

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

**REGULAR MEETING
TUESDAY, OCTOBER 22, 2013
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS - None

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON OCTOBER 8, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON OCTOBER 8, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 AWARD OF CONTRACT FOR THE PROJECT NO. MB-2013-S4: 2013 STREET REHABILITATION PROGRAM: 3-LAYER CAPE AND MICROSURFACING PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Award the project contract to the lowest responsible bidder.

A-4 AWARD OF CONTRACT TO SOUZA CONSTRUCTION, INC. OF SAN LUIS OBISPO, CA FOR THE PROJECT NO. MB-2013-S1: 2013 STREET REHABILITATION PROGRAM- DIG-OUT AND PAVEMENT REPLACEMENT PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Award the Project contract to Sousa Construction, Inc. in the amount of \$402,585.

A-5 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR AN OFF-SALE BEER AND WINE CONVENIENCE MARKET LOCATED AT 845 EMBARCADERO SUITE D; (POLICE)

RECOMMENDATION: Approve Resolution 50-13.

A-6 RESOLUTION NO. 51-13 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU), LOCAL 620, MISCELLANEOUS AND HARBOR SAFETY EMPLOYEES, AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 51-13, approving the Memorandum of Understanding with SEIU, Local 620.

A-7 ADOPTION OF RESOLUTION NO. 52 -13 APPROVING THE REAL ESTATE AGREEMENT FOR THE SALE OF CITY-OWNED VACANT LOT PROPERTY ON THE CORNER OF CORAL AVENUE AND SAN JACINTO STREET WITH A STREET ADDRESS OF 2783 CORAL AVENUE IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 52-13 approving the Real Estate Agreement for the sale of City-owned property at on the corner of Coral Avenue and San Jacinto Street with a street address of 2783 Coral Avenue in Morro Bay, California.

B. PUBLIC HEARINGS

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 583; REPEALING, AMENDING, AND REENACTING CHAPTERS 14.01-14.12 AND 14.52 OF THE CITY OF MORRO BAY MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION); (PUBLIC SERVICES)

RECOMMENDATION: Introduce for first reading by number and title only, Ordinance No. 583; repealing, amending, and reenacting Chapters 14.01-14.12 and 14.52 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2013 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

B-2 ZONING TEXT AMENDMENT A00-015 DRAFT SIGN ORDINANCE (MUNICIPAL CODE SECTION 17.68); (PUBLIC SERVICES)

RECOMMENDATION: Open the public hearing and receive testimony; and, direct staff to prepare an environmental document based on the draft Sign Ordinance as forwarded by the Planning Commission on September 4, 2013 and return with the environmental document and the draft Sign Ordinance for the first reading on December 10, 2013.

C. UNFINISHED BUSINESS

C-1 AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSAL (RFP) FOR A RATE STUDY FOR WATER & SEWER RATES WITH ADDITIONAL BACKGROUND INFORMATION; (PUBLIC SERVICES)

RECOMMENDATION: Prepare and issue an RFP and award a contract for the analysis of Water and Sewer rates for potential adjustments, in accordance with the City's Consultant Hiring Policy.

C-2 REVIEW AND CONFIRM THE MASTER PLANNING PROCESS FOR THE NORTHERN WATERFRONT IMPROVEMENT PLAN; (RECREATION & PARKS)

RECOMMENDATION: review the history and progress of the Northern Waterfront Improvement Plan (NWIP) and direct staff to continue with the Park Master Planning process.

D. NEW BUSINESS

D-1 MULTI-HAZARD EMERGENCY RESPONSE PLAN AND EMERGENCY OPERATIONS CENTER REVIEW; (FIRE)

RECOMMENDATION: Review and file.

D-2 AUTHORIZATION TO ENTER INTO RENEGOTIATION OF LEASE TERMS AND CONDITIONS FOR LEASE SITE 53-56/53W-56W LOCATED AT 501 EMBARCADERO (ESTERO LANDING INC., KEN SCOTT); (HARBOR)

RECOMMENDATION: Provide staff direction, staff is recommending Alternative A.

D-3 REPORT ON RESULTS OF OBTAINING OUTSIDE INDEPENDENT LEGAL COUNSEL; (MAYOR)

RECOMMENDATION: Receive and file.

D-4 DISCUSSION REGARDING PARKING IN-LIEU FEES IN THE DOWNTOWN AREA; (CITY ATTORNEY)

RECOMMENDATION: Review the staff report and Resolution 39-08 and provide direction regarding Parking In-Lieu Fees in the Downtown Area.

D-5 DISCUSSION OF ITEMS TO PLACE ON THE JOINT CITY COUNCIL/PLANNING COMMISSION MEETING; (PUBLIC SERVICES)

RECOMMENDATION: Discuss and direct staff to agendaize items for the Joint City Council/Planning Commission Meeting scheduled for Tuesday, October 29, 2013.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION. MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
OCTOBER 8, 2013
CITY HALL CONFERENCE ROOM – 5:00PM

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment

Jay and Mereline Coakley, spoke stating that they have been negotiating back and forth with Harbor Director Eric Endersby. They realize that 30 years is not in concrete and if they can get 15 years, they could accept that. If only 15 years though, they don't want to be held responsible for putting in a sprinkler system as they don't feel that would be fair. To date they have spent over \$120,000 in improvements.

Sandy Bean stated that the Marina has been on the market and she has potential buyers. They want to keep the Marina the way it is but also want to beautify it somewhat. The buyers are hesitant to step into a water lease that may jeopardize their private property. It is also very difficult to get a loan on any property with this kind of situation. The buyers want to mitigate the way the City wants to.

The Public Comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 GOVERNMENT CODE SECTION 54956.8: PROPERTY TRANSACTIONS:

Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two parcels.

- **Property: Lease Site 30W-33W; Bay Front Marina, Water Lease Adjacent to 201 Main Street**

Negotiating Parties: Coakley and City of Morro Bay

Negotiations: Lease Terms and Conditions

- **Property: 307 Morro Bay Blvd.**

Negotiating Parties: Ford-Durrer, dba Grandma's Frozen Yogurt & Waffle Shop
and City of Morro Bay

Negotiations: Lease Terms and Conditions

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; City Attorney, Rob Schultz reported that no reportable action under the Brown Act was taken.

ADJOURNMENT

The meeting adjourned at 5:50pm.

Recorded by:

Jamie Boucher
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 8, 2013
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Services Director
	Kathleen Wold	Planning Manager
	Erik Berg-Johansen	Planning Intern

Mayor Irons called the meeting to order at 6:00 p.m.

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – City Attorney Robert Schultz reported that City Council met in a Special Closed Session on October 8, 2013 on the following item: Government Code Section 54956.8: Property Transactions: Instructing City’s real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two parcels: Lease Site 30W-33W, Bay Front Marina (Water Lease adjacent to 201 Main Street); and, 307 Morro Bay Blvd.; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS -None

PUBLIC COMMENT

John Elliott, the new owner of Mikes Barbershop, announced his Grand Opening on Friday, October 11th featuring food and entertainment. Opened originally on December 6, 1941, it was sold to Mike Dominguez in 1960 who owned it until recently when John purchased it. John’s

goal is to make the barbershop a green barbershop. The shop is open Monday thru Saturday from 9am-5pm. John is also heavily invested in the community already sponsoring local youth sports teams and donating to many worthy causes. He hopes people will stop by this Friday.

Steve Ekis sits on the Board of Directors of the Morro Bay Pups. He invited the public to the Pups in the Park 2013 event being held this Saturday, October 12th from 11am-3pm. The purpose of the event is to celebrate the tremendous success of the Jody Giannini Dog Park. He also applauded the Recreation & Parks staff who have been extraordinary to work with.

Rick Grantham thanked Council for their support of the upcoming Veteran's Event. He also announced the Thanksgiving Day Dinner being held at the Community Center on Thanksgiving Day, serving from 1-3pm. He thanked the many sponsors. The event will feature a full dinner with live entertainment. He also spoke on Item B-3, Draft Sign Ordinance, wanting to publicly thank his fellow Planning Commissioners for their hard work on this project.

Liz Bednorz, owner of Beach House Bistro spoke on Item B-3, Draft Sign Ordinance hoping that neon signs advertising their business will be allowed to be on while they are open during the day. She read the document and sees a lot of confusion and little nit-picking throughout. She also feels that feather flags and/or A-framed signs are a necessity to the success of her business as they are in a place with little foot traffic and hoped that Council and staff would address this.

Tim Crowley stated that he is very angry, as he can't believe that a recall is being brought forward. He feels there is no cause for this to happen and is totally against it. He feels the Mayor has done nothing wrong and that those in favor of it should just wait until the June election.

Janice Peters served on the Council for a total of 14 years and never in that time has she seen a Mayor granted complete autonomy to search, interview and enter into a contract without any oversight or review by other Councilmembers or City staff. She questioned its legality as well as definitely feels it is unethical and lacks transparency. She spoke specifically to Councilmembers Christine Johnson and Smukler, as the two councilmembers who voted in favor of this item, that they have the right to request a reconsideration of that motion at this meeting and hopes that they do. She stressed that the Mayor sets the agenda and runs the meeting but each Councilmember has equal voting power.

Kathy Welles stated that she watched Andrea Lueker receive an award for being the great City Manager she has been. She stated that this seems like a circus. Both Andrea and Rob Schultz have been wonderful employees of the City.

Lynda Merrill read a letter written by her husband. The letter stated that the motives of those calling for the recall seem highly suspect because their stated grounds don't seem truthful and that the whole exercise seems like unruly politics. This is another of the expensive divisions that we in Morro Bay are tired of. He urged people not to sign the recall.

Julie Loving spoke on Item B-2, regarding the Appeal of Staff's Authorization of a Fence on City Owned Property, stating that good fences make good neighbors. The Burtons were allowed

to put the fence up. She stated that in that area, dogs run around freely and there are people in and out of the Roandoak facility all the time; it's a good thing to keep the Burtons separate from all of that as they have 2 young boys. This process was done legally and she doesn't understand why there's a problem with it.

Walter Heath has confidence in the Mayor and of the intelligence of the Morro Bay voters. He urged the Morro Bay voters not to sign the recall petition. He went on to read the rules of public comment which states that all remarks should be addressed to council as a whole and not to any individual member thereof and asked anybody speaking to adhere to that. He was deeply offended by the September 12, 2013 meeting.

Susan Stewart announced that Botso Korisheli was featured on the front page of the SLO Life Magazine. She stated that Morro Bay, as a City, supported the development of this movie. It is now playing at the Palm before moving up to the Carmel Film Festival. This puts Morro Bay on the map in a good way.

Garry Johnson spent the weekend at the Harbor Festival as a photographer. It was a wonderful event. He questioned whether or not City Attorney Rob Schultz had been offered a job in another City which he didn't take as his evaluation with Morro Bay had been positive. He wondered whether Mr. Schultz would have taken it had he known that this possible termination proceeding would have happened. He also spoke about the recall stating that we have 2 wonderful employees; he wishes the recall didn't have to happen and hopes that Council reconsiders their thoughts of termination.

Bill Peirce took offense to a previous speaker's use of the phrase "carefully orchestrated". He stated that on September 12th, there was no organized group of people; they were there because they were mad and they were concerned. He also stated that miraculously flyers have cropped up, talking about the cost of the recall which he deems, carefully orchestrated.

Amy Perry spoke in support of the Mayor. She is outraged by the recall. She strongly urges the public not to sign the recall petition but instead let your voice be heard at the June election.

Carla Wixom stated that at the last City Council meeting, you violated your own Resolution, which states that you will do RFP's when seeking to hire contractors which a law firm is a contractor. She also feels that the Council's Policies and Procedures were also violated. She said that the flyer that has been handed out stated that it could cost the City over \$50,000 for the recall; she wanted to say that it could also cost as little as \$1,000 for a recall election because it would be lined up with the primary.

Joan Solu spoke representing the Morro Bay Community Foundation. The MBCF works on behalf of the Recreation & Parks Department's Youth Services and Sports programs offering monetary scholarships for youth who qualify under the reduced or free meal program through the San Luis Coastal Unified School District. They are holding their major fundraiser on Saturday, November 9th at the Community Center – Morro Bay Sings Elvis. She especially thanked the Galley who is providing the dinner. Every child deserves the opportunity to play.

Jane Heath heard somebody say that the recall petition will go on the June ballot. She clarified that Morro Bay doesn't have a primary in Morro Bay; they have a general election in June with the possibility of a run-off in November. She questioned the wisdom of a recall that might be on the same ballot that the Mayor will run for election. The \$54,000 cost, if the recall occurs in a special election, comes out to \$8/voter. If the recall occurs in June, then she is confused, why would you go to all that trouble when the Mayor is running for election at that time?

John Diodati stated that it could cost \$54,000 for a recall election; June is when we have our normal election so why have a recall election and have our normal election at the same time. He stated that this is about divisive politics which is all the recall proponents care about. There is zero tolerance for this type of politics in Morro Bay. The recall petition states that the Mayor has allegedly proof read and edited staff reports; that is not a recallable offence. It was reported that the outgoing City Council allegedly increased compensation without notice in a closed session which is a recallable offence. He wondered what the real agenda of the recall proponents is.

Bob Keller supports the Mayor and Council and is against the recall. He asks his fellow Morro Bay residents to not sign the recall. It will be costly, time consuming and wasteful. Also, it will only divide the City. We can vote in June and let the majority rule. He also wants to encourage the City to be more bike friendly, we need more bike racks.

The Public Comment period was closed.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 12, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 PROCLAMATION DECLARING OCTOBER 6-12, 2013 AS FIRE PREVENTION WEEK; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 PROCLAMATION DECLARING OCTOBER 20-26, AS FREEDOM FROM WORKPLACE BULLIES WEEK; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 REVIEW AND APPROVE THE PUBLIC ART PROPOSAL FOR A MARBLE SCULPTURE TO BE LOCATED IN FRONT OF THE MORRO BAY SENIOR CENTER; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the proposal from Ann Marie Schnezler by artist Crissa Hewitt in memory of Nicole Poucel which includes the design and installation of a marble sculpture at the Morro Bay Senior Center; located at 1001 Kennedy Way; Staff recommends Alternative 1.

A-7 AUTHORIZATION TO FILE NOTICE OF COMPLETION PROJECT NO. MB-2010-PD1: WIRELESS COMMUNICATIONS UPGRADES; (PUBLIC SERVICES)

RECOMMENDATION: File the Notice of Completion for Wireless Communications Upgrades.

A-8 CONSIDERATION OF AMENDMENT OF SECTION 2.2 OF THE CITY COUNCIL POLICIES AND PROCEDURES REGARDING MEMBERS RECEIVING UNEXPENDED MONTHLY DOLLARS FROM THE COST OF THEIR MEDICAL PLANS; (ADMINISTRATION)

RECOMMENDATION: Return to the City Council with a Resolution amending the City Council Policies and Procedures, Section 2.2, striking the language that currently allows Council members from receiving any unexpended monthly dollars from the cost of their medical plan.

A-9 APPROVAL OF RESOLUTION 49-13 FOR LEASE AGREEMENT FOR LEASE SITE 82-85/82W-85W; 725 EMBARCADERO (ROSE'S LANDING, REDICAN); (HARBOR)

RECOMMENDATION: Approve Resolution No. 49-13 approving a new Lease Agreement for Lease Site 82-85/82W-85W, located at 725 Embarcadero, with 725 Embarcadero LLC, owned by Doug Redican.

Mayor Irons opened up the public comment period for items on the Consent Calendar; seeing none, the public comment period was closed.

Councilmember Nancy Johnson pulled Items A-3 and Item A-8; Councilmember Smukler pulled Items A-1, A-2, A-6 and A-9; and Mayor Irons pulled Item A-4 from the Consent Calendar.

MOTION: Councilmember Smukler moved the City Council approve Items A-5 and A-7 of the Consent Calendar as presented. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

A-4 PROCLAMATION DECLARING OCTOBER 6-12, 2013 AS FIRE PREVENTION WEEK; (ADMINISTRATION)

Mayor Irons pulled Item A-4 to read the Fire Prevention Week Proclamation.

MOTION: Councilmember Christine Johnson moved for approval of Item A-4 as presented. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 12, 2013; (ADMINISTRATION)

A-2 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

Councilmember Smukler pulled the minutes based on an email received. Out of an abundance of caution, he doesn't feel it is prudent to approve the minutes until we've had a chance to resolve any issues that have been raised regarding these meetings.

MOTION: Councilmember Smukler moved to postpone approval of Item A-1 until we have time to have a discussion with outside legal counsel. The motion was seconded by Councilmember Christine Johnson and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

Discussion was held regarding this motion with Councilmember Nancy Johnson stating that the minutes are a record of what happened, and not a judgment. They are the clear representation of what happened at the meeting, whether it was legal or not is an entirely different issue.

Councilmember Christine Johnson is willing to support the continuance, she too is cautious and the public can still access them from the City's website via the October 8, 2013 agenda packet.

MOTION: Councilmember Smukler moved to approve Item A-2 as presented. The motion was seconded by Mayor Irons and carried unanimously 5-0.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

Councilmember Nancy Johnson stated that since she was not in attendance, she wants some clarification on Item A-7 and what went on at the meeting before the minutes were approved. Were Councilmember Leage's questions answered; Councilmember Christine Johnson referred to unusual circumstances, but those weren't defined; is Council also going to ask the outside

attorney to review the legality of the meeting last April where the Council majority voted to spend \$3500 on outside counsel.

MOTION: Councilmember Nancy Johnson moved not to approve the September 24, 2013 minutes until clarification to her questions can be given. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

A-6 REVIEW AND APPROVE THE PUBLIC ART PROPOSAL FOR A MARBLE SCULPTURE TO BE LOCATED IN FRONT OF THE MORRO BAY SENIOR CENTER; (RECREATION & PARKS)

Councilmember Smukler pulled this item to discuss the possible fiscal impact of \$2,000 as it relates to the significant public benefit. He asked staff if they felt comfortable that there is a nexus there - the City's work and expenditures and the benefit of the art project. Recreation & Parks Director Joe Woods stated that taking down the wall will create a more open and inviting atmosphere.

MOTION: Councilmember Smukler moved approval of the public art proposal with a request to staff to minimize the general fund expenditure. The motion was seconded by Councilmember Christine Johnson and carried unanimously, 5-0

A-8 CONSIDERATION OF AMENDMENT OF SECTION 2.2 OF THE CITY COUNCIL POLICIES AND PROCEDURES REGARDING MEMBERS RECEIVING UNEXPENDED MONTHLY DOLLARS FROM THE COST OF THEIR MEDICAL PLANS; (ADMINISTRATION)

Councilmember Nancy Johnson asked the Council for feedback on how they felt about the staff report and the alternatives given.

Councilmember Smukler stated that this came about in an effort on Council's part to drastically reduce what the Council's benefit package was. He felt at the time it was excessive and voted to reduce it to the level they are at now. Currently they receive a single coverage at the lowest level or get cash back, in that amount, to purchase your own. He agrees that this isn't very clean and can support Alternative #1.

MOTION: Councilmember Nancy Johnson moved for approval of Alternative #1 for agenda Item A-8. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

A-9 APPROVAL OF RESOLUTION 49-13 FOR LEASE AGREEMENT FOR LEASE SITE 82-85/82W-85W; 725 EMBARCADERO (ROSE'S LANDING, REDICAN); (HARBOR)

Councilmember Smukler pulled this item to give Harbor Director Eric Endersby the opportunity to explain the rationale behind the lease years and the investment connection.

Councilmember Leage had to recuse himself from the discussion due to the proximity of his property to the project location.

MOTION: Councilmember Smukler moved to approve Resolution 49-13 for the new lease agreement for lease site 82-85/82W-85W. The motion was seconded by Councilmember Nancy Johnson and carried 4-0-1 with Councilmember Leage having to recuse himself.

B. PUBLIC HEARINGS

B-1 APPEAL OF THE PLANNING COMMISSION DENIAL OF CP0-246 FOR THE DEMOLITION AND RECONSTRUCTION OF A SINGLE FAMILY RESIDENCE. (360 CERRITO PLACE, N. TURNER, APPELLANT/APPLICANT); (PUBLIC SERVICES)

Planning Manager Kathleen Wold presented the staff report.

Representing Ms. Turner on this project, Cathy Novak provided her presentation. Ms. Novak covered the permit and its history, the neighbor's appeal and the Planning Commission's actions. This project was originally approved administratively in October 2007 and was then appealed. The appeal raised 3 issues: overturn or postpone the appeal until after the court settled the boundary dispute; amend the project to include the sewer easement, removal of the rooftop fire pit and change the side setback interpretation; and, request to overturn the approval due to incompatibility. The appeal was heard by the Planning Commission in December 2007 and continued to a date uncertain. The owners settled their disputes and the court action was withdrawn in January 2009. Discussions and correspondence has been ongoing between staff and/or Ms. Turner and/or her architect for some time regarding the need for revised plans, as well as explanations as to why this process has taken so long. The project went to the Planning Commission on August 21st, where the Commission heard that the revised plan had been submitted to the City the day before but that staff hadn't had the time for review before the meeting. The Commission proceeded to uphold the appeal and deny the project as well as denied staff's recommendation for a continuance. At this point, the project is at a point that it doesn't make sense for Ms. Turner to start the process over again; in addition, Ms. Turner has provided justifiable reasons and sufficient information that the length of time this has taken has been out of her control. Since both parties have invested a considerable amount of time and effort, the only fair solution would be for the Council to remand this to the Planning Commission for a full public hearing per staff's recommendation. This would also give everyone the right to review and discuss the one project without needing to question whether it is old or revised.

Mayor Irons opened up the public comment period for Item B-1.

Alex Beattie lives in the neighborhood and today was the first time he's ever seen a notice. He feels that there needs to be a better job by the appellant in noticing the property. He knows that a couple of months ago, the Planning Commission voted unanimously to deny the project and as such, he feels you should stick with what the Planning Commission decided. They need to submit some clear information that the entire neighborhood can understand and react to.

Berta Parrish feels there has been inconsistency and bias surrounding this project. She feels that there are 2 values being threatened tonight - adherence to process and promotion of fairness to all parties. She feels they have had more than sufficient time to produce the documents requested by staff. The Planning Commission followed its processes perfectly even with the 3 continuances. The neighbors have received conflicting information, in fact the postcard they received for this hearing stated that the staff recommendation was to uphold the Planning Commission's decision and deny the project. She stated that a de novo hearing has never been used in Morro Bay and questioned whether or not we wanted to start now. She urged Council to uphold the Planning Commission's decision; a clean break is needed from this controversial project.

Amy Perry is completely confused. She received a notice regarding the Planning Commission denial. The neighbors are concerned we aren't being properly notified and they don't know what is going on.

Nancy Kerr is also confused but does believe that the Planning Commission's decision needs to be followed as they followed procedures.

The public comment period for Item B-1 was closed.

Councilmember Nancy Johnson stated that it seems like the logical thing to do would be to send the current project back to the Planning Commission and start all over again with the proper information and noticing. Give the project a fresh start.

Councilmember Smukler definitely has concerns about the process and how long this has been drawn out. His feeling is that we need to start over and need closure on the former process. The new proposal would have a fair representation and can remove itself from the stigma of the old proposal. The only way to do this would be to uphold the Planning Commission's findings and start the process over. He feels this would give the property owners a better chance.

Councilmember Leage has lots of confusion about this. He feels that sending it back to the Planning Commission would be the right course of action, let them figure it out.

Councilmember Christine Johnson stated that in her review of the staff report and the documentation, she feels strongly that the Planning Commission knew exactly what they were doing in denying the old project. It looks to her that it's not the same project as all 3 issues from before, seem like they've been resolved. She believes that the fresh start would be Alternative #1, to deny without prejudice and send it back to the Planning Commission.

Mayor Irons believes the Planning Commission ruled with all the information they had at their disposal. He supports Alternative #1, without prejudice.

MOTION: Councilmember Smukler moved approval of Alternative #1, to uphold the Planning Commission decision to deny CPO-246 by denying the appeal subject to the findings made in Exhibit A without prejudice. The motion was seconded by

Councilmember Christine Johnson and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

B-2 APPEAL OF ADMINISTRATIVE DECISION REGARDING STAFF AUTHORIZATION OF A FENCE ON CITY OWNED PROPERTY ADJACENT TO CHORRO CREEK ROAD IN THE UNINCORPORATED AREA OF SAN LUIS OBISPO COUNTY (JOSEPH GOODWIN APPELLANT; MIKE AND CARRIE BURTON, PERMITEES); (PUBLIC SERVICES)\

Public Services Director Rob Livick presented the staff report.

Cathy Novak spoke, representing Mr. Goodwin for his appeal of the permit that was issued for a fence on City property off Chorro Creek Road. She respectfully disagrees with staff's recommendation and urges Council to uphold the appeal and support Alternative #1 which is to revoke the permit and order the removal of the fence. Ms. Novak covered several topics: Mr. Goodwin's response to the findings made in granting the applicant's Special Encroachment permit; history regarding the subject properties; the purpose and effects; and, the easements. There is no written application or documentation on file with the City for this request, making it difficult to respond to specific points and concerns that the applicant may have in applying for this permit. The only indication of "why", comes through in the staff report that states the permittees have stated they need the fence for security and their full enjoyment of the access easement. Ms. Novak states that the fence as constructed doesn't afford the applicant any additional security and the easement granted to the Burtons is for egress and ingress and the fence doesn't enhance or detract from this so the question remains, what is the true purpose of the fence. Ms. Novak went on to give a history of the properties. It is their contention that when the LaDuc's sold the property to the Burtons, they changed the legal description for the easement right and transferred only a non-exclusive easement and not an exclusive easement which doesn't grant the right to the Burtons for them to restrict a third party from accessing the City's property. Regarding the access to the flag portion of the lot, Mr. Goodwin has relied on this access road for servicing his propane tank, other utility services and for access to the water tanks for fire services. The City has known that Mr. Goodwin has utilized this access way and has never indicated that there was an issue or that they intended to restrict his access. Mr. Goodwin feels that this permit should be rescinded as the fence reduces fire safety, in addition, he feels he has an implied access right as this easement has been used continuously for the last 30+ years. There is an additional problem as the fence has substantially impaired access to his property for utility services. In summary, the Burton's easement is for the right of ingress and egress and not for security; the fence doesn't provide additional security; the fence doesn't do anything to provide or hinder the Burton's full enjoyment of the access easement; Mr. Goodwin relied on good faith that his ability to access this road wouldn't be jeopardized; and, the neighbors don't own the property, the City does. They are requesting the City uphold the appeal, revoke the special encroachment permit and demand the removal of the fence, and finally formalize the access easement with Mr. Goodwin.

Representative Chris Guenther, representing the Burtons presented their side. He stated that Ms. Novak came up with a lot of reasons that Mr. Goodwin has been wronged. In truth, the Burtons have been putting up with Mr. Goodwin and the Roandoak facility for many years. Mr.

Goodwin is operating a boarding house illegally, necessitating the need for the additional security, as the patrons/residents come and go and they aren't exactly the best of citizens. There are 2 reasons for the fence: security from Roandoak residents because of their behavior and their conduct. The Burtons came to the City for permission for the fence. The fence acts as an insulator for possible trespassers on City property as well as the Burton's property. The right to allow Roandoak access is through the courts, not the City Council, this is the wrong forum for this discussion. Cal Fire has been contacted and they have no problem with the fence. The propane tanks can be moved allowing the delivery trucks access to fill those tanks. Access to these things is their problem, not the Burtons. In answer to why they went ahead and built the fence; this is outside the City limits and they don't believe we have the jurisdiction to issue permits. His position would be that an agreement from one property owner to another, not a conditional use permit, should have been used to secure and protect their easement. He asks Council to step up and deny the appeal.

Mayor Irons opened up the public comment period for Item B-2.

Susan McElhinney, Attorney for Mr. Goodwin, stated that there is a lot to respond to. The issue of no recorded easement is that the Burtons have a recorded easement but it is a non-exclusive easement. The exclusive easement that they are asserting was recorded by Fidelity Title Company and their recordation is simply a non-exclusive easement. As far as the question as to why Mr. Goodwin hasn't recorded an easement, there are 2 ways this could be done - he could bring an action under Code of Civil Procedures Section 1060, but for its use there has to be an actual controversy and to date, and to their knowledge, there hasn't been one. Or there could be a quiet title action to establish the implied easement that has existed for 30-40 years along that road found in Code of Civil Procedure 760.020. It states that an action may be brought to establish title under adverse claims; but until 2013, there were no adverse claims, it was a common road and no one disputed it, so there was no legal mechanism to make this claim. And as far as it being a security issue, per the photo, anybody can walk around the end of the fence to get to their property.

Carrie Burton stated that as far as who was there first, it was her understanding when they purchased their property that the Roandoak building was coming down. Mr. Goodwin didn't show up on that property until 2003. She also stated that there were several mistakes on the recorded deed some of which include the non-exclusive easement. Her recorded agreement with the City which gave her the exclusive easement is recorded and legal. She also says the title will be corrected to say exclusive easement. She also stated that the fence has brought her a lot of peace and urged Council to allow them to keep the fence.

The public comment period for Item B-2 was closed.

Councilmember Christine Johnson stated that the documents recently received haven't been disclosed to the public and given that, was concerned about making a decision on this appeal. City Attorney Schultz stated that if you felt that based on what you've received is new information then you would have the option to continue the item. Councilmember Johnson is concerned with the fact that there could be pending litigation that would be more appropriate for a Closed Session meeting.

Councilmember Smukler was surprised this came to Council. He sees it as a cut and dry issue as to what we as a Council can discuss – fence or not fence. He wants to put it to rest and then allow the rest to follow the legal process for each of the parties. He feels we are protected here by moving forward.

Mayor Irons also feels like we need to move forward on this.

MOTION: Mayor Irons moved to uphold the staff's recommendation to allow the installation of the fence. The motion was seconded by Councilmember Smukler and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

B-3 ZONING TEXT AMENDMENT A00-015 DRAFT SIGN ORDINANCE (MUNICIPAL CODE SECTION 17.68); (PUBLIC SERVICES)

Planning Manager Kathleen Wold presented the staff report.

Mayor Irons suggested we receive the initial reports, have the Council ask questions and then continue the item to the next meeting where it can be placed earlier in the agenda which would also allow for more public input. There was a consensus of Council to do this.

Planning Intern, Erik Berg-Johansen, also made a presentation regarding the proposed Embarcadero District Tourism Oriented Directional Sign Plan. This proposal is not part of the Sign Ordinance but is something that could be implemented after adoption of the new ordinance. The goals of the program include being able to advertise the name and location of businesses along the Embarcadero that are hidden from the main public right-of-way; to provide information about businesses through the use of international symbology; and, to implement a series of directory maps that will help tourists navigate the Embarcadero and locate businesses. Over 85 businesses could be eligible under this current draft and it is suggested that staff surveys Embarcadero businesses to gauge their interest; funding for the program is still to be determined; and it should be stressed that this program is in draft form and changes can be made to it at any time.

The public comment period for Item B-3 was opened; seeing none, the public comment period for the item was closed.

Councilmember Smukler wants staff to provide discussion on the potential of expanding the concept of the Specialty Signage from the Embarcadero to also include the Downtown Area.

This item will be brought back to the next meeting to include options for special meeting dates.

C. UNFINISHED BUSINESS

C-1 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLAN; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

The report was received and filed.

C-2 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

Councilmember Smukler asked Public Services Director Livick about the potential of our WRF wastewater being identified as a source for once through cooling at Diablo Canyon being presented to the Water Quality Control Board. Mr. Livick stated that we aren't far enough in the planning process to be able to comment whether or not this is a viable option for them; we may want to keep the water local to use in our own water sheds. It would be premature for the State Water Board to say that this is a viable option for their cooling water. Mr. Livick did say he would be comfortable in sending a letter to that fact to the State Water Quality Control Board.

This report was received and filed.

D. NEW BUSINESS

D-1 CONSIDERATION AND DIRECTION REGARDING THE EXPANSION OF THE UNITED STATES COAST GUARD (USCG) FACILITIES IN MORRO BAY; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

The public comment period for Item D-1 was opened.

Janice Peters is delighted to see that the USCG relationship with the City is as good as it is. She also feels it is wonderful that they have a presence here. She has concerns though about the site that has been selected for the expansion. Morro Bay depends on tourism for our revenue and this is a prime tourism view site. She feels there is other land available, possible the Dynegy site if it closes down. She also stated that lighting could pose a problem. She wants the relationship to continue but hopes the City can help them locate a different location.

The public comment period for Item D-1 was closed.

Councilmember Leage agrees with Ms. Peters. He feels we could have a tremendous outcry over this. He feels there could be a better spot for their facility.

Councilmember Christine Johnson is excited that we have a harbor that could be even better protected. She also agrees that it would be very hard to take away "Mother's Beach". She cautions that moving forward at that spot wouldn't have support from the public and she is open to partnering with them to look at other sites. This proposed site would greatly impact the view and as well as inhibit bicyclists.

Councilmember Nancy Johnson said that Ms. Peters said it all. She loves the Coast Guard and is glad that they are here as we need them on a lot of different levels. She would even be willing to

give up the parking lot we just got. She doesn't think that "Mother's Beach" or Coleman Beach is the right place for their project.

Councilmember Smukler has received strong feedback that while there is strong support for the Coast Guard, there is no support for this location. He would like to see us work to extend and renew the exploration for some joint options. He would also like to see the public process as an element to this.

Mayor Irons stated that Council is all in agreement with Alternative #3 - to inform the USCG the City of Morro Bay is interested in expansion of facilities, but not this area.

There was Council consensus for staff to meet with the USCG stipulating Alternative #3 for further discussions.

D-2 APPROVAL OF CONSENT OF LANDOWNER AGREEMENT FOR LEASE SITE 86/86W AT 801 EMBARCADERO (EMBARCADERO GRILL, CALDWELL) TO FILE AN APPLICATION FOR LEASE SITE IMPROVEMENTS AND ALLOW STAFF TO ENTER INTO LEASE NEGOTIATIONS; (HARBOR)

Councilmember Leage had to recuse himself from the discussion due to the proximity of his property to the project location.

Harbor Director Eric Endersby presented the staff report.

Representing the applicant, Burt Caldwell, Cathy Novak made a presentation for the project at 801 Embarcadero, also known as Libertine Pub. The Libertine Pub has quickly become a success; and to capture this theme and expand on the marketing of the pub, Mr. Caldwell has proposed a building design that represents the connection of agriculture with a grain elevator and the finished product of the beer. The waterfront design guidelines encourage designs that incorporate different features and promote diversity to create interest. The project as proposed demolishes and rebuilds the embarcadero side of the building, remodels the harbor side of the building and eliminates the second story. A 12 foot public walkway will be created between this building and the one next door. This walkway will also have a public use area with tables, bicycle racks and trash/recycling receptacles. The walkway will also lead pedestrians to the new ten foot wide harborwalk along the bay. There is a proposed roof deck which will be accessible from both the interior and exterior stairs. A silo and grain elevator has been added for visual interest. It will be operational on a limited basis. The mash tanks located on the ground level will have large windows open to the Embarcadero so that visitors can see the operations. Removing the second story will open up views of the rock and greatly reduce the mass of the building. The project also includes a single side tie dock with a gangway entrance from the harborwalk. This project meets the City's waterfront design guidelines, zoning ordinance and LCP as well as provides public benefits. Mr. Caldwell is prepared to submit this project to the City so they are looking for Council to authorize staff to sign the consent of landowner form so the process can begin.

The public comment period for Item D-2 was opened; seeing none, the public comment period for Item D-2 was closed.

Mayor Irons is more in favor of Plan B as he feels it allows for more public benefit.

MOTION: Mayor Irons moved to extend the meeting beyond 11:00pm. The motion was seconded by Councilmember Christine Johnson and carried 4-0-1 with Councilmember Leage having recused himself due to a prior conflict of interest.

Councilmember Nancy Johnson is in favor of the project and likes the Plan B version.

Councilmember Smukler also is in favor of the project and also likes Plan B. He likes the open space along with some planter beds; he also likes the bicycle parking component.

Councilmember Christine Johnson appreciates the fact that they are removing the second story off of a building on the Embarcadero which will create much better views. She is very enthusiastic about the project.

MOTION: Councilmember Smukler moved to approve Alternative B, Site Plan B, and authorize the City Manager to execute the Consent of Landowner Agreement with the Leaseholder. The motion was seconded by Councilmember Christine Johnson and carried 4-0-1 with Councilmember Leage having been recused due to a conflict of interest.

D-3 APPROVAL OF RESOLUTION 48-13 DESIGNATING \$399,000 IN PARKING IN-LIEU FUNDS FOR REVISIONS TO THE PARKING IN-LIEU MAP AND IMPROVEMENTS TO THE CITY-OWNED FRONT STREET AND TRIANGLE PARKING LOT ADJACENT TO THE DYNEGY POWER PLANT, AND REVIEW AND DISCUSSION REGARDING THE CITY PARKING MANAGEMENT PLAN; (CITY ATTORNEY/PUBLIC SERVICES)

City Attorney Rob Schultz presented the staff report.

There was Council consensus to have staff bring back a discussion of the Pavement Management Plan as the hour was late.

