reasonable period of time upon termination. Agency’s termination of this Agreement for Flock’s material breach of this Agreement shall not be considered a termination for convenience for the purposes of this Section 6.2.

6.3 **Termination.** Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party’s making an assignment for the benefit of creditors, or (iii) upon the other Party’s dissolution or ceasing to do business. Upon termination for Flock’s material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

6.4 No-Fee Term. Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 (“**No-Fee Term**”). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days’ notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days’ notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 10.1 and 10.6.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Agency must notify Flock’s technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of

other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

7.5 Insurance. Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

7.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH

ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

9. INDEMNIFICATION

Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement.

Flock agrees to indemnify and hold Agency harmless against any damages, losses, liabilities, settlements and expenses, including attorney's fees and costs arising out of third party claims for copyright and intellectual property infringement, public records act claims, an alleged violation of Flock's obligations under this agreement, Flock's

sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Flock's provision of Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right.

10. MISCELLANEOUS

10.1 Compliance With Laws. The Agency and Flock and its agents agree to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

10.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

10.4 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

10.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7 **Publicity.** Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8 **Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

10.10 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

10.11 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210
ATLANTA, GA 30318
ATTN: LEGAL DEPARTMENT
EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS:

City of Carmel City Hall
4th Ave

Carmel, California 93921

ATTN:

EMAIL:



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

April 4, 2023
CONSENT AGENDA

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Brian Pierik, City Attorney
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Resolution 2023-032, Declaring the continued existence of a local emergency due to the 2022-23 Atmospheric River Winter Storm Event

RECOMMENDATION:

Motion to adopt Resolution 2023-032, declaring the continued existence of a local emergency due to the 2022-23 Atmospheric River Winter Storm Event.

BACKGROUND/SUMMARY:

On December 30 and 31, 2022, Monterey County ("County") and the City of Carmel by-the-Sea ("City"), experienced a major rain event (the "2022-23 Atmospheric River Winter Storm"). As a result of the 2022-23 Atmospheric River Winter Storm, major flooding in the County and the City caused damage to public and private property. Damage to public infrastructure has included localized flooding, roadway slope erosion and embankment slip-outs, debris flows, landslides, and culvert failure affecting the safety of said roadways; obstruction of public roadways from stormwater, storm debris, fallen trees, and roadway failure; damage to storm drain infrastructure; and damage to public and private utilities and damage to public facilities and parks throughout the County and in the City.

On January 4, 2023, California Governor Gavin Newsom proclaimed a state of emergency in response to severe winter storms that relate to a series of atmospheric river systems that struck California in December 2022, and are forecasted to continue.

On January 4, 2023, Interim County Administrative Officer of the County proclaimed the existence of a local emergency on January 4, 2023, and the Board of Supervisors of the County adopted a resolution ratifying the proclamation of a local emergency.

On January 13, 2023, based on the events described above, Chip Rerig (City Administrator of the City and the Director of Emergency Services of the City) issued a Proclamation of Existence of a Local Emergency by the City Administrator.

On January 17, 2023, Council adopted Resolution 2023-008 Ratifying the Proclamation of the existence of a local emergency due to the 2022- 2023 Atmospheric River Winter Storm Event.

Current Situation

On January 14, 2023, President Joe Biden declared that a major disaster exists in the State of California and ordered Federal aid to supplement State, tribal, and local recovery efforts in the areas affected by severe winter storms, flooding, landslides, and mudslides beginning on December 27, 2022, and continuing. The President's action makes Federal funding available to affected individuals in the counties of Merced, Sacramento, and Santa Cruz. On January 17, Monterey County was added to the list of affected counties.

State and local teams have begun and continue to conduct damage assessments in areas of the county impacted by flooding, including Carmel River State Beach, where the beach access parking lot was buried in sand and a large portion of Scenic Drive was damaged. Both the parking lot and the southern end of Scenic Drive remains closed due to these damages. Officials with Monterey County are continuing to gather damage information caused by the 2023 Winter Storm countywide. The last estimate of damages caused by the storm is nearly \$80 million.

The true extent of the damage caused by the 2022-23 Atmospheric River Winter Storm and cost of damages to Carmel-by-the-Sea has yet to be ascertained. Soil conditions in the City remain saturated as a result of the 2022-23 Winter Storm increase the likelihood of further damage from earth slippage events, including the potential for flooding. City Staff is currently working on storm recovery and will continue for the next several months.

Conclusion

Per Resolution 2023-008, the local emergency due to the Winter Storms shall be deemed to continue to exist and shall be reviewed at least once every 30 days until its termination is proclaimed by the City Council of the City of Carmel-by-the-Sea per California Government Code section 8630. By adopting the attached Resolution, (**Attachment 1**) the declaration of the local emergency due to the Winter Storm Event will be renewed for another 30 days.

FISCAL IMPACT:

No direct fiscal impact for this action.

PRIOR CITY COUNCIL ACTION:

On January 17, 2023, Council adopted Resolution 2023-008 Ratifying the Proclamation of the existence of a local emergency due to the 2022-2023 Atmospheric River Winter Storm Event. The Local Emergency was renewed for another 30 days on February 7, 2023, and March 7, 2023, via Resolution.

ATTACHMENTS:

Attachment 1) Resolution 2023-032

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

Attachment 1

RESOLUTION NO. 2023-032

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
DECLARING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY DUE TO THE 2022-
2023 ATMOSPHERIC RIVER WINTER STORM**

WHEREAS, the California Emergency Services Act (California Government Code sections 8639, 8550, et. seq.) defines a local emergency as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat; and

WHEREAS, Chapter 2, section 2.64.020 of the City of Carmel-by-the-Sea ("City") Municipal Code defines emergency as the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, Chapter 2, section 2.64.050 of the City of Carmel-by-the-Sea ("City") Municipal Code designates the City Administrator as the Director of Emergency Services for the City; and

WHEREAS, Chapter 2, section 2.64.060 empowers the City Administrator, as the Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City Council is not in session so long as such proclamation is ratified by the City Council within seven (7) days; and

WHEREAS, California Governor Gavin Newsom proclaimed a state of emergency on January 4, 2023, in response to severe winter storms that relate to a series of atmospheric river systems that struck California in December 2022, and are forecasted to continue; and

WHEREAS, the Board of Supervisors of the County of Monterey adopted a resolution ratifying the County Administrative Officer's proclamation of a local emergency issued on January 4, 2023; and

WHEREAS, on December 30 and 31, 2022, Monterey County, including the City, experienced a major rain event (the "2022-23 Atmospheric River Winter Storm"); and

WHEREAS, as a result of the 2022-23 Atmospheric River Winter Storm, major flooding in the County, including the City, caused damage to public and private property, such as road closures, and loss of power; and

WHEREAS, various other roads and infrastructure in the City have been damaged as a result of the 2022-23 Atmospheric River Winter Storm; and

WHEREAS, damage to infrastructure have included localized flooding, roadway slope erosion and embankment slip-outs, debris flows, risk of falling trees, landslides, and culvert failure affecting the safety of said roadways; obstruction of public roadways from stormwater, storm debris, fallen trees and roadway failure; damage to storm drain infrastructure and other infrastructure; and

WHEREAS, Monterey County currently estimates of the damage caused by the 2022-23 Atmospheric River Winter Storm exceed \$80 million, and the true extent of the damage caused by the 2022-23 Atmospheric River Winter Storm has yet to be ascertained; and

WHEREAS, based on said events, the City Administrator of the City of Carmel-by-the-Sea declared the existence of a local emergency within the City on January 13, 2023; and

WHEREAS, the Proclamation of the Existence of a Local Emergency issued by the City Administrator acting as the Director of Emergency Services was ratified by the City Council of the City of Carmel-by-the-Sea on January 17, 2023; and

WHEREAS, said local emergency shall be deemed to continue to exist and shall be reviewed at least once every 30 days until its termination is proclaimed by the City Council of the City of Carmel-by-the-Sea per California Government Code section 8630; and

WHEREAS, the City Administrator or his designee is authorized to take whatever other action is authorized under the Carmel-by-the-Sea Municipal Code and state and federal law, subject to any required authorization from the City Council, consistent with this Resolution and its basic purposes.

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

Section 1. Imminent Risk to Health and Safety. Soil conditions in the City and remain saturated as a result of the 2022-23 Atmospheric River Winter Storm, increasing the likelihood of further damage from earth slippage events, including the potential for flooding, risk of falling trees, and other infrastructure damage.

Section 2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) 30 days from the date of adoption of this Resolution, or (ii) such time the City Council adopts a subsequent resolution rescinding this Resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 4th day of April, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk



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

April 4, 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 2023-033 approving a list of street projects for Fiscal Year 2023/24 partially funded by SB1: The Road Repair and Accountability Act of 2017

RECOMMENDATION:

Adopt Resolution 2023-033 approving a list of street projects for Fiscal Year 2023/24 partially funded by SB1: The Road Repair and Accountability Act of 2017.

BACKGROUND/SUMMARY:

California charges excise and sales taxes on gasoline and diesel fuel for transportation-related purposes and allocates a percentage of the funding to cities and counties. This funding is known as the Highway Users Tax Account (HUTA), also referred to as the gas tax. Until 2017, the gas tax had not been updated in 23 years, and the State was confronted with a backlog of deferred infrastructure repairs for bridges, freeways, and roads.

In April 2017, the Governor signed Senate Bill 1 (SB1), the Road Repair and Accountability Act, into law. This legislation addresses road maintenance, rehabilitation, and safety needs of both the State highway system and local streets by increasing the per gallon fuel excise taxes, raising diesel fuel sales taxes, and charging new vehicle fees. SB 1 is estimated to generate \$1.5 billion a year for California cities and counties for street maintenance efforts statewide. Since November 1, 2017, a portion of this new funding, called the Road Maintenance and Rehabilitation Account (RMRA), has been apportioned by formula to eligible cities and counties for local street purposes.

In order for the City to be eligible to receive RMRA funds, the City must:

- A) Adopt City budgets that include the proposed SB 1 street projects list.
- B) Incorporate the SB 1 project list, including project description, locations, schedule, and estimated useful life, in the Capital Improvement Plan (CIP), and submit the CIP to the California Transportation Commission annually by October 16.
- C) Sustain a certain amount of local funding for streets, known as the Maintenance of Effort.
- D) Report on the use of the funds annually.

Public Works has identified the proposed street projects based on the Street Saver Pavement Management System. Working with the Transportation Agency of Monterey County (TAMC) and their paving consultant, NCE, the City's field condition assessment was performed in the Fall of 2022, and updated pavement rehabilitation strategies and cost information were recently incorporated into the Pavement Management System database.

Used by numerous agencies throughout California, the Street Saver System scientifically optimizes public funds by targeting pavement rehabilitation strategies to roadway segments which are about to slip into rapid decline, rather than allocating dollars to an agency's most damaged pavement sections which will ultimately require more-costly, complete pavement section reconstructions. Public Works staff has slightly modified the Street Saver's recommended roadway segment list due to other planned projects and by grouping similar pavement rehabilitation treatments to further optimize cost-effectiveness.

For Fiscal Year 2023/24, Public Works recommends that we focus on three primary categories of repairs: pavement overlays on a limited number of streets, provide less-costly slurry seal treatment on as many streets as the budget allows, and repair large sections of sidewalks that are beyond the capacity of staff. During the design phase of these street repairs, other street elements will be considered and incorporated into the project as appropriate. These elements may include bicycle markings, drainage, signage, trees and landscaping, and/or aesthetic enhancements.

When the City Council adopts the FY 2023/24 Capital Improvement Plan and Operating Budget, the project description for "Streets and Road Projects" will include the following lists of streets planned to be partially funded with HUTA and RMRA account revenues:

"Resurface the following streets with an asphalt overlay:

- 1. Ocean Avenue, Carpenter Street to East City Limits***
- 2. Santa Lucia Avenue, Dolores Street to Rio Road***
- 3. Sixth Avenue, Junipero to Torres Streets***
- 4. Sixth Avenue, Monte Verde to Lincoln Streets***
- 5. Tenth Avenue, Junipero to Torres Streets***

Remove sections of failed pavement, and slurry seal the following road segments:

- 6. Dolores Street, Vista to Second Avenues***
- 7. Dolores Street, Fifth to Ocean Avenues***
- 8. Flanders Way, Vizcaino to Crespi Avenues***
- 9. Forest Road, Ocean to Seventh Avenues***
- 10. Guadalupe Street, Second to Third Avenues***
- 11. Guadalupe Street, Fifth to Sixth Avenues***
- 12. Lobos Street, First to Second Avenues***
- 13. Mission Street, Ocean to Eighth Avenues***
- 14. Monte Verde Street, Second to Fourth Avenues***
- 15. Monterey Street, North End to Second Avenue***
- 16. Perry Newberry Way, Fourth to Sixth Avenues***
- 17. Pine Ridge Way, Forest Road to Turn Around***
- 18. Santa Fe Street, Third to Fourth Avenues***
- 19. Santa Rita Street, North City Limits to Mountain View Avenue***
- 20. Second Avenue, Casanova to Monte Verde Streets***
- 21. Sixth Avenue, Dolores to Mission Streets***
- 22. Sixth Avenue, Guadalupe to Carpenter Streets***
- 23. Third Avenue, Monte Verde to Dolores Streets***

- 24. Torres Street, North of Eleventh Avenue**
- 25. Vizcaino Avenue, Mountain View Avenue to Flanders Way**

Remove broken areas of concrete, asphalt, and brick sidewalks, and replace with permeable pavers, where needed, along the following street segments:

- 26. Junipero Street – west side, Sixth to Ocean Avenues**
- 27. Northwest Corner – Dolores Street and Seventh Avenue**
- 28. Northwest Corner – Dolores Street and Sixth Avenue**
- 29. Ocean Avenue - north side, Lincoln to Dolores Streets**
- 30. Sixth Avenue – north side, Lincoln to Dolores Streets**
- 31. Sixth Avenue – south side, Mission to Junipero Streets**
- 32. Southeast Corner – Dolores Street and Ocean Avenue**

Install ADA-compliant ramps at intersections and modify drainage as required. Provide bike route markings, restore traffic striping and pavement markings as indicated on the plans, and provide landscaping and/or trees to supplement the project.

Note: Currently, costs of roadway materials and construction labor are highly erratic due to construction labor shortages, busy contractors, supply chain issues, and inflation. Therefore, it is unknown at this time which, and to what extent, the above list of streets can be repaired. Further, local engineering design firms are facing staffing shortages and backlogs of work, leading to project delays. However, bundling similar projects with the same, or similar, pavement resurfacing treatments (asphalt overlays and slurry seals), will stretch the limited available funding in a cost-effective manner.

The useful life of the repaired road segments will depend on the pavement rehabilitation method selected for each street. An asphalt overlay may extend the useful life of the residential and collector streets by 20 to 25 years, and arterials (Ocean Avenue) by 15 to 20 years. A slurry seal may have a useful life of 5 to 10 years.

The design of this project is anticipated to begin by fall 2023 with construction occurring in the fall of 2024, following the busy summer season."

FISCAL IMPACT:

The City is estimated to receive a total of \$438,570 in FY 2023/24 from the following sources, via TAMC:

No.	Funding Source	Estimated Amount
1	Measure X	\$231,779
2	Highway Users Tax (Gas Tax)	91,744
3	SB 1 - RMRA	78,190
4	Regional Surface Transportation Program Fair Share (RSTP)	36,857
	Total	\$438,570

These amounts will be shown as revenue in the City's budget for FY 2023/24 and allocated to the street paving project within the Capital Projects Fund.

In order to receive this funding, the City must annually expend from its General Fund for street purposes an amount not less than the annual average of its expenditures of the past three (3) fiscal years. This amount is known as Maintenance of Effort (MOE). Based on the most recent available information, the City's MOE for FY 2023/24 is \$657,329. This figure will be included in the City's Capital Improvement Plan for FY 2023/24.

The total Project funding is estimated to be \$1,095,899.

The program-level cost estimates for the various components of the Projects are tabulated below:

No.	Component	Budget
1	Engineering & Design	\$170,000
2	Pavement Overlays (5 Streets)	350,000
3	Slurry Seals (20 Streets)	235,000
4	Sidewalk Repairs (7 Locations)	140,000
5	ADA ramps, bike & pavement markings, drainage, trees/ landscape	90,000
6	Contingency 10%	110,000
	Total	\$1,095,000

PRIOR CITY COUNCIL ACTION:

In April 2020, Council adopted Resolution 2020-026, approving a list of streets to be repaved for inclusion in the FY 2020/21 Budget and Capital Improvement Plan. In May 2021, Council adopted Resolution 2021-018, approving a list of 15 streets to be repaved for inclusion in the FY 2021/22 Budget and Capital Improvement Plan.

In May 2022, Council adopted Resolution 2022-039 approving a list of street projects for Fiscal Year 2022/23 partially funded by SB1, subsequently known as the "Concrete Streets Repair Project."

ATTACHMENTS:

Attachment 1) Resolution 2023-033

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
RESOLUTION NO. 2023-033**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
APPROVING A LIST OF STREETS TO BE RESURFACED FOR INCLUSION IN THE FISCAL
YEAR 2023/24 CAPITAL IMPROVEMENT PLAN AND BUDGET PARTIALLY FUNDED BY
SB1: THE ROAD REPAIR AND ACCOUNTABILITY ACT**

WHEREAS, Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017, was passed by the Legislature and signed into law by the Governor in April 2017 in order to address the significant, multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB1 includes accountability and transparency provisions that will ensure the residents of the City of Carmel-by-the-Sea are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must include a list of all projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB1 by resolution, in the City budget, and which must include a description and location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvements; and

WHEREAS, the City will receive an estimated total of \$169,934 from SB1 in FY 2021/22 from the Highway Users Tax Account (HUTA) (\$91,744) and RMRA (\$78,190), plus \$231,779 from County Sales Tax Measure X, and \$36,857 from the Regional Surface Transportation Program – Fair Share, and anticipates allocating \$657,326 of its General Fund (Measure C) and local revenues to cover the Maintenance of Effort requirement for street projects, for a total project budget of \$1,095,899; and

WHEREAS, this is the sixth year in which the City is receiving SB1 funding which will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, and increase access and mobility options for the traveling public that would not have otherwise been possible without SB1; and

WHEREAS, the City has undergone a public process to ensure public input into our community's transportation priorities and project list; and

WHEREAS, the City has used a Pavement Management System to develop and update the SB1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, this year, funding from SB1 will help the City overlay approximately five road segments, slurry seal approximately twenty road segments, and repair sidewalks at up to seven locations, as well as complete similar projects into the future; and

WHEREAS, the 2016 California Statewide Local Streets and Roads Needs Assessment found that the City's roadways are in fair but at-risk condition, that SB 1 revenues will increase the overall quality of our road network, and, over the next decade, help upgrade our streets into an overall satisfactory condition; and

WHEREAS, the SB1 project list and overall investment in our local street infrastructure with a focus on basic materials and practices, will have significant, positive benefits statewide.

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

1. The foregoing recitals are true and correct.
2. The following list of street and sidewalk projects will be funded in part with Fiscal Year 2023/24 Road Maintenance and Rehabilitation Account revenues:

“Resurface the following streets with an asphalt overlay:

- 1. Ocean Avenue, Carpenter Street to East City Limits***
- 2. Santa Lucia Avenue, Dolores Street to Rio Road***
- 3. Sixth Avenue, Junipero to Torres Streets***
- 4. Sixth Avenue, Monte Verde to Lincoln Streets***
- 5. Tenth Avenue, Junipero to Torres Streets***

Remove sections of failed pavement, and slurry seal the following road segments:

- 6. Dolores Street, Vista to Second Avenues***
- 7. Dolores Street, Fifth to Ocean Avenues***
- 8. Flanders Way, Vizcaino to Crespi Avenues***
- 9. Forest Road, Ocean to Seventh Avenues***
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- 11. Guadalupe Street, Fifth to Sixth Avenues***
- 12. Lobos Street, First to Second Avenues***
- 13. Mission Street, Ocean to Eighth Avenues***
- 14. Monte Verde Street, Second to Fourth Avenues***
- 15. Monterey Street, North End to Second Avenue***
- 16. Perry Newberry Way, Fourth to Sixth Avenues***
- 17. Pine Ridge Way, Forest Road to Turn Around***
- 18. Santa Fe Street, Third to Fourth Avenues***
- 19. Santa Rita Street, North City Limits to Mountain View Avenue***
- 20. Second Avenue, Casanova to Monte Verde Streets***
- 21. Sixth Avenue, Dolores to Mission Streets***
- 22. Sixth Avenue, Guadalupe to Carpenter Streets***
- 23. Third Avenue, Monte Verde to Dolores Streets***
- 24. Torres Street, North of Eleventh Avenue***
- 25. Vizcaino Avenue, Mountain View Avenue to Flanders Way***

Remove broken areas of concrete, asphalt, and brick sidewalks, and replace with permeable pavers, where needed, along the following street segments:

- 26. Junipero Street – west side, Sixth to Ocean Avenues***
- 27. Northwest Corner – Dolores Street and Seventh Avenue***
- 28. Northwest Corner – Dolores Street and Sixth Avenue***
- 29. Ocean Avenue - north side, Lincoln to Dolores Streets***
- 30. Sixth Avenue – north side, Lincoln to Dolores Streets***
- 31. Sixth Avenue – south side, Mission to Junipero Streets***
- 32. Southeast Corner – Dolores Street and Ocean Avenue***

Install ADA-compliant ramps at intersections and modify drainage as required. Provide bike route markings, restore traffic striping and pavement markings as indicated on the plans, and provide landscaping and/or trees to supplement the project.

Note: Currently, costs of roadway materials and construction labor are highly erratic due to construction labor shortages, busy contractors, supply chain issues, and inflation. Therefore, it is unknown at this time which, and to what extent, the above list of streets can be repaired. Further, local engineering design firms are facing staffing

shortages and backlogs of work, leading to project delays. However, bundling similar projects with the same, or similar, pavement resurfacing treatments (asphalt overlays and slurry seals), will stretch the limited available funding in a cost-effective manner.

The useful life of the repaired road segments will depend on the pavement rehabilitation method selected for each street. An asphalt overlay may extend the useful life of the residential and collector streets by 20 to 25 years, and arterials (Ocean Avenue) by 15 to 20 years. A slurry seal may have a useful life of 5 to 10 years.

The design of this project is anticipated to begin by fall 2023 with construction occurring in the fall of 2024, following the busy summer season."

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
this 4th day of April 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk



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

April 4, 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 2023-034, authorizing the City Administrator to execute a Construction Contract with Rehak General Engineering, in the amount of \$128,600, including a 15% contingency, for the City Hall Wall Repair Project, and approving a Capital Project Budget Adjustment of \$113,600 to complete the Project

RECOMMENDATION:

Adopt Resolution 2023-034, authorizing the City Administrator to execute a Construction Contract with Rehak General Engineering, in the amount of \$128,600, including a 15% contingency, for the City Hall Wall Repair Project, and approving a Capital Project Budget Adjustment of \$113,600 to complete the Project

BACKGROUND/SUMMARY:

In June 2022, Council adopted the Capital Improvement Program (CIP) Budget for Fiscal Year 2022/23 which included \$100,000, funded by Measure C, for the City Hall Retaining Wall Emergency Repair Project.

The original Project description was,

“This new, unanticipated Project is identified as a high-priority emergency repair for the planter retaining wall on the south side of the City Hall building. The planter retaining wall not only supports the planter box, but is also a structural element of the building wall and foundation. A structural repair plan is underway, but the cost for this Project is unknown at this time. At this time, \$100,000 is adopted for repairs. The Project design is being overseen by the Building Official, and a Project Manager will be needed for bidding and construction of the Project.”

In August 2022, Council adopted Resolution 2022-065, awarding a Professional Services Agreement to Ausonio, Inc. for Project Management Services for delivery of nine facility renovation Projects, including this Project.

The Project was designed by Steve Mayone Structural Engineering, Inc. with geotechnical services provided by subconsultant Grice Engineering, Inc. Multiple repair configurations were considered, and since City Hall is a historic facility, the goal was to restore the side wall of City Hall and the redwood planter

box after the structural repairs are completed.

Specifically, the office currently occupied by the Director of Community Planning and Building is supported by an exterior wall which rests on small, inadequate concrete wall footings. The building and the planter box, especially when the soil is saturated, pushes laterally out onto the planter wall, destabilizing the building wall. The problem was worsened in the recent past when a fire pipeline was installed immediately south of the planter wall, reducing the lateral resistance of the building.

The final design was approved for a building permit, and the Project was extensively advertised for construction bids. Notices were published in the Carmel Pine Cone and Monterey County Weekly, Central Coast Builders Association, and posted on the City's and other public purchasing websites. In addition, courtesy calls were made to a dozen contractors that specialize in underground shoring, foundations, and even house movers.

Two bid proposals were received and opened at a Public Bid Opening held on March 16, 2023, with the following results:

	Rehak General Engineering	Comercial Solutions Group	Project Team Estimate
Base Bid – Wall (Basis of Award)	\$111,850	\$119,275	\$140,000
Additive #1 – Parking Lot	65,000	67,064	56,400
Additive #2 – Extended Wall Repair	52,800	63.573	74,600
Totals	\$229,650	\$249,912	\$271,000

Both bid proposals were responsive. The low base bid of \$111,850, submitted by Rehak General Engineering, was 6% below the other bid and 20% below the Project Team's estimate.

Rehak General Engineering possesses both A, General Engineering, and B, General Building contractor's licenses. They are a family-owned and operated business since 2010. They specialize in earth retention systems, foundation repairs, drainage systems, and custom homes with a number of projects completed in the Monterey area. They had favorable references, and In the past few years repaired retaining walls for Napa County and performed a landslide repair for the City of San Carlos.

The work includes removing the existing redwood retaining wall; installing a helical pier system to temporarily shore the building; excavating and installing a permanent concrete foundation footing for the adjacent portion of the City Hall exterior wall; installing retaining wall drainage systems; backfilling and replacing the redwood planter retaining wall; replacing the light sconces and hand railings, and removing and replacing a limited section of asphalt parking lot and concrete sidewalk.

The bids included two additive tasks. The first additive would be to reconstruct the south parking lot after the wall is repaired. Staff believes that while the bid was competitive, we would likely save money if we repave the parking lot as part of an upcoming, annual paving project. Note that parking lots are not eligible for external TAMC funding. The second additive would be to extend the replacement of the redwood planter wall up along the ADA ramp to better match the planter wall to be reconstructed. Due to funding constraints, both additives are not recommended.

A 15% contingency is highly recommended. Underground structural work has inherent risks, especially with

a historic building which cannot be damaged or put out of service. Should differing site conditions warrant an urgent field change, this contingency would be immediately available. Any funds remaining would be returned to the CIP fund balance.

Construction will take approximately three months from the Notice to Proceed. City Hall will remain open during construction, and access to the ADA ramp will be maintained. However, the Contractor may close off and utilize the south parking lot during the Project. Public Works staff will replant the planter box and restore the parking lot markings and signs.

FISCAL IMPACT:

Council appropriated \$100,000 to this Project in CIP Account Number 301-311-00-43008. Total estimated expenses for this Project, including the cost for this construction contract, are listed below.

No.	Company	Services	Cost
1	Ausonio, Inc.	Project Management, and Construction Management	\$55,000
2	Mayone Structural Engineering & Grice Engineering	Engineering, Design, and Construction Support	26,000
3	Rehak General Eng.	Retaining Wall Repair	111,850
4	Rehak General Eng.	2 Bid Additives – Not Recommended	0
5	N/A	15% Construction Contingency	16,750
6	Miscellaneous	Advertising, Materials Testing	4,000
		Total	\$213,600

A budget adjustment of \$113,600 will be needed to complete the Project. As shown in the Resolution in Attachment #1, \$113,600 would be transferred from General Fund End Balance Account 101-130-00-49009, to CIP Account Number 301-311-00-43008.

This Project demonstrates the need to provide a CIP Contingency Fund account to pay for carry-over and future capital improvement projects that have become more costly to execute due to inflation and other factors, as was presented at the March 21, 2023 Special Meeting for the first review of the Fiscal Year 2023/24 CIP.

PRIOR CITY COUNCIL ACTION:

In June 2022, Council adopted the CIP Budget for Fiscal Year 2022/23 which included \$100,000 for the City Hall Retaining Wall Emergency Repair Project.

In August 2022, Council awarded a Professional Services Agreement to Ausonio, Inc. for Project Management Services for delivery of nine facility renovation projects, including this Project.

ATTACHMENTS:

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
RESOLUTION NO. 2023-034**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONSTRUCTION CONTRACT WITH REHAK GENERAL ENGINEERING, IN THE AMOUNT OF \$128,600, INCLUDING A 15% CONTINGENCY, FOR THE CITY HALL WALL REPAIR PROJECT, AND APPROVING A CAPITAL PROJECT BUDGET ADJUSTMENT OF \$113,600 TO COMPLETE THE PROJECT

WHEREAS, the adopted Capital Improvement Program Budget for Fiscal Year 2022/23 included \$100,000, funded by Measure C, for the City Hall Retaining Wall Emergency Repair Project; and

WHEREAS, the Project was managed under a Professional Services Agreement by Ausonio, Inc., and the design was provided by Steve Mayone Structural Engineering, Inc. and Grice Engineering, Inc.; and

WHEREAS, a portion of the south wall of City Hall, a historic facility, rests on inadequate wall footings, and coupled with saturated soils in the adjacent redwood planter box, plus reduced lateral resistance due to a previously-installed fire line, has resulted in partial collapse of the planter box, and without repairs, could damage the building; and

WHEREAS, the Project was approved for a building permit and extensively advertised for construction bids, including legal notices, posting on industry website, and courtesy calls to potential bidders; and

WHEREAS, two responsive bid proposals were received at the Public Bid Opening held on March 16, 2023, and the lower base bid for repair of the wall of \$111,850 was submitted by Rehak General Engineering; and

WHEREAS, neither of the two bid additives are awarded, and with a 15% construction contingency which may be needed for urgent underground structural, the total contract award amount is \$128,600; and

WHEREAS, the total estimated Project cost, including project management, engineering and design, materials testing services, construction, and contingency is \$213,600; and

WHEREAS, a Budget Adjustment of \$113,600 is required to complete the Project.

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

1. Authorizes the City Administrator to execute the Construction Contract with Rehak General Engineering, with contingency, in the amount of \$128,600 for the City Hall Retaining Wall Repair Project.
2. Authorizes a Budget Adjustment amount not to exceed \$113,600 to the Transfer Out To: Capital Projects account [101-130-00-49009] from the Unassigned Fund Balance.

3. Authorizes a Budget Adjustment to both the Transfer In From: General Fund [301-000-00-39001] and the Construction in Progress account [301-311-00-43008] for an amount not to exceed \$113,600.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
this 4th day of April 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

Exhibit "A"
Capital Project Budget Adjustment

General Ledger Account and Description	Purpose	FY 2022/23 Amended Budget	Adjustment Amount	FY 2022/23 Amended Budget
301-311-00-43008 Construction in Progress: City Hall Retaining Wall Emergency Repair Project	Increase for construction contract	\$3,922,678	\$113,600	\$4,036,278
301-000-00-39001 Transfer In From: General Fund	Increase for Capital Project Funds	\$0	\$113,600	\$113,600
101-130-00-49009 Transfer Out To : Capital Projects	Reduce Unassigned Fund Balance	\$0	\$113,600	\$113,600



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

April 4, 2023
CONSENT AGENDA

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Joel Staker, Information Network Services Manager

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Resolution 2023-035 authorizing the City Administrator to Execute Amendment No. 3 to a Professional Services Agreement with Joseph Systems Inc. for a new not-to-exceed amount of \$41,840.70 and extending the term through June 30, 2023

RECOMMENDATION:

Adopt Resolution 2023-035 authorizing the City Administrator to Execute Amendment No. 3 to a Professional Services Agreement with Joseph Systems Inc. for a new not-to-exceed amount of \$41,840.70 and extending the term through June 30, 2023.

BACKGROUND/SUMMARY:

The City utilizes a variety of consultants to augment its staffing capacity, especially to provide specialized services and has contracted with Joseph Systems to provide specialized support for complex IT projects. The City Administrator entered into an agreement with Joseph Systems for contract Computer Consulting services on August 9th, 2021 for a not to exceed cost of \$23,008.70.

According to the Carmel-by-the-Sea Municipal Code, contracts exceeding \$24,999 shall be entered into only by Council authorization. Amendment no. 1 was authorized by Council on March 1, 2022 increasing the amount of the contract by \$5,832 for a not-to-exceed amount of \$28,840.70. A second amendment was approved by Council on June 6, 2022 increasing the not-to-exceed amount by \$10,000 for a not-to-exceed amount of \$38,840.70.

The proposed recommendation for City Council consideration is to authorize the City Administrator to execute a second amendment to the existing agreement with Joseph Systems Inc. that will increase it by an additional \$3,000 for a new not to exceed amount of \$41,840.70 and a contract extension with an end date of June 30, 2023.

FISCAL IMPACT:

The Library will be funding the additional \$3,000 for support of an ongoing systems project for the Library's public computers.

PRIOR CITY COUNCIL ACTION:

Council approved contract Amendment No. 2 on June 6, 2022.

ATTACHMENTS:

Attachment 1) Resolution 2023-035 Amendment No. 3

Attachment 2) J4 Systems Amendment No. 3

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

Attachment 1

RESOLUTION NO. 2023-035

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH JOSEPH SYSTEMS INC. FOR IT PROJECT SERVICES IN THE AMOUNT OF \$3,000 FOR A NEW NOT-TO-EXCEED AMOUNT OF \$41,840.70 AND EXTENDING THE CONTRACT TERM THROUGH JUNE 30, 2023

WHEREAS, on August 9, 2021, the City Administrator entered into a Professional Services Agreement with Joseph Systems Inc. for the provision of specialized server migration services in the amount of \$23,008.70 with an end date of December 15, 2021; and

WHEREAS, on March 1, 2022, the City Council adopted Resolution 2022-020 authorizing the City Administrator to amend the Professional Services Agreement with Joseph Systems Inc. for the provision of specialized IT project services for a not-to-exceed amount of \$28,840.70 with an end date of June 30, 2022; and

WHEREAS, on June 6, 2022, the City Council adopted Resolution 2022-049 authorizing the City Administrator to amend the Professional Services Agreement with Joseph Systems Inc. for the provision of specialized server IT project services for a not-to-exceed amount of \$38,840.70 with an end date of February 28, 2023; and

WHEREAS, the IT project services require an additional amount of time and funding beyond the original Professional Services Agreement; and

WHEREAS, the Carmel-by-the-Sea Municipal Code requires contracts exceeding \$24,999 to be entered into only by Council authorization.

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. 3 to the Professional Services Agreement with Joseph Systems Inc. for IT project services in the amount of \$3,000 for a new not-to-exceed amount of \$41,840.70 and extending the contract term through June 30, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 4th day of April, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC
City Clerk

AMENDMENT NO. 3
AGREEMENT NUMBER
IT-J4SYSTEMS-43-21-22
JOSEPH SYSTEMS, INC. dba J4 SYSTEMS

1. This amendment (the "Amendment") is made by City of Carmel-by-the-Sea and Joseph Systems, Inc. dba J4 Systems, parties to agreement IT-J4SYSTEMS-43-21-22 (the "Agreement") executed on August 9, 2021, amended on March 1, 2022.

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 contract shall continue from February 28, 2023 and shall terminate on June 30, 2023, unless services are no longer needed prior to June 30, 2023. In that case the contract shall terminate sooner

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

CITY shall pay CONSULTANT in an amount not to exceed \$41,840.70 for the term of the entire agreement stipulated in 2a.

The scope of services shall include 40 additional hours of consulting services to include:

- Desktop Management deployment services and training
- Libkey configuration and deployment
- Library public computer configuration

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: _____
Chip Rerig, City Administrator

Date: _____

ATTEST:

By: _____
Nova Romero, MMC, City Clerk

Date: _____



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

April 4, 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 2023-036, authorizing the serving of alcohol on public property, and/or the erection of tents on public property for 1. Monterey County Vintners Winemakers' Celebration, and 2. Carmel Art Festival

RECOMMENDATION:

Adopt Resolution 2023-036, authorizing the serving of alcohol on public property, and/or the erection of tents on public property for 1. Monterey County Vintners Winemakers' Celebration, and 2. Carmel Art Festival.

BACKGROUND/SUMMARY:

For annual events, staff work with event organizers to incorporate improvements identified in the previous year's after action reports. No substantive changes have been proposed for the events that would require review and recommendation by the Community Activities Commission. Staff have been working with event organizers for the Monterey County Vintners Winemakers' Celebration and the Carmel Art Festival to complete their permit applications which have been approved.

Monterey County Vintners Winemakers' Celebration

The 30th Annual Winemakers' Celebration is an interactive event that features workshops, and wine tasting from local wineries paired with food from local restaurants. This year's event is scheduled to be held on Saturday, June 10, 2023 from 12:00 p.m. to 4:00 p.m. Dolores Street between Ocean and Seventh Avenues, Seventh Avenue between Dolores and San Carlos Streets The event also crosses the intersection of Seventh Avenue and Dolores Street, but will remain open to through traffic.

Previously the event was held the first weekend in May. However, this year the event is proposing to move to June to bookend Carmel Culinary Week. In addition, last year the event was held in the footprint of the Farmers' Market and this year the event organizer is proposing to move the event back to its original location on Dolores Street and Seventh Avenue.

Carmel Art Festival

The 29th Annual Carmel Art Festival is scheduled to take place from Friday, May 17 through Sunday, May 19, 2023. The event featuring exhibits from Carmel art galleries, a live sculpture demonstration, live music,

a kids art program, and a VIP wine reception. The event will take place in Devendorf Park over the course of three days, and in addition to the VIP wine reception will include the erection of a 8 x 20 tents to house the art exhibits.

Because these events propose to serve alcohol on public property and/or the erect of tents on public property or some combination thereof, further approval is required by City Council as follows:

- Per Carmel Municipal Code section 9.20.020, it is unlawful for any person to drink any alcoholic beverage in or upon any public place within the City. The City Council may, however authorize exceptions to the code for specific events of limited duration by adopting a resolution.
- Per Carmel Municipal Code section 12.32.060, it is unlawful to construct or erect any tent upon any public property. The City Council may, however authorize exceptions to the code for specific events of limited duration by adopting a resolution.

FISCAL IMPACT:

None for this action.

PRIOR CITY COUNCIL ACTION:

These are annual events for which the Council routinely provides approval for street closures, the serving of alcohol, and/or the erection of tents on public property.

ATTACHMENTS:

Attachment 1) Resolution 2023-036

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

RESOLUTION NO. 2023-036

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
AUTHORIZING THE CONSUMPTION OF ALCOHOL ON PUBLIC PROPERTY AND/OR THE
ERECTION OF TENTS ON PUBLIC PROPERTY FOR THE MONTEREY COUNTY VINTNERS
30TH ANNUAL WINEMAKERS' CELEBRATION TO BE HELD JUNE 10, 2023, AND THE
CARMEL ART FESTIVAL HELD MAY 17-19, 2023**

WHEREAS, the Monterey County Vintners 30th Annual Winemakers' Celebration will be held Saturday, June 10, 2023; and

WHEREAS, this is an interactive event that will feature workshops and wine tasting from local wineries paired with food from local restaurants; and

WHEREAS, the event will be held on Dolores Street between Ocean and Seventh Avenues, Seventh Avenue between Dolores and San Carlos Streets. The event also crosses the intersection of Seventh Avenue and Dolores Street, but will remain open to through traffic; and

WHEREAS, the Monterey County Vintners 30th Annual Winemakers' Celebration has been held in Carmel-by-the-Sea since 2014; and

WHEREAS, the 29th Annual Carmel Art Festival will be held May 17th through May 19th, 2023; and

WHEREAS, the event featuring exhibits from Carmel art galleries, a live sculpture demonstration, live music, a kids art program, and a VIP wine reception; and

WHEREAS, the Carmel Art Festival will take place in Devendorf Park over the course of three days, and in addition to the VIP wine reception will include the erection of a 8 x 20 tents to house the art exhibits; and

WHEREAS, Chapter 9.20 of the Carmel-by-the-Sea Municipal Code states that it is unlawful for any person to drink any alcoholic beverage in or upon any public place, but that the City Council has the right, through adoption of a resolution, to make exceptions to the regulation for specific events of limited duration.

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

Authorize the consumption of alcohol at the Monterey County Vintners 30th Annual Winemakers' Celebration Saturday, June 10, 2023, Dolores Street between Ocean and Seventh Avenues, Seventh Avenue between Dolores and San Carlos Streets; and

Authorize the consumption of alcohol and the erection of an 8 x 20 tents to house the art exhibits for the 29th Annual Carmel Art Festival in Devendorf Park Friday, May 17th through Saturday May 19th, 2023.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-
THE-SEA this 4th day of April 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk



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

April 4, 2023
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Marnie R. Waffle, AICP, Principal Planner

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Mills Act Policy Discussion

RECOMMENDATION:

Receive the report and provide direction to staff.

BACKGROUND/SUMMARY:

Executive Summary:

The Council discussed the City's current Mills Act Policy on October 4, 2022 and requested additional information from staff before determining whether or not to pursue potential policy revisions. This report provides an overview of the existing Policy, a discussion of possible modifications, and implementation details from other jurisdictions across the State. Staff is seeking guidance from the Council on Policy modifications, if desired, and would return to Council at a later date with a revised Policy for consideration.

Background/Summary:

The Mills Act was adopted by the State of California in 1972. The City of Carmel-by-the-Sea adopted a Mills Act program as part of the Local Coastal Program in 2004.

The Mills Act program is an agreement between the City and a property owner of a historic building whereby the property owner benefits from a reduction in property taxes while assuring the City that the historic resource is rehabilitated, maintained, and preserved. Properties must be included on both the Carmel Historic Inventory and the Carmel Register of Historic Resources prior to being eligible for a Mills Act contract.

To be listed on the Carmel Historic Inventory, an assessment of historical significance must be conducted to determine whether the property is eligible. Eligible properties are those which represent at least one theme in the City's Historic Context Statement; retain substantial integrity; are at least 50 years of age; are associated with significant events or people; embody distinctive characteristics; or yield information important to prehistory or local, state, or national history.

To be listed on the Carmel Register, a property owner must submit a request in writing and their request must be approved by the Historic Resources Board. Listing on the Register provides benefits such as

waiver of on-site parking requirements; preservation of existing non-conformities; Federal rehabilitation tax credits; building permit fee reduction of 25%; and, participation in the Mills Act program.

In addition to being listed on the Carmel Historic Inventory and the Carmel Register, a property must be preserved in its historic size, form and design without significant alterations or additions. More specifically, any future addition or alteration must comply with the Secretary's Standards for the Treatment of Historic Properties. Alterations cannot alter, damage, or diminish any primary elevation or character-defining feature; additions cannot increase the floor area by more than 15 percent beyond the amount established in the documented original or historic design; and, additions cannot result in a second-story addition to a single-story historic resource.

Mills Act Policy

The City's current policy regarding Mills Act contracts allows for up to fifteen new contracts to be approved over a three-calendar year period (Attachment 1, Resolution 2016-068). The policy was reviewed by the City Council on March 3, 2020 and no changes were made at that time.

Over the eleven years between 2011 and 2022, the City has entered into a total of 14 Mills Act Contracts. The two calendar years during which the most Mills Act contracts were approved occurred in 2016 and 2022 when a total of 4 contracts were approved each year. In 2022, the City approved the first Mills Act contract for a commercial property, the Carmel Beach Hotel & Spa (formerly known as the Colonial Terrace Inn).

On October 4, 2022, the City Council discussed potential amendments to the Mills Act policy. The discussion revealed general Council support for the program, with recognition of the community benefit resulting from the preservation and maintenance of historic properties. However, some council members expressed a desire to reconsider the length of the contract, limit the number of contracts at any given time, and consider a dollar value cap on the tax break. Additionally, a concern was raised about high revenue-generating commercial properties receiving a 20-year tax reduction. Below is a summary of each of these topics.

Length of Contracts & Notices of Nonrenewal

The Council discussion on length of contracts and Notices of Nonrenewal raised questions of whether or not the contracts should be endless, or if they should have a hard end date before a re-application is needed.

In 2020, the City Attorney worked with staff to review the contract language to ensure the contract is consistent with State law and our local Mills Act program. On March 3, 2020, the City Council approved the standard contract language (Attachment 2). In accordance with State law, the term of the contract is 10 years. Each year on the anniversary date of the contract, one year is automatically added to the term of the contract. This creates a rolling 10-year contract that automatically renews until such time that either the City or the property owner provides a written notice of non-renewal. Essentially, each January 1st, the 10-year contract restarts.

If the City desires to end a contract, the City must provide the property owner with written notice of non-renewal at least 60 days prior to the annual renewal date. Property owners who desire to end a contract must give written notice to the City at least 90 days prior to the annual renewal date. If a notice of non-renewal is provided, the agreement will expire 9 years from the renewal date of the following January 1st. An example is provided below:

The City enters into a Mills Act Contract on January 1, 2012. The term of the contract is 10 years. The contract expires on December 31, 2021.

On the first anniversary date of the contract, January 1, 2013, one year is automatically added to the contract term. The new contract expiration date is December 31, 2022.

On the second anniversary date of the contract, January 1, 2014, one year is automatically added to the contract term. The new contract expiration date is December 31, 2023.

However, on November 1, 2014, 60 days prior to the third anniversary date of January 1, 2015, the City issues a Notice of Nonrenewal. The contract expiration date is now fixed at December 31, 2023. Additional years are no longer automatically added to the contract term.

To date, the City has not issued any Notices of Nonrenewal, and no property owners have issued Notices of Nonrenewal. If the City were to issue such notices no later than November 1, 2023, all of the existing Mills Act contracts would expire on December 31, 2032.

The homeowners of the four contracts approved last year, in 2022, would see a property tax benefit for 10 years whereas the homeowner whose contract was approved in 2011 would see a property tax benefit for 20 years.

If the Council directs staff to issue a Notice of Nonrenewal on all 14 existing contracts, they would expire at the end of 2032 and the City would have zero Mills Act contracts, assuming the City did not enter into any new contracts between 2024 and 2032.

Staff is seeking direction from the City Council on whether to issue Notices of Nonrenewal and if so, under what circumstances and when.

Potential Policy Restrictions

Following the October 4, 2022 City Council meeting, staff reached out to 73 jurisdictions throughout California to gather data on their Mills Act programs. A total of 40 responses were received. Of those, most did not impose any restrictions on properties seeking a Mills Act contract. Those jurisdictions include: Berkeley; Brea; Campbell; Chico; Chula Vista; City of Monterey; Encinitas; Fontana; Huntington Beach; Los Altos; Monrovia; National City; Oakland; Palm Springs; Placentia; Pomona; San Juan Capistrano; Santa Ana; Santa Monica; Truckee; Ventura; and Ventura County. Some jurisdictions, including but not limited to Pacific Grove, Palo Alto and San Mateo, do not have active Mills Act programs. A minority of respondents reported at least one restriction on either the annual number of contracts permitted; assessed valuation limits; land use limits; or tax revenue loss. A summary of these restrictions are shown in the table below and provided as Attachment 3.

City/County	Annual Limit on the Number of Contracts	Limits on Assessed Valuation	Limits on Land Use Type	Limits on Annual Tax Revenue Loss
Beverly Hills	-	\$8 million for single-family residential \$10 million for multi-family rental \$7.5 million for commercial	-	\$500,000 to City \$400,000 to Schools
Claremont	6	-	Residential only	-
Coronado	-	-	-	50% tax reduction limit for individual properties
Fullerton	10	\$800,000	Residential only	-
Long Beach	22	\$1,558,465 for residential \$4,032,538 for commercial	-	-
Los Angeles City	-	\$1.5 million for residential \$3 million for commercial	-	-
Los Angeles County	-	\$1 million for residential \$3 million commercial	-	-
Monterey County	-	\$3 million for residential \$5 million for commercial	-	-
Pasadena	26	\$2 million for residential No cap on commercial	-	-
Riverside	10	-	-	-
Salinas	-	-	-	\$100,000
San Francisco	-	\$3 million for residential \$5 million for commercial	-	-
San Luis Obispo	10	-	-	-
Santa Barbara	-	\$2.5 million for single-family; \$3 million for multi-family or commercial	-	\$260,000
Santa Clara	10	-	-	-
Sierra Madre	3	-	-	-
Sunnyvale	3	-	-	-

Staff is seeking direction from the City Council on whether to amend the Mills Act Policy to place limits on the annual number of contracts, assessed valuation, land use type or annual tax revenue loss.

Other Items of Interest

Application Fees & Inspections: The current application fee for a Mills Act Contract is \$3,584. The fee is set at an amount intended to cover staff's time processing the application. Following approval and recordation of the contract, homeowners are required to obtain design review approval and/or building permits to carry out the improvements in their rehabilitation plans. Additional fees are collected for these applications and includes the associated inspection costs for the work being performed.

Monterey County Tax Assessment Process: Upon approval of a Mills Act contract by the City Council, the contract is signed by all parties and recorded in the Monterey County Assessor's Office. The County Assessor is tasked with the responsibility of calculating the property taxes in accordance with sections 439-439.4 of the Revenue and Taxation Code which states, in part, that restricted historical properties shall be valued based on a prescribed income capitalization method rather than on sales data (Attachment 4). Staff has reached out to the County Assessor and requested a representative attend the Council meeting to respond to specific questions regarding the assessment of Mills Act contract properties.

FISCAL IMPACT:

The City accepts a diminished tax base from properties with Mills Act Contracts in exchange for assurances that historic resources will be rehabilitated, restored, and maintained.

PRIOR CITY COUNCIL ACTION:

On June 8, 2010, the City Council adopted Resolution 2010-42 approving a limit of three Mills Act Contracts for residential properties within a calendar year and requiring the City Council to evaluate the

program again in five years.

On September 13, 2016, the City Council adopted Resolution 2016-068 limiting the number of Mills Act Contracts to fifteen during any three-calendar-year period and requiring the City Council to evaluate the program after three years.

On March 3, 2020, the City Council reviewed the Mills Act policy and did not make any changes. The Council also reviewed and accepted standard contract language for Mills Act Contracts.

On October 4, 2022, the City Council discussed the Mills Act policy and directed staff to return at a later date with additional information.

ATTACHMENTS:

Attachment 1) Resolution 2016-068

Attachment 2) Standard Mills Act Contract

Attachment 3) Mills Act Program Survey

Attachment 4) Mills Act Guidelines for the Assessment of Enforceably Restricted Historical Property

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

RESOLUTION NO. 2016-068

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ESTABLISHING A LIMIT ON THE NUMBER OF MILLS ACT CONTRACTS THAT CAN BE APPROVED TO FIFTEEN DURING ANY THREE CALENDER YEAR PERIOD AND REQUIRING THE CITY COUNCIL TO EVALUATE THE PROGRAM AFTER THREE YEARS

WHEREAS, the City has adopted a General Plan and Municipal Code that strive to protect the village character through clear policies and regulations that guide historic preservation; and

WHEREAS, the Mills Act was adopted by the State of California in 1972; and

WHEREAS, jurisdictions are not required to implement the Mills Act, but participating jurisdictions may establish specific application requirements to suit local needs; and

WHEREAS, the City adopted the Mills Act as a potential benefit to property owners of historic resources as part of the Local Coastal Program; and

WHEREAS, the City Council recognizes the potential benefits of the program but also the potential fiscal impacts that could result from the unlimited approval of Mills Act Contracts; and

WHEREAS, establishing a limit on the number of contracts that can be approved will allow the City to implement the Mills Act Program without significantly impacting a revenue source that is vital to the City's operating budget; and

WHEREAS, in 2010 the City Council adopted Resolution 2010-42 which limited the number of Mills Act contracts to 3 per calendar year; and

WHEREAS, Resolution 2010-42 will be superseded by the adoption of this resolution; and

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

1. Limit the number of Mills Act Contracts that can be approved to fifteen (15) in any three calendar year period.
2. Require the City Council to review the Mills Act Program in three (3) years, in the year 2018, to determine whether to continue offering Mills Act Contracts or make revisions as necessary.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 13th day of September, 2016 by the following roll call vote:

AYES: COUNCILMEMBERS: Hardy, Reimers, Richards, Theis, Dallas

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

SIGNED:

ATTEST:


Steve G. Dallas, Mayor


Ashlee Wright, City Clerk

RECORDING REQUESTED BY
CITY OF CARMEL-BY-THE-SEA

AND WHEN RECORDED MAIL TO

Carmel City Hall
Attn: Community Planning & Building
P.O. Box CC
Carmel-By-The-Sea, CA 93921

This space reserved for the Recorder's use only

**CITY OF CARMEL-BY-THE-SEA
MILLS ACT HISTORIC PROPERTY PRESERVATION CONTRACT**

THIS AGREEMENT is made and entered by and between the CITY OF CARMEL-BY-THE-SEA a municipal corporation (hereinafter referred to as "City"), and **PROPERTY OWNER** (hereinafter referred to as "Owner").

RECITALS

- (i) California Government Code Section 50280, et seq. (known as the Mills Act) authorizes cities to enter into contracts with the owners of qualified historic properties to provide for their appropriate use, maintenance and restoration such that these historic properties retain their historic characteristics;
- (ii) The Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at **ADDRESS** (APN: **123-456-789**), Carmel-By-The-Sea, California, (hereinafter referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as "**Exhibit A**" and is incorporated herein by reference;
- (iii) The property is identified as a historic resource on the City of Carmel-By-The-Sea's Historic Inventory and Register of Historic Resources and is further described in the DPR 523A Form attached hereto, marked as "**Exhibit B**" and is incorporated herein by reference;
- (iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, as it exists at the date of this contract and as described in the City's Register of Historic Resources and the National Register of Historic Places, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Article 1.9 (commencing with section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. **INCORPORATION OF RECITALS.** All recitals are incorporated into this Agreement.
2. **EFFECTIVE DATE AND TERM.** This Agreement shall be effective and commence on the date the Agreement is signed by the City, unless otherwise indicated by the County of Monterey, and shall remain in effect for a minimum term of ten (10) years thereafter.
3. **AUTOMATIC RENEWAL.** Each year, upon the anniversary of the effective date of this Agreement (hereinafter referred to as “annual renewal date”), one (1) year shall be added automatically to the term of this Agreement, unless timely notice of nonrenewal is given as provided in paragraph 4 of this Agreement. The total length of the contract shall not exceed twenty (20) years.
4. **NOTICE OF NONRENEWAL.** If City or Owner desires in any year not to renew this Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of this Agreement as follows: Owner must serve written notice of nonrenewal at least ninety (90) days prior to the annual renewal date; City must serve written notice of the nonrenewal at least sixty (60) days prior to the annual renewal date. If notice is not received, the Agreement shall automatically be renewed for another year. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. At any time prior to the annual renewal date, City may withdraw its notice of nonrenewal.
5. **EFFECT OF NOTICE OF NONRENEWAL.** If either City or Owner serves timely notice of nonrenewal in any year, and this contract is not renewed, this Agreement shall remain in effect shall remain in effect for the balance of the period remaining since the original execution or the last annual renewal date.
6. **FEES.** The City may require that the Owner(s) of the Historic Property pay a fee that shall not exceed the reasonable cost of providing services, such as inspections, pursuant to Government Code Section 50281.1 (Article 12 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code), for which the fee is charged.
7. **VALUATION OF PROPERTY.** During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historic Property pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
8. **PRESERVATION OF PROPERTY.** Owner shall preserve and maintain the characteristics of historical significance of the Historic Property and agrees to complete rehabilitation and/or maintenance activities as defined in the Rehabilitation/Restoration and Maintenance Plan attached as “Exhibit C”. Requests for revisions to the Maintenance and

Rehabilitation plan shall be reviewed by the Historic Resources Board prior to implementation. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance (CMC 17.32). Owners shall not be permitted to further impede any view corridor with any new structure, including but not limited to walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

9. **RESTORATION OF PROPERTY.** Owner shall, where necessary, restore and rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, U. S. Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the City of Carmel-by-the-Sea, all as amended.
10. **INSPECTIONS.** Owner shall allow periodic examinations, at least every five (5) years, with reasonable notice thereof, of the interior and exterior of the Historic Property by representatives of the County of Monterey Assessor and the City of Carmel-By-The-Sea as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. The City will coordinate inspections by such other agencies that have jurisdiction and will keep them to the minimum necessary to determinate such compliance.
11. **PROVISION OF INFORMATION.** Owner shall furnish City with any and all information required by City, in order to determine the eligibility of the Historic Property, and that City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
12. **ANNUAL REPORT.** Owner shall submit an annual report at least 90 days prior to each annual renewal date (October 1st) to the Department of Planning and Building specifying all work that has been done to maintain and preserve the historic resource over the preceding year in compliance with the approved maintenance plan.
13. **CANCELLATION.** The City has the right to cancel the contract if the owner allows the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City also has the right to cancel this contract if the owner(s) breaches the provisions of paragraph's # 8, 9, 10 or 12 of this Agreement after the City has provided reasonable notice of any failure to comply with the agreement, and a public hearing. Notice of the hearing shall be mailed to the last known address of each owner of the property, with the notice conforming to the provisions of Government Code section 6061., If after notice and a hearing, the contract is cancelled, termination of the Agreement is immediate, and the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the Monterey County Assessor as though the property were free of the contractual restriction. The cancellation fee shall be paid to the Assessor, at the time and in the manner that the Assessor shall prescribe. City's right to cancel this Agreement pursuant to this paragraph

shall in no way limit or restrict its rights or legal remedies arising from City's Historic Preservation Ordinance and Municipal Code.

14. **ENFORCEMENT OF AGREEMENT.** In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement.
15. **WAIVER.** City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All remedies at law or in equity, which are not otherwise provided for this Agreement or in City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
16. **BINDING EFFECT OF AGREEMENT.** Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who executed the Agreement. Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.
17. **NOTICE.** Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: Carmel-By-The-Sea
 Community Planning & Building Department
 Attn: Community Planning & Building Director
 P.O. Box CC
 Carmel-By-The-Sea, CA 93921

Owner: Name
 Address
 City, State, Zip

Notice to successors in interest to either party shall be sent to the appropriate address. In the case of future Owner(s) of the Historic Property, notice shall be sent to the address on file with the county property tax office in power at the time.

18. **RECORDATION.** No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded under state law.
19. **STATE LAW.** The Owner or agent of Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.
20. **GOVERNING LAW; VENUE.** This Agreement shall be constructed and governed in accordance with the laws of the State of California. Should either party to this agreement bring legal action against the other, the case shall be handled in Monterey County, California and the party prevailing in such action shall be entitled to a reasonable attorney fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment together with all costs.
21. **AMENDMENTS.** This agreement may be amended in whole or in part, only by a written-recorded instrument executed by the parties hereto.
22. **DESTRUCTION OF PROPERTY; EMINENT DOMAIN; CANCELLATION.** If the Historic Property is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the City Building Official more than sixty percent (60%) of the original fabric of the structure must be preplaced, this Agreement shall be cancelled because the historic value of the structure will have been destroyed. If the Historic Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of this Agreement, this Agreement shall be cancelled. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if the Agreement is cancelled pursuant to this paragraph. Such Agreement shall be null and void for all purposes of determining the value of the property so acquired.
23. **INDEMNIFICATION.** Owner shall defend, indemnify, and hold harmless City and its elected officials, officers, agents and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any

federal, state or local government agency, arising out of or incident to the direct or indirect use, operation, or maintenance of the Historic Property by Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) Owner's activities in connection with the Historic Property; and (iii) any restriction on the use of development of the Historic Property, from application or enforcement of the City's Municipal Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of the City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

- 24. SEVERABILITY.** In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

IN WITNESS THEREOF, the City and Owners have executed this Agreement on the day and year written above.

CITY OF CARMEL-BY-THE-SEA:

By: _____

Date: _____

Name: Richard L. Rerig ("Chip")

Title: City Administrator

PROPERTY OWNER(S):

By: _____

Date: _____

Name:

Title: Property Owner

By: _____

Date: _____

Name:

Title: Property Owner

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DPR 523A FORM

EXHIBIT C
REHABILITATION/RESTORATION AND MAINTENANCE PLAN

City/County	Annual Limit on the Number of Contracts	Limits on Assessed Valuation	Limits on Land Use Type	Limits on Annual Tax Revenue Loss
Beverly Hills	-	\$8 million for single-family residential \$10 million for multi-family rental \$7.5 million for commercial	-	\$500,000 to City \$400,000 to Schools
Claremont	6	-	Residential only	-
Coronado	-	-	-	50% tax reduction limit for individual properties
Fullerton	10	\$800,000	Residential only	-
Long Beach	22	\$1,558,465 for residential \$4,032,538 for commercial	-	-
Los Angeles City	-	\$1.5 million for residential \$3 million for commercial	-	-
Los Angeles County	-	\$1 million for residential \$3 million commercial	-	-
Monterey County	-	\$3 million for residential \$5 million for commercial	-	-
Pasadena	26	\$2 million for residential No cap on commercial	-	-
Riverside	10	-	-	-
Salinas	-	-	-	\$100,000
San Francisco	-	\$3 million for residential \$5 million for commercial	-	-
San Luis Obispo	10	-	-	-
Santa Barbara	-	\$2.5 million for single-family; \$3 million for multi-family or commercial	-	\$260,000
Santa Clara	10	-	-	-
Sierra Madre	3	-	-	-
Sunnyvale	3	-	-	-

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 • FAX 916 323-8765
www.boe.ca.gov

BETTY T. YEE
Acting Member
First District, San Francisco

BILL LEONARD
Second District, Sacramento/Ontario

CLAUDE PARRISH
Third District, Long Beach

JOHN CHIANG
Fourth District, Los Angeles

STEVE WESTLY
State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

June 2, 2005

No. 2005/035

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

**GUIDELINES FOR THE ASSESSMENT OF
ENFORCEABLY RESTRICTED HISTORICAL PROPERTY**

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1¹ (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

¹ Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that

follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.
- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.
- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:
 1. Based upon market data, estimate the percentage of total property value attributable to improvements.
 2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent ($0.05 \times 0.70 = 0.035$).
 3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.
- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date² or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

² Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.³

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

Supplemental assessment; limitation. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

³ National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.
4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.
5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)**Subject Restricted Historical Property**

Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
\$1,500 per month x 12 months =		\$18,000
Less: Anticipated vacancy and collection loss		
\$18,000 x 5%		<u>- 900</u>
Effective gross income		\$17,100
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	<u>- 2,100</u>
Net Operating Income		\$15,000

Restricted Capitalization Rate**Rate Components:**

Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	<u>.149</u>

Restricted Value	
\$15,000 ÷ .149	= <u>\$100,671</u>

Taxable Value—Three-Way Value Comparison

Restricted value	\$100,671
Factored base year value (based on prior change in ownership)	\$357,000
Current market value (based on comparable sales)	\$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$93,671 (\$100,671 restricted value less the homeowners' exemption of \$7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)**Subject Restricted Historical Property**

Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):

Offices	140,000 sf @ \$1.75/sf = <u>\$245,000</u>	
	x 12 months	= \$2,940,000

Less: Anticipated vacancy and collection loss

\$2,940,000 x 5%	<u>- 147,000</u>

Effective gross income	\$2,793,000

Less: Anticipated operating expenses

Management	\$290,000	
Maintenance	95,000	
Insurance	75,000	
Utilities	360,000	
Janitorial	+ 140,000	- 960,000

Net Operating Income	\$1,833,000

Restricted Capitalization Rate

Rate Components:

Interest component	.08

Risk	.02

Property tax (ad valorem)	.011

Amortization (50-year remaining life; improvements
constitute 75% of total property market value

0.02 x 0.75 = 0.015)	+ .015	<u>.126</u>

Restricted Value

(\$1,833,000 ÷ .126)	= \$14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	\$14,547,619

Factored base year value (based on prior change in ownership)	\$18,191,077

Current market value (based on comparable sales)	\$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be \$14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)**Subject Restricted Historical Property**

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data

\$975 per month x 12 months = \$11,700

Less: Anticipated vacancy and collection loss

\$11,700 x 5% - 585

Effective gross income \$11,115

Less: Anticipated operating expenses

Grounds maintenance \$300

Fire insurance 200

Management Fee 180

Water and garbage 120

Building maintenance + 250 - 1,050

Upper-Level Net Operating Income \$10,065

Restricted Capitalization Rate (owner-occupied SFR)

Rate components:

Interest rate .080

Risk .040

Property tax .010

Amortization (50-year remaining life; improvements
constitute 70% of total property market value;

0.02 x 0.70 = 0.014) + .014 .144

Upper-level Restricted Value (\$10,065 ÷ .144) = \$69,895

Lower-Level Offices

Gross income (Fair rent)

1000 sf @ \$1.60/sf = \$1,600 x 12 months \$19,200

Less: Anticipated vacancy and collection loss

\$19,200 x 5% - 960

Effective gross income \$18,240

Less: Anticipated operating expenses		
Grounds maintenance	\$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		\$17,190

Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	.124
Lower Level Restricted Value ($\$17,190 \div .124$)		\$138,629
Add: Upper Level Restricted Value		+ \$69,895
Total Restricted Value		\$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	\$208,524
Factored base year value (based upon prior change in ownership)	\$364,140
Current market value (based upon comparable sales data)	\$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$201,524 (\$208,524 less the homeowners' exemption of \$7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)**Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)**

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
\$2,000 per month x 12 months =		\$24,000
Less: Anticipated vacancy and collection loss		
\$24,000 x 5%		<u>- 1,200</u>
Effective gross income		\$22,800
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	<u>- 2,100</u>
Net Operating Income		= \$20,700

Restricted Capitalization Rate

Rate components:

Interest component .080

Risk (owner-occupied) .040

Property tax (ad valorem) .010

Amortization (50-year remaining life; improvements

constitute 70% of total property market value

0.02 x 0.70 = 0.014)

+ .014 .144

Restricted Value (\$20,700 ÷ .144) = \$143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBYV or current market value of unrestricted portion)

Restricted Value (portion under contract)	\$143,750
FBYV (unrestricted portion)	+ <u>\$102,000</u>
Restricted Value (total property)	\$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	\$204,000
8 acres (unrestricted portion)	+ <u>\$102,000</u>
Total FBYV (total property)	\$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	\$230,000
8 acres (unrestricted portion)	+ <u>\$120,000</u>
Total Current Market Value (total property)	\$350,000

The lowest of the three values is the Restricted Value (total property), \$245,750. Thus, the net taxable value would be \$238,750 (\$245,750 less \$7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)**Description of Subject Restricted Historical Property**

The same property as in Example 2, except the property owner has served notice of renewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	\$14,547,619
Current market value	\$21,000,000
Factored base year value	\$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	\$18,191,077
Restricted value	<u>- 14,547,619</u>
Difference	\$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	<u>x .591898</u>
	= \$ 2,156,555
Plus restricted value	<u>+ \$14,547,619</u>
Restricted value in nonrenewal status—lien date January 1, 2005	\$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, \$16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.