MOTION: Councilmember Nancy Johnson moved approval of Resolution 48-13 designating \$399,000 in Parking in Lieu funds for revisions to the parking in lieu map and improvements to the City-owned Front Street and Triangle Parking lot adjacent to the Dynegy Power Plant. The motion was seconded by Councilmember Smukler and carried 4-0-1 with Councilmember Leage having recused himself due to a conflict of interest.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Nancy Johnson requested a discussion of the City Council's commitment to the City's 50th Anniversary Celebration; there was unanimous Council consensus.

Councilmember Nancy Johnson requested Mayor Irons prepare and present a report detailing the status of the hiring of outside legal counsel; there was unanimous Council consensus.

ADJOURNMENT

The meeting adjourned at 11:20pm.

Recorded by:

Jamie Boucher
City Clerk



AGENDA NO: A -3

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 16, 2013
FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Rick Sauerwein, PE, Capital Projects Manager
SUBJECT: Award of Contract for the Project No. MB-2013-S4: 2013 Street Rehabilitation Program: 3-Layer Cape and Microsurfacing Project

RECOMMENDATION

Staff recommends the City Council award the project contract to the lowest responsible bidder.

ALTERNATIVES

- 1) Declare all of the bids non-responsive and re-bid the project
- 2) Declare the low-bidder unresponsive and award the contract to the next responsive low bid.
- 3) If signed contract is not received from the Contractor before noon on Tuesday, October 22 or if irregularities are noted in the bids, postpone this item to a date certain of November 12, 2013.

FISCAL IMPACT

The Project is fully funded from accumulated Measure Q funds. With the adoption of the FY 2013/2014 budget Council approved \$757,557 from the Measure Q funds for the Pavement Maintenance program. Staff has “set aside” \$150,000 for day-to-day maintenance activities, such as potholing and other safety related street repairs. \$100,000 of these maintenance funds have been allocated to this contract since the Contractor will be performing pavement repairs and as a result these funds will not be required for the “day-to-day” street maintenance repairs. Therefore a total of \$707,557 will be used to fund the 2013 Pavement Management Program Street Rehabilitation Projects. Approximately ten percent of the funding is being used for consultant services (design, resident engineering and testing) and the remaining \$646,801 for actual construction. A CalRecycle Grant will also contribute up to \$34,660 towards project costs. Funds allocated in the FY2013 budget will be adequate to construct the project unless significant changes occur.

SUMMARY

The Invitation for Bids was posted in the San Luis Obispo Tribune on October 11th and 17th. Bids are scheduled to open on October 21 at 2pm in the Public Services Conference Room. Bids will be received and summarized in a Bid Summary Sheet which will be provided to Councilmembers by

Prepared By: RPS

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

email the morning of October 22. Bidder responsiveness will be evaluated by staff and an award recommendation will be provided in the email. Copies of the Bid Summary Sheet and the award recommendation will be available to the public at the Council meeting. The City Engineer's estimate for this project is \$214,486.

BACKGROUND

On January 14, 2013, the PWAB held a public meeting (The "Streets Summit") to discuss street maintenance and solicit public comment. From March through May 2013 the City Council and staff conducted a series of Goal Setting Workshops to establish City priorities for the upcoming fiscal year. In response to community priorities, the City Council approved the FY2013/14 Budget that allocated additional resources from Measure Q to augment General Fund and Gas Tax revenues for the repair and maintenance of Morro Bay Streets. The list of streets included in the 2013 program has been modified based on expanded application of 3-Layer Cape Seal which was initially demonstrated last year and the results of our annual pavement survey which indicated increased deterioration on many of the streets selected. Due to funding limitations, the 3-Layer Cape was not used as extensively as staff desired and the program largely represents stop-gap measures until a new revenue stream is identified to fully fund a program that can achieve our goal of a Pavement Condition Index of 70 throughout the City.

DISCUSSION

This contract award is the second of two projects which will be awarded to complete the 2013 Pavement Rehabilitation Program by providing 3-Layer Cape Sealing and Microsurfacing of streets that were repaired under the first contract. This marks the second consecutive year that City streets have been rehabilitated under the City's Pavement Management Plan, adopted by City Council in June 2011.

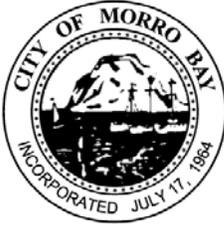
This project will rehabilitate 33 sections which represents 7.4 miles of pavement, almost 14% of the City's total transportation network. Small repairs will be performed by City street crews while the larger structural pavement defects will be repaired by contractors who have the necessary equipment. The project features the use of recycled tire rubber in the asphalt binder, a feature that not only offers a longer lasting pavement, but also provides a beneficial use for a waste material that would otherwise be destined for the landfill. Morro Bay is the first municipality in the County to use this paving technology.

CONCLUSION

Staff recommends the City Council award the Project contract based on the staff recommendation which will be provided as soon as evaluation of all bids is complete and authorize the Public Services Director to use his discretion in awarding additional work to the project scope to assure that the total project budget of \$680,000 is expended on streets in need of repair.

ATTACHMENT

Bid Summary Sheet (to be provided after bid opening)



AGENDA NO: A-4

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 16, 2013

FROM: Rob Livick, PE/PLS – Public Services Director/City Engineer
Rick Sauerwein, PE, Capital Projects Manager

SUBJECT: Award of Contract to Souza Construction, Inc. of San Luis Obispo, CA for the Project No. MB-2013-S1: 2013 Street Rehabilitation Program- Dig-out and Pavement Replacement Project

RECOMMENDATION

Staff recommends the City Council award the Project contract to Sousa Construction, Inc. in the amount of \$402,585.

ALTERNATIVES

- 1) Declare all of the bids non-responsive and re-bid the project
- 2) Declare the low-bidder unresponsive and award the contract to the next responsive low bid.

FISCAL IMPACT

The Project is fully funded from accumulated Measure Q Funds. With the adoption of the FY 2013/2014 budget, Council approved \$757,557 from the Measure Q funds for the Pavement Maintenance program. Staff has “set-aside” \$150,000 for day-to-day maintenance activities, such as potholing and other safety related street repairs. \$100,000 of these maintenance funds have been allocated to this contract since the Contractor will be performing pavement repairs and as a result, these funds will not be required for the “day- to-day” street maintenance repairs. Therefore, a total of \$707,557 will be used to fund the 2013 Pavement Management Program Street Rehabilitation Projects. Approximately ten percent of the funding is being used for consultant services (design, resident engineering and testing) and the remaining \$646,801 for actual construction.

SUMMARY

The Invitation for Bids was posted in the San Luis Obispo Tribune on October 6th and 11th. Bids were opened on October 16th at 2pm in the Public Services Conference Room. Bids were received from six (6) contractors as noted in the attached Bid Summary Sheet. All bidders were deemed responsive. The bids ranged from a low of \$402,585 to a high of \$457,783. The City Engineer’s estimate for this project is \$416,612.

Prepared By: RPS

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

On January 14, 2013, the PWAB held a public meeting (The “Streets Summit”) to discuss street maintenance and solicit public comment. From March through May 2013, the City Council and staff conducted a series of Goal Setting Workshops to establish City priorities for the upcoming fiscal Year. In response to community priorities, the City Council approved the FY2013/14 Budget that allocated additional resources from Measure Q to augment General Fund and Gas Tax revenues for the repair and maintenance of Morro Bay streets. The list of streets included in the 2013 program has been modified based on expanded application of 3-Layer Cape Seal which was initially demonstrated last year and the results of our annual pavement survey which indicated increased deterioration on many of the streets selected. Due to funding limitations, the 3-Layer Cape was not used as extensively as staff desired and the program largely represents stop-gap measures until a new revenue stream is identified to fully fund a program that can achieve our goal of a Pavement Condition Index of 70 throughout the City.

DISCUSSION

This contract award is the first of two projects which will be awarded to complete the 2013 Pavement Rehabilitation Program. The second contract will provide 3-Layer Cape Seal and MicroSurfacing. This marks the second consecutive year that City streets have been rehabilitated under the City’s Pavement Management Plan, adopted by City Council in June 2011.

This project entails the dig-out and replacement of badly deteriorated pavement on rehabilitation of 33 sections which represents 7.4 miles of pavement, almost 14% of the City’s total transportation network. The project includes major rehabilitation on Kings Street and Andros Street, where work is expected to be concluded before Christmas Day. Small repairs will be performed by City street crews while the larger structural pavement defects will be repaired by contractors who have the necessary equipment.

Staff believes the bid to be very competitive. The bid contains no irregularity. Due to budget constraints, only a minimal amount of work items adjacent to the streets to be rehabilitated (i.e. sidewalks, curbs, gutters, etc.) were included. These work items amount to approximately \$25,000. Although the asphalt and cement workers strike is still limiting material availability in the area, the availability of asphalt should not be a key factor in the timing of this work since Souza has other sources of material.

CONCLUSION

Staff recommends the City Council award the Project contract to Sousa Construction, Inc., in the amount of \$402,585 and authorize the Public Services Director to use his discretion in awarding additional work to the project scope to assure that the total project budget of \$680,000 is expended on streets in need of repair.

ATTACHMENT

Bid Summary Sheet

City of Morro Bay

Dig-Out and Pavement Replacement Project MB2013-S01: Bid Summary

CONTRACTOR	Total Bid Amount
Souza Construction A-479476	\$402,584.80
T. Simons A-774450	\$405,057.61
Ferravanti Paving A-833407	\$432,423.35
John Madonna Construction A-358030	\$449,362.30
Calportland A-523019	\$454,681.05
Rockwood General Contractors A-807260	\$457,783.02



AGENDA NO: A-5

MEETING DATE: October 22, 2013

Staff Report

TO: Mayor and Council

DATE: October 16, 2013

FROM: Amy Christey, Police Chief

SUBJECT: Resolution Determining Issuance of an Alcoholic Beverage Control Permit for an Off-Sale Beer and Wine Convenience Market Located at 845 Embarcadero Suite D

RECOMMENDATION

Staff recommends the City Council review and approve Resolution 50-13.

ALTERNATIVES

- 1) Approve Resolution 50-13 allowing an Alcoholic Beverage Control Permit for an Off-Sale Beer and Wine convenience market located at 845 Embarcadero, Suite D
- 2) Do not approve Resolution 50-13, allowing an Alcoholic Beverage Control Permit for an Off-Sale Beer and Wine convenience market located at 845 Embarcadero, Suite D

FISCAL IMPACT

Not applicable.

SUMMARY

Thomas Wayne Pauley and Joli Christine Truelson applied for a permit from the Department of Alcoholic Beverage Control to operate an Off-Sale Beer and Wine Convenience Market at 845 Embarcadero Suite D. An Off-Sale Beer and Wine license will authorize the sale of all types of wine and malt beverages for consumption off the premises in original, sealed containers. The Department of Alcoholic Beverage Control (ABC) automatically denies permits to sell alcoholic beverages if there is an "undue concentration" of licenses in the census tract (Business and Professions Code Section 23958). In order for the ABC to issue the license, they require the local governing body to determine that the "public convenience and necessity" would be served by issuance of the license. The ABC requires the governing board/council to pass a Resolution or a signed letter on official letterhead stating whether or not the issuance of the applied license would serve as a public convenience or necessity.

The Police Department has reviewed this application and has no significant concerns at this time in regard to an Off-Sale Beer and Wine Convenience Market at this location. Furthermore, the approval of Resolution 50-13 will support the City Council's goals and priorities to develop ways to attract businesses to Morro Bay.

Prepared By: AC

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

RESOLUTION NO. 50-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DETERMINING THAT ISSUANCE OF AN ABC PERMIT
FOR AN OFF-SALE BEER AND WINE CONVENIENCE STORE LOCATED
AT 845 EMBARCADERO, SUITE D WOULD SERVE AS A
PUBLIC CONVENIENCE OR NECESSITY**

**THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA**

WHEREAS, Thomas Wayne Pauley and Joli Christine Truelson applied for a Department of Alcoholic Beverage Control Permit for an Off-Sale Beer and Wine Convenience Store located at 845 Embarcadero Suite D; and,

WHEREAS, the permit is automatically denied by the Department of Alcoholic Beverage Control due to an “undue concentration of alcohol licenses” in this census tract; and,

WHEREAS, in order for the Department of Alcoholic Beverage Control to issue the license, the local governing body must determine that the public convenience or necessity would be served by issuance of the license and pass a resolution stating such; and,

WHEREAS, after review by the Police Department there are no significant concerns in regard to the opening of an Off-Sale Beer and Wine Convenience Store at this location.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the public convenience or necessity will be served by issuance of a license from the Department of Alcoholic Beverage Control for an Off-Sale Beer and Wine Convenience Store at 845 Embarcadero Suite D.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay, California, that this action supports new business in Morro Bay and is in conformance with the goals set by the Morro Bay City Council to “develop ways to be attractive to new businesses”.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of October, 2013 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



AGENDA NO: A-6

MEETING DATE: 10/22/2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 16, 2013
FROM: Susan Slayton, Administrative Services Director/Treasurer
SUBJECT: Resolution No. 51-13 Adopting the Memorandum of Understanding with the Service Employees International Union (SEIU), Local 620, Miscellaneous and Harbor Safety Employees, and Related Compensation

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 51-13, approving the Memorandum of Understanding with SEIU, Local 620. The term of the MOU is from July 1, 2013 through June 30, 2014.

FISCAL IMPACT

As per City Council's direction, the cost to the City for this MOU is approximately \$32,976: \$30,886 (salaries & benefits), \$990 (boot allowance); \$1,100 (standby pay).

SUMMARY

The July 2012 – June 2013 MOU is currently on the City's website (link: "Employee Compensation Information"). The proposed July 2013 – June 2014 MOU, which is attached in a draft red-lined format, includes the following substantive changes:

- Effective July 1, 2013, all affected SEIU employees will be entitled to a \$30 increase in their fiscal year boot allowance reimbursement (currently \$120; increasing to \$150).
- Effective July 1, 2013, all affected SEIU employees will receive standby pay in the amount of \$60 per day for the following agreed-upon days, which is an increase in standby pay of \$25 per day for these days only:
 - New Year's Eve
 - New Year's Day
 - Memorial Day Weekend Friday
 - Memorial Day Weekend Saturday
 - Independence Day
 - Labor Day Weekend Friday
 - Labor Day Weekend Saturday
 - Thanksgiving Day
 - Day after Thanksgiving
 - Christmas Eve
 - Christmas Day

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

- Effective the pay period containing January 1, 2014, all SEIU employees will receive a 2% salary increase.
- Effective July 1, 2013, all SEIU employees will be provided an option to convert up to 40 hours of vacation into compensation per fiscal year, provided that at the time of the conversion request at least 20 hours of vacation time remains in the employee's vacation bank. Conversion shall be requested by November 1st of each year for payment to be made in December.
- A reopener clause was accepted, which states: “If the City agrees to an economic package substantively different from the SEIU settlement for the period of July 1, 2013 through June 30, 2014, it will reopen negotiations with SEIU.”

The MOU has been ratified by the SEIU.

CONCLUSION

Staff is recommending that the City Council adopt Resolution No. 51-13, which approves the SEIU MOU for the fiscal year July 1, 2013 to June 30, 2014. Additionally, the City Council is asked to direct the City Manager to implement the conditions of the MOU.

RESOLUTION NO. 51-13

**RESOLUTION OF THE CITY OF MORRO BAY
RELATING TO THE CLASSIFICATION, COMPENSATION AND TERMS OF
EMPLOYMENT OF MISCELLANEOUS AND SAFETY EMPLOYEES REPRESENTED BY
THE SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 620 (SEIU)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, in accordance with the provisions of the California Government Code Section 3500 et. seq. and Resolution No. 74-69 of the City of Morro Bay, the City's representatives have met and conferred in good faith pertaining to the subject of wages, benefits and conditions of employment with SEIU, Local 620, representing the Miscellaneous and Safety employees; and

WHEREAS, the meetings between the SEIU, Local 620, and the City have resulted in a mutual agreement and understanding to recommend that the employees represented by SEIU, Local 620, accept all of the terms and conditions, as set forth in a Memorandum of Understanding, an agreement attached and made a part of this Resolution herewith; and

WHEREAS, the City now desires to provide said salaries, benefits and conditions to said Miscellaneous and Safety employees of the City of Morro Bay.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, that it hereby approves and adopts, in full, the Memorandum of Understanding for the period July 1, 2013 through June 30, 2014, as attached and made a part of this Resolution.

BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay that the City Manager is hereby authorized to execute the Memorandum of Understanding on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a meeting thereof held this 22nd day of October, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

JAMIE L. IRONS, Mayor

JAMIE BOUCHER, City Clerk

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MEMORANDUM OF UNDERSTANDING BETWEEN
SERVICE EMPLOYEES' INTERNATIONAL UNION, LOCAL NO. 620, AFL-CIO
AND THE CITY OF MORRO BAY
JULY ~~2012~~2013-JUNE ~~2013~~2014

ARTICLE 1 – PURPOSE

- 1.1 WHEREAS, the City of Morro Bay is a municipal corporation existing under the laws of the State of California as a general law city; and
- 1.2 WHEREAS, the City of Morro Bay is limited, insofar as funds are concerned, because of a fixed tax rate, and in structure because it is a public entity rather than a profit making business; and
- 1.3 WHEREAS, Service Employees' International Union Local No. 620 and the City of Morro Bay recognize that the mission and the purpose of the City is to provide for high-quality and economical municipal services and facilities to the residents of the City of Morro Bay.
- 1.4 THEREFORE, this Memorandum of Understanding is July 1, ~~2012-2013~~ between the City of Morro Bay, referred to as "CITY" and Service Employees' International Union Local No. 620, referred to as the "UNION."
- 1.5 It is the intent and purpose of this Memorandum to assure sound and mutually beneficial working and economic relations and conditions between the parties hereto; to provide for an orderly and peaceable method and manner of resolving any differences which may arise, and to negotiate any misunderstanding which could arise, and to set forth herein the basic and full agreement between the parties concerning the pay, wages, hours of employment, and other terms and conditions of employment.

ARTICLE 2 – MANAGEMENT

- 2.1 In order to ensure that the CITY shall continue to carry out its municipal functions, programs, and responsibilities to the public imposed by law, and to maintain efficient public service for the citizens of Morro Bay, the CITY continues to reserve and retain solely and exclusively all management rights, regardless of the frequency of use, including those rights and responsibilities set forth by law and those CITY rights set forth in the CITY's Personnel Rules and Regulations and including, but not limited, to the following:
 - 2.1.1 To manage the CITY, determine policies and procedures, and the right to manage the affairs of all Departments.

- 2.1.2 To determine the existence, or nonexistence, of facts which are the basis of the management decision in compliance with State law.
- 2.1.3 To determine the necessity, organization, implementation, and termination of any service or activity conducted by the CITY or other government jurisdiction, and to expand or diminish services.
- 2.1.4 To direct, supervise, recruit, select, hire, evaluate, promote, transfer, discipline, discharge, terminate, demote, reduce, suspend, reprimand, withhold salary increases and benefits for disciplinary reasons, or otherwise discipline employees, in accordance with Department or CITY rules, regulations, or ordinances.
- 2.1.5 To determine the nature, manner, means, extent, type, time, quantity, quality, technology, standard, and level of services to be provided to the public.
- 2.1.6 To require performance of other public services, not specifically stated herein, in the event of emergency or disaster, as deemed necessary by the CITY.
- 2.1.7 To lay off employees because of lack of work or funds or under conditions where continued work would be inefficient or nonproductive or not cost effective, as determined by the CITY.
- 2.1.8 To determine and/or change facilities, methods, technology, equipment, operations to be performed, organization structure, and allocate or assign work by which the CITY operations and services are to be conducted.
- 2.1.9 To determine method(s) of financing.
- 2.1.10 To plan, determine, and manage Departments' budget which includes, but is not limited to, changes in the number of locations and types of operations, processes and materials to be used in carrying out all functions, and the right to contract or subcontract any work or operations.
- 2.1.11 To determine the size and composition of the work force, assign work to employees of the CITY in accordance with requirements determined by the CITY, and to establish and require compliance to work hours and changes to work hours, work schedules, including call back, standby, and overtime, and other work assignments, except as otherwise limited by this agreement, or subsequent agreements.

- 2.1.12 To establish and modify goals and objectives related to productivity and performance programs and standards, including, but not limited to, quality and quantity, and required compliance therewith.
- 2.1.13 To determine qualifications, skills, abilities, knowledge, selection procedures and standards, job classification, job specifications, and to reallocate and reclassify employees in accordance with division and/or CITY Rules and Regulations.
- 2.1.14 To determine the issues of public policy and the overall goals and objectives of the CITY, and to take necessary action to achieve the goals and objectives of the CITY.
- 2.1.15 To hire, transfer intra- or inter-Department, promote, reduce in rank, demote, reallocate, terminate, and take other personnel action for non-disciplinary reasons, in accordance with Department and/or CITY Rules, Regulations and Ordinances.
- 2.1.16 To determine policies, procedures and standards for recruiting, selecting, training and promoting employees.
- 2.1.17 To establish, implement, and/or modify rules and regulations, policies, and procedures related to productivity, performance, efficiency, personal appearance standards, code of ethics and conduct, safety, health, and order, and to require compliance therewith.
- 2.1.18 To maintain order and efficiency in facilities and operation.
- 2.1.19 To restrict the activity of an employee organization on CITY facilities, except as set forth in this agreement.
- 2.1.20 To take any and all necessary steps and actions to carry out the service requirements and mission of the CITY in emergencies or any other time deemed necessary by the CITY and not specified above.
- 2.2 Nothing herein is meant to diminish CITY rights provided by the Government Code.
- 2.3 **AUTHORITY OF THIRD PARTY NEUTRAL - MANAGEMENT RIGHTS**
All management rights, powers, authority and functions, whether heretofore or hereinafter exercised, shall remain vested exclusively with the CITY. No third party neutral shall have the authority to diminish any of the management rights which are included in this agreement.

2.4 Nothing herein is meant to diminish employee rights provided by the Government Code.

ARTICLE 3 – RECOGNITION

3.1 Pursuant to Resolution No. 74-69, the Employer-Employee Relations Resolution of the City of Morro Bay and applicable state law, Service Employees International Union Local 620 (hereafter "UNION") was designated by the City of Morro Bay (hereafter "CITY") City Council as the exclusive representative of City employees in the Miscellaneous Employees Unit (hereafter "UNIT"). The UNIT is comprised of the following classifications:

- Account Clerk I
- Account Clerk II
- Administrative Technician
- Administrative Utilities Technician
- Assistant Planner
- Associate Planner
- Building Inspector
- Engineering Technician I
- Engineering Technician II
- Engineering Technician III
- Engineering Technician IV
- Facility Maintenance Worker
- Harbor Business Coordinator
- Harbor Patrol Officer
- Harbor Patrol Officer Supervisor
- Housing Programs Coordinator
- Maintenance Leadworker (Facilities, Parks, Streets)
- Maintenance Worker I (Facilities, Parks, Streets)
- Maintenance Worker II (Facilities, Parks, Streets)
- Maintenance Worker III (Facilities, Parks, Streets)
- Mechanic
- Office Assistant II
- Office Assistant III
- Office Assistant IV
- Permit Technician
- Recreation Supervisor - Sports
- Recreation Supervisor - Youth
- Wastewater Treatment Plant Leadworker
- Wastewater Treatment Plant Operator In-Training
- Wastewater Treatment Plant Operator I
- Wastewater Treatment Plant Operator II
- Wastewater Treatment Plant Operator II/Lab Analyst
- Wastewater Treatment Plant Supervisor

Wastewater Collection System Leadworker
Wastewater Collection System Operator I
Wastewater Collection System Operator II
Wastewater Collection System Operator III
Wastewater Collection System Supervisor
Water System Operator I
Water System Operator II
Water System Operator III
Water System Supervisor

The term "employee" or "employees," as used herein, shall refer only to the foregoing classifications.

- 3.2 Employees working on a regular basis in a classified position, but less than full-time, shall receive vacation and sick leave accruals on a pro-rated basis commensurate with hours worked. Effective January 1, 1998, all benefits for new hires, including insurance benefits, will be allocated on a pro-rated basis commensurate with hours worked.
- 3.3 ELECTRONIC DEPOSIT:
All Employees hired after the effective date of this contract shall receive their pay by electronic methods. New hires must present account information for a checking or a savings account with an ACH-member financial institution.

ARTICLE 4 - UNION BUSINESS

- 4.1 Employee representatives designated by the UNION shall be granted time off, without loss of pay, to attend "meet and confer" sessions with the City Manager, and/or his/her designee, on subjects within the scope of representation when such meetings are scheduled during regular working hours. Should such meeting extend beyond an employee representative's regular working hours, the employee representative shall be paid for only the regular working hours.

It is understood that this "time-off provision" shall only apply to a maximum of three employees attending any one meeting between CITY and UNION. Where exceptional circumstances warrant, the City Manager may approve the attendance at such meetings of additional employee representatives. The UNION shall, whenever practicable, submit the names of all employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings. Provided further: 1) that no employee representative shall leave his/her duty or work station or assignment without specific approval of the department head or other authorized CITY management official; and 2) that any such meeting is subject to scheduling by CITY management and UNION in a manner consistent with operating needs and work schedules.

- 4.2 Nothing provided herein shall limit or restrict CITY management and UNION from scheduling such meetings before or after regular CITY or work hours.
- 4.3 Off-duty employees will not be paid for attending meet and confer sessions, nor will over-time be paid for same.

ARTICLE 5 - AUTHORIZED AGENTS

For the purpose of administering the terms and provisions of this agreement:

- 5.1 Management's principal authorized agent shall be the City Manager, or his/her duly authorized representative (address: 595 Harbor Street, Morro Bay, CA 93442; telephone: (805) 772-6201), except where a particular management representative is specifically designated in the agreement.
- 5.2 The UNION's principal authorized representative shall be: Service Employees International Union Local 620 (2345 South Broadway, Ste C, Santa Maria, CA 93454 (805) 963-0601).
- 5.3 The UNION shall furnish the CITY's City Manager with a written list, identifying by name and work location up to three stewards and one chief steward.
- 5.4 UNION stewards shall be authorized when participating in the investigation and processing of a grievance to take a reasonable amount of CITY-time, without loss of compensation or benefits, to perform these duties.
- 5.5 UNION stewards shall be selected in accordance with current SEIU written policy on file with the CITY Personnel Office.

ARTICLE 6 – UNION SECURITY and WITHHOLDING OF UNION DUES/FEEES

- 6.1 "Maintenance of Membership"
All UNION employees who, on the effective date of this Memorandum, are members of SEIU, Local 620, and all such employees, who thereafter voluntarily become members of Local 620, shall maintain their membership in Local 620; subject to the right to resign membership during the period commencing thirty days prior to the June 30 of each year of this MOU.
- 6.2 Agency Shop
Pursuant to UNION's initiation allowed by an amendment to the Meyers-Milias-Brown Act, the CITY and the UNION will abide by the following provisions as they relate to an agency shop.

Agency Shop as defined under Meyers-Milias-Brown means “an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.” CITY recognizes that UNION has petitioned for and a majority of employees have cast ballots in a secret ballot election in favor of agency shop for this bargaining unit.

The United States Supreme Court has decided that Unions may not charge non-members for expenses unrelated to the actual representation of the employees in the bargaining unit such as political contributions, organizing activities, and member-only benefits. Employees who question whether the amount of the Union’s Agency Fee contains unlawful charges may file a written objection with the Union to the Agency Fee and, if successful, have their Agency Fee reduced to cover only the lawfully chargeable amount. Any costs related to this objection process will be borne by the Union.

6.3 Conscientious Objection:

Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially support public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. Such employees shall be required to, in lieu of periodic dues, initiation fees, or agency fees, pay sums equal to the dues, initiation fees, or agency fees to a nonreligious, non-labor charitable fund exempt from taxation under Section 501(C)(3) of the Internal Revenue Code, chosen by the employee from the following: Hospice, CASA, or United Way for the purpose of payroll deductions. Proof of payments shall be made on a monthly basis to the Public Agency as a condition of continued exemption from the requirement of financial support to the UNION.

6.4 Covered employees shall execute written authorization for either UNION dues deductions, the agency fee, or, if eligible, the charitable contribution. In the absence of a written authorization, the CITY shall deduct the agency fee from the employees’ paycheck pursuant to California Government Code Sec. 3502. The CITY agrees to promptly remit to the UNION all monies deducted accompanied by a “Agency Fee Deduction Report” to include the names and amounts of deductions in the same manner and timeframes as the current provision of the dues deduction reports.

6.5 Rescission of Agency Shop

This agency shop provision may be rescinded by a majority vote of all the employees in the unit covered by the Memorandum of Understanding, provided that:

6.5.1 A request for such a vote is supported by a petition of at least 30% of the employees in the bargaining unit;

6.5.2 The vote is by secret ballot;

6.5.3 The vote may be taken at any time during the term of the Memorandum of Understanding, but in no event shall there be more than one vote taken during each contract year.

6.6 Applicability

An agency shop arrangement shall not apply to management, confidential, or supervisory employees.

6.7 Reporting Requirement.

The UNION shall keep an adequate itemized record of its financial transactions and shall make available annually, to the CITY and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an opening statement, certified as to accuracy by its president and treasurer or corresponding principal officer, a certified public accountant, or as otherwise required by law.

6.8 Indemnification.

The UNION shall indemnify and hold the CITY harmless against any liability arising from any claims, demands, or other action relating to the CITY's compliance with the agency shop obligation. The UNION shall comply with all statutory and legal requirements with respect to Agency Shop.

ARTICLE 7 - TERM

Except as otherwise specifically provided herein, the term of this Agreement commences July 1, ~~2012~~2013, and expires and is otherwise fully terminated at midnight on June 30, ~~2013~~2014.

ARTICLE 8 - RENEGOTIATIONS

8.1 In the event either party wants to renegotiate a successor Agreement, such party shall serve upon the other during the period December 1, ~~2012~~2013 to January 30, ~~2013~~2014, its written request to begin negotiations as well as its full and entire written proposals amending this agreement.

8.2 The parties agree that, except by mutual agreement, no new subjects may be introduced into the process after the third negotiations meeting.

8.3 Upon receipt of such written notice and proposals, negotiations shall begin no later than March 1, ~~2013~~2014.

~~8.4 The Union will complete and provide to the City a classification/compensation study for all unit classifications by February 28, 2013.~~

ARTICLE 9 - ANTI-DISCRIMINATION

The CITY and UNION mutually agree they will not discriminate against employees for the exercise of their rights under the State of California Government Code Section 3502.

ARTICLE 10 - WORK SCHEDULE

This article is intended to define the normal hours of work and shall not be construed as a guarantee of work per day or per week, or of days of work per week.

10.1 WORKDAY:

The normal workday shall be eight hours of work in a 24 consecutive hour period, except in cases of emergencies. Alternative work schedules can be implemented upon approval of the City Manager, and providing they are not in violation of FLSA regulations.

10.2 WORK SHIFT:

Employees shall be scheduled to work on regular work shifts having regular starting and quitting times. Except for emergencies, employees' work shifts shall not be changed without 24 hour prior notice to the employee. Call-out or overtime does not constitute as change in work shift.

10.3 WORKWEEK:

The normal workweek shall be five workdays and two consecutive days of rest in a seven day period beginning Saturday, 12:00 a.m. and ending seven days later on Friday night at 11:59 p.m., except in cases of emergencies, or at the specific request of an employee and approval of department head. Nothing herein shall be construed to eliminate currently established irregular work schedules.

10.4 OVERTIME COMPENSATION:

10.4.1 All work required by the CITY and actually performed beyond 40 hours worked in a workweek is defined as Fair Labor Standards Act (FLSA) overtime. FLSA overtime shall be compensated at one and one-half (times the employee's regular rate of pay, as defined by FLSA.

10.4.2 Designated CITY holidays shall be considered as time worked for purposes of computing overtime for personnel working a Monday through Friday, eight hours a day, schedule with Saturday and Sunday as regular days off. Employees working other schedules will accrue eight hours holiday time and, if working on the CITY designated holiday, be paid at the rate of one and one-half (time the employee's regular rate of pay, as defined by FLSA.

Effective upon the ratification of this contract, vacation hours used shall also be considered as time worked for overtime calculation purposes.

10.4.3 There shall be no double compensation for the same hours of work, nor any "pyramiding" of overtime.

10.5 COMPENSATORY TIME OFF (CTO):

10.5.1 At the employee's option, Compensatory Time Off may be taken in lieu of payment for overtime.

10.5.2 CTO may be accrued. An employee's CTO balance shall indicate the amount of CTO available for employee's use. For example, if an employee works two hours of FLSA overtime and elects to accrue CTO, the employee's CTO balance shall indicate three hours.

10.5.3 An employee's CTO balance shall not exceed a maximum of 60 hours. If overtime is earned which would exceed this limit, the excess shall be paid in cash.

10.5.4 All CTO requested by an employee must be approved in advance by the employee's Department Head.

10.6 EMERGENCIES:

10.6.1 Nothing herein shall be construed to limit or restrict the authority of management to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting an emergency. Such emergency assignments shall not extend beyond the period of said emergency.

10.6.2 Short staffing caused solely by absences due to employees taking approved paid leave shall not be considered an emergency.

10.7 SHIFT ROTATION:

Shift rotation shall coincide with the first day of a pay period.

ARTICLE 11 - VACATION LEAVE

NOTE: All leave time (vacation, sick leave, holiday, etc.), will be taken off on an hour for hour basis equaling employee actual time off, regardless of accumulation rates.

11.1 During the term of this agreement, paid vacation leave shall be earned at the following rate:

Service Years	Maximum Entitlement	
	Days	Hours
1 thru 2	10	80
3 thru 4	11	88
5 thru 6	12	96
7 thru 8	13	104
9 thru 10	14	112
11 thru 12	15	120
13 thru 14	16	128
15 thru 16	17	136
17 thru 18	18	144
19 thru 20	19	152
21 or more	20	160

11.2 The standard for vacation time is eight hours equals one day.

~~11.3 Effective July 1, 2013, employees will be provided an option to convert up to 40 hours of vacation into compensation per fiscal year provided that at the time of the conversion request at least 20 hours of vacation time remains in the employee's vacation bank. Conversion shall be requested during the month of November 1st for payment to be made in December.~~

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11.34 MAXIMUM ACCUMULATION:

It is recognized long-standing accumulations of vacation time exist for some employees. In order to compensate employees for this unused vacation time and reduce this liability for the CITY, CITY and UNION agree on the following policy:

11.34.1 CITY and UNION agree that the vacation cap to be in place for this unit will be 220 hours, to be achieved in the following manner:

11.34.1.1 Unused vacation leave may be carried over into the calendar year 2008 and subsequent calendar years to a maximum of 220 hours. Employees exceeding the 220 hour maximum as of the pay period containing November 1 will be paid off for vacation time exceeding the 220 hour maximum. Payment shall be computed based upon the employee's base hourly rate of pay as of June 30 of the same calendar year. Vacation pay out will occur in the first pay period occurring on or after December 1.

11.34.2 Employees separating from the CITY are entitled to pay for accumulated vacation based upon employee's base hourly rate of pay as of June 30 prior to separation.

ARTICLE 12 - HOLIDAYS

12.1 For the purpose of this agreement, the following days are the holidays for the employees in this unit:

Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25
New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Floating Holiday	Varies
Floating Holiday	Varies

12.2 Holidays falling on Saturday shall be observed on the preceding Friday and holidays falling on Sunday shall be observed on the following Monday; and, shall be considered designated holidays for purposes of overtime.

12.3 One holiday equals eight hours. Accrued holiday time may be taken in less than eight hour increments.

12.4 It is agreed that when a holiday is proclaimed by the Mayor of the CITY, then each employee shall be granted time-off in the same number of equivalent work hours. Such time-off shall be selected by the Department Head.

12.5 Employees may accumulate up to a maximum of 48 hours holiday time for holidays worked. Hours of holiday time accumulated over 48 hours will be paid off. When an employee terminates employment with the CITY, he/she shall receive pay for his/her current holiday balance up to a maximum of 48 hours at his/her current base hourly rate.

12.6 CITY's denial of requested holiday time off shall be neither arbitrary nor capricious.

12.7 Employees who work on a CITY designated holiday shall have eight hours banked and also shall be paid one and one-half times their base hourly rate for the hours actually worked on the holiday.

ARTICLE 13 - SICK LEAVE

13.1 During the term of this agreement, sick leave shall be earned at the rate of one eight-hour workday for each calendar month of service. Sick leave used shall be actual employee time off. For example, if an employee works four 10 hour days per week and is off sick for one of the 10 hour days, 10 hours shall be deducted from employee’s sick leave balance. There shall be no maximum to the amount of sick leave that an employee may accumulate.

13.2 Based on individual utilization of paid sick leave in the preceding calendar year, employee may convert unused accumulated sick leave into paid vacation leave once during the following fiscal year, pursuant to the formula below:

<u>Sick Leave Utilization</u>	<u>Sick Leave</u>	<u>Maximum Conversion To Vacation Leave</u>
0 hours	96 hours	48 hours
.25 to 8 hours	72 hours	36 hours
8.25 to 16 hours	48 hours	24 hours
16.25 to 25 hours	24 hours	12 hours
Over 25 hours	0	0

At least 160 hours shall remain in employee’s sick leave bank after any conversion is authorized.

13.3 Upon the service retirement of an employee who has more than 10 years of service with the CITY, said employee shall be entitled to receive payment for up to the first 90 days of his/her accrued sick leave at thirty percent (30%) of the employee's rate of pay as of the date of service retirement.

Service retirement is defined as service retirement from both the CITY and the respective retirement system thereof.

NOTE: Sick leave converted to service credit for PERS purposes cannot be compensated (converted to dollars).

ARTICLE 14 - RETIREMENT BENEFITS

14.1 ~~Effective July 7, 2012~~ All employees will contribute the entire employee retirement contribution.

14.2 The CITY agrees to continue providing all employees hired prior to January 1, 2012 PERS Miscellaneous employees in this unit with the following PERS optional benefits (existing employees promoted to another position within the City will not be considered new hires with respect to retirement formulas):

- 14.2.1 2.7% at 55 plan
- 14.2.2 Sick Leave Credit Option (Section 20965)
- 14.2.3 Military Service Credit (Section 21024)
- 14.2.4 Single Highest Year
- 14.2.5 1959 Survivor Benefit, 4th Level4

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14.3 For employees hired on or after January 1, 2012 but before January 1, 2013, and those hired on or after January 1, 2013 who meet the definition of classic member pursuant to the California Public Employee's Pension Reform Act of 2013 (PEPRA), shall be as follows:~~the PERS Contract Amendment regarding 2-Tier Retirement Formulas and Final Compensation for PERS Miscellaneous employees, the CITY will provide a retirement benefit program through Public Employees Retirement System (PERS) with the following PERS optional benefits:~~

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- 14.3.1 2% @ 60 plan (21353)
- 14.3.2 Sick Leave Option (Section 20965)
- 14.3.3 Final Compensation Average 36 consecutive highest months (20037)
- 14.3.4 Military Service Credit (21024)
- 14.3.5 1959 Survivor Benefit 4th Level (21574)

14.4 Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), effective January 1, 2013, employees hired who meet the definition of new member under PEPRA, will be covered by the 2% @ 62 retirement formula with the 36 highest months final compensation provision, and shall pay a member contribution rate of fifty (50) percent of the expected normal cost rate.

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- 14.4.1 Sick Leave Option (Section 20965)
- 14.4.2 Final Compensation Average 36 consecutive highest months (20037)
- 14.4.3 Military Service Credit (21024)
- 14.4.4 1959 Survivor Benefit 4th Level (21574)

14.45 The CITY agrees to provide employees hired prior to September 17, 2011 PERS Safety employees (Harbor Officers) in this unit with the following PERS optional benefits (existing employees promoted to another position within the City will not be considered new hires with respect to retirement formulas):

- 14.45.1 Highest Single Year Compensation (Section 20042)
- 14.45.2 Sick Leave Credit (Section 20965)
- 14.45.3 1959 Survivor Benefit (Section 21580)
- 14.45.4 3% @ 50 Retirement Formula (Section 21362.2)
- 14.45.5 3rd Level Survivor Benefit (Section 21573)

- 14.45.6 Military Service Credit (Section 21204)
- 14.45.7 4th Level Survivor Benefit (Section 21574).

14.56 For PERS Safety employees (Harbor Patrol Officers) hired on or after September 17, 2011 and those hired on or after January 1, 2013 who meet the definition of classic member pursuant to the California Public Employee's Pension Reform Act of 2013 (PEPRA), the CITY will provide a retirement benefit program through Public Employees Retirement System (PERS) the retirement benefits set forth in 14.4 above will be modified and reads as follows.

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- 14.56.1 36 consecutive months final compensation
- 14.56.2 Sick Leave Credit effective 6-24-89 (Section 20965)
- 14.56.3 4th Level Survivor Benefit (Section 21574)
- 14.56.4 1959 Survivor Benefit effective 6-24-89 (Section 21580)
- 14.56.5 Military Service Credit effective 6-9-98 (Section 21024)
- 14.56.6 3% @ 55 Retirement Formula
- 14.56.7 Pre-Retirement Optional Settlement 2 Death Benefit

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~~14.67 If the State Legislature adopts a two-tier PERS retirement program applicable to unit members, then all unit members employed after the effective date of such PERS changes shall be placed in a new retirement plan or one selected by the CITY. Current employees at the time of plan adoption will have a one-time option to enter the new plan; enrollment period to be selected by CITY. Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), effective January 1, 2013, safety employees hired who meet the definition of new member under PEPRA, will be covered by the 2.7% @ 57 retirement formula with the 36 highest months final compensation provision, and shall pay a member contribution rate of fifty (50) percent of the expected normal cost rate.~~

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- ~~14.7.1 36 consecutive months final compensation~~
- ~~14.7.2 Sick Leave Credit effective 6-24-89 (Section 20965)~~
- ~~14.7.3 4th Level Survivor Benefit (Section 21574)~~
- ~~14.7.4 1959 Survivor Benefit effective 6-24-89 (Section 21580)~~
- ~~14.7.5 Military Service Credit effective 6-9-98 (Section 21024)~~
- ~~14.7.6 3% @ 55 Retirement Formula~~
- ~~14.7.7 Pre-Retirement Optional Settlement 2 Death Benefit~~

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ARTICLE 15 - HEALTH BENEFITS

15.1 HEALTH INSURANCE:

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15.1.1 Employees of this UNIT shall participate in the PERS medical insurance plans on a cafeteria style basis, with the CITY contributing the PERS minimum (currently \$~~408~~115/month) to the active employee's medical insurance and \$1.00/month or the amount required by PERS to retiree medical insurance. Any costs in excess of these contribution rates shall be paid by the employee and retiree.

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15.1.2 ~~UNIT employees receive a cafeteria plan contribution (including the amount required by PERS in 15.1.1 above) as follows:~~

~~Employee only – up to \$715/month or cost of insurance, whichever is less
 Employee + 1 – up to \$947/month or cost of insurance, whichever is less
 Employee + family – up to \$1050/month or cost of insurance, whichever is less~~

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~~15.1.3 Effective January 1, 2013, UNIT employees receive a cafeteria plan contribution (including the amount required by PERS in 15.1.1 above) as follows:~~

~~Employee only - up to \$715/month or cost of insurance, whichever is less
 Employee + 1 – up to \$967/month or cost of insurance, whichever is less
 Employee + family - up to \$1080/month or cost of insurance, whichever is less~~

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15.1.43 Effective January 1, 2009 cash-back was eliminated except as provided herein. Employees receiving cash-back in December 2008 shall continue to receive the same amount for the term of this agreement except that if a cash-back employee changes the structure of their insurance (add dependents, delete dependents, drop insurance with the CITY, change carriers, etc.) cash-back is not an option. Cash-back will be eliminated for employees during the open enrollment period in 2012 for calendar year 2013, and in subsequent years, if said employees are required (because of eliminated plans) to change carrier. In the event an employee receiving cash-back is forced to make a plan change because the CITY changes plans and/or ceases to contract with PERS for insurance, that employee will maintain cash-back.

15.2 DENTAL AND VISION INSURANCE:

15.2.1 ~~During the term of this Agreement, the CITY shall offer dental/life and vision insurance and each employee shall be required to carry both dental/life and vision insurance for self.~~ Life Insurance is provided at \$2030,000 per employee. The following rates are effective January 1, 20122013.

	Vision	Dental	Life	Totals	City pays	EE pays
Employee only	\$7.64	\$42.87	\$5.70	\$56.21	\$49.48	\$6.73
Employee + 1	\$14.32	\$119.56	\$5.70	\$139.58	\$120.97	\$18.61
Employee + 2+	\$19.52	\$119.56	\$5.70	\$144.78	\$125.54	\$19.24

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	<u>VISION</u>	<u>DENTAL</u>	<u>LIFE</u>	<u>TOTALS</u>
Employee Only	\$ 8.63	\$ 40.07	\$3.60	\$ 52.30
Employee +1	\$17.26	\$106.39	\$3.60	\$127.25
Employee +2	\$22.29	\$111.74	\$3.60	\$137.63

Employee will be responsible for the following monthly amounts for dental/life and vision beginning with the pay period including January 1, 2012:

Employee Only	\$2.93
Employee + 1	\$11.75
Employee + 2+	\$12.21

CITY will pay the remaining premium for dental/life and vision.

15.3 Any coverage made available to future retirees beyond COBRA time requirements shall be paid for by the retiree.

~~15.4 The provisions of this section shall be binding on the parties through the remainder of this agreement and for the term of the agreement that will be effective July 1, 2012. The parties agree herewith that no further collective bargaining will occur with respect to this section for the term of the agreement ending June 30, 2013.~~

ARTICLE 16 - EDUCATION INCENTIVES

16.1 CITY agrees to reimburse the costs for job related and job-required certifications, correspondence courses, and licenses (except Class III driver's license) upon successful completion of the examination or course by the employee having written authorization in advance from their department head. This shall include application fees, examination fees, and certificate fees. Renewal fees may be paid in advance by the CITY. This provision does not apply to continuing education requirements.

CITY agrees to provide a CITY vehicle, when available, during normal working hours for required transportation and will permit paid time for employee to take examinations scheduled during normal working hours. No mileage payments are authorized for personal transportation, and time spent outside normal working hours shall not be compensated, except that tests taken for CITY required certifications shall be taken in paid status.

16.2 COLLEGE DEGREES:

16.2.1 CITY agrees to pay the following education incentives on base salary to regular employees hired prior to January 1, 1998 who hold degrees above the minimum required in their respective classification.

Associate of Arts Degree - \$ 600 annually
Bachelors Degree \$1200 annually

16.2.2 If an employee's job description requires an AA degree and the employee has a Bachelor's Degree, the employee will receive only the difference between an AA and a BA degree, or \$600 annually.

16.2.3 If an employee's job description requires a degree or if an employee is promoted to a classification that requires a degree, the employee shall not receive education incentive pay for the required degree.

The parties agree that this section shall not be interpreted to reduce the amount of education incentive pay that any employee hired prior to January 1, 1998 receives, notwithstanding the fact that the employee is promoted to a higher position requiring a particular degree, or the fact that the job description for the employee's existing position has been revised to require a particular degree. In the event an employee hired prior to January 1, 1998 promotes to a position requiring a degree not required by the lower position, or if the job description for an employee hired prior to January 1, 1998 is revised to require a degree not previously required for the position, the employee shall continue to receive the amount of the education incentive pay received in the lower position or previous job description.

16.2.4 Based on the new job descriptions for all classifications which were adopted in May 1996, employees currently in positions now required to hold an AA or BA degree according to the job description for the classification they hold, will continue to receive an educational incentive for said degree. Any employees hired on or after January 1, 1998 or current employees promoted on or after January 1, 1998 to positions requiring degrees will be subject to section 16.2.3 above.

ARTICLE 17 - WORK UNIFORMS

17.1 CITY will provide work coveralls, including laundry service, for each employee whose working conditions create undue wear and tear on work clothing.

CITY will select and provide uniform work shirt, including laundry service, for all field employees. Work shirts shall include a CITY logo and the employee's name.

17.2 Determination of individual entitlement to CITY-provided work uniforms will be at the discretion of the appropriate department head, and with the approval of the City Manager. Unit members in classifications currently receiving uniforms shall continue to do so.

17.3 SAFETY SHOES:

Effective July 1, 2013, employees required to wear steel-toed safety shoes in the performance of their duties shall be eligible to receive an annual allowance for the provision of said shoes in the amount of ~~\$120-150~~ per fiscal year. Proof of purchase is required. Once purchased, such appropriate footwear must be worn while working.

ARTICLE 18 – WAGES AND INCENTIVES

18.1 Effective the pay period ~~beginning including July 7, 2012~~ January 1, 2014, salaries shall be increased ~~by five (5%)~~ two (2%) percent, ~~for Miscellaneous and seven (7%) percent for Safety concurrent with the requirement that employees assume payment of the entire employee retirement contribution seven (7%) or eight (8%) percent for Miscellaneous employees and nine (9%) percent for Safety employees.~~

18.2 Required Certificate.

Employees in the Maintenance Worker classifications in the Collections division shall receive a \$75 per month incentive for the California Water Environment Association Collections Certificate required by their classification. Those employee classifications are: Wastewater Collection System Leadworker and Wastewater Collection System Operator I, II and III.

18.3 Additional Certificate. An employee certified as a Wastewater Treatment Plant Operator with a certificate issued by the California State Water Resources Control Board, or those employees certified as Water System Operator and Wastewater Collection System Operator, shall receive a \$50 per month incentive for one certification above that required by the position held. Those employees certified as Water System Operator will additionally receive a \$50 per month incentive for one treatment certification above that required by the position held.

18.4 All salary adjustments, including but not limited to merit increases, educational incentives, and any other pay adjustments will take effect at the beginning of the next payroll period after the scheduled effective date of the increase.

18.5 Any and all special pay incentives will be calculated on base salary.

18.6 Attached Exhibit A reflects wages for members of this unit for the duration of this Agreement.

ARTICLE 19 - SPECIAL PAY PRACTICES

19.1 STANDBY:

19.1.1 Standby duty is defined as that circumstance which requires an employee so assigned to:

- Be ready to respond immediately to a call for service;
- Be readily available at all hours by telephone or other agreed upon communication equipment; and
- Refrain from activities which might impair his/her assigned duties upon call.

19.1.2 It is agreed that personnel who are scheduled, on a routine basis, for standby duty shall be compensated at the rate of thirty-five dollars (\$35.00) per day for each day of scheduled standby duty performed. Effective July 1st, 2013, standby pay rates for the following agreed upon days, regardless of the City recognized holiday schedule, shall be compensated at the rate of sixty dollars (\$60.00).

- 1) New Year's Eve
- 2) New Year's Day
- 3) Memorial Day Weekend Friday
- 4) Memorial Day Weekend Saturday
- 5) Independence Day
- 6) Labor Day Weekend Friday
- 7) Labor Day Weekend Saturday
- 8) Thanksgiving Day
- 9) Day after Thanksgiving
- 10) Christmas Eve
- 11) Christmas Day

19.2 CALL BACK:

19.2.1 Call back is defined as that circumstance which requires an employee to unexpectedly return to work after the employee has left work at the end of the employee's work shift; except that an early call in of up to two (hours prior to the scheduled start of a work shift shall not be counted as a call back.

19.2.2 CITY will guarantee a minimum of three work hours credit (four and one half hours compensation), for each employee called back for work as defined above.

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19.2.3 Whenever an employee is called back to work, the CITY considers the employee "on-duty" for three hours even if employee returns home. No additional call-back time pay is allowed during this period if the employee is again called back. However, if more than three hours have passed since the initial call-back and the employee is called back to work again, the employee may claim an additional three work hours credit (four and one half hours call-back compensation) under the conditions set forth in 19.2.1 above.

19.2.4 Said employee shall receive either pay or compensatory time-off, pursuant to Article 10 - Overtime Compensation, for the minimum or for all time actually worked, whichever is greater.

19.2.5 Employees called back to work pursuant to this section shall be eligible for mileage reimbursement when utilizing their personal vehicle.

19.3 Members of this Unit who are required by their supervisor to attend meetings outside of the normal work schedule shall be paid a minimum of three hours at time and one-half without regard to hours actually worked during the work week. Meetings during regular work hours shall be included in employees' regular rate of pay and not compensated beyond that.

ARTICLE 20 - PROBATION

The probationary period for newly hired employees shall be 12 months. The probationary period for employees promoted to a higher classification shall be six months in the new classification. The CITY shall have the option of granting a newly hired employee regular status at any time after nine months of service.

ARTICLE 21 - GRIEVANCE PROCEDURE

21.1 PURPOSE OF PROCEDURE:

The primary purpose of this procedure shall be to provide a means whereby an employee, without jeopardizing his/her employment, can express a personal grievance relating to his/her wages, hours of work, and working conditions, and obtain a fair and equitable disposition of his/her grievance.

21.2 DEFINITION OF INFORMAL GRIEVANCE:

An informal grievance is defined as an oral (or email) concern by an employee expressed to his/her supervisor with a request to informally discuss the grievance with the supervisor and/or the department head.

21.3 DEFINITION OF FORMAL GRIEVANCE:

A formal grievance shall be defined as any formal written complaint of an employee filed with his/her immediate supervisor within thirty days of the action or inaction by the CITY which constitutes the subject of the grievance relating to his/her wages, hours of work, and working conditions. Such grievance shall not include performance evaluations or reprimands. However, employees may provide a written rebuttal to a performance evaluation or written reprimand that will be attached to the original document for placement in the employee's file.

21.4 INFORMAL DISCUSSION WITH SUPERVISOR:

An employee shall first pursue all informal grievances with his/her supervisor and at any time that the employee deems that the informal grievance is a formal grievance, the employee may reduce it to a formal written grievance.

21.5 FORMAL CONFERENCE WITH SUPERVISOR:

If an employee does not obtain satisfaction of his/her informal grievance by means of an informal discussion with his/her supervisor, or if employee is unable to communicate with his/her supervisor, employee and/or his/her representative may, by written grievance, request and shall be accorded a formal conference within ten days with the supervisor and/or department head. The decision of the supervisor shall be reported to the employee and/or his/her representative within five business days of the date the conference was held with the supervisor.

21.6 DEPARTMENT REVIEW:

In the event the employee does not obtain satisfaction at any level of review by means of informal or formal grievance and a formal conference with his/her supervisors, employee and/or his/her representative may submit the grievance in writing to the supervisor or department head. The procedure to be followed by the supervisor who receives a grievance in writing shall be established by each department head for his/her department, and shall include review of the grievance by the immediate supervisor and such successively higher levels of management as may be determined by the department head. A cumulative record of the decision and the reason for the decision at each level of review shall be maintained. The ultimate decision shall be that of the department head. The decision must be reported to the employee in writing within ten business days of the date that the request for departmental review was submitted to the supervisor.

21.7 MEDIATION:

If, within ten working days after receipt of the written decision of the department head the employee is still dissatisfied, he or she may request the services of a mediator from the State Mediation and Conciliation Service. CITY is not bound by the determination and/or recommendations of said mediator.

21.8 APPEAL TO THE CITY MANAGER:

In the event the employee does not obtain satisfaction by means of the mediator, employee and/or his/her representative shall submit the grievance in writing to the City Manager within ten days after notification of the mediator's determination is given to the employee. The City Manager may meet with the employee and/or his/her representative, the mediator and the department head before making a decision; or may waive administrative review and refer the grievance directly to a committee of the City Council appointed to hear grievances. A copy of the City Manager's decision on the matter must be presented to the employee within ten business days of the date the grievance was filed with the City Manager.

21.9 SUBMISSION TO A COMMITTEE OF THE CITY COUNCIL:

In the event that the employee does not obtain satisfaction by means of the administrative procedures outlined above, he/she may request a hearing by a committee of the City Council. The hearing shall be held by the committee within fifteen business days of the date of receipt of the request at the convenience of all parties, unless waived by mutual consent of the employee and the department head. The hearing shall be informal. The employee and/or his/her representative, the department head and/or the City Manager shall appear before the committee to present the facts pertinent to the case. The burden of proof shall rest with the employee. The committee shall limit its review of the grievance to the subject matter contained in the previous steps of the grievance procedure and shall make its decision within thirty days after the termination of the hearing unless of the hearing unless a reasonable time extension is deemed necessary and all parties are notified.

21.10 TIME LIMITS:

In case the time limits outlined above are not observed by the representative of the CITY, the employee and/or his/her representative shall have the right to carry the grievance directly to the next higher level of review.

21.11 GROUP GRIEVANCE PROCEDURE:

The recognized employee organizations may present a general grievance (affecting several employees) in writing directly to the City Manager. Upon receipt of such grievance, the City Manager shall establish a time for a hearing, at which time all affected parties may appear before the City Manager to present facts pertinent to the issue. The decision of the City Manager shall be presented to all parties concerned within fifteen business days and, within five business days of receipt of the City Manager's decision which is unacceptable, shall be appealable by the group to a committee of the City Council for their findings and recommendations within thirty days thereafter. If either party wishes to appeal, they may file an appeal with the City Council as a whole within five business days of the final decision of the committee of the City Council.

ARTICLE 22 - NO STRIKE, NO LOCK-OUT

- 22.1 During the term of this Agreement, the CITY will not lockout any employees nor will Unit employees or the UNION cause, authorize, advise or encourage any interruption of work or any other concerted action. The term "interruption of work" shall mean any work stoppage "sick out", or strike (including economic, sympathy, and unfair labor practice strikes) or any intentional slowdown of work. The term "other concerted action" includes picketing or boycott activities by the UNION.
- 22.2 There shall be no refusal to work on, handle or produce any materials or equipment because of a labor dispute.
- 22.3 Any employee engaging in any action prohibited by this Article shall be subject to immediate discharge or such other discipline as the CITY may assess. Such discharge or discipline shall not be reviewable through the Grievance Procedure.

ARTICLE 23 - FULL UNDERSTANDING, MODIFICATION, WAIVER

- 23.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.
- 23.2 It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein. Notwithstanding the foregoing, It is agreed that from time-to-time the CITY may introduce changes in its Personnel Rules and offer the Union an opportunity to meet and confer prior to implementing changes within the scope of bargaining.

23.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved by the CITY and ratified by the membership of the UNION.

23.4 The waiver of any breach of any term, or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

24.4 The City agrees to meet and confer regarding any change in job titles and descriptions of represented employees.

ARTICLE 24 - SEVERABILITY

If any provision(s) are held to be contrary to law by a court of competent jurisdiction, such provision(s) will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

Date: _____

Date: _____

SEIU LOCAL 620

CITY OF MORRO BAY

Mike Woods, Field Representative

William Avery, Chief Negotiator

Michael Mobley, Team Member

Andrea Lueker, City Manager

Darryl Scheck, Team Member

Susan Slayton, Administrative Services Director

Rebecca Kelly, Team Member

Jamie James, Team Member

John Gunderlock, Team Member

CITY OF MORRO BAY - SEIU

SALARY SCHEDULE

January 1, 2014 - June 30, 2014

Employee paying 100% PERS contribution (8% Misc, 9% HPO)

	STEP	ANNUAL	MONTHLY	BIWEEKLY	HOURLY
610 ASSOCIATE PLANNER	5	\$71,508	\$5,959	\$2,750.31	\$34.3788
WATER SYSTEM SUPERVISOR	4	\$68,102	\$5,675	\$2,619.31	\$32.7413
ASSOCIATE CIVIL ENGINEER	3	\$64,860	\$5,405	\$2,494.62	\$31.1827
620 WWTP SUPERVISOR	2	\$61,771	\$5,148	\$2,375.81	\$29.6976
622 COLLECTION SYSTEM SUPERVISOR	1	\$58,830	\$4,903	\$2,262.69	\$28.2837
HARBOR PATROL SUPERVISOR	5	\$70,157	\$5,846	\$2,698.35	\$33.7293
	4	\$66,816	\$5,568	\$2,569.85	\$32.1231
	3	\$63,634	\$5,303	\$2,447.46	\$30.5933
	2	\$60,604	\$5,050	\$2,330.92	\$29.1365
	1	\$57,718	\$4,810	\$2,219.92	\$27.7490
630 HOUSING PROGRAMS COORD	5	\$66,511	\$5,543	\$2,558.12	\$31.9764
666 HARBOR BUSINESS COORD	4	\$63,344	\$5,279	\$2,436.31	\$30.4538
	3	\$60,328	\$5,027	\$2,320.31	\$29.0038
	2	\$57,456	\$4,788	\$2,209.85	\$27.6231
	1	\$54,719	\$4,560	\$2,104.58	\$26.3072
640 BUILDING INSPECTOR	5	\$63,897	\$5,325	\$2,457.58	\$30.7197
ENGINEERING TECHNICIAN IV	4	\$60,854	\$5,071	\$2,340.54	\$29.2567
ASSISTANT CIVIL ENGINEER	3	\$57,956	\$4,830	\$2,229.08	\$27.8635
WWTP LEADWORKER	2	\$55,196	\$4,600	\$2,122.92	\$26.5365
	1	\$52,568	\$4,381	\$2,021.85	\$25.2731
650 ASSISTANT PLANNER	5	\$61,443	\$5,120	\$2,363.19	\$29.5399
	4	\$58,516	\$4,876	\$2,250.62	\$28.1327
	3	\$55,730	\$4,644	\$2,143.46	\$26.7933
	2	\$53,077	\$4,423	\$2,041.42	\$25.5178
	1	\$50,549	\$4,212	\$1,944.19	\$24.3024
670 RECREATION SUPERVISOR	5	\$61,062	\$5,089	\$2,348.54	\$29.3567
	4	\$58,155	\$4,846	\$2,236.73	\$27.9591
	3	\$55,386	\$4,616	\$2,130.23	\$26.6279
	2	\$52,748	\$4,396	\$2,028.77	\$25.3596
	1	\$50,236	\$4,186	\$1,932.15	\$24.1519
675 WWTP OPERATOR III/LAB ANALYST	5	\$59,959	\$4,997	\$2,306.12	\$28.8264
WATER SYSTEM OPERATOR III	4	\$57,104	\$4,759	\$2,196.31	\$27.4538
	3	\$54,384	\$4,532	\$2,091.69	\$26.1462
	2	\$51,795	\$4,316	\$1,992.12	\$24.9014
	1	\$49,328	\$4,111	\$1,897.23	\$23.7154
661 R&P MAINT LW - STS/PARKS/FACILITIES	5	\$59,733	\$4,978	\$2,297.42	\$28.7178
663 COLLECTIONS SYS LEADWORKER	4	\$56,888	\$4,741	\$2,188.00	\$27.3500
702 ENGINEERING TECH III	3	\$54,180	\$4,515	\$2,083.85	\$26.0481
	2	\$51,600	\$4,300	\$1,984.62	\$24.8077
	1	\$49,143	\$4,095	\$1,890.12	\$23.6264

CITY OF MORRO BAY - SEIU

SALARY SCHEDULE

January 1, 2014 - June 30, 2014

Employee paying 100% PERS contribution (8% Misc, 9% HPO)

	STEP	ANNUAL	MONTHLY	BIWEEKLY	HOURLY
690 HARBOR PATROL OFFICER	5	\$59,561	\$4,963	\$2,290.81	\$28.6351
	4	\$56,725	\$4,727	\$2,181.73	\$27.2716
	3	\$54,023	\$4,502	\$2,077.81	\$25.9726
	2	\$51,451	\$4,288	\$1,978.88	\$24.7361
	1	\$49,001	\$4,083	\$1,884.65	\$23.5582
680 WWTP OPERATOR II WATER SYSTEM OPERATOR II	5	\$57,104	\$4,759	\$2,196.31	\$27.4538
	4	\$54,384	\$4,532	\$2,091.69	\$26.1462
	3	\$51,795	\$4,316	\$1,992.12	\$24.9014
	2	\$49,328	\$4,111	\$1,897.23	\$23.7154
	1	\$46,979	\$3,915	\$1,806.88	\$22.5861
MECHANIC	5	\$53,910	\$4,493	\$2,073.46	\$25.9183
	4	\$51,325	\$4,277	\$1,974.04	\$24.6755
	3	\$48,898	\$4,075	\$1,880.69	\$23.5087
	2	\$46,580	\$3,882	\$1,791.54	\$22.3942
	1	\$44,353	\$3,696	\$1,705.88	\$21.3236
731 ADMINISTRATIVE TECHNICIAN 735 ADMINISTRATIVE UTILITIES TECH	5	\$52,239	\$4,353	\$2,009.19	\$25.1149
	4	\$49,752	\$4,146	\$1,913.54	\$23.9192
	3	\$47,383	\$3,949	\$1,822.42	\$22.7803
	2	\$45,126	\$3,761	\$1,735.62	\$21.6952
	1	\$42,978	\$3,582	\$1,653.00	\$20.6625
730 ACCOUNT CLK III					
740 WWTP OPR I	5	\$51,334	\$4,278	\$1,974.38	\$24.6798
751 MAINTENANCE WORKER III - PARKS	4	\$48,890	\$4,074	\$1,880.38	\$23.5048
752 COLLECTION SYS WORKER III	3	\$46,561	\$3,880	\$1,790.81	\$22.3851
	2	\$44,343	\$3,695	\$1,705.50	\$21.3188
	1	\$42,232	\$3,519	\$1,624.31	\$20.3038
791 PERMIT TECHNICIAN	5	\$49,084	\$4,090	\$1,887.85	\$23.5981
	4	\$46,747	\$3,896	\$1,797.96	\$22.4745
	3	\$44,521	\$3,710	\$1,712.35	\$21.4043
	2	\$42,400	\$3,533	\$1,630.77	\$20.3846
	1	\$40,382	\$3,365	\$1,553.15	\$19.4144
800 MAINTENANCE WORKER II	5	\$47,930	\$3,994	\$1,843.46	\$23.0433
801 COLLECTION SYS WORKER II	4	\$45,647	\$3,804	\$1,755.65	\$21.9457
810 WWTP OIT	3	\$43,473	\$3,623	\$1,672.04	\$20.9005
WATER SYSTEM OPERATOR I	2	\$41,404	\$3,450	\$1,592.46	\$19.9058
ACCOUNT CLERK II	1	\$39,432	\$3,286	\$1,516.62	\$18.9577
831 OFFICE ASST. IV	5	\$46,133	\$3,844	\$1,774.35	\$22.1793
	4	\$43,937	\$3,661	\$1,689.88	\$21.1236
	3	\$41,844	\$3,487	\$1,609.38	\$20.1173
	2	\$39,851	\$3,321	\$1,532.73	\$19.1591
	1	\$37,954	\$3,163	\$1,459.77	\$18.2471

CITY OF MORRO BAY - SEIU

SALARY SCHEDULE

January 1, 2014 - June 30, 2014

Employee paying 100% PERS contribution (8% Misc, 9% HPO)

	STEP	ANNUAL	MONTHLY	BIWEEKLY	HOURLY
802 COLLECTION SYSTEM WORKER I	5	\$42,671	\$3,556	\$1,641.19	\$20.5149
840 OFFICE ASST. III	4	\$40,639	\$3,387	\$1,563.04	\$19.5380
850 ACCOUNT CLERK I	3	\$38,704	\$3,225	\$1,488.62	\$18.6077
	2	\$36,861	\$3,072	\$1,417.73	\$17.7216
	1	\$35,105	\$2,925	\$1,350.19	\$16.8774

Positions in **BOLD** are filled and/or budgeted

Positions in *ITALICS* are unfilled and unbudgeted

Positions removed:

660 WATER DISTRIBUTION LEADWORKER

667 MAINT LEADWORKER - FLEET

710 MAINTENANCE WORKER III - FLEET

720 WATER DISTRIBUTION OPERATOR III

760 FACILITY MAINTENANCE WORKER

800 WATER DISTRIBUTION OPERATOR II



AGENDA NO: A-7

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 17, 2013
FROM: Robert Schultz, City Attorney
SUBJECT: Adoption of Resolution No. 52 -13 Approving the Real Estate Agreement for the Sale of City-Owned Vacant Lot Property on the Corner of Coral Avenue and San Jacinto Street with a Street Address of 2783 Coral Avenue in Morro Bay, California

RECOMMENDATION:

Adopt Resolution 52-13 approving the Real Estate Agreement for the sale of City-owned property at the corner of Coral Avenue and San Jacinto Street with a street address of 2783 Coral Avenue in Morro Bay, California.

FISCAL IMPACT:

As you can see from the Real Estate Purchase Agreement that is attached to Resolution No. 52-13, the City has received an offer to purchase the City-owned property at the corner of Coral Avenue and San Jacinto Street in Morro Bay, California for \$935,000.

DISCUSSION:

The City obtained ownership of the property at the southeast corner (SEC) of Coral Avenue and San Jacinto Street in September 1996. At the time of the dedication, the property was a possible site for an additional fire station.

In 2005, the City Council determined that alternative sites were better suited for a fire station. Therefore, pursuant to Government Code section 37421 and Resolution No. 30-05, the City notified the citizens of its intention to sell the City-owned property referenced above.

At the July 25, 2005 Council Meeting, having received no protests to the sale of the property, the City Council authorized staff to proceed with procuring a buyer for the property.

From 2005 to 2008, the City tried to market the property for sale on its own but received no acceptable offers. In 2008-2009, the City contracted with Morro Bay Realty to represent the City in marketing and negotiating the property. Unfortunately, the City again received no acceptable offers.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

At the March 12, 2013 City Council meeting, Council authorized staff to solicit proposals for real estate contract services to assist in the sale of City-owned property located at the SEC Coral Avenue and San Jacinto Street. A Request for Proposals was mailed to Morro Bay realtors on March 15th, with a deadline to respond of April 5, 2013. Five proposals were submitted. At the April 23, 2013 City Council meeting, Council selected Ciano Realty to provide real estate contract services to assist in the sale of the property.

With the assistance of Ciano Realty, Broc Assets made an offer on the property and has accepted the terms and conditions of the Purchase Agreement that is attached to Resolution No. 52-13. Broc Assets will purchase the property at 2783 Coral Avenue, Morro Bay, California for \$935,000.

CONCLUSION:

Staff recommends that you approve the Real Estate Agreement and adopt Resolution No. 52-13, approving the sale of City-owned property located at 2783 Coral Avenue for \$935,000.

RESOLUTION NO. 52-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THE REAL ESTATE AGREEMENT FOR THE SALE
OF CITY-OWNED VACANT LOT PROPERTY ON THE CORNER OF
CORAL AVENUE AND SAN JACINTO STREET WITH A STREET ADDRESS
OF 2783 CORAL AVENUE IN MORRO BAY, CALIFORNIA**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City obtained ownership of the vacant lot real property located at the South East Corner (SEC) Coral/San Jacinto Street, Lot 124, Tract 1996 with a street address of 2783 Coral Avenue, Morro Bay, California in September 1996; and

WHEREAS, said property was dedicated to the City as a possible site for a fire substation. Subsequently, the City has determined that the property at the SEC Coral Avenue and San Jacinto Street, Lot 124, Tract 1996 is not suited for a fire substation and better locations exist for a fire substation; and

WHEREAS, pursuant to Government Code section 37350, the City wishes to sell City-owned real property located at the SEC Coral/San Jacinto Street, Lot 124, Tract 1996 with a street address of 2783 Coral Avenue, Morro Bay, California for the common benefit of its citizens; and

WHEREAS, pursuant to Government Code section 37421, and Resolution No. 30-05, the City notified its citizens of its intention to sell City-owned properties located at the SEC Coral/San Jacinto Street, Lot 124, Tract 1996 with a street address of 2783 Coral Avenue, Morro Bay, California; and

WHEREAS, the City designated the real properties at the SEC Coral/San Jacinto Street, Lot 124, Tract 1996 with a street address of 2783 Coral Avenue, Morro Bay, California for sale at the Open Session Council Meeting on July 11, 2005 and held a public hearing on July 25, 2005, and after receiving no protests passed and adopted Resolution 30-05 by a unanimous vote; and

WHEREAS, the City has negotiated the attached Real Estate Agreement with the Buyer of the property for \$935,000.00.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby approve the attached Real Estate Purchase Agreement for the sale of the City-owned real property located at the SEC Coral Ave. and San Jacinto Street, Lot 124, Tract 1996 with a street address of 2783 Coral Avenue, Morro Bay, California and authorizes the City Manager to execute any documents necessary to consummate the sale of the property.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 22nd day of October 2013, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

**AGREEMENT OF PURCHASE AND
SALE AND ESCROW
INSTRUCTIONS**

This AGREEMENT OF PURCHASE AND SALE AND ESCROW INSTRUCTIONS ("Agreement") is made and entered into this 22 day of October 2013, by and between the City of Morro Bay ("Seller"), and Broc Assets, Inc., a California corporation ("Buyer") and shall be effective on the later of the dates specified next to the signatures of Seller and Buyer (the "Effective Date"), provided Buyer and Seller have delivered executed counterparts of this Agreement to each other on or before said date.

Now, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed by Seller and Buyer as follows:

1. *Definitions.*

For the purposes of this Agreement the following terms will be defined as follows:

(a) *"Real Property"*: The Real Property located at 2783 Coral Avenue, Morro Bay, CA 93442, consisting of approximately 1.07 acres, as legally described on Exhibit "A" attached hereto.

(b) *"Purchase Price"*: The Purchase Price for the "Property" (as defined in paragraph 2(e) below) is \$935,000.00 (Nine Hundred Thirty Five Thousand Dollars).

(c) *"Deposit"*: The Deposit consists of \$50,000.00 (Fifty Thousand Dollars) which shall be delivered to Escrow Holder in accordance with Paragraph 4 below. The deposit shall not be placed into an interest bearing account by Escrow Holder unless requested by Buyer, but it shall be invested in a federally insured bank or savings association. The deposit and interest accruing thereon are deemed to be the "Deposit" hereunder, and any interest on the Deposit shall accrue for the benefit of Buyer. An Additional Deposit shall be \$50,000.00 (Fifty Thousand Dollars), to be delivered to Escrow Holder upon acceptance of the Agreement by Seller, for a total Deposit of \$100,000 (One Hundred Thousand Dollars).