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

April 4, 2023
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Brandon Swanson, Community Planning & Building Director

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Policy Discussion on Potential Reinstatement of the Design Review Board

RECOMMENDATION:

Provide early policy direction on the potential reinstatement of the Design Review Board.

BACKGROUND/SUMMARY:

BACKGROUND

In the year 2000, a formal Design Review Board (DRB) was established in the City's Municipal Code to review residential and commercial projects involving new construction or major alterations, which did not involve other land use entitlements. The DRB consisted of five resident-members, with varied backgrounds in things such as architecture, landscaping, construction, art, and construction. The role of the DRB was to review development projects that fell under their purview, and ensure compliance with the City's Design Guidelines. Projects which included land use matters along with design review (e.g.: Use Permit, Variance, etc.) did not go to the DRB, but rather went to the Planning Commission. In July of 2009, the DRB was dissolved by Ordinance 2009-07 (**Attachment 1**) and their duties were combined with those of the City's Planning Commission. One of the recitals from the ordinance states that the merger would "*create more consistency for applicants in design review decisions made by the City and will result in a reduced workload for City staff*". The July 2009 staff report (**Attachment 2**) went into more detail about the reasons for merging the DRB and Planning Commission back together, which included: 1) A high vacancy rate in the village creating a diminished pool of qualified board members; 2) Reducing the workload of staff by having one less board to manage noticing, reports, agenda, and meetings for; 3) Increasing consistency of decision making by having a single review authority due to a concern that the DRB and Planning Commission interpreted the Design Guidelines differently, and; 4) Decrease in revenue from building permits.

Over the last year, as part of the Design Traditions 1.5 Project (DT-1.5), interest has been expressed by not only the community, but also the City Council to consider reinstating the DRB to shift authority for design review from the Planning Commission to the DRB once again. If the City chooses to move in this direction, it would require amendments to the Municipal Code and Local Coastal Program (LCP), which could be done as part of the Zoning Code amendments taking place as part of the DT-1.5 project. It is expected that the updated Design Guidelines and relevant Zoning Code amendments will be brought before Council in

early to mid-summer, 2023 before being transmitted to the Coastal Commission for certification. This means, if the City wishes to move forward with reinstating the DRB, the necessary Municipal Code amendments should begin being drafted in the near future in order to be part of the package brought to the Council for consideration with the DT-1.5 project.

Staff is seeking early policy guidance from Council on the potential re-establishment of the DRB and shifting design review authority away from the Planning Commission. Examples of policy issues to be considered could include but are certainly not limited to things like:

- Whether the DRB is an approving body or just a recommending body to the Planning Commission?
- How to divide duties between the DRB and Planning Commission?
- How would the establishment of a DRB impact the number of steps in the development application process, which sometimes also includes the Forest and Beach Commission, Historic Resources Board?
- What should the DRB appointment criteria look like?
- If most design review shifts away from Planning Commission, what do future commission meetings look like?

To help with the policy discussion, sections from the previous Municipal Code have been attached to this report which:

- Created the DRB (**Attachment 3** - Chapter 2.30);
- Established the duties and powers of the DRB (**Attachment 4** - Section 17.52.050)
- Laid out the procedures for Design Review by the DRB (**Attachment 5** – Chapter 17.58)

FISCAL IMPACT:

None for this item

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Attachment 1) Ordinance 2009-07 dissolving the DRB

Attachment 2) July 2009 City Council Staff Report

Attachment 3) Chapter 2.30 Creating the DRC

Attachment 4) Section 17.52.050 Establishing the Duties and Powers of the DRB

Attachment 5) Chapter 17.58 Laying out Procedures for Design Review by the DRB

CITY COUNCIL

ORDINANCE 2009-7

CONSIDERATION OF AN ORDINANCE REVISING THE MUNICIPAL CODE AND ZONING ORDINANCE/LOCAL COASTAL IMPLEMENTATION PLAN TO RETURN DESIGN AND LAND USE RESPONSIBILITIES TO THE PLANNING COMMISSION

WHEREAS, The City of Carmel-by-the-Sea is a unique community that prides itself on its village character; and

WHEREAS, the City has adopted a General Plan and Municipal Code that strive to protect the village character through clear policies and regulations that guide property owners in the protection of the residential character; and

WHEREAS, in Dec 2000 the Municipal Code established the duties and responsibilities of the Planning Commission and Design Review Board; and

WHEREAS, at the mid-year budget meeting in February 2009, staff recommended returning all design and land use responsibilities to the Planning Commission; and

WHEREAS, this ordinance will return all design and land use responsibilities to the Planning Commission; and

WHEREAS, this ordinance will create more consistency for applicants in design review decisions made by the City and will result in a reduced workload for City staff; and

WHEREAS, this ordinance is exempt from the California Environmental Quality Act (15305) as it will not have a significant impact on the environment.

NOW, THEREFORE, the City Council of the City of Carmel-by-the-Sea does hereby adopt this ordinance with the attached revisions to the Municipal Code and Zoning Code/Local Coastal Implementation Plan.

SEVERABILITY

If any part of this ordinance, even as small as a word or phrase, is found to be unenforceable such finding shall not affect the enforceability of any other part.

EFFECTIVE TIME PERIOD

This ordinance shall become effective thirty (30) days after final passage and adoption, or upon certification by the California Coastal Commission, which ever occurs last.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 7th day of July, 2009 by the following roll call vote:

AYES:	COUNCIL MEMBER:	ROSE; SHARP; TALMAGE; McCLOUD
NOES:	COUNCIL MEMBER:	HAZDOVAC
ABSENT:	COUNCIL MEMBER:	NONE

SIGNED,


SUE McCLOUD, MAYOR

ATTEST:


Heidi Burch, City Clerk

Attachment "A"

17.52.060 Duties and Powers of the Planning Commission.

The Planning Commission as the designated planning agency of the City shall have the following power and responsibilities:

- A. To develop and maintain a General Plan.
- B. To develop specific plans, master plans and area plans as may be necessary or desirable.
- C. To periodically, at least once each fiscal year, review the capital improvement program of the City.
- D. To determine the consistency of capital improvements projects and programs with the General Plan.
- E. To prepare an annual report to the City Council on the status of the General Plan and progress in its application.
- F. To interpret the meaning and intent of the City's land use code.
- G. To hear and render decisions on appeals of discretionary decisions made by administrative officials.
- H. To review environmental impact reports and initial studies.
- I. To conduct public hearings, review evidence and determine requests for use permits, variances, lot line adjustments, subdivisions, rezones and land use code amendments.
- J. To act on design review and design study applications ~~for those projects involving issuance of a land use permit.~~
- K. To act on projects subject to coastal permit requirements when such projects are within the categories listed above.
- L. To review the water management plan annually.

17.52.160 Planning Commission and ~~Design Review Board~~ Procedures.

- A. Purpose. It is the purpose of this section to establish uniform minimum procedures to be followed by the Planning Commission ~~and the Design Review Board~~ for all projects subject to their review. This section shall not preclude the Commission ~~or Board~~ from adopting additional procedures as necessary for the completion of their duties.
- B. Permit Issuance - Review of Plans. No building permit, license or other required permit for any structure, site development or land use shall be issued prior to Planning Commission ~~or Design Review Board~~ approval if any form of Commission ~~or Board~~ review is required for said improvement by this code. The Director shall ensure that development is executed and completed according to the approved plans.
- C. Conduct of Meetings. The Planning Commission shall meet at least once each month and may establish a more frequent schedule as needed. ~~The Design Review Board shall meet at least once each month and may establish a more frequent schedule as needed.~~ The Commission ~~and Board~~ shall keep minutes of all meetings and complete records of all examinations, findings and other official actions, together with a record of all facts pertinent to the cases submitted for their approval.
- D. Public Participation. Actions on all applications considered by the Planning Commission ~~or the Design Review Board~~ shall be open to public testimony. Written comments received from the public will be accepted and entered into the written record accompanying each matter considered by the Commission or the Board. The Commission ~~or Board~~ shall consider written and oral testimony insofar as they provide factual information related to the matter before the approval body and the specific criteria established for review of the application by this title.
- E. Decision. Decisions of the Planning Commission ~~and the Design Review Board~~ shall be reached by an affirmative vote of a majority of its members present. A quorum for each approval body shall consist of three members. All Commission ~~and Board~~ decisions shall be based on consideration of the facts presented to it by the applicant, City staff, and members of the public and consideration of all goals, objectives, policies, criteria and standards established in City planning documents and ordinances. Unless otherwise authorized under the municipal code, the Commission ~~and Board~~ shall not have the authority to waive or modify the site

development requirements of this title or the requirements of any other applicable City ordinances. Attachment 1

F. Reports on Final Actions. All actions approving or denying applications shall be made in writing and shall include all findings necessary to support said action. Approvals shall include all findings required by the sections of the municipal code related to the project being approved. Approvals may be granted in whole or in part, with or without conditions necessary to assure the intent and purpose of all applicable policies, standards and guidelines.

G. Reports and Investigations. Reports and investigations may be required by the Planning Commission ~~or the Design Review Board~~ prior to approval of any project. The Commission ~~and the Design Review Board~~ shall have the authority to request reports or investigations from the City Forester, City Engineer, Public Works Director, Building Official, Director or other department heads or commissions in writing prior to approval of any project.

H. Appeals. All final actions of the Planning Commission ~~or the Design Review Board~~ may be appealed to the City Council in accordance with Chapter 17.54 CMC, Appeals. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.170 Time Limits on Approvals and Denials.

All applications approved by City staff, the Planning Commission, ~~the Design Review Board~~ or by the City Council on appeal have a limit on the time that the approval remains valid. Permits or other approvals granted by these approval bodies or by the Historic Resources Board that are not implemented within these time limits become void.

B. General Limits. Unless otherwise stated on the permit, or indicated as a condition of approval by the approving body, the following time limits shall apply commencing upon the date of action by the City staff, Planning Commission, ~~Design Review Board~~ or final City Council action:

1. Commercial design review – 18 months;
2. Commercial business use permit – six months;
3. Other commercial district use permits – 18 months;
4. Variances – 12 months;
5. Signs – three months;
6. Residential design study – 12 months;
7. Residential district use permits – 12 months;
8. Lot line adjustments – six months; and
9. Subdivisions – 24 months.

C. Time Extensions. The Director may grant one extension of a time limit, equal in length to the original time limit for those approvals not subject to a public hearing. Similarly, the Planning Commission, ~~Design Review Board~~ or Historical Preservation Board, as appropriate, may administratively grant one extension for approvals originally subject to a public hearing. If, since the date of the original approval, the conditions surrounding the original approval have changed, or the General Plan, municipal code or Local Coastal Plan Program has been amended in any manner which causes the approval to be inconsistent with these plans or codes, no time extension or renewal shall be granted for any approval.

CMC 17.54.010 Conclusive Decision – Appeal Period.

C. The findings and actions of the Planning Commission, ~~the Design Review Board~~, and the Forest and Beach Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council pursuant to CMC 17.54.040(C), Appeals to the City Council or the Coastal Commission pursuant to CMC 17.54.040(D) and 17.54.050.

17.54.040 Filing Appeals

C. Appeals to the City Council. Decisions to approve or deny projects made by the Planning Commission, Forest and Beach Commission, ~~the Design Review Board~~, 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. Attachment 1

17.54.080 Appeals.

A. Appeals of Decisions on Permits. Any decision to approve, deny or conditionally approve any permit made by the Director, the City Forester, the Planning Commission, ~~or the Design Review Board~~ 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.

CMC 17.58.020 General Requirements and Responsibilities.

B. Coordination of Review Bodies. For any proposed major alteration affecting an historic resource in the commercial and R-4 districts, the Director shall schedule a review of the project plans by the Historic Resources Board for a determination of consistency with the Secretary of Interior's standards. If the site assessment shows that trees will be affected by the project, the Director shall forward the plans to the City Forester for processing.

Any reviews by the Forest and Beach Commission and/or Historic Resources Board that are required for a project shall occur prior to consideration of the project by the Director, ~~Design Review Board~~ or the Planning Commission. The procedures established in Chapter 17.32 CMC, Historic Preservation, shall be followed if the project would affect a historic resource or if it is unknown whether the property contains a historic resource.

D. Design Review Responsibilities. The Planning Commission shall conduct design review for all ~~non-administrative projects a use permit, variance, subdivision, lot line adjustment or other land use permit and for all projects subject to environmental review. Design review for all other projects shall be conducted by the Design Review Board or the Director pursuant to the specific requirements of this chapter.~~ The Director may require the ~~Design Review Board or~~ Planning Commission to review for any application that raises new policy issues or presents unusual circumstances not addressed by adopted policies, guidelines, or review criteria.

E. Design Review Standards. When conducting design review the Department, ~~Design Review Board~~, or the Planning Commission shall use the design guidelines adopted by the City Council as the basis for review. The decision-making entity responsible for design review shall consider the conformance of the application to the standards set forth in and promulgated under this title, and may either approve, deny or modify an application for design review. However, no modification may be made that is not consistent with any other requirement of this title. Specific zoning standards and criteria are established in each zoning district, overlay district, specific plan area, special district, or community plan area. These shall be coordinated with the guidelines in reviewing projects.

17.58.030 Commercial Design Review.

2. Procedures. Within 30 days of the receipt of a complete application for a commercial administrative permit, the Director shall review the proposed project for compliance with the standards and regulations of the CMC, the Coastal Implementation Plan, General Plan policies, commercial design guidelines, public way improvement design guidelines, and other applicable adopted design criteria. The Director may approve the application if all zoning standards are met and the project is consistent with all design guidelines. The Director shall refer for action by the Planning Commission ~~Design Review Board~~ any application for a project that does not comply with applicable adopted design guidelines and design criteria. Any proposed storefront remodels/alteration to a structure located within the downtown conservation district shall be reviewed by the Historic Preservation Board. The Director shall deny any application for a commercial track one permit that does not comply with the CMC, the Coastal Implementation Plan or the General Plan/Coastal Land Use Plan.

B. Commercial District Track Two Design Review. This is a discretionary process for reviewing substantial design changes in commercial zoning districts and the R-4 district. The Planning Commission shall conduct design review under this section. ~~for any project that requires a use permit, variance, or other land use permit. The Design Review Board shall conduct design review of all other projects subject to design review under this section.~~ Statement 1

17.58.040

3.b. Projects that comply with zoning regulations but do not comply with the design objectives or residential design guidelines will be referred to the Planning Commission Design Review Board for resolution or shall be redirected into track two.

B. Residential Track Two Design Study. Track two is a discretionary review process for projects that require a public hearing with the Planning Commission. ~~Projects that require a demolition permit, use permit, variance, or other land use permit or environmental review shall be reviewed by the Planning Commission. The Design Review Board shall take action on all other projects that require track two review. All track two projects are subject to the coastal development permit requirements of the certified LCP, and a track two design study approval shall constitute a coastal development permit. All track two projects shall require public notice and a hearing pursuant to CMC 17.52.110, Notice of Public Hearing.~~

b. ~~Design Review Board or~~ Planning Commission Review. Within 30 days of receiving a complete application, the Director shall schedule the project for a hearing and review of the design concept plans by the ~~Design Review Board or~~ Planning Commission. Public notice shall be provided in compliance with the requirements of CMC 17.52.110, Notice of Public Hearing:

B.i. ~~The Design Review Board or~~ Planning Commission shall review the proposed site design, basic massing, and other elements of the design concept for compliance with the City's design concept guidelines and the findings required in CMC 17.64.080, Design Study Approval. At the conclusion of this review the ~~DRB or~~ PC shall either (1) accept the design concept as submitted, (2) provisionally accept the design concept and provide direction to the applicant on plan revisions necessary to achieve compliance with the design guidelines and/or zoning standards, or (3) continue design concept for preparation of a new design concept if it is substantially out of compliance with the zoning standards or the design guidelines. Applicants unwilling to make the revisions directed by the DRB/PC in a provisionally accepted concept design or continued design concept may request denial of the project so that an appeal may be filed. A denial shall not be complete until findings are adopted.

ii. Projects involving a historic resource shall require a determination of consistency pursuant to CMC 17.32.140. All project approvals shall be consistent with the Secretary of Interior's Standards for Rehabilitation except as provided in CMC 17.30.010. Following action by the Historic Preservation Board, the project shall be scheduled for design concept and final details review by the Planning Commission ~~or the Design Review Board~~ consistent with this chapter.

17.58.060 Findings Required.

A. Authority. The Director, ~~the Design Review Board~~, Historic Preservation Board, or the Planning Commission as applicable to the project, shall have the authority to approve, approve with modifications and/or conditions, or deny an application for design review based on written findings stating the reasons for the action. Findings shall be based on information in the record.

B. Findings for Design Review Approval. Before approving an application for design review in any district, the Director, ~~the Design Review Board~~, Historic Preservation Board, or the Planning Commission shall find that the final design plans:

C. Additional Findings for Design Study Approval. In addition to any other findings required by this code (see CMC 17.64.080, Design Study Approval), the ~~Design Review Board or~~ Planning Commission shall make all of the following findings before granting design review approval in the R-1 district:

D. Findings Required for Approval of Deviations from Design Guidelines. In addition to any other findings required by this code, before approving any project in the single-family residential (R-1) district that deviates from the City's applicable adopted design guidelines, the Director, ~~Design Review Board~~, Historic Preservation Board, or the Planning Commission shall adopt specific findings based on information in the record to show how the proposed deviation from the design guidelines achieves all of the applicable design objectives of CMC 17.58.010, Purpose and Applicability, as well as, or better than, would be achieved by adherence to the adopted design guidelines. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.070 Enforcement.

No building or grading permit shall be issued until the applicant submits a final site plan and building permit plans showing any changes required as a condition of design review approval. Staff shall review all building permit applications for projects subject to design review for compliance with approved design review plans and any conditions of approval. The Director may refer building permit plans to the ~~Design Review Board~~ or the Planning Commission for a determination of compliance with conditions of approval. After determining that the site plan and building plans comply with all conditions of approval, the Director shall forward copies of the approved plans to the Building Official. All future development shall comply with the approved building permit plans unless modifications or changes are approved pursuant to the requirements of this code.

CMC Chapter 2.30 DESIGN REVIEW BOARD

Sections:

~~2.30.010 Establishment of Board.~~

~~2.30.020 Membership and Criteria for Appointment.~~

~~2.30.030 Appointment Process.~~

~~2.30.040 Termination of Members.~~

~~2.30.050 Bylaws, Policies, Rules and Procedures.~~

~~2.30.060 Duties, Responsibilities and Authority.~~

~~2.30.010 Establishment of Board.~~

~~There hereby is created and established the Design Review Board for the City of Carmel-by-the-Sea. (Ord. 2000-10 § 1, 2000).~~

~~2.30.020 Membership and Criteria for Appointment.~~

~~A. The Design Review Board shall consist of five members each of whom shall be appointed to serve a four-year term.~~

~~B. In establishing these criteria for appointment, the City Council seeks to insure that the Design Review Board appointees both support and will advocate for the enhancement and preservation of Carmel-by-the-Sea as "primarily, essentially and predominately a residential City..." With this being the City Council's intention:~~

~~1. All members of the Design Review Board shall be residents and electors of the City.~~

~~2. All members, if possible, should share varied backgrounds and experience in architecture, historical architecture, design art, landscaping or construction/building industry or any combination thereof. (Ord. 2000-10 § 1, 2000).~~

~~2.30.030 Appointment Process.~~

~~A. Members of the Design Review Board shall be appointed in accordance with City Council policy adopted by resolution of the Council.~~

~~B. Terms of members shall be staggered so that no more than two terms shall expire in any one year. Appointments shall be, where possible, made prior to the beginning of the term of office in order that the new member(s) shall be able to become familiar with the functions of~~

the Board prior to being seated. Terms of office for new members shall begin at the commencement of the first regular meeting in the month of October of the appropriate year. Terms of office for outgoing members shall end simultaneously. The newly appointed members shall be sworn in by the City Clerk. (Ord. 2000 10 § 1, 2000). Attachment 1

2.30.040 Termination of Members.

A member of the Design Review Board shall be terminated only under the following circumstances:

A. The member ceases to be a resident or an elector of the City.

B. The member is ill or absent from the City and unable to attend three consecutive regular Board meetings, but fails to so notify either the Chairperson, Vice Chairperson, or the Director of the Department of Community Planning and Building.

C. The member, when neither ill nor absent from the City, fails to attend three consecutive regular Board meetings.

D. The member is terminated by a majority vote of the City Council. (Ord. 2000 10 § 1, 2000).

2.30.050 Bylaws, Policies, Rules and Procedures.

The Design Review Board shall adopt or maintain bylaws, policies, rules and procedures governing parliamentary actions. The bylaws shall be filed with the City Clerk. (Ord. 2000 10 § 1, 2000).

2.30.060 Duties, Responsibilities and Authority.

The Design Review Board shall have the duties defined in CMC Title 17 and is formed generally to review residential, commercial and public works projects involving construction of new dwellings, substantial alterations and projects that do not qualify for administrative review and do not involve land use or variances. (Ord. 2000 10 § 1, 2000).

CMC 17.10.030.A

1. Detached Garages and Carports. To encourage variety and diversity in neighborhood design, detached garages and carports may be authorized by the Planning Commission or the Design Review Board within rear yard setbacks or front or side yard setbacks facing a street, subject to the following standards:

a. Front or Side Yard Setback Facing a Street. The Design Review Board or Planning Commission may authorize a single-car, detached garage or carport not exceeding 12 feet in width, 250 square feet in floor area and 15 feet in height in either the front yard setback or a side yard setback facing a street (but not both) if:

i. At least 50 percent of the adjacent right-of-way is landscaped or preserved in a natural and forested condition to compensate for the loss of open space;

ii. The proposed setback encroachment would not impact significant or moderately significant trees;

iii. Free and safe movement of pedestrians and vehicles in adjacent rights-of-way is protected;

iv. All development on site will be in scale with adjacent properties and the neighborhood context consistent with adopted design guidelines; and

v. Placement of the garage or carport in the setback will add diversity to the neighborhood streetscape.

b. Interior Side Yard Setback and/or Rear Setback. Detached garages may encroach into an interior side yard setback, rear yard setbacks, or both, if limited to 15 feet in height, the setback encroachment would not impact significant or moderately significant trees, and the garage location/design complies with design guidelines.

Table 17.10-G: Maximum Track One Fence and Wall Heights				
	Setback Location			
Design Element	Front Setback	Side Setback	Side Setback Facing Street	Rear Setback
Fence	4 feet*	6 feet	4 feet*	6 feet
Garden Wall	3 feet*	6 feet	3 feet*	6 feet
Retaining Wall	3 feet**	6 feet	3 feet**	6 feet
Pillars and Gates	6 feet	N/A	6 feet	N/A
Arbor/Trellis	7 feet	7 feet	7 feet	7 feet

* These limits shall not be altered through Design Review by the ~~Design Review Board~~ or Planning Commission.

CMC 17.30.010 Demolition or Rebuilding of Buildings.

Except when required for the emergency protection of public health or safety as determined by the City Administrator in consultation with the Building Official, no permit authorizing the demolition of any building within any district shall be issued until reviewed by the Planning Commission or ~~Design Review Board~~ in accordance with the findings established in CMC 17.64.070, Demolition and Conversion of Residential Structures (if applicable). No permit for demolition shall be approved without the concurrent review and approval of replacement construction for the site. If the structure or site is identified as an historic resource, the demolition is prohibited except when approved by the Historic Resources Board and the Planning Commission consistent with the findings established in CMC 17.64.050. All related land use, design review and environmental review approvals and the processes established in Chapter 17.32 CMC, Historic Preservation, also shall be followed. The demolition or relocation of any structure shall require a coastal development permit. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

CMC 17.40.010

C. Prohibit all signs not expressly permitted by this chapter unless authorized by specific action of the Planning Commission ~~Design Review Board~~. Prohibited signs and displays include those which are visible from exterior areas accessible to pedestrians and which are flashing, self-illuminated, neon, phosphorescent, glossy, incorporate internal lights or movement or that include strings of small lights around doors or windows. Also prohibited are exterior signs, displays or other installations that include balloons, streamers, or other notice-attracting appendages. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.40.020

B. Planning Commission Approval. Signs which, in the opinion of the Director, require exception from the standards described in this chapter shall be reviewed by the Planning Commission ~~Design Review Board~~. The Planning Commission ~~Design Review Board~~ also shall review all business signs painted, etched or otherwise applied to glass, all signs made of plastics, fabric or imitation wood and all signs of architectural, cultural, and historical significance. The Commission Board may grant exceptions only to the number, location and design of business signs. The following criteria must be satisfied to grant the exception:

C. No Permit Required. The following signs on private property do not require a permit if they meet the purpose, objectives, and standards in this chapter as determined by the Director:

interior signs, alarm system identification signs, house/occupant name, no soliciting/no handbills, garage/rummage/estate sale, home business, public information signs (exit, restroom, elevator, etc.) and a variety of temporary signs as identified in this chapter. Signs which, in the opinion of the Director, are out of the ordinary or which do not meet the purpose, objectives and standards of this chapter shall be removed or referred to the Planning Commission Design Review Board for review. Attachment 1

CMC 17.48.080.A

4. Tree Quality. Replacement trees shall be of substantial size, caliper, and height to produce an immediate visual impact and reduce the incidence of unauthorized removal. Replacement trees shall be a minimum 24-inch box size except for Monterey Pines which shall be a minimum 15-gallon size. Larger sizes may be required by the Forest and Beach Commission, or the Planning Commission or the Design Review Board based in specific design considerations applicable to the project. The City Forester may authorize the use of smaller sizes when trees meeting these standards, or meeting specific conditions of approval, are unavailable.

~~CMC 17.52.050 Duties and Powers of the Design Review Board.~~

~~The Design Review Board shall have the following duties and responsibilities:~~

~~A. To conduct public hearings, review evidence and act on permit applications not reserved to the Planning Commission, Historic Resources Board or to the Director.~~

~~B. To act on commercial district design review applications not involving any land use permit pursuant to CMC 17.58.030, Commercial Design Review.~~

~~C. To act on residential design studies for projects not involving any land use permit pursuant to CMC 17.58.040, Residential Design Review.~~

~~D. To act on projects subject to coastal permit requirements pursuant to Chapter 17.58 CMC, Design Review, when such projects are within the categories listed above. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).~~

CERTIFICATION OF ORDINANCE

I, HEIDI BURCH, 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 Ordinance 2009-07 which was adopted on second reading on the 7th day of July, 2009 and published in the *Pine Cone* on July 10, 2009 pursuant to the laws of the State of California and the City of Carmel-by-the-Sea.

DATED this 10th day of July, 2009.



Heidi Burch, City Clerk

CITY OF CARMEL-BY-THE-SEA

STAFF REPORT

TO: MAYOR McCLOUD AND COUNCIL MEMBERS
FROM: RICH GUILLEN, CITY ADMINISTRATOR
DATE: 7 JULY 2009
**SUBJECT: CONSIDERATION OF AN ORDINANCE TO REVISE
THE MUNICIPAL CODE AND ZONING
ORDINANCE/LOCAL COASTAL IMPLEMENTATION
PLAN RETURNING ALL DESIGN AND LAND USE
RESPONSIBILITIES TO THE PLANNING
COMMISSION (SECOND READING)**

RECOMMENDATION

Adopt the attached ordinance that revises relevant sections of the Municipal Code.

BACKGROUND

Carmel Municipal Code (CMC) chapter 17.52.060 establishes the duties and powers of the Planning Commission while CMC chapter 17.52.050 establishes the duties and powers of the Design Review Board that was established in December 2000. The Board's role is limited to the review of design applications not involving other land use permits (i.e. variances, conditional use permits, subdivisions, etc). Prior to 2001, there was only a Planning Commission. The attached ordinance would return all responsibilities to the Planning Commission.

The Design Review Board is referenced throughout the zoning ordinance. The attached ordinance includes strikeouts where the Board is listed and includes some new text, shown in underline, to clarify the duties of the Planning Commission. This ordinance will require a Local Coastal Program amendment by the California Coastal Commission.

STAFF REVIEW

At the Special February 4, 2009, City Council meeting on the mid-year budget, the City Administrator recommended returning all land use and design responsibilities to the Planning Commission. Following are some of the reasons for this recommendation:

1. Changing demographics: Carmel does not have the qualified applicant pool that it once enjoyed due to the high number of second home owners and our sizable retired community. There are three positions on both the Planning Commission and the Design Review Board that expire this October -- a total of six. One Commission member has already moved from the area and two others have indicated their desire to “retire”. Some whose terms expire may wish to be reappointed. If not, Carmel-by-the-Sea faces a virtually impossible task of finding qualified candidates who must be Carmel-by-the-Sea residents and voters. Keeping Carmel “Carmel” depends on the application and understanding of both our Design Guidelines and codes. Openings for this year’s Boards and Commissions have been posted since the first of the year.
2. Reduced staff workload: An additional benefit is a reduced workload for the four-member staff (two of whom are planners), as it will have one fewer Board to manage. The Planning staff currently is responsible for the regular and special meetings of the Planning Commission, Design Review Board, Historic Resources Board and the Forest and Beach Commission, which amounts to preparing for a minimum of one meeting per week.
3. Consistency: This ordinance will simplify the design review process by creating a single decision-making body, as existed before 2001. This also will ensure consistency for applicants in how the City interprets and applies its design guidelines and criteria. There had been talk about the need for a joint meeting of the two bodies, as there has been inconsistency on design decisions: e.g. design elements such as mass and bulk, windows and skylights, to name a few.
4. Decrease in revenue from Building Permits and Fees: Annual revenues in the past few years were in excess of \$300,000. Since the decrease in construction, revenues and related fees have fallen approximately 40%. Spec projects are not being built and projects are smaller and simpler.

For the above reasons, staff recommends adoption of this ordinance.

Chapter 2.30**DESIGN REVIEW BOARD****Sections:**

- 2.30.010 Establishment of Board.
- 2.30.020 Membership and Criteria for Appointment.
- 2.30.030 Appointment Process.
- 2.30.040 Termination of Members.
- 2.30.050 Bylaws, Policies, Rules and Procedures.
- 2.30.060 Duties, Responsibilities and Authority.

2.30.010 Establishment of Board.

There hereby is created and established the Design Review Board for the City of Carmel-by-the-Sea. (Ord. 2000-10 § 1, 2000).

2.30.020 Membership and Criteria for Appointment.

A. The Design Review Board shall consist of five members each of whom shall be appointed to serve a four-year term.

B. In establishing these criteria for appointment, the City Council seeks to insure that the Design Review Board appointees both support and will advocate for the enhancement and preservation of Carmel-by-the-Sea as "primarily, essentially and predominately a residential City..." With this being the City Council's intention:

1. All members of the Design Review Board shall be residents and electors of the City.

2. All members, if possible, should share varied backgrounds and experience in architecture, historical architecture, design art, landscaping or construction/building industry or any combination thereof. (Ord. 2000-10 § 1, 2000).

2.30.030 Appointment Process.

A. Members of the Design Review Board shall be appointed in accordance with City Council policy adopted by resolution of the Council.

B. Terms of members shall be staggered so that no more than two terms shall expire in any one year. Appointments shall be, where possible, made prior to the beginning of the term of office in order that the new member(s) shall be able to become familiar with the functions of the Board prior to being seated. Terms of office for new members shall begin at the commencement of the first regular meeting in the month of October of the appropriate year. Terms of office for outgoing members

shall end simultaneously. The newly appointed members shall be sworn in by the City Clerk. (Ord. 2000-10 § 1, 2000).

2.30.040 Termination of Members.

A member of the Design Review Board shall be terminated only under the following circumstances:

A. The member ceases to be a resident or an elector of the City.

B. The member is ill or absent from the City and unable to attend three consecutive regular Board meetings, but fails to so notify either the Chairperson, Vice Chairperson, or the Director of the Department of Community Planning and Building.

C. The member, when neither ill nor absent from the City, fails to attend three consecutive regular Board meetings.

D. The member is terminated by a majority vote of the City Council. (Ord. 2000-10 § 1, 2000).

2.30.050 Bylaws, Policies, Rules and Procedures.

The Design Review Board shall adopt or maintain bylaws, policies, rules and procedures governing parliamentary actions. The bylaws shall be filed with the City Clerk. (Ord. 2000-10 § 1, 2000).

2.30.060 Duties, Responsibilities and Authority.

The Design Review Board shall have the duties defined in CMC Title 17 and is formed generally to review residential, commercial and public works projects involving construction of new dwellings, substantial alterations and projects that do not qualify for administrative review and do not involve land use or variances. (Ord. 2000-10 § 1, 2000).

c. Whether the project is exempt from CEQA;

d. Whether a coastal development permit is required; and

e. Whether the project is appealable to the Coastal Commission per CMC 17.54.020.

2. The review of development permit applications for projects that are not subject to environmental review or for which a negative declaration has been prepared and adopted shall be completed within 60 days of the date the application is complete. However, if the applicant modifies the application, or if the applicant submits a written request for a time extension, the maximum time period for review may be extended for up to 90 additional days.

3. The preparation and certification of the final environmental impact report (EIR) for projects that are subject to environmental review or for which an EIR is needed, shall be completed within one year of the date that an application is accepted as complete. Upon the mutual consent of the Director and the project sponsor, this one-year time limit may be extended once for a period of not more than 90 days pursuant to CEQA Guidelines Section 15108. City action on such projects shall be completed within 180 days of the certification of the EIR unless the time for preparation of the EIR has been extended. In that case, City action is required within 90 days of certification. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.030 Duties and Powers of the Director.

The Director shall be responsible for implementing the Carmel-by-the-Sea General Plan and administering CMC Title 17, "Coastal Implementation Plan and Zoning Ordinance," of the Carmel-by-the-Sea Municipal Code. The Director shall have the following power and responsibilities:

A. To approve all administrative permits issued pursuant to this title.

B. To determine the applicable land use classification(s) of existing and proposed uses.

C. To issue business licenses.

D. To approve a change in use, provided the proposed use is permitted without condition.

E. To determine applicable categories for the processing of development applications including whether a project is subject to requirements for development permits, and if so, whether the permit is appealable to the Coastal Commission. The Director's determination of coastal development

permit category may be appealed in compliance with Chapter 17.54 CMC, Appeals, and California Code of Regulations Section 13569.

F. To approve the merger or consolidation of lots or lots and lot fragments pursuant to CMC 17.10.040(B), Lot Mergers.

G. To make environmental determinations regarding the use of exemptions and whether environmental review is required for discretionary permits.

H. To administer Carmel-by-the-Sea's water management program.

I. To review public works projects for consistency with Carmel-by-the-Sea's General Plan and Local Coastal Program.

J. To ensure that development is executed and completed according to the approved plans and that all permit conditions and mitigations are fully implemented and carried out in a timely manner.

K. To ensure that public notice requirements are met for deliberation on all administrative permits and all permits to be issued by the Historic Resources Board, the Design Review Board or the Planning Commission.

L. To refer any decision to an appropriate higher level, including the Historic Resources Board, the Design Review Board, the Planning Commission, or the City Council.

M. To authorize temporary uses of private property in compliance with CMC 17.52.100(I), Temporary Events.

N. To issue emergency coastal permits in compliance with CMC 17.52.180. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.040 Director Approved Temporary Uses.

Director approved temporary uses may be granted in the situations described in CMC 17.52.100(I). (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.050 Duties and Powers of the Design Review Board.

The Design Review Board shall have the following duties and responsibilities:

A. To conduct public hearings, review evidence and act on permit applications not reserved to the Planning Commission, Historic Resources Board or to the Director.

B. To act on commercial district design review applications not involving any land use permit pursuant to CMC 17.58.030, Commercial Design Review.

C. To act on residential design studies for projects not involving any land use permit pursuant to CMC 17.58.040, Residential Design Review.

D. To act on projects subject to coastal permit requirements pursuant to Chapter 17.58 CMC, Design Review, when such projects are within the categories listed above. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.060 Duties and Powers of the Planning Commission.

The Planning Commission as the designated planning agency of the City shall have the following power and responsibilities:

- A. To develop and maintain a General Plan.
- B. To develop specific plans, master plans and area plans as may be necessary or desirable.
- C. To periodically, at least once each fiscal year, review the capital improvement program of the City.
- D. To determine the consistency of capital improvements projects and programs with the General Plan.
- E. To prepare an annual report to the City Council on the status of the General Plan and progress in its application.
- F. To interpret the meaning and intent of the City's land use code.
- G. To hear and render decisions on appeals of discretionary decisions made by administrative officials.
- H. To review environmental impact reports and initial studies.
- I. To conduct public hearings, review evidence and determine requests for use permits, variances, lot line adjustments, subdivisions, rezones and land use code amendments.
- J. To act on design review and design study applications for those projects involving issuance of a land use permit.
- K. To act on projects subject to coastal permit requirements when such projects are within the categories listed above.
- L. To review the water management plan annually. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.070 Variances.

Only the development standards listed below shall be subject to modification through issuance of a variance:

- A. Maximum site coverage and minimum open space regulations;

- B. Minimum street frontage regulations;
- C. Maximum height regulations;
- D. Minimum front, side or rear yard setback dimensions; and
- E. Minimum parking requirements.

All variances require approval by the Planning Commission. Only when the findings listed in CMC 17.64.210, Variance, can be supported shall the Planning Commission grant a variance. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.080 Use Permits.

When findings required in Chapter 17.64 CMC, Findings Required for Permits and Approvals, can be supported, the Planning Commission may issue use permits for the following:

- A. Uses which are expressly permitted by this code upon the issuance of such a permit;
- B. Extend the period during which a nonconforming use in any district may be discontinued without the property owner losing his right to reestablish such nonconforming use; provided, however, that such extension shall not exceed six months;
- C. Allow the commercial extraction of natural materials;
- D. Permit the use of a parcel of land having an average slope of 30 percent or greater as measured from any one property line to another to be used as a building site. Through the use permit process, the following issues shall be addressed:
 1. Slope stability, both long-term and during construction;
 2. Site access for occupants, vehicles and emergency response services;
 3. Site drainage and erosion, both long-term and during construction;
 4. Impacts from proposed grading and construction activity on soils, vegetation and environmental resources;
 5. Impacts on public and private views.
- E. Permit an exterior display of specific merchandise in a specific, defined area on private property in the commercial district, providing all of the following conditions exist:
 1. The proposed area of merchandise display is not out of scale or incompatible with surrounding uses or with the use of adjacent open spaces, walkways or rights-of-way;
 2. The display is adjacent to and contiguous with the specific use and is representative of the general line of merchandise;

Chapter 17.58**DESIGN REVIEW¹****Sections:**

- 17.58.010 Purpose and Applicability.
- 17.58.020 General Requirements and Responsibilities.
- 17.58.030 Commercial Design Review.
- 17.58.040 Residential Design Review.
- 17.58.050 Conditions of Approval.
- 17.58.060 Findings Required.
- 17.58.070 Enforcement.

17.58.010 Purpose and Applicability.

A. Purpose. This chapter establishes objectives, standards, and procedures for conducting design review. The intent of these regulations is to promote and maintain the City's special character as a residential village with a compact development pattern that respects and has been strongly influenced by the natural setting and is typified by a visually rich and creative mix of architectural styles. Design review is intended to encourage originality, flexibility, and diversity in design and preserve and enhance the community's existing forest character while preventing unnecessary delays in project approval. More specifically, the design review process is intended to:

1. Promote design that maintains the City's intimate and human scale and complements, rather than overrides, natural constraints;
2. Ensure that the design of new homes, residential additions, and exterior alterations preserves the traditional characteristics of scale, good site design, and sensitivity to neighboring properties;
3. Encourage the construction of residences that are diverse and innovative in design yet compatible with the City's forest setting as well as the site design and materials used in surrounding structures;
4. Promote residential design that respects the privacy, solar, access, and private views of neighboring properties;
5. Maintain a tradition of architectural diversity that enhances the character of the commercial district and adds a lively sense of history to Carmel's village ambiance by promoting commercial building design that respect these traditions; and

cial building design that respect these traditions; and

6. Encourage originality and invention so long as the results encompass the unifying values of human scale and the use of natural materials and their role in preserving village character and avoid out-of-scale or bizarre building forms or incompatible design.

B. Applicability. Design review is required for (1) specified physical improvements as established throughout this title, (2) new site development as defined in Chapter 17.70 CMC, and any substantial alterations, rebuilding, rehabilitation, new construction, exterior alterations, additions, signs, exterior lighting and landscaping associated with such construction, alterations or additions set forth in this title. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.020 General Requirements and Responsibilities.

A. Submittal Standards. The Department of Community Planning and Building (the Department) shall establish uniform submittal requirements to enable a full understanding of each project, facilitate review and provide consistency in information for decision-making. Applications for projects subject to design review shall include such information as may be required by the Director. Such information may include, but is not limited to, site plans, floor plans, building sections, exterior elevations, photographs of the subject or abutting properties, perspective or axonometric drawings and/or a model, description of building materials, material and/color samples, exterior lighting, fence plans, sign, drainage plans, landscaping and irrigation plans. Applications requiring design review shall be subject to a fee schedule as established by resolution of the City Council.

B. Coordination of Review Bodies. For any proposed major alteration affecting an historic resource in the commercial and R-4 districts, the Director shall schedule a review of the project plans by the Historic Resources Board for a determination of consistency with the Secretary of Interior's standards. If the site assessment shows that trees will be affected by the project, the Director shall forward the plans to the City Forester for processing.

Any reviews by the Forest and Beach Commission and/or Historic Resources Board that are required for a project shall occur prior to consideration of the project by the Director, Design Review

1. Prior legislation: Code 1975 § 1322, Ords. 159 C.S., 296 C.S., 328 C.S., 83-25, 85-18, 86-3, 90-8, 92-20, 98-13, 2001-03, 2001-09, 2002-10 and 2003-01.

Board or the Planning Commission. The procedures established in Chapter 17.32 CMC, Historic Preservation, shall be followed if the project would affect a historic resource or if it is unknown whether the property contains a historic resource.

C. Public Notice Requirements. For any project that requires preparation of preliminary site assessment pursuant to this section but does not require a public hearing and is not subject to the Coastal Zone notification, the Director shall post notice on the site and at City Hall at least 10 days before a decision.

D. Design Review Responsibilities. The Planning Commission shall conduct design review for all projects that require a use permit, variance, subdivision, lot line adjustment or other land use permit and for all projects subject to environmental review. Design review for all other projects shall be conducted by the Design Review Board or the Director pursuant to the specific requirements of this chapter. The Director may require the Design Review Board or Planning Commission to review for any application that raises new policy issues or presents unusual circumstances not addressed by adopted policies, guidelines, or review criteria.

E. Design Review Standards. When conducting design review the Department, Design Review Board, or the Planning Commission shall use the design guidelines adopted by the City Council as the basis for review. The decision-making entity responsible for design review shall consider the conformance of the application to the standards set forth in and promulgated under this title, and may either approve, deny or modify an application for design review. However, no modification may be made that is not consistent with any other requirement of this title. Specific zoning standards and criteria are established in each zoning district, overlay district, specific plan area, special district, or community plan area. These shall be coordinated with the guidelines in reviewing projects.

F. Prerequisite for Permit Issuance. Permits for projects and for signs that are subject to design review shall not be issued without design review approval pursuant to the requirements of this title. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.030 Commercial Design Review.

The City has established two tracks for design review of projects proposing new construction, alterations, rebuilds, additions, demolitions, and other exterior design changes in the central commercial (CC), service commercial (SC) and resi-

dential and limited commercial (RC) districts and the multifamily residential (R-4) district. Approval of any design review application for a commercial project under this section shall require the decision-making authority to find that the proposed project represents an improvement over existing conditions. All projects approved shall comply with minimum zoning standards established by this title. However, compliance with minimum standards does not constitute a sufficient basis for project approval. Projects also shall be evaluated for compliance with the design guidelines.

A. Commercial District Track One Design Review. The Director may approve track one applications for design changes in all commercial zoning districts and the R-4 district based on a determination that such projects comply with the Zoning Ordinance and all applicable commercial design guidelines and public way design guidelines.

1. Applicability. The following projects may be approved with commercial design review track one design review in the CC, SC, RC, and R-4 districts:

- a. Public way improvements;
- b. Storefront remodels/alterations;
- c. Landscaping;
- d. Exterior lighting;
- e. Roofing materials and rooftop equipment;
- f. Signs; and
- g. Exterior flags.

2. Procedures. Within 30 days of the receipt of a complete application for a commercial administrative permit, the Director shall review the proposed project for compliance with the standards and regulations of the CMC, the Coastal Implementation Plan, General Plan policies, commercial design guidelines, public way improvement design guidelines, and other applicable adopted design criteria. The Director may approve the application if all zoning standards are met and the project is consistent with all design guidelines. The Director shall refer for action by the Design Review Board any application for a project that does not comply with applicable adopted design guidelines and design criteria. Any proposed storefront remodels/alteration to a structure located within the downtown conservation district shall be reviewed by the Historic Preservation Board. The Director shall deny any application for a commercial track one permit that does not comply with the CMC, the

Coastal Implementation Plan or the General Plan/Coastal Land Use Plan.

3. Limits. Track one review for projects involving historic structures or dwellings shall be limited to minor alterations pursuant to CMC 17.32.150.

B. Commercial District Track Two Design Review. This is a discretionary process for reviewing substantial design changes in commercial zoning districts and the R-4 district. The Planning Commission shall conduct design review under this section for any project that requires a use permit, variance, or other land use permit. The Design Review Board shall conduct design review of all other projects subject to design review under this section.

1. Applicability. The requirements of this section apply to all commercial and multifamily residential projects that do not qualify for commercial district track one design review. This process also applies to all referrals from administrative commercial design review, all projects that require an initial study, negative declaration or EIR and to any project that requires a use permit, variance, subdivision or other land use permit including, but not limited to, the following:

- a. Construction of new buildings;
- b. Additions to existing buildings;
- c. New parking facilities; and
- d. Installation of antennas.

2. Procedures. Within 30 days of the receipt of a complete application proposing substantial design changes in any commercial zoning district or the R-4 district, the Director shall review the project for compliance with the standards and regulations of the CMC, General Plan policies, the Coastal Implementation Plan, and the commercial design guidelines. Applications subject to design review pursuant to this section shall not require a public hearing unless the project involves a historic structure or dwelling, requires a use permit, variance, subdivision, lot line adjustment, appealable coastal development permit, or other land use permit that requires a hearing in accord with the provisions of this title or State law. All track two projects shall be subject to the CDP requirements of the LCP and a track two design review approval shall constitute a coastal development permit for any project subject to review under this section. Projects involving historic resources shall require a determination of consistency pursuant to CMC 17.32.140. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.040 Residential Design Review.

The City has established two different residential design review tracks for projects in the single-family residential (R-1) district.

A. Residential District Track One Design Review. Track one is a staff-level discretionary review for projects that do not require a coastal development permit and are exempt from public hearing requirements. Staff shall review projects for compliance with all applicable zoning regulations and standards and for compliance with the residential design guidelines.

1. Applicability. Applications eligible for track one review are limited to the following projects, subject to the restrictions in subsection (A)(2) of this section:

- a. Exterior alterations and additions that do not increase existing floor area by more than 10 percent;
- b. Changes in exterior materials of structures;
- c. Changes in site coverage and/or landscaping;
- d. Changes in windows, doors, chimneys and skylights;
- e. Fences and walls; and
- f. Minor alterations to historic resources per CMC 17.32.150.

2. Restrictions. Track one review shall be limited to projects that:

- a. Do not require significant cuts to the roots or limbs of any trees classified by the City Forester as "significant" or "moderately significant";
- b. Do not require the demolition or substantial alteration of any dwelling unit;
- c. Do not require an initial study, negative declaration or EIR;
- d. Are sited and designed to protect public views to and along the ocean and scenic coastal areas.

3. Procedures. Within 30 days of the receipt of a complete application for design review, the Director shall review design concept plans for compliance with the standards and regulations of this code, General Plan policies, residential design review guidelines, and other applicable adopted design criteria and may approve proposed projects that comply with all of the applicable requirements of this code and the residential design guidelines.

a. The Director shall deny any proposed project that does not comply with the Zoning Ordinance/Coastal Implementation Plan or the General

Plan/Coastal Land Use Plan. The Planning Director shall also require track two design review for all projects that are not visually compatible with the character of the surrounding area or those that do not minimize grading and landform alteration.

b. Projects that comply with zoning regulations but do not comply with the design objectives or residential design guidelines will be referred to the Design Review Board for resolution or shall be redirected into track two.

c. Public notice of the Director's decision on a track one project shall be posted at City Hall and on-site for 10 calendar days. Any individual or entity aggrieved by the Director's decision to approve or deny a track one residential district administrative permit may file a written appeal with the Planning Commission Secretary within 10 days of the date that the notice of decision is posted.

B. Residential Track Two Design Study. Track two is a discretionary review process for projects that require a public hearing. Projects that require a demolition permit, use permit, variance, or other land use permit or environmental review shall be reviewed by the Planning Commission. The Design Review Board shall take action on all other projects that require track two review. All track two projects are subject to the coastal development permit requirements of the certified LCP, and a track two design study approval shall constitute a coastal development permit. 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 and other projects that comply with applicable zoning standards and design review guidelines but do not qualify for track one processing.

2. Procedures. Design 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:

Step One: Preliminary Site Assessment.

a. Applicability. A preliminary site assessment shall be conducted prior to the submission of design concept plans for the following:

i. All new construction, demolition, and grading over 25 cubic yards;

ii. Residential additions that increase building coverage by more than 200 square feet or 10 percent; and

iii. Any project that will require grading within six feet of any tree classified by the City Forester as "significant" or "moderately significant"; and

iv. Any project involving tree removal or requiring significant cuts to the roots or limbs of any tree classified by the City Forester as "significant" or "moderately significant."

b. Submittal Requirements. The applicant shall submit two copies of a topographic survey prepared by a licensed surveyor or a civil engineer prior to submittal of design plans for design review. The survey shall document property boundaries, topographic contours, the location of all trees over two inches DBH, the outline of all existing structures on the property, the location of any easements, existing access, the edge of pavement for all adjoining streets and all existing areas of site coverage. The survey shall be reviewed with the applicant and/or representative in the field by the City Forester and by the Director. Where topography, soil conditions, street configuration or other factors might require unusual drainage solutions, the City Forester or the Director may call in the Public Works Director for additional review and advice. In addition, the applicant shall deposit with the City an amount adequate to pay for a historic evaluation of any structure, dwelling, or property involved that is at least 50 years or greater in age and for which a determination of eligibility/ineligibility for the Carmel Inventory has not yet been made or is out of date.

c. City Forester Review. During the site visit the Forester shall review all trees on-site, in the adjacent right-of-way, and those which significantly overhang the site from adjacent properties. The Forester shall annotate the survey regarding the following:

i. The species, approximate drip line and state of health of each tree;

ii. Each tree shall be classified as to its significance to the urbanized forest based on its species, health and condition, size, form, character, age and location. Classifications used shall be sig-

nificant, moderately significant and not significant; and

iii. For trees classified as significant or moderately significant the Forester also shall note important limbs that are low enough to encroach into potential building areas and areas where excavation or fill should be avoided to protect roots. Trees classified as significant shall be rated and documented using a standardized tree appraisal form.

d. Director Review. During the site visit, the City Planner shall annotate the survey regarding the following:

i. Design characteristics of the public right-of-way including landscaping, excess paving, and access opportunities or constraints;

ii. Design patterns and context of the immediate neighborhood including number of stories, exterior materials, setbacks, and open space/landscaping features;

iii. The potential for historic resources to be present on the site;

iv. Potential view and privacy issues on neighboring lots;

v. The potential for using setback exceptions, garden levels, basements, and other features of the Zoning Ordinance; and

vi. Unusual grade conditions or prior excavations that may require an approximation of natural grade in planning the building or calculating heights.

e. Survey Copies. Upon completion of both site visits and transfer of annotations to both copies of the survey, one copy shall be returned to the applicant for use in designing the project. The other copy will be retained by the City for use in reviewing the project. In preparing design concept plans the information on the preliminary site assessment map shall be used to avoid impacts on significant trees and minimize impacts on moderately significant trees. Design concepts shall respond to site constraints and opportunities in a manner consistent with the zoning standards, General Plan, and the adopted design guidelines.

f. Historic Resource Review. Planning staff or a qualified professional shall conduct an initial assessment of historic significance consistent with CMC 17.32.060(B). If there are no historic resources eligible for the Carmel Inventory located on the site, the procedures in CMC 17.32.060(D) shall be followed. If resources are found on the site that appear to meet the criteria for inclusion in the inventory of historic resources, an

intensive survey of the property shall be conducted consistent with CMC 17.32.060(C).

Step Two: Design Concept Review.

a. Submittal Requirements. The applicant shall prepare design concept plans including "stick" drawings showing building placement, building form, heights, setbacks, access, approximate placement of windows, decks and balconies, proposed tree removals, rough grading, site coverage and floor area.

b. Design Review Board or Planning Commission Review. Within 30 days of receiving a complete application, the Director shall schedule the project for a hearing and review of the design concept plans by the Design Review Board or Planning Commission. Public notice shall be provided in compliance with the requirements of CMC 17.52.110, Notice of Public Hearing:

i. The Design Review Board or Planning Commission shall review the proposed site design, basic massing, and other elements of the design concept for compliance with the City's design concept guidelines and the findings required in CMC 17.64.080, Design Study Approval. At the conclusion of this review the DRB or PC shall either (1) accept the design concept as submitted, (2) provisionally accept the design concept and provide direction to the applicant on plan revisions necessary to achieve compliance with the design guidelines and/or zoning standards, or (3) continue design concept for preparation of a new design concept if it is substantially out of compliance with the zoning standards or the design guidelines. Applicants unwilling to make the revisions directed by the DRB/PC in a provisionally accepted concept design or continued design concept may request denial of the project so that an appeal may be filed. A denial shall not be complete until findings are adopted.

ii. Projects involving a historic resource shall require a determination of consistency pursuant to CMC 17.32.140. All project approvals shall be consistent with the Secretary of Interior's Standards for Rehabilitation except as provided in CMC 17.30.010. Following action by the Historic Preservation Board, the project shall be scheduled for design concept and final details review by the Planning Commission or the Design Review Board consistent with this chapter.

Step Three: Final Details Review.

a. Final Action. The Board or Commission shall take final action on the application after the applicant submits the final design plans for

review consistent with the City's "Residential Design Guidelines: Final Details Review" and the findings required in CMC 17.64.080, Design Study Approval. For projects involving additions or alterations to historic resources or limited changes to nonhistoric structures, the Director may authorize concept review and final details review to occur at the same meeting.

3. Appeal. Any individual or entity aggrieved by the Board or Commission's decision to approve or deny a residential track two design study approval may file a written appeal pursuant to the requirements of Chapter 17.54 CMC, Appeals. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.050 Conditions of Approval.

In approving any application for design review, the decision-making authority may impose any conditions deemed necessary to:

A. Ensure conformance with the policies of the General Plan and the Local Coastal Program;

B. Comply with all applicable provisions of this code;

C. Implement applicable adopted design review guidelines;

D. Require mitigation for unavoidable impacts resulting from the development.

The decision-making authority may not impose any condition or require any modification that is not consistent with any other requirement of the municipal code. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.060 Findings Required.

A. Authority. The Director, the Design Review Board, Historic Preservation Board, or the Planning Commission as applicable to the project, shall have the authority to approve, approve with modifications and/or conditions, or deny an application for design review based on written findings stating the reasons for the action. Findings shall be based on information in the record.

B. Findings for Design Review Approval. Before approving an application for design review in any district, the Director, the Design Review Board, Historic Preservation Board, or the Planning Commission shall find that the final design plans:

1. Conform to the applicable policies of the General Plan and the Local Coastal Program;

2. Comply with all applicable provisions of this code; and

3. Are consistent with applicable adopted design review guidelines.

C. Additional Findings for Design Study Approval. In addition to any other findings required by this code (see CMC 17.64.080, Design Study Approval), the Design Review Board or Planning Commission shall make all of the following findings before granting design review approval in the R-1 district:

1. The project conforms with all zoning standards applicable to the site, or has received appropriate use permits, variances or exceptions consistent with the Zoning Ordinance.

2. The project contributes 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.

3. The project is compatible with, and sensitive to, the natural features and built environment of the site and of the surrounding area. The project respects the constraints of the site and avoids excessive grading, cuts and fills. Construction on steep slopes is minimized to the extent feasible and abrupt changes in grade is minimized or mitigated.

4. The project maintains the City's principles of modesty and simplicity and preserves the City's tradition of simple homes set amidst a forest landscape. The project uses simple building forms and simple roof forms without complexity that would attract undue attention to the site.

5. The project does not present excess visual mass or bulk to public view or to adjoining properties. The project relates to a human scale in form, elements and in the detailing of doors, windows, roofs and walkways.

6. Project details and materials (e.g., windows, doors, chimneys, roofs, and stonework) are fully integrated and consistent throughout the design. Building materials are used in a manner that is visually consistent with the proposed architecture. All fenestration is appropriate in size and consistent with a human scale.

7. The project is consistent with the City's design objectives for protection and enhancement of the urbanized forest and open space resources. Open space is distributed around buildings to provide visual relief from structural bulk and a distinct separation from buildings on adjacent sites.

8. All demolitions, remodels, and substantial alterations are consistent with the following findings:

a. The design uses simple/modest building forms and a limited number of roof planes, and a restrained employment of offsets and appendages consistent with the City's design objectives.

b. The mass of the building relates to the context of other homes in the vicinity that are in conformance with the City's design guidelines related to mass and scale.

c. The development is similar in size, scale, and form to buildings on the immediate block and neighborhood.

d. The development does not require removal of any significant trees unless necessary to provide a viable economic use of the property or protect public health and safety. All moderately significant trees have been protected to the maximum extent feasible. All buildings and structures will be set back a minimum of six feet from significant trees.

D. Findings Required for Approval of Deviations from Design Guidelines. In addition to any other findings required by this code, before approving any project in the single-family residential (R-1) district that deviates from the City's applicable adopted design guidelines, the Director, Design Review Board, Historic Preservation Board, or the Planning Commission shall adopt specific findings based on information in the record to show how the proposed deviation from the design guidelines achieves all of the applicable design objectives of CMC 17.58.010, Purpose and Applicability, as well as, or better than, would be achieved by adherence to the adopted design guidelines. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.070 Enforcement.

No building or grading permit shall be issued until the applicant submits a final site plan and building permit plans showing any changes required as a condition of design review approval. Staff shall review all building permit applications for projects subject to design review for compliance with approved design review plans and any conditions of approval. The Director may refer building permit plans to the Design Review Board or the Planning Commission for a determination of compliance with conditions of approval. After determining that the site plan and building plans comply with all conditions of approval, the Director shall forward copies of the approved plans to the Building Official. All future development shall comply with the approved building permit plans

unless modifications or changes are approved pursuant to the requirements of this code.

Failure to comply with the conditions of approval may result in enforcement proceedings and penalties levied against the applicant and his/her assigns pursuant to Chapter 17.66 CMC. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).



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

April 4, 2023
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Consider the total funding amount to authorize for the current Council Discretionary Grant Program cycle and provide direction to staff for the FY 2023-2024 budget

RECOMMENDATION:

Consider the total funding amount to authorize for the current Council Discretionary Grant Program cycle and provide direction to staff for the FY 2023-2024 budget.

BACKGROUND/SUMMARY:

The Council Discretionary Grant Program Purpose, Eligibility Criteria and Public Benefit

Various entities, including school districts and nonprofit organizations, play an important role in providing services and programs that benefit and enhance the well-being of the Carmel-by-the-Sea community. The City has a history of allocating funding to a myriad of environmental and social programs and projects, and, on January 3, 2017, Council adopted the City Council Discretionary Funds Grant Program (Policy C17-01, attachment 1). The intent of this policy is to provide a clear and consistent framework for both the organizations seeking funding from the City as well as for the Council in making funding decisions based on the demonstrated public benefit to the Carmel-by-the-Sea community derived from the use of the City grant funds.

In accordance with the Council-adopted policy, an organization must meet the following criteria to be eligible to receive funding: (1) located within the City of Carmel-by-the-Sea or provide community, environmental or social services to the community of Carmel-by-the-Sea; (2) constituted as a nonprofit community-based 501(c) organization or be a Carmel school; (3) directly provide the community service(s) for which City funds are sought; (4) not have outstanding debt due to the City; and (5) not be financially dependent upon receiving City support to meet the organization's annual budget and operational requirements.

In keeping with the spirit of the eligibility criteria, the program specifically excludes the use of City funds to support political activities; to pay for high school or college scholarships; to pay debt; to purchase alcoholic beverages; to pay for travel, meals, lodging, or entertainment expenses; to support services that are primarily commercial, religious or political in nature; to pay for permanent improvements to any non-City

owned structure or property so that it becomes an integral part of the real property; and to pay for general operating expenses or expenses to support ongoing operation of the applicant, including, but not limited to, salaries, utilities, and rent expenses.

Discussion

On average, the City receives 8 applications per year from non-profit organizations requesting consideration for grant funding, up to \$3,000. For the FY 23-24 Grant Cycle, the City advertised the Discretionary Grant application link and instructions on the city's website for 4 weeks, included info in Friday Letters, published an advertisement in the Pine Cone on March 3rd, and emailed the application link and instructions to all the applicants who applied last year. The advertisement, website posting, and emails to the past applicants included the deadline to apply and instructions regarding submitting the required documentation. At the time of writing this staff report only one application has been submitted, however, we anticipate more will be received before the deadline of April 3, 2023.

Staff will review all of the fully completed applications received by the April 3rd deadline, and come back to Council at the first meeting in May with a list of the eligible applications that were received that meet the Policy C17-01 requirements such as application, proof of 501(c) status, financial statements, operating budget and proposed project and budget plan for the use of the grant funds. Staff will make a recommendation for the Council to award grants based on the amount allocated by Council for Discretionary Grants in the FY 23-24 operating budget. Council will then approve the funding recommendation or provide other direction to staff. The disbursement of the funds to the successful applicant organizations will not occur until after the City Council adopts the final FY 2023-2024 budget and after the start of the fiscal year on July 1, 2022.

In order to prepare the projected budget for FY 2023-2024, staff is seeking direction from Council regarding the total funding amount Council would like to set aside for discretionary grants for the current grant cycle. Last year, Council approved 8 discretionary grants for a total amount of \$24,000.

FISCAL IMPACT:

Staff will build the Council-directed total grant funding into the Fiscal Year 23/24 budget.

PRIOR CITY COUNCIL ACTION:

Council adopted the City Council Discretionary Grant Program (Policy 2017-01) on January 3, 2017 and approved corresponding Resolution 2017-010.

Council adopted the FY 2022-2023 Operating Budget on June 7, 2022, which included authorizing \$24,000 total for Discretionary Grant Funds for the FY 2022-2023 Grant Cycle.

ATTACHMENTS:

Attachment 1) Policy C17-01 Council Discretionary Funds Grant Program

City of Carmel-by-the-Sea

CITY COUNCIL DISCRETIONARY FUNDS GRANT PROGRAM

POLICY 2017-01

Office of the City Administrator
Carmel-by-the-Sea, CA 93921



GENERAL

INTRODUCTION

The City of Carmel-by-the-Sea recognizes and appreciates the value of local organizations that provide community, environmental and social services that benefit the City's community and enhance the well-being of its citizens. Community service is defined as voluntary work performed that supports the wellbeing of the citizens of Carmel-by-the-Sea and serves a public purpose. As such, each year, the City Council may set aside discretionary funds to support a City Council Discretionary Funds Grant Program that supports such purposes. Organizations that serve the community of Carmel-by-the-Sea are eligible to apply. The functions or services to be provided should be of such a nature that the interests of the City are better served by an agreement with a private nonprofit organization than by the performance of the services or functions by the City. Every organization that applies will be considered, but not all groups may receive funding.

PROGRAM PURPOSE AND DESCRIPTION

The City Council Discretionary Funds Grant Program serves as a funding resource to nonprofit organizations or schools that provide programs or services that benefit the Carmel-by-the-Sea community. With clearly defined goals, criteria, and evaluation measures, the program will result in a granting process that:

- Provides equal opportunity for all interested community service providers to be considered for funding
- Aligns funding requests with the City's budget process
- Identifies the community benefit associated with funded programs or services
- Establishes a reporting process that demonstrates transparency and accountability for public funds

The City Council Discretionary Funds Grant Program is discretionary, meaning that it is up to the Council as to whether or not to accept applications for this program each year. Due to limited funds, Council has the option to not accept applications or limit the amount of funding to be allocated under such a program in any given fiscal year. If the City decides to administer the program in any given year, requests for funding received from organizations will be considered only during a specified time period. It is not the City's intention to fund each request received, but rather to evaluate each proposal and provide funding to those organizations that most effectively serve the needs and improve the well-being of the community of Carmel-by-the-Sea.

The City encourages a goal of self-sufficiency for all local organizations and discourages an over-reliance on its financial assistance to maintain such programs on an ongoing basis. Therefore, all organizations requesting funds from the City should continue efforts to develop stable private funding sources.

ELIGIBILITY STANDARDS

ELIGIBILITY

To be eligible for funding, an organization:

- Must be located within the City of Carmel-by-the-Sea or provide community, environmental or social services to the community of Carmel-by-the-Sea
- Must be a nonprofit community based 501(c) organization or a Carmel school
- Must directly provide the community service(s) for which City funds are sought
- Must have no outstanding debt due to the City
- Must not be financially dependent upon receiving City support to meet the organization's annual budget and operational requirements

INELIGIBILITY

The City will not provide support to:

- Individuals
- For-profit enterprises
- Special events (special event organizers are encouraged to review the City's special event grant funding application guidelines and apply for grants under that process)

PUBLIC PURPOSE

By law, all public funds, however awarded, must be used for a public purpose. In general, a public purpose is defined as an activity or service that is open and accessible to all members of the public regardless of race, creed, gender, sexual orientation, religious affiliation, etc., without restriction, and which does not promote a particular religion. It is therefore imperative for the organizations requesting funding through this program to clearly demonstrate the benefit that funded programs or services will have on the community of Carmel-by-the-Sea.

City grant funds may **not** be used for any of the following activities:

- To support political activities (including, but not limited to, lobbying, campaigns, or endorsements) and/or private interests
- Scholarships to high-school or college students
- The payment of outstanding debts
- The purchase of alcoholic beverages
- Travel, meals, lodging, or entertainment expenses
- Services which are primarily commercial, religious or political in nature
- Permanent improvements to any non – City owned structure or property so that it becomes an integral part of the real property and its removal would do harm to the building or land, including those improvements that are bolted, nailed, screwed or wired into the wall, ceiling or floor

- General operating expenses or expenses to support on-going operation of the applicant, including, but not limited to, salaries, utilities, and rent expenses

DEMONSTRATING PUBLIC BENEFIT

Circumstances under which it is appropriate for the City to grant public funds include the following:

- When an organization provides a service that complements or enhances a service that the City also provides
- When there is an identifiable secondary, or indirect, benefit to the City
- When the organization provides a service the City could provide, but chooses not to

The following chart contains examples that illustrate public benefit:

Relationship to City Programs	Example	Benefit
Complementary service	Donation to the Tree Foundation in return for agreement to replace trees that have been removed by the City due to disease	The Tree Foundation has specialized knowledge about planting trees suitable for the area. New trees will enhance property values. The service will also increase the number of planted trees beyond that which the City would be able to plant.
Demonstrable benefit	Youth organization's after-school program	After-school programs can boost academic performance, reduce risky behaviors, promote physical health, and provide a safe, structured environment for the children of working parents.
Service the City could provide, but does not	Homeless shelter and placement programs	Programs such as this help end the cycle of homelessness.

APPLICATION PROCEDURE

All eligible entities seeking funding shall complete an application. Eligible entities include any Carmel school, or any nonprofit agency/organization either located within the City of Carmel-by-the-Sea or providing services to City of Carmel-by-the-Sea residents. The application must include a full explanation of the proposed use of the money and include a detailed budget and be submitted to the City by the specified deadline. City staff will then review the application for completeness and compliance with the evaluation criteria. Deadlines for funding requests correspond to the City's budgeting cycle. The application process for an upcoming fiscal year will open early in February and close in March so as to give the City Council sufficient time to include the funding in the fiscal year budget, if it so chooses to administer the program that year.

Grants are limited to schools, or organizations that are designated a 501(c) nonprofit organization by the Internal Revenue Service (IRS). Formal nonprofit status must be up

to date and submitted as requested on the application. 501(c) organizations must be in good standing with the IRS. Nonprofit organizations may apply for funding only if the Project/Program serves a public purpose and follows the laws governing use of public funds.

PROCESS

All interested nonprofit organizations must complete an application form, which will include the following information:

- Name and address of the nonprofit organization (applicant is required to list the local branch if it represents a national or statewide organization)
- Description of the community project/program/service provided and the benefit to the community that will be provided, including the number of Carmel-by-the-Sea community members served by both the organization and the specific project/program/service for which grant funds are sought
- Amount of funds requested
- Proposed project and budget plan for the use of the grant funds
- A current, detailed operating budget that includes information on the organization's annual sources of revenue received
- Proof of 501(c) status with a copy of the letter from the IRS as applicable
- The **past two year's** financial statements, including the current year, with balance sheets, sources of revenues, profit/loss statements and indicating the percentage of revenue that is used for administration, salaries and program costs
- Applicant(s) receiving City grant funds in the past must indicate when the funds were received, the amount received, and document how the funds were utilized
- The application must be completed by an officer or employee of the organization that is applying for funding and authorized by the organization to complete the application

Incomplete applications and applications not submitted by the deadline will not be considered.

EVALUATION OF APPLICATIONS

Following the application deadline, the City will review proposals from applicants. Applicants will be asked to send one representative to attend a public meeting to address the City Discretionary Funds Grant subcommittee, answer questions, and demonstrate the public benefit of the funds requested. All proposals will be evaluated to ascertain which nonprofit organizations will best serve the community of Carmel. Factors considered include, but are not limited to:

- The organization's documentation of its current nonprofit status
- The extent to which the organization provides a benefit to the Carmel-by-the-Sea community, including demonstrating the number of residents or businesses served
- The organization's history of providing satisfactory services to the community of Carmel-by-the-Sea as applicable
- The organization's submittal of financial statements prepared using an appropriate method of accounting that demonstrates sound financial management practices
- The organization's approach to monitoring and evaluate the success of the project/program/service provided

EXECUTION OF AGREEMENT

Nonprofit organizations selected to receive funds will be required to sign and execute an agreement with the City of Carmel-by-the-Sea. If an award of funds is made, a recipient nonprofit organization will be required to expend grant monies prior to the close of the fiscal year (June 30) in which it received the funding.

COMPLIANCE

Each awarded entity shall submit a report and proper backup documentation to substantiate that funds were expended appropriately. The report shall be submitted within 30 days of the end of the project or no later than June 30 of the fiscal year in which funds were awarded. Such documentation shall include the following:

- Invoices/receipts documenting the expenditure of funds
- A brief summary that explains all expenditures, including how they specifically benefitted Carmel-by-the-Sea residents, that may also include pictures or other documentation illustrating the use of the grant funds
- The organization's progress towards meeting the goals and objectives outlined in the application, and a schedule of the Project/Program's revenues/expenditures

If funds are not expended in accordance with the City's approved purpose, the organization may be required to refund the granted funds. The City reserves the right to require additional back-up information to substantiate how funds received from the City were expended. Failure to spend the funds in a timely manner, to provide proper documentation and/or to utilize the funds for the intended purpose may jeopardize future funding.



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

April 4, 2023
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Brian Pierik, City Attorney
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Consider Adoption of Urgency Ordinance 2023-002 to Repeal and Replace Urgency Ordinance 2022-006, adopting amended rules of conduct for attending meetings of legislative bodies at City facilities

RECOMMENDATION:

- 1) Request City Attorney to read title of the Urgency Ordinance.
- 2) Motion to waive full reading, and Adopt Urgency Ordinance 2023-002 to Repeal and Replace Urgency Ordinance 2022-006, adopting amended rules of conduct for attending meetings of legislative bodies at City facilities.

BACKGROUND/SUMMARY:

BACKGROUND

On March 4, 2020, Governor Newsome declared a State of Emergency as a result of the COVID-19 pandemic.

On March 12, 2020, the City Administrator issued a Proclamation of the Existence of a Local Emergency due to COVID-19, acting in his capacity as the Director of Emergency Services.

On March 13, 2020, the Carmel City Council (Council) adopted Resolution 2020-021, ratifying the proclaiming the existence of a local emergency due to COVID-19.

On November 1, 2022, the City Council adopted Urgency Ordinance 2022-006 (Attachment 1) which has Rules of Conduct for attending meetings of legislative bodies at City Facilities and Section 7.3 requires face covering when the CDC Community Level for the County of Monterey is medium or high as of the date of posting the agenda for the meeting of the legislative body.

On February 28, 2023, the Governor terminated the State of Emergency due to COVID-19.

EXECUTIVE SUMMARY

On March 7, 2023, the City Council adopted Resolution No. 2023-026, to rescind Resolution 2020-021 and terminate the local emergency due to COVID-19 and adopted Urgency Ordinance 2023-001, to terminate all COVID related Urgency Ordinances adopted since the emergency began except for No. 2022-006 (**Attachment 1**). Council requested staff to bring back a draft Urgency Ordinance at the Council meeting on April 4, 2023, to provide that wearing masks to attend meetings of legislative bodies inside of City buildings is only required if the CDC Community level at the time of agenda posting is "high" instead of "medium or high". **Attachment 3** is a Redline Version of Urgency Ordinance No. 2023-002 which shows the changes to Urgency Ordinance No. 2022-006.

It is recommended that City Council consider adopting Urgency Ordinance No. 2023-002 (**Attachment 2**), or provide other direction to staff. A 4/5 vote is required to adopt an urgency Ordinance.

FISCAL IMPACT:

There are no financial impacts for adopting this Urgency Ordinance.

PRIOR CITY COUNCIL ACTION:

November 1, 2022 - Council adopted Urgency Ordinance No. 2022-006 – adopting (amended) rules of conduct for attending meetings of legislative bodies at City facilities.

On March 7, 2023, Council adopted Urgency ordinance No. 2023-001 which rescinded the following Urgency Ordinances:

- Urgency Ordinance No. 2020-002 – prohibiting evictions of tenants arising from income loss or substantial medical expenses related to the COVID pandemic.
- Urgency Ordinance No. 2020-005 – for the enforcement of provisions and conditions of encroachment permits for outdoor dining for outdoor dining and authorization of Code Compliance Coordinator to issue citations.
- Urgency Ordinance No. 2020-004 – affirming orders of the State Public Health Officer and the County of Monterey Public Health Officer related to COVID-19 and expressly affirming such orders as applicable and enforceable within City jurisdiction and authorization of code compliance coordinator to issue citations
- Urgency Ordinance No. 2022-001 – adopting rules of conduct at City facilities.
- Urgency Ordinance No. 2022-002 – adopting rules of conduct for attending meetings of legislative bodies at City facilities.

ATTACHMENTS:

Attachment 1) Urgency Ordinance 2022-006

Attachment 2) Clean Version - Urgency Ordinance 2023-002

Attachment 3) Redline Version - Urgency Ordinance 2023-002

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

URGENCY ORDINANCE NO. 2022-006

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ADOPTING RULES OF CONDUCT FOR ATTENDING MEETINGS OF LEGISLATIVE BODIES AT CITY FACILITIES

WHEREAS, the City of Carmel-by-the-Sea ("City") is authorized by Article XI, Section 7 of the California Constitution to make and enforce all regulations and ordinances using its police powers; and

WHEREAS, the California Emergency Services Act (California Government Code Section 8550, et. seq.) defines a local emergency as "the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, [emphasis added] which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat"; and

WHEREAS, Section 2.64.020 of the City Municipal Code defines "emergency" as the "actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, [emphasis added] riot, earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat"; and

WHEREAS, Government Code section 37359 allows cities to "limit the access or use [of city-owned property] in area or time or in any reasonable manner deemed necessary" and enforce such limitations through trespass law; and

WHEREAS, in December 2019, reports began spreading worldwide about a flu-like virus first found in China that was significantly more deadly than the flu generally, with the virus becoming known as the Coronavirus ("COVID-19"); and

WHEREAS, the federal Centers for Disease Control and Prevention ("CDC") has confirmed thousands of cases of individuals who have severe respiratory illness caused by COVID-19, as well as deaths caused by this illness; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 6, 2020, the County Administrative Officer of Monterey County proclaimed a Local Emergency due to the threat of COVID-19 in the County; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") classified the spread of COVID-19 internationally as a global pandemic; and

WHEREAS, on March 12, 2020, the City Administrator of the City of Carmel-by-the-Sea, acting in his capacity as the Director of Emergency Services for the City, declared the existence of a local emergency within the City due to COVID-19; and

WHEREAS, on March 13, 2020, the City Council adopted Resolution 2020-021 ratifying the City Administrator's Proclamation of the Existence of a Local Emergency Due to the Worldwide Spread of the Coronavirus ("COVID-19"); and

WHEREAS, the COVID-19 pandemic, including its variants, continues to present an immediate and significant risk to public health and safety, and resulting in serious illness or death to vulnerable populations, especially the elderly and those with underlying health conditions; and

WHEREAS, City Municipal Code Section 1.16.010 provides that every person convicted of a violation of any provision of the Municipal Code may be punished as a misdemeanor with a fine not exceeding \$1000 and/or imprisonment for a term not exceeding six month or punished as an infraction with a fine up to \$100.00 for each violation, \$200.00 for second violation within one year and \$500.00 for a third and any subsequent violation within one year; and

WHEREAS, in the absence of actions to mitigate the spread of COVID-19, County wide health services may become overwhelmed and unable to keep up with medical demand for care and availability of hospital or care facility capacity; and

WHEREAS, in order to mitigate the spread of COVID-19, it is necessary for the immediate preservation of the public peace, health and safety to adopt rules of conduct at City facilities; and

WHEREAS, the City desires to further combat COVID-19 by establishing safe protocols for conduct within city-owned facilities, including requiring persons wear a face covering at all times covering the mouth and nose, before entry or remaining within city-owned facilities; and

WHEREAS, the City further desires to identify certain city-owned facilities as limited public forums opened to the public for the limited purpose of conducting city business, that this policy for conduct is intended to prevent disruptive conduct that prevents the efficient processing of city business by establishing reasonable time, place, and manner requirements for persons wishing to enter or use such city-owned facilities, and that this policy is not intended to limit rights protected by the First Amendment; and

WHEREAS, based upon the foregoing, the City Council finds pursuant to Government Code Section 36937 (b) that this to Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings; and

WHEREAS, the City Council adopted Urgency Ordinance 2022-001 on February 28, 2022 with Rules of Conduct at City Facilities; and

WHEREAS, the Council adopted Urgency Ordinance 2022-002 on April 4, 2022 amending Section of 7 of Urgency Ordinance 2022-001 with Rules of Conduct for attendance at meeting of Legislative Bodies; and

WHEREAS, Since the adoption of Urgency Ordinance 2022-002, the Monterey County Health Department has deferred their guidance on masking to the California Department of Public Health ("CDPH") recommendations; and

WHEREAS, As of September 23, 2022, the CDPH shifted from a "strong recommendation" for the general population to mask in all indoor settings at all times, to using the CDC Community Levels to help inform masking recommendations: Website: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>; and

WHEREAS, CDC Community Levels – are updated weekly on Thursday, and are determined by hospital based metric data (COVID-19 hospital admissions, % inpatient beds occupied with COVID-19, new cases per 100,000 population), and are intended to "provide a broad framework for jurisdictions to use and adapt...based on local needs"; and

WHEREAS, the three CDC Community Levels may be summarized as follows:

Low – recommendations focus on best practices for prevention and control, vaccinations

Medium – strengthens emphasis on protecting people are immunocompromised, enhanced prevention measures for high-risk settings

High – focus on wearing masks indoors in public and providing added protection to populations at high risk

WHEREAS, the Monterey County COVID-19 Community Level as of October 3, 2022 was "Low"; and

WHEREAS, Recommended Guidance from the CDPH when the level is low:

- Stay up to date with COVID-19 vaccines
- Get tested if you have symptoms
- People may choose to mask at any time
- People with symptoms/positive test/exposure should wear a mask

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL- BY-THE-SEA DOES ORDAIN AS FOLLOWS:

Section 1: Incorporation of Findings. The City Council of the City of Carmel- by-the-Sea incorporates the Whereas Clauses above by reference as though fully set forth here.

Section 2: Codification. This Ordinance shall not be codified in the Carmel-by-the-Sea Municipal Code.

Section 3: CEQA/Environmental Findings. The City Council exercises its independent judgment and finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Urgency Ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this Urgency Ordinance may have a significant adverse effect on the environment, the adoption of this Urgency Ordinance is exempt from CEQA.

Section 4. Authority Pursuant to Applicable Law. Pursuant to California Government Code Section 8610, the City, while in a state of emergency proclaimed by the Director of Emergency Services and ratified by the City Council, may establish rules and regulations for dealing with the local emergency. The City Council finds and determines that it has the authority to enact this Urgency Ordinance pursuant to all applicable laws including, but not limited to, the California Emergency Services Act, the City Municipal Code, the declaration of local emergency issued by the City Council on March 13, 2020, Government Code Section 36937 (b) and the Findings set forth herein.

Section 5. Local Emergency. A local emergency continues to exist throughout the City, and the City has been undertaking, and will continue through cessation of this emergency to undertake, necessary measures and incur necessary costs, which are directly related to the prevention of the spread of the COVID-19 Virus and are taken in furtherance of: the Governor's Proclamation of a State of Emergency on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the City Council Resolution 2020-021 declaring the existence of a local emergency with the City due to COVID 19, the Orders issued by the Governor, State Public Health Officer and the County Public Health Officer due to COVID-19 and all applicable laws.

Section 6. Powers of City Director of Emergency Services. During the existence of the local emergency due to COVID-19, the powers, functions, and duties of the City Director of Emergency Services shall be those prescribed by state law, ordinances, and resolutions of this City notwithstanding otherwise applicable procedures, timelines or methods of action and the City Director of Emergency Services is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

Section 7. Rules of Conduct for Attending Meetings of Legislative Bodies at City Facilities. It is hereby ordered and ordained that the following rules of conduct shall apply to attendance at meetings of Legislative Bodies at City facilities, as defined herein:

7.1 City Facility. For purposes of this Urgency Ordinance, the term "City Facility" or "City Facilities" means City Hall and any other property owned by the City where there is a meeting held of a Legislative Body.

7.2. Legislative Body. For purposes of this Urgency Ordinance, the term "Legislative Body" is defined as for in Government Code Section 54952.

7.3 Face Covering. No person shall be permitted to enter or remain in City Facility at a meeting of a Legislative Body unless that person wears a face covering which covers both the mouth and nose at all times when the CDC Community Level for the County Monterey is medium or high as of the date of posting the agenda for the meeting of the Legislative Body. The agenda will state the CDC Community Level and whether a face covering will be required for attendance at that meeting of the Legislative Body. Upon request, the City will provide anyone seeking to enter City Facility to attend a meeting of a Legislative Body with a face covering if they do not have one.

7.4 If anyone is unable or unwilling to comply with the requirements of this Section 7, they may attend the meeting remotely in the manner described in the Agenda posted for the meeting.

SECTION 8. Violations of this Urgency Ordinance shall be punishable as set forth in the City Municipal Code Section 1.16.010 and Section 2.64.100. In addition, persons who do not follow the Rules of Conduct set forth in this Urgency Ordinance must remain outside city-owned facilities or may be considered trespassers subject to removal by peace officers or any other method authorized under this Urgency Ordinance or under Government Code section 37359.

Section 9. Authorization of City Code Compliance Coordinator. Pursuant to California Penal Code § 836.5, the City Code Compliance Coordinator is authorized to issue criminal citations following the procedures set forth in California Penal Code §§ 853.5 through 853.6a, or such other procedures as the State of California may subsequently enact for violations of this Urgency Ordinance and violations of any section of the City Municipal Code or violation of any City ordinance.

Section 10. Authorization of City Director of Emergency Services. The City Director of Emergency Services and his/her designee(s) are hereby authorized to take all necessary action to implement and enforce this Urgency Ordinance.

Section 11. Severability. If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of Urgency Ordinance. The City Council declares that it would have passed this Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Urgency Ordinance would be subsequently declared invalid or unconstitutional.

Section 12. Urgency Ordinance 2022-001 and Urgency Ordinance 2022-002 are hereby repealed.

Section 13. Effective Date and Duration. This Urgency Ordinance enacted under California Government Code Section 36937 will take effect immediately upon adoption by a four fifths (4/5) vote of the City Council. This Urgency Ordinance will remain in effect until rescinded by the City Council.

Section 14. Publication. The City Clerk is directed to certify this Urgency Ordinance and cause it to be published in the manner required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL BY-THE-SEA this 1st day of November 2022, by the following vote:

AYES: COUNCIL MEMBERS BARON, FERLITO, THEIS, RICHARDS, POTTER

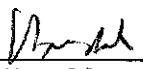
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

APPROVED:

ATTEST:



Dave Potter, Mayor



Nova Romero, MMC, City Clerk

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

URGENCY ORDINANCE NO. 2023-002

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA RESCINDING URGENCY ORDINANCE NO. 2022-006 AND ADOPTING RULES OF CONDUCT FOR ATTENDING MEETINGS OF LEGISLATIVE BODIES AT CITY FACILITIES

WHEREAS, the City of Carmel-by-the-Sea (“City”) is authorized by Article XI, Section 7 of the California Constitution to make and enforce all regulations and ordinances using its police powers; and

WHEREAS, the California Emergency Services Act (California Government Code Section 8550, et. seq.) defines a local emergency as “the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, [emphasis added] which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat”; and

WHEREAS, Section 2.64.020 of the City Municipal Code defines “emergency” as the “actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, [emphasis added] riot, earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat”; and

WHEREAS, Government Code section 37359 allows cities to “limit the access or use [of city-owned property] in area or time or in any reasonable manner deemed necessary” and enforce such limitations through trespass law; and

WHEREAS, in December 2019, reports began spreading worldwide about a flu-like virus first found in China that was significantly more deadly than the flu generally, with the virus becoming known as the Coronavirus (“COVID-19”); and

WHEREAS, the federal Centers for Disease Control and Prevention (“CDC”) has confirmed thousands of cases of individuals who have severe respiratory illness caused by COVID-19, as well as deaths caused by this illness; and

WHEREAS, on or about March 4, 2020, as part of the State of California’s response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 6, 2020, the County Administrative Officer of Monterey County proclaimed a Local Emergency due to the threat of COVID-19 in the County; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") classified the spread of COVID-19 internationally as a global pandemic; and

WHEREAS, on March 12, 2020, the City Administrator of the City of Carmel-by-the-Sea, acting in his capacity as the Director of Emergency Services for the City, declared the existence of a local emergency within the City due to COVID-19; and

WHEREAS, on March 13, 2020, the City Council adopted Resolution 2020-021 ratifying the City Administrator's Proclamation of the Existence of a Local Emergency Due to the Worldwide Spread of the Coronavirus ("COVID-19"); and

WHEREAS, the COVID-19 pandemic, including its variants, continues to present an immediate and significant risk to public health and safety, and resulting in serious illness or death to vulnerable populations, especially the elderly and those with underlying health conditions; and

WHEREAS, City Municipal Code Section 1.16.010 provides that every person convicted of a violation of any provision of the Municipal Code may be punished as a misdemeanor with a fine not exceeding \$1000 and/or imprisonment for a term not exceeding six month or punished as an infraction with a fine up to \$100.00 for each violation, \$200.00 for second violation within one year and \$500.00 for a third and any subsequent violation within one year; and

WHEREAS, in the absence of actions to mitigate the spread of COVID-19, County wide health services may become overwhelmed and unable to keep up with medical demand for care and availability of hospital or care facility capacity; and

WHEREAS, in order to mitigate the spread of COVID-19, it is necessary for the immediate preservation of the public peace, health and safety to adopt rules of conduct at City facilities; and

WHEREAS, the City desires to further combat COVID-19 by establishing safe protocols for conduct within city-owned facilities; and

WHEREAS, the City further desires to identify certain city-owned facilities as limited public forums opened to the public for the limited purpose of conducting city business, that this policy for conduct is intended to prevent disruptive conduct that prevents the efficient processing of city business by establishing reasonable time, place, and manner requirements for persons wishing to enter or use such city-owned facilities, and that this policy is not intended to limit rights protected by the First Amendment; and

WHEREAS, based upon the foregoing, the City Council finds pursuant to Government Code Section 36937 (b) that this to Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings; and

WHEREAS, the City Council adopted Urgency Ordinance 2022-001 on February 28, 2022 with Rules of Conduct at City Facilities; and

WHEREAS, the Council adopted Urgency Ordinance 2022-002 on April 4, 2022 amending Section 7 of Urgency Ordinance 2022-001 with Rules of Conduct for attendance at meeting of Legislative Bodies; and

WHEREAS, Since the adoption of Urgency Ordinance 2022-002, the Monterey County Health Department has deferred their guidance on masking to the California Department of Public Health (“CDPH”) recommendations; and

WHEREAS, As of September 23, 2022, the CDPH shifted from a “strong recommendation” for the general population to mask in all indoor settings at all times, to using the CDC Community Levels to help inform masking recommendations: Website: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>; and

WHEREAS, CDC Community Levels – are updated weekly on Thursday, and are determined by hospital based metric data (COVID-19 hospital admissions, % inpatient beds occupied with COVID-19, new cases per 100,000 population), and are intended to “provide a broad framework for jurisdictions to use and adapt...based on local needs”; and

WHEREAS, the three CDC Community Levels may be summarized as follows:

Low – recommendations focus on best practices for prevention and control, vaccinations

Medium – strengthens emphasis on protecting people are immunocompromised, enhanced prevention measures for high-risk settings

High – focus on wearing masks indoors in public and providing added protection to populations at high risk

WHEREAS, on November 1, 2022, the City Council adopted Urgency Ordinance 2022-006 (Attachment 1) which has Rules of Conduct for attending meetings of legislative bodies at City Facilities and Section 7.3 requires face covering when the CDC Community Level for the County of Monterey is medium or high as of the date of posting the agenda for the meeting of the legislative body; and

WHEREAS, on February 28, 2023, the Governor of California terminated the State of Emergency due to COVID-19; and

WHEREAS, on March 7, 2023 Council requested staff to bring back a draft Urgency Ordinance at the Council meeting on April 4, 2023 to provide that wearing masks to attend meetings of legislative bodies inside of City buildings is only required if the CDC Community level at the time of agenda posting is "high" instead of "medium or high".

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL- BY-THE-SEA DOES ORDAIN AS FOLLOWS:

Section 1: Incorporation of Findings. The City Council of the City of Carmel- by-the-Sea incorporates the Whereas Clauses above by reference as though fully set forth here.

Section 2: Codification. This Ordinance shall not be codified in the Carmel-by-the-Sea Municipal Code.

Section 3: CEQA/Environmental Findings. The City Council exercises its independent judgment and finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Urgency Ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this Urgency Ordinance may have a significant adverse effect on the environment, the adoption of this Urgency Ordinance is exempt from CEQA.

Section 4. Authority Pursuant to Applicable Law. Pursuant to California Government Code Section 8610, the City, while in a state of emergency proclaimed by the Director of Emergency Services and ratified by the City Council, may establish rules and regulations for dealing with the local emergency. The City Council finds and determines that it has the authority to enact this Urgency Ordinance pursuant to all applicable laws including, but not limited to, the California Emergency Services Act, the City Municipal Code, the declaration of local emergency issued by the City Council on March 13, 2020, Government Code Section 36937 (b) and the Findings set forth herein.

Section 5. Local Emergency. A local emergency continues to exist throughout the City, and the City has been undertaking, and will continue through cessation of this emergency to undertake, necessary measures and incur necessary costs, which are directly related to the prevention of the spread of the COVID-19 Virus and are taken in furtherance of: the Governor's Proclamation of a State of Emergency on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the City Council Resolution 2020-021 declaring the existence of a local emergency with the City due to COVID 19, the Orders issued by the Governor, State Public Health Officer and the County Public Health Officer due to COVID-19 and all applicable laws.

Section 6. Powers of City Director of Emergency Services. During the existence of the local emergency due to COVID-19, the powers, functions, and duties of the City Director of Emergency Services shall be those prescribed by state law, ordinances, and resolutions of this City notwithstanding otherwise applicable procedures, timelines or methods of action and the City Director of Emergency Services is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

Section 7. Rules of Conduct for Attending Meetings of Legislative Bodies at City Facilities. It is hereby ordered and ordained that the following rules of conduct shall apply to attendance at meetings of Legislative Bodies at City facilities, as defined herein:

7.1 City Facility. For purposes of this Urgency Ordinance, the term “City Facility” or “City Facilities” means City Hall and any other property owned by the City where there is a meeting held of a Legislative Body.

7.2. Legislative Body. For purposes of this Urgency Ordinance, the term “Legislative Body” means the City Council, Planning Commission, Forest and Beach Commission, Historic Resources Board, Harrison Memorial Library Board of Trustees, Community Activities Commission and the Building Code Board of Appeals.

7.3 Face Covering. No person shall be permitted to enter or remain in City Facility at a meeting of a Legislative Body unless that person wears a face covering which covers both the mouth and nose at all times when the CDC Community Level for the County Monterey is high as of the date of posting the agenda for the meeting of the Legislative Body. The agenda will state the CDC Community Level and whether a face covering will be required for attendance at that meeting of the Legislative Body. Upon request, the City will provide anyone seeking to enter City Facility to attend a meeting of a Legislative Body with a face covering if they do not have one.

7.4 If anyone is unable or unwilling to comply with the requirements of this Section 7, they may attend the meeting remotely in the manner described in the Agenda posted for the meeting.

SECTION 8. Violations of this Urgency Ordinance shall be punishable as set forth in the City Municipal Code Section 1.16.010 and Section 2.64.100. In addition, persons who do not follow the Rules of Conduct set forth in this Urgency Ordinance must remain outside city-owned facilities or may be considered trespassers subject to removal by peace officers or any other method authorized under this Urgency Ordinance or under Government Code section 37359.

Section 9. Authorization of City Code Compliance Coordinator. Pursuant to California Penal Code § 836.5, the City Code Compliance Coordinator is authorized to issue criminal citations following the procedures set forth in California Penal Code §§ 853.5 through 853.6a, or such other procedures as the State of California may

subsequently enact for violations of this Urgency Ordinance and violations of any section of the City Municipal Code or violation of any City ordinance.

Section 10. Authorization of City Director of Emergency Services. The City Director of Emergency Services and his/her designee(s) are hereby authorized to take all necessary action to implement and enforce this Urgency Ordinance.

Section 11. Severability. If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of Urgency Ordinance. The City Council declares that it would have passed this Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Urgency Ordinance would be subsequently declared invalid or unconstitutional.

Section 12. Urgency Ordinance 2022-001 and Urgency Ordinance 2022-002 and Urgency Ordinance 2022-006 are hereby repealed.

Section 13. Effective Date and Duration. This Urgency Ordinance enacted under California Government Code Section 36937 will take effect immediately upon adoption by a four fifths (4/5) vote of the City Council. This Urgency Ordinance will remain in effect until rescinded by the City Council.

Section 14. Publication. The City Clerk is directed to certify this Urgency Ordinance and cause it to be published in the manner required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL BY-THE-SEA this 4th day of April 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

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

**URGENCY ORDINANCE NO. ~~2022-~~
0062023-002**

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA RESCINDING URGENCY ORDINANCE NO. 2022-006 AND ADOPTING RULES OF CONDUCT FOR ATTENDING MEETINGS OF LEGISLATIVE BODIES AT CITY FACILITIES

WHEREAS, the City of Carmel-by-the-Sea ("City") is authorized by Article XI, Section 7 of the California Constitution to make and enforce all regulations and ordinances using its police powers; and

WHEREAS, the California Emergency Services Act (California Government Code Section 8550, et. seq.) defines a local emergency as "the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, [emphasis added] which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat"; and

WHEREAS, Section 2.64.020 of the City Municipal Code defines "emergency" as the "actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, [emphasis added] riot, earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat"; and

WHEREAS, Government Code section 37359 allows cities to "limit the access or use [of city-owned property] in area or time or in any reasonable manner deemed necessary" and enforce such limitations through trespass law; and

WHEREAS, in December 2019, reports began spreading worldwide about a flu-like virus first found in China that was significantly more deadly than the flu generally, with the virus becoming known as the Coronavirus ("COVID-19"); and

WHEREAS, the federal Centers for Disease Control and Prevention ("CDC") has confirmed thousands of cases of individuals who have severe respiratory illness caused by COVID-19, as well as deaths caused by this illness; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 6, 2020, the County Administrative Officer of Monterey County proclaimed a Local Emergency due to the threat of COVID-19 in the County; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") classified the spread of COVID-19 internationally as a global pandemic; and

WHEREAS, on March 12, 2020, the City Administrator of the City of Carmel-by-the-Sea, acting in his capacity as the Director of Emergency Services for the City, declared the existence of a local emergency within the City due to COVID-19; and

WHEREAS, on March 13, 2020, the City Council adopted Resolution 2020-021 ratifying the City Administrator's Proclamation of the Existence of a Local Emergency Due to the Worldwide Spread of the Coronavirus ("COVID-19"); and

WHEREAS, the COVID-19 pandemic, including its variants, continues to present an immediate and significant risk to public health and safety, and resulting in serious illness or death to vulnerable populations, especially the elderly and those with underlying health conditions; and

WHEREAS, City Municipal Code Section 1.16.010 provides that every person convicted of a violation of any provision of the Municipal Code may be punished as a misdemeanor with a fine not exceeding \$1000 and/or imprisonment for a term not exceeding six month or punished as an infraction with a fine up to \$100.00 for each violation, \$200.00 for second violation within one year and \$500.00 for a third and any subsequent violation within one year; and

WHEREAS, in the absence of actions to mitigate the spread of COVID-19, County wide health services may become overwhelmed and unable to keep up with medical demand for care and availability of hospital or care facility capacity; and

WHEREAS, in order to mitigate the spread of COVID-19, it is necessary for the immediate preservation of the public peace, health and safety to adopt rules of conduct at City facilities; and

WHEREAS, the City desires to further combat COVID-19 by establishing safe protocols for conduct within city-owned facilities, ~~including requiring persons wear a face covering at all times covering the mouth and nose, before entry or remaining within city-owned facilities; and; and~~

WHEREAS, the City further desires to identify certain city-owned facilities as limited public forums opened to the public for the limited purpose of conducting city business, that this policy for conduct is intended to prevent disruptive conduct that prevents the efficient processing of city business by establishing reasonable time, place, and manner requirements for persons wishing to enter or use such city-owned facilities, and that this policy is not intended to limit rights protected by the First Amendment; and

WHEREAS, based upon the foregoing, the City Council finds pursuant to Government Code Section 36937 (b) that this to Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings; and

WHEREAS, the City Council adopted Urgency Ordinance 2022-001 on February 28, 2022 with Rules of Conduct at City Facilities; and

WHEREAS, the Council adopted Urgency Ordinance 2022-002 on April 4, 2022 amending Section of 7 of Urgency Ordinance 2022-001 with Rules of Conduct for attendance at meeting of Legislative Bodies; and

WHEREAS, Since the adoption of Urgency Ordinance 2022-002, the Monterey County Health Department has deferred their guidance on masking to the California Department of Public Health (“CDPH”) recommendations; and

WHEREAS, As of September 23, 2022, the CDPH shifted from a “strong recommendation” for the general population to mask in all indoor settings at all times, to using the CDC Community Levels to help inform masking recommendations: Website: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>; and

WHEREAS, CDC Community Levels – are updated weekly on Thursday, and are determined by hospital based metric data (COVID-19 hospital admissions, % inpatient beds occupied with COVID-19, new cases per 100,000 population), and are intended to “provide a broad framework for jurisdictions to use and adapt...based on local needs”; and

WHEREAS, the three CDC Community Levels may be summarized as follows:

Low – recommendations focus on best practices for prevention and control, vaccinations

Medium – strengthens emphasis on protecting people are immunocompromised, enhanced prevention measures for high-risk settings

High – focus on wearing masks indoors in public and providing added protection to populations at high risk

~~WHEREAS, the Monterey County COVID-19 Community Level as of October 3, 2022 was “Low”; and~~

~~WHEREAS, Recommended Guidance from the CDPH when the level is low:~~

Ordinance ~~2022-~~
~~006~~2023-002

- ~~Stay up to date with COVID-19 vaccines~~
- ~~Get tested if you have symptoms~~
- ~~People may choose to mask at any time~~
- ~~People with symptoms/positive test/exposure should wear a mask~~

WHEREAS, on November 1, 2022, the City Council adopted Urgency Ordinance 2022-006 (Attachment 1) which has Rules of Conduct for attending meetings of legislative bodies at City Facilities and Section 7.3 requires face covering when the CDC Community Level for the County of Monterey is medium or high as of the date of posting the agenda for the meeting of the legislative body; and

WHEREAS, on February 28, 2023, the Governor of California terminated the State of Emergency due to COVID-19; and

WHEREAS, on March 7, 2023 Council requested staff to bring back a draft Urgency Ordinance at the Council meeting on April 4, 2023 to provide that wearing masks to attend meetings of legislative bodies inside of City buildings is only required if the CDC Community level at the time of agenda posting is "high" instead of "medium or high".

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL- BY-THE-SEA DOES ORDAIN AS FOLLOWS:

Section 1: Incorporation of Findings. The City Council of the City of Carmel- by-the-Sea incorporates the Whereas Clauses above by reference as though fully set forth here.

Section 2: Codification. This Ordinance shall not be codified in the Carmel-by-the-Sea Municipal Code.

Section 3: CEQA/Environmental Findings. The City Council exercises its independent judgment and finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Urgency Ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this Urgency Ordinance may have a significant adverse effect on the environment, the adoption of this Urgency Ordinance is exempt from CEQA.

Section 4. Authority Pursuant to Applicable Law. Pursuant to California Government Code Section 8610, the City, while in a state of emergency proclaimed by the Director of Emergency Services and ratified by the City Council, may establish rules and regulations for dealing with the local emergency. The City Council finds and determines that it has the authority to enact this Urgency Ordinance pursuant to all applicable laws including, but not limited to, the California Emergency Services Act, the City Municipal Code, the declaration of local emergency issued by the City Council on March 13, 2020, Government Code Section 36937 (b) and the Findings set forth herein.

Section 5. Local Emergency. A local emergency continues to exist throughout the City, and the City has been undertaking, and will continue through cessation of this

Ordinance ~~2022-~~
~~006~~2023-002

emergency to undertake, necessary measures and incur necessary costs, which are directly related to the prevention of the spread of the COVID-19 Virus and are taken in furtherance of: the Governor's Proclamation of a State of Emergency on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the City Council Resolution 2020-021 declaring the existence of a local emergency with the City due to COVID 19, the Orders issued by the Governor, State Public Health Officer and the County Public Health Officer due to COVID-19 and all applicable laws.

Section 6. Powers of City Director of Emergency Services. During the existence of the local emergency due to COVID-19, the powers, functions, and duties of the City Director of Emergency Services shall be those prescribed by state law, ordinances, and resolutions of this City notwithstanding otherwise applicable procedures, timelines or methods of action and the City Director of Emergency Services is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

Section 7. Rules of Conduct for Attending Meetings of Legislative Bodies at City Facilities. It is hereby ordered and ordained that the following rules of conduct shall apply to attendance at meetings of Legislative Bodies at City facilities, as defined herein:

7.1 City Facility. For purposes of this Urgency Ordinance, the term “City Facility” or “City Facilities” means City Hall and any other property owned by the City where there is a meeting held of a Legislative Body.

7.2. Legislative Body. For purposes of this Urgency Ordinance, the term “Legislative Body” means the City Council, Planning Commission, Forest and Beach Commission, Historic Resources Board, Harrison Memorial Library Board of Trustees, Community Activities Commission and the Building Code Board of Appeals.

7.3 Face Covering. No person shall be permitted to enter or remain in City Facility at a meeting of a Legislative Body unless that person wears a face covering which covers both the mouth and nose at all times when the CDC Community Level for the County Monterey is ~~medium or~~ high as of the date of posting the agenda for the meeting of the Legislative Body. The agenda will state the CDC Community Level and whether a face covering will be required for attendance at that meeting of the Legislative Body. Upon request, the City will provide anyone seeking to enter City Facility to attend a meeting of a Legislative Body with a face covering if they do not have one.

7.4 If anyone is unable or unwilling to comply with the requirements of this Section 7, they may attend the meeting remotely in the manner described in the Agenda posted for the meeting.

SECTION 8. Violations of this Urgency Ordinance shall be punishable as set forth in the City Municipal Code Section 1.16.010 and Section 2.64.100. In addition, persons who do not follow the Rules of Conduct set forth in this Urgency Ordinance must remain outside city-owned facilities or may be considered trespassers subject to removal by peace officers or any other method authorized under this Urgency Ordinance or under Government Code section 37359.

Section 9. Authorization of City Code Compliance Coordinator. Pursuant to California Penal Code § 836.5, the City Code Compliance Coordinator is authorized to issue criminal citations following the procedures set forth in California Penal Code §§ 853.5 through 853.6a, or such other procedures as the State of California may

subsequently enact for violations of this Urgency Ordinance and violations of any section of the City Municipal Code or violation of any City ordinance.

Section 10. Authorization of City Director of Emergency Services. The City Director of Emergency Services and his/her designee(s) are hereby authorized to take all necessary action to implement and enforce this Urgency Ordinance.

Section 11. Severability. If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of Urgency Ordinance. The City Council declares that it would have passed this Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Urgency Ordinance would be subsequently declared invalid or unconstitutional.

Section 12. Urgency Ordinance 2022-001 and Urgency Ordinance 2022-002 and Urgency Ordinance 2022-006 are hereby repealed.

Section 13. Effective Date and Duration. This Urgency Ordinance enacted under California Government Code Section 36937 will take effect immediately upon adoption by a four fifths (4/5) vote of the City Council. This Urgency Ordinance will remain in effect until rescinded by the City Council.

Section 14. Publication. The City Clerk is directed to certify this Urgency Ordinance and cause it to be published in the manner required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL BY-THE-SEA this 1st4th day of ~~November 2022~~April 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk



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

April 4, 2023
PUBLIC HEARINGS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Robert Harary, P.E., Director of Public Works

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Scout House Request for Proposals, and Resolution of Intent to Lease Real Property and Surplus Lands Act Resolution, and CEQA findings

RECOMMENDATION:

After the Public Hearing, City Council will be asked to:

- (1) Adopt Resolution 2023-040, authorizing the City Administrator to issue a Request for Proposals seeking technical Proposals to enter into an Operations and Maintenance Agreement and Site Lease with the City for Renovation and subsequent Activities Programming, Operations, and Maintenance of the Scout House; and
- (2) Adopt Resolution 2023-042, declaring Scout House Real Property Exempt Surplus Land; and
- (3) Find that these actions do not constitute a “project” as defined by the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b) and are also exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and 15301.

BACKGROUND/SUMMARY:

Background:

One of the City Council’s Strategic Priorities is to “*Explore Opportunities for the Scout House.*” Staff has prepared the Request for Proposals (RFP) in Attachment #3 seeking technical Proposals to enter into an Operations and Maintenance Agreement (“O&M”) with the City for the renovation/restoration of the Scout House and for subsequent activities programming, operations, management, and maintenance of the facility. The rough cost estimate required to renovate the Scout House is \$400,000 - \$500,000; however, no City funding is proposed. The selected Proposer/Contractor signing the O&M Agreement will also need to agree to a Site Lease to cover the duration of their occupation of the Scout House, such that they are the City’s Lessee.

The Scout House is a multi-use facility located at the northeast corner of Mission Street and Eighth Avenue. The Scout House was built in 1931 by Carmel Masterbuilder M.J. Murphy. The building has a large room,

working fireplace, and a full kitchen, and is a completely contained unit; however, the building has not been in operation for many years. Staff has been exploring ways to find a Contractor to renovate the Scout House.

A proposed O&M Agreement and Site Lease are attached to the RFP as Appendix 6 and 7, respectively. The RFP requests proposed edits to the draft agreements from Proposers. Staff is seeking Council approval to issue the RFP and follow the process outlined below to award the O&M Agreement and Site Lease.

The key terms of the RFP, O&M Agreement, and Site Lease are as follows:

Key RFP Terms:

1. A mandatory Pre-Proposal meeting will be held, and the Scout House will be open for the remainder of the day, for Proposers to take photographs and measurements inside.
2. Selection of the Contractor will be via a qualifications-based selection process. An Evaluation Committee will review all responsive Proposals received, focusing on the qualifications and experience of their Project Team, the technical approach to design and renovation of the facility, approach to activities programming and facility management/maintenance of the facility, and their funding availability.
3. The RFP makes it clear that the facility is a Historic Resource and is subject to the City's Historic Preservation Ordinance Chapter 17.32. Improvements may require review by the City's Historic Resources Board and/or Planning Commission.
4. The RFP outlines numerous requirements for the renovation. The most challenging aspects of the renovation include:
 - ADA compliance: An elevator or lift may be required. The east wall may also need to be moved to allow for an ADA-compliant parking space on site.
 - Part of the downstairs has a low ceiling height which allows for storage but is not habitable space unless this portion of the building undergoes costly structural renovations. This could trigger seismic upgrade requirements.
 - Electrical/lighting, mechanical, and plumbing systems need reconstruction
 - Contractor to remediate any hazardous materials
 - Site work repairs and modifications to utilities are anticipated
 - The site is very confined as a staging area for the renovation work
5. A Performance Bond will be required prior to the renovation to ensure that the renovation work, once started, is completed.
6. Proposed activities are likely to include the Boy Scouts; however, the RFP stresses the importance of providing a mix of other community-based activities such that no one organization fully dominates the use of the renovated facility.
7. The successful Proposer may need to present their recommendations for primary and secondary uses of the renovated facility to the Community Activities Commission prior to award of the O&M Agreement and Site Lease.
8. The Contractor would be expected to pay ongoing facility maintenance costs including: custodial, alarm monitoring, pest control, landscape maintenance, water, gas, and electric utilities, and minor building repairs. The City should continue to pay for trash/recycling and sewer service.

9. The Contractor may be required to pay Possessory Interest Tax to Monterey County.

Key O&M Agreement Terms:

The O&M Agreement includes provisions addressing, among others, the following topics.

1. The term of the O&M Agreement will be ten (10) years, with the City having an annual option to extend the Agreement for an additional year for the first five years after the initial ten years conclude. Proposers may recommend alternative time frames.
2. Contractor will also execute a Site Lease to facilitate its renovation of the facility. See Site Lease section below.
3. Contractor will bear the full costs of performing the renovation work.
4. Contractor will comply with existing City regulations concerning how the renovation planning, design, permitting, and construction work will proceed.
5. Contractor will identify the personnel expected to work on the project.
6. Contractor will provide required insurance.
7. Contractor will indemnify City for any losses caused by Contractor's negligence, recklessness, or willful misconduct.
8. Contractor will obtain a business license from the City.
9. Any disputes will be resolved via mediation and arbitration.
10. City will have the right to terminate the O&M Agreement at any time in its sole discretion.

Key Site Lease / Rent Terms:

The RFP requests that the Contractor signing the O&M Agreement also agree to sign a Site Lease to cover the duration of their occupation of the Scout House, such that they are the City's Lessee. Under the proposed Site Lease, the Contractor would agree to pay fair market rent for the use and enjoyment of the Scout House.

To offset the cost of paying fair market rent, the Site Lease would authorize the Contractor to undertake various fundraising activities, including, for example, the sale of naming rights of various interior portions of the facility, and the use of the facility for commercial purposes consistent with existing zoning (Residential and Limited Commercial), including a potential sublease of the facility, if desired. This would allow the Lessee to generate revenue once the renovation work on the premises is complete.

The amount of fair market rent to be charged could also take into account that the Contractor would be agreeing to pay the costs of conducting various capital improvements under the terms of the O&M Agreement and the fact that the City will be entitled to use the facility for one day each month.

Process:

- If the Council approves issuing the RFP, the City would follow the following process for issuance of the RFP and award of the O&M Agreement and Site Lease.

a. Approval of Lease of Real Property: Pursuant to Government Code Section 52201, a City Council may lease real property to create an economic opportunity. Such a process must be approved by the City Council by Resolution after a Public Hearing. Notice of the time and place of the hearing must be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks. Among other things, the Notice must include the transactional costs to the City of the lease and the estimated value of the interest to be leased, determined at the highest and best uses permitted under the general plan or zoning, and an explanation of why the lease of the property will assist in the creation of economic opportunity. In this case, the City published such notice in the Carmel Pine Cone newspaper on March 24th and March 31st. Attachment #1 is Resolution 2023-040 for Intention to Lease Real Property.

b. Adoption of Surplus Lands Act Resolution: The City lease of the Scout House property is subject to the Surplus Lands Act ("Act") but is likely exempt due to the City's ongoing use of the property so long as the City follows required procedures to confirm the exemption. Under guidelines issued by the California Department of Housing and Community Development ("HCD"), prior to disposition of exempt surplus land, public agencies must adopt a resolution supported by written findings determining the property exempt and must provide a copy of the resolution to HCD at least thirty days prior to disposition. While not expressly stated, the Act appears to suggest that if HCD does not notify the agency that the exemption determination violates the Act within 30 days, the agency receives "safe harbor" that it has complied with the law, and is not subject to the penalty provisions.

Accordingly, at the same time the City Council approves the issuance of a Request for Proposals for a Site Lease, the City Council should also adopt the required Surplus Lands Act Resolution and transmit it to HCD at least 30 days before the City intends to award the O&M Agreement and approve the Site Lease. Attachment #2 is Resolution 2023-042 which meets the Surplus Lands Act requirements.

c. Award of O&M Agreement and Approval of Lease: After staff has received and evaluated proposals in response to the RFP, and should the City Council proceed with an award of the O&M Agreement and approval of a Site Lease, the City Council Resolution approving the Site Lease must be adopted by a majority vote and include a finding that the lease of the property will assist in the creation of economic opportunity, and that the lease price is not less than the fair market value at its highest and best use.

Environmental Impact:

- The proposed actions do not constitute a "project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(b), a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes on the environment. However, prior to commencing renovations at the Scout House, the City will complete all necessary reviews pursuant to CEQA.

Even if this action is a project, it is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, and the action is also categorically exempt pursuant to the existing facilities exemption in CEQA Guidelines Section 15301 as the action is limited to repairs, maintenance and

minor alterations to the existing Scout House that involve negligible or no expansion of existing or former use.

FISCAL IMPACT:

None by these Actions. The selected Proposer/Contractor would bear the full cost for the renovation work.

PRIOR CITY COUNCIL ACTION:

Council considered this item in Closed Session at the March 6, 2023 Special Council Meeting. There was no reportable action.

ATTACHMENTS:

Attachment 1) Resolution 2023-040

Attachment 2) Resolution 2023-042

Attachment 3) Scout House RFP, O&M Agreement, and Site Lease

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

RESOLUTION NO. 2023-040

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA APPROVING THE ISSUANCE OF A REQUEST FOR PROPOSALS SEEKING PROPOSALS TO LEASE THAT CERTAIN EXEMPT REAL PROPERTY KNOWN AS THE 'SCOUT HOUSE,' LOCATED AT THE NORTHEAST CORNER OF MISSION STREET AND EIGHTH AVENUE

WHEREAS, the City of Carmel-By-The-Sea ("City") is the owner of certain real property in Monterey County commonly known as the Scout House, located at the northeast corner of Mission Street and Eighth Avenue, Carmel-By-The-Sea, California (a portion of APN number 010-143-001) (the "Property"); and

WHEREAS, City staff recommends issuance of a Request for Proposals ("RFP") to lease the Property in accordance with the terms of this Resolution in order to create an economic opportunity for the City; and

WHEREAS, the City Council has reviewed and considered the form of RFP soliciting proposals to lease the Property, which attaches a proposed Operations and Maintenance Agreement and Site Lease ("Site Lease") to be entered into with a lessee ("Lessee").

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AS FOLLOWS:

Section 1. The foregoing recitals are adopted as true and correct and are a substantive part of this Resolution.

Section 2. The City hereby declares its intent to lease the Property in order to create an economic opportunity for the City.

Section 3. In advance of the RFP deadline for proposals, the City shall publish Notice of Intent to Lease Exempt Surplus Real Property setting forth the minimum lease price, and other key proposed terms and conditions of the Site Lease, together with the public process for opening and consideration of proposals from potential lessees.

Section 4. The City Administrator or his designee is authorized and directed to execute all documents required to issue the RFP, to conduct the proposal review process, and to return to the City Council for approval of any recommended Site Lease.

Section 5. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this
4th day of April 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

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

RESOLUTION NO. 2023-042

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
AFFIRMING COMPLIANCE WITH THE STATE SURPLUS LANDS ACT FOR THE SCOUT
HOUSE**

WHEREAS, the City of Carmel-By-The-Sea ("City") complies with the general laws of the State of California, including the Surplus Property Land Act; and

WHEREAS, the City is owner in fee simple of that certain real property in Monterey County commonly known as the Scout House, located at the northeast corner of Mission Street and Eighth Avenue, Carmel-By-The-Sea, California, (a portion of APN number 010-143-001) (the "Property"); and

WHEREAS, under the Surplus Property Land Act, Government Code Sections 54220-54233 ("Act"), surplus land is land owned in fee simply by a public agency for which the public agency's governing board takes formal action in a regular public meeting declaring the land is surplus and not necessary for the agency's use; and

WHEREAS, under the Act, land is exempt surplus property if it is necessary for an agency's use if the land is being used, or is planned to be used pursuant to a written plan adopted by the public agency's governing body, for the public agency's work or operations, including use "for the sole purpose of investment or generation of revenue;" and

WHEREAS, the Property is currently being used by the City; and

WHEREAS, the City intends to continue to use the Property for the purpose of generation of revenue pursuant to a Lease Agreement to be entered into with a Lessee pursuant to which the Lessee will make needed renovations to the Property and make the Property available for the City's periodic use; and

WHEREAS, by entering into the Lease Agreement with Lessee and adopting this Resolution, the City is adopting a written plan for the ongoing use of the Property as required to demonstrate existing and planned "use" of the Property under the Act, rendering the Property exempt surplus land under the Act; and

WHEREAS, under the Act, land is exempt surplus property if it is necessary for an agency's use if the land is being used, or is planned to be used pursuant to a written plan adopted by the agency's Board of Directors, for agency work or operations, including use "for the sole purpose of investment or generation of revenue;" and

WHEREAS, the accompanying staff report provides supporting information upon which the declaration and findings set forth in this Resolution are based.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
CARMEL-BY-THE-SEA AS FOLLOWS:**

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

Section 2. The City Council hereby declares that the Scout House Property is exempt surplus land for the purposes of the California Surplus Lands Act (Government Code Section 54220 et seq.) because it is presently being “used” and is “intended to be used” by the City for other public uses and continues to be necessary for the City’s use. The basis for this declaration is that the City intends to use the Property pursuant to the Lease Agreement for the purpose of generation of revenue for the City.

Section 3. The City Council hereby declares that the use of the Property will directly further the express purpose of City work and operations.

Section 4. The City Council hereby adopts the written plan described in this Resolution and in the accompanying staff report for the ongoing use of the Property as required to demonstrate existing and planned “use” of the Property under the Act.

Section 5. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”). City staff has determined that the proposed actions do not constitute a “project” as defined by the CEQA. Adoption of this Resolution does not have the potential for resulting in either a direct physical change on the environment or a reasonably foreseeable indirect physical change on the environment. Prior to commencing renovations of the Property contemplated by the Lease Agreement, the City will complete all necessary reviews in accordance with CEQA.

Section 6. The City Clerk is directed to provide a copy of this Resolution to the California Department of Housing and Community Development for its review.

Section 7. The officers and staff of the City are hereby authorized, jointly and severally, to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution, and any such actions previously taken are hereby ratified and confirmed.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 4th day of April 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk



City Of Carmel-by-the-Sea

REQUEST FOR PROPOSALS (RFP)

RFP #2022-02

OPERATIONS AND MAINTENANCE AGREEMENT FOR THE HISTORIC "SCOUT HOUSE" INCLUDING RENOVATION, ACTIVITIES PROGRAMMING, AND FACILITY MANAGEMENT



**RFP Release:
Monday, April 10, 2023**

**Pre-Proposal Meeting and Tour:
Tuesday, April 25, 2023, 10:00 a.m.**

**Requests for Clarifications due:
Friday, May 5, 2023, 5:00 p.m.**

**Responses to requests available:
Friday, May 12, 2023, 5:00 p.m.**

**Proposals must be received by:
Tuesday, May 23, 2023, 4:00 p.m.**

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1. Introduction
2. Request for Proposal Instructions and Selection Process
3. Scout House Background Information
4. Qualifications and Related Experience
5. Scope of Work - Phase 1 Renovation
6. Scope of Work - Phase 2 Activities, Programming & Facility Operations and Management
7. Financial and Legal Considerations
8. Operations and Maintenance Agreement

Appendix 1 - Site Photos

Appendix 2 - 1931 Original Building Plans

Appendix 3 - 2000 Master Plan Report

Appendix 4 - 2005 Council Report with 2002 Historic Resource Information

Appendix 5 - 2013 Facilities Report

Appendix 6 - Operations & Maintenance Agreement

Appendix 7 - Site Lease

INTRODUCTION

The City of Carmel-by-the-Sea (hereinafter "City") is soliciting proposals from qualified organizations (hereinafter referred to as "Proposers") to enter into an Operations and Maintenance Agreement (O&M Agreement) with the City for the renovation/restoration of the Scout House and to facilitate the subsequent operations, management, and maintenance of the facility. The services and performance requirements are described in the Scope of Services and other sections of this Request for Proposals (RFP). The overriding objective of this project is to restore the historic building and provide opportunities for locals to come together, make connections, and enjoy a variety of arts, entertainment, community, and social activities and events.

The first goal of this RFP is to identify an organization that is willing and able to take on the complete architectural and engineering design for the renovation following all federal, state, and local requirements and building codes for a City-owned, historic facility, obtain design review approvals from the Planning Commission, Historic Preservation Board, and Community Planning and Building, Fire, and Public Works Departments, obtain permits and environmental clearances, coordinate with the utility providers, provide independent special inspections, and construct the renovation all at no cost to the City. A rough order of magnitude of renovation cost is estimated to be in the range of \$400,000 to \$500,000.

The City has not identified any budget, nor any matching funds, to share in the renovation phase of this project. Therefore, Proposers must identify self and/or other external sources of private funding for the renovation in their Proposals. Funding availability and financial analysis will be reviewed as a criteria in selecting the best qualified Proposer for this project.

The second goal of this RFP is to subsequently program the Scout House for a variety of activities after the renovation is complete and a Certificate of Occupancy is issued by the City, for the subsequent years. These efforts may include marketing, outreach, event liaison, scheduling, administration, staffing the facility during events, possibly providing food and beverage service, ensuring users are properly utilizing the facility, cleaning up, and resolving problems. While Proposers may recommend a limited number of primary users of the facility (i.e. scout functions, dance studio, after-school educational programs), there will be no one exclusive user. On the contrary, supplementing primary users with a broad spectrum of other suitable users would be considered most favorably by the City. The City itself may also choose to use the facility for public gatherings or special events, with adequate advance notice, no more often than one day per month, but these City activities would not interfere with any previously-booked activity.