(d) *"Title Company"*: The Title Company is First American Title Company Morro Bay.

(e) *"Escrow Holder"*: The Escrow Holder is First American Title Company Morro Bay.

(f) *"Closing"* and *"Closing Date"*: These terms are used

interchangeably in this Agreement. The Closing or the Closing Date will be deemed to have occurred when the deed for the Real Property is recorded in the official records of the county in which the Real Property is located.

(g) *"Closing Date"*: The Closing Date shall be no later than ten (10) days after Seller has delivered the "Contingency Removal Notice" (as defined in Paragraph 6(d) below) to Buyer. In the event the tenth day falls on a legal holiday, Saturday, Sunday, or Monday, the Closing Date shall be extended to the next business day.

(h) *"Review Period"*: shall have the meaning set forth in Paragraph 6(d).

(i) *Title Approval Date*: shall be the date set forth in Paragraph 5(a) below.

(j) *"Notices"* will be sent as follows to:

Seller: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

Buyer: Broc Assets, Inc.
10763 Woodside Avenue #C
Santee, CA 92071
tc@brocglobal.com

Escrow Holder: First American Title Company Morro Bay

2. *Purchase and Sale.*

Subject to all of the terms and conditions of this Agreement and for the consideration set forth, on Closing Seller shall convey, or cause to be conveyed, to Buyer or to Buyer's nominee or assignee, and Buyer or its assignee shall purchase from Seller, all of the following:

(a) The Real Property and improvements thereto or thereon ("Improvements"), if any, together with all easements, privileges, and appurtenances thereto, subject only to such easements and agreements as may have been approved by Buyer in accordance with Paragraph 5(a) hereof; and

(b) All other right, title and interest of Seller constituting part and parcel of the Property (hereinafter defined), including, but not limited to, trade

names, logos, licenses, development entitlements, permits, air rights, warranties, rights of way, signs, trademarks, sewer agreements, water line agreements, utility agreements, water rights and oil, gas and mineral rights (collectively, the "Intangibles"). Reference herein to the "Property" shall include the Real Property, Improvements, and Intangibles.

3. *Purchase Price and Payment; Deposit.*

The Purchase Price will be paid as follows:

(a) *Deposit.* Within two (2) business days from the Effective Date, Buyer shall deliver the Deposit to Escrow Holder. The Deposit shall be held by Escrow Holder, subject to the following terms and conditions: (i) if Closing occurs, then the Deposit shall be applied to the Purchase Price; (ii) if the Closing does not occur as a result of Buyer not approving the conditions in favor of Buyer as set forth in this Agreement or Buyer's electing to terminate this Agreement as permitted herein, or as a result of a breach of this Agreement by Seller, Buyer shall be entitled to the return of the Deposit as provided in this Agreement and the same shall be returned to Buyer without any further consent or action required from Seller; and (iii) if the Closing does not occur because of a breach of this Agreement by Buyer, Seller shall be entitled to retain Buyer's Deposit as liquidated damages under Paragraph 10 below.

(b) *Cash Balance.* The cash balance, less adjustments, shall be delivered to Escrow Holder by Buyer as and when provided under Paragraph 11(a) below.

4. *Escrow.*

(a) *Execution of Form Escrow Instructions.* Seller shall deposit this Agreement with Escrow Holder upon full execution of same by Buyer and Seller, at which point escrow (the "Escrow") shall be deemed to be opened. Escrow Holder shall thereafter promptly execute the original of this Agreement and provide copies thereof to Buyer and Seller. Immediately upon receipt of such duly executed copy of this Agreement, Escrow Holder shall also notify Seller and Buyer of the opening of Escrow. This Agreement shall act as escrow instructions to Escrow Holder, and Escrow Holder shall hereby be authorized and instructed to deliver the documents and monies to be deposited into the Escrow pursuant to the terms of this Agreement. Escrow Holder shall prepare the Escrow Holder's standard-form escrow agreement (if such a form is required by Escrow Holder), which shall, to the extent that the same is consistent with the terms hereof and approved by Seller and Buyer and not exculpate Escrow Holder from

acts of negligence and/or willful misconduct, inure to the benefit of Escrow Holder. Said standard form escrow instructions shall be executed by Buyer and Seller and returned to Escrow Holder within three (3) business days from the date same are received from Escrow Holder. To the extent that Escrow Holder's standard-form escrow agreement is inconsistent with the terms hereof, the terms of this Agreement shall control. Should either party fail to return the standard form escrow instructions to Escrow Holder in a timely manner, such failure shall constitute a material breach of this Agreement.

(b) *Closing Date.* This transaction shall close on the Closing Date.

5. *Title Matters.*

(a) *Title Commitment/Review of Title.* As soon as practicable after the date hereof, but in no event later than ten (10) days after the Effective Date, Seller shall cause Title Company to have delivered or shall cause to be delivered to Buyer a Title Commitment issued by Title Company covering the Real Property and the Improvements, which may state that it is subject to any matter that would be disclosed by a survey (the "Title Commitment"), together with true copies of all documents evidencing matters of record shown as exceptions to title thereon ("Underlying Documents"). The Title Commitment and Underlying Documents shall hereinafter sometimes be collectively referred to as the "Title Documents"). Buyer shall have the right to object to any exceptions contained in the Title Commitment by giving written notice to Seller on or before the later of: (1) the expiration of the Review Period, or thirty (30) days after Buyer has received the latter of the Title Documents and the "Survey" referenced in subparagraph 5(b) below ("Title Approval Date"). If Buyer disapproves of any matter affecting title (the "Disapproved Title Exceptions"), Seller shall have the right, but not the obligation, at its sole and absolute discretion, to cure or remove the Disapproved Title Exceptions by notifying Buyer within seven (7) business days from Seller's receipt of the notice of Disapproved Title Exceptions ("Seller Title Response Period"). If Seller refuses to remove or cause Title Company to insure over any Disapproved Title Exceptions in a manner reasonably acceptable to Buyer ("Seller Refusal to Cure Title"), or does not respond to the Disapproved Title Exceptions within the Seller Title Response Period, Buyer may terminate this Agreement by electing to do so in writing no later than 5:00p.m. Pacific Time on the date which is ten (10) business days after Buyer's receipt of Seller's Refusal to Cure Title or the end of the Seller Title Response Period, as the case may be, in which event Buyer shall receive a refund of its Deposit and any accrued interest thereon, and the Parties shall have no further liability to one another.

(b) *Survey.* Buyer shall have the right to obtain a current ALTA survey ("Survey") of the Property at Buyer's cost. In the event the Survey describes a state of facts which, in the reasonable opinion of Buyer, renders the Property unmarketable, uninsurable, materially impacts the use of the Property, or discloses an encroachment, Buyer shall have the right no later than the Title Approval Date to request in writing, that Seller cure any such defect(s) ("Survey Notice"). Within five (5) business days from the date Seller shall have received the Survey Notice, Seller shall advise Buyer in writing ("Seller's Election") that either: (a) Seller is unwilling or unable to cure said defect(s) within thirty (30) days from the date of Seller's Election, in which case Buyer shall have the right, and shall notify Seller of its decision within ten (10) business days of receipt of Seller's Election, to either waive this contingency or terminate this Agreement and receive back the Deposit, in which case the parties shall have no further obligations to one another; or (b) Seller will cure the defect(s) within thirty (30) days from the date of its election to cure same. Buyer's approval of the Title Commitment shall be without prejudice to Buyer's right to disapprove the Survey or any supplementary reports issued by Title Company.

(c) *Liens and Assessments.* Regardless of whether objected to by Buyer under Paragraph 5(a) above, if at the date of Closing there are any monetary liens, assessments or monetary encumbrances against the Property, except for any lien for local real estate taxes and assessments not yet due or payable which shall be prorated at Closing as provided below, Title Company may use any portion of the Purchase Price to satisfy the same, and Seller shall simultaneously either deliver to Title Company at Closing instruments in recordable form sufficient to satisfy such liens, assessments or encumbrances of record, together with the cost of recording or filing said instruments, or, provided that Seller has made arrangements with Title Company in advance of Closing, Seller shall deposit with Title Company sufficient monies, acceptable to and required by it to ensure the obtaining and recording of such satisfactions and the issuance of the Title Policy (hereinafter defined) free of any such liens, assessments and encumbrances. In the event that Seller fails to cure or remove any exception that it has agreed to cure or remove, Buyer shall have the option either to (i) terminate this Agreement without prejudice to any action that it may have against Seller or the Property and receive a refund of its Deposit, or (ii) proceed to Closing and receive a credit against the Purchase Price at Closing equal to the cost of satisfying and clearing the record of such monetary liens or exceptions, to be applied against the cash portion of the Purchase Price.

(d) *Policy of Title Insurance.* The title policy ("Title Policy") shall be an ALTA Owner's Coverage Policy with liability in an amount equal to the

Purchase Price, showing fee title to the Real Property and the Improvements as vested in Buyer, or in Buyer's assignee or nominee, subject only to the exceptions approved by Buyer pursuant to Paragraph 5(a) above, and any other matters revealed by the Survey, if approved by Buyer, and such other endorsements thereto as Buyer reasonably requires.

6. *Delivery of Information/Inspections/Due Diligence.*

(a) *Seller's Obligation to Deliver Documents.* As soon as practicable after the date hereof, but in no event later than ten (10) business days after the date this Agreement is executed, except as otherwise set forth, Seller shall have delivered or shall have caused to be delivered to Buyer the following documents:

- (1) True copies of all subdivision plans, grading plans, civil engineering plans, building construction plans or drawings, permits, permit applications, or utility service commitments, if any, in the possession or control of Seller; Including any CC&R's and Design guidelines impacting the development of the property.
- (2) True copies of all soil reports, environmental tests and/or reports covering the Property (as well as all notices from any source regarding actual or potential contamination, correspondence, orders and assessments relating to the environmental condition of the Property), geological reports, engineering reports and any correspondence relating thereto;
- (3) A copy of any survey of the Property in the possession of the Seller;

(b) *Inspections/Testing by Buyer.*

- (1) *Physical Inspection.* From and after the date hereof, Seller shall provide to Buyer and its authorized agents, employees and contractors access to inspect the Property during normal business hours for the purpose of making such investigations as Buyer deems prudent with respect to the physical condition of the Property, including, but not limited to, engineering inspections and soils borings, at Buyer's sole cost, and Seller shall cooperate fully with Buyer in completing its inspection. Buyer shall keep the Property free and clear of any liens and will indemnify, defend and hold Seller harmless from all claims and liabilities asserted against Seller as a result of any such entry by Buyer, its agents, employees, or representatives. If any inspection or test causes damage to the Property, Buyer shall restore the damaged area to the same condition it was in prior to the inspection or test; the obligations of Buyer

hereunder shall survive termination of this Agreement.

(2) *Environmental Assessment, Inspection and Testing.* During the Review Period, Buyer shall have the right to have a Phase I and/or Phase II Environmental Waste Study completed on the Property; Buyer shall have the right to approve said study. Buyer shall indemnify, defend and hold harmless Seller from and against any and all costs, liability, damage, expense, or cause of action that Seller may suffer or incur as a result of such environmental assessment of the Property; provided, however, such indemnity shall not include any diminution in the value of the Property caused solely by the results of such environmental assessment.

(3) *Inspection of Books and Records.* From and after the date hereof until Closing, and upon two (2) days' written notice to Seller, Buyer and its authorized agents shall be afforded the opportunity by Seller during normal business hours to examine all original books and records that relate to the Property, including but not limited to, zoning-related documents, soils reports, engineering reports and studies, guaranties, appraisals, and similar information relating to the Property or its potential use, and all warranties Seller may have from vendors, contractors or servicing agents with respect to the physical condition of the Property or any portion thereof. Buyer or its agents shall have the right to make copies of such books and records, and to conduct such review as Buyer deems prudent.

(c) *Governmental Approvals.* Buyer's obligation to purchase the Property is contingent upon Buyer's receipt and approval of all necessary permits, Tract Map extensions, variances, zoning modifications and other governmental approvals, instruments or agreements that would allow for the development of the Property in accordance with that certain Tract Map 2859 approved by the City Council on November 13, 2007("Governmental Approvals"). Buyer acknowledges that pursuant to the "Irrevocable Offer of Dedication to Lot 124, Tract 1996" any future development of the Real Property shall be subject to all of the Conditions of Approval for the Cloisters Project, ensuring compatibility with adjacent residential uses and shall be subject to all of the provisions of the Declaration of Covenants, Conditions, and Restrictions recorded for Tract 1996, and, more specifically, without limitation, the architectural review, control, and approval process' set forth in said Declaration and the Real Property must be used only for single family residential purposes, as provided in the Declaration of Covenants, Conditions, and Restrictions for Tract 1996.

(d) *Time for Buyer to Object.* Subject to Paragraph 6(e) below, Buyer shall have until 5:00 p.m. (Pacific Time) on the date which is thirty (30) days after the Effective Date (the "Review Period") in which to approve in writing

("Contingency Removal Notice") in Buyer's sole and subjective discretion the feasibility of the Property for Buyer's intended use, including but not limited to the zoning of the Property, availability of utility services and the absence of environmental restrictions that would affect Buyer's intended use or development of the Property, appropriate access to surrounding roadways, availability of any required easements, leases, estoppels, as well as all matters and things that are subject to Buyer's rights of review, inspection and approval under this Paragraph 6; provided, however, that any such Contingency Removal Notice delivered prior to the satisfaction of Seller's obligations as set forth in this Agreement shall not be deemed a waiver by Buyer of Seller's obligations pursuant thereto, nor of Buyer' right of objection to the satisfactory performance thereof. If Buyer affirmatively disapproves any of the foregoing in writing within the Review Period, as same may be extended under Paragraph 6(e) below ("Review Period Termination Notice"), this Agreement shall terminate, the Deposit shall be returned to Buyer and the parties shall have no further obligations to one another.

(f) *Notice to Elect.* In the event Buyer has not timely given the Contingency Removal Notice, Review Period Extension Notice or Review Period Termination Notice (collectively, the "Review Period Notices") or, if applicable the Closing Notice, Seller may require Buyer to either deliver one of the Review Period Notices, or, if applicable, the Closing Notice, by delivering to Buyer a written Notice to Elect ("Seller Notice to Elect"), in which event Buyer shall be obligated to provide one of the Review Period Notices, or, if applicable, the Closing Notice, no later than 5 p.m. Pacific Time on the date that is two (2) business days thereafter. Should Buyer fail to timely provide one of the Review Notices after receipt of the Seller Notice to Elect, such failure shall be deemed to be an election by Buyer to terminate this Agreement, in which event the Deposit (less any Extension Payments which are to be disbursed to Seller) shall be returned to Buyer and the Parties shall have no further obligations to one another.

7. *Operation of and Obligations Relating to the Property Pending Closing.*

(a) From and after the date of execution of this Agreement and until Closing, Seller agrees that it shall not erect any improvements on the Property, provide any rights of possession to any person or entity by way of a lease or otherwise, and/or in any manner take an action that could interfere with Buyer's intended development of the Property without the prior written consent of Buyer, which consent may be withheld by Buyer in its sole and subjective discretion.

(b) Seller shall keep all of the insurance policies relating to the Property in force and in effect between the date of this Agreement and Closing and provide

Buyer with proof of insurance within seven (7) business days from the Effective Date.

(c) From and after the date hereof, Seller shall not enter into any new contracts or agreements affecting the Property without the prior written consent of Buyer, which consent may be withheld by Buyer in its sole and subjective discretion. Notwithstanding the granting of such consent, all such contracts shall remain the sole obligation of the Seller.

(d) Seller shall not do anything to affect title to the Property.

8. *Conditions Precedent to Buyer's Obligation to Close.*

The obligation of Buyer to consummate the transaction contemplated herein is subject to the following conditions, inserted for Buyer's sole benefit and which may only be waived by Buyer in writing. Said conditions are as follows:

(a) The representations and warranties of Seller contained in Paragraph 13(a) of this Agreement shall be true on the date of Closing in all material respects as though such representations and warranties were made on and as of such date;

(b) Seller shall have delivered the instruments and information required under Paragraph 6 hereinabove to be delivered by Seller as, when and in the manner set forth therein;

(c) Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it on or prior to the Closing;

(e) Seller shall confirm in an open session meeting prior to the close of escrow that Tract Map 2859 for the property was approved by the City Council on November 13, 2007 and was originally set to expire November 13, 2009. SB 1185 extended the Tract Map until November 13, 2010. AB 33 extended the tract map until November 13, 2012, AB 208 extended the Tract Map until November 13, 2014 and AB 116 extended the Tract Map until November 13, 2016 and Seller shall confirm that potable water and sewer services for each of the six lots are and shall be available during the life of the Tract Map.

(d) Title Company shall be ready, willing and able to issue the Title Policy required by Paragraph 5(d); and

(e) Subject to the provisions of Paragraphs 14(a) and (b) hereof, there shall exist no damage or condemnation of the Property prior to Closing.

In the event any of the foregoing conditions to closing are not satisfied at the Closing, Buyer may elect to either: (i) terminate this Agreement, in which case the Deposit shall be returned to Buyer and the parties shall have no further obligations to one another, or (ii) if the failed condition was a condition set forth in paragraph 8(c) that constitutes a breach of this Agreement by Seller, Buyer may seek any remedies available to Buyer under paragraph 10 below; or (iii) Buyer may extend the Closing for up to an additional thirty (30) days, in which event Seller shall use its best efforts to satisfy any unsatisfied condition, or (iv) Buyer may waive these conditions and proceed to Closing.

9. *Conditions Precedent to Seller's Obligation to Close.*

The obligation of Seller to consummate the transactions contemplated hereby is subject to the following conditions, inserted for Seller's sole benefit which may only be waived by Seller in writing. Said conditions are as follows:

- (a) The representations and warranties of Buyer contained in this Agreement shall be true on and as of Closing in all material respects as though such representations and warranties were made on and as of such date;
- (b) Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it on or prior to Closing; and
- (c) Buyer shall have delivered the instruments and other consideration required under the terms of this Agreement to be delivered by Buyer as, when and in the manner set forth herein.
- (d) State law requires the Seller obtain a reasonable price for the property and in order to prevent a challenge that this sale constitutes a gift of public funds, Seller shall obtain an appraisal for the property that establishes that the selling price is adequate and not a gift of public funds. Seller shall have thirty (30) days from the opening of escrow to obtain an appraisal. If the appraisal does not value the Property at or less than the Purchase Price, Seller shall so advise Buyer in writing and (i) the parties may agree to adjust the Purchase Price to comply with the appraised valuation, or (ii) Buyer may terminate this Agreement, in which case the Deposit shall be returned to Buyer and the parties shall have no further obligations to one another.
- (e) State law requires that before disposing of property, the City must offer to sell the property to the County for purposes of developing the property as affordable housing. Upon the opening of escrow, Seller shall notify the County of the purchase price and right of first refusal and remove this contingency within thirty (30) days.

(f) The document entitled Irrevocable Offer To Dedicate Lot 124, Tract 1996 dated September 10, 1996, provides that the Grantor shall have a right of first refusal to purchase Lot 124, the Real Property, and meet any bona fide offer to the City for the purchase of said lot. Upon the opening of escrow, Seller shall notify the Grantor of the purchase price and right of first refusal and remove this contingency within fifteen (15) days.

In the event any of the foregoing conditions to closing are not satisfied at the Closing, Seller may elect to either: (i) terminate this Agreement, in which case the Deposit shall be returned to Buyer and the parties shall have no further obligations to one another, or (ii) if the failed condition was a condition set forth in paragraph 9(c) that constitutes a breach of this Agreement by Buyer, Seller may seek the remedy available to Seller under paragraph 10 below; or (iii) Seller may waive these conditions and proceed to Closing. In the event Seller waives the conditions and proceeds to Closing, and the Closing occurs, Seller shall indemnify and agree to defend Buyer against any action, claim, award or loss resulting from the non-waiver of any condition set forth in paragraph 9(e).

10. *Remedies upon Default.*

In the event Seller shall breach this Agreement and Seller shall not have cured the breach within five (5) business days from written delivery of notice of the breach from Buyer, Buyer shall be entitled to all remedies provide by law.

In the event Buyer shall breach this Agreement and Buyer shall not have cured the breach within five (5) business days from written delivery of notice of the breach from Seller, Seller shall be entitled to the Deposit as liquidated damages, and Buyer shall be relieved of any further obligation to Seller hereunder. Buyer acknowledges that the damages Seller would sustain due to Buyer's breach would be impractical or extremely difficult to fix. Accordingly, the parties agree that the amount of damages which would be sustained by Seller is estimated to be the Deposit.

SELLER'S INITIALS: _____

BUYER'S INITIALS: _____

11. *Closing Procedure.*

(a) No later than two (2) business days prior to the Closing Date, Buyer shall deliver to Escrow Holder an executed estimated closing statement ("Closing Statement") that has been approved by Buyer. In addition, and provided that Title Company confirms to Buyer on the day prior to Closing that, but for the delivery to it of the cash portion of the Purchase Price, Title Company is ready, willing and able to proceed to Closing, Buyer shall deliver or cause to be delivered to Title Company by noon, Los Angeles time, on the Closing Date the Purchase Price in the manner set forth in Paragraph 3 and such funds as may be necessary to comply with Buyer's obligations hereunder regarding

prorations, costs and expenses; and

(b) At least two (2) business day prior to the date of Closing (or when otherwise indicated), Seller shall have delivered to Title Company counterpart executed originals of the following documents and the following sums of money required to be delivered by Seller hereunder:

(1) A Grant Deed in form and content acceptable to Buyer, duly executed and acknowledged by Seller in favor of Buyer or its nominee or assignee;

(2) F.I.R.P.T.A. certificate and/or such other and further documentation required by Federal or State law which evidences the fact that Seller is not a foreign corporation such that buyer would not be obligated by law to withhold a portion of the purchase price and deliver some to the appropriate taxing authority;

(3) A counterpart of the Closing Statement approved by Seller no later than one (1) business day prior to the Closing; and

(4) Such documents, agreements, affidavits and indemnities required by Title Company in order to issue the Title Policy to Buyer.

(c) At the Closing, Title Company shall cause Title Company to cause the Grant Deed to be recorded in the Official Records of the county in which the Real Property is located, bind coverage on the Title Policy and then immediately disburse the Purchase Price proceeds to Seller (in the manner specified by Seller).

(d) Upon Closing, Seller shall deliver to Purchaser at the Property exclusive possession of the Property.

12. *Costs and Prorations*

(a) All expenses and payables of the Property shall be apportioned equitably between the parties as of Closing on the basis of the actual number of days in the month of Closing, and with respect to the items enumerated below where a particular manner of apportionment is provided, then apportionment of such item shall be made in such manner. If the amount of any proration cannot be determined at Closing, the Escrow Holder shall make adjustments between the parties as soon after the Closing as possible. The obligation to make apportionment shall survive Closing. Without limitation the following items shall be so apportioned:

(1) Real estate and personal property taxes and any special assessments,

based upon the latest previous tax levies. Such items shall be reapportioned between Seller and Buyer if current tax rates differ from the latest previous tax rates as soon as the same are known. Seller agrees that to the extent any additional taxes, assessments or levies are imposed, assessed or levied against the Property, or any portion thereof at any time subsequent to Closing but with reference to any period prior thereto, Seller shall promptly pay to Buyer an amount equal to such additional assessments or levies;

(2) Transferable annual permits, licenses, and/or inspection fees, if any, on the basis of the duration of the same;

(3) Subject to the provisions of Paragraph 12(c) below, utility charges levied against Seller or the Property, if any, shall be prorated, and Buyer shall transfer all such utility services to its name and account immediately upon Closing, if any;

(b) The expenses of Closing shall be paid in the following manner:

(1) Seller shall pay the cost of the Title Policy (to the extent of the cost of a CLTA policy) in the amount of the Purchase Price (but not the cost of additional coverage or any other endorsements requested by Buyer), all transfer taxes and deed stamps, if any, imposed on the conveyance of title to the Property to Buyer, the cost of recording the Deed, any sales taxes that may be owing in connection with the transactions contemplated by this Agreement and one half of the Escrow Holder's escrow fee.

(2) Buyer shall pay one half of the Escrow Holder's escrow fee, the difference between the cost of a CLTA Title Policy and the ALTA Policy being obtained by Buyer and the costs of any endorsements to the Title Policy ordered by Buyer.

All other Closing fees and expenses, including, but not limited to, the parties' legal expenses, accounting and consulting fees, and other incidental expenses in connection with this transaction shall be borne by the party incurring same.

13. *Representations, Warranties and Covenants.*

(a) Seller hereby makes the following representations, warranties and covenants, each of which is deemed to be material, each of which is stated by Seller as being true and correct on the date hereof, each of which shall be to the actual knowledge of Seller, and each of which shall be true on the Closing Date and survive the Closing:

(1) Seller is the fee simple owner of the Property and has full legal power and authority to enter into and perform this Agreement in accordance with its terms, and this Agreement constitutes the valid and binding obligation of Seller, enforceable in accordance with its terms, except as such enforcement may be affected by bankruptcy, insolvency and other laws affecting the rights of creditors generally. The execution, delivery and performance of this Agreement and all documents in connection therewith are not in contravention of or in conflict with any deed of trust, agreement or undertaking to which Seller is a party or by which Seller or any of its property, including the Property, may be bound or affected. The execution and delivery of this Agreement and the performance by Seller of its obligations hereunder require no further action or approval in order to constitute this Agreement as a binding and enforceable obligation of Seller, and all such actions have been duly taken by Seller;

(2) At present there is no claim, action, litigation, arbitration or other proceeding pending against Seller and relating to the Property or the transactions contemplated hereby and, there is currently no claim, governmental investigation or threatened litigation or arbitration proceedings to which Seller is a party relating to the Property;

(3) There are no pending or threatened condemnation or a annexation proceedings affecting the Property or any part thereof, or any intended public improvements that will result in any charge being levied or assessed against the Property or in the creation of any lien upon the Property;

(4) Seller has not entered into any leases, licenses or other agreements permitting, nor has Seller entered into any course of conduct that would permit, any person or entity to occupy any portion of the Property or otherwise affecting the Property or any part thereof except for the right of first refusal to purchase as set forth above. Seller agrees to remove said contingency within fifteen (15) days of opening escrow.

(5) Seller does not have any liability for any delinquent taxes and/or assessments with respect to the Property, nor any interest or penalty in respect thereof, of any nature that may be assessed against Buyer or become a lien against the Property. Seller agrees to indemnify Buyer and save, defend and hold Buyer harmless from and in respect of any and all damages, claims, losses, expenses, costs, obligations and liabilities (including reasonable attorneys' fees) resulting from or related to the nonpayment of any such taxes;

(6) All documents, agreements, matters and things to be submitted to Buyer by Seller for Buyer's approval pursuant to Paragraph 6 above, or otherwise, will be true, correct and complete copies thereof as of the date of submission thereof and, as to any subsequent amendments or additions, approved in writing by Buyer, as of Closing;

(7) Seller is not aware of any facts which would preclude or impede Buyer's efforts to obtain the Governmental Approvals; and

(8) There are no "hazardous materials," "hazardous waste," or "hazardous substances" in the soil or groundwater under the Property as those terms are defined under any federal, state or local law, nor have any claims been made relating thereto, including but not limited to claims regarding petroleum hydrocarbons in, at, about or under the Property, or for, connected with or arising out or based upon CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§9601 et seq., as amended by SARA (Superfund Amendment and Reauthorization Act of 1986) and as may be further amended from time to time), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§6901 et seq., or any related or other federal, state or municipal based statutory or regulatory laws, regulations or ordinances.

(b) Buyer hereby makes the following representations and warranties, each of which is deemed to be material and each of which is stated by Buyer as being true and correct on the date hereof:

(1) Buyer has full legal power and authority to enter into and perform this Agreement in accordance with its terms, and this Agreement constitutes the valid and binding obligation of Buyer, enforceable in accordance with its terms, except as such enforcement may be affected by bankruptcy, insolvency and other laws affecting the rights of creditors generally. The execution, delivery and performance of this Agreement and all documents in connection therewith are not in contravention of or in conflict with any agreement or undertaking to which Buyer is a party or by which Buyer may be bound or affected; and

(2) The execution and delivery of this Agreement and the payment and performance by Buyer of its payments and obligations hereunder require no further action or approval in order to constitute this Agreement as a binding and enforceable obligation of Buyer and all such actions have been duly taken by Buyer.

(c) Seller and Buyer each hereby represent, warrant and covenant that if Seller or Buyer becomes aware of any fact or circumstance that would change a

representation or warranty, then Seller or Buyer, as the case may be, will immediately give written notice of such changed fact or circumstance to the other party. In the event that prior to Closing Buyer or Seller discover that any representation contained in this Paragraph 13 is no longer materially true and that change would materially and adversely affect the other Party, then the Party to whom the representation has been made shall have the right to terminate this Agreement, in which event the Deposit shall be returned to Buyer and the parties shall have no further obligations to one another. Nothing contained herein is intended to limit the remedies of either Party in the event a representation contained herein was known to be false at the time same was made.

14. *General Covenants and Agreements of Buyer and Seller.*

(a) *Delivery of Possession.* Possession of the Property shall be delivered to Buyer upon Closing, free of any rights of occupancy by any person or entity.

(b) *Damage to or Destruction of Property Prior to Closing; Risk of Loss.* In the event of an earthquake or flood causing any damage or destabilization of the soil of the Property, Buyer shall have the right to terminate this Agreement in writing no later than thirty (30) days after such occurrence, in which event Buyer shall receive a refund of its Deposit and the parties shall have no further obligations to one another.

(c) *Condemnation of Property Prior to Closing.* In the event that the Property or any part thereof becomes the subject of a condemnation proceeding prior to Closing and/or Seller learns that there is a threat of condemnation prior to Closing, Seller shall immediately advise Buyer, in writing, thereof.. In the event of such condemnation or threat of condemnation, Buyer shall have the option to (i) elect to terminate this Agreement by notice in writing sent within thirty (30) days of receipt of Seller's written notice to Buyer but in any event at least two (2) days prior to the Closing, in which case the Deposit shall be returned to Buyer and neither party shall have any further obligation to or rights against the other; (ii) not elect to terminate this Agreement and this transaction will be consummated as described herein, and (1) if all contingencies to Buyer's obligation to consummate the transaction described herein have been satisfied or waived then Buyer will be made a party to such proceeding and any award or settlement payable with respect to such proceeding shall be negotiated by and will be paid or assigned to Buyer upon Closing, or (2) if all contingencies to Buyer's obligation to consummate the transaction described herein have not been satisfied or waived, any award or settlement payable with respect to such proceeding shall be negotiated by Seller, and acceptance by Buyer (which acceptance shall not be unreasonably withheld) shall be an additional

contingency to its obligation to consummate the transaction described herein; and shall be paid or assigned to Buyer upon Closing; or (iii) if the Buyer elects to terminate this Agreement, any condemnation award or settlement shall be negotiated by and shall belong to Seller. Notice of the exercise of such option hereunder shall be in writing, delivered to Seller at the address set forth in this Agreement (or such other address as Seller may have theretofore designated in writing).

(d) *Brokers' Commissions.* Seller shall pay at closing through escrow any real estate brokerage commission due Ciano Real Estate, Inc. ("Listing Broker") and "Selling Broker") per Listing Agreement, in connection with this transaction, herewith; provided, however, no commission shall be due and owing or payable unless and until Closing. Said commission shall be payable in cash at the Closing. Except for Broker, Seller warrants that Seller did not negotiate with respect to the sale of the Property through any broker, agent, finder, affiliate or other third party, or incur any liability, contingent or otherwise, for brokerage or finder's fees or agent's commissions or other like payments in connection with this Agreement, or the transactions contemplated hereby, and hereby agrees to hold harmless and indemnify Buyer from any and all claims, demands, causes of action or damages resulting therefrom. This provision shall survive the Closing. Buyer hereby discloses that Buyer is a licensed California real estate broker acting as both a principal and broker in this transaction.

(e) *Further Assurances Prior to Closing.* Seller and Buyer shall, prior to closing, execute any and all documents and perform any and all acts reasonably necessary, incidental or appropriate, to effectuate the purchase and sale and the transactions contemplated in this Agreement.

(f) *Time of Essence.* Time shall be of the essence with respect to the obligations of the parties hereunder.

(g) *Assignability.* Buyer may assign all of its rights and duties hereunder to any entity or nominate any entity to take title to the Property. Any assignment is conditional upon the assignee agreeing to be bound by all consents and approvals theretofore given or deemed to have been given by Buyer.

(h) *Waivers, Amendments and Modifications of Provisions.* Waivers, amendments or modifications of any term or condition of this Agreement must be in writing signed by the party against whom such waiver is sought to be enforced. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

15. *Miscellaneous Provisions.*

(a) *Successors and Assigns.* Subject to the provisions hereof, the terms and provisions hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

(b) *Meaning of Terms.* When necessary herein, all terms used in the singular shall apply to the plural, and *vice versa*; and all terms used in the masculine shall apply to the neuter and feminine genders.

(c) *Entire Agreement.* This Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. No claim of waiver, modification, consent or acquiescence with respect to any of the provisions of this Agreement shall be made against either party, except on the basis of a written instrument executed by or on behalf of such party.

(d) *Governing Law.* This Agreement is to be governed by and construed in accordance with the laws of the State of California.

(e) *Paragraph Headings.* The headings of the several paragraphs of this Agreement are inserted solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision hereof.

(f) *Attorneys' Fees and Costs.* If either Seller or Buyer shall obtain legal counsel or bring an action against the other by reason of the breach of any covenant, provision or condition hereof, or otherwise arising out of this Agreement, the unsuccessful party shall pay to the prevailing party reasonable attorneys' fees and costs, including expert witness fees, which shall be payable whether or not any action is prosecuted to judgment. The term "prevailing party" shall include, without limitation, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

(g) *Notices.* Any notices given under this Agreement shall be in writing and shall be served either personally, delivered by U.S. mail, postage prepaid, first class, or by nationally recognized overnight courier. Notices may also effectively be given via facsimile, if the party to whom the notice is being sent has such a device in its office, or by email, provided a complete copy of any notice so transmitted shall also be mailed in the same manner as required for a mailed notice. Notices shall be deemed received at the earlier of confirmation of digital receipt, facsimile transmission, actual receipt, three (3) days following deposit in U.S. mail, postage prepaid, or one (1) business day following deposit

with a nationally recognized overnight courier. Notices shall be directed to the addresses set forth in Paragraph 1 of this Agreement, and may be given by counsel for a Party on behalf of that Party.

(h) *Severability.* If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(i) *Further Assurances on or After Closing.* Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments as shall be reasonably necessary to carry out the terms and provisions of this Agreement. This covenant of further assurances shall survive Closing.

(j) *Other Parties.* Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto, their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

(k) *Counterparts.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original; such counterparts shall together constitute but one agreement. This Agreement may also be executed and delivered by way of facsimile signatures and confirmed facsimile transmission, respectively. Delivery by facsimile signatures shall include digital scanning and delivery, with confirmation of digital receipt, or by electronic signatures by DocuSign.

(l) *Construction.* This Agreement shall be construed without regard to the party or parties responsible for the preparation of the same, and shall be deemed to be prepared jointly by the parties hereto or thereto. Any ambiguity or uncertainty existing herein or therein shall not be interpreted against either party, but shall be interpreted according to the application of all other rules of contract interpretation. The inclusion in this Agreement of provisions not included in, or deletion of provisions previously included in, prior drafts of this Agreement shall not be considered in interpreting the provisions of the final executed version of this Agreement.

(m) *Counting of Days.* Unless expressly specified herein, any reference to "days" shall mean calendar days. To the extent the last day for any act falls on a Saturday, Sunday or legal holiday, the last day for that act shall be extended to the next business day.

(n) *Special Provisions Regarding National Security.* By their execution of this Agreement, Seller and Buyer hereby make the following additional

representations, warranties and covenants to each other, all of which shall survive the execution and delivery of this Agreement and the Closing described herein:

(1) *Not a Prohibited Person.* Each party (hereinafter sometimes referred to as the "Representing Party") hereby represents and warrants to the other party that the Representing Party is not now, nor shall it be at any time during the term of Agreement, a "Person" (as hereinafter defined) with whom a "U.S. Person" (as hereinafter defined) is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under U.S. law, regulation, executive orders or the "Lists" (as hereinafter defined).

(2) *No Investigations.* Each Representing Party further represents and warrants to the other party that neither the Representing Party, nor any party affiliated with the Representing Party (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the U.S. would be predicate crimes to money laundering, or any violation of any "Anti-Money Laundering Laws" (as hereinafter defined); (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws; or (iii) has had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws.

(3) *Compliance.* Each Representing Party further represents and warrants to the other party that the Representing Party is in compliance with, and during the term of this Agreement shall comply with, any and all applicable provisions of the "Patriot Act" (as hereinafter defined).