The third goal is for the selected Proposer (also referred to as "Contractor") to pay fair market rent per the terms of a Site Lease, maintain the Scout House during the term of the O&M Agreement, and cover routine building maintenance services, pay for vendor services (i.e. alarm monitoring, pest control, janitorial and window cleaning), utilities, and minor repairs. The City may be amenable to negotiating an appropriate contribution to ongoing capital repairs or one-time capital improvement projects (over \$10,000) in a cost-sharing arrangement with the selected Contractor following the renovation. Furthermore, the City may also be receptive to budgeting for post-renovation maintenance cost sharing, including for certain vendor services or utilities, should sufficient City funding be available each fiscal year.

REQUEST FOR PROPOSAL INSTRUCTIONS AND SELECTION PROCESS

The City requests proposals from qualified persons/organizations for the purpose of providing historic building renovation design and construction, professional activities programming, and facility operations

Request for Proposals

Scout House Renovation, Activities Programming and Facility Management

Page 4

Attachment 3

and management for the City-owned Scout House which is located on the northeast corner of Mission

Street and Eighth Avenue in Carmel-by-the-Sea.

Proposals shall be submitted to:

City of Carmel-by-the-Sea

Attention: Robert M. Harary, P.E., Director of Public Works

City Hall

Monte Verde Street, 3 SE of Ocean Avenue

Carmel-by-the-Sea, CA 93921

Proposals must be delivered to Carmel City Hall, east side of Monte Verde Street, 3 SE of Ocean Avenue, by Tuesday, May 23, 2023 at 4:00 p.m.

PROPOSAL INSTRUCTIONS

Mandatory Pre-Proposal Meeting and Tour. The City will hold one mandatory pre-proposal meeting on Tuesday, April 25, 2023 beginning at 10:00 a.m. at the Scout House, located at the northeast corner of Mission Street and Eighth Avenue. This will be the only opportunity for Proposers to have full access to the interior of the building. While the pre-proposal meeting will be held starting at 10:00 a.m., the building will remain open until 4:00 p.m. on that date for any Proposer to take detailed measurements, photographs, and/or inspect the condition of the facility with their proposed design teams.

Requests for Clarification of this RFP. If any Proposer has any questions regarding the meaning of any part of this RFP, or finds discrepancies in or omissions from this RFP, the Proposer shall submit via electronic mail a written request for clarification to rhary@ci.carmel.ca.us. The deadline to submit questions is Friday, May 5, 2023 by 5:00 p.m. All questions and City responses shall be posted on the City's website as an Addendum by 5:00 p.m. on Friday, May 12, 2023. It is the responsibility of the Proposers to check the City's website for the Addendum once posted. Proposers must also acknowledge receipt of the Addendum in their proposal cover letters.

Format of Envelope for Proposal. The Proposer shall deliver the proposal in a sealed envelope clearly marked on the outside: **"PROPOSAL FOR SCOUT HOUSE RENOVATION, ACTIVITIES PROGRAMMING, AND FACILITY OPERATIONS AND MANAGEMENT"** as well as the name of the Proposer. Please provide four (4) identical, individually-bound copies of the proposal in the envelope plus one electronic version of the Proposal on a CD or thumb drive. Transmittal memos are not required.

Quality of Proposals. Unnecessarily elaborate or glossy proposals are neither expected nor desired. The emphasis of the proposal should be on responding to the core requirements set forth in this RFP.

Length of Proposal. The proposal contents shall not exceed fifty (50) pages in length, excluding covers, tab sheets if used, and the Cover Letter. The 50 page limit does include all other content, resumes, financial information, and exhibits.

Proposer's Cover Letter/Signature. An authorized representative of the Proposer shall sign the Cover Letter which shall identify the legal name of the Proposer, along with name of the contact person, address, phone number, and email address. The cover letter should also include a brief narrative about why the Proposer is interested in this opportunity. Please also acknowledge receipt of the Addendum.

Contents Of Proposal. In addition to the Cover Letter, the proposal shall provide seven (7) sections in the following order:

1. Qualifications and related experience of the Project Manager, Project Architect, General Contractor, Activities/Programs Coordinator, Facility Manager, and key team members. Any individual may fill more than one role. Include resumes of key individuals. Also provide a detailed Organizational Chart of the Team. Multiple Org Charts may be used to better define the different phases of the project.
2. Technical approach to Scout House Renovation design and construction, including anticipated project schedule.
3. Approach to activities programming, outreach, and tentative end uses.
4. Approach to ongoing facility management and maintenance, including an approach to a proposed cost-sharing arrangement with the City for ongoing expenses or capital repairs.
5. Similar projects where the above services were performed by the Project Team.
6. Renovation funding approach, funding availability, pro forma financial analysis/summary, and identification of grant opportunities.
7. Proposed O&M Agreement and/or Site Lease modifications.

Scope of Work. The City has prepared an outline of required services in this RFP under, SCOPE OF WORK - PHASE 1 RENOVATION, and SCOPE OF WORK - PHASE 2 - ACTIVITIES PROGRAMMING AND FACILITY OPERATIONS AND MANAGEMENT.

SELECTION PROCESS

City's Review of Proposals. All proposals deemed responsive shall be reviewed and evaluated by the City in order to determine which proposal best meets the City's needs as enunciated more specifically below. An Evaluation Committee, consisting of non-competing community stakeholders and City staff, shall independently review and score all proposals for all elements identified in the Evaluation Criteria shown below.

Evaluation Criteria. The following scoring criteria (with a maximum score of 150 points) shall be considered by the Evaluation Committee:

1. Responsiveness to the requirements of this RFP (15 points)
2. Qualifications, experience, and availability of the Project Team (25 points)
3. Successful performance of similar projects, including references (25 points)
4. Technical soundness of approach to designing and constructing the renovation (25 points)
5. Approach to activities programming and outreach (20 points)
6. Approach to facility management and maintenance, including cost sharing with City of maintenance repairs, utilities, and future capital projects (15 points)
7. Funding availability and financial analysis (15 points)
8. O&M Agreement and/or Site Lease modifications requested, including Term (10 points)

Proposers who are non-responsive or who do not successfully pass the minimum evaluation criteria score of 105 points (70%) will be notified that they will not be advancing in the evaluation process. The City reserves the right to reject any or all proposals and to waive any irregularity in any proposal.

Final Selection and Award of the Operations and Maintenance (O&M) Agreement and Site Lease.

Upon completion of the evaluation review period, the City shall notify those Proposer(s) who will be considered for further evaluation. Further evaluation may consist of: informal discussions with the Evaluation Committee, supplemental technical documentation to clarify the Proposal, and/or formal interviews to select the successful Proposer.

If the City determines, after further evaluation and negotiation, to award the O&M Agreement and Site Lease, the successful Proposer will be expected to execute the O&M Agreement and Site Lease in the forms attached to this Request for Proposals as **Appendix 6** and **Appendix 7**, respectively.. The City currently anticipates awarding a negotiated O&M Agreement and site lease for building renovation, activities programming, fair market rent, and facility operations and management of the Scout House by late summer 2023.

No proposal or agreement for the Scout House shall be binding upon the City until the O&M Agreement and Site Lease are awarded by the City Council at an open City Council meeting, signed by the selected Proposer, fully executed by the City, and a Notice to Proceed is issued by the City's Director of Public Works.

Proposals Are Public Records. Each Proposer is hereby informed that, upon delivery of its proposal to the City, the proposal becomes the property of the City.

1. Unless otherwise compelled by a court order, the City will not disclose any proposal while the City conducts its deliberative process in accordance with the procedures identified in this RFP. However, after the City either awards a O&M Agreement to a successful Proposer, or the City rejects all proposals, the City shall consider each proposal subject to the public disclosure requirements of the California Public Records Act (California Government Code Sections 6250, *et seq.*), unless there is a legal exception to public disclosure.
2. If a Proposer believes that any portion of its proposal is subject to a legal exception to public disclosure, the Proposer shall: (1) clearly mark the relevant portions of its proposal "Confidential," (2) upon request from the City, identify the legal basis for the exception from disclosure under the Public Records Act; and (3) defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the "Confidential" portion of the proposal.

SCOUT HOUSE BACKGROUND INFORMATION

CARMEL BACKGROUND

Carmel-by-the-Sea was first incorporated as a City in 1916. Carmel is rich in natural beauty and prides itself on its white sand beach, landscaped bluffs, urban forest, and natural park lands. The City is a world-renowned tourist destination located on the Monterey Peninsula in central California. Carmel offers a wealth of high quality downtown merchants, innkeepers, and restaurateurs who provide a unique, high quality shopping and dining experience.

Home to 3,722 residents, this one-square mile village in a forest by the sea is known for its natural beauty and rich artistic history. Residents and visitors alike have come to expect the exceptional goods and

services offered here in a family-friendly atmosphere and an accessible and responsive government. All of these components come together to create the healthy, vibrant village that is cherished by this highly active and engaged community.

SCOUT HOUSE OVERVIEW (Refer to Current Site Photographs in Appendix 1)

The Scout House sits on a relatively steep-sloped site on the northeast corner of Mission Street and Eighth Avenue in the Residential and Limited Commercial (RC) Zoning District. The building was constructed by M.J. Murphy in 1931 for use by the Boy Scouts. The Scout House may have always been owned by the City (unknown). Original construction plans from 1931 are mostly illegible, but are included in **Appendix 2**. Appendix 2 also includes a Topographic Map of the site, dated 2014.

As shown in **Appendix 3**, in 2000, Congleton Architect AIA prepared a Scout House Master Plan for the Community and Cultural Commission, who adopted the Master Plan and forwarded it to the City Council. Although the Master Plan contains valuable information, most of the proposed work was never accomplished, and many issues identified have since become outdated.

The site was added to the City's Historic Inventory in 2002 for the important contributions it made to the civic and social fabric of the community. In 2005, the City Council reconfirmed the historic inventory listed in a staff report included as **Appendix 4**.

The Scout House has been closed to the public for decades because it does not meet the requirements of the Americans with Disabilities Act (ADA), and because the building has deteriorated to a point where it can no longer be occupied or useful to house any activity.

In recent years, there has been growing attention focused on reopening the Scout House as a community center, which is an allowed use in the underlying RC Zoning District. In 2016, Boy Scout Troop 127 installed a parking space on the east side of the building in order to improve accessibility. The parking space meets the dimensional standards for an accessible space; however, there is not adequate room to provide a full-width access aisle, and no access aisle has been defined on the site. Therefore the parking space as a whole is not in compliance with the ADA. Troop 127 was also approved to modify the east elevation of the building by adding accessible entry doors and accessible restroom facilities on the upper level. A building permit was ready to issue, but was not pulled and has since expired.

In 2016, the City Council passed a resolution finding that an unreasonable hardship exists in providing accessibility to the building; however, the resolution does not specify what aspects of accessibility posed such hardship. Blanket findings of "unreasonable hardship" which propose to waive all accessibility requirements could leave the City vulnerable to challenge under the ADA record.

Building Condition Assessments

In 2013, the City's consulting firm, Harris & Associates, prepared a general building condition assessment for all City-owned buildings, including the Scout House. Excerpts pertaining to the Scout House are included in **Appendix 5**.

In 2018, the City's former Building Official performed an assessment of the building and made the following findings and recommendations on ways to improve the building so that it could be re-opened for public use.

- The upstairs is generally suitable for use as an Assembly (A-3) occupancy if adequate and

accessible means of egress and an appropriate number of plumbing fixtures are provided. However, there is currently no accessible route or path of exit travel for people with disabilities, which is the primary reason that the building has been closed to the public. Accessibility to the upper level could be achieved via a reconstructed accessible parking space with access aisle. Additionally, the adjacent east elevation wall provides only 5'-11" of room in which to place the required 6'-8" tall door. The 2016 permit planned for a shed roof dormer that would increase the roof/wall height allowing installation of a proper door; however, it did not provide an adequate 60" maneuvering space at the landing. The best approach may be to set back the entire east elevation wall to achieve space for both an access aisle and landing.

- The downstairs includes a foyer, restroom facilities in need of reconstruction, and former classrooms/storage area. Ceiling heights in the foyer and restroom areas are adequate for continued use as habitable space. The former classrooms/storage area does not have sufficient ceiling height to be used as habitable space; however, its continued use for storage could be allowed if a rated door is installed separating it from the entry foyer, stairs, and restrooms.
- Installation of two upstairs restrooms would provide accessible restroom facilities while repair of the downstairs restrooms will provide compliance with current restroom facility requirements for the numbers of water closets and lavatories. The lower-level restrooms could potentially be eliminated with the addition of the two new upstairs restrooms. While the City has sufficient water credits in reserve to support two additional restrooms at this site, additional water credits would be made available if the lower restrooms were eliminated.
- It is recommended that a dual position drinking fountain be installed on the upper floor to comply with CPC requirements considering the higher occupant loads associated with the A-3 Occupancy.
- Based on occupant load on the second floor, two exits are required with exit separation distance of $\frac{1}{2}$ the greatest diagonal distance of the floor served. The new, accessible door and downstairs doorway can provide a feasible way of meeting the number and separation requirements for means of egress. Installing new panic hardware on the exterior doors will further improve safety and code compliance.
- The property is considered a historic resource and is subject to the City's Historic Preservation Ordinance, Carmel Municipal Code (CMC) Section 17.32. Tenant improvements must follow the processes outlined in the Ordinance and in accordance with the California Environmental Quality Act (CEQA). Improvements may require review by a qualified professional on contract with the City as well as the issuance of a Determination of Consistency with the Secretary's Standards for the Treatment of Historic Properties.
- Improvements may also require approval by the Historic Resources Board and/or Planning Commission. It is important that organizations submitting proposals have a clear understanding that depending on the nature and extent of proposed tenant improvements, preparation and approval of a Determination of Consistency can take several months.

This Building Official's list above was supplemented in 2022 by the Director of Public Works and the Facility Maintenance Supervisor, as follows.

- The electrical system is considered to be outdated and would need to be substantially replaced to meet current code requirements. It is unknown at this time if upgraded electrical service will be required from PG&E, but this must be evaluated during renovation design.
- Lighting fixtures should be considered for restoration or in-kind replacement.
- The mechanical/HVAC system, gas water heater and forced air unit, are nearing the end of their service lives and should be replaced. All electric appliances are encouraged to minimize climate change impacts.
- Other building elements, railings, restroom facilities, etc. shall meet ADA requirements.
- The ground floor slab and footings are assumed to be in good/adequate condition; however, a structural engineer must evaluate these structural elements during design and may require modifications. Seismic upgrades are not anticipated, but may be required.
- A possible fire sprinkler system also needs to be evaluated during the design phase.
- The following miscellaneous building repairs and modifications are also likely needed:
 - All kitchen appliances and fixtures have exceeded their service life and need to be replaced.
 - Energy-efficiency upgrades should be considered throughout the renovation design provided they do not lessen the historical quality of the facility.
 - Spot repairs are needed throughout the exterior siding.
 - New interior and exterior paint is required throughout.
 - The southeast wood steps should be replaced.
 - The wood-burning fireplace and chimney need to be professionally cleaned.
- The roof was replaced by the City in 2020, and rotted roof sheathing and rafters were replaced at that time. New gutters and downspouts were also installed at that time.
- The following site, off-site, and utility improvements must also be considered:
 - With the water on, there is a known water leak just downstream of the water meter on City property off of Mission Street. This leak must be repaired.
 - The sewer lateral must be inspected by video and repaired or replaced as required by the Carmel Area WasteWater District.
 - The non-compliant ADA ramp at the northeast corner of Mission and Eighth needs to be reconstructed to be compliant.
 - The curb, gutter, and sidewalk along Mission Street should be replaced if further damaged or modified by construction.
 - Sidewalk along Eighth Avenue is not anticipated at this time. This sidewalk has been the subject of prior City Council deliberations.
 - Repairs are needed to the masonry steps and railings fronting on Mission Street.
 - As a minimum, spot repairs are needed along the masonry retaining wall along Mission Street.
 - The driveway needs to be resurfaced or reconstructed.
 - Trees are to be protected unless significant pruning or removal is approved by the City Forester or the Forest and Beach Commission.
 - Suitable drought-tolerant landscaping, an on-site rain garden or other infiltration system, and an irrigation system must be considered.

- Aerial utility lines are not required to be relocated underground.

Options Considered for Future Use

The City acknowledges that the list of repairs and upgrades above is formidable. The City essentially had three options for future use of the Scout House as follows:

The first option is to maintain the status quo by keeping the building closed to the public and performing annual maintenance to prevent further decay. With this option, the building provides no benefit to the public and essentially only serves as a maintenance liability to the City.

The second option is to sell the property to a private party. The sale would be subject to the Surplus Land Act which requires that it is first prioritized for affordable housing development. The sale would likely be a public process, and the community may raise issues with the City's intent to divest itself from the property. Another potential barrier to selling the building is that it is listed on the City's Historic Inventory, which prohibits demolition and limits exterior modifications.

The third option is to improve the building with the intent of using it as a community center, either managed by the City or by the private sector. This option would be in the best interest of the community and would avoid potential issues associated with maintaining a vacant, deteriorating building or selling the property. This option was reconfirmed by the City Council at their March 10, 2022 Strategic Planning Workshop.

Scout House Survey and Workshop, November 2019

In addition to inviting community members to participate in a survey about how the Scout House could be used if it were to be re-opened, the Community Activities Commission held a Public Workshop in November 2019 to hear what the community desires for this facility.

Key takeaways were the importance of keeping the design simple and focused on restoring the cozy and intimate character of the Scout House, and restoring the use of the Scout House to be a multi-purpose space with priority for use going to the Scouts.

QUALIFICATIONS AND RELATED EXPERIENCE

In the proposal, please identify the Proposer's Team's qualifications and experience performing similar services for projects of a similar size, scope, and complexity. Include: (1) the number of years key Team members have been performing similar services; and (2) projects for which the Proposer has performed similar services. The list of projects shall include a description of the service performed, dates of performance, and the contact person (reference), email address, and phone number of each party for whom the service was provided. The most qualified Proposer will be offering strong and lively programming to the youth of Carmel, including the Boy Scouts, that strengthens the vibrancy of Carmel and enhances its unique, artistic, and cultural heritage.

SCOPE OF WORK - PHASE 1 RENOVATION

The successful Proposer shall also demonstrate how they will perform the following tasks. Proposers must demonstrate a qualifying level of experience in renovating a facility, preferably an historic asset or a government-owned facility, as well as programming activities and managing a multi-use facility.

Renovation Design

1. Identify a tentative professional services team to renovate the facility, including, as a minimum, an architect, electrical, mechanical, and structural engineers, a CASp-certified ADA specialist, and landscape architect.
2. Describe your approach for space planning the facility in relation to future activities and facility maintenance.
3. Describe your approach for testing the facility for the presence of hazardous materials, such as asbestos, lead, and mold. If found, describe your tentative approach for remediating these materials prior to or concurrently with construction.
4. Describe your approach to meeting ADA requirements. At a minimum, address if an elevator or lifts are envisioned as well as converting the existing parking space/east building entrance, to be ADA-compliant.
5. Describe your approach to inspecting all facility elements including, but not limited to: structural, electrical, mechanical, and plumbing review, architectural assessment, pest control evaluation, energy efficiency review, site/landscaping assessment, and similar evaluations.
6. Prepare a tentative list of key building code corrections, repairs, and upgrades that are envisioned for the facility.
7. Prepare a list of all site and off-site improvements that would be implemented.
8. Prepare a tentative list of construction plans to be prepared for the renovation, and your approach to technical or performance-based specifications.
9. Explain your approach to presenting the project to the Community Activities Commission, Historic Preservation Board, Planning Commission, and City Council. Identify tentative milestones for such presentations in a project schedule.
10. Provide a preliminary project schedule for the Project from Notice to Proceed until anticipated Certificate of Occupancy.
11. Describe your approach to obtaining City plan check comments and permits, environmental clearances, approval for the Secretary's Standards for the Treatment of Historic Properties, and other anticipated approvals.
12. Describe your approach to cost estimating the renovation, budget management, value engineering, and change order management.

Renovation Construction

1. Describe your approach to bidding and selecting (or having already selected) a construction contractor. Provide the contractor's license number, bonding and insurance information, and related experience. A Performance Bond will be required prior to the renovation. A Payment Bond may also be required.
2. Identify a proposed construction manager, contractor superintendent, building inspector, and any key subcontractors who will be responsible for day-to-day oversight during construction.
3. Describe or provide a schematic addressing the proposed staging area during construction.
4. Describe your approach to demolition, and materials sorting and re-use/recycling.
5. Identify any equipment that may require a long lead time to obtain (i.e. elevator) and the timing to acquire such specialties.
6. Provide a preliminary project schedule for the duration of construction.
7. Describe your approach to providing third party materials testing and specialty inspection services.

8. Describe the anticipated approach to conducting construction progress meetings, tracking RFIs and Change Orders, developing the project punch list, and maintaining as-built drawings. Clarify what role the City is envisioned to be involved during the construction process.

SCOPE OF WORK - PHASE 2 ACTIVITIES PROGRAMMING AND FACILITY MANAGEMENT

Activities Programming

1. Describe how you will work with the local Boy Scouts troop and similar or other organizations to develop a long-range activities plan.
2. Describe your view of a representative mix of community activities and events, and how you plan to achieve it. Give examples of activities and events you have programmed in the past.
3. Describe what market research or other means will be used to determine the desired activities programming mix based on community interest and outreach efforts.
4. Describe how you will conduct outreach to nearby businesses and neighbors who live and work around the Scout House, including Sunset Center.
5. Describe how you will develop a programming schedule that:
 - a. Is attractive to various demographics within the Carmel-by-the-Sea community
 - b. Includes a mix of activities and genres

The successful Proposer may need to present their recommendations for primary and secondary users of the Scout House to the Community Activities Commission and the City Council for approval prior to execution of the O&M Agreement and Site Lease.

Ongoing Facility Management

Describe your approach to managing and staffing the following components of managing the Scout House following the renovation:

1. Negotiating fair market rent with the City.
2. Staffing, including management, operations, marketing, administration, and sales.
3. Concessions and/or food services, including any proposed liquor service.
4. Custodial services, including window cleaning and gutter clearing.
5. Security and parking during events.
6. Fire alarm system monitoring, and certifications for the fire extinguishers.
7. Pest control services.
8. Landscape and tree maintenance including pruning, raking, planting, and irrigation.
9. Payment for water, electricity, and gas utilities and other ongoing expenses. The City will continue to pay for trash/recycling and sewer service.
10. Budget allocation and facility maintenance services, including preventative maintenance inspections, minor repairs for routine carpentry, hardware, plumbing, mechanical, electrical, appliances, fixtures, finishes, etc.
11. Approach for identifying and prioritizing future capital improvement projects with possible cost-sharing with the City. Explain why such improvements would not be prudent to include with the renovation project.

Zoning and Allowable Uses

Any proposed uses or improvements to the Scout House must be in conformance with the rules of the Residential and Limited Commercial (RC) Zoning District and other applicable Commercial Zoning District regulations per Carmel Municipal Code Chapter 17.14, "COMMERCIAL ZONING DISTRICTS" or as otherwise allowed in the Carmel Municipal Code. Refer to allowed uses in Chapter 17.14 here: <https://www.codepublishing.com/CA/CarmelbytheSea/#!/Carmel17/Carmel1714.html#17.14.190>

FINANCIAL AND LEGAL CONSIDERATIONS

Provide a pro forma projection detailing all sources of revenue and all expenses by category, including renovation design and construction costs, and ongoing programming and facility management costs for at least Years 1-5. Propose a revenue and expenditure sharing relationship with the City.

Note: The City has no specific pre-formulated requirements for revenue and/or expenditure sharing at this time; however, fair market rent will be required following occupancy. Provide any information regarding your strengths (for example, current financial statements - balance sheet and income statement - bank account statements and/or letters from bank reporting on deposit, federal tax returns for the most recent year), as well as any experience with donations and grants.

Confirm that you will be able to provide evidence of the insurer (A.M. Best Company rating of at least A-XII), including liquor liability insurance coverage if applicable, with a limit of liability no less than \$2 million for the work to be done under this proposal. The insurance must name the City of Carmel-by-the-Sea, its officers, agents and employees, as additionally insured. Evidence of compliant insurance must be provided to the City every year prior to the anniversary of the O&M Agreement effective date, for each year of the Agreement.

In addition, the successful Proposer may be required to pay Possessory Interest Tax to Monterey County. Proposers are strongly encouraged to research this issue prior to submitting Proposals.

Proposers should also consider the following legal issues pertaining to this Proposal, and may seek private Counsel to ensure compliance.

- Public Contract Code Section 1101 defines a public works contract as "an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind." Because the Scout House renovations project will be a public improvement built on public land, the construction contract will be a "public works contract" under the Public Contract Code. Even though the Scout House renovation project is a public works project, competitive bidding will not be required if the City is making no financial contribution to the project.
- California's prevailing wage laws set specific wage and hour requirements for employees working on "public works" projects, defined by Labor Code §1720(a), including construction, alteration, demolition, installation, or repair work performed under contract and paid for in whole or in part out of public funds. These wage and hour requirements do not apply to specified work performed by a volunteer, volunteer coordinator, or a member of the California Conservation Corps or a community conservation corps. Assembly Bill

327 ("AB 327") extended these provisions from 2017 to January 1, 2024. The volunteer exemption has previously been extended several times, and it is possible it will be extended again prior to its January 1, 2024 sunset date. If it is not further extended, the volunteer exemption will no longer apply and prevailing wages will have to be paid for projects in which public funds are invested.

- "Volunteer" is defined as "an individual who performs work for civic, charitable, or humanitarian reasons, for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed." (Labor Code § 1720.4(a)(1).)
- Even if the volunteer labor exemption sunsets, and the project from that point forward is simply treated as a private project with no public subsidy, the City may continue to exercise its customary regulatory authority over this project including insisting that the lessee hire a properly licensed, bonded, insured, and qualified contractor to perform renovations. And the City may continue to treat this project as it would any other project in performing plan checks, insisting the project obtain approvals from the appropriate authorities with jurisdiction, issuing building permits, and inspecting the project.
- The City may waive fees if all work is performed by volunteers since the contribution of public funds to pay for design review and encroachment permits will not render the project subject to prevailing wages if all work is performed by volunteers.
- In order to avoid transforming this otherwise private project into a public work under the Labor Code, it will be important that the City not be involved in the selection of the contractor that will perform the construction work and that the City not waive any infrastructure or other requirements related to the renovations of the site.
- Because the Scout House renovation project will be performed and paid for entirely by others, the project need not be competitively bid. So long as the Scout House renovation project is paid for entirely by others or performed entirely by volunteer labor, the project is not subject to the payment of prevailing wages.

Environmental Impact and General Plan Consistency

The proposed O&M Agreement and Site Lease would likely be exempt from CEQA and would comply with the City's General Plan Policy P6-8: Periodically review the use of all public facilities to ensure that they are being used in a beneficial manner for the community. The City can comply with this approach by preparing and adopting a written plan and by continuing to use the facility for a certain number of days each year for educational purposes, exhibitions, or other similar uses that demonstrate the City's ongoing use of the site.

Prior to building repairs/improvements, it will be important for the City to complete all necessary reviews pursuant to CEQA. It is likely the proposed building improvements are exempt from the requirements of CEQA in accordance with CEQA Guidelines Section 15378(b)(5) since they do not meet CEQA's definition of a "project" because the improvements do not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and if a "project," are exempt under the "common sense" exception (14 Cal. Code Regs. § 15061(b)(3)) because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment.

OPERATIONS AND MAINTENANCE AGREEMENT

- Preliminarily, the City is seeking to enter into a 10-year term O&M Agreement with a 5-year option to renew, with a clause for a 1-year Notice of Termination, with or without any cause.
- Provide your proposed length of term for the lease, anticipated monthly lease/rent payment, and proposed improvement and repairs allowance.
- The City has not identified any funds to support the renovation of the Scout House nor pay for any ongoing costs, such as utilities (other than trash and sewer service) or other vendor services at this time; however, the City is willing to negotiate cost-sharing arrangements with the selected Proposer for other maintenance and capital costs with the City's goal of minimizing City expenditures to the extent possible.
- Identify any other term or condition of the City's O&M Agreement form (**Appendix 6**) which may need to be modified to meet the specific needs of the Proposer.
- While it is anticipated that the selected Proposer will maintain the facility and grounds to at least the level of service existing at the date of Certificate of Occupancy, the selected Proposer and City will also endeavor to identify capital improvements and funding sources for future upgrades. Recommendations for future capital projects or upgrades after Certificate of Occupancy are encouraged to be listed in the proposal.
- All consultants and contractors involved in the Project shall obtain a City business license prior to providing services.

SITE LEASE

- The Contractor signing the O&M Agreement will also need to agree to sign a Site Lease to cover the duration of their occupation of the Scout House, such that they are the City's Lessee. Under the Site Lease, the Contractor must agree to pay fair market rent for the use and enjoyment of the Scout House.
- To offset the cost of paying fair market rent, the Contractor may undertake various fundraising activities, including, for example, the sale of naming rights of various interior portions of the facility and use the facility for commercial purposes consistent with existing zoning, including a potential sublease of the facility if desired. Naming Rights must be consistent with City standards.
- The amount of fair market rent to be charged could take into account that the Contractor would be agreeing to pay the costs of repair and potential future capital improvements (over \$10,000) under the term of the O&M Agreement and Site Lease, and the fact that the City will be entitled to use the facility for one day each month.
- Following Certificate of Occupancy, the Contractor may sublease the renovated facility to a third party(ies), provided that all terms and conditions of the O&M Agreement and Site Lease, and all other City requirements are met and agreed to by the City.
- Identify any other term or condition of the City's Site Lease form (**Appendix 7**) which may need to be modified to meet the specific needs of the Proposer.

APPENDIX 1: SITE PHOTOGRAPHS



Looking Northeast from Mission Street and Eighth Avenue



North elevation, looking west.



Southeast elevation of building with non-compliant parking space.



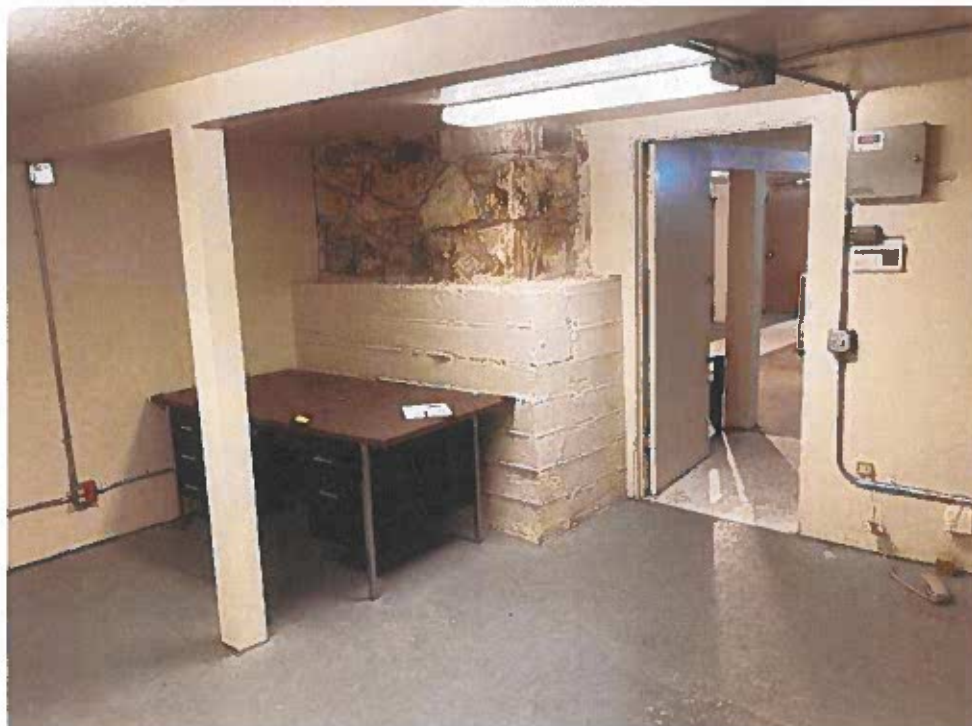
Upstairs Main Room, looking east, with functioning fireplace and vaulted ceiling



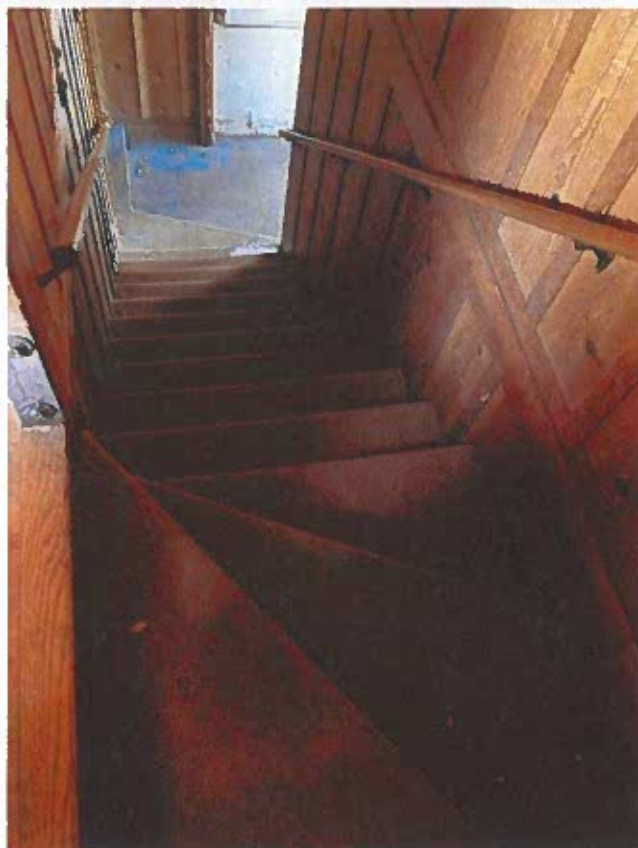
Upstairs Main Room looking west



Upstairs Kitchenette, envisioned to be completely reconstructed.



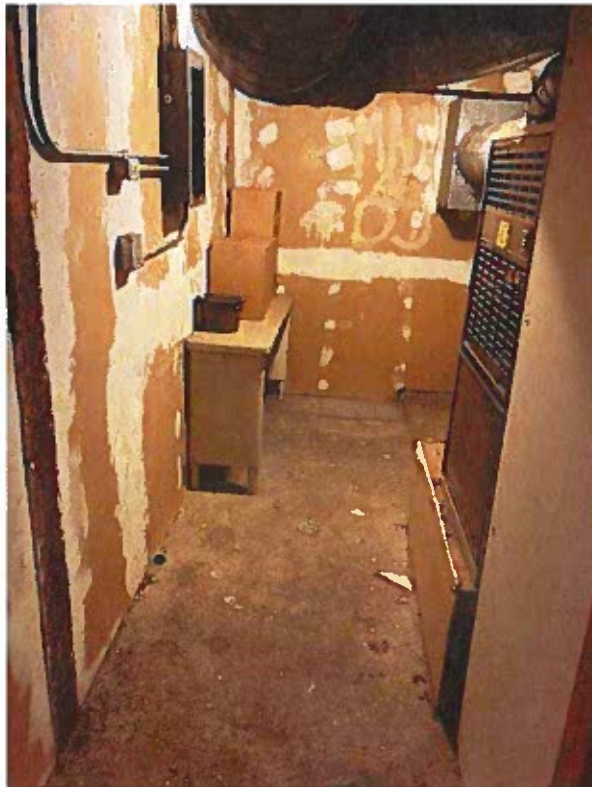
Former Police Records and Scout Classrooms w/Reduced Ceiling Height



Stairwell, looking down toward front door



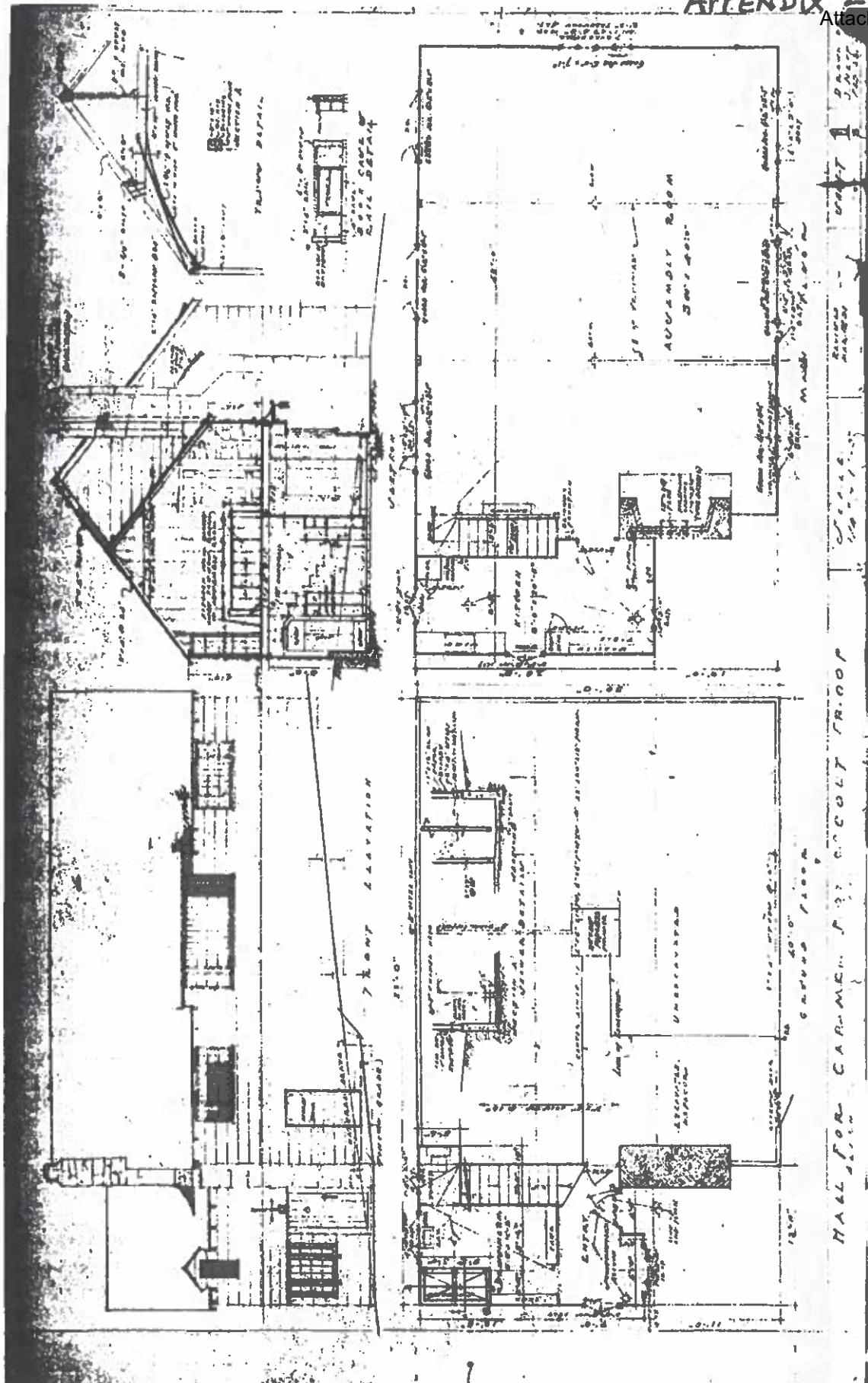
Downstairs restrooms, envisioned to be completely reconstructed



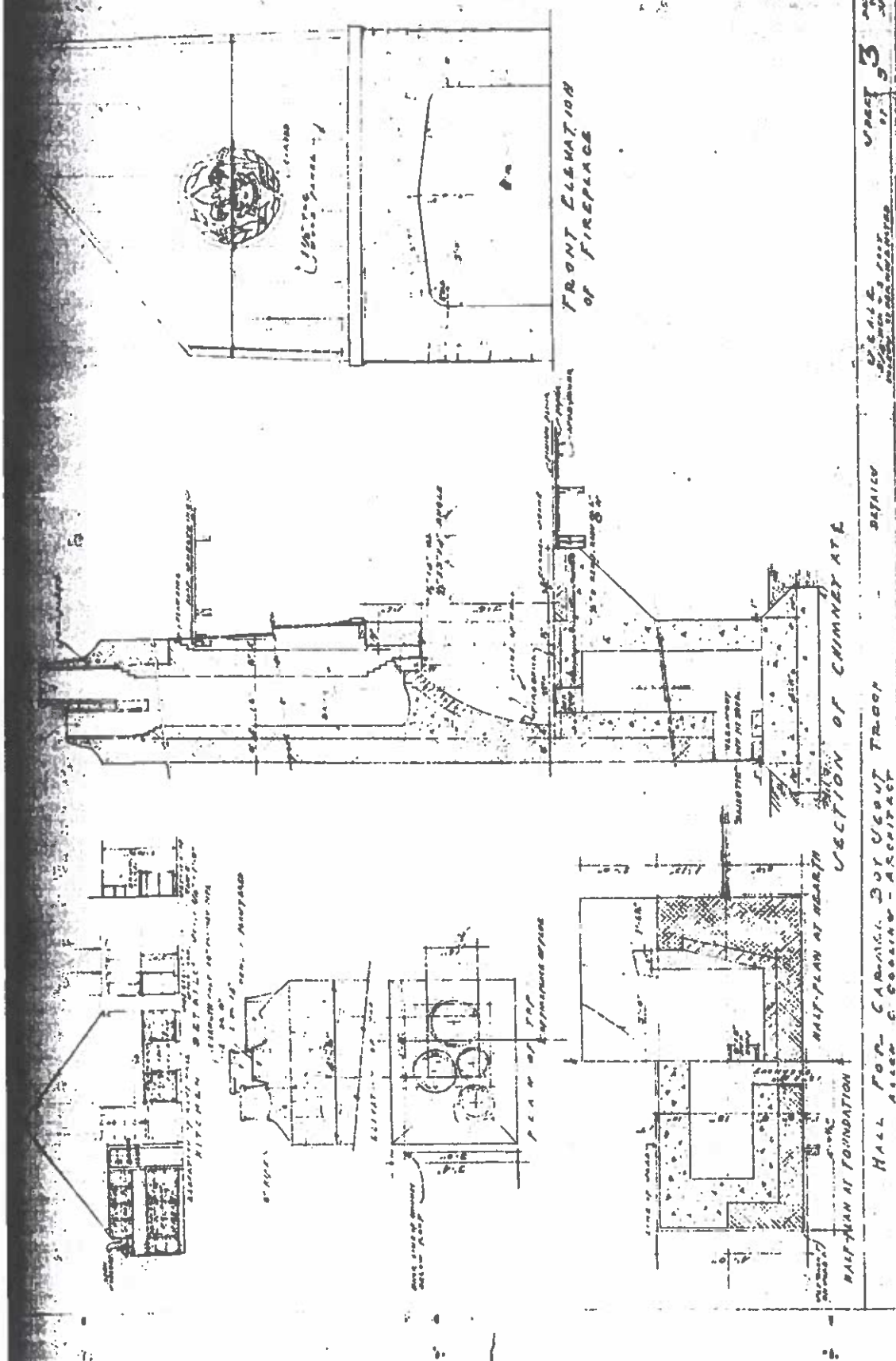
Electrical/Mechanical Closet

Attachment 3

Attachment 3



APPENDIX 2



MEMORANDUM

TO: MAYOR KEN WHITE AND MEMBERS OF THE CITY COUNCIL
THROUGH: JERE KERSNAR, CITY ADMINISTRATOR AND
BRIAN DONOGHUE, CULTURAL DIRECTOR
FROM: THE COMMUNITY AND CULTURAL COMMISSION
SUBJECT: SCOUT HOUSE: ANALYSIS OF UPGRADE FEASIBILITY
DATE: 01/15/00

SCOUT HOUSE MASTER PLAN

The Community and Cultural Commission has completed its research and analysis of the Scout House building. On January 10, 2000 the Commissioners unanimously adopted as their recommended Master Plan for the Scout House the "Analysis of Upgrade Feasibility" report prepared by architect Brian Congleton. Along with the report, The Commission forwards the following comments and recommendations for your consideration:

1. The Scout House, located in the RC District, is a unique city property with distinct historical significance and character. Because of its unique character and because of its historical significance, the Community and Cultural Commission recommends that the City bring this building into compliance with accessibility standards and arrest its progressive deterioration. This can be done by implementing upgrades, improvements and maintenance laid out in Option C of the Analysis Report.
2. The Commission believes the City can provide an even greater service to the community by making this intimate meeting place more accessible to more people. Currently the City does not promote full use of the Scout House because of its limitations. By making these improvements, the Commission is more than confident that use of the building would increase. The Commission enthusiastically and unanimously recommends continued and expanded city use of this property.
3. The Scout House is one of the few city-owned buildings that generate revenue. Once improvements are made, the City will benefit in parallel ways. The City enhances significantly its ability to produce revenue through increased use. And, the City will be able to program additional community activities. Above all, the greatest value is the City's ability to provide such unique space for community use.

Ultimately this provides support for a variety of user groups, including the often overlooked attraction this facility may offer the business district because of its convenient location.

4. Use of the building is offered free to scouting organizations of the tri-county area and to the Friends of the Library for book storage between sales. Both City Hall and Sunset Center use the building for vital storage of documents. The Friends of the Library use the storage area year round for the collection and sorting of books for their yearly sale to benefit the library. The activities of this particular user greatly benefit the City in return.
5. During 1999, 45 groups or organizations used this facility. Of the 23 scout troops who used the building, 15 were not charged. (Please see the "List of Scout House Users - 1999" attached to this Memorandum.)
6. The Commission (through its subcommittee) evaluated the possibility of phasing the upgrades and improvements over two years, but recommend rejection of this approach because of added costs. If upgrades were undertaken in phases, cost of the construction could increase by 20-25%.
7. The evaluation of this project was thorough. The subcommittee and the architect consultant used the following resources as part of their research to develop a Scout House Master Plan Project Report:
 1. City Planning Staff
 2. Building Official
 3. Fire Official
 4. Historic Preservation Consultant
 5. Title reports and specific legal documents pertaining to the property
 6. Construction documents and complete property file records
 7. Historic survey form
 8. Federal statutes/requirements Americans with Disabilities Act (ADA)
 9. State Title 24 Access Permits
 10. On-site and structural inspections
 11. Neighboring property comments
 12. Commissioned Scout House property appraisal

The Commission is pleased to submit this report to the City Council and looks forward to the next opportunity to perform similar duties for the City of Carmel-by-the-Sea.

LIST OF SCOUT HOUSE USERS - 1999

Brownie Troop #1147*
 BST #3*
 Carmel Preservation Foundation
 Carmel Performing Arts Festival
 Carmel Ballet Academy

Chi Kong
 City Staff Holiday Party*
 Carmel Residents Association
 Cub Scout Pak #86
 Dance Party (Jane Morba)
 Dance Practice (Carolyn Trist)
 Dance Kids, Inc.
 Fire Department*

Girl Scout Trek 2000*
 Girl Scouts Monterey Bay*

GST #131

GST #1166*

GST #1044*

GST #1121*

GST #3094

GST #1008*

GST #1037*

GST #3916

GST #377

GST #1048*

GST #2115*

GST #36*

GST #3106*

GST #2024*

GST #1175*

GST # 1896

GST #2013*

GST #1170

Jack Hammond Meditation

Kerry Lee, Inc.

Principia Alumni Club

Private party use (Tory Raggett)

Retirement Party (Sarah Manning)*

San Francisco Bay Girl Scout Council

Scottish Dancers

Southern Indian Dance

Swing Monterey

Tango Gathering

Women Unite

Western Society of Clinical Investigators (Doctor's Conference)

KEY: GST = Girl Scout Troop

BST = Boy Scout Troop

* = No Charge User

STORAGE AREA USERS:

City Hall Administration*

Sunset Center*

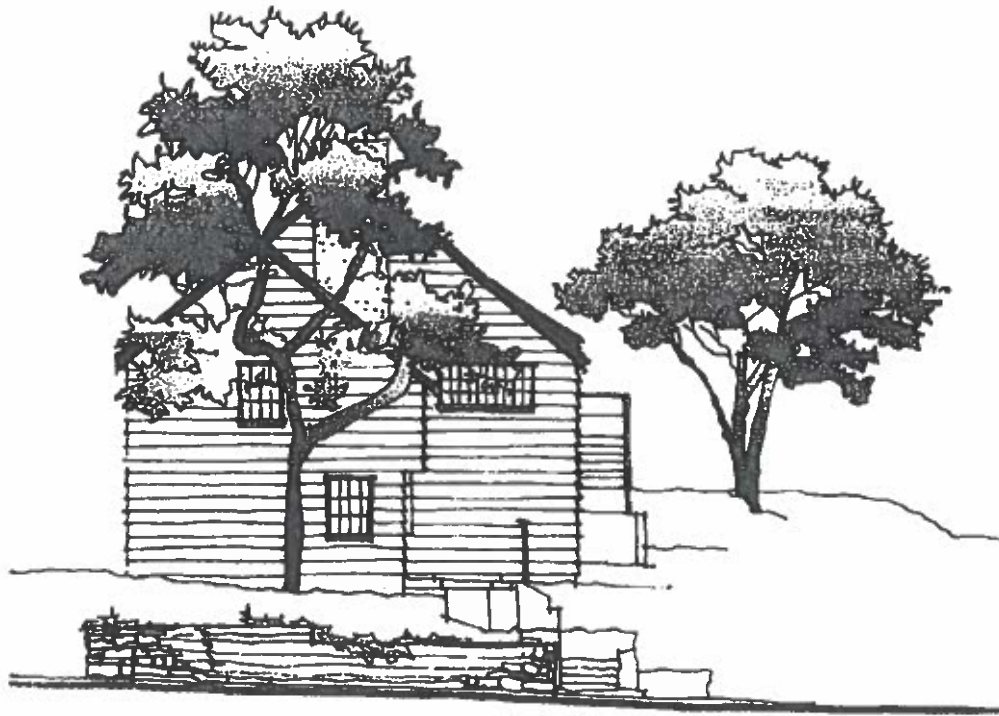
Friends of the Library*

BST #3*

TOTAL:

45 USERS, INCLUDING 23 SCOUT
 USERS OF WHICH 15 ARE FREE

PLUS 4 USERS OF STORAGE AREA



ANALYSIS OF UPGRADE FEASIBILITY

THE SCOUT HOUSE Mission Street at Eighth Avenue Carmel, California

November 15, 1999

This report is an assessment of existing conditions of a property owned by the City of Carmel known as the Scout House, located at the northeast corner of Mission Street and Eighth Avenue. It is an analysis of upgrades needed in two areas:

Part I: Modifications required to bring the property in compliance with accessibility requirements (ADA requirements).

Part II: Modifications and maintenance needed to arrest normal building deterioration and correct inappropriate alterations made over the years.

The purpose of the report is to provide to the Carmel-by-the-Sea Cultural Commission, Building Maintenance Division, and City Council guidance and a basis for assessing, and budgeting for, continued use of the property.

Congleton Architect AIA

**Scout House Feasibility Analysis
November 15, 1999
Introduction - Page 2 of 2**

Background

The Scout House is a two-story wood frame building located on a hillside site. Its upper (main) level (1,200 square feet) contains a large meeting hall, small service kitchen and semi-portioned meeting/storage rooms. The lower level (set into the hill) contains the main building entry and stair, two small single-occupant restrooms, a mechanical room, and storage rooms (originally unexcavated crawl space). Because of the nature of the hillside site, the entrance is a full story lower than the main meeting space, and the street access to the site is almost an additional story lower than the entrance.

The building was constructed in 1931 for use as a Boy Scout meetinghouse, following a visit to Carmel by Lord Baden-Powell, the founder of the Boy Scout movement. The property was conveyed to the City in the 1960's, with provision for continued use by both Boy Scout and Girl Scout troops located in Carmel. In addition, it is used by other City agencies and rented to various public and private groups for their meetings and functions. A portion of the lower level is currently used by the Scouts for equipment storage, and a portion by the Library Guild for collection and storage of donated books.

Because of building access limitations imposed by the steeply sloping site, the facility doesn't comply with accessibility requirements. Opportunities for building use are therefore limited, and when groups meet there the City may be at risk for failure to provide access. There appears to be a need for this facility, and a probability that much more extensive use would occur if the building could be brought up to current standards. Conversely, if barrier-free accommodations are not provided, a non-compliance challenge could result in closure of the facility for public use. Part One of this report addresses means by which the Scout House can be brought into compliance with ADA and building code accessibility requirements.

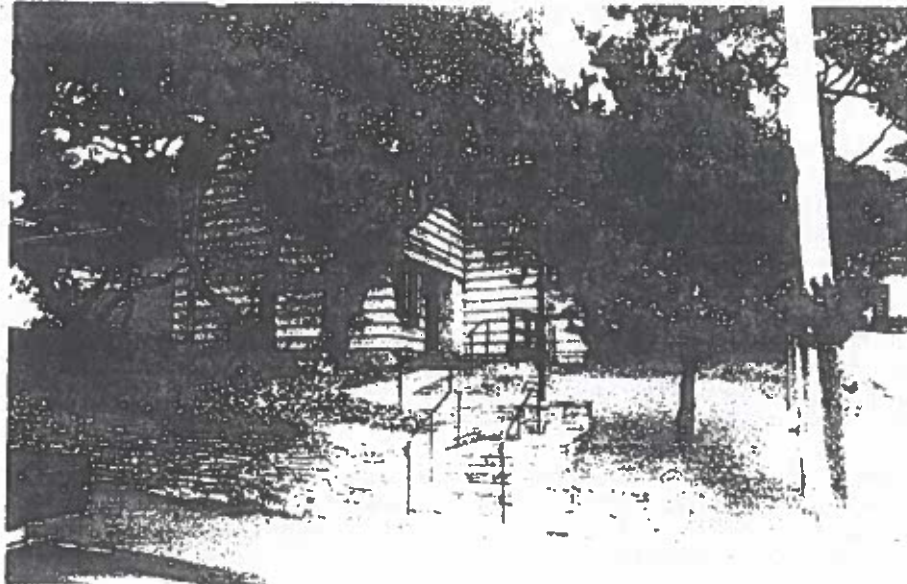
Assessment of the future use of the Scout House includes maintenance of building elements, and desired improvements to building elements to make the Scout House a safe, functional facility serving Carmel's needs for such a building. Part Two of this report addresses maintenance and improvement recommendations.

If it is determined that the cost of upgrading the property is not feasible, its location in the commercial district may accord it good value as a surplus property. This report does not address such an option, but focuses only on required elements for accessibility compliance and building maintenance, with applicable estimated costs.

**Scout House Feasibility Analysis
November 16, 1999**

APPENDIX 3

**SCOUT HOUSE FEASIBILITY ANALYSIS
Part I – ADA Accessibility Compliance**



SCOUT HOUSE FEASIBILITY ANALYSIS

Part I – ADA Accessibility Compliance

Because of building access limitations imposed by the steeply sloping site, the Scout House doesn't comply with ADA and building code accessibility requirements. Opportunities for building use are therefore limited, and when groups meet there the City may be at risk for failure to provide access. There appears to be a need for this facility, and a probability that much more extensive use would occur if the building could be brought up to current standards. Conversely, if barrier-free accommodations are not provided, a non-compliance challenge could result in closure of the facility for public use.

ADA Requirements

The Federal Government passed the Aid to Disabilities Act in 1990, to assure equal accommodation to disabled persons. It is a discrimination-based law, stating essentially: It is against the law for a building owner or business operator to discriminate against any person with a disability by failing to provide said person with equal access to and use of the building or business facility.

A person having a disability (such as limited movement ability, limited hearing or eyesight, limited breathing ability) can claim discrimination by the property owner if he or she is not provided equal use of the property as other users. Equal use generally includes two elements: ability to get into and out of the building, and access to facilities such as bathrooms and kitchen facilities once they have entered. The path of access is continuous from where the person would first arrive at the facility (from the street, bus stop, parking lot) and should be the same as that used by the general public (a disabled person shouldn't be forced to enter through a different door or pathway).

Scout House Feasibility Analysis
November 16, 1988
Part I (Accessibility Compliance) - Page 2 of 5

A complex series of codes defines what must be constructed in a facility to meet accessibility requirements. Some leeway is provided for retrofitting buildings which were built before the law was enacted. A "good faith effort" must be shown by the property owner, demonstrating a realistic effort to achieve compliance. The leeway defines a limit that an owner may be required at one time to spend on ADA upgrades, but a phased plan for compliance must be developed (and ultimately built) resulting in full compliance. The leeway doesn't protect the owner from a challenge; it only assists the owner in his defense if a challenge is made. The best protection is to strive for immediate full compliance.

Historic Character of the Scout House

Complicating the concept of providing access to the Scout House is the historic character of the building and the tree-covered site. While historic structures are generally perceived as having some immunity to accessibility requirements due to their status, a conservative view of ADA is that the only true protection is to provide compliance.

The Scout House is defined as a significant structure, but is not a designated property. Historic designation of the Scout House would allow relief from current code requirements in several areas. However, because of the discrimination basis of the ADA law, designation (and subsequent code relief measures) would probably not adequately protect the City of Carmel from possible exposure if the building and site are not made fully accessible.

Protection of the building's historic character must also be a part of any proposed accessibility improvements, to meet Carmel's concerns about protecting its significant properties. In assessing options for providing accessibility, each option was weighed in terms of its impact on the existing historic character as well as its ability to provide full accessibility.

This study, therefore, focuses on means of providing full accommodation while striving to protect historic and landscape (tree) elements on the property.

ADA applied to the Scout House: Access

The building and site were studied to identify possible means of providing barrier-free access, first to the building, then to use areas within the building. Two locations of probable access were identified: At the existing entrance at the west end of the building, and/or at a new entrance to be installed at the existing driveway at the east end of the building. The existing west entrance is approximately six feet above street level and one story below the meeting room level, requiring possible major modifications for compliance. The driveway grade at the east end is at the approximate grade of the main interior use area, but is physically separated from Mission Street pedestrian access. Three options were developed, and are included as Appendices to this report:

Option 'A' (Grade level access at the east end driveway) – DOES NOT COMPLY:
 (Estimated cost: \$85,715.)

Because no access was provided for pedestrians or persons arriving from town or bus stop, this option was found not to provide ADA compliance, and was dropped from consideration. When incorporated with Option 'C' elements (see below), compliance would be provided. Therefore, entrance and restroom elements from this option are included in the final recommended upgrade design.

Option 'B' (Ramp from Mission to new west entrance, new interior elevator and stair) – DOES NOT COMPLY:
 (Estimated cost: \$182,329.)

Because this option would result in major impact on the historic building and site trees, and because this option required a separate entrance for accessibility compliance, it was

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 8 of 16

IMPROVEMENT CATEGORY TWO: CODE COMPLIANCE AND AESTHETIC UPGRADES

Following are items noted as improvement items to improve the level of code compliance, or to improve the aesthetic quality and historic character of the facility.

Code requirement items are building improvements necessary to protect the life safety of the building's users. Improvements include ADA accessibility elements (see Part I Report) and fire sprinkler systems.

Note: The Scout House is an older existing building, not originally designed or built according to modern code standards. The items shown in this report are not intended to upgrade the Scout House to current codes, but to address only those items identified by the building and fire officials as being substantively lacking, potentially compromising the safety of the occupants. Seismic upgrades are not included, although (where feasible) seismic improvements may be incorporated into building modifications for ADA compliance (new stairwells, elevator shaft, etc.)

Aesthetic improvements are those which are not necessary for building maintenance or code compliance, but which have been deemed as needed to visually restore and protect the historical character of the building and present the Scout House as a quality city facility.

Following are items identified as code compliance or aesthetic upgrade improvements:

- B1. Fire protection system (fire sprinklers).
- B2. Replace aluminum windows with wood divided-light sashes.
- B3. Remove exterior & interior pipes, conduits, and wiring elements.
- B4. Paint exterior of building using original or complementary color scheme.
- B5. Construct trash enclosure. Work with neighbor to improve trash bin upkeep.
- B6. Install underground electrical service from west side of Mission to building.
- B7. Install native, drought tolerant landscaping and drip irrigation.

Scout House Feasibility Analysis
November 15, 1999
Part I (Accessibility Compliance) - Page 3 of 5

found not acceptable for historic standards and not in compliance with ADA, and was dropped from consideration.

Option 'C': (Exterior lift from Mission to entry patio, widen entry to new elevator) –
RECOMMENDED OPTION/PROVIDES COMPLIANCE:
 (Estimated cost: \$195,192.)

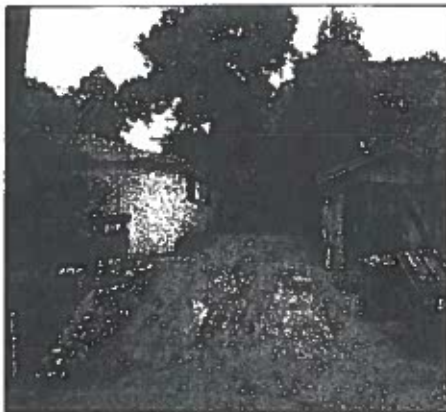
This option was found to provide the best elements of ADA compliance, while protecting the existing elements of the historic structure and mature trees and site features. Although there are concerns about maintenance and operation of the outdoor lift, this option was found to be in compliance with ADA and acceptable for historic standards. This option (including elements of east entry and restrooms from Option 'A'), is proposed as the best reasonable alternative for ADA upgrades to the Scout House. Features are described below.

Recommended Design for Accessibility Compliance

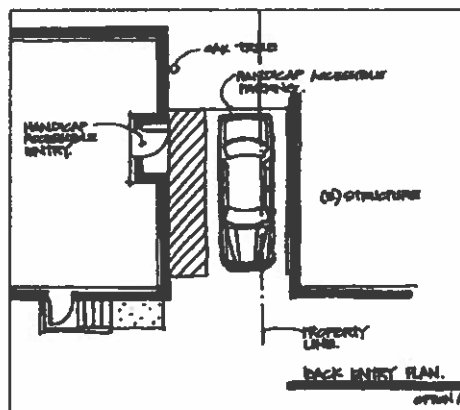
In reviewing the above Options 'A', 'B', 'C', the consultant and Task Force Committee determined that an at-grade entrance at the east end of the building (Option 'A') combined with an exterior lift/interior elevator at the west end of the building (Option 'C') would provide accessible entry to the building for all persons, with minimal impact on the historic elements of the building's exterior and interior spaces. Relocation of the restrooms and food preparation area to the east end of the main level will allow for support facilities at the meeting room level, therefore providing full accommodation for disabled persons using the facility. Elements of this recommended design are described below.

East entry & driveway:

The main meeting room level of the building is at approximate ground level at the east end of the building, where an existing driveway provides access to the rear of the building. It is therefore possible to install a new door at this driveway, providing level access from a parking space into the meeting room



Driveway – east end of site.



Driveway Plan

Use of the driveway alone will not meet ADA requirements for full accessibility:

- ♦ The parking space is too small to accommodate the car and unloading area.
- ♦ The adjacent property to the north is served by an easement over the driveway area.
- ♦ The slope is too steep to provide a level parking/unloading area.