(4) *Prohibited Contracts.* Neither Seller nor Buyer may assign any of their rights under this Agreement to any Person who is listed on the Lists or who, to the knowledge of the assigning party, is engaged in illegal activities. Each assigning party shall conduct such due diligence as may be reasonably required to comply with the foregoing obligations. Each assigning party shall maintain in its files copies of such due diligence, and shall provide a copy of same to the other party upon the submittal of any assignment or request for consent to assignment.

(5) *Source of Funds.* Buyer represents and warrants to Seller that Buyer has taken, and shall continue to take during the term of this Agreement, such measures as are required by law, and those which may from time to time be directed by Seller, in the exercise of its reasonable

judgment, to assure that the funds used to pay the Purchase Price are derived from permissible sources and transactions that do not violate U.S. law or, to the extent such funds originate outside the U.S., do not violate the laws of the jurisdiction in which they originated.

(6) *Notification.* If either party to this Agreement obtains knowledge that such party, or an entity affiliated with such party, or the employees of any of such parties, become listed on the Lists or are indicted, arraigned, or custodial detained on charges involving Anti-Money Laundering Laws, then such party shall immediately notify the other party to this Agreement upon receipt of knowledge of such events, and the notifying party shall with respect to any employees, immediately remove such employee from employment.

(7) *Definitions.* A "U.S. Person" is a citizen of the United States of America, an entity organized under the laws of the United States of America, its territories or any of the several states, or an entity having its principal place of business within the United States of America or any of its territories. "Lists" mean any lists published by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") (including those executive orders and lists published by OFAC with respect to Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC) including the Specially Designated Nationals and Blocked Persons list. "Anti-Money Laundering Laws" shall mean laws, regulations and sanctions, state and federal, criminal and civil, that (1) limit the use of and/or seek the forfeiture of proceeds from illegal transactions; (2) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; or (3) are designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations and sanctions shall be deemed to include the USA Patriot Act of 2001, Pub. L. No. 107-56 (the "Patriot Act"), the Bank Secrecy Act, 31 U.S.C. Section 5311 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et. seq., and the sanction regulations promulgated pursuant thereto by the OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

16. *Additional Consideration.* Concurrently with the execution of the Agreement, Buyer shall deliver to Seller the sum of One Hundred Dollars (\$100.00), which amount the parties bargained for and agreed to as independent consideration for Buyer's exclusive right to purchase

the Property and for Seller's execution, delivery and performance of the Agreement. This sum is in addition to and independent of the Purchase Price and is non-refundable under any circumstances.

17. *Reimbursements.* Seller relinquishes to Buyer its rights to future reimbursements, fee credits or discounts, or other monetary benefits associated with the Property to which Seller may now, or in the future, be entitled.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year written herein below.

"Buyer"

"Seller"

By: _____

By: _____

Its: _____

Its: _____

AGREED AND ACCEPTED

"Escrow Holder"

By: _____

Its: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

(SEE ATTACHED)



AGENDA NO: B-1

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 15, 2013

FROM: Rob Livick, PE/PLS, Public Services Director/ City Engineer
Steve Knuckles, Fire Chief
Brian Paul Cowen, PE, Building Inspector

SUBJECT: Introduction and First Reading of Ordinance No. 583; Repealing, Amending, and Reenacting Chapters 14.01-14.12 and 14.52 of the City of Morro Bay Municipal Code (Buildings and Construction)

RECOMMENDATION

Staff recommends that the City Council introduce for first reading by number and title only, Ordinance No. 583; repealing, amending, and reenacting Chapters 14.01-14.12 and 14.52 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2013 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

ALTERNATIVES

Staff does not recommend any alternatives to Adopting Ordinance No. 583, Building Code Update.

FISCAL IMPACT

None.

SUMMARY

This Ordinance adopts by reference, the 2013 California Building Standards Code and updates existing local amendments to coordinate with the format of the new State Codes. The Ordinance also provides for additional amendments pertaining to fire safety and fire prevention. Housekeeping changes are also being made to correct typos, spelling and grammar of the existing Ordinance and to improve coordination and consistency with other State laws and City Ordinances. The local amendments are codified as modifications to the California Building Standards Code where required by State law. Division II of Chapter 1 of the California Building Code is adopted and amended as the administrative provisions of Title 14.

Prepared By: BC

Dept. Review: RL

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

The 2013 California Building Standards Code will become effective statewide on January 1, 2014. The California Building Standards Code is published by the California Building Standards Commission and located in Title 24 of the California Code of Regulations (CCR). The building standards in the California Building Standards Code are State regulations, adopted by various State agencies in the Executive Branch of State government. State laws require various State agencies to develop building standards for specific types of buildings, building equipment and other features. The provisions of CCR Title 24 include requirements for the structural, plumbing, electrical and mechanical systems of buildings, and for fire and life safety, energy conservation, and accessibility in buildings.

The California Buildings Standards Commission follows a triennial code adoption cycle, which trails the revision of the model codes. The term “model code” is generally understood to mean a code that has been developed by a private code developing organization and that is available through a license agreement with the publishing entity for adoption by a political jurisdiction. When a new model code edition becomes available, the California Building Standards Commission and the other State adopting agencies review the code to determine if adoption is appropriate. Not all available model codes are found to be appropriate for use in California.

Those parts of CCR Title 24 that are based on a model code incorporate the model code language along with State amendments. The California Building Standards Commission and other State adopting agencies have determined that the amendments are necessary to eliminate conflicts with other State laws, regulations and adopted model codes. These amendments are known as California Amendments.

The California Building Standards Code is applicable to all occupancies throughout the State of California, whether or not the City Council takes affirmative action to adopt those standards. State Housing Law requires a local building department to enforce the law, building standards, and implement regulations of the Department of Housing and Community Development for residential structures not located in mobile home parks or special occupancy parks.

Cities and counties may adopt Ordinances enacting building and fire protection standards that are more restrictive than those requirements provided by CCR Title 24, when an express finding of need is made that the modifications are reasonably necessary due to local climatic, topographical, or geological conditions. Local regulations necessary to carry out the application of the California Building Standards Code that do not establish building standards, such as administrative provisions, may be enacted without meeting the requirements of Health and Safety Code § 18941.5, 17958, 17958.5 and 17958.7.

The City of Morro Bay Building and Fire Department staff is recommending the following revisions to the “Building” and “Fire” Codes with this adoption:

- Permit for flat work or decks exceeding 200 square feet and less than 30 inches above grade to insure protection of water quality.
- Prohibition of Sky Lanterns due to the fire hazard.
- Allow the sale of “Safe and Sane” fireworks as permitted by the Fire Chief.

CONCLUSION

Staff recommends that the City Council introduce for first reading by title only, Ordinance No. 583; repealing, amending, and reenacting Chapters 14.01-14.12 and 14.52 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2013 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

ATTACHMENTS

Attachment 1- “Red-lined” changes to Chapters 14.01-14.12 and 14.52 of the MBMC

ORDINANCE NO. ~~564~~583

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY;
REPEALING, AMENDING, AND REENACTING ~~TITLE 14~~CHAPTERS 14.01-
14.12 and 14.52
OF THE MORRO BAY MUNICIPAL CODE
(BUILDINGS AND CONSTRUCTION)

THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA

CERTAIN STATE AND MODEL CODES RELATING TO FIRE AND LIFE
SAFETY AS FOLLOWS:

1. ~~2010-2013~~ California Building Code (volumes 1 and 2)
2. ~~2010-2013~~ California Residential Code
3. ~~The appendix to Appendix~~ Chapter 33 of the 1997 Uniform Building Code
4. ~~2010-2013~~ California Electrical Code
5. ~~2010-2013~~ California Mechanical Code
6. ~~2010-2013~~ California Plumbing Code
7. ~~2009 Uniform Solar Energy Code~~
8. ~~2006 Uniform Swimming Pool, Spa and Hot Tub Code~~
97. ~~2010-2013~~ California Energy Code
108. ~~2010-2013~~ California Historical Building Code
119. ~~2010-2013~~ California Fire Code
1210. ~~2010-2013~~ California Existing Building Code
1311. ~~2010-2013~~ California Green Building Code
1412. 1997 Uniform Housing Code
1513. 1997 Uniform Code for the Abatement of Dangerous Buildings

WHEREAS, Government Code § 50022, et.seq. and Health and Safety Code § 17922 authorize the City to adopt by reference the California Building Standards Code as provided in Titles 24 and 25 of the California Code of Regulations and other codes, including, without limitation, the Uniform Housing Code ~~and, the~~ Uniform Code for the Abatement of Dangerous Buildings and Appendix Chapter 33 of the 1997 Uniform Building Code; and

WHEREAS, Pursuant to Health and Safety Code § 17950 and 18938(b), the California Building Standards Code is applicable to all occupancies throughout the State

of California, whether or not the City takes affirmative action to adopt the California Building Standards Code; and

WHEREAS, Health and Safety Code § 17960, requires a local building department to enforce State Housing Law, the California Building Standards Code, and the implementing regulations of the Department of Housing and Community Development for residential structures; and

WHEREAS, Health and Safety Code § 17958.5 allows the City may make those changes or modifications to the requirements contained in the provisions published in the California Building Standards Code as it determines, pursuant to the provisions of Health and Safety Code § 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Pursuant to Health and Safety Code § 18941.5, certain express findings have been made and are as follows:

FINDINGS

1. The topographic, underlying geologic and surface soil conditions of the hillsides of the City of Morro Bay are of a gradient and composition such that movement has historically been known to occur. Soils testing has revealed the presence of potentially hazardous geologic conditions, including expansive soils, questionable soils, soils prone to liquefaction and seasonally high ground-water. Therefore, it is reasonably necessary to adopt regulations for grading operations that are more restrictive than those adopted by the State of California and codified in the California Building Standards Code. More particularly, this finding supports the adoption of Appendix Chapter 33 of the 1997 Uniform Building Code and modification of Appendix J of the California Building Code.
2. Due to topographic and geologic conditions, development in Morro Bay has historically been constrained such that building occurred predominantly in the flatter areas, a scarcity of which resulted in the creation of small lots and the construction of structures in relative close proximity to one-another. These conditions are known to be conducive to the spread of fire and therefore, it is reasonably necessary to adopt standards more restrictive than those adopted by the State of California and codified in the California Building Standards Code and California Fire Code for the installation of automatic fire sprinklers on new and existing buildings, limiting the use of wood shakes or shingles, requiring that elevator cars be constructed to accommodate an ambulance stretcher, and to otherwise establish construction and fire prevention regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code to reduce and minimize the potential for loss of and damage to life and property resulting from fire, hazardous materials, explosions and to protect

firefighters and emergency personnel during emergency operations. More particularly, this finding supports the modification of California Building Code sections ~~1505.1 and 3002.4~~, California Fire Code sections 302.1, 903.3.1.1 and 4504.1, California Residential Code sections R313.1 and R313.2, California Electrical Code Article 230-70(A)(1), the deletion of Sections 903.2 through 903.2.10.1 of the California Fire Code and the addition of section R313.3.3.5 to the Residential Code, and sections 308.1.1.1, 308.1.6.3, 511, 901.4.~~57 and~~; 903.2 ~~and 3310~~ to the Fire Code.

3. Due to topographic conditions and in order to protect the estuarine environment of and adjacent to the City of Morro Bay, it is reasonably necessary to adopt regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code; creating more stringent thresholds for when a building permit is required for construction of sidewalks, driveways, decks, paving, or flatwork, prohibiting the construction of private sewage disposal systems and requiring the installation of sewer backwater valves. More particularly, this finding supports the modification of California Building Code Section 105.2, California Plumbing Code section 713.0, and the addition of Plumbing Code section 709.5.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

~~Title 14~~Chapters 14.01-14.12 and 14.52 of the Morro Bay Municipal Code ~~is-are~~ hereby repealed, amended, and reenacted to read as follows:

Chapter 14.01

GENERAL

Sections:

14.01.010	Title and Purpose.
14.01.020	Adoption of Codes .
14.01.030	Building Official and Fire Chief Designated.

14.01.010 Title and Purpose.

This title shall be known and may be cited as "The Buildings and Construction Ordinance of the City of Morro Bay," Title 14 of the Morro Bay Municipal Code. These regulations are hereby established and adopted to protect and promote public health, safety and welfare. This title establishes minimum regulations for construction, fire prevention, and the use and occupancy of buildings and other structures. This title prescribes regulations and standards that are consistent with the State Housing Law of California.

14.01.020 Adoption of Codes.

~~Fifteen-Thirteen~~ documents, one each of which are on file in office of the Building Official, identified by the seal of the City of Morro Bay, marked and designated as the:

1. ~~2010-2013~~ California Building Code (volumes 1 and 2),
2. ~~2010-2013~~ California Residential Code,
3. ~~The appendix to Appendix~~ Chapter 33 of the 1997 Uniform Building Code published by the International Conference of Building Officials,
4. ~~2010-2013~~ California Electrical Code,
5. ~~2010 edition of the 2013-~~California Mechanical Code,
6. ~~2010-2013~~ California Plumbing Code,
7. ~~2009 edition of the Uniform Solar Energy Code, published by International Association of Plumbing and Mechanical Officials,~~
8. ~~2006 edition of the Uniform Swimming Pool, Spa and Hot Tub Code published by the International Association of Plumbing and Mechanical Officials,~~
97. ~~2010-2013~~ California Energy Code,
108. ~~2010-2013~~ California Historical Building Code,
119. ~~2010-2013~~ California Fire Code,
1210. ~~2010-2013~~ California Existing Building Code,
1311. ~~2010-2013~~ California Green Building Code,
1412. 1997 Uniform Housing Code, published by the International Conference of Building Officials,
1513. 1997 Uniform Code for the Abatement of Dangerous Buildings, published by the International Conference of Building Officials;

are hereby adopted, including chapters and sections not otherwise adopted by agencies of the State of California, and the appendices thereto as the buildings, construction, and fire prevention regulations of the City of Morro Bay. The provisions of the above-mentioned are hereby referred to, adopted, and made a part hereof as if fully set out in this title except as modified hereinafter.

14.01.030 Building Official and Fire Chief Designated.

The ~~Building Official~~City's Public Services Director/ City Engineer is hereby designated as the Building Official and Code Official for the City of Morro Bay. The Fire Chief is hereby designated as the Fire Code Official for the City of Morro Bay. Where the "authority having jurisdiction" is used in the adopted codes, it shall mean the Building Official or the Fire Chief, as applicable.

14.02

ADMINISTRATION AND ENFORCEMENT

Sections:

14.02.010 Administration and Enforcement.

14.02.020 Modification of Division II of Chapter 1 of the California Building Code.

14.02.010 Administration and Enforcement.

The Administration and Enforcement of this title shall be in accordance with Division II of Chapter 1 of the California Building Code as adopted and modified, amended, and/ or supplemented herein.

14.02.020 Modifications of Division II of Chapter 1 of the California Building Code.

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Amend Section 103.1 to read as follows:

103.1 Creation of Enforcement Agency. The Building Division of the Public Services Department of the City of Morro Bay is hereby created and the official in charge thereof shall be known as the Building Official. Where reference is made to the Authority Having Jurisdiction or Code Official in the adopted Codes, it shall mean the Building Official.

B. Add Section 104.8.1 to read as follows:

104.8.1 Liability or Responsibility due to Error or Omission. This title shall not be construed so as to impose upon the City, or upon any of its officials or employees, any liability or responsibility for injury or damage resulting from any work approved or performed with respect to this title, or by reason of any inspection performed hereunder. No person shall be relieved of the responsibility of compliance with this title because of an error or omission made by a city official or employee.

C. Add Section 104.9.2 to read as follows:

104.9.2 Cargo Containers, Rail Cars, and Vehicle Bodies. Any person who intends to bring into the City or otherwise use, alter or relocate within the City any cargo container, streetcar, boxcar, refrigerator car, motorbus body or similar vehicle body for the purpose of use or occupancy, shall first make application to the Building Official and obtain the required permit. The application shall demonstrate that the proposed use, occupancy, structure, construction, and/ or alteration will conform to the provisions of this title.

D. Amend Section 105.2, Building Exception 6 to read as follows :

6. Sidewalks, driveways, decks, paving, or flatwork not more than 30 inches (762 mm) above adjacent grade, not exceeding 200 square feet, not over any basement or story below, and not part of an accessible route.

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D.E. Amend Section 109.2 to read as follows:

109.2 Schedule of permit fees. Permit fees shall be as prescribed in the Master Fee Schedule.

E.F. Amend Section 113 to read as follows:

SECTION 113 BOARD OF APPEALS

113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the technical provisions this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the City Council and hold office at its pleasure. The Building Official shall be an ex officio member and shall act as secretary to the board but shall have no vote upon any matter before the board. The board shall adopt rules of procedure for conducting its business.

The board of appeals shall also serve as the Local Appeals Board, Housing Appeals Board, and Accessibility Appeals Board, as defined in Health and Safety Code § 17920.5, 17920.6 and 19957.5.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code, nor shall the board have any authority to relative to the administration of this code.

113.3 Qualifications. The board of appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to the appeal and are not employees of the jurisdiction. Two members of the Accessibility Appeals Board shall be physically handicapped, two members shall be persons experienced in construction, and one member shall be a public member.

113.4 Appointment. Upon receipt by the Building Official, of a qualified application for appeal, the Building Official shall within 60 days, recommend to the City Council five persons who, based on their qualifications and experience, appear

to be suited to hear and decide the appeal. Upon finding that those individuals indeed appear to be qualified to hear and deciding the appeal, the City Council shall appoint those persons and they shall be known as the Board of Appeals and shall have the authority and be tasked with the duties thereof for the purposes of hearing and deciding that specific appeal.

| ~~F.G.~~ Amend Section 114.4 to read as follows:

114.4 Violation Penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, extends, repairs, moves, removes, demolishes or occupies any building, structure, or equipment in violation of the approved construction documents, a directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to fines and penalties as established in Title 1 of the Morro Bay Municipal Code, in addition to other penalties as prescribed by law.

| ~~G.H.~~ Add Section 114.5 to read as follows:

114.5 Authority to Arrest Persons. The building official shall be a public employee and not a peace officer, but shall have the authority to arrest persons pursuant to California Penal Code Section 836.5 for violations of Title 14 of the Morro Bay Municipal Code. If and whenever any code adopted by reference confers upon the building official the status of a law enforcement officer, the provisions of this section shall supersede the adopted code and the building official shall be a public employee and not a peace officer.

Chapter 14.03
BUILDING CODE

14.03.010 Modifications of the California Building Code.

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/or supplemented as follows:

A. Adopt appendices H, I and J. Delete appendices A, B, C, D, E, F, ~~G, and K, L and M.~~

B. Amend Section 1505.1 to read as follows:

1505.1 General. Roof assemblies shall be divided into the classes defined below. Class A, B, and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with Table 1505.1 based on the type of construction of the building.

For the purposes of this section, any building surface flatter than forty-five degrees to the horizontal shall be considered a roof and shall not be covered by wood shakes or shingles, except as otherwise allowed by this Code.

Exception: Skylights and sloped glazing that comply with Chapter 24 or Section 2610.

~~C. Amend Section 3002.4 to read as follows:~~

~~**3002.4 Elevator car to accommodate ambulance stretcher.** Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inches by 84 inches with not less than 5 inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches high and shall be placed inside on both sides of the hoistway door frame.~~

~~D.C.~~ Delete the text of Appendix J and amend Appendix J by reference to contain the text of the Appendix to Chapter 33 of the 1997 Uniform Building Code, which shall have the same force and effect as if printed here in its entirety and is hereby modified, amended, and/or supplemented as follows:

1. Amend Section 3309.2 to read as follows:

3309.2 Administration. The provisions of Division II of Chapter 1 of the California Building Code shall apply to the administration and enforcement of this chapter.

2. Amend Section 3309.7 to read as follows:

3309.7 Liquefaction Study. A study of the liquefaction potential of the site shall be provided, and the recommendations incorporated into the plans.

Exception: The Building Official may waive this requirement where it is determined by the geotechnical engineer or engineering geologist that the potential for liquefaction at the site is low.

3. Delete Section 3309.9.

4. Delete Section 3310.

Chapter 14.04

RESIDENTIAL CODE

14.04.010 Modifications of the California Residential Code.

The California Residential Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Delete Division II of Chapter 1. Administration and Enforcement of the Residential Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.
- B. Adopt Appendices H and O. Delete Appendices A, B, C, D, E, F, G, I, J, K, L, M, N, P ~~and Q and R.~~
- C. Amend Section R313.1 and R313.2 to read as follows:

R313.1 Townhouse and One and Two-family dwellings automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in all new townhouses and one and two family dwellings, and in all existing townhouses and one and two family dwellings where alteration results in an increase in floor area in excess of 50 percent, or 1000 square feet. This section shall be applicable to mobile homes and factory-built housing not located in a mobile home or special occupancy park.

R313.2 Determination of Floor Area. For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

- D. Add Section R313.3.3.5 to read as follows:

R313.3.3.5 Waterflow Alarm. A local waterflow alarm and remote inspector's test valve, installed in accordance with NFPA 13, shall be installed on all sprinkler systems.

Chapter 14.05
ELECTRICAL CODE

14.05.010 Modifications of the California Electrical Code.

The California Electrical Code, adopted in Section 14.01.020, is hereby modified, amended, and/or supplemented as follows:

- A. ~~Adopt annexes A and B.~~ Delete annexes A, B, C, D, E, F, G, and H and I. Administration and Enforcement of the Electrical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

- B. Amend Article 230-70(A)(1) to read as follows:

230-70(A)(1) Readily Accessible Location. A service disconnecting means shall be installed at a readily accessible location either outside the building or ~~other~~ structure, or inside nearest the point of entrance of the service conductors.

The disconnecting means shall be accessible to emergency personnel, either directly or by a remote actuating device, without requiring travel through the building interior.

Chapter 14.06

MECHANICAL CODE

14.06.010 Modifications of the California Mechanical Code.

The California Mechanical Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- | A. Delete Division II of Chapter 1 and Table ~~1-114.1~~. Administration and Enforcement of the Mechanical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

- | B. Adopt appendices A, B, C, ~~and D~~, E, F and G.

Chapter 14.07

PLUMBING CODE

Sections:

- 14.07.010 Modifications of the California Plumbing Code
- 14.07.020 Retrofitting with water-saving devices required.
- 14.07.030 Required sewer backwater valve.

14.07.010 Modifications of the California Plumbing Code.

The California Plumbing Code, adopted in Section 14.01.020, is hereby modified, amended, and/or supplemented as follows:

A. Delete Division II of Chapter 1 and Table ~~1-103.4~~. Administration and Enforcement of the Plumbing Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

B. Adopt ~~appendices Appendix A, B, G, I and L~~ K . Delete appendices ~~A, B, C, D, E, F, G, H, I, J, and K~~ and L.

C. Add Section 709.5 to read as follows:

709.5 A Backwater Valve, extended to and accessible from grade for maintenance, shall be installed on every Building Sewer.

Exception: Installation of a Backwater Valve shall not be required when, to the satisfaction of the Building Official, it is determined that the intent and purpose of this section is otherwise met.

D. Amend Section 713.0 to read as follows:

713.0 Sewer Required.

713.1 Every building in which plumbing fixtures are installed and every premises having drainage piping thereon shall have a connection directly to a public or private sewer.

713.2 Private Sewage Disposal Systems shall not be permitted.

14.07.020 Retrofitting with water-saving devices required.

A. Every property owner, prior to the sale or transfer of any real property upon which is located any structure connected to the city's water supply shall retrofit the structure with the water-saving devices required for new construction as set forth in this title. In cases where the Building Official determines the use of such fixtures in existing structures would fail to meet the requirements of the Plumbing Code, fixtures using the least amount of water which do meet the requirements of the Plumbing Code shall be utilized.

B. In cases where a buyer intends to demolish all structures on such property within ninety days from the date of transfer, the structure need not be retrofitted prior to transfer; provided a covenant and a bond are filed with the city as follows:

1. The property owner shall file with the city clerk a notarized covenant agreeing to either demolish all structures located on the property connected to the city water system, within ninety days from the date of transfer or to perform the retrofit required in subsection A of this section, together with a faithful performance bond, in a form satisfactory to the city in an amount equal to one hundred and fifty percent of the full cost of retrofitting all such structures securing faithful performance of the agreement.

2. The agreement shall also authorize and grant the city permission to enter onto the property and to perform such retrofit in the event the property owner fails to do so. Further, the property owner shall agree to reimburse the city for all cost incurred by the City in the event the bond is insufficient.

C. Determination of compliance with the requirements of subsection A shall be made by the Building Official after an inspection performed by the Building Official or a qualified plumbing contractor under the supervision of the Building Official, who shall issue a certificate indicating same to the seller or title company involved. Seller shall pay the fee set forth in the Master Fee Schedule for such retrofit inspection at the time seller submits the request for the retrofit inspection. No property transfer shall be recorded until such certificate has been received by the seller and transferred with the title to the buyer. If noncompliance is found, the property owner (both seller and buyer) and any title company involved in the transfer shall be in violation of this code and subject to those penalties as prescribed in Title 1 of the Morro Bay Municipal Code.

14.07.030 Required sewer backwater valve.

A. Any existing lateral sewer piping upon any premises which services fixtures whose elevation is lower than the elevation of the first upstream sewer manhole rim, lamp hole, or pump station receiving manhole, and for which the city has record of a previous sewage backflow incident involving a clogged sewer main shall be protected from backflow of sewage by installing backwater valves of a type approved by the Building Official. The property owner shall be required to provide and install such device.

B. If the property owner fails to install and maintain a backwater valve in good working condition when required under this section, the Building Official may declare said sewer connection to be a nuisance and abate such nuisance pursuant to Section 8.12.010 et seq. of this

code by installing an approved-type backwater valve at the owner's expense. Said property owner may, in addition, be subject to fines as outlined in subsection E of this section.

C. All house connection sewers, industrial sewers, private sewage disposal systems and appurtenances thereto, now existing, or hereafter constructed, shall be maintained by the owner of the property in a safe and sanitary condition and all devices or safeguards which are required by this section for the operation thereof shall also be maintained in a good working order by the owner. It shall be the property owner's responsibility to maintain that portion of the sewer to the public main, including the connection to the public main.

D. The director of public works, the health officer, and other duly authorized employees of the city and the health department bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section. The director of public works, the health officer, or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for waste treatment.

E. Violations and Penalties. Any person who is convicted of violation of any provisions of this section is guilty of an infraction punishable as provided in Chapter 1.16 of this code.

Chapter 14.08

FIRE CODE

Sections:

14.08.010.	Purpose.
14.08.020.	Bureau of fire prevention.
14.08.030.	Fire district established.
14.08.040.	Penalties for turning in false alarms.
14.08.050.	Fire injury report.
14.08.060.	Storage of gasoline driven vehicles.
14.08.070.	Citation powers.
14.08.080.	Fire Hazard Severity Zones
14.08.090.	Modifications of the California Fire Code

14.08.010. -Purpose.

This chapter shall be known and may be cited as “The Fire Prevention Regulations of the City of Morro Bay”, Chapter 8 of Title 14 of the Morro Bay Municipal Code. This chapter prescribes minimum regulations to reduce and minimize the potential for loss of and damage to life and property resulting from fire, panic, hazardous materials, and explosions.

14.08.020. **Bureau of fire prevention.**

The California Fire Code shall be enforced by the fire department or building division of the public services department under the supervision of the Fire Chief.

14.08.030. **Fire district established.**

The entire incorporated area of the city is declared to be and is established a fire district.

14.08.040. **Penalties for turning in false alarms or for conviction of intentionally setting a fire.**

Individuals responsible for turning in false alarms shall be responsible for the cost the fire department incurs while responding to the ~~fire~~-alarm. The cost of the false alarm shall be determined in accordance with the master fee schedule. The intent of this section is not to penalize those persons who make honest mistakes. Persons convicted of intentionally setting a fire in violation of any law or ordinance within the city limits shall pay the cost of fighting that respective fire.

14.08.050. **Fire injury report.**

Any physician, first aid station, ambulance company or persons who treat or aid any person injured by a fire, explosion or chemical burn within the municipality shall, within twenty-four hours, report such treatment and pertinent information to the fire department.

14.08.060. Storage of gasoline driven vehicles.

No one shall store, repair or use any motorcycle, moped or any other gasoline driven vehicle inside of any dwelling. Storage and repair of gasoline driven vehicles are permitted in garage areas adjacent to dwellings.

14.08.070. Citation powers.

The Fire Chief, Fire ~~Marshall~~ Marshal and full-time safety members of the Fire Department shall have the powers of a Peace Officer in performing their duties under this Code, and shall have the powers of a Peace Officer as provided in California Penal Code, Sections 830.31 and shall have the authority to issue citations as provided in Title 1 of the Morro Bay Municipal Code.

14.08.080. Fire Hazard Severity Zones.

A. Purpose and Intent. The purpose of this chapter is to provide authority for the identification of local fire hazard severity zones and provide authority for enforcement of state and local codes in these zones. The intent of this chapter is to reduce the potential for fire losses by providing minimum requirements for the protection of properties constructed in very high hazard severity zones and other wildland/urban interface areas designated by the fire chief and supported by substantial evidence.

B. Designation-Recommendation. The fire chief is hereby authorized to designate very high fire hazard severity zones within one hundred twenty days of receiving recommendations from the California Department of Forestry and Fire Protection.

C. Designation-Not identified. The fire chief may designate areas not identified as very high fire hazard Severity Zones by the California Department of Forestry and Fire Protection following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are necessary for effective fire protection within the area(s).

D. Designation-Declined. The fire chief may decline to designate areas identified by the California Department of Forestry and Fire Protection as Very high fire hazard severity zones following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are not necessary for effective fire protection with the area(s).

E. Supported by substantial evidence in the record. "Supported by substantial evidence in the record" shall require the city council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the fire chief's designation as fire hazard areas.

F. Enforcement. The Building Official shall enforce the provisions of Chapter 7A of the California Building Code and Chapter ~~47-49~~ of the California Fire Code in all very high fire hazard severity zones and other areas designated by the Fire Chief and supported by substantial evidence in the record.

G. Permits. All submittals for subdivision, entitlement, or building permits shall demonstrate that the proposed project allows for compliance with the provisions of

Government Code Section 51182 and Public Resource Code Section 4291, except where otherwise allowed by law, to the satisfaction of the Fire Chief and the Building Official.

14.08.090. Modifications of the California Fire Code.

The California Fire Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt Appendix Chapter 4 and appendices B, BB, C, CC, D, ~~and H, I, and K~~. Delete appendices A, E, F, G and J.

B. Section 101.1 is amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Fire Code of the City of Morro Bay.

C. Section 103.1 is amended to read as follows:

Section 103.1 General. The Fire Department of the City of Morro Bay is hereby established and the person in charge thereof shall be known as the Fire Chief. Where the Code uses the term Fire Official, it shall mean the Fire Chief.

D. Section 113.2 is amended to read as follows:

113.2 Schedule of permit fees.

Fees shall be paid in accordance with the Master Fee Schedule.

E. Section 302.1, "Definitions," is amended to add the following definition:

SKY LANTERN. An airborne lantern typically made of paper with a wood frame containing a candle, fuel cell composed of waxy flammable material or other open flame which serves as a heat source to heat the air inside the lantern to cause it to lift into the air. Sky candles, fire balloons and airborne paper lanterns mean the same as sky lanterns.

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~~E-F.~~ Section 507.5.4 is amended to read as follows:

507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

The Fire Chief shall have the authority to remove or cause to be removed, without notice, any vehicle, vessel, or object that is in violation of this section. The owner of said item, so removed, shall be responsible for all towing, storage, or other costs incurred therein.

F.G. Section 308.1.1.1 is added to read as follows:

308.1.1.1 Burning Prohibited in Residential Neighborhoods. Open burning, bon fires, recreational fires, and all other outdoor fires are prohibited in residential neighborhoods.

Exception:

Barbeques and portable outdoor fireplaces that conform with the following provision are allowed.

1. Fires shall be conducted at a safe distance from and in accordance with the applicable manufacturer's instructions to prevent the spread of fire to adjacent structures or other combustible materials.
2. Fire shall be contained in a non-combustible container, not to exceed 3 feet in diameter and 2 feet in height.
3. Fuel loading shall not exceed 3 feet in diameter or 2 feet in height.
4. Fire shall be fueled by propane, natural gas, charcoal, dried wood, commercial fire logs, or pellets. Fuels shall not include green waste, yard trimmings, pressure treated wood, trash, plastic, or other noxious or hazardous materials.
5. Ground fires, sub-surface or pit fires, and earth floored fire rings are prohibited.
6. If in the opinion of the Fire Chief or his or her designee, a fire is potentially hazardous or smoke is causing a nuisance, the fire shall be extinguished immediately.

H. Section 308.1.6.3 is added to read as follows:

308.1.6.3 Sky Lanterns. The ignition and launching of sky lanterns is prohibited.

Exception: The ignition and launching of sky lanterns may be allowed, subject to the approval of a permit by the Chief, where it has been determined that adequate safeguards will be in place.

I. Section 511 is added to read as follows:

SECTION 511
FIRE SERVICE ELEVATOR

511.1 Elevator car to accommodate ambulance stretcher. Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inches by 84 inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for

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emergency medical services (star of life). The symbol shall not be less than 3 inches high and shall be placed inside on both sides of the hoistway door frame.

Exception: Elevators located within one- and two-family dwellings and townhouses.

~~G-J.~~ Section 901.4.5 is added to read as follows:

901.4.5-7 Partial Sprinkling of Buildings. Partial sprinkling of buildings shall not be permitted, except where otherwise allowed by NFPA 13R, 13D, and Section 903.3.1.1.1.

~~H-K.~~ Delete Sections 903.2 through 903.2.10.1.

~~H-L.~~ Add Section 903.2 to read as follows:

903.2 Where Required. An approved automatic fire sprinkler system shall be installed throughout:

1. All **new** buildings exceeding 1000 square feet of floor area.

Exceptions:

- a. A structure containing only Group A, Division 5 occupancy.
- b. Agricultural accessory buildings and greenhouses.

2. All **new** buildings and structures on the west side of Embarcadero Road.

Exception:

Installation of an automatic fire sprinkler system shall not be required when, to the satisfaction of the Fire Chief and the Building Official, it is demonstrated that the proposed construction, use, and occupancy are minor in scope and nature, that the installation of an automatic fire sprinkler system would be impractical, and that the intent and purpose of this section is otherwise met.

3. All **existing** buildings exceeding 1000 square feet of floor area, where an automatic fire sprinkler system does not already exist, and a change in the character of use or occupancy is made, which increases the fire hazard level.
4. All **existing** buildings, where alterations result in:
 - a. An increase in floor area in excess of 50 percent, or
 - b. An increase in floor area in excess of 1000 square feet.

903.2.1 Determination of Floor Area. For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

J.M. Amend Section 903.3.1.1 to read as follows:

903.3.1.1 NFPA 13 sprinkler systems. Where other provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, or where a building contains two or more occupancies or uses, sprinklers shall be installed throughout in accordance with NFPA 13 as amended in Chapter 47 except as provided in Section 903.3.1.1.1.

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K.N. Section ~~4504.13604.1~~ is amended to read as follows:

~~4504.13604.1~~ General. Piers, marinas, docks, fuel docks, wharves and similar boat mooring facilities shall be equipped with fire protection equipment in accordance with Section 4504.2 through 4504.6 and as otherwise required by the Chief.

O. Section ~~3310-5609~~ is added to read as follows:

SECTION 5609
SALE AND USE OF FIREWORKS

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~~33105609~~. Sale and Use of Fireworks Unlawful. The sale or use of fireworks, pyrotechnics, and others explosives shall be unlawful.

Exceptions:

1. ~~The sale of fireworks, approved by the State Fire Marshal as "safe and sane," shall be permitted, subject to the approval of a permit by the Chief.~~

~~1-2.~~ The use of fireworks, approved by the State Fire ~~Marshal~~ **Marshal** as "safe and sane," shall be permitted on private property only.

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~~2-3.~~ Public fireworks displays may be allowed, subject to the approval of a permit by the Chief.

| ~~3.4.~~ Pyrotechnics for use in movie industry operations may be allowed, subject to the approval of a permit by the Chief.

| ~~4.5.~~ This section shall not apply to the sale and use of State Fire ~~Marshal~~ Marshal approved and listed party poppers and snap caps.