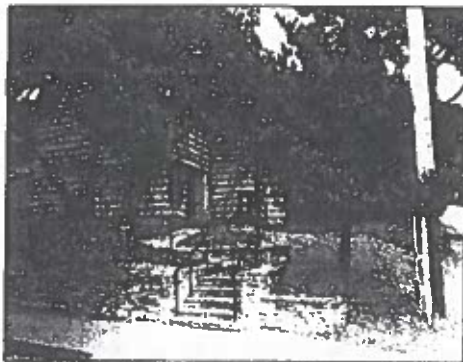
Scout House Feasibility Analysis
November 18, 1989
Part I (Accessibility Compliance) - Page 4 of 6

- ♦ An east entrance would only accommodate a disabled person arriving in a car, not a pedestrian or bus-rider arriving at the site. (The law requires accommodation for ALL persons arriving at the site.)
- ♦ No access is provided to the lower level.

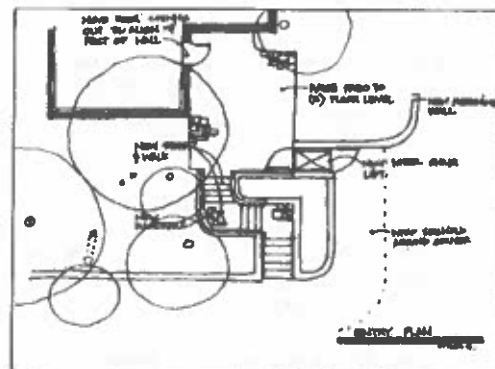
While using the east driveway does not provide full compliance, two benefits are attained by creating an accessible entrance at the east end of the building: First, an accessible grade-level fire exit is created, providing fire exiting for disabled persons. Second, this grade-level entrance will accommodate medical emergency removal of a person on a gurney, eliminating the need for a gurney-capable elevator.

General public access is located at the west (Mission Street) end of the property. The existing stair is proposed to be modified to eliminate hazardous elements and provide proper handrails.

Access to disabled persons is provided to the building via an external lift to a courtyard at the existing entry level, then a new elevator would provide access to the meeting room level. The existing interior stair would be modified to replace winding stairs at the top with a regular step configuration.



West end photo showing existing entry stair.



Proposed entry court with lift - Option 'C'

This option also provides full compliance, and preserves most existing building elements. The major item for consideration is:

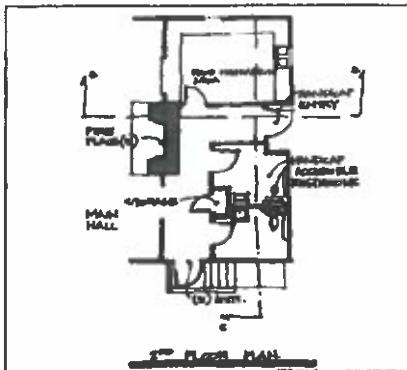
- ♦ Introduction of exterior mechanical lift, with maintenance and abuse concerns. Because the lift is outdoor and open to public abuse, potential for vandalism is high. In order to maintain accessibility compliance, any repairs would have to be expedited immediately. Linking lift power to interior switches could link operation of the lift to facility use and door locks, preventing unauthorized operation.

Access: Facilities

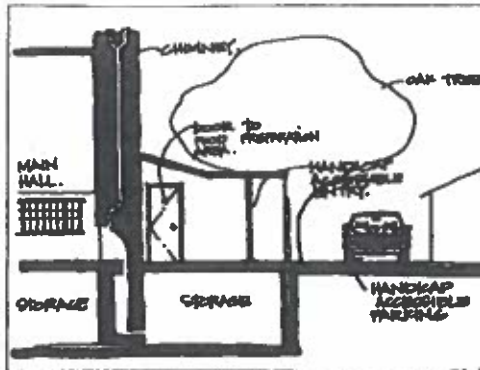
Once access is provided to persons with disabilities, facilities should be modified to assure equal access. Restrooms must provide usable fixtures and adequate dimensional provisions. Food preparation areas should be equally usable, with counter heights, under counter spaces, and turnaround areas to accommodate disabled persons.

As shown below, new accessible restrooms would be added at the east end of the meeting room level. The food preparation area (not a kitchen, no range or hood) located at the east end would replace the existing kitchen above the west entry. This restroom/kitchen/corridor arrangement is recommended for all Options 'A', 'B', 'C'.

Scout House Feasibility Analysis
November 16, 1999
Part I (Accessibility Compliance) - Page 5 of 5



Partial plan – main floor east end.



Section through restrooms/food preparation area.

Locating new restrooms at the east end of the main floor (in the area now divided into meeting/storage areas) will provide accessible facilities adjacent to the meeting room. Users will not be required to make level changes or go a long distance to access restrooms. One restroom will be retained at the lower level west end entry.

Relocation of the food preparation area to the east end will allow for a larger, accessible preparation space adjacent to both the meeting room (with a serving window) and to the east end driveway. Removal of the kitchen from the west end (above the entry) will make room for the new elevator.

Note: The new Food Preparation Area is not a kitchen. It does not include any cooking equipment (range, ovens, fryers, etc.) that would require a commercial hood/exhaust system, fire protection system, and a grease trap on the sink. It does include a sink and refrigerator, counter and storage space, outlets for coffee makers, and microwave ovens to heat items brought in by caterers for serving.

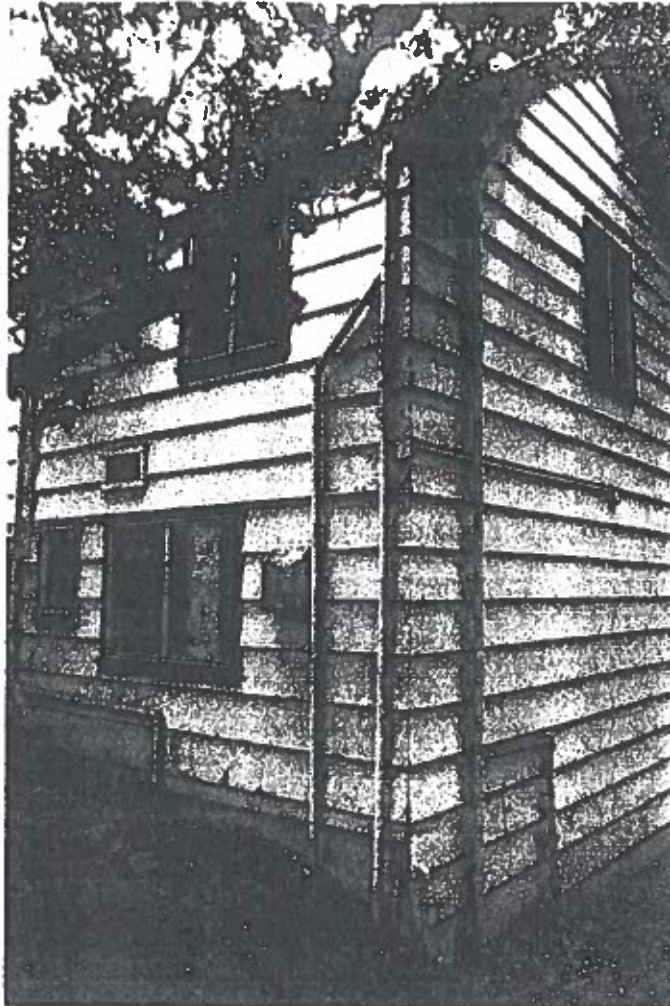
The cost of new accessible restrooms and food preparation area (as shown above) has been included in the cost estimates for Options 'A', 'B', and 'C'. See the detailed cost estimate attached to this document.

Scout House Feasibility Analysis
November 16, 1999

APPENDIX 3

SCOUT HOUSE FEASIBILITY ANALYSIS
Part II – Building Improvements & Maintenance

**Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 1 of 15**



SCOUT HOUSE FEASIBILITY ANALYSIS

Part II – Building Improvements & Maintenance

Part Two areas of work

While providing barrier-free handicap access is the primary requirement for full use of the facility, identifying the other building problem elements is needed as well, to provide an adequate assessment of the cost of anticipated maintenance and necessary upgrades. The building is an older wood structure subject to damage by nature's forces and showing signs of deterioration from deferred maintenance over the years. Modifications such as surface wiring and replacement windows have been added which detract from the original design and character. Life safety code issues should be reviewed to identify areas of noncompliance and means of improvement.

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 2 of 16

The following two improvement categories have been identified:

- a) **Maintenance improvements to address safety issues and arrest building deterioration.**
- b) **Aesthetic and code compliance improvements to remove building alterations not in keeping with the building's architectural and historical character, to improve the level of compliance with life safety codes, and to ensure the building's function as a quality community-serving facility.**

IMPROVEMENT CATEGORY ONE: MAINTENANCE IMPROVEMENTS

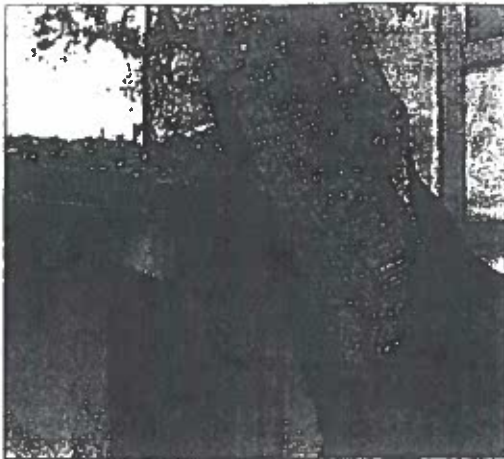
Following are items noted as needing corrective action to arrest building deterioration and address code requirements. Building deterioration items are those which, if not addressed in a timely manner, could result in substantially higher costs for correction later, or could cause the building to not be usable for its intended purpose.

Following are items which have been identified as needed maintenance improvements:

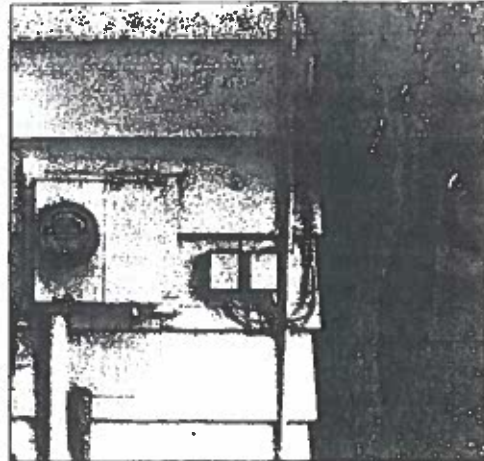
- A1. Tree growth against the building.
- A2. Vines encroaching into building structure.
- A3. Termite infestation & dryrot.
- A4. Need for gutters & downspouts.
- A5. Program to reroof building

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 3 of 16

A1. TREE GROWTH AGAINST THE BUILDING



Tree against east eave.



Tree against southwest building corner.

Tree Growth against the Building: In two locations, major spars of mature oak trees have grown against the face of the building. Both areas of contact have resulted in damage to the structure. However, the recommended correction of each contact is different from the other.

- **Main trunk contacting eave (east side):** The tree has damaged the wood eave, but is still some eight inches from the face of the building. As shown, water and debris drain against the tree, resulting in dryrot to the eave.

Recommended action : Cut roof deck to provide several inches clearance from tree. Repair flashing and shingles to assure weather protection to deck.

- **Significant spar contacting wall (southwest corner):** One spar of the multi-spar tree has grown against the corner of the wall approximately five feet above grade, and is pressing into the structure. Building damage has not yet occurred, but soon will if not corrected. In addition, upper portions of this spar are in contact with the building roof.

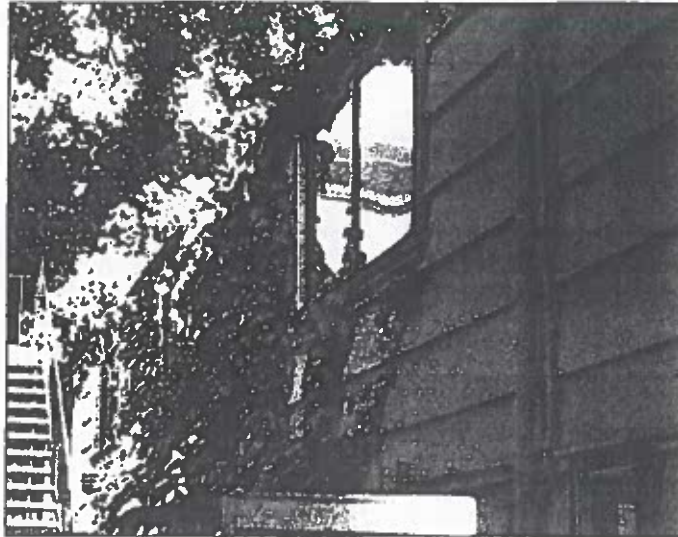
Recommended action: Remove part or all of spar; the remainder of the tree should not be significantly impacted by removal of this portion.

The above items should be expedited immediately. Cost should be less if work is incorporated with other tasks.

Cost: Tree removal: \$500.
Roof repair: 1,000.
(One-time costs, not annual ongoing expenses)

Scout House Feasibility Analysis
November 15, 1998
Part II (Maintenance & Improvements) Page 4 of 15

A2. VINES ENCROACHING INTO BUILDING



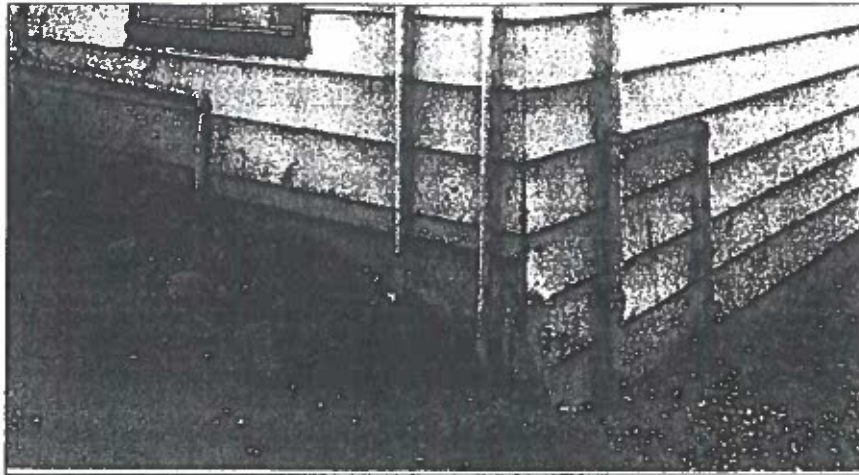
Vines & Plants encroaching into building foundation and wall structure: At several locations on the north wall, ivy has penetrated the lower wood wall structure. If not arrested, vine development can invade and damage the building structure and wall face, and create paths for termite infestation. On the east wall, volunteer plants have grown through the pavement adjacent to the building wall, and may have grown into the wall.

Recommended action: Semiannual removal of ivy and volunteer plants from base of walls. Work may be performed by city staff or contracted out as part of landscape maintenance.

Cost: \$450. per year.
(Cost may be reduced if incorporated into other tasks).

Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 6 of 15

A3. TERMITE INFESTATION & DRYROT



Termite infestation and wood dryrot: The wood structure is prone to termite infestation due to numerous areas of potential or real wood-to-earth contact around the foundation, tree contact with the structure, and vine invasion. Wood dryrot damage, created by water invasion of the structure, is evident around the foundation (roof runoff pounding against building), roof structure (leaks prior to recent roof replacement), and toiletroom areas (plumbing leaks, water spillage).

Note: This assessment does not include a professional report of termite infestation or wood rot. A qualified consultant should be commissioned to assess the building in these areas.

Recommended actions:

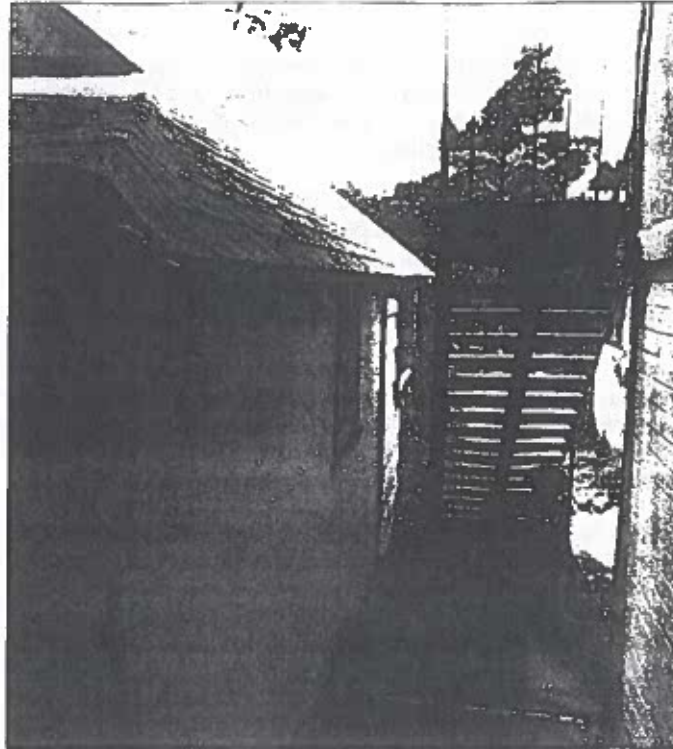
1. Have a termite report prepared by a qualified consultant; follow the recommendations.
2. Correct all areas of wood-to-earth contact, vine invasion, and water invasion of structure.
3. Have structure treated in accordance with consultant recommendations.
4. Establish an annual maintenance program.
5. Install gutters and downspouts (see Item 4).

Cost: Tent building & treat: \$3,500.
(One-time cost, not annual expense)

Foundation treatment: \$500. per year
(Two treatments per year)

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 9 of 16

A4. NEED GUTTERS & DOWNSPOUTS



Gutters & downspouts:

There are currently no gutters or downspouts on the building. Water draining from the roof waterfalls to the ground below the overhang (bouncing off the ground onto the lower wall), or is blown onto the building wall by the wind. The resulting continual impact of rainwater onto building walls causes damage to the wall finish and structure which, over time, can result in expensive repair work or destruction of the wall structure by dryrot or termite infestation. A system of gutters and downspouts, with drainage away from the building via subsurface drain lines, would eliminate this potential problem at its source.

Galvanized iron gutters are strongest, but require painting and eventually rust. Aluminum gutters (price below) are seamless with factory applied finish, and do not rust, but are not strong. Copper gutters develop a patina which does not require paint; they do not rust or corrode, and they are strong. Copper costs approximately 50-100% more than aluminum or steel.

Recommended action: Install gutters, downspouts, and subsurface drain lines.

Cost:	Gutters & Downspouts:	\$2,500.
	Drain lines:	5,800.
	(Above are one-time charges)	
	Gutter maintenance & cleaning:	500. per year

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 7 of 16

A5. PROGRAM TO REROOF BUILDING

The existing asphalt shingle roof is in excellent condition, with no apparent damage or wear except for tree contact at the east end eave. It appears to have been installed within the past ten years. The shingle quality is a "twenty five" year roof, which is the minimal thickness available and will not last as long as thicker shingles.

Several tasks proposed in this document will result in minor or major repairs to the roof:

- Installation of gutters & downspouts (See item A4)
- Repair eave damaged by tree (See item A1)
- Proposed ADA compliance modifications (See Part I Report)
- Removal of exterior plumbing vents/relocation within walls (See item B3 in following section)

Because of the eventual need to replace the roof due to wear and nature, plus the need to have roof integrity for appearance and weather protection upon completion of building modifications, it is wise to establish a program for roof replacement. Funds should be budgeted annually until this task is performed.

For improved building appearance and longer roof life, use of an architectural style asphalt shingle ("Timberline" or similar pattern) with a 40-year rating is recommended and included in the cost indicated below.

Recommended action: Set aside funds for future roof replacement.

Cost: \$4,000. (One-time cost).

Budget \$400. per year for ten years as annual set aside.

Scout House Feasibility Analysis
November 18, 1999
Part II (Maintenance & Improvements) Page 9 of 18

B1. Install Fire Sprinkler System

Fire sprinkler systems:

There are no fire sprinkler systems in the building. Although the building is a Type 'A' (Assembly) occupancy, its small size has not required the installation of sprinklers. The Fire Official has recommended that installation of a commercial fire sprinkler system be included as part of any significant building upgrade.

In the past, problems have resulted from the presence of the large fireplace in the assembly room; a fire sprinkler system would help protect the building and occupants in case of future occurrences.

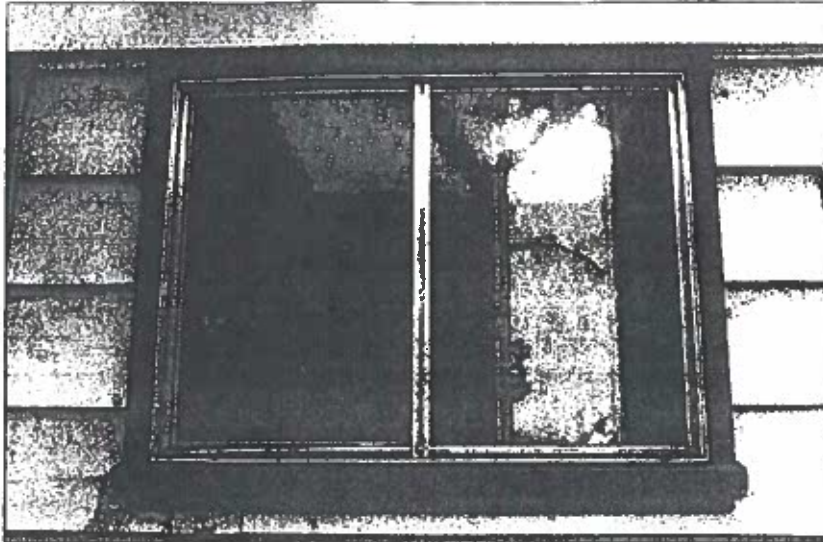
The north building wall is in close proximity to the north property line and does not possess necessary fire assembly elements (fire rated wall, no openings in wall). Modification of the wall so that it complies with building code requirements (infill windows, rebuild wall as a fire-rated assembly, rebuild roof as a fire-rated assembly) would massively alter the historic character of the building. However, addition of a sprinkler system, including an exterior "wall wash" bank of sprinklers on the north wall, would help mitigate this nonconforming wall condition. The Building Official (Tim Meroney) indicated that as long as no changes are made to the wall, he can't require that the assembly be brought up to code. He also reported that the addition of fire sprinklers will aid greatly in addressing the potential problems created by the nonconforming wall.

Recommended action: Install fire sprinkler system and associative fire alarm system.

Cost:	Fire sprinkler system:	\$18,500.
	Sprinkler alarm system:	2,750.
	(One-time costs)	
	Annual system monitoring & maintenance:	\$1,000. per year

Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 10 of 15

B2. REPLACE ALUMINUM WINDOWS WITH WOOD DIVIDED LIGHT SASHES



Wood divided-light windows:

Original building drawings show divided-light wood sash windows throughout the building. At some time, the wood sashes were replaced with aluminum sliding window units, probably in lieu of performing maintenance required to preserve the wood units. Some of the glass panels in the aluminum windows have since been replaced with Plexiglas panels (probably to prevent breakage). The aluminum units detract from the architectural and historical integrity of the building; the Plexiglas panels are scratched and clouded.

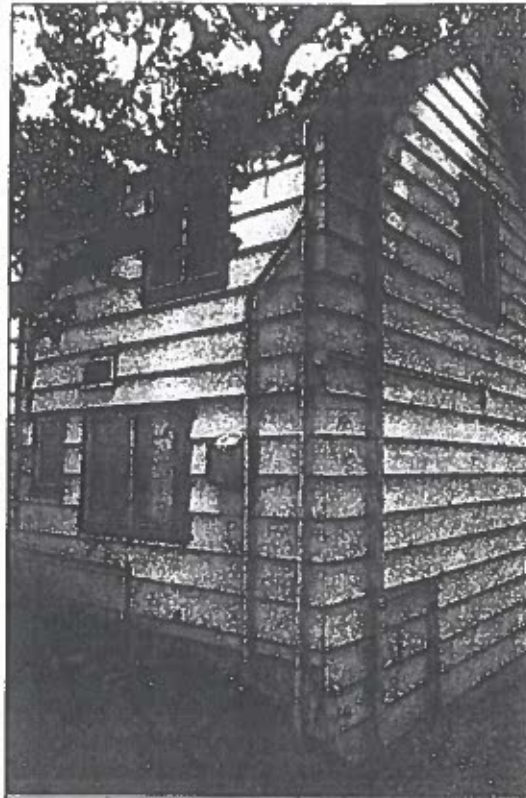
The original wood sash units could be replicated with new units, which could be installed in the frames without requiring major reworking of the frames or walls. Depending on cost, the new units could be fitted with insulated glass panels, which would improve the heat and sound efficiency of the building. An energy rebate for improved heat efficiency may be available from PG & E.

Recommended action: Remove existing aluminum units...install new divided light wood sashes with insulated glass lights. Paint exterior of sashes to coordinate with exterior paint scheme; stain and finish interior of sashes to match existing wood frames. (See original building drawings for window configurations).

Cost:	Remove aluminum units:	\$1,000.
	New wood sashes:	11,300.
	Frame & siding repair/prep:	<u>2,200.</u>
	Total (one-time cost):	\$14,500.

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 11 of 16

B3. REMOVE SURFACE-MOUNTED PIPES AND CONDUITS



Remove surface-mounted plumbing & wiring (relocate within structure):
Building modifications over time have resulted in the installation of numerous plumbing vents and electrical conduits on the outside face of the building and the surface of interior walls, ceilings and beams. These elements are unsightly and detract from the architectural character of the building.

Many of these pipes and conduits can be eliminated or relocated within building walls as part of the ADA accessibility upgrade (Report Part I). The maintenance program should include a provision and budget for removal or relocation of all of these detracting elements.

Recommended action: Remove exterior and interior surface mounted plumbing and wiring elements, by elimination or relocation within the wall structure.

Cost:	Remove plumbing pipes:	\$3,850.
	Remove conduits & wires:	<u>3,850.</u>
	Total (one-time cost):	\$7,700.

**Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 12 of 15**

B4. EXTERIOR PAINT COLORS

Exterior Paint:

The exterior of the building is painted an alabaster color with brown trim, similar to Sunset Center. The color scheme detracts from the architectural character of the wood structure. Following building modifications and maintenance work, the entire structure should be properly prepared and painted, using a color scheme determined to be original (and thus historically correct) or to be complimentary to the building's architectural character.

Recommended action: Prepare and paint entire exterior of building.

Cost: Paint building exterior: \$7,500.

Interior finish treatment:

The interior is unfinished; the natural wood surfaces and beams are essential to the historic character of the building. Earlier dryrot stains from roof leakage (now corrected) are visible in numerous locations of the ceiling and upper walls. Small holes from tacks set in the wood over the years are also visible.

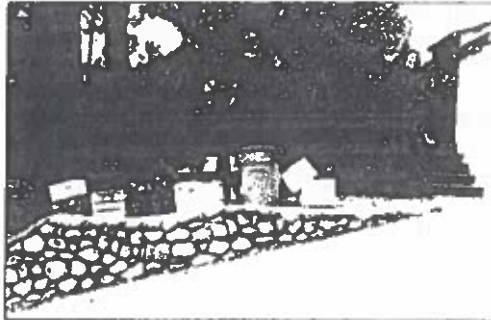
Attempts to remove or conceal the stains or holes may result in visual loss of the character of the wood, or creation of an artificial surface treatment not in keeping with the historic elements. An investigation into possible treatment with an oil should be conducted on non-visible sample surfaces. If successful results are obtained, then said treatment might be applied to the entire interior. Because of the unknown cost or success potential of such an investigation, it is not included as a budget item. The existing finish condition, including stains and holes, is in keeping with the structure and is not an unacceptable option for this report.

Recommended action: Possible test investigation for wood treatment, otherwise no action.

Cost: None included in this report.

Scout House Feasibility Analysis
November 16, 1999
Part II (Maintenance & Improvements) Page 13 of 16

**B6. CONSTRUCT TRASH ENCLOSURE.
IMPROVE TRASH AND RECYCLE BIN UPKEEP**



There is currently no trash enclosure serving the facility. Both trash and recycling bins are set out on the driveway at the east end of the property. The property to the north, which has an easement for access across the driveway, also puts their trash out in the same location.

Construction of a trash enclosure adjacent to the driveway would screen containers from view and force an organization of trash storage. An arrangement with the neighbor regarding use of the drive for trash storage is needed to define maintenance responsibility and avoid abuse of use of the shared easement.

Recommendation: Construct trash enclosure. Establish agreement with neighbor regarding trash storage and use of easement.

Cost: Trash enclosure: \$3,850. (one-time cost)

Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 14 of 15

B6. UNDERGROUND ELECTRICAL SERVICE

The Scout House is currently served with power via an overhead line from the west side of Mission Street, to a power pole next to the entry stair, then to an overhead mast and meter at the southwest corner of the building. Tree growth interferes with the power lines. Modifications proposed for ADA required building access (See Part I Report) will likely require relocation or removal of the power pole. An underground electrical service from the west side of Mission Street to the building would eliminate unsightly wires and accommodate entry modifications.

Recommendation: Install underground electrical service to building.

Cost: \$8,500. (one-time cost)

B7. LANDSCAPE AND IRRIGATION SYSTEM

The site is currently in a "natural" state of grasses under the oaks and pines. Much of the front yard is covered with ivy. As part of building upgrades and modifications, installation of native, drought tolerant landscaping and drip irrigation would enhance the natural site of this building.

A general program of maintenance and enhancement of existing landscape elements is sufficient upgrade the site. Trees should be trimmed and treated. Plantings at the rear of the building (now cut at grade) should be treated and stumps removed.

Recommendation: Install native landscaping and drip irrigation. Maintain existing landscaping and trees.

Cost: \$8,800. (one-time cost – new landscaping & irrigation)
4,000. per year maintenance

Scout House Feasibility Analysis
November 15, 1999
Part II (Maintenance & Improvements) Page 16 of 16

SUMMARY OF MAINTENANCE & IMPROVEMENT COSTS

Most tasks defined in the Part II Maintenance & Improvement Report are "one-time" costs to improve the building or correct a deterioration condition. Some, such as tree removal/building repair, should be performed immediately. Others, such as roof replacement or exterior paint, may be expedited in future years as budget set-aside balances are sufficient and the work is needed. A portion are annual ongoing tasks, to prevent deterioration or future damage to the facility.

The cost of accessibility upgrades (Part One Report) is shown in this summary to determine the estimated total cost of accessibility plus maintenance/building improvement expenses.

Task	Name of task	"One-time" improvement cost	Annual maintenance fee
A1	Remove trees from buildings	\$1,500.	-0-
A2	Remove vines from foundation	-0-	450. per year
A3	Termite abatement	3,500.	500. per year
A4	Gutters & Downspouts	8,100.	500. per year
A5	Replace roof	4,000.	-0-
B1	Fire sprinklers & alarm	19,250.	1,000. per year
B2	Divided light wood windows	14,500.	-0-
B3	Remove pipes & conduits	7,700.	-0-
B4	Paint building exterior	7,500.	-0-
B5	Trash enclosure	3,850.	-0-
B6	Underground electrical	8,500.	-0-
B7	Landscape & Irrigation	8,800.	4,000. per year
		87,200.	\$6,450. per year
	Add 10% to cost for prevailing wage:	8,720.	
	Total estimated cost – building improvements:	\$95,920.00	
	Estimated cost of ADA upgrades:		
	Construction cost:	177,447.	
	10% for prevailing wage:	17,745.	
	Design fees:	15,000.	
	Permit fees:	2,500.	
	Historic evaluation:	1,500.	
	Total estimated cost – accessibility upgrades:	214,192.00	
	Total estimated project cost:	\$310,112.00	
	10% Project Contingency (City recommendation):	31,011.00	

Estimated Total budget – Scout House Project: \$341,123.00

Notes:

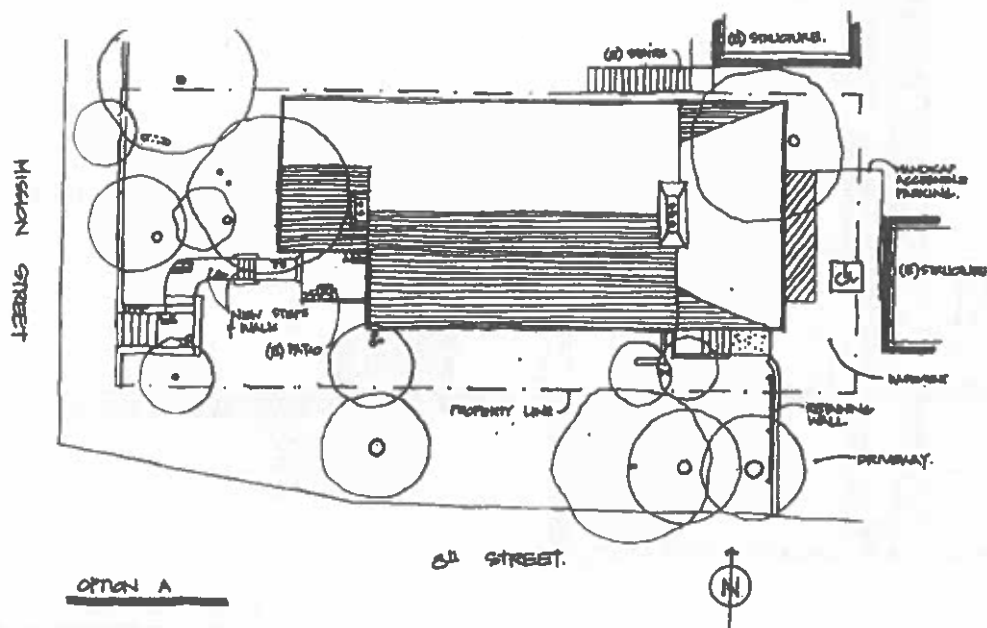
- Costs shown above are 1999 dollar values. If the work is bid and performed at a later date, the cost may be higher, lower, or approximately equal to the value indicated, depending on market conditions at the time the work is commissioned. In addition, the actual cost of an item or the entire project may vary from figures indicated in this report, as design decisions affecting cost are made during project development and firmer prices are obtained through the bid process.
- Line item costs shown in the cost estimates (see appendix) do not agree with the summary costs shown above. This results from the breakdown method the estimator uses to identify trade costs, which differ from the "package" line item prices shown in this summary page. Total project costs are in substantial conformance between the two documents.

**Scout House Feasibility Analysis
November 16, 1999**

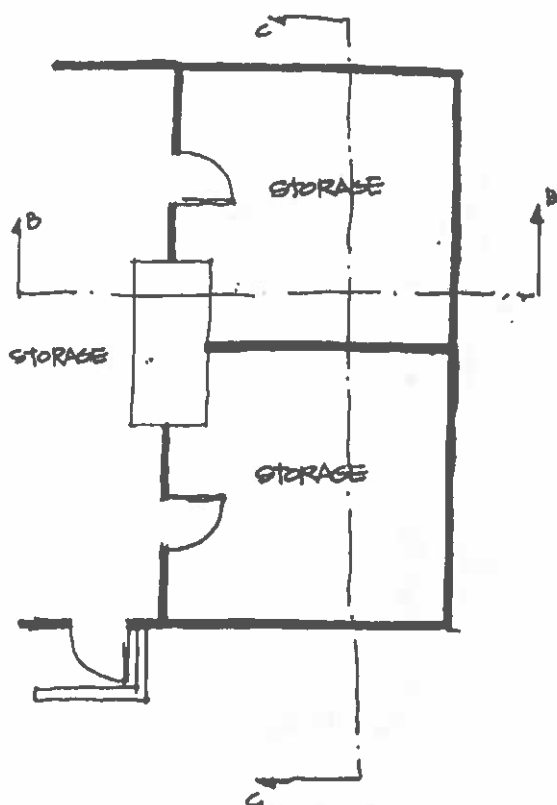
APPENDIX 3

APPENDIX A

**Option 'A' Designs
Option 'A' Cost Estimate**

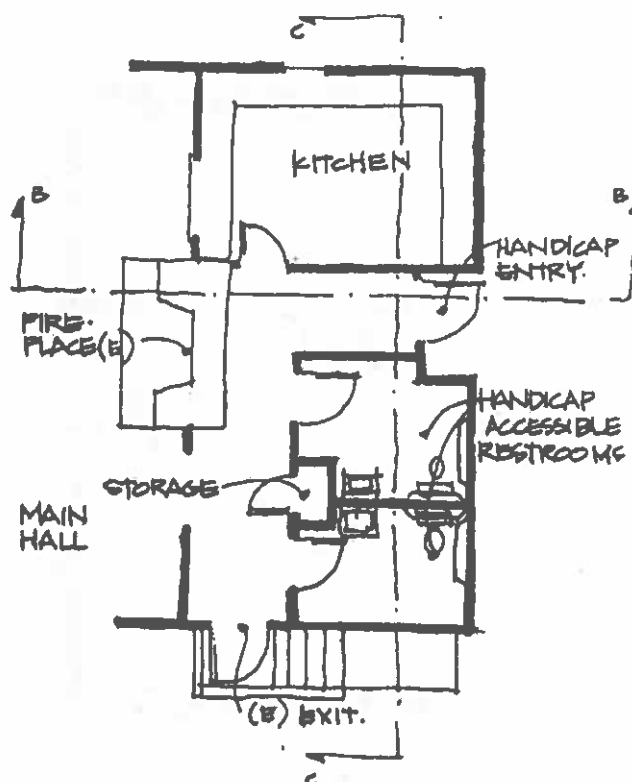


OPTION A



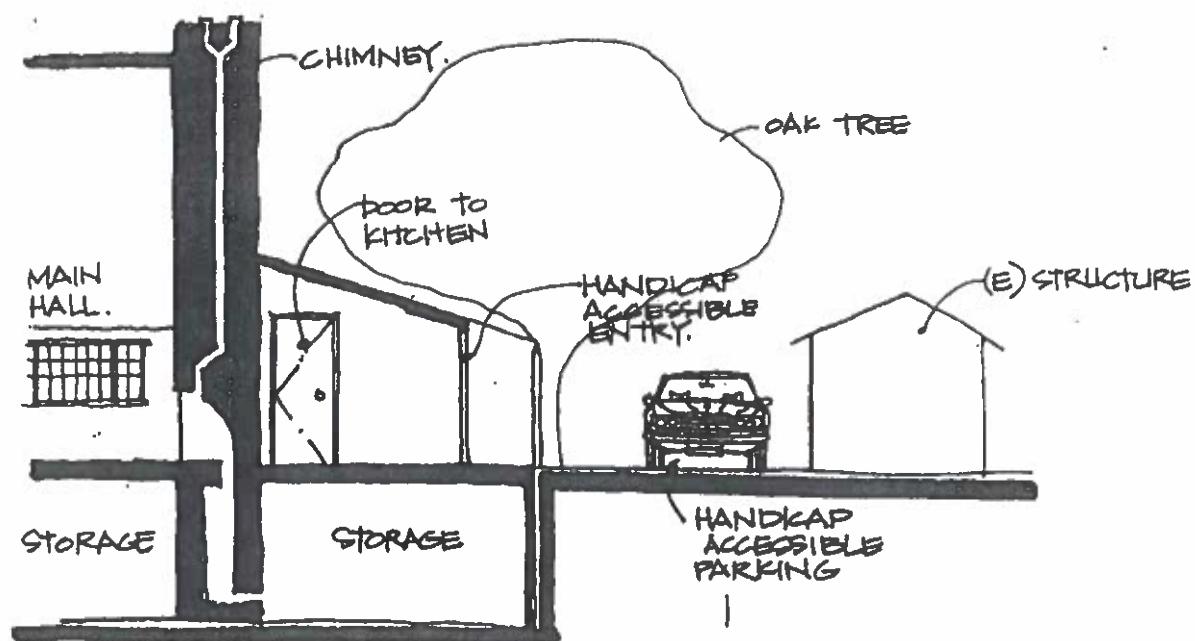
1ST FLOOR PLAN

OPTION A



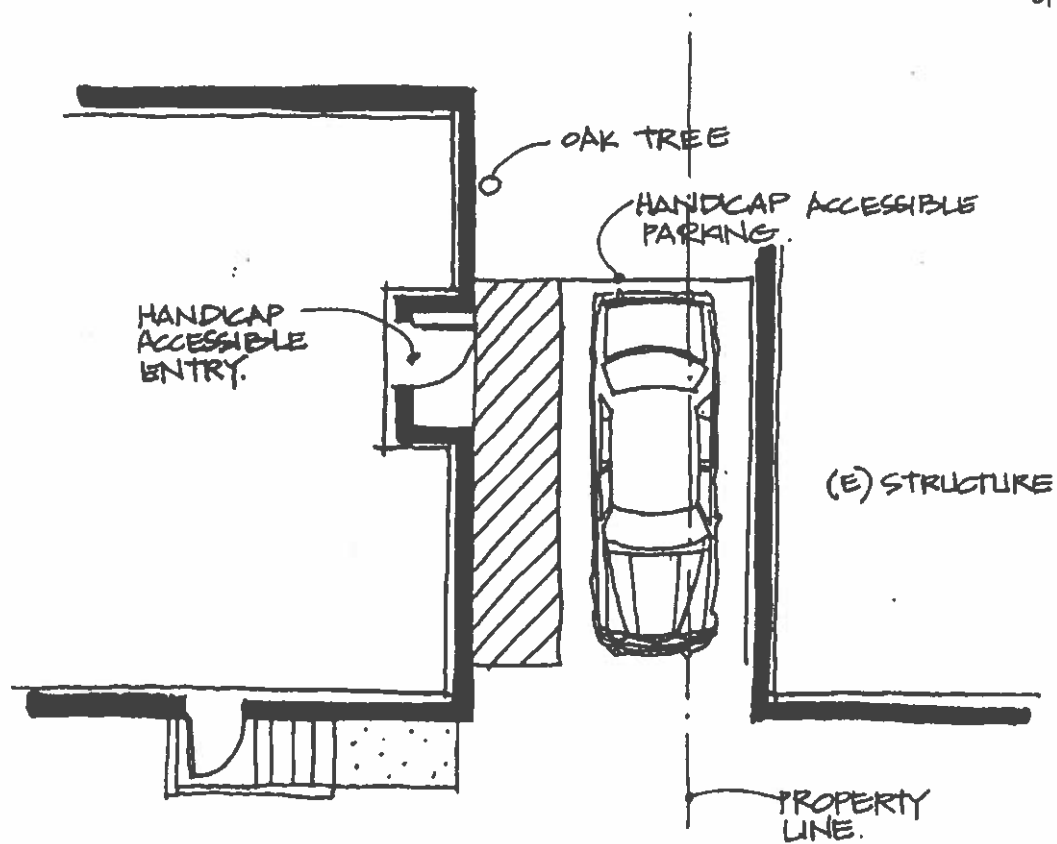
2ND FLOOR PLAN.

OPTION A



BACK ENTRY SECTION.

OPTION A
+ ALSO APPLICABLE TO
OPTIONS B & C.



BACK ENTRY PLAN.

OPTION A

**SCOUT HOUSE
CONCEPTUAL ESTIMATE
OPTION "A" PLAN**

8-9-99

<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>UnitPrice</i>	<i>Total</i>
DIVISION 1				
JOB SUPERVISION AND COORDINATION	6	WK	1375.00	8250
LAYOUT STAKING	1	LS	250.00	250
PLANS	1	LS	100.00	100
TEMPORARY ELECTRICAL HOOK-UP	1	NIC	0.00	0
TEMPORARY TELEPHONE	6	WK	12.50	75
TEMPORARY TOILET	0	NIC	0.00	0
TEMPORARY PARTITIONS	1	LS	150.00	150
TREE PROTECTION / BARRICADES / GUARDRAILS	1	LS	250.00	250
SCAFFOLDING	1	LS	0.00	0
TEMPORARY FENCE	1	NIC	0.00	0
DAILY CLEANUP	6	WK	125.00	750
FINAL CLEANUP	1	LS	250.00	250
DIVISION 2				
SOFT BUILDING DEMOLITION	1	LS	1500.00	1500
HARD BUILDING DEMOLITION	1	NIC	0.00	0
SITE DEMOLITION STONE WALK & STAIR STEPS	1	LS	400.00	400
SITE DEMOLITION STONE STAIR STEPS & RAILING	1	LS	600.00	600
REFURBISH EXISTING WOOD STAIRS ALONG 8TH S	1	LS	500.00	500
REMOVE TREES	1	NIC	0.00	0
EXCAVATION	1	NIC	0.00	0
SPOILS EXPORT	1	NIC	0.00	0
SAND UNDER WALK	1	LS	250.00	250
LEVEL DRIVEWAY FOR H.C. SPACE (DOES NOT WO	1	LS	2500.00	2500
H.C. SIGN AND SYMBOL	1	EA	350.00	350
DIVISION 3				
CONCRETE FOUNDATION / FTGS / SLAB ON GRADE	1	NIC	0.00	0
DIVISION 4				
CONSTRUCT STONE WALK AND STEPS	1	LS	2000.00	2000
REDO EXISTING STONE STEPS	1	LS	2500.00	2500
DIVISION 5				
RAILING	40	LF	50.00	2000
HANDRAIL	1	NIC	0.00	0
DIVISION 6				
FRAME EXTERIOR WALLS	140	SF	4.00	560
FRAME INTERIOR WALLS	440	SF	3.00	1320
FRAME FLOORS	1	NIC	0.00	0
FRAME ROOF GABLE	1	LS	1200.00	1200
EXTERIOR SIDING AND TRIM	200	SF	7.50	1500
WOOD HANDRAIL	1	NIC	0.00	0
WOOD BASE	100	LF	1.25	125
LAMINATED PLASTIC TOPS	30	LF	50.00	1500
CABINET WORK	30	LF	100.00	3000
DIVISION 7				
WATERPROOFING	1	NIC	0.00	0
BLDG. INSULATION	1	NIC	0.00	0

ROOFING AT NEW GABLE ONLY	1	LS	500.00	500
FLASHING / SHEET METAL	50	LF	5.00	250
GUTTERS AND DOWNSPOUTS	1	NIC	0.00	0
DIVISION 8				
EXTERIOR DOORS, FRAMES & HARDWARE	2	EA	600.00	1200
INTERIOR DOORS, FRAMES & HARDWARE	4	EA	400.00	1600
ROLL UP COUNTER AT FOOD SERVICE OPENING	1	EA	2500.00	2500
DIVISION 9				
GYPSUM WALLBOARD	1000	SF	1.00	1000
FLOOR COVERING ALLOWANCE AT FOOD SERVICE	140	SF	5.00	700
FLOOR COVERING ALLOWANCE AT RESTROOMS	100	SF	5.00	500
FLR. COVERING ALLOW. AT NEW ENTRY & STORAGE	120	SF	5.00	600
ALL OTHER FLOOR AREAS	1	NIC	0.00	0
INTERIOR PATCH PAINTING NEW AREAS ONLY	1	LS	1500.00	1500
EXTERIOR PATCH PAINTING / RAILING	1	LS	500.00	500
4' HIGH FRP AT RESTROOMS ONLY	260	SF	3.00	780
DIVISION 10				
RESTROOM SIGNS	2	EA	75.00	150
FIRE EXTINGUISHERS/ CABINETS	1	EA	150.00	150
TOILET ACCESSORIES / MIRRORS	2	RM	750.00	1500
DIVISION 11				
FOOD SERVICE EQUIPMENT	1	NIC	0.00	0
DIVISION 14				
ELEVATOR	1	NIC	0.00	0
DIVISION 15				
PLUMBING SYSTEMS	5	ITEM	1000.00	5000
AUTOMATIC FIRE SPRINKLERS	1	NIC	0.00	0
HVAC - RELOCATE FURNACE FLUE / NEW TOILET E.	1	LS	1000.00	1000
DIVISION 16				
ELECTRICAL ROUGH IN	1	LS	2500.00	2500
ELECTRICAL FIXTURE ALLOWANCE	1	LS	250.00	250
ELECTRICAL DISTRIBUTION	1	NIC	0.00	0
SITE LIGHTING	1	NIC	0.00	0
COMMUNICATIONS, SECURITY SYSTEMS	1	NIC	0.00	0
SMOKE DETECTORS	1	LS	250.00	250
			Subtotal	54310
CONTRACTOR OVERHEAD & PROFIT			10%	5431
			Subtotal	59741
ADD FOR PREVAILING WAGE RATE CONTINGENCY			10%	5974
			Total	65715

Exclusions:

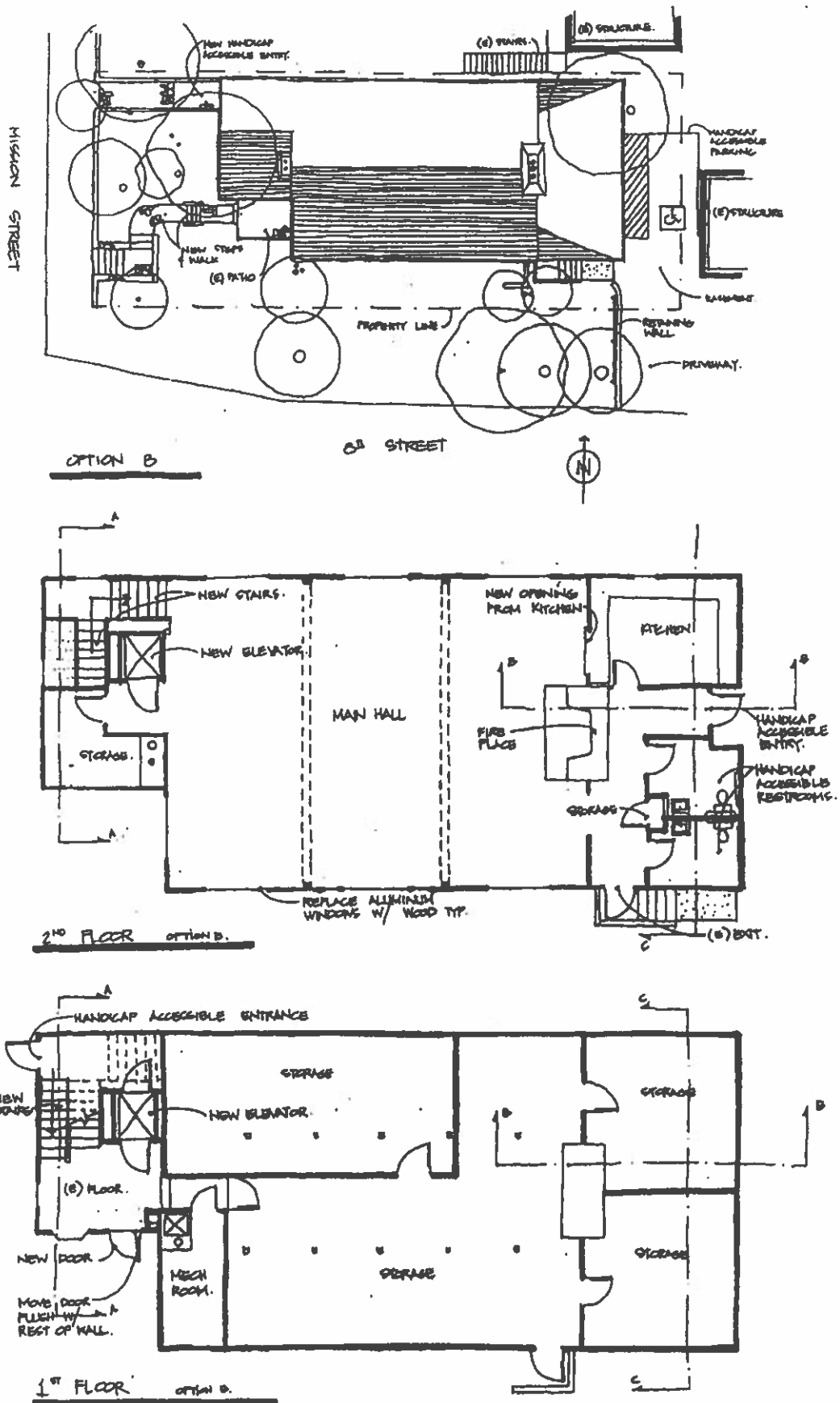
- 1) Permit Cost and Fees
- 2) Insurance and Bond
- 3) Surveying
- 4) Testing & Inspection
- 5) Handling Hazardous Materials
- 6) Unsuitable Soil Conditions
- 7) Winterization

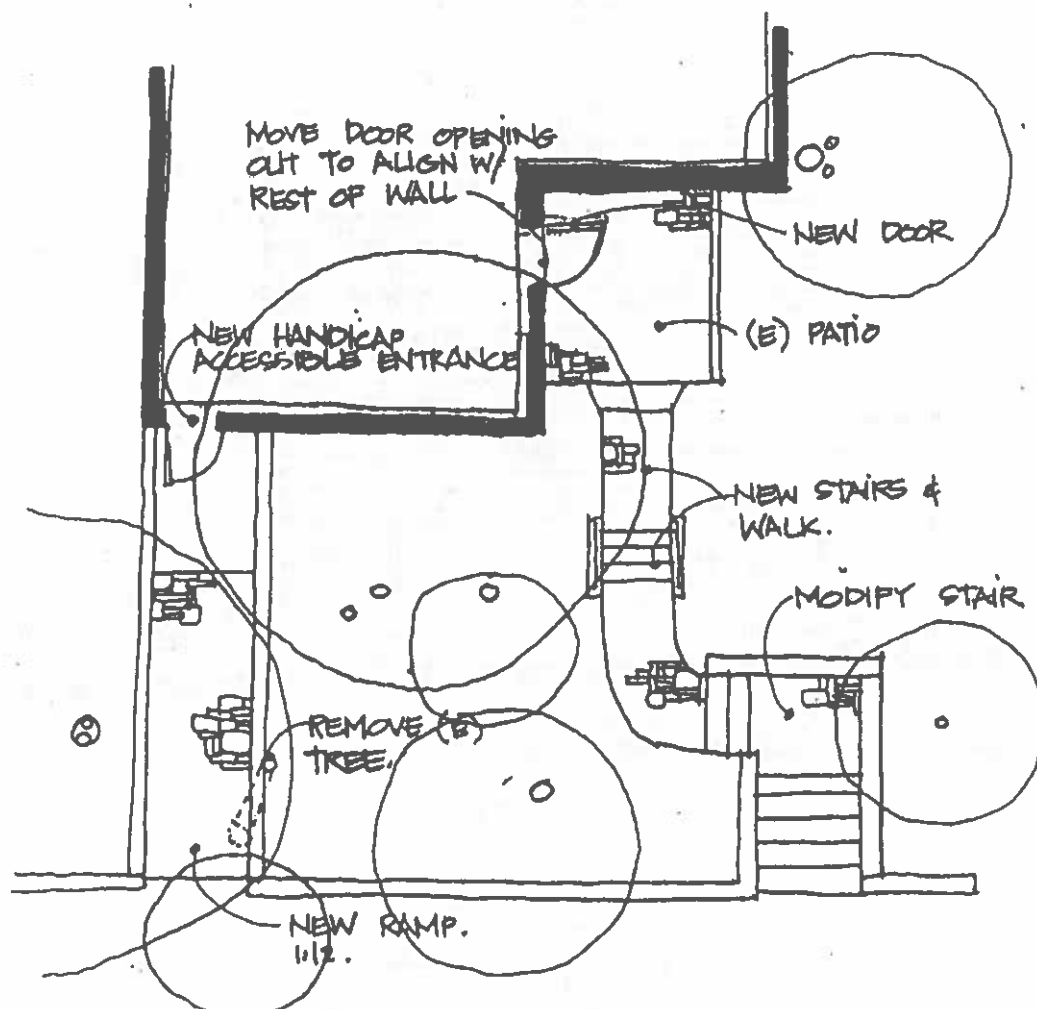
**Scout House Feasibility Analysis
November 15, 1999**

APPENDIX 3

APPENDIX B

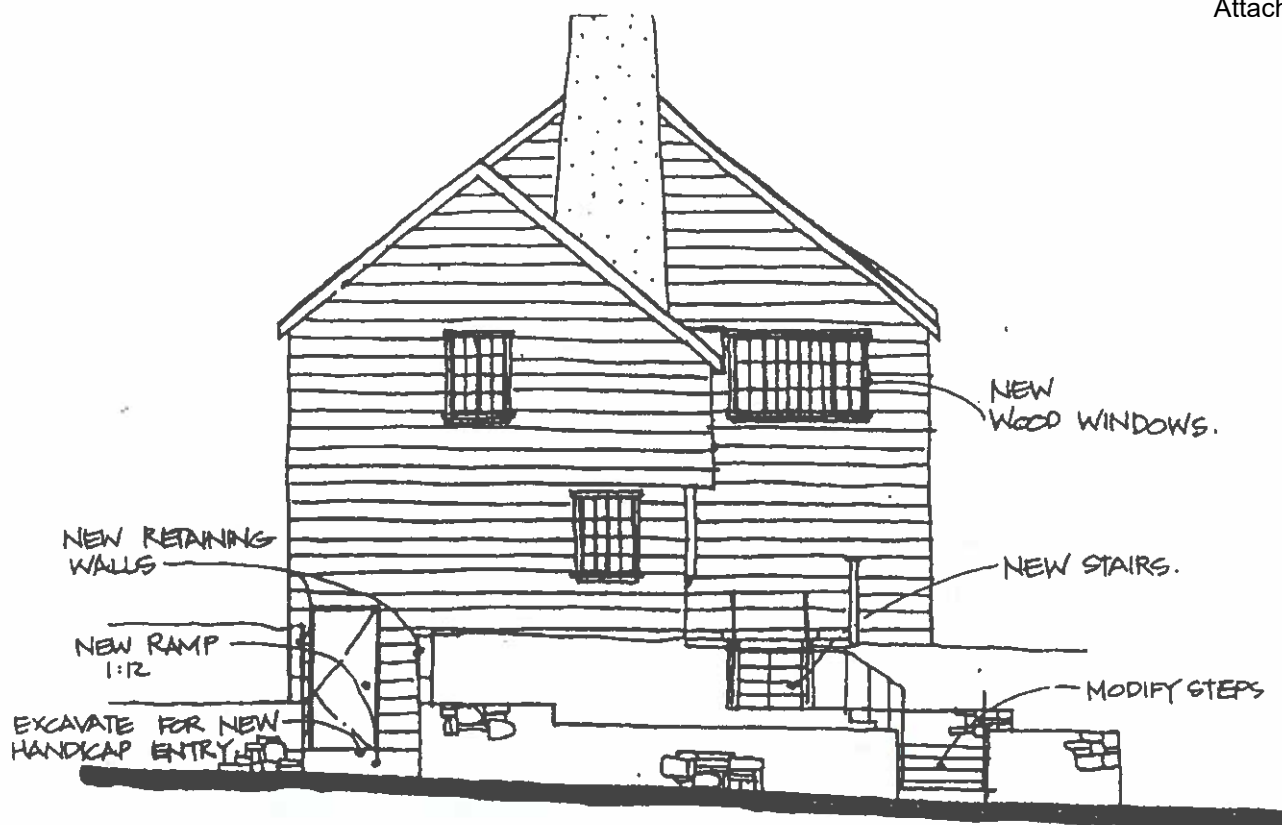
**Option 'B' Designs
Option 'B' Cost Estimate**





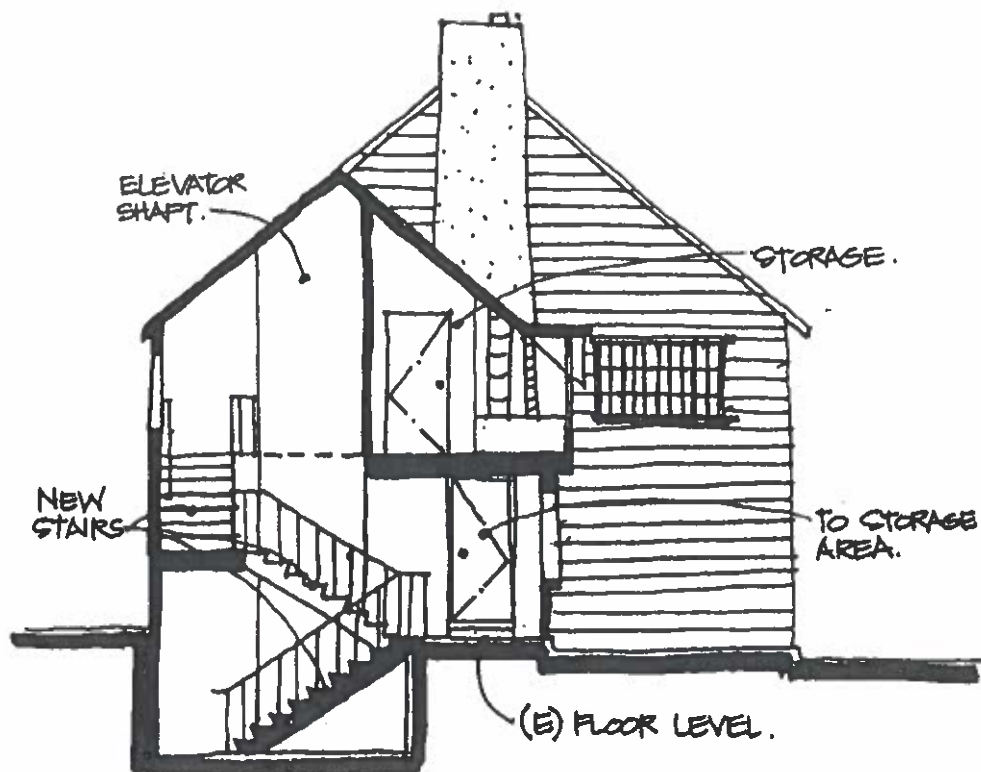
ENTRY PLAN

OPTION B



FRONT ELEVATION - MISSION ST.

OPTION B



SECTION

OPTION B

**SCOUT HOUSE
CONCEPTUAL ESTIMATE
OPTION "B" PLAN**

8-9-99

<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>UnitPrice</i>	<i>Total</i>
DIVISION 1				
JOB SUPERVISION AND COORDINATION	3	MO	5500.00	16500
LAYOUT STAKING	1	LS	500.00	500
PLANS	1	LS	100.00	100
TEMPORARY ELECTRICAL HOOK-UP	1	NIC	0.00	0
TEMPORARY TELEPHONE	3	MO	50.00	150
TEMPORARY TOILET	3	MO	75.00	225
TEMPORARY PARTITIONS	1	LS	250.00	250
TREE PROTECTION / BARRICADES / GUARDRAILS	1	LS	350.00	350
SCAFFOLDING	1	LS	0.00	0
TEMPORARY FENCE	1	NIC	0.00	0
DAILY CLEANUP	3	MO	500.00	1500
FINAL CLEANUP	1	LS	250.00	250
DIVISION 2				
SOFT BUILDING DEMOLITION	1	LS	4000.00	4000
HARD BUILDING DEMOLITION	1	LS	2000.00	2000
SITE DEMOLITION STONE WALK & STAIR STEPS	1	LS	400.00	400
SITE DEMOLITION STONE STAIR STEPS & RAILING	1	LS	600.00	600
REFURBISH EXISTING WOOD STAIRS ALONG 8TH S	1	LS	500.00	500
REMOVE TREES	1	EA	350.00	350
CUT / REMOVE STONE RETAINING WALL SECTION	1	LS	1000.00	1000
SHORING AT PROPERTY LINE	1	LS	5000.00	5000
EXCAVATION	35	CY	35.00	1225
SPOILS EXPORT	25	CY	10.00	250
CONSTRUCT RETAINING WALL FOOTING	40	LF	50.00	2000
BACKFILL RETAINING WALL / INSTALL DRAINPIPE	40	LF	25.00	1000
SAND UNDER RAMP AND WALK	1	LS	500.00	500
LEVEL DRIVEWAY FOR H.C. SPACE (DOES NOT WO	1	LS	2500.00	2500
H.C. SIGN AND SYMBOL	1	EA	350.00	350
DIVISION 3				
CONCRETE FOUNDATION / FTGS / SLAB ON GRADE	1	NIC	0.00	0
CONSTRUCT ELEVATOR PIT 1' DEEP	1	LS	2500.00	2500
DIVISION 4				
CONSTRUCT STONE RETAINING WALLS	1	LS	7500.00	7500
CONSTRUCT STONE RAMP WALK	1	LS	2500.00	2500
CONSTRUCT STONE WALK AND STEPS	1	LS	2000.00	2000
REDO EXISTING STONE STEPS	1	LS	2500.00	2500
DIVISION 5				
RAILING	40	LF	50.00	2000
HANDRAIL AT RAMP	40	LF	25.00	1000
DIVISION 6				
FRAME EXTERIOR WALLS	160	SF	4.00	640
FRAME INTERIOR WALLS	780	SF	3.00	2340
FRAME FLOORS AND NEW STAIRS	1	LS	5000.00	5000
FRAME ELEVATOR SHAFT	625	SF	5.00	3125
FRAME ROOF GABLE	1	LS	1200.00	1200

EXTERIOR SIDING AND TRIM	220	SF	7.50	1650
WOOD RAILING	40	LF	45.00	1800
WOOD HANDRAIL	40	LF	20.00	800
WOOD BASE	200	LF	1.25	250
LAMINATED PLASTIC TOPS	30	LF	50.00	1500
CABINET WORK	30	LF	100.00	3000
DIVISION 7				
WATERPROOFING	1	NIC	0.00	0
BLDG. INSULATION	1	NIC	0.00	0
ROOFING AT NEW GABLE ONLY	1	LS	500.00	500
FLASHING / SHEET METAL	50	LF	5.00	250
GUTTERS AND DOWNSPOUTS	1	NIC	0.00	0
DIVISION 8				
EXTERIOR DOORS, FRAMES & HARDWARE	3	EA	600.00	1800
INTERIOR DOORS, FRAMES & HARDWARE	8	EA	400.00	3200
ROLL UP COUNTER AT FOOD SERVICE OPENING	1	LS	2500.00	2500
DIVISION 9				
GYPSUM WALLBOARD	4500	SF	1.00	4500
FLOOR COVERING ALLOWANCE AT FOOD SERVICE	140	SF	5.00	700
FLOOR COVERING ALLOWANCE AT RESTROOMS	100	SF	5.00	500
FLR. COVERING ALLOW. AT NEW ENTRY & STORAGE	120	SF	5.00	600
FLR. COVERING ALLOW. AT NEW STAIRS AREA	1	LS	1500.00	1500
ALL OTHER FLOOR AREAS	1	NIC	0.00	0
INTERIOR PATCH PAINTING NEW AREAS ONLY	1	LS	2750.00	2750
EXTERIOR PATCH PAINTING / RAILING / HANDRAIL	1	LS	750.00	750
4' HIGH FRP AT RESTROOMS ONLY	260	SF	3.00	780
DIVISION 10				
RESTROOM SIGNS	2	EA	75.00	150
FIRE EXTINGUISHERS / CABINETS	1	EA	150.00	150
TOILET ACCESSORIES / MIRRORS	2	RM	750.00	1500
DIVISION 11				
FOOD SERVICE EQUIPMENT	1	NIC	0.00	0
DIVISION 14				
ELEVATOR	1	EA	35000.00	35000
DIVISION 15				
PLUMBING SYSTEMS	5	ITEM	1000.00	5000
AUTOMATIC FIRE SPRINKLERS	1	NIC	0.00	0
HVAC - RELOCATE FURNACE FLUE / NEW TOILET E.	1	LS	1000.00	1000
DIVISION 16				
ELECTRICAL ROUGH IN	1	LS	4000.00	4000
ELECTRICAL FIXTURE ALLOWANCE	1	LS	500.00	500
ELECTRICAL DISTRIBUTION	1	NIC	0.00	0
SITE LIGHTING	1	NIC	0.00	0
COMMUNICATIONS, SECURITY SYSTEMS	1	NIC	0.00	0
SMOKE DETECTORS	1	LS	250.00	250
			Subtotal	150685
CONTRACTOR OVERHEAD & PROFIT			10%	15069
			Subtotal	165754
ADD FOR PREVAILING WAGE RATE CONTINGENCY			10%	16575
			Total	182329

Exclusions:

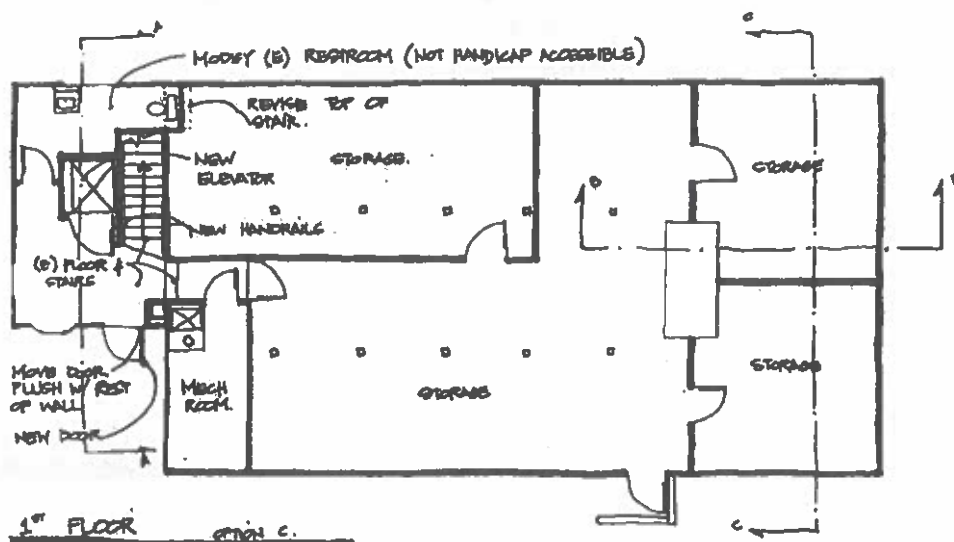
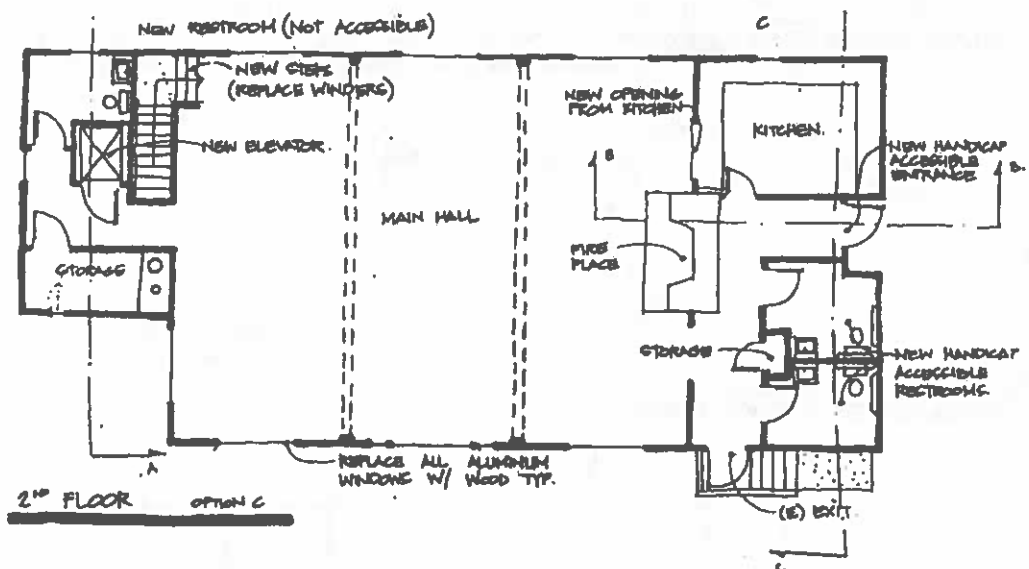
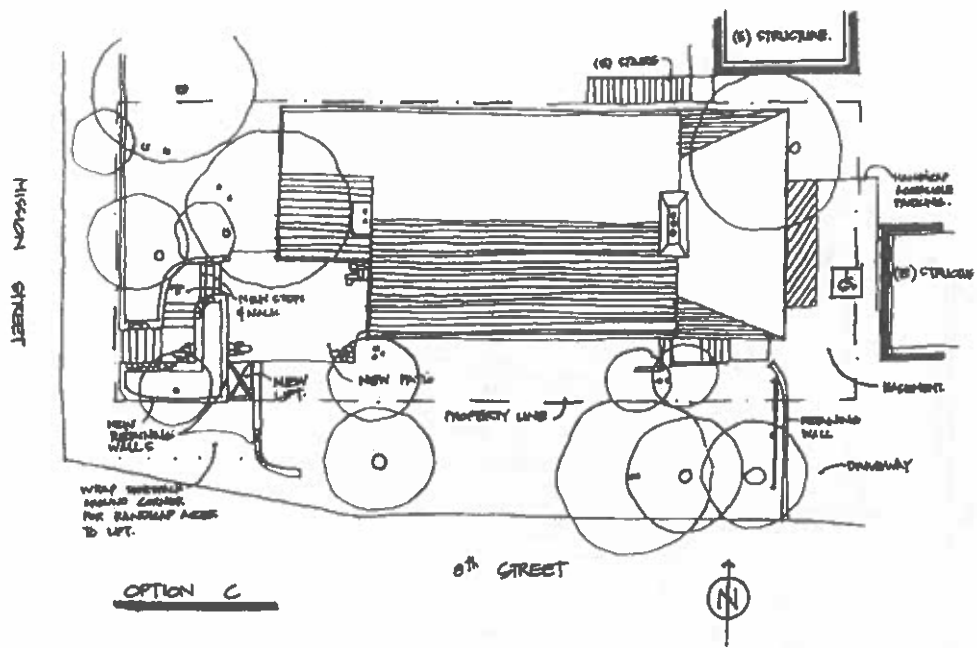
- 1) Permit Cost and Fees
- 2) Insurance and Bond
- 3) Surveying
- 4) Testing & Inspection
- 5) Handling Hazardous Materials
- 6) Unsuitable Soil Conditions
- 7) Winterization

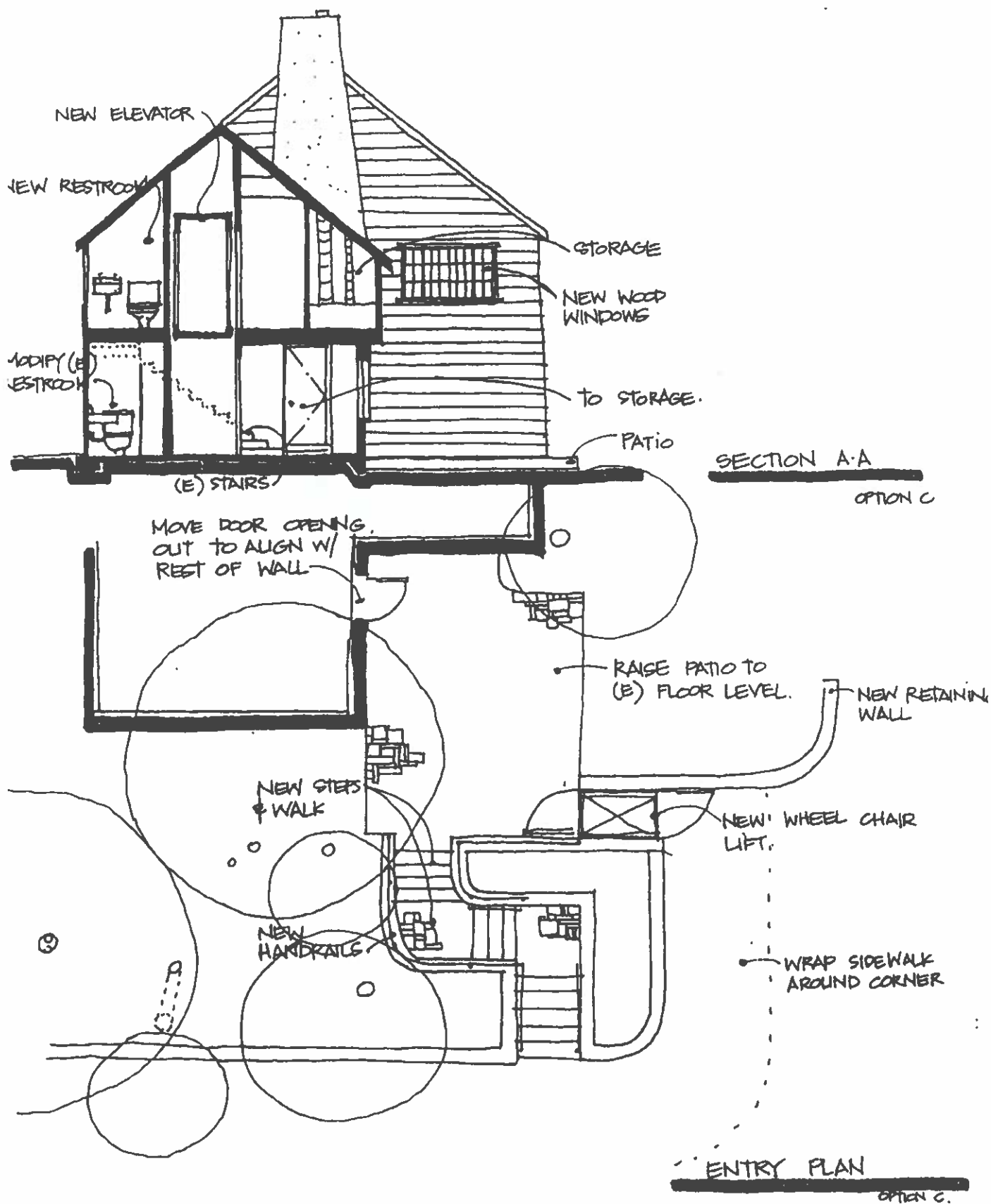
**Scout House Feasibility Analysis
November 15, 1999**

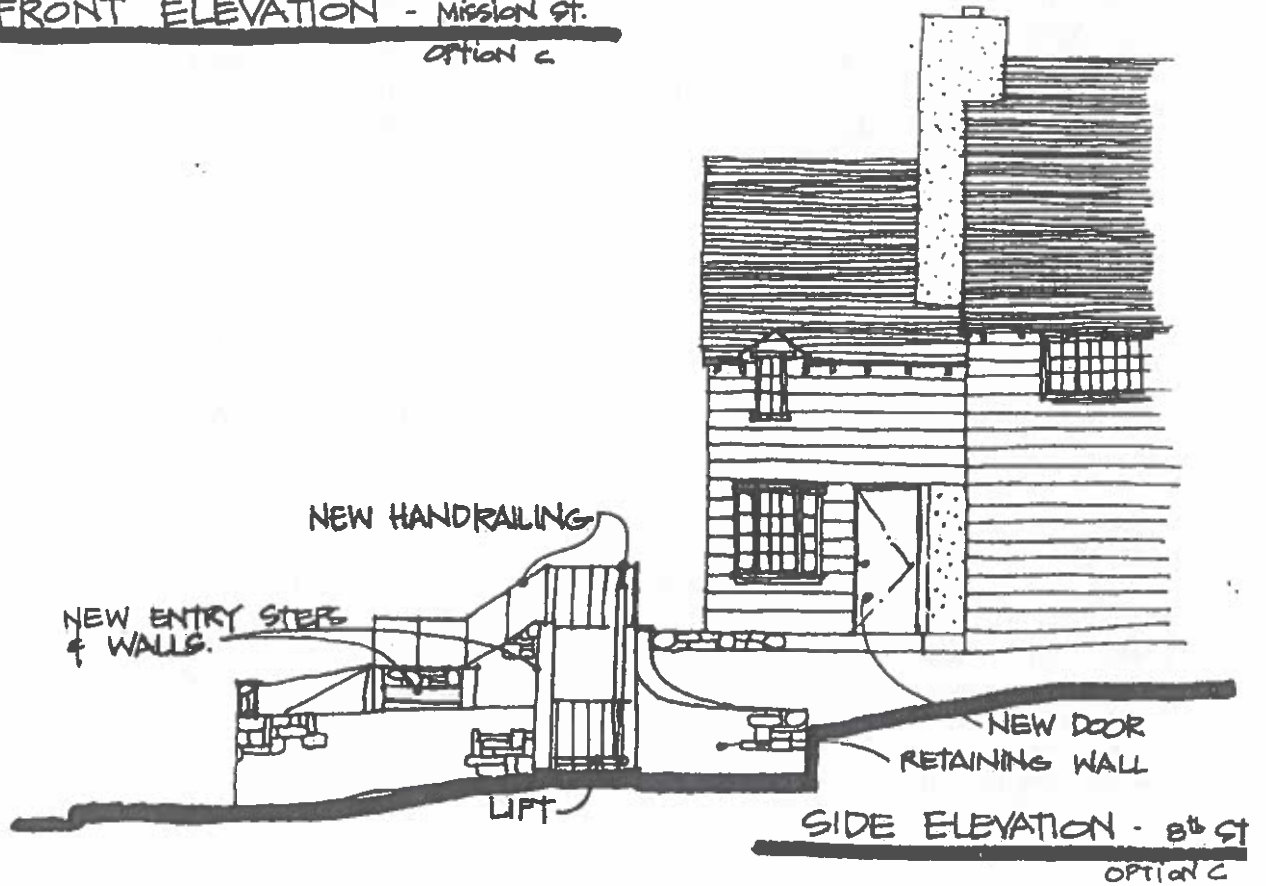
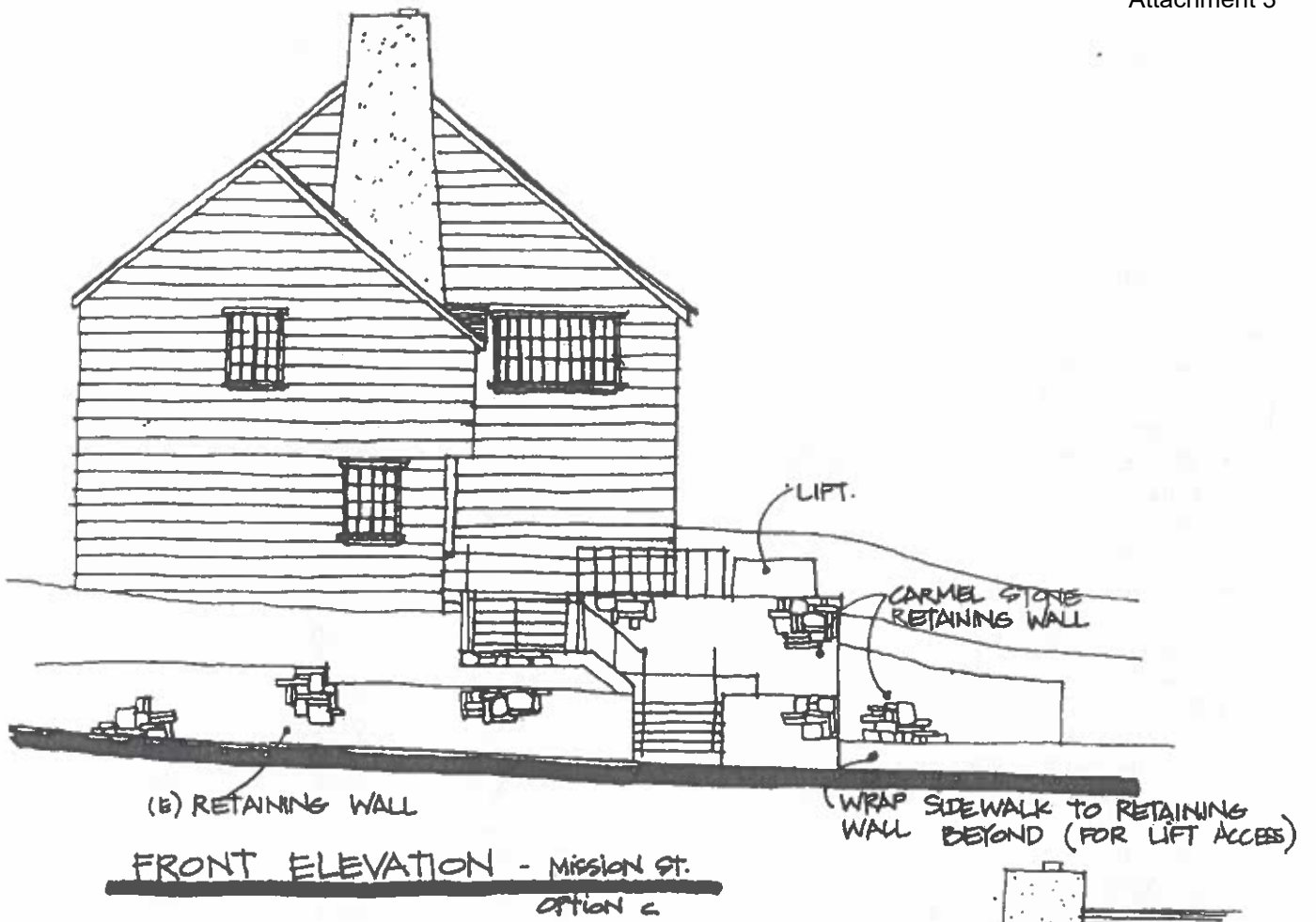
APPENDIX 3

APPENDIX C

**Option 'C' Designs
Option 'C' Cost Estimate**







SCOUT HOUSE
CONCEPTUAL ESTIMATE
OPTION "C" PLAN

8-9-99

<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>UnitPrice</i>	<i>Total</i>
DIVISION 1				
JOB SUPERVISION AND COORDINATION	3	MO	5500.00	16500
LAYOUT STAKING	1	LS	500.00	500
PLANS	1	LS	100.00	100
TEMPORARY ELECTRICAL HOOK-UP	1	NIC	0.00	0
TEMPORARY TELEPHONE	3	MO	50.00	150
TEMPORARY TOILET	3	MO	75.00	225
TEMPORARY PARTITIONS	1	LS	250.00	250
TREE PROTECTION / BARRICADES / GUARDRAILS	1	LS	250.00	250
SCAFFOLDING	1	LS	0.00	0
TEMPORARY FENCE	1	NIC	0.00	0
DAILY CLEANUP	3	MO	500.00	1500
FINAL CLEANUP	1	LS	250.00	250
DIVISION 2				
SOFT BUILDING DEMOLITION	1	LS	3000.00	3000
HARD BUILDING DEMOLITION	1	LS	1000.00	1000
SITE DEMO. PATIO, STONE WALK & STAIR STEPS	1	LS	1400.00	1400
SITE DEMOLITION STONE STAIR STEPS & RAILING	1	LS	600.00	600
REFURBISH EXISTING WOOD STAIRS ALONG 8TH S	1	LS	500.00	500
REMOVE TREES	1	EA	250.00	250
CUT / REMOVE STONE RETAINNING WALL SECTION	1	LS	250.00	250
EXCAVATION	35	CY	35.00	1225
SPOILS EXPORT	25	CY	10.00	250
CONSTRUCT RETAINNING WALL FOOTINGS	40	LF	50.00	2000
BACKFILL RETAINNING WALL / INSTALL DRAINPIPE	40	LF	25.00	1000
SAND UNDER PATIO AND WALKS	1	LS	750.00	750
LEVEL DRIVEWAY FOR H.C. SPACE (DOES NOT WO	1	LS	2500.00	2500
H.C. SIGN AND SYMBOL	1	EA	350.00	350
DIVISION 3				
CONCRETE FOUNDATION, FTGS, SLAB ON GRADE	1	NIC	0.00	0
CONCRETE FOUNDATION AT LIFT AND ELEV. ONLY	1	LS	4500.00	4500
DIVISION 4				
CONSTRUCT STONE RETAINNING WALLS	1	LS	5000.00	5000
CONSTRUCT STONE PATIO AND SIDEWALK AREAS	1	LS	4500.00	4500
CONSTRUCT STONE WALK AND STEPS	1	LS	1000.00	1000
REDO EXISTING STONE STEPS	1	LS	2500.00	2500
DIVISION 5				
RAILING	40	LF	50.00	2000
HANDRAIL	1	NIC	0.00	0
DIVISION 6				
FRAME EXTERIOR WALLS	140	SF	4.00	560
FRAME INTERIOR WALLS	640	SF	3.00	1920
FRAME FLOORS AND MODIFY EXISTING STAIRS	1	LS	2500.00	2500
FRAME ELEVATOR SHAFT	625	SF	5.00	3125
FRAME ROOF GABLE	1	LS	1200.00	1200
EXTERIOR SIDING AND TRIM	200	SF	7.50	1500

WOOD RAILING	1	NIC	0.00	0
WOOD HANDRAIL	32	LF	20.00	640
WOOD BASE	200	LF	1.25	250
LAMINATED PLASTIC TOPS	30	LF	50.00	1500
CABINET WORK	30	LF	100.00	3000
DIVISION 7				
WATERPROOFING	1	NIC	0.00	0
BLDG.INSULATION	1	NIC	0.00	0
ROOFING AT NEW GABLE ONLY	1	LS	500.00	500
FLASHING / SHEET METAL	50	LF	5.00	250
GUTTERS AND DOWNSPOUTS	1	NIC	0.00	0
DIVISION 8				
EXTERIOR DOORS,FRAMES&HARDWARE	2	EA	600.00	1200
INTERIOR DOORS,FRAMES&HARDWARE	9	EA	400.00	3600
ROLL UP COUNTER AT FOOD SERVICE OPENING	1	LS	2500.00	2500
DIVISION 9				
GYPSUM WALLBOARD	4000	SF	1.00	4000
FLOOR COVERING ALLOWANCE AT FOOD SERVICE	140	SF	5.00	700
FLOOR COVERING ALLOWANCE AT RESTROOMS	230	SF	5.00	1150
FLR.COVERING ALLOW. AT NEW ENTRY & STORAG	120	SF	5.00	600
FLR.COVERING ALLOW. AT NEW STAIRS AREA	1	LS	1500.00	1500
ALL OTHER FLOOR AREAS	1	NIC	0.00	0
INTERIOR PATCH PAINTING NEW AREAS ONLY	1	LS	4500.00	4500
EXTERIOR PATCH PAINTING / RAILING	1	LS	500.00	500
4' HIGH FRP AT RESTROOMS ONLY	540	SF	3.00	1620
DIVISION 10				
RESTROOM SIGNS	4	EA	75.00	300
FIRE EXTINGUISHERS/ CABINETS	1	EA	150.00	150
TOILET ACCESSORIES / MIRRORS	4	RM	500.00	2000
DIVISION 11				
FOOD SERVICE EQUIPMENT	1	NIC	0.00	0
DIVISION 14				
ELEVATOR	1	EA	35000.00	35000
WHEELCHAIR LIFT	1	EA	15000.00	15000
DIVISION 15				
PLUMBING SYSTEMS	9	ITEM	1000.00	9000
AUTOMATIC FIRE SPRINKLERS	1	NIC	0.00	0
HVAC - RELOCATE FURNACE FLUE / NEW TOILET E	1	LS	1500.00	1500
DIVISION 16				
ELECTRICAL ROUGH IN	1	LS	4500.00	4500
ELECTRICAL FIXTURE ALLOWANCE	1	LS	500.00	500
ELECTRICAL DISTRIBUTION	1	NIC	0.00	0
SITE LIGHTING	1	NIC	0.00	0
COMMUNICATIONS,SECURITY SYSTEMS	1	NIC	0.00	0
SMOKE DETECTORS	1	LS	250.00	250
			Subtotal	161315
CONTRACTOR OVERHEAD & PROFIT			10%	16132
			Subtotal	177447
ADD FOR PREVAILING WAGE RATE CONTINGENCY			10%	17745
			Total	195191

Exclusions:

- 1) Permit Cost and Fees
- 2) Insurance and Bond
- 3) Surveying
- 4) Testing & Inspection
- 5) Handling Hazardous Materials
- 6) Unsuitable Soil Conditions
- 7) Winterization

**SCOUT HOUSE
CONCEPTUAL ESTIMATE
BUILDING IMPROVEMENTS**

11-23-99

<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>UnitPrice</i>	<i>Total</i>
DIVISION 1				
JOB SUPERVISION AND COORDINATION	6	WK	1375.00	8250
PLANS	1	LS	100.00	100
TEMPORARY ELECTRICAL HOOK-UP	0	NIC	0.00	0
TEMPORARY TELEPHONE	6	WK	10.00	60
TEMPORARY PARTITIONS	1	LS	250.00	250
TREE PROTECTION / BARRICADES / GUARDRAILS	1	LS	250.00	250
SCAFFOLDING	1	LS	750.00	750
TEMPORARY FENCE	0	NIC	0.00	0
DAILY CLEANUP	6	WK	125.00	750
FINAL CLEANUP	1	LS	250.00	250
DIVISION 2				
REMOVE TREES FROM BUILDING	1	LS	500.00	500
REMOVE VINES FROM BUILDING	0	NIC	0.00	0
REMOVE EXISTING WINDOWS	18	EA	50.00	900
REMOVE EXISTING EXPOSED PLUMBING	1	LS	500.00	500
REMOVE EXISTING EXPOSED WIRING	1	LS	500.00	500
MISCELLANEOUS CUTTING FOR CAVITY ACCESS	1	LS	500.00	500
REMOVE EXISTING POWERPOLE / SERVICE	1	LS	500.00	500
TERMITE ABATEMENT	1	LS	3000.00	3000
PERFORATED DRAIN AROUND BLDG. FDN.	1	LS	4000.00	4000
LANDSCAPING & IRRIGATION	1	LS	7000.00	7000
TRASH ENCLOSURE	1	LS	750.00	750
DIVISION 6				
PATCH SIDING AND TRIM	1	LS	1000.00	1000
DIVISION 7				
REPLACE COMPOSITION SHINGLES	1	LS	3600.00	3600
GUTTERS & DOWNSPOUTS	1	LS	1200.00	1200
DIVISION 8				
NEW WOOD SASH WINDOWS	17	EA	600.00	10200
DIVISION 9				
GYP. BOARD PATCHING	1	LS	1500.00	1500
PAINT BUILDING EXTERIOR	1	LS	6000.00	6000
DIVISION 15				
REROUTE PLUMBING INTO WALL CAVITY	1	LS	2500.00	2500
AUTOMATIC FIRE SPRINKLERS	3720	SF	2.00	7440
FIRE WATER ASSEMBLY	1	LS	7000.00	7000
DIVISION 16				
REROUTE ELECTRICAL INTO WALL CAVITY	1	LS	2500.00	2500
NEW UNDERGRD. ELECT. SERVICE & DISTRIBUTION	1	LS	7500.00	7500
FIRE ALARM SYSTEM	1	LS	1500.00	1500
			Subtotal	80750
CONTRACTOR OVERHEAD & PROFIT			10%	8075
			Subtotal	88825
ADD FOR PREVAILING WAGE RATE CONTINGENCY			10%	8883
			Total	97708

Exclusions:

- 1) Permit Cost and Fees
- 2) Insurance and Bond
- 3) Surveying
- 4) Testing & Inspection
- 5) Handling Hazardous Materials
- 6) Unsuitable Soil Conditions
- 7) Winterization

CITY OF CARMEL-BY-THE-SEA

STAFF REPORT

TO: MAYOR McCLOUD AND COUNCIL MEMBERS

THROUGH: RICH GUILLEN, CITY ADMINISTRATOR

FROM: SEAN CONROY, ASSOCIATE PLANNER

DATE: 1 NOVEMBER 2005

SUBJECT: CONSIDERATION OF AN APPEAL OF AN ADMINISTRATIVE DETERMINATION OF THE HISTORIC RESOURCES BOARD TO PLACE A CITY-OWNED PROPERTY ON THE INVENTORY OF HISTORIC RESOURCES IN THE RESIDENTIAL AND LIMITED COMMERCIAL (RC) DISTRICT.

RECOMMENDED MOTION

Deny the appeal and uphold the Historic Resources Board's decision to place the Scout House on the City's Inventory of Historic Resources.

BACKGROUND & PROJECT DESCRIPTION

The subject structure is a two-story wood framed building with horizontal wood siding located on the northeast corner of Mission and Eighth Avenues and is known as the "Scout House". The Scout House was constructed on 1931 and had an addition to the rear in 1941. Both the original structure and the 1941 addition were built by M.J. Murphy. A DPR 523 form was filed with the City on 28 May 2002 stating that the structure qualified as an historic resource under California Criterion 1 (Civic Institutions) as an important component of the civic and social fabric of the community.

On 16 May 2005 the Historic Resources Board (HRB) determined that the structure qualifies as an historic resource and directed staff to improve the DPR 523 form and include the structure on the City's Inventory. On 20 June 2005 the City Administrator requested that the Board reconsider its decision stating that its action was premature, the historic documentation was inadequate and that the integrity of the structure needed further analysis. On 18 July 2005 the HRB voted to not reconsider its original decision and reaffirmed that the Scout House should be listed on the City's Inventory.

The City Administrator is now asking the Council to review the HRB's decision and make a determination regarding the historic status of the Scout House.

APPENDIX 4

Attachment 3

Meeting Date: 1 November 2005
Prepared by: Sean Conroy, Associate Planner

City Council Agenda Item Summary

Name: Consideration of an appeal of the Historic Resources Board's determination to place a City-owned structure (Scout House) on the Inventory of Historic Resources located in the Residential and Limited Commercial (RC) District. This appeal is being brought to the Council at the request of the City Administrator.

Description: This application is a request to review the Historic Resources Board's determination regarding the placement of the Scout House on the City's Inventory of Historic Resources. The Scout House is located on the northeast corner of Mission Street and 8th Avenue (Blk 89, Lot 20).

Overall Cost:

City Funds: N/A
Grant Funds: N/A
Staff time: N/A

Staff Recommendation: Uphold the Historic Resources Board's decision to place the structure on the City's Inventory of Historic Resources.

Important Considerations: CMC 17.32.040 establishes the eligibility criteria for the Carmel Inventory. This structure was reviewed as part of the City's on-going survey of historic properties and determined to qualify as an historic resource under California Criterion #1 by consultant Kent Seavey.

Decision Record: On 16 May 2005 the Historic Resources Board (HRB) determined that the structure qualified as an historic resources and directed staff to place the structure on the City's Inventory. The City Administrator requested that the HRB reconsider its decision and that it's decision be based on more solid information. On 18 July 2005 the HRB upheld its original decision to place the structure on the Inventory.

Reviewed by:

Rich Guillen, City Administrator

Date

STAFF REVIEW

There has been considerable debate over the years regarding the historic status of the Scout House, particularly because of the exterior changes that have been made to the property. At least four historic preservation professionals have looked at the building with the following results:

- Kent Seavey reviewed the building and prepared the original DPR 523 form in 2002. At the request of the HRB, Mr. Seavey improved the information in the DPR to further strengthen the argument that the structure qualifies as an historic resource.
- Mark Bowen (Jones & Stokes & Associates) reviewed the Scout House as part of the Flanders Mansion EIR background research. He concluded that too many changes have occurred for the building to retain its integrity. Nonetheless, because Kent Seavey and other members of the community had concluded otherwise, the EIR team decided to treat the Scout House as historic for the purpose of preparing the EIR.
- Sheila McElroy reviewed the DPR and the physical property and provided an evaluation. Her conclusion was that the DPR failed to make a strong enough case for the property, but if the DPR was improved that the Scout House may in fact qualify.
- Finally, Katherine Gualtieri reviewed the property and determined that it does qualify as an historic resource because it provided a setting for important social and recreational activities to occur.

The Historic Resources Board determined that the improved DPR form provided by Mr. Seavey was adequate and that the Scout House should be placed on the City's Inventory. The Board stated that while the original windows had been changed, the sizes had not and the windows could easily be restored to their original materials. The Board also stated that the addition to the rear was consistent with the Secretary's Standards and was constructed by the original builder, M.J. Murphy.

RECOMMENDATION

Deny the appeal and uphold the Historic Resources Board's decision to place the Scout House on the City's Inventory of Historic Resources.

APPENDIX 4

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI # _____
Trinomial _____
NRHP Status Code _____ SS1

Other Listings

Review Code _____

Reviewer _____

Date _____

Page 1 of 2

Resource Name or #: (Assigned by recorder) *Carmel Scout House*

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 _____ Date _____ T _____ ; R _____ ; 1/4 of _____ 1/4 of Sec _____ ; B.M. _____

c. Address: _____ City *Carmel-by-the-Sea* Zip *93921*

d. UTM: (Give more than one for large and/linear resources) _____ mE/ _____ mN

e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

*NE cr. Mission & 8th (Blk 89 Lot 20)*Parcel No. *010-087-005*

P3. Description (Describe resource and its major elements. Include design, materials, condition, elevations, size, setting, and boundaries)

A two-story wood-framed community hall w/raised basement, irregular in plan, resting on a concrete foundation. The exterior wall cladding is a combination of wide, horizontal shiplap wood siding, and textured cement stucco. The medium-pitched, side-gabled roof is covered in a composition shingle. There are two Carmel stone chimneys present, an exterior gable-end type on the west side-elevation, now encased in cement stucco, and a second gable-end type on the east side-elevation. A two-story, wood-frame addition, maintaining the form and mass of the original structure, was added to the east side-elevation in 1941. Fenestration is irregular w/a combination of single, paired and banked modern aluminum sliders & casement type, which replaced the original multi-paned single, paired and banked steel casement windows. The Scout House is sited at the NE cr. of Mission & 8th on steeply rising ground above the street level. It is reached by a set of open Carmel stone stairs. There is a short, wood rail fence opposite the recessed entry, which faces south. The property is surrounded by mature oaks in a natural landscape setting, above a Carmel stone retaining wall.

P3b. Resource Attributes: (List attributes and codes) *HP13 - Community center/social hall*P4. Resources Present ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)



P5b. Description of Photo: (View, date, accession #)
Looking NE at s/facing facade and entry, 2/10/01, #005-15

P6. Date Constructed/Age and Sources

☐ Prehistoric ☒ Historic ☐ Both*1931 Carmel bldg. records*

P7. Owner and Address

*City of Carmel-by-the-Sea
City Hall
Carmel, CA 93921*

P8. Recorded by: (Name, affiliation, and address)

*Kent L. Seavey
Preservation Consultant
310 Lighthouse Ave.
Pacific Grove, CA 93950*

P9. Date Recorded: *5/28/2002*

P10. Survey Type: (Describe)
Carmel Historic Resource Inventory - 2001

P11. Report Citation: (Cite survey report and other sources, or enter "none")

Significant Bldg. Survey of Carmel 1979, Carmel-by-the-Sea Survey 1989-1998

Attachments

☐ NONE☐ Continuation Sheet☐ Location Map☒ Building, Structure, and Object Record☐ District Record☐ Rock Art Record☐ Other: (List)☐ Sketch Map☐ Archaeological Record☐ Linear Feature Record☐ Artifact Record☐ Mining Station Record☐ Photograph Record

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Primary # _____

BUILDING, STRUCTURE, AND OBJECT RECORD

HRI # _____

Page 2 of 2

NRHP Status Code

551

Resource Name or #: (Assigned by recorder) *Carmel Scout House*B1. Historic Name: *Scout House*

B2. Common Name: _____

B3. Original Use: *community building*B4. Present Use: *community building*B5. Architectural Style: *Craftsman*

B6. Construction History: (Construction date, alterations, and date of alterations)

Constructed 1931 (Cbp#2406); addition to rear 1941 (Cbp#859); interior remodel 1955 (City Resolution #239) repair & reroof bldg. 1993 (Cbp#93-211)

B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____

Original Location: _____

B8. Related Features: _____

B9a. Architect: *Allan C. Collins (1931)*b. Builder: *M.J. Murphy (1931-1941)*B10. Significance: Theme: *Govt., Civic & Soc. Institutions*Area: *Carmel by-the-Sea*Period of Significance: *1903-1940* Property Type: *community building*Applicable Criteria: *CR 1*

(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

The Carmel Scout House is significant under California Register criteria 1 in the area of history, as an important component of the civic and social fabric of the community. From its inception the residents of Carmel were active in the civic, educational and social life of the community. The Carmel Scout House continues to reflect this aspect of Carmel's community character. The Boy Scouts in Carmel began with a visit to the area by the founder of the organization, Sir Robert Baden-Powell in 1910. Baden-Powell bivouacked at the Presidio of Monterey with a group, including some members of the Boys Club of Carmel. All the boys, and their leader, John Neikirk, became official Boy Scouts, and through the sponsorship of Carmel American Legion Post #512, and the help of Douglas H. Greeley, Sr. and Fred Leidig, were chartered in 1925 as Troop #86, Boy Scouts of America. The current building site was donated to the Carmel Boy Scouts by Dr. Amelia Gates, and the Troop, with assistance from Louis Levinson and F.L. Veatch, and support of the *Carmel Pine Cone*, raised the necessary funds for construction. The clubhouse was built by Carmel master-builder M.J. Murphy, from plans drawn, and still on file at City Hall, by architect Allan C. Collins. The Carmel Scout House clearly reflects the findings of, and is consistent with the 1997 Carmel Historic Context Statement under the theme of government, civic and social institutions.

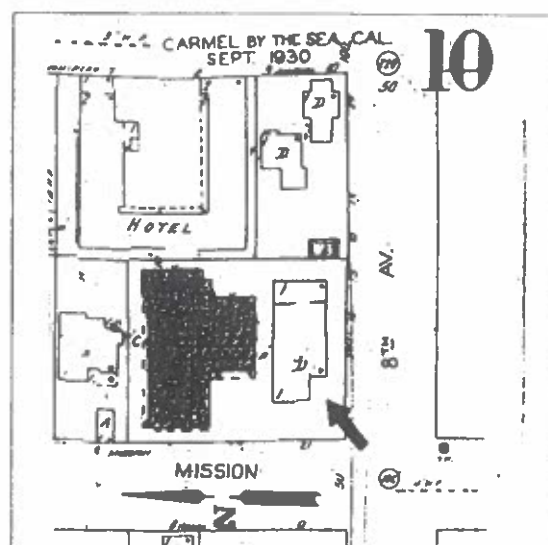
B11. Additional Resource Attributes: (List attributes and codes) *HP13 - Community center/social*

B12. References:

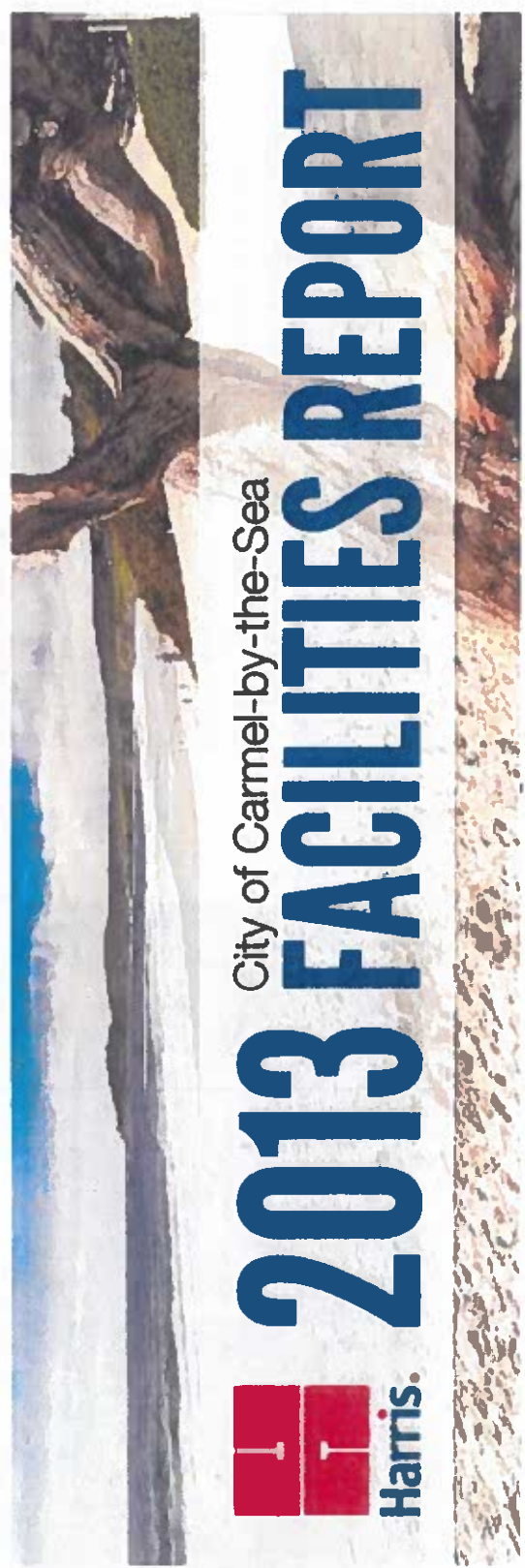
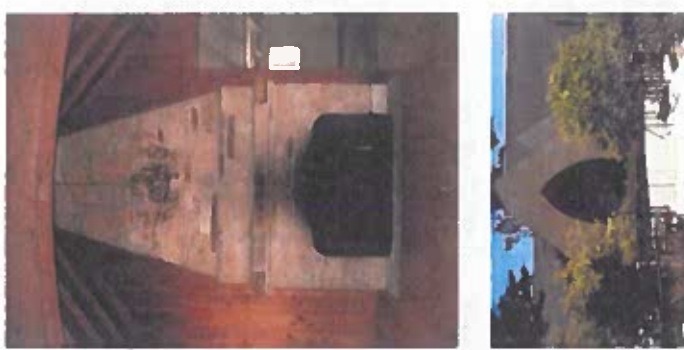
*Carmel bldg. records, Carmel Planning Dept., City Hall, Carmel
Carmel Pine Cone, 11/19/47, 12/5/47
Hale, Sharron, A Tribute to Yesterday, Valley Publishers Santa Cruz, 1980
Sanborn fire insurance map of Carmel, 1930-62*

B13. Remarks: *Zoning R-C
CHCS (GCSI)*B14. Evaluator: *Kent Seavey*Date of Evaluation: *5/28/2002*

(This space reserved for official comments.)



APPENDIX 5





Scout House

"Scout House" was built in 1931, as a Boy Scout meeting hall, following a visit to Carmel by Lord Baden-Powell, the founder of the Boy Scout movement. The house was acquired by the City in the 1960's, with provision for continued use by both Boy and Girl Scout Troops. However, it has fallen into disrepair, is not ADA accessible and, accordingly, is currently empty and unused.

Scout House is a two story, wood-framed building on a sloped, tree-covered site at the northeast corner of Mission Street and Eighth Avenue. The house occupies about 25 percent of the lot, sits in the back corner, farthest from the streets, and is partially dug into the sloped topography.

The upper, main level is predominately a large meeting hall with an impressive vaulted ceiling and stone fireplace, but it also includes a small service kitchen and peripheral storage spaces. The lower, basement level,

much of which is below grade, contains the building's main entry, a pair of restrooms currently in a state of unfinished demolition, and approximately 800 square feet of general storage.

During the years when the meeting hall was available for public use, it was popular with local organizations and a source of rental revenue for the City. The basement was used for storage by a variety of City departments and community groups.

Observations and Recommendations

~~Although the building is not designated as historical property on the City's Historical Resources Inventory~~, it has unique character and distinct historical significance. Even in its current state of disrepair, its charm and potential value remain apparent and deserving of consideration for renovation and reuse.

At least two Scout House assessment studies have been conducted in the last 15 years. Recommended improvements generally fall into two broad categories: (1) maintenance needed to arrest building deterioration, and (2) ADA compliance. Avoiding further building deterioration should be relatively easy and inexpensive, and thus considered a facilities priority. At a minimum, while the building's future is considered, current CIP plans to fumigate the house for termites and carpenter ants should be implemented.



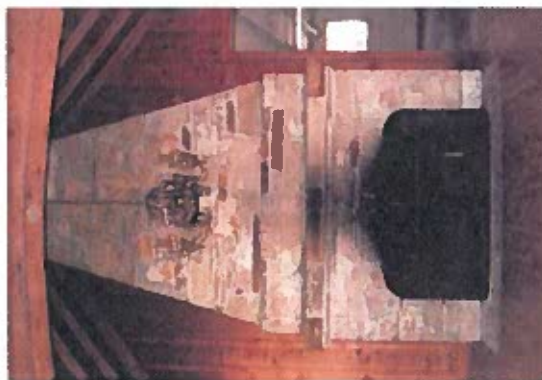
City of Carmel-by-the-Sea: Scout House Facility Assessment

General Information					
Location	Mission St. at 8th Ave.				
Current Use	Currently maintained but not used by the City, utilized previously by the Boy Scouts and Girl Scouts for free and leased as a community building				
Historic or Landmark Status	No				
Zoning	R-1	Sq. Ft.	3820		
Year Built	1910 in Use/1939 Structures	Structure Type	Type 'V', Wood Framed		
Access/Egress	No	Height	Approx. 26' to grade max.		
Exterior Finishes	Wood siding	No. Stories	2		
Walls	Painted wood siding and ref. walls	Attic	No		
Windows	Single pane, painted wood	Basement	Yes, garden level w/ ref. walls		
Roof	Comp. Shingle	Deck(s)	No		

Utilities	
Electrical	Y amp service
Gas	
Natural	Y PG&E
Propane	N
Water	
Domestic	Y
Fire Service	N
Sanitary	
Sewer	Y Connected to city main
Septic	N
Storm Drain	
Building Systems	
HVAC	
Heating	Y Gas forced air furnace
Cooling	N
Electrical	
Main Panel	Y amp panel w/ main breaker upgraded in 1997 by FEHR Engineering
Generator	N
Fire Alarm	Y Sentry
Plumbing	Restroom plumbing fix. Demolished
Water Heater	
Fire Sprinklers	
Irrigation	

City of Carmel-by-the-Sea: Scout House Facility Assessment

Communications & Security	
Telephone	Y
Cable TV	N
Internet	N
Security Alarm	
Fiber Optics	N



Related Data	
Other Significant On-Site Improvements	Carmel Stone exterior staircase and retaining walls, partially demolished restrooms, kitchen, fireplace, indoor bench seating, light poles.
Associated Parking	1- parking space at rear accessible from 8th Ave. and Parking on Mission St. and 8th Ave.
ADA Compliance	Fully Accessible: No
Office Space	Yes
Storage Space	Yes
Past Uses	Boy Scout and Girl Scout troops, City storage & functions, meeting hall, community events, performances, classes, individual use.
Remodels and Additions	None noted. Termite tenting done in 1985
HazMat Reports	
Energy Audit	No
Recent Studies or Estimates	Termite Inspection Reports by Casner Termite, Clark Pest Control and Ailinghouse Termite - Month, day, year. Analysis of Upgrade Feasibility by Congleton Architects in 1999. ADA Site Survey by Mark Giblin 2002.
Pending Repairs	Termite treatment and exterior paint, repair dryrotted siding, cracks and spalling concrete substrate at retaining walls, provide ADA accessible restrooms, lighting upgrades. Nds. gutters/downspouts, re-roofing, and removal of tree roots and vines., repair cracks in base of fireplace.
Challenges	ADA parking, ADA accessible entrances. Trash enclosure, subterranean water intrusion.

- * Final determination of ADA compliance subject to Building Department review.
- * Final determination of code compliance is the sole responsibility of the building department.

APPENDIX 6: OPERATIONS AND MAINTENANCE AGREEMENT

2.27.23 DRAFT

OPERATIONS AND MAINTENANCE AGREEMENT

This Operations and Maintenance Agreement for the Scout House (Agreement) is hereby entered into on _____, 2023 between the City of Carmel-by-the-Sea, a municipal corporation (City) and _____ (Contractor), a _____ corporation authorized to do business in the State of California. City and Contractor are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, City selected Contractor in a competitive procurement process pursuant to that certain Request for Proposals dated _____, 2023 to renovate, operate and maintain the Scout House according to the terms stated herein; and

WHEREAS, City and Contractor have agreed on the contractual terms and conditions to apply to Contractor's operations and maintenance of the Scout House; and

WHEREAS, City and Contractor have agreed to a Site Lease; and

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Article I. DEFINITIONS

Section 1.01 Definitions. As used in this Agreement, the following defined terms shall have the respective meanings set forth below.

"Agreement" means this Operations and Maintenance Agreement between City and Contractor.

"Approval" means a written determination by City that a particular plan, program, invoice, action, or submittal of Contractor appears to meet the requirements of this Agreement. "Approval" shall not operate to shift any risk to City or relieve Contractor of any obligations under this Agreement.

"Contract Term" has the meaning set forth in Article V below.

"Contract Year" means each calendar year during the Term of this Agreement. The first Contract Year shall be the twelve (12)-month period beginning on the Effective Date, and each successive Contract Year shall be the twelve (12)-month period beginning on the anniversary date of the Effective Date.

"Days" means, calendar days unless otherwise indicated. The term "Work Day" or "Working Day" shall mean any calendar day except Saturdays, Sundays and City-recognized legal holidays.

"Effective Date" means the date above written when this Agreement has been executed by both Parties.

"Equipment" means the materials, supplies, equipment, systems, and related items purchased or leased by Contractor and used by Contractor to operate and maintain the Scout House.

"Facility" means the Scout House located in the City of Carmel-by-the-Sea.

"Force Majeure" means an extraordinary and unforeseen event beyond the reasonable control and without the fault or negligence of Contractor. Examples of such events or causes include Acts of God, civil disturbances, fire, war, or floods, but does not include labor related incidents, such as strikes or work stoppages. Covid-19 events will be governed according to the Covid-19 provisions in Attachment B.

"Governmental Authority" means any international, foreign, national, state, provincial or local government, any political subdivision thereof, or any other governmental, regulatory, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity.

"Governmental Rule" means any law, statute, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, directive, resolution, guideline, policy or similar form of decision, or any action repealing or modifying the same, of any Governmental Authority having the force and effect of law or regulation.

"Key Personnel" means Contractor's key personnel listed in Contractor's Proposal and assigned to the Project including without limitation Contractor's Project Manager.

"Losses" means any claims, demands, suits, actions, losses, liabilities, fines, penalties, judgments, settlements, damages, costs and expenses. Losses include (i) reasonable attorneys' fees and expenses, (ii) costs of investigation, litigation, settlement and judgment, (iii) any costs and expenses incurred by any Indemnitee as a result or arising out of any obligation or election to indemnify its representatives or successors and assigns. Amounts shall be included in Losses whether incurred by settlement or otherwise, and whether any such claims, demands, suits or actions are groundless, false or fraudulent, or threatened or filed prior to or after the expiration or termination of this Agreement.

"Notice to Proceed" means a written notice given by City to the Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform Work in accordance with this Agreement.

"Project" means the renovation and operation of the Scout House.

"Taxes" means all applicable federal, state and local ad valorem, property, business and occupation, severance, generation, first use, conservation, Btu or energy, transmission, utility, gross receipts, privilege, sales, use, consumption, excise and other taxes (other than taxes based on income or net worth), governmental charges, duties,

tariffs, levies, licenses, fees, permits, assessments, adders or surcharges imposed or authorized by a Governmental Authority, however styled or payable.

"Work" means all of the administrative, professional, operations, maintenance, management, supervision, documentation, and other duties and services to be furnished and provided by Contractor, including all efforts necessary and appropriate to produce the results specified, indicated, or implied by this Agreement and the Scope of Services hereunder.

Article II. SCOPE OF SERVICES AND PERFORMANCE STANDARDS

Section 2.01 Scope. Contractor agrees to renovate and provide operations and maintenance services for the Scout House facility, including necessary Equipment and supplies, in accordance with the Scope of Services that is attached as Attachment A and is incorporated into this Agreement by this reference.

Section 2.02 Contractor Performance Requirements. Contractor shall be required, at all times during the Contract Term, to perform all services diligently, carefully, and in a professional manner; to have and maintain all required authority, licenses, professional ability, skills, personnel, and capacity to perform Contractor's obligations under this Agreement; to furnish all labor, supervision, Equipment, material, and supplies necessary therefore (other than equipment supplied by City), as required under this Agreement; and to comply with all terms and conditions of this Agreement and the other Contract Documents.

Section 2.03 Familiarity with Services and Site.

By executing this Agreement, Contractor represents that Contractor:

- 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.

If services involve work upon any site, Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing its services. Should Contractor discover any latent or unknown conditions that may materially affect the performance of services, Contractor will immediately inform City of such fact and will not proceed except at Contractor's own risk until written instructions are received from City.

Section 2.04 Notice to Proceed. Upon execution of this Agreement and the Site Lease by both parties and the receipt of all documentation required by this Agreement to be provided by Contractor to the City, including proof of insurance and tax identification numbers, the City will issue a written Notice to Proceed to the Contractor. The City may, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Contractor will diligently proceed with the Services authorized and complete those Services within the agreed time specified in said notice. Contractor will not proceed with any of the Services unless they have received a Notice to Proceed from the City.

Article III. CONTRACTOR DUTIES

Section 3.01 Summary of Duties. Contractor shall be responsible for the renovation, operation and maintenance of the Facility, and for all other labor, Equipment, insurance, supplies, storage, and facilities required to perform the Work. Contractor shall coordinate, manage, and control all activities necessary to perform the Work and carry out its responsibilities under this Agreement, which include, but are not limited to, the following: maintaining the Facility and Equipment in accordance with the standards established by City and Contractor's Operations and Maintenance Plan.

Section 3.02 Compliance with Government Rules. Contractor shall carry out all of its duties and activities under this Agreement in compliance with all applicable Federal, state, and local safety and environmental Government Rules, including applicable requirements of CalOSHA.

Section 3.03 Costs. Contractor shall be responsible for all costs of performing the Work in accordance with this Agreement and the Scope of Services, including all personnel costs and all Taxes.

Article IV. CONSTRUCTION / RENOVATION REQUIREMENTS

Section 4.01 Cleanup. All work sites shall be kept as clear of equipment, material and waste material as is practicable at all times. The City shall make the determination that this requirement is being complied with. If the City is required to provide cleanup of the work sites due to failure of the Contractor to so provide, or in case of emergency, the City shall charge the Contractor the actual cost of labor and materials and may deduct said costs from any monies due and owing the Contractor. Upon completion and before making application for acceptance of the work, the Contractor shall clean the areas of work, and all ground occupied by him in connection with the work, of all rubbish, excess materials, temporary structures, and equipment, and all parts of the work shall be left in a neat and presentable condition.

Section 4.02 WORKING HOURS. Eight hours labor constitutes a legal day's Work. The Contractor or any subcontractor under the Contractor shall forfeit, as a penalty to the State of California, twenty five dollars (\$25) or such other amount as may be amended by the Department of Industrial Relations from time to time for each worker employed in the

execution of the Contract by the respective Contractor or subcontractor for each calendar day during which that worker is required or permitted to Work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the requirements of the Labor Code, and in particular, Section 1810 to Section 1815, thereof, inclusive, except that Work performed by employees of Contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half times the basic rate of pay, as provided in Section 1815 thereof.

Section 4.03 Excavation Safety. Per California Labor Code Section 6500, Contractor shall possess a valid Construction Activity Permit for construction of trenches or excavations which are five (5) feet or deeper and into which a person is required to descend. When trenches or excavations five (5) feet or deeper are anticipated as part of the Contract, Contractor shall possess a valid permit at the time of bidding and for the life of the Contract. Contractor shall furnish copies of valid permits to the City Public Works Department. Contractor must provide evidence of a current T1 Annual Trench/Excavation Permit at the time of bidding.

Contractor shall comply with California Labor Code Section 6705 which provides that prior to the commencement of excavation of any trench or trenches five (5) feet or more in depth, Contractor shall submit to the Engineer a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer.

Plans must be submitted to the City's Project Representative at least five (5) working days prior to the commencement of excavation. If said plans are not submitted five (5) days prior to the commencement of said excavation, the City shall not be liable to Contractor for any delay in work caused by delinquent submission of said plans.

Trenching of more than four (4) feet below the surface shall require the Contractor to promptly notify the City's Project Representative if unknown hazardous wastes, subsurface or latent physical site conditions different from those indicated or unusual site conditions are encountered, and inform the City as to its duty to investigate those conditions. The Contractor may file for a change order for any conditions different from those indicated.

Section 4.04 Suspension and Delays. The City's Project Representative shall have the authority to suspend the work wholly or in part, for such period as the City's Project Representative may deem necessary due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as the City's Project Representative may deem necessary due to the failure on the part of the Contractor to carry out the City Project Representative's orders given or to perform any provisions of the work. The Contractor shall immediately obey such order of

the City's Project Representative and, shall not resume work until ordered in writing by the City's Project Representative.

Any act of, or any omission of anything required to be done by the City, its officers, agents or employees which shall cause the Contractor delay in the completion of the work shall be a ground for extension of time on the part of the Contractor to complete the work but shall not grant the Contractor any monetary damages for such delay.

Section 4.05 Traffic Control.

A. Pursuant to the authority contained in Vehicle Code Section 591, the City has determined that within those areas that are within the limits of the project and are open to traffic, the Contractor shall comply with all the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. In accordance with the statement in Vehicle Code Section 591, this section shall not relieve the Contractor or any person from the duty of exercising due care. The Contractor shall take all necessary precautions for safe operation of the Contractor's equipment and the protection of the public from injury and damage from the Contractor's equipment.

B. Traffic control shall conform to the provisions of Section 12, "Temporary Traffic Control" of the Standard Specifications and the 2014 California Manual on Uniform Traffic Control Devices (CA MUTCD) as adopted by Caltrans.

C. A Traffic Control Plan (TCP) shall be submitted to the City's Project Representative for approval prior to commencement of work and must be applicable to existing site conditions. Contractor shall notify all emergency services, affected residences, affected businesses, and the Department of Public Works at 831-620-2070 a minimum of three (3) business days in advance as to proposed closures and alternate routes available.

D. A Traffic Control Plan is required for all work performed within the public right-of-way. The objective of the plan is to permit a Contractor, or utility, to work within the public right-of-way safely, efficiently, and effectively while maintaining a safe, uniform flow of vehicle traffic. Additionally, a TCP ensures safe provisions for bicyclists and pedestrians to bypass the construction work zone.

E. Every TCP submitted for City review and approval must conform to the following guidelines:

1. TCP shall reflect actual job site conditions.
2. TCPs shall be prepared to scale on 24" x 36" or 11" x 17" sheets.
3. Use legible lettering.
4. Provide a legend for symbols used.

5. Provide a north arrow.
6. Provide a USA/Dig Alert warning stamp.
7. Lay out streets in proper orientation and label streets.
8. Indicate posted speed limits.
9. Show existing crosswalks, bike lanes, striping, ADA ramps, berms, or drainage facilities.
10. Show existing regulatory signs in the vicinity of the Work Zone.
11. Identify the type of construction (i.e. install gas line, pave new driveway).
12. Indicate location and dimensions of the proposed construction Work Zone.
13. Show any equipment/materials staging area, if applicable.
14. Note the Contractor's business name, address, phone number, and license number.
15. Note the name and phone number of a 24-hour contact(s) associated with the Contractor.
16. Indicate the start date and estimated construction completion date.
17. Label proposed temporary construction signs, barricades, and delineators.
18. Label proposed taper lengths, width, and delineator spacing.
19. Label signs/barricades to navigate bicyclists and pedestrians around the Work Zone.
20. Label any proposed temporary parking restrictions.
21. Copy the following General Notes onto the TCP.