Chapter 14.09

EXISTING BUILDING CODE

14.09.010 Modifications of the California Existing Building Code

The California Existing Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows and shall be the technical strengthening provisions for buildings subject to Chapter 14.18 of this title:

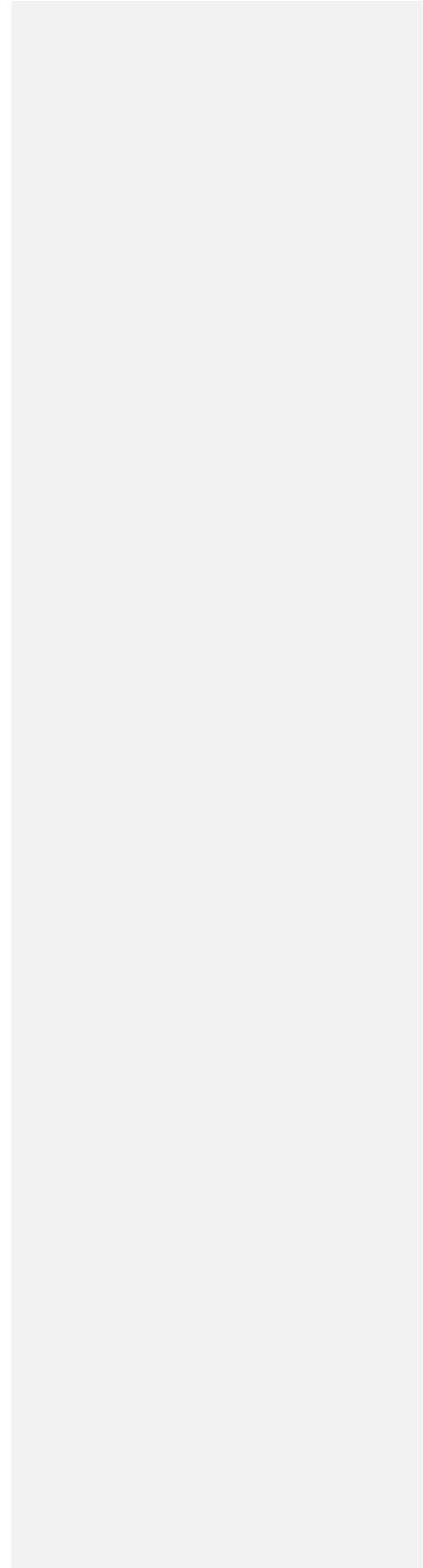
- A. Amend Section A102.1 of Appendix Chapter A1 to read as follows:

A102.1 General. The provisions of this chapter shall apply to all existing buildings having at least one unreinforced masonry bearing wall. The elements regulated by this chapter shall be determined in accordance with Table A1-A. Except as provided herein, other structural provisions of the building code shall apply. This chapter does not apply to the alteration of existing electrical, plumbing, mechanical or fire safety systems.

Exception: This section shall not apply to detached one-family or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

Chapter 14.10

RESERVED



Chapter 14.11
HOUSING CODE

14.11.010 Modifications of the Uniform Housing Code.

The 1997 Uniform Housing Code, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

SECTION 103-SCOPE

The provisions of this code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. Such occupancies in existing buildings may be continued as provided in Chapter 34 of the Building Code, except such structures as are found to be substandard as defined in this code.

Where any building or portion thereof is used or intended to be used as a combination apartment house- hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings.

Rooming houses, congregate residences or lodging houses shall comply with all requirements of this code for dwellings.

- B. Amend Section 104.1 to read as follows:

104.1 Additions, Alterations, or Repairs. For additions, alterations or repairs, see Chapter 34 of the Building Code.

- C. Amend the following definitions, located in Section 401, to read as follows:

BUILDING CODE is the ~~2010~~-California Building Code, as adopted and amended by this jurisdiction.

HEALTH OFFICER is the legally designated head of the San Luis Obispo County Department of Public Health.

MECHANICAL CODE is the ~~2010~~-California Mechanical Code, as adopted and amended by this jurisdiction.

PLUMBING CODE is the ~~2010~~-California Plumbing Code, as adopted and amended by this jurisdiction.

Chapter 14.12

DANGEROUS BUILDINGS CODE

14.12.010 Modifications of the Uniform Code for the Abatement of Dangerous Buildings.

The 1997 Uniform Code for the Abatement of Dangerous Buildings, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

SECTION 103- ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Chapter 34 of the Building Code.

- B. Amend the following definitions, located in Section 301, to read as follows:

BUILDING CODE is the ~~2010~~-California Building Code, as adopted and amended by this jurisdiction.

HOUSING CODE is the 1997 Uniform Housing Code, as adopted and amended by this jurisdiction.

Chapter 14.52

MARINE DOCKS AND STRUCTURES

Sections:

- 14.52.010 Floating docks.**
- 14.52.020 Definitions.**
- 14.52.030 Permits required.**
- 14.52.040 Application for permit.**
- 14.52.050 Parking requirements.**
- 14.52.060 Safety.**
- 14.52.070 Sanitation.**
- 14.52.080 Floating dock construction.**
- 14.52.090 Large floating dock construction.**
- 14.52.100 Small private floating dock construction.**
- 14.52.110 Materials except for private floating docks.**
- 14.52.120 Flotation for all floating docks.**
- 14.52.130 Gangway design.**

14.52.010 Floating docks.

The intent of this chapter is to regulate floating docks and marina construction as defined in this chapter within the city limits. The design and specification criteria is in addition to all other city codes, ordinances and rules and regulations and is in addition to applicable laws or statutes of the United States or the state and to any applicable rule, regulation, or order of any state or federal agency. (Ord. 37 § 1 (part), 1965: prior code § 4270)

14.52.020 Definitions.

A. "Floating dock" means a moorage for boats, ships and sailing vessels supported by a buoyant method acceptable to this chapter which may or may not be attached to land. For purposes of this chapter, floating docks are further classified in this section as public floating docks and private floating docks limited to single family use.

B. "Floating marina" means a moorage defined as a floating dock which has buildings or equipment and/or structures on it used for service to boats. (Ord. 37 § 1 (part), 1965: prior code § 4271)

14.52.030 Permits required.

It is unlawful for any person to commence, or cause to be commenced, any construction of any floating dock or marina or other similar work governed by this chapter without having first obtained a permit evidencing approval of the city building department of all construction plans, specifications and schematic and working drawings pursuant to which such structure is to be constructed, all as provided in this chapter. After the issuance of such permit and approval of such plans and specifications and other documents, the construction of such approved structure or facility shall be in strict compliance with such approved plans, specifications and documents. See Master Fee Schedule. (Ord. 225 § 78, 1982; Ord. 37 § 1 (part), 1965: prior code § 4272(a))

14.52.040 Application for permit.

The applicant for a permit for the construction of any floating dock or marina or other facility of a similar nature governed by this chapter shall submit to the planning and building department of the city the following:

A. Three copies each of the plot plan (including the parking layout), full construction plans and specifications, complete working drawings, schematic drawings of electrical and mechanical work, and other similar documents;

B. Evidence that an encroachment permit has been obtained from the city if the construction work is to be done on or abutting city property;

C. Evidence that the applicant has the approval of the owner of the property over which the facility is to be located and the abutting land area to construct such facility;

D. Evidence that the applicant has complied with all applicable statutes and laws of the United States, or the state, and with all applicable rules, regulations and orders of any state or federal agency;

E. Where the approval of any other city or county department or agency is required, evidence that such approval has been obtained;

F. Where the applicant seeks a permit for construction of a floating marina or any floating dock in excess of four hundred square feet in area or fifty feet in length measured perpendicular to the shoreline, evidence that a ~~licensed civil engineer~~ California Registered Civil Engineer or Licensed Architect has prepared the plans and specifications for the construction thereof;

G. The complete design criteria on which the plans and specifications for such facility are based, including the severity of the design wave action; and

H. Any other information reasonably required by the planning and building department in order to evaluate the proposed facility. (Ord. 37 § 1 (part), 1965: prior code § 4272(b))

14.52.050 Parking requirements.

A. Commercial boat docking facilities shall provide one vehicle parking space for each one and one-half mooring spaces and/or each twenty-five lineal feet of dock, plus one added space for each two employees. Parking spaces shall be located within one thousand feet of the mooring or dock spaces.

B. Parking requirements for commercial facilities housed in buildings, such as restaurants, which are used in conjunction with a marina or dock facility shall be the same as required by Title 17, zoning.

C. All other parking shall conform to the standards established in Title 17, zoning. (Ord. 66 § 16, 1967; Ord. 37 § 1 (part), 1965: prior code § 4273)

14.52.060 Safety.

Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the city, and all installations shall be subject to the approval of the chief of the fire department.

Domestic water service to any floating facility shall meet minimum requirements established by the department of public works, and the county health department and such approval shall be made a part of the construction plans.

~~Illumination shall be provided at passenger loading areas of commercial piers, floats and docks. All commercial piers, floats and docks used for loading of passengers shall be illuminated at a minimum five foot candle level for all such loading areas.~~

All railing on floating facilities shall be designed for a minimum twenty pound lineal foot horizontal load applied at the top railing. The minimum height of the railing shall be forty-two inches above adjacent floor level. (Ord. 37 § 1 (part), 1965: prior code § 4274)

14.52.070 Sanitation.

Removal of sewage from floating facilities shall be subject to the approval of the department of public works and the county health department and approval of the method of disposal desired shall be obtained at the time the construction plans are submitted. In addition to

other sanitary requirements for buildings, all public floating docks or floating marinas shall have a minimum of two restroom facilities (one for male and one for female) for each seventy-five mooring spaces available. The maximum walking distance from boat berth to restroom shall not exceed four hundred feet. (Ord. 37 § 1 (part), 1965: prior code § 4275)

14.52.080 Floating dock construction.

Construction requirements for a floating dock less than two thousand square feet, except private floating docks less than four hundred square feet, are as follows:

Pier width	— 4'0" minimum
Gangway width	— 3'0" minimum
Main access width	— 6' for finger floats 35' or less in length. 8' for over 35' finger length or when main access float exceeds 350'.
Finger float width	— 3' minimum for 30' or less in length. 4' minimum for over 30' in length.

All docks shall be designed for boat moorage on at least one side of the boat unless otherwise approved by the building official. Guardrails shall be provided on all access piers and gangways and floats intended for gathering places such as food distribution areas and similar service areas.

The clear water dimension between opposing rows of finger floats shall be a minimum of 1.75 times the length of the longest finger float. (Ord. 37 § 1 (part), 1965: prior code § 4276.1)

14.52.090 Large floating dock construction.

Construction requirements for large floating docks (over two thousand square feet of float area) are as follows:

Pier width	— 8'0" minimum.
Gangway width	— 4'0" minimum.
Fueling float or similar service areas	— 10' minimum width.
Finger floats	— 4'0" minimum width.

The clear water dimensions between opposing rows of finger floats shall be a minimum of two times the length of the longest finger float.

Guide piles shall be installed at ends of all fingers attached to outboard end of main access float and at all floats exceeding thirty-five feet in length in ocean waters and inland waters not subject to fluctuation. Maximum spacing of guide piles for main floats shall be forty feet. Piles shall meet the requirements of the Uniform Building Code. (Ord. 37 § 1 (part), 1965: prior code § 4276.2)

14.52.100 Small private floating dock construction.

Small private floating docks (less than four hundred square feet, etc.) shall meet flotation and anchorage requirements of this chapter. (Ord. 37 § 1 (part), 1965: prior code § 4276.3)

14.52.110 Materials except for private floating docks.

Flotation units shall be made of one of the following types of material: Concrete, pressure molded fiberglass, reinforced plastic, or an expanded cellular plastic material coated with an approved material to prevent physical or chemical damage.

Iron and steel parts shall be heavily galvanized or equally protected with a corrosion resistant coating.

Deck surfaces may be either concrete, plastic or wood. Lumber shall be a minimum of one and five-eighths inches net thickness. Plywood shall be marine exterior of three-fourths inches minimum thickness. All surfaces shall have a nonslip finish.

All lumber shall receive a full cell process salt preservative treatment in accordance with the specifications of the American Wood Preservers' Association. (Ord. 37 § 1 (part), 1965: prior code § 4277)

14.52.120 Flotation for all floating docks.

A. Design Loads. All portions of facility shall be designed to resist full dead load plus live loads. All buoyant units shall resist full design loads with maximum seventy-five percent submergence of unit.

B. Lateral Loads. All portions of facility shall be designed according to minimum requirements of the Uniform Building Code.

C. Vehicular Loads. All portions of facility shall be designed in accordance with the standard specifications for highway bridges as adopted by the American Association of State Highway Officials.

D. Finger Floats and Main Access Floats. The minimum design live load shall be fifteen pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition.

E. Fueling floats and Similar Service Area Floats. The minimum design live load shall be twenty pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition. (Ord. 37 § 1 (part), 1965: prior code § 4278)

14.52.130 Gangway design.

Gangways shall be provided at the end of all main floats. Where the gangway rests on the main float, adequate width shall be provided at the main float to provide clear width of eight feet on one side or four feet on each side of the gangway to the edge of the main float.

Gangways shall be designed for a live load of fifty pound square feet minimum. Special float conditions may require a greater live load to be considered, subject to the approval of the building official. (Ord. 37 § 1 (part), 1965: prior code § 4279)

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INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the
| th day of , ~~2010~~2013 by motion of Councilmember _____, seconded by
Councilmember _____.

| **PASSED AND ADOPTED** on the day of , ~~2010~~2013, by the following vote:

AYES:
NOES:
ABSENT:

| IRONS, -Mayor

JANICE PETERSJAMIE L.

ATTEST:

| _____
BRIDGETT KESSLINGJAMIE BOUCHER, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney



AGENDA NO: B-2

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 15, 2013

FROM: Kathleen Wold, Planning Manager

SUBJECT: Zoning Text Amendment A00-015 Draft Sign Ordinance (Municipal Code Section 17.68)

RECOMMENDATION

Staff recommends that the City Council:

1. Open the public hearing and receive testimony;
2. Direct staff to prepare an environmental document based on the draft Sign Ordinance as forwarded by the Planning Commission on September 4, 2013 and return with the environmental document and the draft Sign Ordinance for the first reading on December 10, 2013.

ALTERNATIVES

1. Review the draft Sign Ordinance and return the Ordinance to Planning Commission for additional changes based on public testimony and Council direction.
2. Take no action to change the Sign Ordinance and direct staff to not pursue a Zoning Text Amendment.
3. Direct staff to bring back sections of the Ordinance to allow a more in depth review of the document.

FISCAL IMPACT

Costs associated with a drafting of an amended Sign Ordinance are as follows:

- Environmental—staff's time to prepare a Negative Declaration
- Noticing Costs—noticing the draft Sign Ordinance environmental review and the Public hearing for adoption.
- Staff time—staff costs including time to process the project through to the Coastal Commission is estimated to be approximately 400 staff hours including Planning staff, Public Services Director, City Attorney, administrative support staff.

Prepared By: KW

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

DISCUSSION

Recommendations from the Public, Staff and City Council:

Comments from City Council members at their October 8, 2013 meeting were also noted and discussed among staff. Based on this discussion staff drafted the following language:

➤ **Add “Historical and Commemorative Plaques” to the list of exempt.**

9. Historical and Commemorative Plaques. Plaques placed by historical agencies recognized by the City of Morro Bay and County of San Luis Obispo or the State of California, consisting of noncombustible material (e.g. bronze or stone). Such plaques shall display no advertising.

➤ **Add language to address new technology such as signs consisting of QR-codes (quick response codes).**

These codes can be scanned with smart phones, and are capable of providing important information to consumers. Staff recommends that QR-code signs be permitted, but that their maximum size be regulated (e.g. shall be not larger than 2 sq. ft.). Photo on right shows a QR-code billboard in Japan.



Expansion of the Embarcadero Tourism-Oriented Directional Sign Plan (TODSP)

At the City Council’s request, staff has analyzed issues associated with expanding the Embarcadero TODSP to incorporate the Downtown District. As currently proposed, the TODSP recommends sign structure placements at five locations along the Embarcadero. Somewhere between 80-90 visitor-serving businesses occupy the Embarcadero District.

The Downtown District is larger in area than the Embarcadero, and supports a collection of businesses spread out over many blocks. However, businesses are relatively dense along Main Street and Morro Bay Boulevard, and the implementation of sign structures could benefit small businesses. So, how many businesses would be eligible for a directional sign in the Downtown? Estimates on this number depend solely on the eligibility criteria prescribed in the program. If all

businesses were allowed to have a directional sign, hundreds of businesses would be eligible. If, however, only tourist-serving businesses are eligible, the number of eligible businesses could be reduced to less than 120. The TODSP for the Embarcadero states the following types of businesses are eligible:

- *Clothing and shoe stores, surf shops, restaurants, cafes, pubs, bars, wine shops, hotels/motels, wine tasting rooms, art galleries, museums, gift shops, and recreation/entertainment-based businesses (such as kayak rental shops or charter sportfishing businesses).*

If the program was modified to include the Downtown District, staff recommends that all uses in the above list be included with the following additions: Beauty shops, barber shops, massage therapy, music stores, antique/furniture stores, real estate services, and convenience stores/food marts. These are all uses present in the Downtown District that could appeal to tourists. The lists discussed above can be expanded or reduced according to Council direction.

Another issue with expanding the Tourism-Oriented Directional Sign Plan to the Downtown is selecting locations to place sign structures. Due to the limited number of parks in the downtown, it is assumed that the majority of placements would occur within the public right of way on sidewalks. If this is the case, staff would need to locate areas where implemented sign structures do not interfere with pedestrian or vehicular traffic.

CONCLUSION

Staff recommends that the Council review the entirety of the new draft Ordinance and the above comments, and give direction to staff regarding further processing of the Ordinance.

ATTACHMENTS

- A. Draft Sign Ordinance, September 2013
- B. Previous City Council staff report October 8, 2013

ATTACHMENT A

Chapter 17.68 Sign Regulations

Sections:

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17.68.020 Commercial Signs and Calculations	2
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B. Computation of Sign Area	6
C. Computation of Facades	7
17.68.030 Standards for ALL Districts and Zones	8
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17.68.010 Purpose

The purpose of this Chapter is to regulate signs so that they express and enhance the character and environment of the City of Morro Bay and its community. These regulations recognize the importance of business activity to the economic vitality of the City. Specifically, these regulations are intended to:

1. Encourage communications which aid in the identification of businesses and activities.
2. Preserve and enhance the aesthetic character of the City.
3. Restrict signs that overload the public's capacity to receive information or that violate privacy.
4. Prohibit signs which increase the probability of automobile accidents.
5. Provide distinct regulations for different districts and lodging establishments.

Morro Bay's General Plan states, "The commercial areas of Morro Bay are composed of a variety of commercial uses as well as motels and some residential uses. These areas include Downtown, the Embarcadero, Quintana Road, and North Main Street. Each has its own special character and function." This Chapter provides different sign regulations for each individual district as defined by the General Plan, as well as a custom set of regulations for lodging establishments. It must be noted that *sign districts* as defined by this Chapter are different than the *zone districts* as defined by Morro Bay's Municipal Code.

This Chapter is also consistent with the City's Local Coastal Land Use Plan. Chapter XIII of the City's Coastal Land Use Plan includes the following provisions under Policy 12.05:

- a. Require monument and surface mounted signs and discourage roof mounted and pole signs;
- b. Require that view protection and the nighttime characteristics of the sign be mandatory considerations of any sign installation;
- c. Prohibit billboards;
- d. Reduce allowable height and size where they interfere with views to and along State Highway One.
- e. Develop and adopt sign criteria for signs appropriate for Morro Bay's commercial districts.

17.68.020 Commercial Signs and Calculations

Figure 17.021: Sign Types



- 1 Roof Sign
- 2 Wall Sign
- 3 Monument Sign (externally illum.)
- 4 Pole Sign
- 5 Sidewalk Sign
- 6 Directory Sign
- 7 Suspended (Hanging) Sign
- 8 Wall Sign (Channel Letters)
- 9 Awning Sign
- 10 Projecting (Pub) Sign
- 11 Window Sign

a. **Sign Types**

1. **Attraction Board** means a device used to display information regarding conveniences and services offered by facilities providing temporary accommodation.
2. **Architectural Signs.** Freestanding signs situated on two (2) or more supporting structures.
3. **Awning and Canopy Signs.** Signs painted on awnings, canopies, arcades, umbrellas or similar attachments or structures. Sign area for awning and canopy signs is calculated as the area within a single continuous enclosure around only the copy area of the lettering or logo of the sign.
4. **Banners.** A temporary sign of fabric, plastic, paper or other light pliable material not enclosed in a rigid frame, and which is suspended, mounted, or attached to buildings or poles at two ends or continuously across its longest side so as to allow movements of the sign by atmospheric conditions.
5. **Changeable Copy sign** means a sign designed so that characters, letters or illustrations can be changed or rearranged without substantially altering the face or the surface of the sign.
6. **Directory Sign.** A collection of signs which list names of individual businesses located in a single building, courtyard, or property.
7. **Dock Sign.** Any sign that is placed on a floating dock structure or gangway.
8. **Externally Illuminated Signs.** A sign that is illuminated by a light source not attached to the sign.
9. **Fence Signs.** Signs on fences or free-standing walls, not part of a building.
10. **Hanging (Suspended) Signs.** A sign that hangs parallel to the building's façade.
11. **Internally Illuminated Signs.** A sign which radiates light from any internal source or is backlit.
12. **Marquee Sign.** A projecting sign that is part of a permanent entryway or canopy and traditionally associated with theaters. A marquee may include a projecting vertical sign extending above the cornice line of a building. See "Projecting Signs" below.
13. **Monument Signs.** A sign erected on the ground or on a monument base designed as an architectural unit (and not attached to a building). Monument signs shall not interfere with safety sight angles on corners and at driveways.

14. **Pole Signs.** A freestanding sign erected on top of a pole (and not attached to a building) that is taller than 8 feet.
15. **Projecting Signs (Pub Signs).** Signs under canopies or covers in conjunction with pedestrian walkways, or signs projecting from the building wall.
16. **Roof Signs.** Signs erected upon, over or above the roof of a building or structure, or any sign affixed to the wall of a building so that it projects above the eave line of a roof.
17. **Shopping Center Identification Signs.** A sign structure located in front of a shopping center that advertises the name of the center and associated businesses.
18. **Sidewalk Signs.** Signs not permanently attached to the ground or any other permanent supporting structure. These signs are sometimes referred to as A-frame signs. Where permitted, sidewalk signs are subject to special regulations and permits.
19. **Snipe Sign.** An off-site sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects.
20. **Temporary Sign.** A sign or advertising display designed or intended to be displayed for a short period of time.
21. **Wall Signs (Surface).** Wall surface signs include any sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall. Wall signs also include signs on a false or mansard roof.
22. **Window sign** means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

b. **Determining Computable Sign Area**

1. **Single-faced Signs.** The sign face on a single plane and viewable from only one side of the plane shall be measured as the entire area within a single continuous perimeter composed of squares or rectangles that enclose the extreme limits of all sign elements including, but not limited to, sign structures or borders, written copy, logos, symbols, illustrations, and color.
2. **Double-faced Signs.** Double-faced signs with sign faces that are parallel (back-to-back) and a distance of less than three feet apart, or sign faces that have an interior angle of 45 degrees or less, shall be counted as a single sign with only one face measured in calculating sign area. Where the faces are not equal in size, the larger sign face shall be used as the basis for calculating sign area.
3. **Multi-faced Signs.** The sign area of signs with three or more sign faces, or signs with two sign faces with a distance greater than three feet apart or an interior angle greater than 45 degrees, shall be calculated as the sum of all the sign faces.

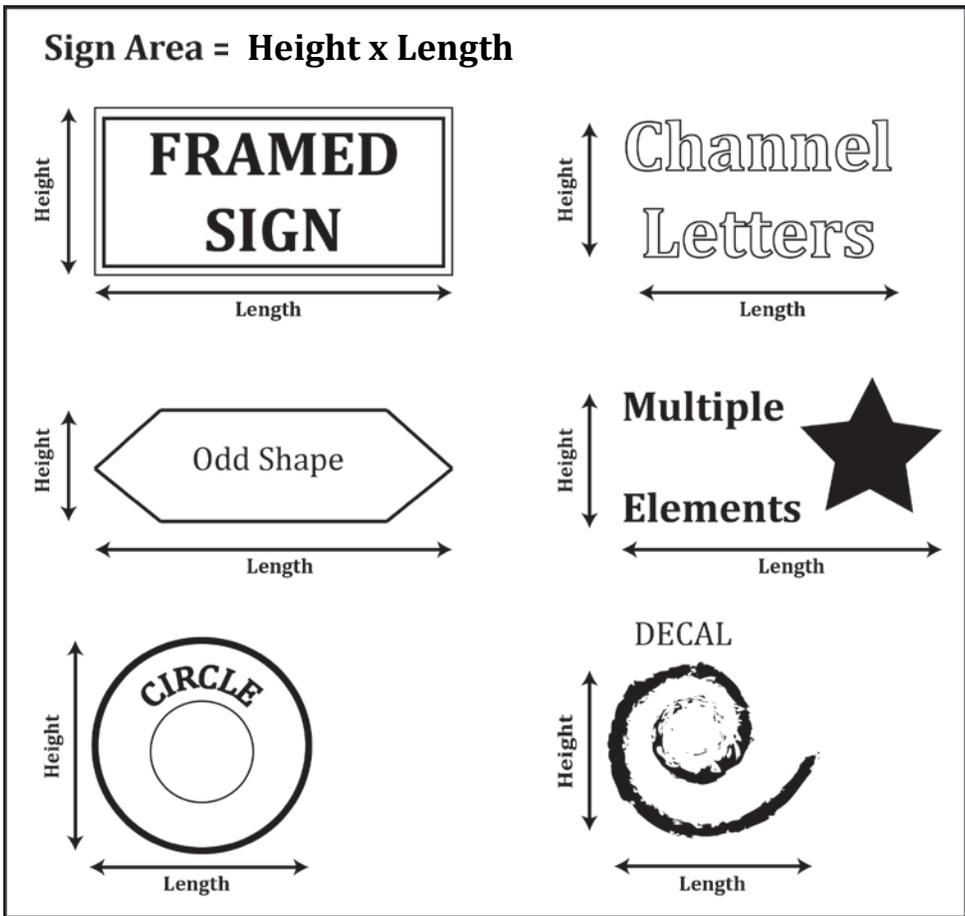
4. Three-dimensional Signs. Signs that consist of, or have attached to them, one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), shall have a sign area of the sum of two adjacent sides or sign faces.

Allowable sign area and sign types are designated by *District*. See Figure 17.031 to determine what district your business is located in. If your business is located on or near the border of a district, please contact the Morro Bay Planning Department.

**For Lodging Establishments see section 17.68.080
For businesses located in Industrial Zones see section 17.68.090**

DRAFT

Figure 17.023: Measurement of Sign Area



Three-Dimensional Signs

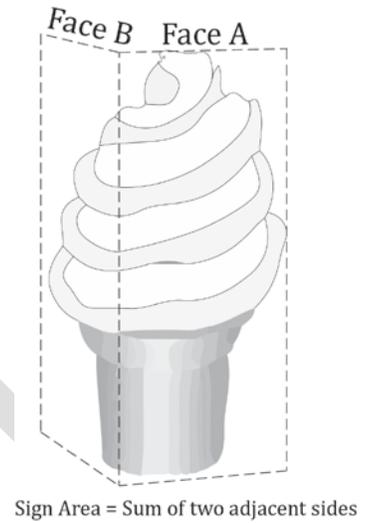
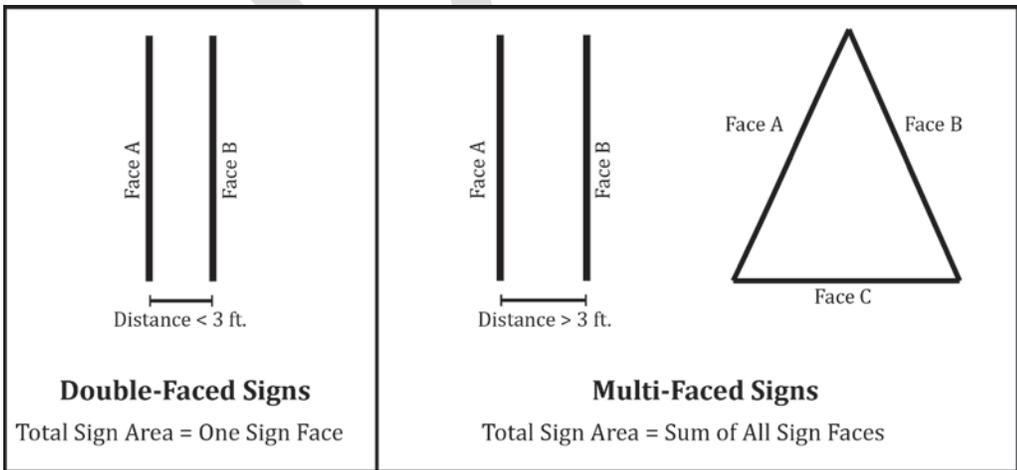


Figure 17.024: Measurement of Double and Multi-Faced Signs



c. Computation of Facades

“Façade” = (Façade Length x Façade Height)

*For the purposes of this Ordinance, “Façade Height” shall not include the roof

*For definitions of “Façade Length and Façade Height” see Section 17.68.120.

Figure 17.025: Single-Tenant Façade Calculation

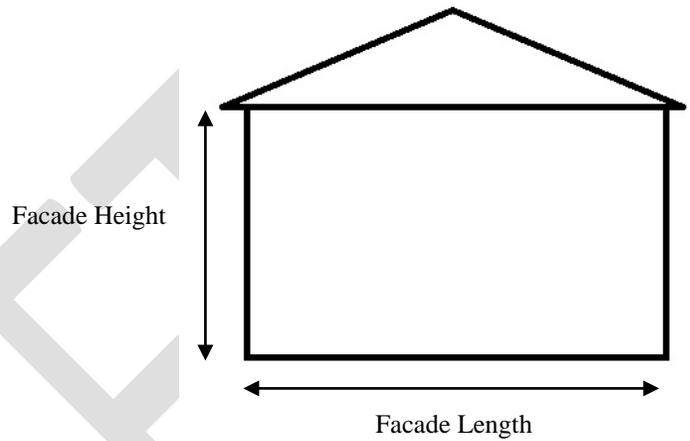


Figure 17.026: Multi-Tenant Façade Calculation Example #1

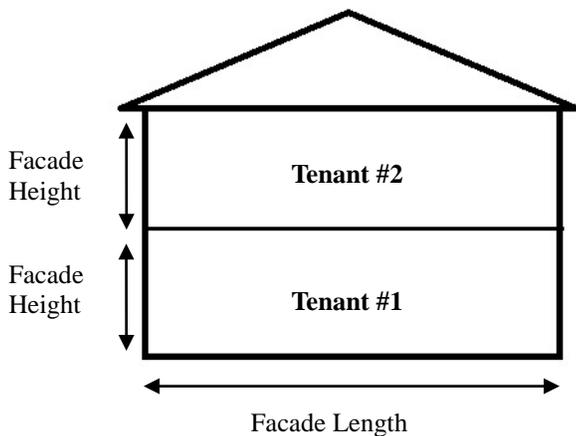
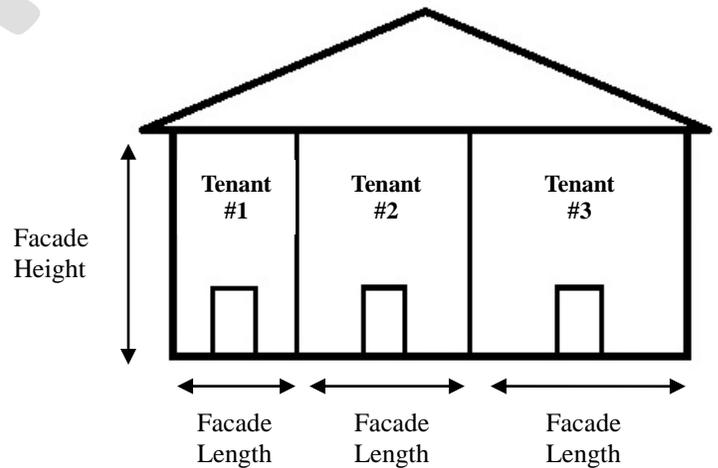


Figure 17.027: Multi-Tenant Façade Calculation Example #2



17.68.030 Standards for All Districts and Zones

The following principles and regulations apply to all areas within the City. No area in the City is exempt from the provisions listed in the following section. See other applicable commercial sign standards by following these steps: (1) Determine appropriate sign district (using Figure 17.031) (2) View table that applies to the appropriate district (Sections.17.68.040-17.68.070). For Lodging Establishments see Section 17.68.080.

A. Construction, Maintenance, Abandonment and Removal

1. Construction and Maintenance

- a. Unless exempt, signs and supporting structures shall be installed in accordance with the Building Code.
- b. All signs, together with all supporting structures, shall be maintained in the following manner:
 - i. Signs shall be kept free of rust, dirt and chipped, cracked or peeling paint.
 - ii. All hanging, dangling, torn or frayed parts of signs shall be promptly repaired and graffiti and unauthorized attachments shall be removed.
 - iii. Burned-out illumination shall be replaced immediately.
 - iv. Sign areas shall be kept free and clear of all noxious substances, rubbish, and weeds.
- c. If a sign is removed from its supporting structure for longer than 60 days, the supporting structure shall be removed.
- d. Any sign deemed unsafe by a Building Official shall be removed or fixed within 3 days of written notice.
- e. Every sign, including those signs for which no permit is required, together with all supports braces, guys and anchors shall be maintained in a safe, presentable and good structural condition at all times. The display surfaces of all signs shall be kept neatly painted, posted or otherwise maintained at all times. The owner of property on which the sign is located shall be responsible for the condition of the area in the vicinity of the sign, and shall be required to keep this area clear, sanitary and free from noxious or offensive substances, rubbish and flammable waste materials.

2. Abandonment. The following signs shall be presumed to be abandoned:

- a. **Located on Property.** Any sign which is located on property that becomes vacant and is unoccupied for a period of 60 days or longer.
- b. **Unrelated to Property.** Any sign which was erected for an occupant or business unrelated to the present occupant or business.
- c. **Time, Event or Purpose Sign.** Any sign which pertains to a time, event or purpose which no longer exists.
- d. **Exceptions**
 - i. **Temporarily Suspended Business.** Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 60 days or more.

3. **Removal.** Abandoned signs are found to be a public nuisance due to their misleading and distracting nature and due to their contributing to visual blight, detrimental to surrounding areas and the community generally. An abandoned sign face is prohibited and shall be removed by the property owner.

B. Provisions for Nonconforming and Illegal Signs

1. **Existing Nonconforming Signs.** Signs existing at the time of adoption of this Title, that do not comply with the provisions of this Chapter but that were legally erected pursuant to applicable state and city ordinances in effect at the time of construction, but which do not comply with the provision of this Chapter shall be regarded as nonconforming signs, subject to the following:
 - a. **Use Change.** Whenever the type of business or use changes with which a nonconforming sign is associated, the nonconforming sign associated with business shall be removed or otherwise made to conform to the provisions of this Chapter. An example of a change in use is a traveler-serving amenity (such as a gas station or convenient store) becoming a resident-serving amenity (such as a furniture or clothes store).
 - b. **Change of Business.** Whenever a business leaves a location and new business occupies a property, the nonconforming sign associated with the previous business shall be removed or otherwise made to conform to the provision of this Chapter.
 - c. **Sign Maintenance.** When a nonconforming sign becomes deteriorated or dilapidated to the extent of over fifty percent (50%) of the physical value it would have if it had been maintained in good repair, it must be removed within sixty (60) days after receiving notice from the Public Services Department.
 - i. If an ill-maintained sign cannot be adequately valued and assessed, the Public Services Director may require that such sign be removed or repaired.
 - d. **Limited Expansion.** A nonconforming sign may not be expanded, extended, reconstructed, or altered in any way in its location or orientation to enable it to be read or viewed from a different direction than its original position, except in the following cases:
 - i. Changes in sign face, copy, graphic design or color are permitted provided that such sign not be removed.
 - e. **Other Requirements.** Nonconforming signs are also subject to the provisions of Chapter 17.56: Nonconforming Uses and Structures.

2. **Illegal Signs.** Whenever a sign is found to be erected or maintained in violation of any provision of this Chapter, this Title, or any other Federal, State, or local law, and such sign is not a nonconforming sign (e.g. it was a legal sign under the sign regulations in effect prior to adoption of the ordinance codified in this Chapter), the Public Services Director shall order that such sign be altered, repaired, reconstructed, demolished or removed, as may be appropriate, to abate such condition or the Director may initiate proceedings to abate the sign as a public nuisance under the provisions of the Business and Professional Code (Sections 5499.1 to 5499.16). Any work required to be done shall be completed within ten days of the date of such order, unless otherwise specified in writing.
 - a. An illegal sign that conforms to the provisions of this Chapter may become legalized if the owner submits a sign permit application within five days of illegal sign notification. If said sign permit is granted the sign may remain in its current state.

C. General Sign Standards (Commercial and Non-Commercial)

1. **Architectural Signs.**
 - a. Maximum Height: 8 feet (from the ground to top of sign).
 - b. Shall be supported by two (2) or more posts or beams.
 - c. Minimum Setbacks: One foot from setback line.
 - d. Sign faces: Maximum of two sign faces permitted.
 - e. If one architectural sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second architectural sign is proposed, sign shall count towards nearest secondary façade.
 - f. Landscaping. Signs shall be placed in a landscaped planter or berm. As a condition of any sign permit for a monument sign, additional landscaping of the site may be required to better integrate sign appearance with the site.
2. **Awning and Canopy Signs.**
 - a. Maximum Height. 25 feet above a sidewalk or public right-of-way
 - b. Sign copy and/or logos may not extend beyond the area of the awning or canopy.
3. **Clearance from Utilities.** Signs and their supporting structures shall maintain clearance and not interfere with electrical conductors, communications equipment or lines, surface and underground facilities and conduits for water, sewage, gas, electricity and communications equipment or lines. Signs shall not be placed in public utility easements unless express written permission from the affected public utility is obtained.
4. **Community Promotional Display Programs.** Community promotion signs advertising, directing or informing pedestrian of community events and services not related to or located on the site shall be permitted on private property in all commercial districts, and on public land with the granting of an encroachment permit.
5. **Dock Signs.** Any sign placed on a dock shall not in any way impede the right-of-way for pedestrians or watercraft. A dock sign may only be placed on docks or gangways owned

by the subject property.