F. Traffic Control Plans submitted for City review must include the following General Notes:

1. All traffic control devices shall conform to the latest edition of the California Manual on Uniform Traffic Control Devices (MUTCD).
2. Work hours are 8:00 am – 5:00 pm Monday-Friday, and 8:00 am to 5:00 pm on Saturdays.
3. Any night work will require prior written approval from the City's Project Representative.
4. The Contractor shall maintain traffic control devices 24 hours per day, 7 days per week.
5. Traffic control devices shall be removed from view when not in use.
6. Travel lanes through construction sites shall be at least 12 feet wide.

7. Temporary "No Parking" signs must be posted at least 48 hours prior to work.
8. Trenches must be backfilled or plated during non-working hours.
9. A flashing arrow board is required on arterial lane closures.

G. The Contractor is to notify residences and/or businesses a minimum of three (3) business days in advance of closing access to any driveways or providing any detours or changes in on-street parking. Notifications shall be in writing.

H. Contractor shall provide all labor and facilities required for safe and expeditious handling of traffic during the course of construction. Contractor shall provide all flaggers, signs, delineators, and barricades required for traffic control and shall modify or remove same at appropriate times. The Director of Public Works shall be the sole judge as to the adequacy of the Contractor's traffic control measures. If such measures are found to be inadequate by the Director of Public Works, the City may furnish and install same and charge the Contractor therefor.

I. The Contractor shall, at his own expense, construct and maintain in good condition, such detours, detour bridges and temporary crossings for use by the public as deemed necessary or expedient by the City's Project Representative for the proper execution of the work.

J. The Contractor shall designate a representative who can be reached immediately (24 hours per day) in the event of traffic control device failures.

Section 4.06 Underground Utilities.

Contractor shall locate all underground obstructions and utilities, (electric, gas, water lines, etc.). Prior to any trenching operation, Contractor shall pothole underground obstructions and utilities that appear to be in conflict with the work area. However, the City shall fairly compensate the Contractor for costs of locating and repairing damage not due to failure of the Contractor to exercise reasonable care, and removing or relocating such facilities not indicated or in a location different from that indicated on the Specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. Contractor shall not be assessed liquidated damages for delay in completion of the project when such delay was caused by the failure of the City or utility company to provide for removal or relocation of such utility facilities. Contractor shall notify all utility companies of trenching operations forty-eight (48) hours in advance to enable the utility companies to take any action they deem appropriate.

Section 4.07 Dust Control.

The Contractor shall minimize dust generation from the jobsite and shall spray the site with water or dust palliative as required, in accordance with Section 14-9, "Air Quality", of Caltrans' Standard Specifications.

Section 4.08 Erosion and Sediment Control Plan.

A. ESCP/ SWPPP. For any project involving ground disturbance, the Contractor shall submit a site-specific Erosion and Sediment Control Plan (ESCP) or Storm Water Pollution Prevention Plan (SWPPP) for City review and approval prior to start of work. The ESCP shall include at a minimum:

- Site topography,
- Nearby watercourses within 200 feet of the project area,
- Location of existing utilities,
- Proposed grading contours,
- Total area of disturbance,
- Locations and installation details of site-specific construction site Best Management Practices (BMPs), including but not limited to erosion prevention, sediment controls, site stabilization, good housekeeping practices, stockpile and equipment staging areas, materials storage, and waste management.

Detailed design and implementation guidance for construction BMPs can be found through the California Storm Water Quality Association's Construction BMP Handbook Portal, Caltrans Storm Water Quality Manuals and Handbooks, and the Construction BMP Handbook of the Monterey Regional Stormwater Management Program available at <http://montereysea.org/best-management-practices/>.

B. Best Management Practices During Construction. Erosion and sediment control BMPs shall be in place and implemented, as appropriate, prior to commencing grading or vegetation removal. The Contractor shall implement and maintain BMPs throughout the life of the project to prevent discharges of pollutants, including trash, to the street, storm drain system, and local waterways.

Activities to be performed by Contractor include, but are not limited to:

- At all times, Contractor shall implement and maintain the temporary and permanent vegetation (if any), erosion and sediment control measures, and other protective BMP measures in good and effective operating condition by performing routine inspections to determine condition and effectiveness of BMPs.
- Contractor shall inspect the following areas at least once every seven (7) calendar days, unless otherwise necessary based on current weather conditions or as directed by City inspector, and always within 24 hours prior to and after any predicted storm:
 - Inlet protections and perimeter controls;
 - Vehicle entry and exit locations;

- Vehicle parking and storage areas;
- Disturbed areas of the construction site;
- Runoff discharge locations;
- Areas that have not received final stabilization;
- Areas used for storage of materials that are exposed to wind or rain;
- Equipment and staging areas that are exposed to wind or rain; and,
- All waste storage areas.

Where sites have been stabilized, such inspection shall be conducted at least once every month while the project is on-going.

- Areas noted above shall be inspected for proper BMP implementation and necessary BMP maintenance, as well as evidence of, or the potential for:
 - Erosion, or
 - Sediments being tracked offsite and into waterways or the storm drainage system, or
 - Other pollutants entering waterways or the storm drainage system.

Deficiencies observed during inspections shall be noted and rectified before the end of the workday. Construction site storm water management and control measures shall be implemented year-round regardless of season. All construction site BMPs shall be implemented at the appropriate level for the construction activity at hand and in a proactive manner during all seasons while construction is ongoing.

Section 4.09 Tree Protection Requirements.

According to the Carmel-by-the-Sea Municipal Code Section 12.28.340, for the purpose of safeguarding trees during construction, demolition or tree removal, the following conditions shall apply to all trees other than trees for which a removal permit has been issued:

- A. Prior to the commencement of construction, demolition or tree removal, all trees on the building site shall be inventoried by the owner or Contractor as to size, species and location on the lot, and the inventory shall be submitted on a topographical map to the Building Official. This condition may be waived by the Building Official for tree removal and minor demolition.
- B. Damage to any tree during construction, demolition or tree removal shall be immediately reported by the Contractor to the City Forester, and the Contractor shall treat the tree for damage in the manner specified by the City Forester.
- C. Oil, gasoline, chemicals and other construction materials shall not be stored within the drip line of any tree.

- D. Drains shall be installed according to City specifications so as to avoid harm to trees due to excess watering.
- E. Wires, signs and other similar items shall not be attached to trees.
- F. Cutting and filling around the base of trees shall be done only after consultation with the City Forester, and then only to the extent authorized by the City Forester.
- G. No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree, or uphill from any tree where such substance might reach the roots through a leaching process.
- H. The Contractor shall be required to erect protective barricades around all trees adjacent to the work site. These barricades must be in place prior to the start of any construction or demolition activities. Barricades shall be upright two-inch by four-inch planks standing a minimum of eight feet vertically, conforming to the tree, tied with wire or rope forming a maximum of one space between the planks. If the tree's configuration or site conditions do not lend themselves to the installation of this type barricade, the City Forester will designate alternate tree protection methods. Under certain conditions where soil compaction is probable, fences may also be required around a tree or grouping of trees.
- I. Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.
- J. Trimming cuts shall conform to arboricultural standards and shall be made along the branch bark ridge.
- K. Earth surfaces within the drip line of any tree shall not be changed or compacted. All equipment, material, and soil storage shall be kept beyond the drip line of trees.
- L. Prior to the start of any construction or demolition activities, the property owner/Contractor is required to spray or have a certified applicator spray the lower six feet of all pine tree trunks with a pesticide approved by the California Department of Food and Agriculture for the treatment of bark beetles.
- M. Failure to protect or maintain trees on construction/demolition sites is a violation of the municipal code and grounds for suspension of the building permit. (Ord. 91-4 §§ 1 – 7, 1991; Ord. 84-6 § 1, 1984; Ord. 83-25 § 1(G), 1983; Ord. 81-4 § 12, 1981; Code 1975 § 1237).

Article V. REPRESENTATIONS AND WARRANTIES

Section 5.01 Representations and Warranties Of Contractor. As a material inducement to the entry by City into this Agreement, Contractor hereby represents and warrants as follows:

- (a) it is duly organized, validly existing and in good standing under the Governmental Rules of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement;
- (b) Contractor and its employees and subcontractors are appropriately licensed under State law to carry out the tasks and obligations in the Scope of Services;
- (c) the execution, delivery and performance of the Work is within its statutory and corporate powers, have been duly authorized by all necessary action and do not conflict with or result in a breach of or default (with or without notice or lapse of time or both) under any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- (d) this Agreement has been duly executed and delivered on its behalf by a duly authorized representative of Contractor;
- (e) this Agreement constitutes a legal, valid and binding obligation of Contractor, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or other Governmental Rules affecting creditors' rights generally; and
- (f) there are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending or being contemplated by it, or to its knowledge threatened against it.
- (g) To the extent Contractor installs any equipment in the Scout House, Contractor shall be solely responsible for its maintenance and operation during the pendency of this Agreement. Further, Contractor guarantees that the equipment will remain functional for one year after the termination of this Agreement. Upon receipt of Notice from the City of any failure of any part of the guaranteed equipment during the guarantee period, the affected equipment shall be repaired or replaced promptly at the sole expense of the Contractor.

Article VI. TERM OF CONTRACT

Section 6.01 Base Term. The term of this Agreement (the Contract Term) shall be for a base term of ten years, with annual one year options to extend continuing for five years. The base term shall begin on the Effective Date and shall continue for ten (10) years, unless earlier terminated in accordance with the terms and conditions of this Agreement.

Section 6.02 Options. At the end of the base term, City shall have the sole option to renew the Agreement for one year. At least sixty (60) Days prior to the end of the last

Contract Year of the 10-year base term, City shall notify Contractor in writing whether it intends to exercise this option. If City elects to renew the Agreement, it shall again have the sole option to renew the Agreement for one additional year at the conclusion of the first one-year extension so long as it notifies Contractor in writing of its intent to exercise at least sixty (60) days before the expiration of the renewed Agreement. City's option to renew for an additional one-year term will repeat annually for five years beyond the end of the base term, so long as City continues to exercise its right to renew each year upon 60 days' written notice to Contractor. Beyond five years, or if City declines to exercise its option in any year, any renewal must be in writing with consent of both City and Contractor.

Section 6.03 Extensions. This Agreement may be extended on a month-to-month basis at the expiration of the Contract Term, for a total period not to exceed six (6) months. Compensation for such an extension shall be at the rates and in the amounts in effect at the end of the Contract Term.

Section 6.04 Project Schedule – Contractor will perform the Services under this Agreement in accordance with the following phase, task and/or milestone dates:

[List phase, task, milestone, funding, design, design review, construction, operations, maintenance, and other deadline dates as applicable]

Article VII. RENT

Section 7.01 Rent. Contractor will be paying rent to the City for its use and enjoyment of the Scout House at the rates and in the amounts specified in the Site Lease signed by the Parties hereto.

Article VIII. STAFFING AND PERSONNEL REQUIREMENTS

Section 8.01 Contractor Responsibility; Indemnification.

- a. Contractor shall be solely responsible for the satisfactory work performance of all its employees as described in this Agreement or in any reasonable performance standard established by City.
- b. Contractor shall be solely responsible for payment of the salaries, wages, and benefits of its employees. Other than requiring compliance with minimum wage requirements, City shall have no role in the determination of salaries, wages, benefits, or other terms and conditions of employment of Contractor's employees.
- c. Without any additional expense to City, Contractor shall comply with the requirements of employee liability, worker's compensation, unemployment insurance, social security, and the Americans with Disabilities Act. Contractor shall hold City harmless from any liability, damages, claims, costs, and expenses of any nature arising from alleged violations of personnel practices, collective bargaining Agreements, or statutory, regulatory, or contractual obligations to employees.

Section 8.02 Project Manager. Contractor shall designate a Project Manager who shall oversee the proper renovation and operation of services under this Agreement and overall performance of the Work. The Project Manager and one alternate shall be 100 percent dedicated to providing services for City under this Agreement, unless City provides prior written Approval for a lesser time dedication. If City approves a variance to the time dedication level of the Project Manager, this variance is subject to immediate reversal at the discretion of City.

Section 8.03 Key Personnel. Contractor shall maintain the Key Personnel identified in its Proposal throughout the Contract Term. The specific Key Personnel positions required for the Work are identified in Attachment A. None of these Key Personnel positions can be combined without the prior written Approval of City.

Section 8.04 Changes in Key Personnel. Contractor shall not, without prior written notice to and prior written Approval by City, remove or reassign any Key Personnel identified in its proposal, or appoint any new individual to any Key Personnel position (whether in an acting or permanent capacity), at any time during the Contract Term; provided that Contractor may, following written notice and explanation to City, remove any such individual for misconduct or cause pursuant to Contractor's established personnel policies.

Section 8.05 Requirement for a Qualified Workforce; Compliance with Staffing Plan.

- a. Contractor shall provide and maintain throughout the Contract Term a sufficient number of properly qualified personnel, having the necessary skills, training, and experience to operate and maintain the Facility and the Equipment and systems used to perform the Work, and to provide all other services and tasks required in the performance of the Work and this Agreement.
- b. The number, qualifications, experience, and class, craft, or position of the personnel provided shall, at a minimum, be in accordance with the Staffing Plan submitted by Contractor pursuant to Section 8, as subsequently Approved by City. Contractor shall comply with its Approved Staffing Plan throughout the Contract Term. Contractor agrees to make appropriate modifications in the Staffing Plan (e.g. by increasing the number of employees or changing the mix of employee positions or classes), as necessary to meet changing demands of the service over the Contract Term (e.g. by increasing the number of employees or changing the mix of employee positions or classes). Any such modifications in the Staffing Plan shall be submitted to City for its review and Approval.
- c. All of Contractor's employees, at all times while on duty in the performance of service required under this Agreement, shall be neatly and cleanly dressed and shall at all times maintain a courteous and cooperative attitude in their contact with the public.

Section 8.06 Removal from Service. City shall have the right to demand the removal for reasonable cause, any personnel (including Key Personnel and supervisory staff) furnished by Contractor. Any such demand shall be made in writing, and shall be complied with promptly by Contractor.

Section 8.07 LiveScan. Pursuant to California Penal Code section 11105.3, Contractor's employees who work with or have contact with minors (under the age of 18) will be required to be fingerprinted per California law as a condition of employment or as a condition of continued employment on an annual basis.

Article IX. CONTRACTOR PLANS

Section 9.01 Required Plans. Contractor shall, no later than () Days after the Notice to Proceed, submit to City for its Approval the following Plans: (1) Renovation Plan; (2) Operations and Maintenance Plan; and (3) Staffing Plan.

Section 9.02 City Review and Approval. City shall review each of the Plans submitted under Section 8.01 and may, in its discretion, require such reasonable modifications or additions to such Plans as it determines to be necessary and appropriate. Upon Approval by City, each Plan shall be incorporated into and made part of this Agreement, and shall constitute a binding obligation hereunder.

Article X. CONTRACTOR MAINTENANCE REQUIREMENTS

Section 10.01 Overall Maintenance Obligations. Contractor shall be responsible for all maintenance and repairs of the Facility (including all Equipment and materials therein). Contractor shall maintain the Facility in a clean and orderly condition at all times during the Contract Term, and shall conduct all maintenance, repairs, and cleaning of the Facility at its sole expense and in compliance with the terms of the Approved Operations and Maintenance Plan. Contractor shall return the Facility to City upon the termination of this Agreement, or on an earlier date if applicable, in a condition that meets the standards set forth in this subsection. Contractor shall not make any structural modifications to the Facility without City's prior written Approval.

Section 10.02 Equipment Maintenance. Contractor shall, at its sole expense, repair, maintain in good condition, and replace (as necessary) the Equipment used in the Facility or otherwise used in providing services under this Agreement. Contractor shall maintain all Equipment in accordance with the manufacturer's preventative maintenance program. All replacements made by Contractor shall be of like size, kind, and quality to the items replaced, as such items existed when originally installed, and shall be subject to City's Approval.

Article XI. ACCESS TO CITY PROPERTY

Section 11.01 Access. City hereby grants to Contractor and its agents such access to City's property at the Scout House Facility as is reasonably necessary and appropriate for Contractor in connection with this Agreement; provided, however, that Contractor shall

adhere to the safety rules and procedures established by City when exercising such access rights.

Article XII. INSURANCE

Section 12.01 Required Program of Insurance. Without limiting Contractor's indemnification under Article XII, Contractor shall be required to provide, and to maintain at all times during the Contract Term, at its sole expense, a program of insurance that includes each of the minimum coverages listed below.

Section 12.02 General Liability. Contractor shall obtain, and maintain in full force and effect, comprehensive general liability insurance in the amount of \$4,000,000 total, and \$2,000,000 per occurrence.

Section 12.03 Auto Liability. Contractor shall obtain, and maintain in full force and effect auto liability insurance in the amount of \$1,000,000 total, with primary coverage of at least \$1,000,000 combined single limit bodily injury and property damage, covering all automobiles used in carrying out this Agreement.

Section 12.04 Workers' Compensation. Contractor shall obtain and maintain worker's compensation and employer's liability insurance as required by the laws of the State of California with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

Section 12.05 Contractors' Pollution Legal Liability. Contractor shall obtain and maintain pollution liability insurance with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

Section 12.06 Sexual Abuse & Molestation. Manager shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than \$1,000,000 per occurrence or claim.

Section 12.07 Evidence of Insurance. Contractor shall, as a condition on the issuance of the Notice to Proceed for renovations, provide City with certificates of insurance from its carrier(s) showing proof of all coverages required under Article XI. Contractor shall update its insurance information including proof of coverages, annually or when changes occur to the coverages or insurance policies during the Contract Term.

Section 12.08 Required Conditions. Contractor also agrees to the following conditions relating to insurance:

- a. City, its officers, agents, and employees, and members of the City Council shall be included as additional insureds on all liability insurance policies except worker's compensation and legal liability coverage (i.e., fire); provided that no such person included as an additional insured shall have any liability for the payment of premiums or assessments under the policies. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and

non-contributing with respect to any other insurance available to the additional insureds.

- b. Contractor's insurance required herein is primary and no insurance held or owned by City shall be called upon to contribute to the loss.
- c. Contractor's insurance shall be obtained from carriers with an A.M. Best rating of "A-/VII" or better, and authorized and licensed to transact insurance business in the State of California.
- d. Evidence of the required insurance, in the form of insurance certificates, shall be submitted to and approved by City prior to commencement of any Work under this Agreement.
- e. The insurance shall not be canceled, materially reduced in coverage or limits, or non-renewed in the case of a continuous policy, except after thirty (30) Days' written notice, or ten (10) Days' notice in the event of cancellation due to non-payment of premium, by registered or certified mail has been given to City at its offices. In the event of any such cancellation, reduction in coverage, or non-renewal, Contractor shall obtain and have in place, prior to the effective date of any such change, replacement insurance that complies with all coverage requirements and other conditions set forth in this Section. Any failure to provide such insurance on a timely basis shall be a material breach of this Agreement.
- f. The insurance afforded by the policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) shall include liability assumed by Contractor under the indemnification and/or hold harmless provisions of this Agreement.

Section 12.09 Aggregate Limits/Blanket Coverage. If any of the required insurance coverage contains aggregate limits, or applies to other operations or tenancy of Contractor outside this Agreement, Contractor shall give City prompt written notice of any incident, occurrence, claims settlement, or judgment against such insurance which may diminish the protection such insurance affords City. Contractor shall further take immediate steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

Section 12.10 Subrogation. The insurance providers shall waive all rights of subrogation and contribution against the additional insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of Contractor regardless of any prior, concurrent, or subsequent active or passive negligence by the additional insureds.

Section 12.11 Failure to Procure Insurance. Contractor's failure to procure or maintain required insurance or self-insurance program shall constitute a default and material breach of contract under which City may, after a 24-hour opportunity to cure, immediately either terminate this Agreement, or at its discretion, purchase the insurance

and charge the cost to Contractor, or deduct such cost from payments due to Contractor hereunder.

Section 12.12 Underlying Insurance. -- Contractor shall be responsible for requiring indemnification and insurance, of such types and with such limits of liability, as Contractor deems appropriate from its subcontractors, employees receiving mileage allowance, consultants, and agents, if any, to protect the interests of Contractor and City, and to ensure that such persons comply with any applicable insurance statutes.

Article XIII. INDEMNIFICATION AND HOLD HARMLESS

Section 13.01 Contractor's Indemnification. Contractor shall protect, defend, indemnify and hold City, its officers, agents, and employees and the members of the City Council, free and harmless from and against any and all Losses of every kind and character arising out of, or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character (hereinafter collectively "claims") in connection with or arising directly or indirectly out of this Agreement or the performance thereof by Contractor or its subcontractor to the extent caused by the negligence, recklessness, or willful misconduct of Contractor or its subcontractor. Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. Contractor shall investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense, and shall bear all other costs and expenses related thereto, whether or not it is alleged or determined that Contractor was negligent, and without regard to whether such claim is groundless, false, or fraudulent.

Section 13.02 Disclaimer of Liability. City will not hold harmless or indemnify Contractor for any liability whatsoever

Article XIV. DISPUTES.

Section 14.01 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.

Section 14.02 Negotiations. First, the City's Project Representative and Contractor'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 Contractor's Principal, who will meet and confer, in good faith, to resolve the Dispute to the mutual satisfaction of the parties.

Section 14.03 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.

Section 14.04 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.

Article XV. INSPECTION OF WORK

Section 15.01 General. All Work (which term in this Section includes service performed, material furnished or utilized in the performance of services, and workmanship in the performance of services) shall be subject to inspection and testing by City at all times and places during the Contract Term. All inspections by City shall be made in such manner as to not unduly delay the Work. City shall have the right to enter the premises used by Contractor for the purpose of inspecting and auditing all data and records which pertain to Contractor's performance under this Agreement.

Section 15.02 Re-performance. If any Work performed is not in conformity with the requirements of this Agreement, the City shall have the right to require Contractor to perform the Work again in conformity with such requirements at Contractor's sole expense and with no increase in the amount of compensation hereunder. In the event

Contractor fails promptly to perform the Work again, City shall have the right, either by contract or otherwise, to have the Work performed in conformity with such requirements and charge to Contractor any costs to City that are directly related to the performance of such Work, or to terminate this Agreement for default as provided in Article 16. When the work to be performed is of such a nature that the defect cannot be corrected by re-performing the work, City shall have the right to (1) require Contractor to immediately take all necessary steps to ensure future performance of the Work in conformity with the requirements of this Agreement; and (2) reduce the amount paid to Contractor under this Agreement to reflect the reduced value of the work performed.

Article XVI. ACCESS TO AND DISCLOSURE OF RECORDS

Section 16.01 Access to Records. Contractor agrees to provide City or any of their authorized representatives, access to any books, documents, papers, and records of Contractor relating to the Project for purposes of audits, examinations, copying, and excerpts and transcripts. Contractor shall make all such records available for a period of three (3) years after the conclusion of the Work, or until the conclusion of any litigation relating to the Project, whichever last occurs.

Section 16.02 Available Information. The City will make available to Contractor all relevant information, plans, maps, reports, specifications, standards and pertinent data which is in the hands of the City and is required by Contractor to perform the Services. Contractor may rely upon the accuracy and completeness of such information and data furnished by the City, except where it is stated otherwise or unreasonable.

Section 16.03 As-Built Drawings. Contractor will provide City with as-built drawings at the conclusion of the Work.

Section 16.04 Public Records. Unless certain information contained in this Agreement is exempt from disclosure by law, the contents of this Agreement shall be available to the public in accordance with the provisions of the California Public Records Act (Cal. Govt. Code Sections 6250, et seq.). If Contractor considers any information contained in this Agreement to constitute proprietary or commercially or financially sensitive information, Contractor may identify that specific information and request that its disclosure be withheld. Contractor acknowledges that such withholding may be challenged by a third party, and that City assumes no liability or responsibility in the event of a future disclosure.

Article XVII. TERMINATION FOR DEFAULT

Section 17.01 Events of Default. Contractor shall be in default under this Agreement upon the occurrence of any one or more of the following events or conditions:

- (1) Contractor fails promptly to begin the Work following issuance of the NTP, fails to resume on a timely basis the performance of Work which has been suspended or stopped, or fails to continuously and diligently prosecute the Work;

- (2) Contractor fails or refuses to perform the Work in accordance with the requirements of this Agreement;
- (3) Contractor fails to comply with its other obligations under the Contract Documents, including failure to maintain the insurance required hereunder; failure to provide the indemnifications required hereunder; and failure to comply with any Government Rule;
- (4) Contractor is debarred from bidding on or performing public works contracts; or
- (5) Contractor initiates a bankruptcy or other insolvency proceeding or an involuntary case is commenced against Contractor seeking liquidation, reorganization, or similar actions or relief.
- (6) Contractor fails to pay rent within 15 days of due date.

Section 17.02 Cure Notice and Failure to Cure. If City determines Contractor is in default of this Agreement and that the default may be subject to a cure, City will issue a Cure Notice to Contractor describing the default. If City determines that Contractor is in default and the default cannot be cured, City may issue a Notice of Termination hereunder. If Contractor fails to cure the default within thirty (30) Days after receipt of such Cure Notice, if the default cannot be cured within thirty (30) Days, or if Contractor fails to commence to cure within thirty (30) Days or fails to diligently proceed to cure or to cure the default within the time City reasonably determines to be necessary, City will issue a Notice of Termination for Default and may take any other actions as it deems appropriate to cause the completion of the Work and to mitigate its damages.

Section 17.03 Timing for Actions. City may establish a shorter time period for the actions specified in this subsection if it determines, in its sole discretion, that such shorter period is necessary in the interest of public safety.

Section 17.04 Liability. Whether or not the Contract or any part thereof is terminated, Contractor shall be liable for any damages to City resulting from Contractor's default.

Section 17.05 City Completion of Work. Upon City's termination of the Contract in whole or in part for default, City will have the right to complete the Work or to retain another contractor to do so.

Section 17.06 No Damages or Anticipatory Profits. Neither Contractor nor any subcontractor, supplier, or third party shall be entitled to any damages of any kind, whether they are direct, indirect, special, anticipatory, consequential, or any other damages, nor be entitled to any anticipatory profits on Work not yet performed, as a result of any Termination for Default under this Section.

Article XVIII. TERMINATION FOR CONVENIENCE

Section 18.01 Authority of City. City may terminate this Agreement and the performance of the Work by Contractor in whole or, from time to time, in part, if City determines, in its sole discretion, that a termination is in City's best interest. Such termination will be effected by delivering to Contractor a written Notice of Termination for Convenience or Notice of Partial Termination for Convenience, specifying the extent of termination and its effective date. City will provide a minimum of one-year notice of any termination for convenience of the Contract in its entirety.

Article XIX. INDEPENDENT CONTRACTOR

Section 19.01 Independent Contractor. Contractor shall perform all Work under this Agreement in its own name and as an independent contractor, and not in the name of, or as an agent for, City. Contractor has and retains full control and supervision of the services performed and full control over the employment and direct compensation of its employees, and agrees to be solely responsible for all matters relating to wages, hours, and working conditions of those employees. Contractor further agrees to be responsible for its own acts and for the acts of its employees and subcontractors, and to be responsible for the performance of the Work in accordance with its own means and methods.

Article XX. CONFLICT OF INTEREST

Section 20.01 Conflict of Interest. Contractor covenants that neither Contractor, 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 Contractor's performance of Work under this Agreement. Contractor'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.

Contractor 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, Contractor, Contractor's employees, and subcontractors 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 the Work 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 Work related to this Agreement, and if such financial interest is acquired during the term of this Agreement, Contractor 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 Contractor under this Agreement and the obligations of Contractor to such other person, firm or corporation.

Article XXI. MISCELLANEOUS PROVISIONS

Section 21.01 Non-discrimination. During the performance of this Agreement, Contractor, and its subcontractors, 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 Contractor's employment practices or in the furnishing of services to recipients. Contractor further acknowledges that harassment in the workplace is not permitted in any form, and will take all necessary actions to prevent such conduct.

Section 21.02 City Business License. Prior to receiving a Notice to Proceed from the City, Contractor 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 Contractor.

Section 21.03 Assignment. Neither Party shall assign this Agreement or any of its rights or obligations hereunder (whether by operation of law or otherwise) without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

Section 21.04 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: _____
 Title: _____
 Address: _____
 Telephone: _____
 Email: _____

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

Name: _____
 Title: _____
 Company: _____
 Address: _____
 Telephone: _____
 Email: _____

C. Meet and Confer. Contractor 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 Contractor regarding this Agreement, including performance of Services, will be between the City's Project Representative and Contractor'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.

Section 21.05 Entire Agreement; Amendments. This Agreement constitutes the entire Agreement between the Parties. There are no prior or contemporaneous Agreements or representations affecting the same subject matter other than those herein expressed. No amendment, modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

Section 21.06 Governing Law: Venue. All matters arising from or relating to this Agreement shall be governed by the laws of the State of California, without regard to its conflict of law rules. Any dispute arising from or relating to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Monterey County, California, and the parties agree to submit to the personal and exclusive jurisdiction and venue of these courts.

Section 21.07 Non-Waiver. No waiver by either Party of any rights of such Party or defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other performance, default or defaults, or rights, whether of a like kind or different nature.

Section 21.08 Severability. Except as otherwise provided in this Agreement, any provision or article declared or rendered unlawful by a Governmental Authority with jurisdiction over the Parties, or deemed unlawful because of a change in Governmental Rule, shall not affect the validity, legality, and enforceability of the remaining provisions and articles of this Agreement.

Section 21.09 No Third Party Beneficiaries. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract. Unless otherwise agreed to in writing signed by both Parties, neither Party shall have any authority to create or assume in the other Party's name or on its behalf any obligation, express or implied, or to act or purport to act as the other Party's Representative for any purpose whatsoever. Neither Party shall be liable to any third party in any way for any engagement, obligation, contract, representation or any negligent act or omission of the other Party, except as expressly provided for herein.

Section 21.10 Counterparts. This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Section 21.11 Construction. This Agreement and any documents or instruments delivered pursuant hereto shall be construed without regard to the identity of the Person who drafted the various provisions of the same. Each and every provision of this Agreement and such other documents and instruments shall be construed as though the Parties participated equally in the drafting of the same. Consequently, the Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting Party shall not be applicable either to this Agreement or such other documents and instruments.

Section 21.12 Further Instruments; Further Assurances. Each Party shall promptly execute and deliver such further instruments, Agreements and other documents, and take such further actions as may reasonably necessary to effectuate any of the provisions in this Agreement.

Section 21.13 Force Majeure. If Contractor is prevented from or delayed in performing its duties under this Agreement by a Force Majeure event, then Contractor may be excused from performance hereunder during the period of such disability. In such event, Contractor shall promptly notify City in writing when it learns of the existence of a Force Majeure condition and when the Force Majeure condition has terminated.

Section 21.14 Covid-19 Requirements. Refer to Attachment B

[Signatures on Next Page]

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed on its behalf by its duly authorized representative.

CITY OF CARMEL-BY-THE-SEA

CONTRACTOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Brian A. Pierik, City Attorney

Attachment A – Scope of Services

[SCOPE OF SERVICES SHOULD BE ADDED HERE]

Attachment B – COVID-19 Attachment

This COVID-19 Amendment/Attachment amends the Agreement between CITY OF CARMEL-BY-THE-SEA and _____, dated _____,

1. Definitions

A. The 2019 novel coronavirus and the disease it causes are collectively referred to herein as **"COVID-19"**.

B. A **"COVID-19 Condition"** is something attributable to COVID-19 not caused by Contractor (which for purposes herein includes all subcontractors) and beyond its reasonable control including but not limited to COVID-19 Proclamations and supply chain disruptions due to COVID-19, and other circumstances concerning COVID-19 not caused by Contractor and which are beyond its reasonable control.

C. A **"COVID-19 Proclamation"** includes but is not limited to orders, directives and guidance concerning COVID-19 that have been issued, and which may be issued from time to time, by public agencies or regulatory bodies, the CDC or OSHA or Cal/OSHA, including without limitation the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards. Contractor acknowledges that those orders, directives and guidance may require the Project to shut down or otherwise increase Contractor's cost or time of performance by calling for things such as social distancing and the use of personal protective equipment. In the event of conflicting COVID-19 Proclamations, Contractor shall follow the most applicable, restrictive and newest COVID-19 Proclamations.

D. An **"Unknown COVID-19 Condition"** is a COVID-19 Condition Contractor did not know about, and reasonably should not have known about, as of the date Contractor submitted its proposal. The requirements contained in COVID-19 Proclamations issued before submission of a proposal are not Unknown COVID-19 Conditions, and Contractor will be deemed to have knowledge of those requirements.

E. An **"Unknown COVID-19 Cost"** is a cost that: (i) is solely attributable to an Unknown COVID-19 Condition; (ii) is reasonable and unavoidable under the circumstances; (iii) is not the result of Contractor's failure to comply with the contract documents or a COVID-19 Proclamation; and (iv) is not the result of a subcontractors failure to comply with a COVID-19 Proclamation in connection with the performance of the Services.

2. COVID-19 Conditions and Proposal. Contractor is expected to know and is deemed to have known about COVID-19 Conditions when it submits its proposal, and COVID-19 Conditions must be accounted for in Contractor's price and schedule. In order to be entitled to any relief from a COVID-19 Condition, Contractor must demonstrate that the issue, cost or delay is due to an Unknown COVID-19 Condition.

3. Compliance with COVID-19 Proclamations.

A. Contractor shall comply with COVID-19 Proclamations in the performance of the Services, irrespective of when the COVID-19 Proclamations are issued, and as they pertain to performance of the Services. The cost of such compliance is non-compensable, except as otherwise expressly stated herein.

B. Contractor is responsible to ensure that its subcontractors and suppliers comply with COVID-19 Proclamations at all times in connection with the performance of their Services.

4. Delay. Contractor is entitled to a reasonable time extension for an Unknown COVID-19 Condition. Such time extension is non-compensable.

5. Owner Directed Suspension. The Owner may suspend Services due to COVID-19 health concerns, even though Contractor may be allowed to proceed with the Services based on COVID-19 Proclamations. The Owner may suspend the Services for its convenience. Contractor is entitled to a time extension for an Owner Directed Suspension, and the contract amount will be equitably adjusted if and to the extent Contractor incurs increased costs that are Unknown COVID-19 Costs.

6. Compensation for COVID-19 Costs. Owner will reimburse Contractor for Unknown COVID-19 Costs that are not included in the schedule of values.

7. Safe Work Practices. Contractor shall implement safe work practices recommended by CDC or OSHA or Cal/OSHA, which may include, inter alia, screening all employees, subcontractors, or others ("worker(s)") at all locations where Services are performed for signs and symptoms of COVID-19; adopting staggered work schedules, e.g., providing alternating workdays or extra shifts, to reduce the total number of employees on a site at any given time and to ensure physical distancing; identifying choke points where workers are forced to stand together, such as hallways and elevators, ingress and egress points, break areas, and buses, and implement policies to maintain social distancing; coordinating deliveries in line with the employer's minimal contact and cleaning protocols; and instituting a rigorous housekeeping program to reduce dust levels at all exterior locations. Contractor remains fully responsible for following and complying with changes to recommended safe work practices from time to time.

8. Monitoring and Reporting. Owner may require Contractor to actively monitor the health of its workers through temperature checks and questionnaires of major COVID-19 symptoms, including but not limited to cough, fever above 100.4 degrees Fahrenheit and shortness of breath. Contractor shall immediately report to Owner any outbreaks of COVID-19 among its workers. Contractor shall not knowingly allow any worker who has tested positive with COVID-19 to enter an Owner building. In the event of an outbreak or an exposure to COVID-19, the Owner may impose appropriate mitigation strategies which may be in consultation with the public health officer.

9. Conflicts. In the event of an inconsistency between this COVID-19 Amendment and the Agreement, this Addendum shall control.

IN WITNESS WHEREOF, the Owner and Contractor have executed this Covid-19 Amendment as of the date set forth above.

CITY:

CONTRACTOR:

Signature

Signature

Print Name & Title

Print Name & Title

APPENDIX 7: SITE LEASE

**SITE LEASE
(Scout House)**

This Site Lease (**Site Lease**) dated as of **[month/day/year]** (**Effective Date**), is made and entered into by and between the City of Carmel-by-the-Sea, a municipal corporation, as lessor (City or **Owner**), and **[INSERT NAME OF CONTRACTOR]**, a **[insert name of state of organization]** **[insert type of entity]** duly organized and existing under the laws of the State of **[name of state]** as lessee (**Contractor**) (collectively, **Parties**).

RECITALS

WHEREAS, City currently owns a parcel of land located at the Northeast Corner of Eighth Avenue and Mission Street in the City of Carmel-by-the-Sea, as more particularly described in Attachment A attached hereto and incorporated herein by this reference; and

WHEREAS, City intends to lease said real property to Contractor (**Leased Premises**) for the purpose of undertaking various improvements to the Leased Premises and to undertake responsibility for the Operations and Maintenance of the Leased Premises for the duration of this Site Lease; and

WHEREAS, the Work to be performed on the Leased Premises is more particularly described in the Operations and Maintenance Agreement (defined below) and incorporated herein by this reference (**Project**); and

WHEREAS, City, acting by and through its City Council, has determined that it is in the best interests of City, and for the common benefit of the citizens residing within City's jurisdiction, to have the Project performed by leasing the Leased Premises to Contractor; and

WHEREAS, City has performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Site Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Site Lease.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements and covenants contained herein, the sum of \$**[fair market rent]** per year and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.01 Unless the context clearly otherwise requires, all words and phrases defined in Article I of the Operations and Maintenance Agreement dated as of **[insert month/day/year]** by and between City and Contractor (**Operations and Maintenance Agreement**) shall have the same meaning in this Site Lease.

ARTICLE 2 DEMISING CLAUSES

2.01 Lease of the Leased Premises. City hereby leases to Contractor, and Contractor hereby leases from City, the Leased Premises in accordance with the provisions of this Site Lease, to have and to hold for the term of this Site Lease. This Site Lease shall only take effect if an Operations and Maintenance Agreement in substantially the same form as the Operations and Maintenance Agreement attached hereto as Attachment B is executed by City and Contractor within five business days of execution of this Site Lease.

2.02 Rental. In consideration for the lease of the Leased Premises by City to Contractor and for other good and valuable consideration, Contractor shall pay \$**[fair market rent]** per year to City. The Parties agree that the foregoing rent represents a fair market rent for the premises, when taking into account Contractor's agreement to repair and rehabilitate the improvements on the Leased Premises as described in the Operations and Maintenance Agreement, which will provide a benefit to the City at the expiration of this Site Lease. The Parties further recognize that this rent takes into account

revenue Contractor may receive by virtue of its Leasehold and its Work, for example, the opportunity to sublease the Leased Premises.

- 2.03 No Merger.** The leasing of the Leased Premises and the improvements made thereon by Contractor to City pursuant to the Operations and Maintenance Agreement shall not effect or result in a merger of the estates of City in the Leased Premises, and Contractor shall continue to have a leasehold estate in the Leased Premises pursuant to this Site Lease throughout the term hereof.

ARTICLE 3 QUIET ENJOYMENT AND USE

- 3.01** The parties intend that the Contractor will perform certain renovation and rehabilitation Work on the Leased Premises at Contractor's sole cost pursuant to the terms and conditions of the Operations and Maintenance Agreement attached hereto as Exhibit B. City hereby covenants and agrees that it will not take any action to prevent Contractor from having quiet and peaceable possession and enjoyment of the Leased Premises during the term hereof.
- 3.02** So long as it is consistent with the Operations and Maintenance Agreement, and otherwise legal, Contractor and any sublessee approved by City, which approval shall not be unreasonably withheld, may use the Leased Premises for Commercial Purposes, including without limitation a sublease of a portion or all of the Leased Premises, and the offering of naming rights to various portions of the interior of the Leased Premises.
- 3.03** Contractor acknowledges and agrees that any use of the Leased Premises by it or any sublessee must conform with the rules of the Residential and Limited Commercial (RC) Zoning District and other applicable Commercial Zoning District regulations in "Chapter 17.14 - COMMERCIAL ZONING DISTRICTS" or elsewhere in the Carmel Municipal Code.

ARTICLE 4 SPECIAL COVENANTS AND PROVISIONS

- 4.01 Waste.** Contractor agrees that at all times that it is in possession of the Leased Premises, it will not commit, suffer or permit any waste on the Leased Premises, and that it will not willfully or knowingly use or permit the use of the Leased Premises for any illegal purpose or act.
- 4.02 Further Assurances and Corrective Instruments.** City and Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Premises hereby leased or intended so to be or for carrying out the expressed intention of this Site Lease and the accompanying Facilities Lease.
- 4.03 Right of Entry and Use By City During Lease Term.** City reserves the right for any of its duly authorized representatives, and/or third parties authorized by City, to enter upon the Leased Premises at any reasonable time to inspect of use, and/or perform work of any and all kind thereon. Further, City hereby reserves and Contractor hereby grants use of the Leased Premises to the City for one day each month, the date to be mutually agreed to in advance by the Parties.
- 4.04 Representations of City.** City represents, covenants, and warrants to Contractor as follows:
- A. Due Organization and Existence. City is a municipal corporation which is duly organized and existing under the Constitution and laws of the State of California.
 - B. Full Power and Authority City has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Site Lease.
 - C. No Violations. Neither the execution and delivery of this Site Lease nor the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which City is now a party or by which City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of City, or upon the Leased Premises.

4.05 Representations of Contractor. Contractor represents; covenants, and warrants to City as follows:

- A. Due Organization and Existence. Contractor is a *[insert name of state of organization]* *[insert type of entity]* duly organized and existing under the laws of the State of *[insert state of organization]* and is authorized to conduct business in the State of California pursuant to California law, has the power to enter into this Site Lease and the Operations and Maintenance Agreement, is possessed of full power to own and hold real and personal property, and to lease and sell the same; has duly authorized the execution and delivery of all of the aforesaid agreements; and is a licensed contractor holding an A or B license issued by the California State License Board.
- B. Authorization. Contractor has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Site Lease.
- C. No Violations. Neither the execution and delivery of this Site Lease or the Operations and Maintenance Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Contractor is now a party or by which Contractor is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Contractor, or upon the Leased Premises.

ARTICLE 5 ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

5.01 Assignment and Subleasing. This Site Lease may be assigned and the Leased Premises subleased, as a whole or in part, by Contractor only upon the prior written consent of City to such sublease. City's consent shall not be unreasonably withheld.

5.02 Restrictions on City. City agrees that it will not mortgage, sell, encumber, assign, transfer or convey the Leased Premises or any portion thereof during the term of this Site Lease except as otherwise permitted herein.

5.03 Liens. Contractor agrees to keep the Leased Premises and every part thereof free and clear of any and all liens, including without limitation, pledges, charges, encumbrances, claims, stop notices, labor withholds, and other liens or encumbrances of any and all kind, and/or arising out of, or in connection with, work or labor done, services performed, or materials, supplies, equipment, apparatus, or appliances used or furnished for or in connection with the Leased Premises or the Project. Contractor further agrees to pay promptly and fully and discharge any and all claims on which any such lien and/or encumbrance may or could be based, and to save and hold City and all of its elected officials, employees, insurers, sureties, consultants and attorneys free and harmless from any and all such liens and/or encumbrances including without limitation, claims, causes of action, proceedings, suits, and all other proceedings pertaining thereto. The provisions of this Paragraph 5.03 shall only apply for such portions of the Work for which City has satisfied payment to Contractor.

ARTICLE 6 IMPROVEMENTS

6.01 Ownership. The City shall own all improvements made on the Leased Premises during the term hereof. At the conclusion of this Site Lease, Contractor shall not remove any improvements from the Leased Premises.

ARTICLE 7 TERM AND TERMINATION

7.01 Term. The term of this Lease shall not exceed _____ months *[insert here duration of construction schedule]* and shall commence as of *[insert month/day/year]* and shall terminate on the last day of the term of the Operations and Maintenance Agreement. The term of this Lease shall terminate upon any termination of the Operations and Maintenance Agreement pursuant to Article V thereof.

ARTICLE 8 MISCELLANEOUS

- 8.01 Notices.** All notices, certificates or other communications hereunder shall be given consistent with the requirements of Section 20.04 of the Operations and Maintenance Agreement.
- 8.02 Limitation on Consequential, etc. Damages.** EXCEPT WHERE EXPRESSLY PROVIDED BY LAW, UNDER NO CIRCUMSTANCES SHALL CITY BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS SITE LEASE, AND CONTRACTOR SHALL NOT INCLUDE THEM IN ANY CLAIM AGAINST CITY ARISING FROM OR RELATING TO THIS SITE LEASE.
- 8.03 Binding Effect.** This Site Lease shall inure to the benefit of and shall be binding upon Contractor and City, and their respective successors and assigns.
- 8.04 Severability.** In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- 8.05 Amendments, Changes and Modifications.** This Site Lease shall only be amended, changed, modified, or altered with the written agreement of both parties hereto, and approved by City's City Council.
- 8.06 Execution in Counterparts.** This Site Lease may be executed in several counterparts, each of which shall be original and all of which shall constitute but one and the same instrument.
- 8.07 Applicable Law.** This Site Lease shall be governed by and construed in accordance with the laws of the State of California. The exclusive venue for any dispute hereunder shall be Monterey County, California.
- 8.08 Dispute Resolution.** Any dispute, claim, or controversy arising out of or related to this Agreement shall be resolved consistent with the Dispute Resolution process in Article XIII of the Operations and Maintenance Agreement. The parties understand that the Dispute Resolution process contained therein includes, among other provisions, an agreement to arbitrate Disputes.
- 8.09 Contractor and City Representatives.** Whenever under the provisions of this Site Lease the approval of Contractor or City, is required, or Contractor or City is required to take some action at the request of the other, such approval or such request shall be given for Contractor by Contractor's Project Manager and for City, by City's Project Representative, consistent with Section 20.04 of the Operations and Maintenance Agreement. Any party hereto shall be authorized to rely upon any such approval or request.
- 8.10 Captions.** The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or paragraphs of this Site Lease.
- 8.11 Prior Agreements.** This Site Lease, and the accompanying Operations and Maintenance Agreement collectively contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Site Lease and no prior agreements or understanding pertaining to any such matter shall be effective for any purpose.
- 8.12 Attorney's Fees.** If either party brings an action or proceeding involving the Property or to interpret, enforce, and/or for a breach of, the terms of this Site Lease or to declare rights hereunder, each party shall bear its own attorneys' fees, expert/consulting fees, and costs.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have caused this Site Lease to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

CONTRACTOR:**[NAME OF CONTRACTOR]**

By: _____
(Signature)

Its: _____
Title (If Corporation: Chairman, President or Vice
President)

By: _____
(Signature)

Its: _____
Title (If Corporation: Secretary, Assistant Secretary,
Chief Financial Officer or Assistant Treasurer)

CITY:**CITY OF CARMEL-BY-THE-SEA**

By: _____
(Signature)

(Print Name)

(Title)

Attest: _____
Secretary

(Print Name)

SITE LEASE

Attachment A

DESCRIPTION OF LEASED PREMISES

**CITY SHALL INSERT BELOW A SITE MAP HIGHLIGHTING PORTIONS OF THE SITE THAT
CONSTITUTE THE "LEASED PREMISES"**

Attachment B
Form of Operations and Maintenance Agreement



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

April 4, 2023
PUBLIC HEARINGS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Maxine Gullo, Ass't. City Administrator

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Resolution 2023-041 Establishing the Electronic Form of Payment (Online) and Amending the Credit Card Fee in the Adopted Administrative Fee Schedule

RECOMMENDATION:

Consider adoption of Resolution 2023-041 Establishing the Electronic Form of Payment (Online) and Amending the Credit Card Fee in the Adopted Administrative Fee Schedule.

BACKGROUND/SUMMARY:

Every three years, the State adopts new building model codes to establish uniform standards for construction and maintenance. Changes to the model code affect all new building permit applications submitted on or after January 1st, 2023. California Administrative Code Section 1-507 Fee Collection was amended to remove the check-only payment method and added instructions for submitted payment and forms by mail (check) or email (electronic payment platform), and let fee payers know that they may only use the approved electronic payment platform, and that there is information regarding the platform on CBSC's website.

To be compliant, Community Planning & Building must now offer to receive electronic (online) payments through the City's website for permits and fees. Credit card and debit card processing fees for online payments is 3.5% with our current permit management software. At this time, the City's Fee Schedule authorizes only 2.5% of charged amount for Use of Credit Card/Debit Card. As this increase only applies to online payments made to the Community Planning & Building Department, it is recommended that the City's Fee Schedule be amended to reflect the 3.5% of charges amount for Use of Credit Card/Debit Card and establish the 3.5% of charges amount for electronic (online) payments through the City's website.

Although the City has hired Revenue and Cost Specialists, LLC ("RCS") to prepare a cost of services study, the master fee schedule with any modification, additions and/or changes to fees will be brought forward separately as part of the FY 23/24 Operating Budget discussion and approval. This fee is being brought forward due to the January 1, 2023 implementation.

FISCAL IMPACT:

Since the Use of Credit Card/Debit Card transactional fees are passed directly to the applicant, there is no fiscal impact to the City.

PRIOR CITY COUNCIL ACTION:

Council adopted the Fiscal Year 2022-2023 Fee Schedule for Administrative Services, Community Planning and Building, Public Safety and Public Works Services on May 3, 2022 (Resolution 2022-041).

ATTACHMENTS:

Attachment 1) Resolution 2023-041

Attachment 2) Exhibit A

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

RESOLUTION NO. 2023-041

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
AUTHORIZING TO ESTABLISH THE ELECTRONIC (ONLINE) PAYMENT AND AMEND
USAGE OF CREDIT CARD FEES IN THE ADOPTED ADMINISTRATIVE FEE SCHEDULE**

WHEREAS, every three years, the State of California adopts new building model codes to establish uniform standards for construction and maintenance; and

WHEREAS, Changes to the model code affect all new building permit applications submitted on or after January 1st, 2023; and

WHEREAS, California Administrative Code Section 1-507 Fee Collection was amended to remove the check-only payment method and added instructions for submitted payment and forms by mail (check) or email (electronic payment platform); and

WHEREAS, to be compliant, Community Planning & Building must now offer to receive electronic (online) payments through the City's website for permits and fees; and

WHEREAS, credit card and debit card processing fees for online payments is 3.5% with our current permit management software. At this time, the City's Fee Schedule authorizes only 2.5% of charged amount for Use of Credit Card/Debit Card; and

WHEREAS, pursuant to Government Code 66016, the specific fees to be charged for services must be adopted by the City Council by Resolution, after providing notice and holding a public hearing; and

WHEREAS, a notice of public hearing has been published in the Carmel Pine Cone on March 23, 2023 per California Government Code 6062a, oral and written presentations made and received, and the required public hearing held on April 4, 2023.

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

Section 1. Fee Schedule Adoption. The following schedule of fees and charges are hereby directed to be computed by and applied by the various City departments, and to be collected by the City Finance Department for the herein listed special services when provided by the City or its designated contractors.

Section 2. Separate Fee for Each Process. All fees set forth by this resolution are for each identified process; additional fees shall be required for each additional process or service that is requested or required. Where fees are indicated on a "per unit" of measurement basis, the fee is for each identified unit or portion thereof within the indicated ranges of such units.

Section 3. Listing of Fees. The following fees shall be charged and collected for the following enumerated services, as shown in **Exhibit A**.

Section 4. Interpretations. This Resolution may be interpreted by the City department heads in consultation with the City Administrator, and, should there be a conflict between two fees, the lower in dollar amount of the two shall be applied.

A. It is the intention of the City Council to review the fees and charges as determined and set out herein based on the City's next Annual Budget and all the City's costs reasonably borne as established at that time and, as and if warranted, to revise such fees and charges based thereon.

Section 5. Constitutionality. If any portion of this Resolution is declared invalid or unconstitutional, it is the intention of the City Council to have passed the entire Resolution and all its component parts, and all other sections of this Resolution shall remain in full force and effect.

Section 6. Repealer. All resolutions and other actions of the City Council in conflict with the contents of this Resolution are hereby repealed.

Section 7. Effective Date. This Resolution and fees shall go into full force and effect on May 3, 2023.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-
THE-SEA this 4th day of April, 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

Resolution 2023-041 (Pending City Council Approval April 7, 2023)

PROPOSED FEE SCHEDULE EFFECTIVE JULY 3, 2022 - JUNE 30, 2023		Proposed Fee
COMMUNITY PLANNING & BUILDING		
Design Study and Review		
TRACK 1 DESIGN REVIEW/STUDY - MINOR	\$448 per application	448.00
TRACK 1 DESIGN REVIEW/STUDY - MAJOR	\$813 per application	813.00
TRACK 1 DESIGN REV/STUDY-STREAMLINE	\$203 per application	203.00
TRACK 1 DESIGN REV/STUDY - REFERRAL TO PLANNING COMMISSION	\$1,120 per application in addition to the base Track 1 fee	1,120.00
TRACK 1 DESIGN REV/STUDY-REFERRAL TO HISTORIC RESOURCES BOARD	\$1,120 per application in addition to the base Track 1 fee	1,120.00
TRACK 2 DESIGN REVIEW - MINOR	\$2,360 per application	2,360.00
TRACK 2 DESIGN REVIEW - MAJOR	\$5,392 per application	5,392.00
TRACK 2 DESIGN REV - MAJOR NEW COMMERCIAL BUILDING	\$2,438 per application plus a deposit determined by staff with charges at the fully allocated hourly rates for Project Planner	2,438.00
PRELIMINARY SITE ASSESSMENT	\$1,183 per application	1,183.00
VOLUMETRIC ANALYSIS	\$135 per application plus \$1,500 deposit with charges at the fully allocated hourly rates plus any outside costs.	135.00
Use Permit and Other Services		
USE PERMIT	\$2,730 per application	2,730.00
USE PERMIT AMENDMENT	\$1,818 per application	1,818.00
TEMPORARY USE PERMIT	\$365 per application	365.00
RESTRICTED COMM USE TRANSFER REQUEST	\$521 per application	521.00
WATER CREDIT TRANSFER REQUEST	\$3,663 per application	3,663.00
VARIANCE	\$2,235 per application	2,235.00
PRE-APPLICATION REVIEW - STAFF	\$1,683 per application with 50% of this fee credited towards future planning fees for this project.	1,683.00
PRELIMINARY REVIEW - PLANNING COMMISSION	\$3,485 per application with 50% of this fee credited towards future planning fees for this project.	3,485.00
COASTAL DEV. PERMIT - DEVELOPMENT	\$135 per application - Added to other Planning fees	135.00
COASTAL DEV. PERMIT - EVENT	\$1,417 per application	1,417.00
TOBACCO RETAIL LICENSE	Current fee as adopted by the Monterey County Board of Supervisors	
Amendments, Annexations and Agreements		
SPECIFIC PLAN/SPECIFIC PLAN AMENDMENT	\$5,210 deposit with charges at the fully allocated hourly rates plus outside costs	5,210.00
GENERAL PLAN AMENDMENT		
SPHERE OF INFLUENCE AMENDMENT		
ZONING CODE AMENDMENT		
ANNEXATION	\$10,420 deposit with charges at the fully allocated hourly rates plus outside costs	10,420.00
DEVELOPMENT AGREEMENT		
Environmental Review Maps and Lot Lines		
ENVIRONMENTAL REVIEW (IS/ND/EIR)	Contract cost plus 10%	
ENVIRONMENTAL NOTICE OF EXEMPTION	\$156 per application plus County fees	156.00
MITIGATION MONITORING	\$3,126 deposit with charges at the fully allocated hourly rates plus outside costs.	3,126.00
TENTATIVE/FINAL MAP	\$4,168 deposit with charges at the fully allocated hourly rates plus any outside costs.	4,168.00
AMENDED FINAL MAP	\$1,042 deposit with charges at the fully allocated hourly rates plus any outside costs.	1,042.00
CERTIFICATE OF COMPLIANCE	\$610 per application plus actual contract cost	610.00
LOT LINE ADJUSTMENT/SUBDIV - PLANNING COMMISSION	\$542 per application plus actual contract cost	542.00
LOT MERGER - STAFF REVIEW	\$938 per application plus actual contract cost	938.00
Historic Evaluation		
PRELIM (PHASE 1) HISTORICAL EVALUATION - STAFF	\$474 per application	474.00

Resolution 2023-041 (Pending City Council Approval April 7, 2023)

PROPOSED FEE SCHEDULE EFFECTIVE JULY 3, 2022 - JUNE 30, 2023		Proposed Fee
PHASE 1 HISTORIC EVALUATION - QUALIFIED PROFESSIONAL	\$271 per application plus actual cost for Historian review with \$1,500 deposit	271.00
PHASE 2 HISTORIC EVALUATION-HISTORIC RESOURCES BOARD REVIEW	\$1,579 per application plus actual cost for Historian review with \$1,500 deposit	1,579.00
APPEAL TO HISTORIC RESOURCES BOARD	\$2,120 per application plus actual cost for Historian review with \$1,500 deposit	2,120.00
MILLS ACT CONTRACT PROCESSING	\$3,584 per application	3,584.00
Determinations, Extensions and Appeals		
PLANNING COMMISSION CODE DETERMINATION	\$1,214 per application	1,214.00
ZONING COMPLIANCE DETERMINATION	\$573 per application	573.00
TIME EXTENSION - STAFF	\$313 per application	313.00
TIME EXTENSION - PLANNING COMMISSION	\$907 per application	907.00
TIME EXTENSION - CITY COUNCIL	\$1,099 per application	1,099.00
PUBLIC HEARING CONTINUANCE - PLANNING COMMISSION	\$886 per continuance	886.00
PUBLIC HEARING CONTINUANCE - COUNCIL	\$938 per continuance	938.00
APPEAL TO PLANNING COMMISSION	\$2,084 per appeal - Appeal in the Coastal Zone - No Charge by State law	2,084.00
APPEAL TO CITY COUNCIL	\$2,084 per appeal - Appeal in the Coastal Zone - No Charge by State law	2,084.00
Sign and Banners		
SIGN APPLICATION	\$281 per application	281.00
SIGN REFERRAL TO PLANNING COMMISSION	\$865 per application	865.00
RELOCATE EXISTING SIGN	\$182 per application	182.00
TEMPORARY SIGN PERMIT	\$104 per application	104.00
Building Services		
BUILDING RELOCATION	\$1,938 per application	1,938.00
LARGE FAMILY DAY CARE (RESIDENTIAL)	\$761 per application	761.00
GENERAL PLAN UPDATE	3.5% of all Building & Safety permits	
PLANNING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.	
BUILDING PLAN CHECK	Based on Building and Safety Construction Valuation	
BUILDING INSPECTION	Based on Building and Safety Construction Valuation	
BUILDING RE-INSPECTION	\$146 per re-inspection	146.00
PERMIT APPLICATION EXTENSION	\$94 per extension (maximum of 4)	94.00
PERMIT EXTENSION	\$146 per extension (maximum of 2)	146.00
BUILDING PERMIT PRE-APPLIC. CONFER.	\$318 per application	318.00
BUILDING SINGLE TRADE PERMIT	\$167 per permit	167.00
ON-SITE DRIVEWAY PERMIT	\$271 per permit	271.00
SOLAR PLAN CHECK/INSPECTION PERMIT	Plan Check - \$318	318.00
	Inspection - \$135	135.00
RE-ROOF PERMIT	\$255 per permit	255.00
BUILDING BOARD APPEAL	\$1,052 per appeal	1,052.00
DUPLICATE INSPECTION CARD	\$63 per card	63.00
BUILDING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.	
STOP WORK INVESTIGATION	\$568 per investigation plus double the permit fee	568.00
TEMPORARY CERTIFICATE OF OCCUPANCY	\$224 per application	224.00
ALTERNATE MATERIALS/METHODS REVIEW	\$214 per application plus actual cost of City Staff for all time over one hour.	214.00
BUILDING PHASED WORK REQUEST	\$302 per application	302.00
LANDSCAPE PLAN CHECK/INSPECTION	\$281 per plan/inspection	281.00
BUILDING TECHNOLOGY SURCHARGE	\$8 per permit	8.00
Bench Program		

Resolution 2023-041 (Pending City Council Approval April 7, 2023)

PROPOSED FEE SCHEDULE EFFECTIVE JULY 3, 2022 - JUNE 30, 2023		Proposed Fee
NEW BENCH LOCATION	\$964 per application plus the actual cost of the bench and plaque (plus 20% for future maintenance) plus \$1,325 if a public hearing is required.	964.00
ADOPTION OF EXISTING BENCH	\$313 per application plus the actual cost of the bench and plaque (plus 20% for future maintenance) plus \$580 if a public hearing is required.	313.00
REPLACEMENT OF BENCH PLAQUE	\$406 per application plus the actual cost of the plaque plus \$380 if a public hearing is required.	406.00
Encroachment Permits		
TEMPORARY ENCROACHMENT PERMIT	\$219 per permit	219.00
PERMANENT ENCROACHMENT PERMIT	Street Excavation - \$766 per permit and \$4.25/lineal foot	766.00
	Other - \$432 per permit and \$4.25/lineal foot or \$432 per permit and \$2.13/lineal foot (aerial installation) Plus cost of damage to public right-of-way or street as determined by the Public Works Director.	432.00
TRAFFIC CONTROL PLAN REVIEW/INSPECTION	\$370 per review plus \$210 per each additional review	370.00
USE OF ELECTRONIC PAYMENT (ONLINE)	3.5% OF CHARGED AMOUNT (New!)	
USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT 3.5% OF CHARGED AMOUNT	
PUBLIC WORKS/FORESTRY		
TREE REMOVAL PERMIT	\$255 per tree removal assessment (initial Forester assessment); \$340 per permit for removal of 1-5 trees; \$585 per permit for removal of 6 or more trees	255.00
TREE PRUNING REQUEST	\$255 per permit	255.00
PRUNING OR REMOVAL OF CITY TREE USING PRIVATE FUNDS UNDER CITY FORESTER INSTRUCTIONS	No permit fee required	-
TREE APPEAL TO FOREST & BEACH COMMISSION	\$1,485 per appeal plus actual outside costs	1,485.00
TREE APPEAL TO CITY COUNCIL	\$1,485 per appeal plus actual outside costs	1,485.00
PRIVATE TREE FALL IN PUBLIC RIGHT-OF-WAY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
DAMAGE TO CITY PROPERTY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
USE OF ELECTRONIC PAYMENT (ONLINE)	3.5% OF CHARGED AMOUNT (New!)	
USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT 3.5% OF CHARGED AMOUNT	
PUBLIC SAFETY		
Police Services		
LOUD PARTY PUBLIC DISTURBANCE RESPONSE	First Response - No Charge	-
	Second Response the same day - \$208 per response	208.00
	Third Response within a calendar year - \$521 per response	521.00
POLICE FALSE ALARM RESPONSE	First Activation - \$104	104.00
	Second Activation - \$125	125.00
	Each Subsequent Activation in a calendar year - \$188	188.00
ALARM PERMIT	New - \$36 per permit	36.00
	Renewal - \$26 per permit	26.00
VEHICLE IMPOUND RELEASE	\$146 per vehicle	146.00
MISDEMEANOR BOOKING	Non-Carmel bookings - \$156 per booking	156.00
MISCELLANEOUS POLICE PERMIT	\$193 per application plus DOJ fees	193.00
FINGERPRINTING ON REQUEST	\$36 plus outside agency fees	36.00
CLEARANCE FORM TRAVEL LETTER	\$52 per letter	52.00
VIN VERIFICATION	\$52 per vehicle	52.00
CITATION SIGN-OFF	Non-Carmel citations - \$26 per citation	26.00
SIGN ABATEMENT	\$26 per sign	26.00
POLICE COURT WITNESS	Fees are set by the court	
POLICE REPORT COPY	1st 10 pages - No Charge, Each additional page - \$0.20	0.20

Resolution 2023-041 (Pending City Council Approval April 7, 2023)

PROPOSED FEE SCHEDULE EFFECTIVE JULY 3, 2022 - JUNE 30, 2023		Proposed Fee
POLICE PHOTOGRAPH COPY	photo - \$5 per photo, digital - \$5 per disk	5.00
Animal Services		
ANIMAL IMPOUND	Within a calendar year: First impound - \$104 Second impound - \$125 Third and subsequent impounds - \$146	- 104.00 125.00 146.00
ANIMAL TRANSPORT	Local Transport - \$26 per transport To County Animal Shelter - \$94 per transport	26.00 94.00
Parking		
RESIDENT/EMPLOYEE PARKING PERMIT	\$31 per permit	31.00
	\$115 Misuse of Residential Permit	115.00
CONTRACTOR PARKING PERMIT	\$16 non specific	16.00
	\$26 space specific	26.00
Fire Services		
FIRE PLAN CHECK/ REVIEW/INSPECTIONS	Current fee schedule as adopted by City of Monterey Council	
USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
ADMINISTRATIVE SERVICES		
Business License		
NEW BUSINESS REGISTRATION PROCESS	Fixed Location - \$323 per application + \$4 State fee In & About - \$21 per application Home License - \$135 per application	323.00 21.00 135.00
BUSINESS REGISTER RENEWAL PROCESS	\$16 per renewal	16.00
DUPLICATE BUSINESS LICENSE	\$10 per license	10.00
CHANGE BUSINESS NAME	\$21 per business	21.00
Finance		
NSF CHECK PROCESSING	\$42 per NSF check	42.00
City Clerk		
DOCUMENT REPRODUCTION/SCANNING	First 10 copies - No Charge Additional copies - \$0.20 per copy FPPC copies - \$0.10 per copy plus \$5 for retrieval of documents if more than five years old plus postage cost if mailed	- 0.20 0.10
ELECTRONIC FILE COPY	\$5 per device	5.00
DOCUMENT CERTIFICATION	\$10 per document	10.00
RECORD COMPILATION	Record Compilation/Creation - charge the fully allocated hourly rate for all personnel involved plus any outside costs.	
LOCAL CANDIDATE FILING	\$25 per candidate- Fee is set by the State	25.00
LOCAL INITIATIVE PROCESSING	\$200 per initiative- This fee is limited by the State Law - Elections Code Section 9202(b) - Fee is refundable to the filer, if within one year of filing the notice of intent, the elections official certifies the sufficiency of the petition.	200.00
USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	



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

April 4, 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 a Mills Act Contract Application, MA 21-238 (L' Auberge Carmel Hotel), submitted by Mr. David Fink on behalf of Esperanza Carmel Commercial, LLC for the L' Auberge Carmel Hotel located on Monte Verde Street 2 northeast of 7th Avenue in the Residential and Limited Commercial (RC) Zoning District - Continued from December 6, 2022

RECOMMENDATION:

Accept the recommendation of the Historic Resources Board, and Approve the Mills Act Historical Property Contract MA 21-238 (L' Auberge Carmel) for the historic "Sundial Lodge" now known as the L' Auberge Carmel Hotel located on Monte Verde Street 2 northeast of 7th Avenue (APN 010-191-005) and authorize the City Administrator to execute the contract.

BACKGROUND/SUMMARY:

The project site is located on Monte Verde Street 2, northeast of 7th Avenue in the Residential and Limited Commercial (RC) District. The existing hotel is known as L' Auberge Carmel. It is a three-story, wood-framed hotel surrounding an open interior courtyard, designed by architect Albert Farr in the Medieval Revival style and constructed circa 1930 by M.J. Murphy.

A Department of Parks and Recreation (DPR) Form 523A was completed for the property in 2002 by Kent L. Seavey (Attachment 1, Exhibit B), and the property was added to the Carmel Inventory on May 25, 2005. A Resolution Designating a Historic Resource for the "Sundial Lodge" was recorded with the County Recorder on October 19, 2006 (Document #2006092967).

On July 2, 2021, on behalf of Esperanza Carmel Commercial, LLC, David Fink applied for a Mills Act Historical Property Contract. The Mills Act is an incentive program for owners of historic resources listed on the Carmel Inventory and the local Register of Historic Resources. The property was placed on the local register on September 15, 2003, and the local inventory on May 25, 2005.

On January 24, 2022, the Historic Resources Board adopted Resolution 2022-001-HRB (Attachment 2), recommending that the City Council enter into a Mills Act Contract with Esperanza Carmel Commercial, LLC for the historic "Sundial Lodge" property.

Contract Value

The Monterey County Assessor's Office determines the value of a property under Mills Act Contract in accordance with sections 439 through 439.4 of the Revenue and Taxation Code. Properties with a Mills Act Contract are not valued based on sales data but by a prescribed income capitalization method (Attachment 3). After the City Council approves a Contract, it is forwarded to the Monterey County Assessor, who determines the Mills Act value.

On March 1, 2022, the Mills Act contract application for L'Auberge Carmel was presented to the City Council with a recommendation to adopt Resolution 2022-024 and enter into a Mills Act contract. Government Code Section 36936 requires three yes votes to adopt a resolution. The mayor and one council member were recused from the item, requiring the three remaining Councilmembers to vote in the affirmative to pass the Resolution.

During deliberations, concerns were raised regarding the tax implications of entering into the contract, and on a motion to adopt the Resolution, the motion failed by a 2-1 vote. Staff was directed to return to the Council for reconsideration without a Resolution.

Members of the Council also requested that staff obtain a preliminary calculation of Mills Act Contract value to understand the potential local tax revenue offset. The Assessor's Office typically does not provide preliminary amounts, but in this case, agreed to give an estimate if staff could provide recent income information for the business.

On August 2, 2022, Staff returned to the City Council without a Resolution and without a preliminary calculation of the Mills Act Contract value. At the meeting, the applicant, Mr. Fink, requested that the City Council continue the item to give him additional time to work with the County on a preliminary calculation. Staff returned to the City Council on December 6, 2022 and the item was again continued.

Staff discussed the Council's request for additional information on numerous occasions with Mr. Fink and also researched the formula for the calculation and provided this information to the Council. If the Council is unable to find that *approval of the contract represents an equitable balance of public and private interests and will not result in a substantial adverse financial impact to the City*, the Council could deny the request. Staff is bringing forward the recommendation of the Historic Resources Board to approve the request.

STAFF ANALYSIS

A Mills Act contract under State law is an agreement between the City of Carmel and a property owner of an historic building listed on the Carmel Register. The property owner benefits from a reduction in property taxes, and the City is assured that the historic building is rehabilitated, maintained and preserved. All Mills Act contracts shall be established, processed and approved in conformance with California law. The primary purpose for offering Mills Act contracts in the City of Carmel-by-the-Sea is to assist in the rehabilitation or restoration and long-term maintenance of historic resources.

All properties listed on the City's Historic Register in all districts that have been, and will be, preserved in their historic size, form and design without significant alterations or additions are eligible for Mills Act contracts.

All Mills Act contracts shall have a term of 10 years and one year shall be added to this term annually upon each anniversary date of the contract unless one or both parties have taken action to terminate the contract. The City Administrator shall be authorized to initiate contract termination on behalf of the City based on recommendations of the Department. The contract rights and obligations are binding upon all successive owners of the property during the life of the contract. The property retains the lower Mills Act tax rate when the property is sold. To end a contract, either party may submit a notice of nonrenewal to the other party. Such notices shall cause the contract

to terminate at the end of the then-current 10-year contract period. Cancellation of a contract by the City due to noncompliance requires a public hearing and, if cancelled, results in the immediate termination of the contract and a penalty equal to 12.5 percent of the assessed market value of the property.

The contract will require that the historic elements of the property are maintained in good condition. This will include a plan for rehabilitation and maintenance and may include a program to restore deteriorated elements. All recipients of Mills Act contracts are required to implement a rehabilitation/restoration and maintenance plan prepared by a qualified professional and to submit an annual report to the Department specifying all work that has been done to maintain and preserve the historic resource over the year in compliance with the approved rehabilitation/restoration and maintenance plan. All rehabilitation/restoration and maintenance work shall be completed in conformance with the Secretary of Interior's Standards for Rehabilitation. All Mills Act contracts shall specify that the rehabilitation/restoration and maintenance plan shall be updated at least every 10 years by a qualified professional and approved by both parties.

One of the duties and powers of the Historic Resources Board is to advise the City Council on proposed Mills Act contracts. On January 24, 2022, the Historic Resources Board adopted Resolution 2022-001-HRB (refer to Attachment 2), recommending that the City Council enter into a Mills Act Contract with Esperanza Carmel Commercial, LLC for the historic "Sundial Lodge" property.

The City Council considers the recommendation from the Historic Resources Board at a public hearing and resolves to approve, approve with conditions, or deny the proposed contract with sufficient time for action by the City Clerk so that recordation of approved contracts occurs before December 31st of the year in which the application is received.

To approve a Mills Act contract, both the Historic Resources Board and the City Council must make all of the following findings:

i. The building is designated a historic resource by the City and is listed on the Carmel Register.

Staff Response: The property was designated as a historical resource on May 25, 2005, and a Resolution was recorded with Monterey County on October 19, 2006. According to a September 15, 2003 staff report to the Historic Preservation Committee, the property was voluntarily placed on the local historic inventory by then-owner Auberge Carmel, LLC, represented by Mr. David Fink. The application meets this finding.

ii. The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficiently detailed long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.

Staff Response: The proposed plan includes rehabilitation and maintenance activities that will protect the integrity of the resource by replacing aging infrastructures such as plumbing and heating, ventilation, and air conditioning systems and repairing character-defining features such as the original wood windows. On-going maintenance activities include foundation inspections, roof maintenance, cleaning and inspecting all chimneys and flues, and termite testing. All exterior modifications are subject to Design Review approval and a determination of consistency with the Secretary's Standards. Therefore, the application meets this finding.

iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:

(A) Comply with the Secretary's Standards (future additions only); and

(B) Do not significantly alter, damage or diminish any primary elevation or character-defining feature; and

- (C) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and
- (D) Do not result in any second-story addition to a single-story historic resource.

Staff Response: After purchasing the property in 2002, Mr. Fink applied to the City to remodel the hotel. The renovation was reviewed by Ms. Sheila McElroy of Circa: History Property Development for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties. The renovation was consistent with the Secretary's Standards by the Historic Preservation Committee and did not include any increase in floor area. The hotel's primary elevation and character-defining features were preserved, and the Planning Commission approved the project. The application meets this finding.

iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource.

Staff Response: Construction was completed on the hotel circa 1930 and renovated 20 years ago. A rehabilitation and maintenance plan prepared by Mr. Christopher Barlow, AIA, EDAC, LEED AP, NCARB, with input from historic preservation professional Mr. Kent Seavey, proposes the following rehabilitation work: replace existing plumbing throughout the building; replace the existing heating, ventilation, and air conditioning systems; repair and rehabilitate existing windows for thermal performance; and, repair and replacement of insulation. Proposed maintenance activities include foundation inspections and repairs; exterior paint; roof maintenance; cleaning, inspecting, and repairing chimneys and flues; and termite testing/treatment (refer to Attachment 1, Exhibit C). The total cost of rehabilitation and maintenance is estimated to be \$850,000 over the next ten years. The savings in property taxes would aid in offsetting these costs. The application meets this finding.

v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in a substantial adverse financial impact on the City.

Staff Response: Approval of the Mills Act Contract would be consistent with Goal 1-5 and Objective 1-16 of the Land Use & Community Character Element of the General Plan, which encourages providing incentives for property owners to preserve and rehabilitate historic resources. Although the adoption of a Mills Act Contract would decrease property tax revenue to the City, the financial impact would be minimal because:

- 1) The City Council adopted Resolution 2016-068 on September 13, 2016, limiting the number of Mills Act Contracts approved to fifteen (15) in three calendar years. On March 3, 2020, the Council reviewed the policy and determined that 15 contracts over 3 calendar years remained appropriate. During calendar years 2020-2022, a total of four (4) Mills Act contracts were approved.
- 2) Carmel currently has $\pm$ 283 historic resources. Since the adoption of the Mills Act program in 2004, the City has entered into a total of fourteen (14) Mills Act Contracts.
- 3) The City would continue to receive a portion of the property tax revenue. Additionally, the investment in rehabilitation and maintenance of the historic hotel would further support local tourism, which benefits both private and public interests.
- 4) The value of preserving the historic hotel offsets the loss of property tax revenue.

FISCAL IMPACT:

The City will have a diminished tax base from the property at Monte Verde 2 northeast of 7th Avenue for the contract term. The amount is unknown at this time.

PRIOR CITY COUNCIL ACTION:

On March 3, 2020, the City Council adopted standard contract language for Mills Act Contracts. The City Council history of reviewing this application is discussed in the Background/Summary section above.

ATTACHMENTS:

Attachment 1 - Standard Mills Act Contract 04.04.23

Attachment 2 - Resolution 2022-001-HRB

Attachment 3 - Guidelines for the Assessment of Enforceably Restricted Historical Property

Attachment 4 - Photos of the exterior

RECORDING REQUESTED BY
CITY OF CARMEL-BY-THE-SEA

AND WHEN RECORDED MAIL TO

Carmel City Hall
Attn: Community Planning & Building
P.O. Box CC
Carmel-By-The-Sea, CA 93921

This space reserved for the Recorder's use only

CITY OF CARMEL-BY-THE-SEA
MILLS ACT HISTORIC PROPERTY PRESERVATION CONTRACT

THIS AGREEMENT is made and entered by and between the CITY OF CARMEL-BY-THE-SEA a municipal corporation (hereinafter referred to as "City"), and ESPERANZA CARMEL COMMERCIAL, LLC (hereinafter referred to as "Owner").

RECITALS

- (i) California Government Code Section 50280, et seq. (known as the Mills Act) authorizes cities to enter into contracts with the owners of qualified historic properties to provide for their appropriate use, maintenance, and restoration such that these historic properties retain their historic characteristics;
- (ii) The Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at Monte Verde 2 northeast of 7th Avenue (APN: 010-191-005), Carmel-By-The-Sea, California, (hereinafter referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as "**Exhibit A**" and is incorporated herein by reference;
- (iii) The property is identified as a historic resource on the City of Carmel-By-The-Sea's Historic Inventory and Register of Historic Resources and is further described in the DPR 523A Form attached hereto, marked as "**Exhibit B**" and is incorporated herein by reference;
- (iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, as it exists at the date of this contract and as described in the City's Register of Historic Resources and the National Register of Historic Places, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. **INCORPORATION OF RECITALS.** All recitals are incorporated into this Agreement.
2. **EFFECTIVE DATE AND TERM.** This Agreement shall be effective and commence on the date the Agreement is signed by the City unless otherwise indicated by the County of Monterey and shall remain in effect for a minimum term of ten (10) years thereafter.
3. **AUTOMATIC RENEWAL.** Each year, upon the anniversary of the effective date of this Agreement (hereinafter referred to as “annual renewal date”), one (1) year shall be added automatically to the term of this Agreement, unless timely notice of nonrenewal is given as provided in paragraph 4 of this Agreement. The total length of the contract shall not exceed twenty (20) years.
4. **NOTICE OF NONRENEWAL.** If City or Owner desires in any year not to renew this Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of this Agreement as follows: Owner must serve written notice of nonrenewal at least ninety (90) days prior to the annual renewal date; City must serve written notice of the nonrenewal at least sixty (60) days prior to the annual renewal date. If notice is not received, the Agreement shall automatically be renewed for another year. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. At any time prior to the annual renewal date, City may withdraw its notice of nonrenewal.
5. **EFFECT OF NOTICE OF NON-RENEWAL.** If either City or Owner serves timely notice of nonrenewal in any year, and this contract is not renewed, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last annual renewal date.
6. **FEES.** The City may require that the Owner(s) of the Historic Property pay a fee that shall not exceed the reasonable cost of providing services, such as inspections, pursuant to Government Code Section 50281.1 (Article 12 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code), for which the fee is charged.
7. **VALUATION OF PROPERTY.** During the term of this Agreement, Owner is entitled to seek an assessment of the valuation of the Historic Property pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
8. **PRESERVATION OF PROPERTY.** Owner shall preserve and maintain the characteristics of historical significance of the Historic Property and agrees to complete rehabilitation and/or maintenance activities as defined in the Rehabilitation/Restoration and Maintenance Plan attached as “Exhibit C”. Requests for revisions to the Maintenance and

Rehabilitation plan shall be reviewed by the Historic Resources Board prior to implementation. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance (CMC 17.32). Owners shall not be permitted to further impede any view corridor with any new structure, including but not limited to walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

9. **RESTORATION OF PROPERTY.** Owner shall, where necessary, restore and rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, U. S. Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the City of Carmel-by-the-Sea, all as amended.
10. **INSPECTIONS.** Owner shall allow periodic examinations, at least every five (5) years, with reasonable notice thereof, of the interior and exterior of the Historic Property by representatives of the County of Monterey Assessor and the City of Carmel-By-The-Sea as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. The City will coordinate inspections by such other agencies that have jurisdiction and will keep them to the minimum necessary to determine such compliance.
11. **PROVISION OF INFORMATION.** Owner shall furnish City with any and all information required by City, in order to determine the eligibility of the Historic Property, and that City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
12. **ANNUAL REPORT.** Owner shall submit an annual report at least 90 days prior to each annual renewal date (October 1st) to the Department of Planning and Building specifying all work that has been done to maintain and preserve the historic resource over the preceding year in compliance with the approved maintenance plan.
13. **CANCELLATION.** The City has the right to cancel the contract if the owner allows the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City also has the right to cancel this contract if the owner(s) breaches the provisions of paragraphs # 8, 9, 10, or 12 of this Agreement after the City has provided reasonable notice of any failure to comply with the agreement and a public hearing. Notice of the hearing shall be mailed to the last known address of each owner of the property, with the notice conforming to the provisions of Government Code section 6061., If after notice and a hearing, the contract is canceled, termination of the Agreement is immediate, and the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the Monterey County Assessor as though the property were free of the contractual restriction. The cancellation fee shall be paid to the Assessor, at the time and in the manner that the Assessor shall prescribe. City's right to cancel this Agreement pursuant to this paragraph

shall in no way limit or restrict its rights or legal remedies arising from City's Historic Preservation Ordinance and Municipal Code.

14. **ENFORCEMENT OF AGREEMENT.** In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement.
15. **WAIVER.** City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All remedies at law or in equity, which are not otherwise provided for this Agreement or in City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
16. **BINDING EFFECT OF AGREEMENT.** Owner hereby subjects the Historic Property to the covenants, reservations, and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who executed the Agreement.
Each and every contract, deed, or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations, and restrictions expressed in this Agreement regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument. City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations, and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.
17. **NOTICE.** Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: Carmel-By-The-Sea
Community Planning & Building Department
Attn: Community Planning & Building Director
P.O. Box CC
Carmel-By-The-Sea, CA 93921

Owner: Esperanza Carmel Commercial, LLC
 PO Box 134
 Carmel, CA 93921

Notice to successors in interest to either party shall be sent to the appropriate address. In the case of future Owner(s) of the Historic Property, notice shall be sent to the address on file with the county property tax office in power at the time.

18. **RECORDATION.** No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded under state law.
19. **STATE LAW.** The Owner or agent of Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.
20. **GOVERNING LAW; VENUE.** This Agreement shall be constructed and governed in accordance with the laws of the State of California. Should either party to this agreement bring legal action against the other, the case shall be handled in Monterey County, California and the party prevailing in such action shall be entitled to a reasonable attorney fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment together with all costs.
21. **AMENDMENTS.** This agreement may be amended in whole or in part, only by a written-recorded instrument executed by the parties hereto.
22. **DESTRUCTION OF PROPERTY; EMINENT DOMAIN; CANCELLATION.** If the Historic Property is destroyed by an earthquake, fire, flood, or another natural disaster such that in the opinion of the City Building Official more than sixty percent (60%) of the original fabric of the structure must be replaced, this Agreement shall be canceled because the historic value of the structure will have been destroyed. If the Historic Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of this Agreement, this Agreement shall be canceled. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if the Agreement is canceled pursuant to this paragraph. Such Agreement shall be null and void for all purposes of determining the value of the property so acquired.
23. **INDEMNIFICATION.** Owner shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any

federal, state or local government agency, arising out of or incident to the direct or indirect use, operation, or maintenance of the Historic Property by Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) Owner's activities in connection with the Historic Property; and (iii) any restriction on the use of development of the Historic Property, from application or enforcement of the City's Municipal Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of the City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

- 24. SEVERABILITY.** In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

IN WITNESS THEREOF, the City and Owners have executed this Agreement on the day and year this Agreement is signed by the City unless otherwise indicated by the County of Monterey.

CITY OF CARMEL-BY-THE-SEA:

By: _____

Date: _____

Name: Richard L. Rerig ("Chip")

Title: City Administrator

PROPERTY OWNER(S):

By: _____

Date: _____

Name: Patrice Pastor

Esperanza Carmel Commercial, LLC

Title: Property Owner

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DPR 523A FORM for 'Sundial Lodge'

EXHIBIT C
REHABILITATION/RESTORATION AND MAINTENANCE PLAN

LEGAL DESCRIPTION

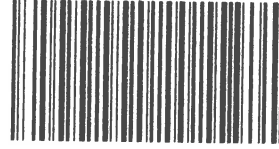
Real property in the City of Carmel, County of Monterey, State of California, described as follows:

LOTS 18 AND 20 IN BLOCK 74, AS SAID LOTS AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED, MAP OF "CARMEL-BY-THE-SEA, MONTEREY COUNTY, CALIFORNIA", FILED 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 TOWN", AT PAGE 2.

APN: 010-191-005

Return to:
Carmel City Hall
Post Office Drawer G
Carmel, CA 93921
Attention, Brian Roseth

DOCUMENT: 2006092967



Titles: 1/ Pages: 1

Fees: . . .
Taxes: . . .
Other: . . .
AMT PAID _____

RESOLUTION

DESIGNATING AN HISTORIC RESOURCE

The Department of Community Planning and Building of the City of Carmel-by-the-Sea completed intensive survey work, received approval from the California Coastal Commission and made an Administrative Determination that the property identified below meets the criteria for an historic resource as established in the City's General Plan, the Municipal Code and the Local Coastal Program for Carmel-by-the-Sea.

Based on this determination, effective 25 May 2005, the Department of Community Planning and Building resolved to designate the property described below as a local resource on the Carmel Inventory of Historic Resources.

This Resolution/Administrative Determination is recorded pursuant to section 5029(b) of the California Public Resources Code that requires the City to record all historic resource determinations. This action also is taken in furtherance of the Local Coastal Program certified by the California Coastal Commission and implemented by the City of Carmel-by-the-Sea Ordinances No. 2004-01 and 2004-02.

Assessor's Parcel Number: 010191005000

Block: 74 **Lot(s):** ALL LOTS 18 AND 20

Current Owner: AUBERGE CARMEL LLC

Street Location: E/S MONTE VERDE BET. OCEAN & 7TH

It is the purpose of this Resolution/Administrative Determination to alert the owner, successors and assigns to the existence of an historic resource on the property. This historic resource is protected under laws of the State of California and of the City of Carmel-by-the-Sea including the California Coastal Act, the California Public Resources Code, the Carmel-by-the-Sea Municipal Code and the Local Coastal Program. Specific regulations affecting remodels, alterations, additions and demolitions can be found in the City of Carmel-by-the-Sea planning documents referenced above.

Certified by:

Brian Roseth,
Principal Planner, Carmel-by-the-Sea

END OF DOCUMENT

PRIMARY RECORD

Primary # _____ Attachment 1 _____
HRI # _____
Trinomial _____
NRHP Status Code 581
SPI
Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 3

Resource Name or #: (Assigned by recorder) *Sundial Lodge*

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 _____ Date _____ T _____ ; R _____ ; 1/4 of _____ 1/4 of Sec _____ ; B.M. _____

c. Address: _____ City *Carmel by-the-Sea* Zip *93921*

d. UTM: (Give more than one for large and/linear resources) _____ ; _____ mE/ _____ mN

e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

2 NE of 7th, E/side Monte Verde (Blk 74, Lots 18, 20)

Parcel No. *010-191-005*

P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

A three-story, wood-framed hotel, rectangular in plan w/an open interior courtyard, resting on a concrete foundation. The exterior wall cladding is a smooth cement stucco, w/a rough textured veneer on the first floor of the west facing facade, built-up and scored as stone, in an ashlar pattern. The steep-pitched hipped roof is covered in a fiberglass, or cementitious shingle. The roof-planes on the north and south sides of the interior court extend down to the first floor level, and have a series of hipped roof dormers looking into the courtyard below. Four on the north side, and three on the south side. There are five interior type stucco-clad false chimneys on the intersecting roof system. Two appear on the west facing facade, one in the ridge line just north of the main entry, and the second just south of the main entry, placed in the roof-plane on the east side of this elevation. The one to the south has a pair of decorative chimney pots. Two more false chimneys appear centered in either side-elevation, both on the interior roof-planes, facing the open courtyard. The fifth chimney in on the ridge line of the east (rear) elevation, toward the SE cr. of the building. There are two towered components of the west facing facade. One at the SW cr is flush w/the building envelope and has a steeply-pitched pyramidal roof, w/as small dormer window facing west. The second, toward the NW cr. of the facade is one bay wide, and projects slightly over the ground floor. It also has a steeply-pitched pyramidal roof, but w/out a dormer window.

P3b. Resource Attributes: (List attributes and codes) *HP5 - Hotel/Motel*

P4. Resources Present ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)



P5b. Description of Photo: (View, date, accession #)
Looking NE at the west facing facade, 11/9/01, #9219-5

P6. Date Constructed/Age and Sources

☐ Prehistoric ☒ Historic ☐ Both

1930 Carmel bldg. records

P7. Owner and Address

*Daiki (USA) Corporation
55 5th Street
San Francisco, CA 94103*

P8. Recorded by: (Name, affiliation, and address)

*Kent L. Seavey
Preservation Consultant
310 Lighthouse Ave.
Pacific Grove, CA 93950*

P9. Date Recorded: *12/5/2002*

P10. Survey Type: (Describe)

Carmel Historic resource Inventory - 2001

P11. Report Citation: (Cite survey report and other sources, or enter "none")

Carmel by-the-Sea Survey 1989-1996

Attachments

☐ NONE ☒ Continuation Sheet ☐ District Record ☐ Rock Art Record ☐ Other: (List) _____
☐ Location Map ☒ Building, Structure, and Object Record ☐ Linear Feature Record ☐ Artifact Record
☐ Sketch Map ☐ Archaeological Record ☐ Milling Station Record ☐ Photograph Record

BUILDING, STRUCTURE, AND OBJECT RECORD

Page 2 of 3

NRHP Status Code

5S1

Resource Name or #: (Assigned by recorder) *Sundial Lodge*

B1. Historic Name: *Sundial Court*

B2. Common Name:

B3. Original Use: *hotel*

B4. Present Use: *hotel*

B5. Architectural Style: *Medieval revival (Czechoslovakian source)*

B6. Construction History: (Construction date, alterations, and date of alterations)

Constructed 1930 (Cbp# 2231); interior alterations 1947 (Cbp# 2248); repair interior fire damage 1956 (Cbp# 2849); foundation work 1956 (Cbp# 2848); subdivide interior offices 1957 (Cbp# 3072); enlarge lobby 1968 (Cbp# 4861); add restaurant 1978 (78-19); interior remodel 1982 (Cbp# 82-52); interior remodel 1989 (Cbp# 89-216)

B7. Moved? ☒ No ☐ Yes ☐ Unknown Date:

Original Location:

B8. Related Features:

B9a. Architect: *Albert Farr*

b. Builder: *M.J. Murphy*

B10. Significance: Theme: *Architectural & Economic Development*

Area: *Carmel by-the-Sea*

Period of Significance: *1903-1940* Property Type: *hotel*

Applicable Criteria: *CR3*

(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

The Sundial Lodge is significant under California Register criteria 3, in the area of architecture as one of the few remaining visitor accomodating facilities from the late 1920s and early 1930s that essentially maintains its original exterior appearance. It is also significant as the work of noted San Francisco architect Albert Farr. The design inspiration was that of Allen Knight, one of Carmel's most colorful figures. knight was an inveterate traveler, and had seen such buildings on a visit to eastern Europe. In 1929 a *Carmel Pine Cone* article on the proposed hotel noted that, "the architecture is European, probably more Bohemian than of any other national type, and fits in well with Carmel's general scheme". This referred to the concentration of Medieval influenced romantic revival commercial buildings in the general area of Monte Verde, Ocean Ave. & Lincoln that had helped define Carmel as a village in a forest during the 1920s. Other architectural influences from southern Europe were at work as well in the commercial district, adding to the eclectic character of the community. Allen Knight would later serve as both city councilman and mayor of Carmel.

Architect Albert Farr was a specialist in domestic architecture in the San Francisco Bay Area. His most well known commission was "Glen Allyn" in Sonoma County, the first home of Jack London. He had worked in the offices of Clinton Day and the Reid Bros. before going into practice on his own.

Michael J. Murphy was the builder. Murphy was one of the earliest and most prolific builders in Carmel, constructing as many as 350 structures in the village during his long career, from about 1902 to the early 1940s. He is credited with establishing the residential look of Carmel during the important period of development between 1904 and the mid 1920s. It is probable that much of the material for the Sundial Court came from Murphy's local building supply company. Noted artist Henrietta Shore used one of the commercial spaces on the north side of the building as her painting studio during the 1940s.

B11. Additional Resource Attributes: (List attributes and codes) *HP5 - Hotel/Motel*

B12. References:

Carmel bldg. records, Carmel Planning Dept., City Hall, Carmel
Carmel Historic Context Statement 1997

Fremier, Allene, *Allan Knight, Beloved Eccentric*, Boxwood
Press: Pacific Grove, 1984

Sanborn fire insurance maps of Carmel 1930-1930-62

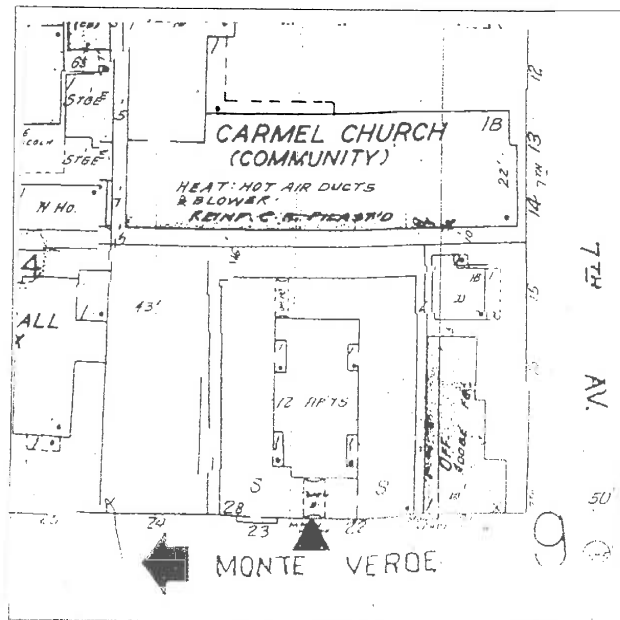
Albert Farr. Obit.. *American Architect*. Oct. 1946

B13. Remarks: *Zoning RC*
CHCS (AD/ED)

B14. Evaluator: *Kent Seavey*

Date of Evaluation: *12/5/2002*

(This space reserved for official comments.)



CONTINUATION SHEET

Primary # _____ Attachment 1

HRI # _____

Trinomial _____

Page 3 of 3 Resource Name or #: (Assigned by recorder) Sundial Lodge

Recorded by: Kent L. Seavey

Date 12/5/2002

☒ Continuation ☐ Update

P3. There is also a slightly projecting gabled bay on the facade, at the inside cr. of the tower to the SW. This feature has four exposed decorative brackets at its base. There are two tiny eyebrow vents in the roof-plane of the west (front) elevation, evenly spaced between the projecting bays, close to the eave line. The current gutter system conceals the exposed rafter-tails at the eave line. The first floor of the hotel, along Monte Verde was designed as retail space, and is characterized by wide, segmentally arched bays, paired on either side of the central round arched entry. The windows in the these bays are large, multi-paned glazed panels w/thick muntins. There are central doorways in the two bays closest to the hotel's arched entry passage. The bays to the south of the entry are capped by flase voussiers. A raised decorative Gothic ogee molding w/acorn details at its peak and ends, caps the principal entry. Fenestration is otherwise irregular w/a combination of single, paired and banked multi-paned wood casement type, w/planked wood shutters. The casement windows along the exterior of the building on the north, south and east elevations lack muntins, while the windows opening onto the interior courtyard do have them. This as per the original 1930 specifications, on file w/the Planning Dept.. The central windows in the third story of the west facing facade, above the entry, originally had diamond paned leaded glass windows, but now are single paned. The only other apparent change to the fenestration is the appearance of several wooden window boxes along the west facing facade. The interior court rises in a series of terraces, connected by open steps, all covered in red brick decking. The perimeter of the courtyard is planted w/low shrubbery and flower beds, w/deck furniture placed about. There is a round arched cloth canopy fronting the central entry, that does not appear in the original drawings. All in all the hotel looks essentially as it did when construted in 1930. Of interest is the fact that architect Farr had originally intended to use some false half-timbering on the building, but for some reason, probably economic, canceled their use in a change order attached to the original specifications.

B10. The Sundial Court was conceived and realized by one of Carmel's most colorful figures, Allen Knight. His ideas were realized by noted San Francisco architect Albert Farr, and the work was executed by Carmel's premier master-builder M.J. Murphy. The design of the building was clearly in keeping with the desired "old world" ambiance established in the lower portion of the business district in the early 1920s, to maintain the aesthetic sense of the place as a village in the forest. The success of that venture is visible today. That there has been little change to the exterior appearance of the Sundial Lodge is a credit to its designers who's understanding of the creative, individual and eclectic nature of the village continues to be appreciated for its aesthetic qualities, and economic benefits to the community. Sundial Lodge clearly reflects the findings of, and is consistant with the 1997 Carmel Historic Context Statement under the themes of architectural and economic development.

City of Carmel	
Mills Act Rehabilitation and Maintenance Plan	
Property Address:	Monte Verde St. at Seventh Ave.
Owner Name:	L'Auberge Carmel / David Fink
Owner Telephone No.:	(831) 917-2322
Plan Prepared by: Christopher Barlow AIA, EDAC, LEED AP, NCARB	

L'Auberge Carmel, Monte Verde Street and Seventh Ave, Carmel-By-The-Sea, California					
Mills Act Rehabilitation and Maintenance Plan					
Maintenance/ Rehabilitation	Completed/ Proposed	Year of Completion	Building Feature	Description of Work	Cost
STRUCTURAL UPGRADES					
Maintenance	Proposed	2029	Foundation	Foundation Inspection and localized repairs (as needed)	\$30,000
Structural Upgrades Subtotal					\$30,000
BUILDING SYSTEMS UPGRADES					
Rehabilitation	Proposed	2022	Plumbing	Replace existing aged interior plumbing piping throughout building	\$95,000
Rehabilitation	Proposed	2024	Mechanical	Repair and replace existing Heating, Ventilation and Air Condition system(s)	\$175,000
Building Systems Upgrades Subtotal					\$270,000
EXTERIOR AND INTERIOR FEATURES, MATERIALS, AND FINISHES					
Maintenance	Proposed	2027	Exterior walls	Paint exterior of all exterior walls (every six years)	\$45,000
Maintenance	Proposed	2022-2032	Exteriors	Maintain Roof, Clean Chimneys/Flues, Inspect and seal plaster (annually)	\$150,000
Rehabilitation	Proposed	2022	Windows	Conduct exterior window condition assessment and provide survey of repairs	\$10,000
Rehabilitation	Proposed	2023	Windows	Repair and Rehabilitate existing Windows for increased thermal performance	\$115,000
Rehabilitation	Proposed	2028	Roof, Ext. walls	Insulation repairs and replacement	\$75,000
Maintenance	Proposed	2030	Wood, thruout	Termite testing and repairs	\$75,000
Exterior and Interior Features Upgrades Subtotal					\$470,000
HARDSCAPE AND LANDSCAPE					
Rehabilitation	Proposed	2025	Hardscape	New drainage at courtyard (currently surface drainage only, see photo 16)	\$45,000
Rehabilitation	Proposed	2026	Hardscape	Retaining Wall repair at existing stairs and property line (see photo 15)	\$35,000
Exterior and Interior Features Upgrades Subtotal					\$80,000
Completed Work Total					\$0
Proposed Work Total					\$850,000
REHABILITATION AND MAINTENANCE TOTAL					\$850,000

Note: Frequency of Repairs continues beyond 2032 based on interval proposal.

Note: Dollar amounts will be review at 10 year intervals and adjusted for inflation.

**CITY OF CARMEL-BY-THE-SEA
HISTORIC RESOURCES BOARD**

HISTORIC RESOURCES BOARD RESOLUTION NO. 2022-001-HRB

**A RESOLUTION OF THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA
RECOMMENDING THAT THE CITY COUNCIL ENTER INTO A MILLS ACT CONTRACT WITH ESPERANZA
CARMEL COMMERCIAL, LLC FOR THE PROPERTY LOCATED ON MONTE VERDE 2 NORTHEAST OF 7TH
AVENUE ALSO KNOWN AS L'AUBERGE CARMEL
APN 010-191-005**

WHEREAS, David Fink ("Applicant") submitted an application on behalf of Esperanza Carmel Commercial, LLC requesting to enter into a Mills Act contract (MA 21-238, L'Auberge Carmel) described herein as ("Application"); and

WHEREAS, the Application has been submitted for the property located on Monte Verde 2 northeast of 7th Avenue Residential and Limited Commercial (R-C) District (Block 74, Lots 18 & 20); and

WHEREAS, the Applicant is requesting to enter into a Mills Act contract with the City and in accordance with Carmel Municipal Code (CMC) Section 17.32.100.B.6 (Review Process), the HRB shall consider the application and make recommendations to the City Council to approve, approve with conditions, or deny the application; and

WHEREAS, the agenda for the Historic Resources Board Meeting was posted in three locations on January 21, 2022 in compliance with State law indicating the date and time of the public hearing; and

WHEREAS, on January 24, 2022, the Historic Resources Board held a public meeting to consider the application for a Mills Act contract, including without limitation, information provided to the Historic Resources Board by City staff and through public testimony; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the Board at the January 24, 2022 meeting 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 facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that the Historic Resources Board of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the **Mills Act Contract**:

<u>FINDINGS REQUIRED FOR A MILLS ACT CONTRACT</u>		
For each of the required findings listed below, staff has indicated whether the application supports adoption of the findings. For all findings checked "no" the staff report discusses the issues to facilitate the Historic Resources Board decision-making. Findings checked "yes" may or may not be discussed in the report depending on the issues.		
CMC 17.32.100.B.6.c	YES	NO
i. The building is designated as an historic resource by the City and is listed on the Carmel Register.	✓	
ii. The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.	✓	
iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that: (A) Comply with the Secretary's Standards (future additions only); and (B) Do not significantly alter, damage or diminish any primary elevation or character-defining feature; and (C) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and (D) Do not result in any second-story addition to a single-story historic resource.	✓	
iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource..	✓	
v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.	✓	

BE IT FURTHER RESOLVED that the Historic Resources Board of the City of Carmel-by-the-Sea does hereby recommend that the City Council approve a Mills Act Contract (MA 21-238, L'Auberge Carmel) for the property located on Monte Verde 2 northeast of 7th Avenue (APN 010-191-005).

PASSED, APPROVED AND ADOPTED BY THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA this 24TH day of January, 2022, by the following vote:

AYES: CHROMAN, DYAR, GUALTIERI, HALL, POMEROY

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Erik Dyar
Chair

Margi Perotti
Historic Resources Board Secretary

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 • FAX 916 323-8765
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CLAUDE PARRISH
Third District, Long Beach

JOHN CHIANG
Fourth District, Los Angeles

STEVE WESTLY
State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

June 2, 2005

No. 2005/035

O COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

**GUIDELINES FOR THE ASSESSMENT OF
ENFORCEABLY RESTRICTED HISTORICAL PROPERTY**

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1¹ (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

¹ Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that

follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.
- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.
- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:
 1. Based upon market data, estimate the percentage of total property value attributable to improvements.
 2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent ($0.05 \times 0.70 = 0.035$).
 3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.
- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date² or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

² Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.³

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

Supplemental assessment; limitation. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

³ National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.
4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.
5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)**Subject Restricted Historical Property**

Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
\$1,500 per month x 12 months =		\$18,000
Less: Anticipated vacancy and collection loss		
\$18,000 x 5%		<u>- 900</u>
Effective gross income		\$17,100
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	<u>- 2,100</u>
Net Operating Income		\$15,000

Restricted Capitalization Rate

Rate Components:

Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	<u>.149</u>

Restricted Value	
\$15,000 ÷ .149	= <u>\$100,671</u>

Taxable Value—Three-Way Value Comparison

Restricted value	\$100,671
Factored base year value (based on prior change in ownership)	\$357,000
Current market value (based on comparable sales)	\$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$93,671 (\$100,671 restricted value less the homeowners' exemption of \$7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)**Subject Restricted Historical Property**

Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):

Offices	140,000 sf @ \$1.75/sf = <u>\$245,000</u>	
	x 12 months	= \$2,940,000

Less: Anticipated vacancy and collection loss

\$2,940,000 x 5%	<u>- 147,000</u>

Effective gross income

\$2,793,000

Less: Anticipated operating expenses

Management	\$290,000

Maintenance	95,000

Insurance	75,000

Utilities	360,000

Janitorial	+ <u>140,000</u>	<u>- 960,000</u>

Net Operating Income

\$1,833,000

Restricted Capitalization Rate

Rate Components:

Interest component	.08

Risk	.02

Property tax (ad valorem)	.011

Amortization (50-year remaining life; improvements

constitute 75% of total property market value

0.02 x 0.75 = 0.015)	+ <u>.015</u>	<u>.126</u>

Restricted Value

(\$1,833,000 ÷ .126)	= \$14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	\$14,547,619

Factored base year value (based on prior change in ownership)	\$18,191,077

Current market value (based on comparable sales)	\$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be \$14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)**Subject Restricted Historical Property**

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data

\$975 per month x 12 months = \$11,700

Less: Anticipated vacancy and collection loss

\$11,700 x 5% - 585

Effective gross income \$11,115

Less: Anticipated operating expenses

Grounds maintenance \$300

Fire insurance 200

Management Fee 180

Water and garbage 120

Building maintenance + 250 - 1,050

Upper-Level Net Operating Income \$10,065

Restricted Capitalization Rate (owner-occupied SFR)

Rate components:

Interest rate .080

Risk .040

Property tax .010

Amortization (50-year remaining life; improvements

constitute 70% of total property market value;

0.02 x 0.70 = 0.014) + .014 .144

Upper-level Restricted Value (\$10,065 ÷ .144) = \$69,895

Lower-Level Offices

Gross income (Fair rent)

1000 sf @ \$1.60/sf = \$1,600 x 12 months \$19,200

Less: Anticipated vacancy and collection loss

\$19,200 x 5% - 960

Effective gross income \$18,240

Less: Anticipated operating expenses		
Grounds maintenance	\$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		\$17,190

Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	.124
Lower Level Restricted Value ($\$17,190 \div .124$)		\$138,629
Add: Upper Level Restricted Value		+ \$69,895
Total Restricted Value		\$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	\$208,524
Factored base year value (based upon prior change in ownership)	\$364,140
Current market value (based upon comparable sales data)	\$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$201,524 (\$208,524 less the homeowners' exemption of \$7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)**Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)**

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
\$2,000 per month x 12 months =		\$24,000
Less: Anticipated vacancy and collection loss		
\$24,000 x 5%		- 1,200
Effective gross income		\$22,800
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		= \$20,700

Restricted Capitalization Rate

Rate components:		
Interest component	.080	
Risk (owner-occupied)	.040	
Property tax (ad valorem)	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value		
0.02 x 0.70 = 0.014)	+ .014	.144
Restricted Value (\$20,700 ÷ .144)		= \$143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBV or current market value of unrestricted portion)

Restricted Value (portion under contract)	\$143,750
FBV (unrestricted portion)	+ \$102,000
Restricted Value (total property)	\$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	\$204,000
8 acres (unrestricted portion)	+ \$102,000
Total FBV (total property)	\$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	\$230,000
8 acres (unrestricted portion)	+ <u>\$120,000</u>
Total Current Market Value (total property)	\$350,000

The lowest of the three values is the Restricted Value (total property), \$245,750. Thus, the net taxable value would be \$238,750 (\$245,750 less \$7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)**Description of Subject Restricted Historical Property**

The same property as in Example 2, except the property owner has served notice of nonrenewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	\$14,547,619
Current market value	\$21,000,000
Factored base year value	\$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	\$18,191,077
Restricted value	<u>- 14,547,619</u>
Difference	\$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	<u>x .591898</u>
	= \$ 2,156,555
Plus restricted value	<u>+ \$14,547,619</u>
Restricted value in nonrenewal status—lien date January 1, 2005	\$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, \$16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.

L'AUBERGE CARMEL

1 Monte Verde Street at Seventh Ave.



Photo #1, Main façade looking South along Monte Verde



Photo #2, Main façade looking North along Monte Verde

Photos by Jenna Tyndall from Wald, Ruhnke and Dost Architects (June 28, 2021)



Photo #3, North elevation looking from City Hall parking lot



Photo #4, Partial South elevation looking from Seventh Avenue



Photo #5, radial plaster cracking at Southwest building corner



Photo #6, holes in foundation, plaster and tile at Southwest corner



Photo #7, hairline cracking in plaster above double windows by main entry



Photo #8, radial cracking in plaster above main entry doors.



Photo #9, holes in foundation near Northwest building corner



Photo #10, cracked step/foundation at Northwest building corner



Photo #11 window sill at North side of building



Photo #12, bent/damaged flashing at second level opening



Photo #10, weathered/oxidized roofing at central courtyard



Photo #11, damaged rafter tails at roof as seen from courtyard



Photo #12, rotted supports at exterior planter box

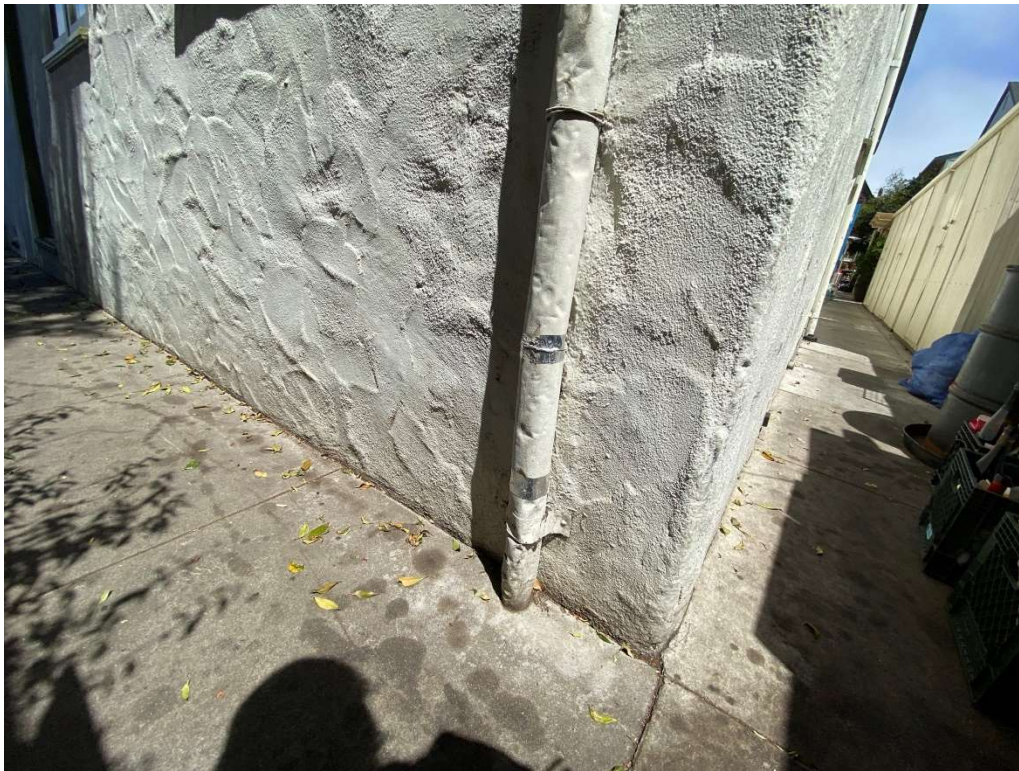


Photo #13, damaged downspout (typical condition at perimeter)



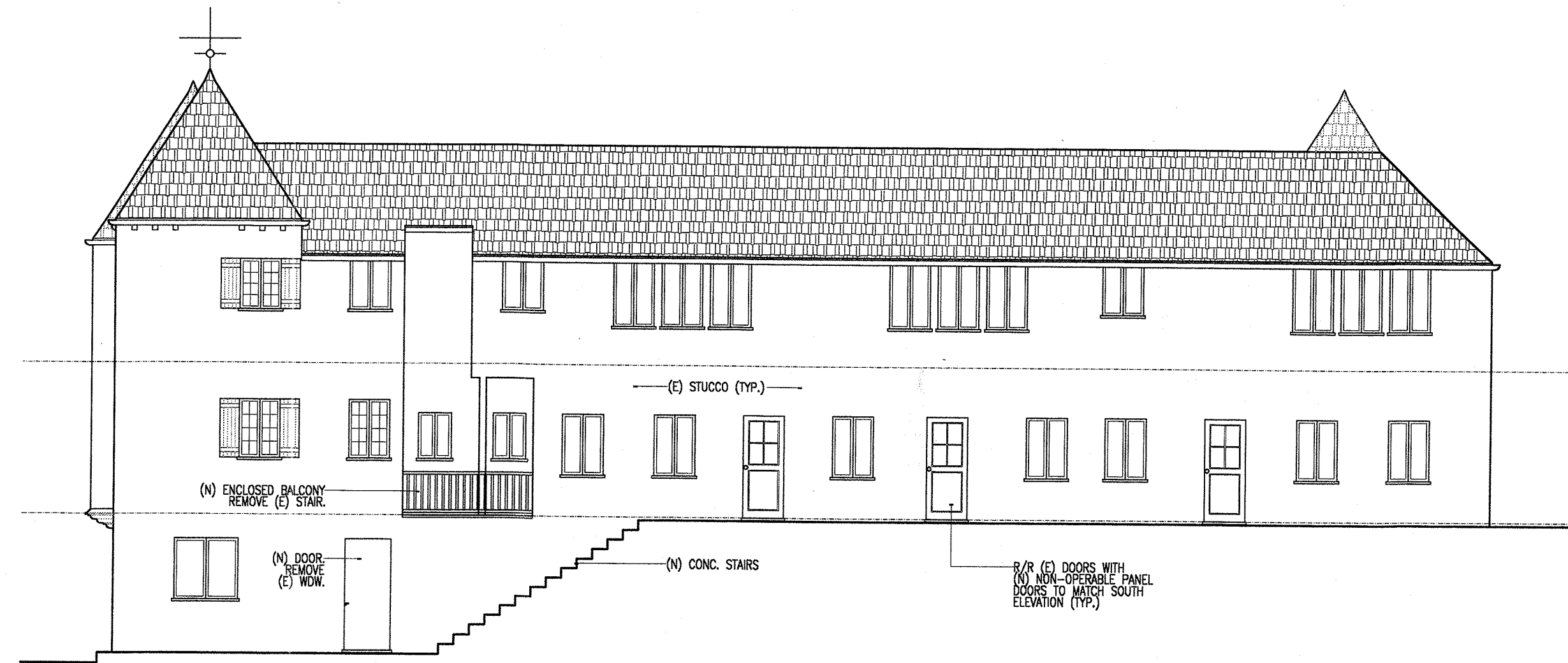
Photo 14, Water damage at upper-level balcony



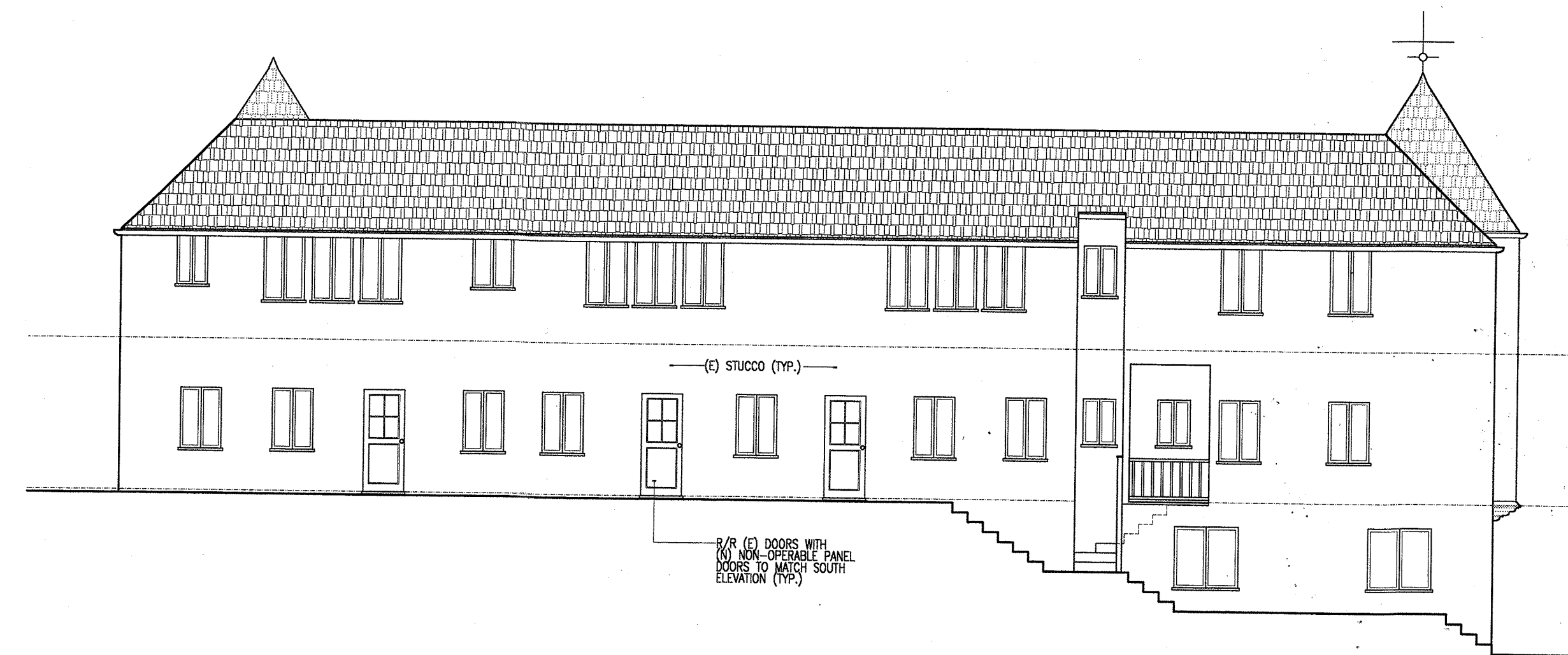
Photo 15, Existing retaining wall



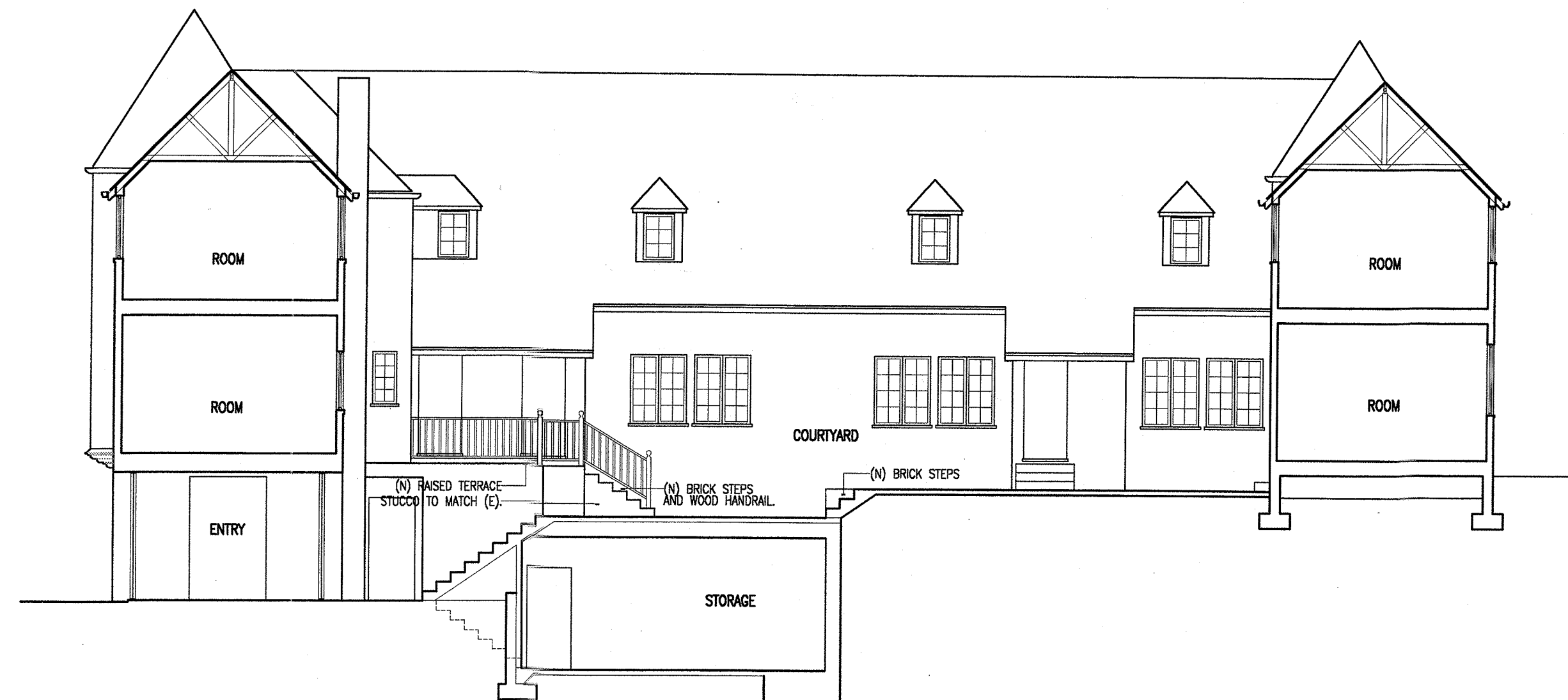
Photo 16, temporary surfact drainage at courtyard



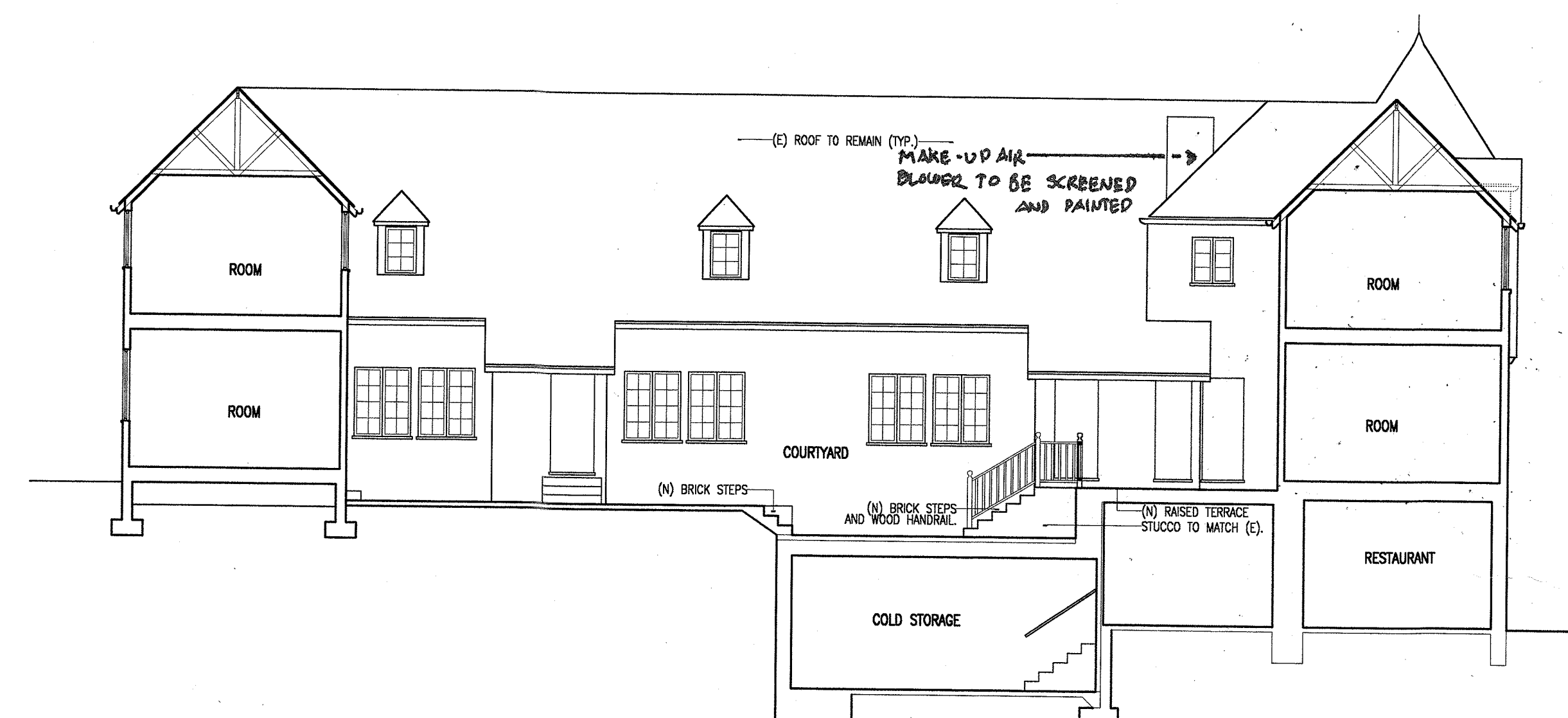
SOUTH ELEVATION



NORTH ELEVATION



SECTION 'A' AND SOUTH COURTYARD ELEVATION



SECTION 'B' AND NORTH COURTYARD ELEVATION

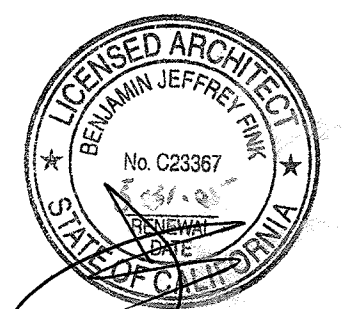


SECTION 'C' AND EAST COURTYARD ELEVATION



WEST ELEVATION

NOTE:
REMOVE ALL EXTERIOR CONDUIT WHERE POSSIBLE.



REVISIONS

1	OCTOBER 22, 2003
2	
3	
4	
5	
6	

jeff fink and associates, architecture
1421 BLAIR LANE TUSTIN, CA 92780
tel 714 832-4103 fax 714 832-9185

AUBERGE CARMEL
CARMEL, CALIFORNIA

SECTIONS AND ELEVATIONS

SCALE: 1/8" = 1'-0"
APRIL 10, 2003