6. **Drainage.** The roofs of canopies or marquees exceeding 25 square feet shall be drained to prevent dripping or flow onto public sidewalks or streets and shall be connected to an approved disposal source of adequate conductors.
7. **Encroachment into Public Street or Sidewalk.** For signs projecting over a public street or sidewalk refer to “Title 14: Buildings and Construction” within the City’s municipal code.
8. **Equipment Signs.** Signs, not more than eight square feet in sign area, incorporated into displays, machinery, or equipment by a manufacturer, distributor, or vendor that identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily fixed to automated teller machines (ATMs), gasoline pumps, menu boards, and umbrellas. If a vending machine is visible from the street, the sign area shall be included in the total sign area allowed for the use.
9. **Hanging (Suspended) Signs.**
 - a. Bottom of sign must maintain a minimum clearance of 8 feet above the public right-of-way or sidewalk.
 - b. Shall not be internally illuminated.
10. **Illumination.** Signs with any type of illumination are subject to all of the following standards:
 - a. All lighting is subject to necessary electrical permits.
 - b. All newly fabricated signs shall incorporate light-emitting diodes (LEDs) or an equally energy efficient light source.
 - c. Illuminated signs that are larger than 10 square feet in area shall not be switched ON during daylight hours. All newly fabricated signs larger than 10 square feet in area shall incorporate an automatic on/off switch.
 - d. All illuminated signs shall be turned off at 10 PM or at the time the business closes.
 - e. External lighting shall be properly shielded to prevent glare upon an adjacent public right-of-way or adjacent property.
 - f. Illumination shall be constant in intensity and color and shall not consist of flashing, animated or changing lights.
 - g. Illumination shall not be distracting to pedestrians, motorists, or neighboring property.
 - h. No sign shall emit or reflect light exceeding ten foot-candle power at ten feet from the face of the sign.
11. **Marquee Signs.** Marquee signs may not project above the marquee face.
 - a. Removable copy may be changed on the face of permitted sign without securing a sign permit.
12. **Materials.** All signs shall be made of substantial materials that are not subject to rapid deterioration, as determined by the Public Services Director.

13. Monument Signs

- a. Maximum Height. 5 feet
- b. Minimum Setbacks: One foot from setback line.
- c. Sign faces: Maximum of two sign faces permitted.
- d. Number of signs: Maximum of two monument signs per business.
- e. If one monument sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second monument sign is proposed, sign shall count towards nearest secondary façade.
- f. Landscaping. Signs shall be placed in a landscaped planter or berm. As a condition of any sign permit for a monument sign, additional landscaping of the site may be required to better integrate sign appearance with the site.

14. Pole Signs

- a. Landscaping. Pole signs shall be placed within a landscaped planter with at least 28 square feet of planting area. As a condition of any sign permit for a pole sign, additional landscaping of the property may be required where needed to better integrate sign appearance with the site through scale and softening effects.
- b. Maximum Height. 15 feet;
- c. Pole signs shall count towards allowable signage for the *Primary Façade*.
- d. Subject to Conditional Use Permit and shall meet the following conditions:
 - i. Business is traveler-serving.
 - ii. Proposed sign does not degrade or block scenic views (professional viewshed study may be required).
 - iii. If oriented towards Highway 1, sign shall be legible from a distance that will allow drivers to comprehend information and safely exit the highway (professional engineering study may be required).
 - iv. Sign design shall be compatible with neighborhood character, and shall not degrade the overall aesthetic quality of the subject property and surrounding area.

15. Projecting (Pub) Signs.

- a. Minimum Height. 8 feet above a sidewalk or other public right-of-way.
- b. Maximum Height. 20 ft. above a sidewalk or other public right-of-way, but not above an eave or roof.
- c. Shall not be internally illuminated.

16. **Roof Signs.** The top of the sign may not extend above the maximum building height for the zone in which the business is located.

17. **Sign Orientation.** No sign, other than a projecting sign, shall be permitted that is so oriented as to be viewed primarily across an adjacent private property line. All signs must be visible directly from a public right-of-way, other public open space or parking lot or courtyard on the same site as the sign, without view lines extending over private property different from that on which the sign is located.

18. **Substitution of Sign Message.** The owner of a permitted sign may substitute a non-commercial message for a commercial message or a commercial message for a non-commercial message.

19. **Wall Surface Signs (“Wall” Signs).** Wall signs are subject to the standards in the following table. No wall surface sign may cover wholly or partially any required wall opening.

WALL (SURFACE) SIGN STANDARDS	
Minimum Horizontal and Vertical Separation Between Signs	3 ft.
Maximum Projection from Surface of Building	12 in
Minimum Vertical Separation Between Sign and Roof Line	1 ft. (8 inches on a mansard roof)
Maximum Height	20 ft. above a sidewalk or public right-of-way.

D. Exempt Signs

The following signs are exempt in ALL districts and do not count towards total allowable sign area:

1. **Announcement Signs.** One sign, not exceeding 16 square feet in area and 6 feet in height, per street frontage on real property where construction, structural alteration or repair is to take place, or is taking place, which contains information regarding the purpose for which the building is intended and the individuals connected with the project, including names of architects, engineers, contractors, developers, finances and tenants. Announcement signs are exempt only for the duration of the construction of the building and shall be removed prior to issuance of a certificate of occupancy.
2. **Automatic Teller Signs.** Any business owning one or more ATM machines is allowed one (1) single-sided automatic teller sign.
 - a. Maximum area. 3 square feet.
3. **Businesses Outside of Defined Districts.** In the case a business does not exist within any of the sign districts as defined by this Chapter, the business shall conform to the regulations of the sign district it best fits in, as determined by the Public Services Director.
4. **Change of Business Signs.** A temporary attachment or covering of wood, plastic, or canvas over a permanent sign indicating a change of ownership or activity may be displayed no longer than 30 days following the change of ownership or activity for which the sign is intended, or up to 90 days following issuance of a building permit. The sign shall be no larger than the previously permitted permanent sign.

5. **Civic Event Signs.** One temporary sign announcing a campaign drive or event of a civic, public, quasi-public, philanthropic, educational or religious organization is allowed.
 - a. **Maximum Sign Area.** 32 square feet.
 - b. **Maximum Time Period.** Shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.
6. **Fence Signs.** One fence sign allowed per property to advertise community and non-profit events. Such signs shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.
7. **Flags.** Flags and insignia of any government, except when incorporated into a commercial sign, are permitted.
8. **Garage Sale Signs.** One unlighted sign is permitted for garage sales, provided such sign does not exceed four square feet in area and is displayed on the property where such sale shall take place only on the day of the sale.
9. **Mobile Home Parks.** A mobile home park may be allowed one externally illuminated or non-illuminated identification sign, not to exceed the equivalent of one square foot of sign area per ten linear feet of frontage on each right-of-way upon which it takes vehicular access. No sign shall have a surface area of greater than 30 square feet, a height of 8 feet, or be erected at right angles to the right-of-way.
10. **Mobile Vendor (Non-permanent Vendor) Signs.** Signs fixed to mobile vending carts that identify or advertise the name, product, or service provided by the vendor. Each mobile vending cart is limited to a maximum sign area of eight square feet.
11. **Murals.** Artwork painted on buildings; such artwork shall not include logos, text, or graphics that intentionally advertise a business, as determined by the Public Services Director.
12. **Off-Site Directional Sign.** One off-site sign not to exceed 36 square feet, providing direction to real estate available for sale or lease, during daylight hours only. Permission from the property owners of the site where the sign is placed is required.
13. **Official Government Signs and Legal Notices.** Official notices issued by a court, public body or office and posted in the performance of a public duty; notices posted by a utility or other quasi-public agent in the performance of a public duty; historical markers erected by a governmental body; identification information; directional signs erected by government bodies; or other signs required or authorized by law.
14. **Parking and Directional Signs.** On-site parking and directional signs, not exceeding eight square feet in sign area and five feet in height, that do not include any advertising messages or symbols.

15. **Political Campaign Signs.** Political campaign signs not to exceed sixty-four square feet in area per site and shall be permitted only on private property;
16. **Public Restroom and Public Access Signs.** One on-site public restroom sign not exceeding 3 square feet and one on-site public access sign not exceeding 4 square feet.
17. **Real Estate and “Open House” Signs.** Signs conveying information about the sale, rental, or lease of a property and the identification of the person **or** firm (agent) handling such sale, lease or rental, provided they comply with the following standards. Real estate and open house signs are exempt only during the period for which the property is offered for sale or lease.
18. **Restaurant Menu Boards.** Restaurants with a valid business license are allowed one (1) menu board per entrance with a maximum of two (2) menu boards.
 - a. Maximum area. 4 square feet.
 - b. Menu boards shall be securely placed on a building face.
 - c. Menu boards shall not in any way obstruct or block a door, window, or exit.
 - d. Menu boards shall consist solely of the restaurant’s current menu.
19. **Sidewalk Signs.** Subject to a special *Sidewalk Sign Permit*. Sidewalk signs proposed to be placed within the public right-of-way require a *Sidewalk Sign Encroachment Permit* in addition to a general *Sidewalk Sign Permit*.
20. **Subdivision Signs.** One sign per frontage, advertising the sale of a subdivision may be displayed on the site of the subdivision upon approval of a final map and initiation of construction for a period of one year. The display period may be extended with written approval of the Public Services Director for a reasonable period of time, not to exceed one year at any one time.
21. **Shopping Center Identification Signs.** A shopping center with four (4) or more tenants is allowed one Identification Sign per major street frontage.
 - a. Minimum Height. 6 ft.
 - b. Maximum Height. 8 ft.
 - c. Sign shall include name of shopping center and spaces for a maximum of 8 tenants.
 - d. The sign(s) shall incorporate the design theme of the existing shopping center.
 - e. The sign(s) are subject to approval of a Master Sign Program.
22. **Special Private Event Displays.** A temporary sign may be erected on the premises of an establishment having a special event provided that such sign shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.
23. **Temporary New Business Signs.** One temporary sign not exceeding 30 square feet for new businesses is allowed. A temporary sign may remain erected for a maximum of 30

days unless the Public Services Director grants an extension.

24. **Temporary “Sale” Signs.** One temporary sign not exceeding 10 square feet in area signifying a sale or specials is allowed. No business may display temporary sale signs for more than 90 days during any calendar year.

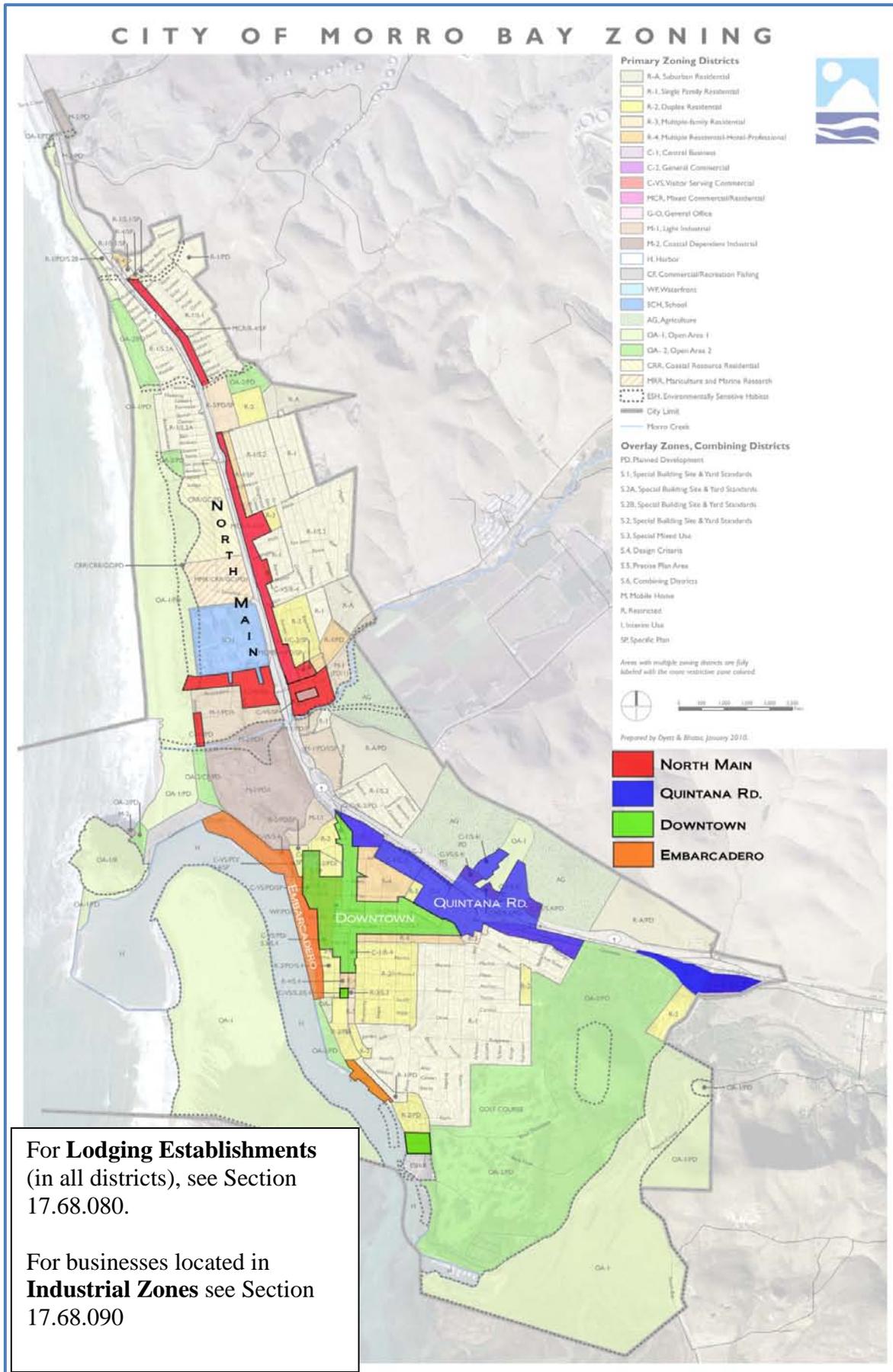
E. Prohibited Signs

The following signs are prohibited in ALL districts:

1. **Animated and Moving Signs.** Signs that incorporate, in any manner, any flashing, moving, rotating, pulsating or intermittent lighting, with the exception of approved time and temperature displays and barber poles.
2. **Banners, Streamers, or Pennants.** Signs, banners, pennants, valances or any other advertising display constructed of cloth, canvas, light fabric, paper, cardboard, wallboard or other light materials except for awnings and temporary signs as provided for in this Chapter.
3. **Billboards.** Off premises outdoor advertising signs.
4. **Digital Signs.** Any electronic sign that resembles a television screen or video monitor, or that can be altered or changed from a remote location.
5. **Emissions.** Signs that produce noise or sounds in excess of 40 decibels, excluding voice units at drive-through facilities, and signs that emit visible smoke, vapor, particles, or odor.
6. **Home Occupation Signs.** See Section 17.48.260 of the Morro Bay, California, Code of Ordinance.
7. **Inflatable Signs.** Three-dimensional signs that are made of flexible material that is designed to be filled with gas or air.
8. **Lodging Rates.** Any sign or surface that displays lodging rates.
9. **Obscenities.** Signs that depict, describe, or relate to “specified sexual activities” or “specified anatomical areas.”
10. **Obstruction to Exits.** Signs that obstruct any fire escape, required exit, window or door opening intended as a means of egress.
11. **Obstruction to Ventilation.** Signs that interfere with any opening required for ventilation.

12. **Persons or Animal Signs.** Signs that use humans or animals to display signs or act as signs.
13. **Signs Advertising Brand Names.** Any sign that advertises a brand name or logo (except the brand name or logo directly related to the business) is prohibited. Example: Grocery stores may use signs to advertise that they sell “cereal,” but may not use signs to display the names of brands that make the cereal.
14. **Signs Creating Traffic Hazards.** Signs located in such a manner as to constitute a traffic hazard or obstruct the view of any authorized traffic sign or signal device, or signs that may be confused with any authorized traffic sign, signal, or device; or that makes use of the words “stop”, “look”, “danger”, or any other word, phrase, symbol, or character that interferes with, misleads, or confuses vehicular drivers.
15. **Snipe Signs.** Off-premise signs advertising a business or service. All commercial signs shall be on property owned or leased by the business owner.
16. **Signs on Public Bus Shelters or Benches.** Signs located on bus shelters, benches, or similar structures provided for the use of passengers along the route of a bus, not including plaques containing the names of persons or organizations which have made gifts or donations of such street furniture.
17. **Tire Stacks.** Signs placed on stacked tires.
18. **Vehicle Displays.** Signs placed or displayed on vehicles parked in a conspicuous location to be used for on-site or off-site advertising, with the exception of signs advertising such vehicles for sale and vehicle identification signs in locations where sale of vehicles is permitted.

Figure 17.031: Sign District Map



17.68.040 Embarcadero District

Purpose. The Embarcadero District is home to many of the tourist-serving businesses in Morro Bay. The Embarcadero District contains a dense collection of restaurants, hotels, bars, museums, gift shops, and recreation-based businesses. The sign regulations for this district are intended to maintain the unique, beach town character of Morro Bay’s waterfront. The Embarcadero District is dominated by pedestrians; the code promotes small scale signs and projecting type signs that are oriented towards pedestrians and bicyclists. With the prohibition of window signs and pole signs, the code also aims to maximize views of the bay from the street and walkways.

The following chart displays all allowable sign types and specifications for businesses located in the Embarcadero District.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Projecting Sign Bonus: All businesses are entitled to one (1) “free” projecting sign per frontage. The proposal of a projecting sign *must be reported in the sign permit application*, but will not count towards the total allowable signage for the business.

Embarcadero District

Sign Type	Total # of Signs Allowed	Sign Area Allowed	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Awning and Canopy	1 per frontage (choose one type) <i>window signs: 1 per window</i>	10% of primary facade, 5% of secondary façades*	--	See Section 17.68.030, C-2
Roof			--	See Section 17.68.030, C-16
Wall (Surface) **			--	See Section 17.68.030, C-19
Hanging (Suspended)			--	See Section 17.68.030, C-9
Window			20% of window area	--
Monument (Freestanding)	1 per frontage		25	See Section 17.68.030, C-13
Projecting (Pub)	2 per frontage (30 ft. of spacing between required)		8	See Section 17.68.030, C-15
Dock	1 per business		16	See Section 17.68.030, C-5
Bonuses				
Projecting (Pub)	PLUS (+) 8 sq. ft.		8	
Wall (Surface)	PLUS (+) 4 sq. ft. for Individual Lettering		--	
Window	PLUS (+) 3 sq. ft. for Individual Lettering		20% of window area	

* Primary facades shall contain maximum signage equal to 10% of facade area, and secondary facades shall contain maximum signage equal to 5% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).

**One wall sign signifying the entrance to a business and not exceeding 3 square feet in area may be implemented in conjunction with all other sign types. Such signs must be placed above the main entrance and shall count towards total allowable signage.

17.68.050 Downtown District

Purpose. The Downtown District houses a combination of resident-serving and tourist-serving businesses. While there are many restaurants, gift shops and galleries, the district also contains banks, shopping markets, offices, and service-based businesses such as automobile repair shops. The sign regulations for this district are intended to preserve the small-town character that residents, tourists, and business owners enjoy. The code is designed to eliminate excessive signage while promoting pedestrian-oriented signs.

The following chart displays all allowable sign types and specifications for businesses located in the Downtown District.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Sidewalk Signs. See draft Sidewalk Sign Application / Encroachment Permit.

Projecting Sign Bonus: All businesses are entitled to one (1) “free” projecting sign per frontage. The proposal of a projecting sign *must be reported in the sign permit application*, but will not count towards the total allowable signage for the business. The bonus 8 sq. ft. can be applied to the placement of a larger projecting sign (e.g. after the bonus is applied 16 sq. ft. projecting sign counts towards 8 sq. ft. of allowable area).

Downtown District				
Sign Type	Total # of Signs Allowed	Sign Area Allowed	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Awning and Canopy	1 per frontage (choose one type); <i>window signs: 1 per window</i>	15% of primary facade, 15% of secondary façades*	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface) **			--	See Section 17.68.030, C-19
Window			30% of window area	--
Hanging (Suspended)	1 per frontage		--	See Section 17.68.030, C-9
Monument (Freestanding)	1 per frontage		25	See Section 17.68.030, C-13
Projecting (Pub)	2 per frontage (30 ft. of spacing between required)		16	See Section 17.68.030, C-15
Bonuses				
Projecting (Pub)	PLUS (+) 8 sq. ft.		16	
Wall (Surface)	PLUS (+) 10 sq. ft. for Individual Lettering		--	
Window	PLUS (+) 5 sq. ft. for Individual Lettering		30% of window area	
Sidewalk Sign	See Sidewalk Sign specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

****One wall sign signifying the entrance to a business and not exceeding 3 square feet in area may be implemented in conjunction with all other sign types. Such signs must be placed above the main entrance and shall count towards total allowable signage.**

17.68.060 Quintana Road District

Purpose. The Quintana Road District contains many of the City's larger commercial buildings, strip malls, and gas stations. Due to the existence of large parking lots and the adjacent Highway 1, this district is auto-oriented. The sign regulations for this zone focus on allowing large-scale commercial and industrial businesses adequate signs that are proportionate to the associated structures. The regulations also promote motorist safety by requiring that signs are clear and legible from the road.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Sidewalk Signs. See draft Sidewalk Sign Application / Encroachment Permit.

Quintana Road District				
Sign Type	Total # of Signs Allowed	Sign Area Allowed*	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Awning and Canopy	1 per frontage (choose one type) <i>window signs: 1 per window</i>	15% of primary facade, 15% of secondary façades*	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface)			--	See Section 17.68.030, C-19
Window			30% of window	
Architectural (Freestanding)	1 per driveway entrance (choose one)		25	See Section 17.68.030, C-1
Monument (Freestanding)			40	See Section 17.68.030, C-13
Pole (Freestanding)	1 per property		--	Conditional Use Permit See Section 17.68.030, C-14
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Architectural and Monument	PLUS (+) 20 sq. ft. for businesses with facade set back more than 30 ft. from edge of public ROW	40		
Wall (Surface)	PLUS (+) 10 sq. ft. for Individual Lettering	--		
Window	PLUS (+) 5 sq. ft. for Individual Lettering	30% of window		
Sidewalk Sign	See Sidewalk Sign Specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

17.68.070 North Main District

Purpose. The North Main District is composed of industrial, commercial, and mixed use zones. While pedestrian and bicycle activity is present, this district is auto-oriented. The regulations for this district promote signs that are appealing to pedestrians, bicyclists, and automobiles.

The regulations for this district also intend to increase the aesthetic quality of signs that are visible from Highway 1.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Sidewalk Signs. See draft Sidewalk Sign Application / Encroachment Permit.

North Main District				
Sign Type	Total # of Signs Allowed	Sign Area Allowed	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Awning and Canopy	1 per frontage (choose one type) <i>window signs: 1 per window</i>	15% of primary facade, 15% of secondary façades	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface)			--	See Section 17.68.030, C-19
Window			30% of window	
Architectural (Freestanding)	1 per driveway entrance (choose one)		40	See Section 17.68.030, C-1
Monument (Freestanding)			40	See Section 17.68.030, C-13
Pole (Freestanding)	1 per property		--	Conditional Use Permit See Section 17.68.030, C-14
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Architectural and Monument	PLUS (+) 20 sq. ft. for businesses with facade set back more than 30 ft. from edge of public ROW		40	
Wall (Surface)	PLUS (+) 20 sq. ft. for Individual Lettering		--	
Window	PLUS (+) 10 sq. ft. for Individual Lettering		30% of window	
Sidewalk	See Sidewalk Sign Specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

17.68.080 Lodging Establishments

Purpose. The following regulations apply to lodging establishments in ALL districts. Lodging establishments in the City are located in both residential and commercial zones, and have unique requirements that do not coincide with the signage needs of other types of businesses. The regulations in this section are intended to promote signs that attract potential customers and that are also appealing to both residents and tourists

1. **Attraction Boards for Hotels, Motels and Bed and Breakfast Establishments.** An attached or detached attraction board, not to exceed five square feet in sign area, is allowed, provided it is included within the calculation of the maximum allowable sign area for a hotel, motel, or bed and breakfast establishment. Advertisement of current rates is prohibited.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Lodging Establishments				
Sign Type	Total # of Signs Allowed	Sign Area Allowed*	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Attraction Boards	1 per business	15% of primary facade, 10% of secondary facades	5	Cannot display rates.
Awning and Canopy	1 per frontage (choose one)		--	See Section 17.68.030, C-2
Wall (Surface)			--	See Section 17.68.030, C-19
Architectural (Freestanding)	1 per driveway entrance (choose one)		25	See Section 17.68.030, C-1
Monument (Freestanding)			25	See Section 17.68.030, C-13
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Wall (Surface)	PLUS (+) 4 sq. ft. for Individual Lettering		--	
Sidewalk	See Sidewalk Sign Specifications; NOT allowed in Embarcadero District			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 10% of facade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary facade, and vice versa).**

Additional Illumination Standards:

- Signs that are within or adjacent to residential zones shall not be illuminated after 10 PM regardless if business is open or closed (“Open” and “Vacancy/No Vacancy” signs are exempt from this regulation, and may remain illuminated during business hours).

17.68.090 Industrial Zones

Purpose. The following regulations apply to businesses located in industrial zones in ALL districts. Industrial businesses have unique requirements that do not coincide with the signage needs of other types of businesses.

IMPORTANT NOTES

- See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.
- If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.
- If a sign type does not appear in the following table it is prohibited in this district.
- Signs advertising BRAND NAMES are prohibited in all districts.
- Signs that describe offered products or services COUNT towards total allowed signage.
- If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.

Industrial Zones				
Sign Type	Total # of Signs Allowed	Sign Area Allowed*	Max. Sign Area per Sign (sq. ft)	Additional Regulations
Awning and Canopy	1 per frontage (choose one)	10% of primary facade, 5% of secondary facades	--	See Section 17.68.030, C-2
Wall (Surface)			--	See Section 17.68.030, C-19
Bonuses				
Wall (Surface)	PLUS (+) 8 sq. ft. for Individual Lettering		--	

* Primary facades shall contain maximum signage equal to 10% of facade area, and secondary facades shall contain maximum signage equal to 5% of facade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary facade, and vice versa).

17.68.100 Sign Permits

A. Zoning Clearance or Sign Permit Required

1. **Authority.** No sign, other than an exempt sign, shall be erected or altered, without first obtaining a zoning clearance or sign permit from the Public Services Director. The Director may attach reasonable conditions on the approval of the sign permit to help ensure compliance with this Chapter. These conditions may require the removal, modification or relocation of existing signs where the proposed sign(s) would be located on sites where existing signs are nonconforming.
2. **Application Requirements.** Applications for a sign permit shall be made in writing upon forms furnished by the Public Services Director, accompanied by the required fee and plans drawn to scale and with all of the following information. Where the scale and scope of the sign proposal so warrants, the Director may waive some of the informational requirements listed below provided all information necessary for adequate review of the proposal is submitted.
 - a. The proposed design, dimensions, copy, color, lighting methods and location of the sign on the site, including the dimensions of the sign's supporting members, and details of all connections, guy lines, supports and footings, and materials to be used.
 - b. The maximum and minimum height of the sign.
 - c. The location of off-street parking facilities, including entries and exits where directional signs are proposed.
 - d. The size and dimension of all signs existing on the site.
 - e. The location and horizontal frontage of any building(s) on the property, both existing and proposed.
 - f. Photographs of all existing signage and the building faces or sites where signage is proposed.
 - g. Any other information deemed necessary by the Public Services Director.

B. Required Findings. In approving a sign permit, the Director must find that:

1. Signs on all proposed buildings or new additions to existing buildings are designed as an integral part of the total building design.
2. The location of the proposed sign and the design of its visual elements (lettering, words, figures, colors, decorative motifs, spacing and proportions) are legible under normal viewing conditions that prevail where the sign is to be installed.
3. Review of signs at city entryways as defined in the Scenic Highway Element of the General Plan shall also be subject to the following provisions:
 - a. Sign area, height and location of signs shall be designed so as not to interfere with

- view corridors as defined and specified in the General Plan/Local Coastal Plan.
- b. Freestanding signs shall not exceed eight feet in height except within one hundred feet of Highway 1 or Highway 41. Where feasible, all freestanding signs within or along city entryways shall be placed within a landscaped planter.

17.68.110 Master Sign Program

- A. **Purpose.** Master Sign Programs establish criteria for multi-tenant properties that ensure signage is uncluttered, consistent, and fairly distributed between tenants.
- B. **Applicability.**
 1. Any site having three (3) or more non-residential occupants shall submit a master sign program to be reviewed and approved by the decision-making authority for the use (e.g. the Public Services Director or the Planning Commission).
 2. Any site having three or fewer non-residential occupants may submit a master sign program to be reviewed and approved by the decision-making authority.
 3. Projects involving construction or renovation of more than 25,000 square feet of space in the commercial and mixed use zoning districts shall submit a master sign program which must be approved prior to issuance of any occupancy permit.
 4. Properties subject to a MSP that do not have one shall establish a MSP when a current tenant proposes the installation of a new sign.
 5. Nonconforming signs shall be amortized when a tenant closes their business and a new tenant moves in. All new signs shall conform to the approved Master Sign Program.
- C. **Application Requirements.** Applications for approval of a master sign program shall be submitted to the Public Services Director and shall include the following:
 1. Master Sign Program. A Master Sign Program, drawn to scale, delineating the site proposed to be included within the signing program and the location of all proposed signs.
 2. Drawings and Sketches. Drawings and/or sketches indicating the exterior surface details of all buildings on the site on which wall signs, directory signs, ground signs or projecting signs are proposed. Illuminated sign locations and illumination methods shall also be specified.
 3. Photographs of all existing signage and the building faces or sites where signage is proposed.
 4. Statement for Modifications. A statement of the reasons for any requested modifications

to the regulations or standards of this Chapter.

5. **Sign Standards.** A written program specifying sign standards, including color, size, construction details, placement, and necessity for City review for distribution to future tenants.
 6. **Directory Sign.** A directory sign not exceeding 12 feet in area shall be integrated into the site design and placed on the primary frontage or entryway. The sign shall have space to advertise the names of businesses associated with the MSP.
 7. **Public Access Sign.** If a property includes a public access way, this access shall be indicated with a sign (minimum 3 square feet) on the primary building façade.
- D. **Allowable Modifications.** A Master Sign Program may provide for additional sign area and other deviations from the standards of this Chapter, provided that the Master Sign Program is consistent with the provisions of all Sections in this Chapter.
- E. **Required Findings.** In approving a Master Sign Program, the decision-making authority shall find that all of the following are met:
1. The proposed signs are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, and any adjoining signage on the site;
 2. Future tenants will be provided adequate opportunities to construct, erect or maintain a sign for identification;
 3. All current and future tenants shall be granted adequate advertisement space on the property's primary frontage; and
 4. Directional signage, required directory sign, and building addressing is adequate for pedestrian and vehicular circulation and emergency vehicle access.
- F. **Conditions of Approval.** The Planning Commission may attach any reasonable conditions necessary to carry out the intent of the Master Sign Program requirement, while still permitting each sign user opportunities for effective identification and communication.
- G. **Administrative Approval of Signs Consistent with Master Sign Program.** Following approval of a Master Sign Program, the Public Services Director is authorized to issue building permits or other permits, as deemed necessary, to install signs that conform to an approved Master Sign Program. Minor modifications of individual sign area may be approved, provided the maximum allowed by an approved Master Sign Program is not exceeded.

17.68.120 Appeals

- A. **Persons Who May Appeal.** Except as provided for elsewhere in this Title, appeals may be made by the following persons, in the following instances:
1. **Local Appeals.** Appeals to the Planning Commission or City Council may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.
- B. **Final Decision Required.** Unless otherwise specified by Federal or State law, an appeal must be brought and a final decision rendered by the hearing body before the matter may be appealed to a court of law.
- C. **Time Limits.** Unless otherwise specified in State or Federal law, all appeals shall be filed within 10 days of the date of action.
- D. **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed, including, but not limited to, the issuance of City building permits and business licenses.
- E. **Appeals of Director Decisions.** A decision of the Public Services Director on any application may be appealed to the Planning Commission by filing a written appeal with the Planning Department. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal.
- F. **Appeals of Planning Commission Decisions.** Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal.
- G. **Transmission of Record.** The Director, or in the case of appeals to the City Council, the City Clerk, shall schedule the appeal for consideration by the authorized appellate body within 60 days of the date the appeal was filed. The Public Services Director shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the appellate body. The Director also shall prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.
- H. **Appellate Body Action.** The appellate body shall review the appeal, the administrative record, and any written correspondence submitted after the appeal has been filed, and may take one of the following actions:
1. Conduct a public hearing and decide on the action; or
 2. Remand the matter to the decision-making body or official to cure a deficiency in the record or the proceedings.

- I. **No “De Novo” Review.** At an appeal or review, the appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision.
- J. **Appellate Body Decision.** The appellate body shall render its decision within 60 days of the date the hearing is closed unless State law requires a shorter deadline. An action to grant an appeal shall require a majority vote of the appellate body members. A tie vote shall have the effect of rejecting the appeal.
- K. **Standards of Review.** When reviewing any decision on appeal, the appellate body shall use the same standards for decision-making required for the original decision. The appellate body may adopt the same decision and findings as were originally approved.

17.68.130 Definitions

Abandoned Sign. A sign that no longer applies to a business space, building, or site, due to lack of a valid business license, change of business name, or for any other reason that renders the sign not applicable to the premises involved.

Billboard (Outdoor-off-site freestanding sign). A sign placed for the purpose of advertising products or services that are not produced, stored or sold on the property or any other subject no related to the property or use of the property, upon which the sign is located.

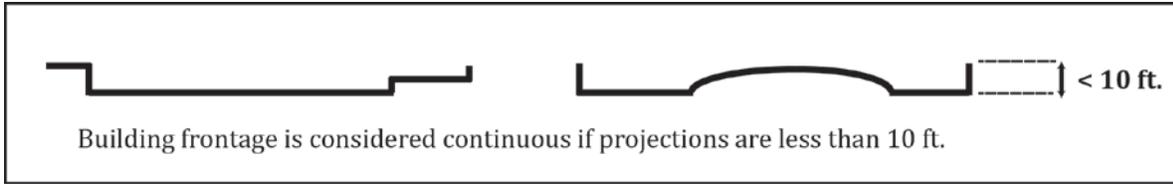
Building Mounted Sign. Any sign mounted or erected on or against any building or façade and includes all walls signs, awning and canopy signs and projecting signs.

Business Sign. Any interior or exterior sign which is intended to identify the name or portions of the business name and which is viewable from any exterior area open to the public.

Canopy shall refer to an ornamental roof like structure upon which a sign may be attached or otherwise affixed which is usually located over gasoline pumps.

Construction Sign. A sign displayed by a contractor, subcontractor, or architect on a project site whenever a building permit has been issued for construction, alteration, or repair of a structure and when work is in progress on site pursuant to such permit.

Building frontage. The linear measurement in feet of the property line directly fronting on a public street, or other public right-of-way to which such sign is oriented, excluding California State Highway One.



Height of a sign means the greatest vertical distance measured from the ground level directly beneath the sign to the top of the sign or from the nearest property line fronting on a public street, whichever is lower.

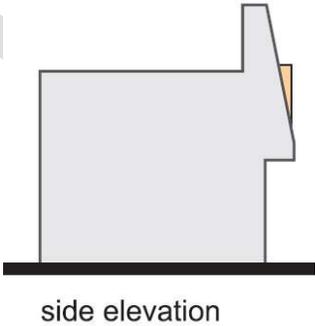
Illegal Sign. An unpermitted sign that is found to be erected or maintained in violation of any provision of this Chapter, this Title, or any other Federal, State, or local law.

Façade Length. The length of the building face or tenant lease site (see page 7 of this Chapter for a graphical representation).

Façade Height. The height of the building face or tenant lease site (see page 7 of this Chapter for a graphical representation).

Master Sign Plan. A coordinated program of all signs, including exempt and temporary signs for a business, or businesses if applicable, located on a development site. The sign program shall include, but not be limited to, indications of the locations, dimensions, colors, letter styles and sign types of all signs to be installed on a site.

Mansard. A roof-like façade comparable to an exterior building wall.



Nonconforming Sign. Any previously approved and permitted sign that existed prior to a change in the municipal code that prohibits such sign. A nonconforming sign is different than an illegal sign (see definition above for “Illegal Sign”).

Open House Sign. An open house sign advertises that a house is open for view as part of the sale or exchange of the property.

Primary Façade. The face of a building or tenant lease site that incorporates the main entrance to the business and that faces a primary street, as determined by the business owner.

Real Estate Sign. A sign identifying that a property is for sale, lease, exchange, or rent. The purpose of this sign is to help owners in the sale of their property by providing information on

the location of the property to potential buyers without impairing the appearance of the community.

Secondary Façade. The face of a building or tenant lease site that serves as a secondary entrance and/or advertising space to the primary façade, as determined by the business owner.

Signs. Any object, structure, symbol, emblem, logo, or display, or any combination thereof, which is intended to or does identify, attract attention to, advertise, or communicate information of any kind to the public. See also Chapter 17.68: Signs.

Sign Area. The entire area of a sign calculated for maximum sign area purposes, pursuant to Chapter 17.68:

Sign Face. The surface or surfaces used for the display of a sign message as seen from any one direction.

DRAFT



ATTACHMENT B

AGENDA NO: B-3

MEETING DATE: October 8, 2013

Staff Report

TO: Honorable Mayor and City Council **DATE:** October 1, 2013

FROM: Kathleen Wold, Planning Manager
Erik Berg-Johansen, Planning Intern

SUBJECT: Zoning Text Amendment A00-015 Draft Sign Ordinance (Municipal Code Section 17.68)

RECOMMENDATION

Staff recommends that the City Council:

1. Open the public hearing and receive testimony;
2. Direct staff to prepare an environmental document based on the draft Sign Ordinance as forwarded by the Planning Commission on September 4, 2013 and return with the environmental document and the draft Sign Ordinance for the first reading on December 10, 2013

ALTERNATIVES

1. Review the draft Sign Ordinance and return to Planning Commission to make additional changes based on public testimony and Council direction.
2. Take no action to change the Sign Ordinance and direct staff to not pursue a Zoning Text Amendment.

FISCAL IMPACT

Costs associated with a drafting of an amended Sign Ordinance are as follows:

- Environmental—staff's time to prepare a Negative Declaration
- Noticing Costs—noticing the draft Sign Ordinance environmental review and the Public hearing for adoption.
- Staff time—staff costs including time to process the project through to the Coastal Commission is estimated to be approximately 400 staff hours including planning staff, Public Services Director, City attorney, administrative support staff.

Prepared By: KW, EB

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

Since 2004 the City of Morro Bay has recognized the need for the City's Sign Ordinance (Section 17.68) to better address the business community's sign needs. An updated sign ordinance was included in the City's comprehensive Local Coastal Program update in 2004; however this update was never certified by the California Coastal Commission. Without a certified new sign ordinance, the City continued to operate under the sign ordinance adopted in 1999.

At the April 12, 2010 City Council meeting, a status report on the A-Frame Sign Ordinance was presented to the Council for direction. The Council directed staff to bring forward to the Planning Commission a Sign Ordinance Amendment incorporating the Sign Ordinance drafted for the 2004 Zoning Ordinance and new A-frame sign regulations.

Staff worked on the amendment and presented the Sign Ordinance Amendment to the Planning Commission at the regularly scheduled meeting on May 17, 2010. During the meeting public testimony was received and the ordinance was discussed by the Commission.

The ultimate outcome of the meeting was to continue the item to a date uncertain with direction given to staff to hold a workshop on the ordinance to ensure that there was sufficient public input. A workshop was held on February 16, 2011. As a result of this workshop the Planning Commission moved to forward the draft sign ordinance including regulations for A-frame signs that would include the following:

- One A-frame sign per business per frontage during business hours only,
- A-frame or feather sign to be allowed,
- Fee shall be waived until June 2012 for the A-frame signs whereby it would be set at \$40 as a one time permit fee,
- Allow for provisions for directional pole signage as brought forward by Mr. Schmidt of the Chamber of Commerce to include in this ordinance,
- To include corrections of the projection signs section from 12 to 24 inches and
- Include vacation rentals under the Real Estate section.

At the April 19, 2011, City Council meeting an item was brought forth by Mayor Yates and Councilperson Borchard concerning the enforcement of the code prohibiting A-frame signs. At this meeting the Council directed staff to enforce the Sign Ordinance prohibiting A-frame signs and on May 3, 2011 a letter was sent to all businesses within Morro Bay detailing that A-frame signs are prohibited and describing the process by which the City will be enforcing the ordinance.

On May 24, 2011, the City Council adopted an interim urgency ordinance establishing interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's zoning code.

In order to flesh out and specifically identify the community's issues with the current sign program, the City held workshops and conducted sign surveys. The City held two sign Ordinance workshops facilitated by Chuck Anders, one on September 29, 2011 and the other on October 6, 2011. In addition the City utilized Survey Monkey to allow citizens that were not present at the workshops to have input in the process via the internet. These community outreach efforts were conducted in attempt to hear from all the stakeholders early in the process. An outcome of these efforts was that the community did not want the 2004 draft ordinance but rather wanted a new ordinance based on four distinct commercial areas with sign regulations crafted to address the issues and constraints particular to each district.

At the May 2, 2012, Planning Commission meeting Commissioners directed staff to bring back four different zone maps and one overall map to see all the commercial areas. In addition, a basic outline of the zoning ordinance with headings only and definitions and graphics.

At the May 26, 2012, Planning Commission meeting the Commissioners reviewed the preliminary sign option spreadsheet, sign definitions and the district maps showing the boundaries of the four commercial districts. The Commission directed staff to bring back:

1. Further detail on sign area ratio and percentages;
2. Photos of sign types for internal and external illuminated signs;
3. A matrix comparison in a column format to include comparisons to Pismo Beach, all poll results and staff recommendations; and Shopping center definitions.

At the June 26, 2012 meeting the Planning Commissioners reviewed the signs for the Quintana zone district. The Commission made decisions regarding what signs should be allowed, restricted and which ones needed further review.

Then due to staffing issues there was a period of inactivity in late 2012, however since January 2013 Planning staff has diligently worked on preparing a comprehensive new draft sign ordinance.

As part of a Cal Poly Master's project, Erik Berg-Johansen, Planning Intern completed extensive research on signs and sign ordinances. The older draft ordinance, scholarly journals, community outreach and interviews (both primary and secondary), photos and computer generated graphics were referenced throughout the process. It should also be noted that a survey regarding the draft sign ordinance was mailed to every registered business owner in the City. Perhaps more important were the multiple meetings with the Morro Bay Chamber of Commerce and Planning Staff. The purpose of these meetings was to discuss all research and background information on the sign ordinance, and then make appropriate additions and edits. Because the new draft ordinance is now based on sign districts instead of zoning districts, the new draft is completely reorganized.

DISCUSSION

The draft Sign Ordinance dated September 2013 represents two years of work. Staff has held numerous public workshops, conducted sign surveys, conducted background research and presented a working draft to the Planning Commission in a series of public hearings to allow for detailed public comment. The draft ordinance was discussed at five public hearings occurring between June and September of 2013. In comparison with the City's current sign ordinance, the following is a list of important changes contained within the September 2013 draft Sign Ordinance:

1. Has been designed to address four different commercial zones, The North Main Street, Quintana, The Downtown and the Embarcadero.
2. Designates signage criteria for lodging and industrial uses exclusive of the four commercial zones.
3. Contains new methodology on how maximum sign size is calculated. In the 2013 draft, the size of the sign is based on the square footage of the building façade in lieu of the old method that utilized linear footage.
4. Has also been reformatted to contain a matrix format which is user friendly as all information for the zone district is contained on one sheet.
5. Uses customized graphics to communicate regulations and explain how sign area calculations work
6. Eliminates the reduction in allowed sign area based on the use of different types of signs.
7. Provides for a Tourist Oriented Directional Sign Program along the Embarcadero with the goal to facilitate pedestrian traffic throughout the length of the Embarcadero.
8. Provides for Master Sign Programs to establish criteria for multi-tenant properties.

Table 1 on the following page summarizes some of the major differences between the code the City is currently operating under and the draft code that is being reviewed by City Council.

Table 1: Differences between Current Code and Draft Code

	Current Code	Draft Code
Sign Districts	No Districts; the same code is applied to all businesses	Four Districts (Embarcadero, Downtown, Quintana, North Main). Signs are regulated differently in each district. In addition, there are separate regulations for lodging establishments and businesses located in industrial zones.
Allowable sign area calculations	Based on the linear measurement of "building frontage" (e.g. 1 sq. ft. signage for every 1 linear ft. of building frontage)	Based on the measurement of a building's façade, or face (e.g. 15% of façade).
Prohibited Signs	Roof, flashing/moving, home occupation, bench, noise making, vehicle displays, billboards, tire stacks, illuminated with red/green/yellow within view of signalized intersection, A-frame, moving/rotating, constructed of cloth/canvas/paper, on fences	All included in current code (except A-frame/sidewalk) with the addition of: banners/streamers/pennants, digital signs, emission producing, inflatable, signs that display lodging rates, signs with obscenities, signs that obstruct exits/ventilation, person or animal, advertising brand names, snipe, on public bus shelters.
Sidewalk (A-frame) Signs	Prohibited city wide	Prohibited only in Embarcadero District, and allowed in all other districts with the acquisition of a special permit.
Graphics	No Graphics	Graphics showing: different sign types, method of calculating allowable sign area, sign measurements, sign district boundaries, and illustrations of select definitions.
Formatting	Entire code in block paragraph form.	Part of code in block paragraph form, and part of code in a user-friendly table format.
Master Sign Program	Not Included	Required for properties occupied with three or more non-residential occupants, or for projects involving construction or renovation of more than 25,000 square feet of space.
Amortization	Amortization schedule adopted in 1972 required that all non-conforming signs be documented and addressed by March of 1973. Policy was never enforced. Non-conforming signs shall be removed or made to conform when sign is taken down for any reason (including maintenance).	No amortization schedule. Non-conforming signs shall be removed or made to conform when a new business opens or the type of business changes. Signs shall also be removed or repaired if they are not properly maintained (see Section 17.68.030 B, c. Sign Maintenance).
Exception Permits	Exceptions granted if the commission finds that the sign will not be contrary to the purposes of this chapter.	No exception permits. Exceptions to the provisions of the code may only be granted by the Planning Commission during the review of a submitted Master Sign Program or Variance.
Sign Bonuses	No Bonuses	Bonuses granted for implementation of signs that were found to have high aesthetic quality (such as projecting signs). Bonuses vary by district.

As mentioned, the draft sign ordinance has appeared on the Planning Commission's agenda five times during the past four months. The primary topics covered during the Planning Commission meetings are as follows:

- **Allowable sign area.** The Commissioners reviewed numerous graphical representations of signs in relation to their facade. Computer generated graphics, as well as examples from local Morro Bay businesses were analyzed and discussed during meetings. Detailed discussions regarding the appropriate allowable sign area (percent of facade) were carried out for each sign district. To further facilitate these decisions, staff and the Commissioners considered the functionality, aesthetic character, primary modes of transportation, location, common types of businesses, and the scale of buildings associated with each individual sign district.
- **Amortization.** While the idea of an amortization schedule was originally proposed, the Commissioners agreed that an amortization schedule be omitted from the ordinance. The Commissioners suggested that amortization schedules are difficult (and costly) to enforce, and have the potential to create unfair conditions among business owners. Further, the Commissioners (as well as members of the public) commented that an amortization schedule could lead to removal of historical signs that are important to the community.

It was ultimately decided that a nonconforming sign shall be removed for only three reasons: 1) the sign has not been properly maintained; 2) a business moves out and a new business occupies the property; and 3) the type of business or use changes with which a nonconforming sign is associated. See Section 17.68.030 B (page 9) of the draft ordinance for additional details.

- **Monument, architectural, and pole signs.** The City's Local Coastal Plan (LCP) states that monument type signs be encouraged through the sign ordinance. In accordance with the LCP, the Commission worked to create an ordinance that promotes the use of these sign types.

On the other hand, the City's LCP states that pole signs be discouraged throughout the City. In respect to the LCP, the Commissioners decided to maintain that a Conditional Use Permit be required for all pole sign proposals. Staff would like to work with the Council to further extend the conditions of approval for pole signs to ensure that future pole signs protect views, fit with the community's character, and are safely legible to drivers travelling on Highway 1.

- **Sidewalk (A-frame) signs.** Discussions regarding safety, ADA compliance, sidewalk widths, sidewalk sign content, and sidewalk sign design took place at multiple meetings. In response to public comment and survey results, the Commission agreed to allow sidewalk signs in the Quintana, North Main, and Downtown districts.

The Commission decided to support staff's recommendation to continue a sidewalk sign prohibition in the Embarcadero District. Staff and Commissioners agreed that sidewalk signs are not appropriate in the Embarcadero District for the following reasons: 1) the sidewalks are narrow; sidewalk signs create safety issues and congestion of pedestrian movement; and 2) the Embarcadero Tourism-Oriented Directional Sign Plan has been designed to allow off-premise business advertising in lieu of the proposed sidewalk sign prohibition in this district.

- **Master Sign Program.** Both staff and the Planning Commission agreed that a Master Sign Program be established to ensure that fairness and aesthetics are considered for multi-tenant properties (with three or more lease spaces) and larger buildings (with a façade exceeding 3,000 square feet). Implementation of such a program will allow for additional review by the Planning Commission on a case-by-case basis, and could prove to be especially important for multi-tenant properties that deserve an exception for unique circumstances.

Public comment was taken during each Planning Commission meeting in regards to the draft ordinance and Embarcadero District TODSP. Public comment was focused on the following issues:

- **Sidewalk (A-frame) signs.** There was some disagreement among the public on this issue, however the majority of comment supported allowing sidewalk signs.
- **Feather type signs.** One member of the public commented that her business on Quintana Road is not visible from the primary right-of-way. She utilizes a feather type sign, and disagrees with the current draft's prohibition of this sign type.
- **Illumination.** This topic was brought up multiple times for different reasons. Many of the concerns were addressed by staff and changes were made to the draft ordinance, such as changing the draft ordinance to allow OPEN signs to remain illuminated during the daytime. While many of the issues have been resolved, staff recommends that illumination standards be carefully reviewed by the City Council to ensure that the regulations are consistent with the City's goals and policies.
- **Signs advertising brand names.** The current draft ordinance prohibits any sign that advertises a brand name or logo that is not directly related to the subject business. This regulation, for example, would prohibit a restaurant from posting a neon Budweiser sign in their window. Staff originally proposed this regulation to promote positive changes in aesthetics and community character through the prohibition of excessive brand advertising.

All public comment regarding this issue was in disagreement with the proposed prohibition of brand advertisement signs. In response to public comment staff has devised a change that will allow (but limit) signs that advertise a brand name. See the section below titled “Recommendations from the Public and Staff” for an alternative to brand name sign prohibition.

- **Tourism-Oriented Directional Sign Plan.** The majority of public comment regarding this proposal supported the plan. However, one business owner believed that it was unfair for the plan to only encompass the Embarcadero Sign District and not other districts such as the downtown. Another business owner commented that the proposed signs are unappealing, and recommended that kiosk-type structures be installed instead.

The materials presented to council include the draft 2013 Sign Ordinance as amended by the Planning Commission, the tourist oriented directional sign program and application, minutes from all five of the Planning Commission meetings and the results from the sign workshop held on September 29, 2011.

Once the City Council has determined that the draft document is finalized, staff will work on the required environmental document. Once complete, the Negative Declaration will be forwarded to the State Clearinghouse for the required thirty day review. The project will be scheduled for the first reading after completion of the public review period for the environmental document. Staff anticipates that the project will be ready for adoption in December. In addition, once the draft ordinance has been finalized, staff will forward it to the Coastal Commission for comment.

Changes to the Draft Ordinance:

Since the final Planning Commission meeting staff has reviewed the ordinance for clarity and consistency. Minor language and organizational changes that do not affect the regulations or content approved by the Planning Commission were completed by staff and are reflected in the draft ordinance included as an attachment to this report. Finally, any changes that were discussed and recommended by the Planning Commission at the final meeting on September 4, 2013 are included in the most recent draft ordinance.

Recommendations from the Public and Staff:

Comments from the public have been submitted to the Planning Department since the draft ordinance was favorably recommended by Planning Commission. Some of these comments also stimulated discussion among staff in regards to certain issues. The following comments from the public and staff have the Planning Department’s approval; it is recommended that these changes be integrated into the draft ordinance.

Clarification of information regarding illegal signs (page 10):

- 2. Illegal Signs.** Any sign shall be regarded as an illegal sign if:
- a. It is constructed subsequent to the date of adoption of this Chapter in violation of any provision of this Chapter, this Title, or any other federal, state, or local law, including, but not limited to the zoning clearance and sign permits set forth in paragraph 17.68.100, or
 - b. It was constructed prior to the date of adoption of this Chapter in violation of any applicable federal, state, or city ordinance in effect at the time of construction, or
 - c. It was constructed prior to the date of adoption of this Chapter without all zoning clearances and/or permits required by applicable federal, state, or city ordinance in effect at the time of construction first having been obtained.

The Public Services Director shall order that such illegal sign be altered, repaired, reconstructed, demolished or removed, as may be appropriate, to abate such condition or the Director may initiate proceedings to abate the sign as a public nuisance under the provisions of the Business and Professional Code (Sections 5499.1 to 5499.16). Any work required to be done shall be completed within ten days of the date of such order, unless otherwise specified in writing.

Added regulation to strengthen the enforcement program (page 10):

- b. ***Business License Renewal.*** Business owners shall submit evidence of sign permits for all non-exempt signs on their premises as a condition of renewal of their business license. Failure to submit evidence of sign permits shall result in denial of the renewal request.

Change in regulation to acknowledge a unique scenario in regards to architectural/monument signs (pages 10 and 12):

- e. If one architectural sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second architectural sign is proposed, sign shall count towards nearest secondary façade. ***If structure has only one (primary) façade, all permitted architectural signs shall count towards allowable signage for the Primary Façade.***
- e. If one monument sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second monument sign is proposed, sign shall count towards nearest secondary façade. ***If structure has only one (primary) façade, all permitted monument signs shall count towards allowable signage for the Primary Façade.***

Remove prohibition of “Signs Advertising Brand Names” (page 16) and include a statement allowing these signs in Section 17.68.030 D:

Signs Advertising Brand Names. Allow signs for services, products and brands as window signs only to a maximum of 25 percent of window area.

Change to “Definitions” to specify that parapets count as part of the façade and that mansard roofs do not count as part of the façade (pages 35 and 36):

Primary Façade. The face of a building or tenant lease site that incorporates the main entrance to the business and that faces a primary street, as determined by the business owner. *For purposes of allowable sign area calculations, the façade shall incorporate the face of the building and if applicable, the parapet. Mansard roofs shall NOT be considered as part of building facades.*

Secondary Façade. The face of a building or tenant lease site that serves as a secondary entrance and/or advertising space to the primary façade, as determined by the business owner. *For purposes of allowable sign area calculations, the façade shall incorporate the face of the building and if applicable, the parapet. Mansard roofs shall NOT be considered as part of building facades.*

Exempt businesses in industrial zones from the Master Sign Program (page 31):

B. Applicability

6. Businesses located in industrial zones shall be exempt from the Master Sign Program.

Add definition and associated graphic for “Parapet” (page 35):

Parapet. Vertical upward extension of an exterior wall at the edge of the roof or building structure.

Change definition and associated graphic for “Mansard” (page 35):

Mansard. A double-sloped roof with the lower sloped section steeper than the upper slope section.

CONCLUSION:

The newly proposed Draft Sign Ordinance incorporates knowledge gained from community outreach, interviews, meetings, review of other sign ordinances in California, direction from Planning Commission meetings, and research on commercial signs. Staff recommends that the Council review the entirety of the new draft ordinance and direct staff to proceed with the environmental review based on the draft Sign Ordinance dated September 2013.

ATTACHMENTS:

- A. Draft Sign Ordinance, September 2013
- B. Embarcadero District Tourism-Oriented Directional Sign Plan, Revised September 2013
- C. Draft Directional Sign Permit Application
- D. Planning Commission Minutes from June 19, 2013, July 3, 2013, July 17, 2013, August 21, 2013, and September 4, 2013 meetings
- E. Sign Workshop Results, September 29, 2011.



AGENDA NO: C-1

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council DATE: October 17, 2013

FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer

SUBJECT: Authorization to Issue a Request for Proposal (RFP) for a Rate Study for Water & Sewer Rates with Additional Background Information

RECOMMENDATION

Authorize staff to prepare and issue an RFP and award a contract for the analysis of Water and Sewer rates for potential adjustments, in accordance with the City's Consultant Hiring Policy.

ALTERNATIVES

1. Direct staff to perform the rate study using existing City staff, by either
 - a. Contract out other work to accommodate the resources required for the rate study, or
 - b. Hire temporary staffing to accommodate the resources required for the rate study.

2. Defer the rate study until such time that the Department has sufficient resources to perform the study without impacting other priority projects.

FISCAL IMPACT

It is anticipated that the total cost to perform a cost of the services study and rate analysis for both water and wastewater rates should not exceed \$75,000. The source of the funds would be the Water and Sewer accumulation accounts; and the cost of the study would be divided equally between the two funds.

SUMMARY

Both the water and sewer funds have upcoming required future expenses for which the current rate structures will not provide adequate funding. Additionally, the current rate structures of both revenue streams do not produce adequate funds to meet debt coverage ratios required by the State Revolving Fund (SRF) for future loans and the Central Coast Water Authority (CCWA), the State water provider, for the existing debt service for the State Water Project debt. In order to determine the rate requirements to support both the ongoing maintenance and operations along with the implementation of the Capital

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City Manager Review: _____

City Attorney's Review: _____

improvement program, the rates need to be assessed to determine their adequacy. After the rate study has been performed, the community can decide how those costs will be distributed amongst the users.

BACKGROUND/DISCUSSION

On September 10, 2013 staff brought the issue of commencing a water and sewer rate study to City Council for their review and authorization. At that meeting staff received direction from the City Council to bring this item back with additional detail and information before they could consider embarking on a study of the adequacy of the City’s water and sewer rate structure to support the needs of providing the service to the respective customers. The areas that the Council gave staff direction to provide additional detail were:

- A. Review of the last twenty years of City Council’s actions on water and sewer rates
- B. Potential Rate Review Policy
- C. Comparison between Morro Bay’s rates and other area water and sewer providers
- D. How the Water and Sewer rates Tie together
- E. Historical Information Regarding Expenditures

A. History of Water and Sewer Rate Discussion/Action

The following table summarizes the City Council actions regarding water and sewer rates since 1994. In staff’s research of the historical information it should be noted that sewer and water rates were reviewed and adjusted quite regularly and during some periods annually since incorporation. The end of these regular adjustments seems to coincide with the implementation of California’s Proposition 218. Proposition 218 was a proposition in the State of California on the November 5, 1996 ballot. Prop 218 significantly changed local government finance. Prop 218 amended the California Constitution (Articles XIII C and XIII D) which, as it relates to assessments, requires the local government to have a vote of the affected property owners for any proposed new or increased assessment before it could be levied. The Proposition was passed by California voters on November 5, 1996, and the assessments portion placed in effect on July 1, 1997.

Date	Subject	Action
2/9/1994	Report To PWAB regarding Proposed Water Rate Structure	Forwarded to Council
5/25/1995	Water Rate Increase	Council Adopted Resolution 57-95
10/28/1996	Report on Rates and Future implications	Discussion and no action
11/5/1996	Proposition 218 approved by the voters	N/A
12/8/1997	Proposed rate adjustment for Licensed Health Care Facilities, eliminating reduced fee	Council Adopted Resolution 86-97
6/22/1998	Rate Adjustment for Sewer Rates	Council Adopted Resolution 64-98
6/23/1998	Memo to Council RE: Statewide Wastewater Rate Survey	No Action
10/14/2002	Water Management Plan Status Report	Accept Report/ No Rate implications
8/28/2006	Establishment of Interim Wastewater Rate Increase	Council Adopted Resolution 39-06
11/13/2007	Establishment of new Wastewater Rates including an escalator	Council Adopted Resolution 55-07
6/9/2008	Discussion of Water and Sewer Rates and the Calculations Used	No Action Taken

3//2013	Discussion regarding Need for Water and Sewer Rate Increase	Continued with Council Direction
9/10/2013	Discussion regarding RFP Water Rate Study	Continued with Council Direction

B. Rate Review Policy

As stated in the previous section, in the past, i.e. prior to mid-late 1990's, the City would regularly review and make adjustments to water and sewer rates. These adjustments were typically fairly modest adjustments and were intended to keep pace with inflation. When proposition 218 was passed and with subsequent court decisions regarding utility rates it appears that due to the difficulty in adjusting rates, the City stopped reviewing water and sewer rates on an annual or semiannual basis. Instead, at least with sewer rates, the City made large infrequent adjustments in the rates. With water rates, due to the retirement of the debt on the Desal Plant in the early 2000's, there was no need to make any adjustments to rates until the Finance Department was notified in Fiscal Year 09/10 that the City was no longer meeting the debt coverage ratio for the State Water debt service.

Other Communities review their water and sewer rates on a regular basis. The City of Pismo Beach looks at their water and sewer rates based upon their five year planning period for capital projects. While Contra Costa Water District reviews their rates on an annual basis to keep their revenue adjustments at less than the rate of inflation. And a little further north, Tacoma Water's policy includes regular reviews being performed to determine the adequacy of rates, and a full revenue requirements study being performed every two years.

Staff would recommend that the City of Morro Bay establish a revenue (rate) review policy that ensures that the City receives enough revenue to provide a high level of service to its customers and sustain the conveyance and treatment infrastructure. It is staffs opinion that this period should not exceed a comprehensive review and potential adjustment every five years with a check-in during the annual budget review.

C. Rate Comparison

Staff has researched the water and sewer rate structures for the other communities and during that research discovered that both Atascadero Mutual Water Company and Templeton Community Services District have prepared similar analyses. The results of these comparison studies are summarized in the following tables:

Typical Residential Monthly Sewer Rates

(August 2013)

City of Pismo Beach(1)	\$82.86
Cambria CSD	\$68.91
City of San Luis Obispo	\$50.33
Nipomo CSD	\$44.16
City of Morro Bay	\$43.42
City of Paso Robles	\$37.80
Templeton CSD	\$31.21
Avila CSD	\$28.70
City of Arroyo Grande	\$27.60

Heritage Ranch CSD	\$26.09
City of Atascadero	\$20.16
Oceano CSD	\$18.79

(1) Pismo Beach Rate as of October 1, 2013

Typical Residential Monthly Water Rates
800CF/Month
(July 1, 2013)

City of San Luis Obispo	\$60.35
City of Arroyo Grande	\$53.04
City of Grover Beach	\$49.08
City of Morro Bay	\$44.53
Heritage Ranch CSD	\$42.81
Cambria CSD	\$35.92
Atascadero Mutual	\$35.15
City of Pismo Beach	\$35.09
Nipomo CSD	\$32.26
Templeton CSD	\$31.30
Santa Margarita CSA	\$29.63
City of Paso Robles	\$25.60

While it is interesting to look at the typical water and sewer rates in other communities, each community has a different profile for the source and costs of their water, and the methods of wastewater treatment. The basis for water and sewer rates is to recover all the costs associated with each utility and to equitably distribute the costs across the customer classes. This will be different for each community.

D. How Water and Sewer Rates Tie Together?

In the City of Morro Bay both the Water and Sewer fees are based upon the water that flows through the water meter at the end users location. The sewer rate has been adjusted to account for water that is used outside of the residence or business for irrigation and other outside uses. Additionally, there are water meters in the community that only are connected to irrigation systems and therefore do not have a sewer charge component.

The timing for the study and adjustment of the rates do not need to be performed at the same time. Although much of the same data is used in a rate study for both water and sewer and there are economies of scale to study both at the same time. That is the primary reason for staff bringing both the water and sewer rate studies to City Council simultaneously. Additionally, with the sewer rate, we know that there is an expensive project looming on the horizon for the citizens of Morro Bay. In order to construct such a large project, debt will be required. If that debt can be reduced through the development of a reserve fund, the overall cost of the project is reduced.

E. Historical Expenditures for the Water and Sewer Funds

Both the Water and Sewer funds are enterprise funds and therefore must be self-sustaining, i.e. all operations, maintenance and capital projects be funded by rates and other sources of funding that enters that fund. As is indicated in the budget summary tables below, both the

water and sewer funds currently have adequate reserves, but the operating expenses exceed the revenue due to increases in operating costs and large maintenance and repair projects that are needed to insure a safe and adequate water supply along with a sewer collection and treatment systems that protects the environment and the public health.

Summary of Water Fund Budget FY 2008 - 2013

	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14(1)
Total Revenue	3,721,886	3,564,020	3,432,694	3,427,046	3,462,500	3,465,000
Change in Revenue		-4.43%	-3.83%	-0.16%	1.02%	0.07%
Operating Expenses including cost allocation	3,804,498	3,817,457	2,824,713	4,479,568	4,103,034	4,004,003
Change in Expenses		0.34%	-35.14%	36.94%	-9.18%	-2.47%
Capital Projects	1,288,628	278,151	-	750,000	-	1,850,000
Water Reserve Balance	5,166,472	4,984,596	4,842,676	4,350,747	3,436,851	1,346,096

Summary of Sewer Fund Budget FY 2008 - 2013

	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14(1)
Total Revenue	3,132,491	3,520,103	3,764,312	4,854,930	3,536,000	3,719,000
Change in Revenue		11.01%	6.49%	22.46%	-37.30%	4.92%
Operating Expenses including cost allocation	2,484,018	2,831,174	2,988,676	2,877,309	2,800,176	4,314,813
Change in Expenses		12.26%	5.27%	-3.87%	-2.75%	35.10%
Capital Projects	29,799	156,707	-	1,185,095	-	1,110,000
Water Reserve Balance	2,658,118	2,978,205	2,997,320	3,885,574	5,665,231	5,044,584

(1) Budget Projections

Need for a Rate Study

As stated in previous staff reports, in order for the City to make any adjustments to the water and sewer rates equitably, the City should perform the following tasks:

- Evaluate the revenue, operation and maintenance expense, and capital needs of the Water and Wastewater Funds and ensure that revenue is sufficient to meet long-term obligations.
- Develop five-year financial plans for the Water and Wastewater Funds that stabilizes rate adjustments to avoid rate spikes while meeting financial planning criteria for each fund.
- Create schedules of water and wastewater rates and charges that are fair and equitable, that provide predictable sources of revenue developed in the financial plans, and that meet Proposition 218 requirements for rates and charges.

The City has a need to determine the cost of services and review its rates for both water and wastewater. These studies typically include projection of revenue and expense, identification of capital improvements, proposed financing of the improvements, development of a pro forma statement showing all financial obligations and debt service coverage, allocation of costs, and design of rates. The water rate studies should follow methodologies of the American Water Works Association while wastewater rate studies follow methods of the Water Environment Federation. It is anticipated that to complete the studies and move forward with a Proposition 218 vote will take approximately one year.

While existing City staff does have the technical expertise to perform a rate study, we lack sufficient human resources. The City does not have the available resources to perform the rate study, coordinate the public outreach effort and coordinate the required proposition 218 election for setting rates. Therefore, staff recommends the issuance of an RFP to select the most qualified firm for the cost of services and rate studies.

CONCLUSION

Based on the projected needs for the maintenance of our water system, the relocation and construction of the water reclamation facility as well as continued maintenance of our current wastewater treatment plant and to increase the debt coverage ratio to the minimum required amounts, the request of Council is to authorize staff to prepare and issue an RFP and award for the analysis of Water and Sewer rates for potential adjustments in accordance with the City's recently adopted Consultant Hiring Policy.

ATTACHMENTS

1. Minutes from September 10, 2013 City Council Meeting
2. Staff Report D-4 from September 10, 2013 City Council Meeting
3. Minutes, Resolutions and Staff Reports relating to water and sewer rates 1994-2008
4. Water Rate Detail from other SLO County agencies
5. Water and Sewer Budget Sheets

keep up the City's escalators with the owner. Mr. Schultz stated that that was a topic for Closed Session.

MOTION: Councilmember Nancy Johnson moved approval of Item D-3, directing staff to negotiate a sublease agreement for the sublease of 307 Morro Bay Blvd with Grandmas Place. The motion was seconded by Councilmember Leage and carried unanimously, 5-0.

D-4 AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSAL (RFP) FOR A RATE STUDY FOR WATER & SEWER RATES; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

The public comment period for Item D-4 was opened.

Barbara Doerr posed some questions to Council regarding the funding of the WRF. Can the City use TOT or other tax measures to help pay for the WRF in an effort to help subsidize everybody equally?

The public comment period for Item D-4 was closed.

Mayor Irons stated that this staff report came to Council back in March of this year. Those minutes stated that this item was requested to be brought back and include a history of why we would go 20 years without adjusting water rates as well as what a rate policy would look like. This report doesn't have any of that data in it which troubles him. We need to come up with policy where we are proactively reviewing things. Before we go to an RFP, those questions need to be answered.

Councilmember Christine Johnson looked at the March 26th minutes as well and feels we need to dig in and lay out for the community as to why we haven't raised water rates in the last 20 years. She would love to see some historical analysis, doesn't have to be very detailed, maybe times and dates of when things were brought forward and what the decisions were. It would be helpful to her when she makes big decisions on rates. She would like to know the thought processes that previous Council's went through and how they struggled with it.

City Attorney Rob Schultz stated that 20 years ago when the City raised its rates, we had to fund State water and subsequently the desalination plant. It was only until approximately 5 years ago that the City found itself "behind the curve" financially; we hadn't been behind prior to that. It is his recollection that water rate discussions have come forward 2 or 3 times but there was never political support and so was never moved forward.

Councilmember Smukler agreed that the previous Council did discuss this issue but never came to any agreement. He feels it is very important in moving forward to present the community the justification of why we need this as well as provide the implications of what happens if this isn't done. He too feels we need to provide the history that has brought us here, to take a little more time to work through this, and then make the decision as to what the rate study needs to accomplish.

Mayor Irons read an excerpt from the March 26th minutes that stated “there should be more information, historical information, rate comparisons with other cities, as well a more detailed breakdown of our costs and expenses, and how our water and sewer rates tie together”. The community needs to be educated as to why our water rates are where they are and why it took 20 years for us to address it. We need to look at a policy to address this issue and shouldn’t be so quick to go out to RFP with this.

Councilmember Smukler agrees feels there needs to be more work done internally to present the justification information discussed at the previous meeting. He also feels it’s important to present historical information regarding expenditures in both the water and sewer funds and how they’ve been managed so far.

Mayor Irons also feels that the RFP can be worked on simultaneously so that it is ready to be sent out as soon as the historical information is presented at a future meeting.

Councilmember Christine Johnson is interested in what the historical thought process was, it isn’t important who said what or when but instead, what was said.

Councilmember Smukler would also like to know where our rates stand in comparison to other cities in the County.

This item was continued and is to be brought back with the information requested.

D-5 DISCUSSION ON POTENTIAL REVENUE BALLOT MEASURES FOR THE JUNE 2014 ELECTION INCLUDING A SALES TAX, PUBLIC UTILITIES USER TAX, TRANSIENT OCCUPANCY TAX, AND 911 TAX; (CITY ATTORNEY)

City Attorney Rob Schultz presented the staff report.

Councilmember Leage is very much against increasing the TOT tax; he would rather see us look at bringing businesses into town to increase business revenues. If he had to select a revenue measure to support, it would be the sales tax.

The public comment period for Item D-5 was opened.

Barbara Doerr stated that any new tax should only go to the new WRF as it is the biggest project. She hoped that residents would be treated as intelligent voters and wants to see everything put out there at once. The City has had success with sales tax because they were up front with what they were asking for. She said she wouldn’t support a Utility User Tax as it would have to be addressed every year. She would support a TOT tax increase. She hoped they wouldn’t look at an assessment tax.

The public comment period for Item D-5 was closed.

Mayor Irons stated that this item came forward from the results of a Councilmember request as well as results of the Street Summit. For him, this is driven by the community and the



Staff Report

AGENDA NO: D-4

MEETING DATE: September 10, 2013

TO: Honorable Mayor and City Council DATE: September 3, 2013

FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer

SUBJECT: Authorization to Issue a Request for Proposal (RFP) for a Rate Study for Water & Sewer Rates

RECOMMENDATION

Authorize staff to prepare and issue an RFP and award a contract for the analysis of Water and Sewer rates for potential adjustments, in accordance with the City's Consultant Hiring Policy.

FISCAL IMPACT

Both the water and sewer funds have upcoming required future expenses for which the current rate structures will not provide adequate funding. Additionally, the current rate structures of both revenue streams do not produce adequate funds to meet debt coverage ratios. It is anticipated that the total cost to perform a cost of the services study and rate analysis for both water and wastewater rates will be \$75,000; those costs would be divided equally between the two funds. The source of the funds would be the Water and Sewer accumulation accounts.

BACKGROUND/ DISCUSSION

The community's water and wastewater rates structures are both related to water consumption: water based upon direct meter readings and wastewater upon estimates of what portion of water delivered is "returned" to the sewer system. Wastewater rates also incorporate the constituents that the various types of customers add to the wastewater stream, such as detergents from laundry businesses and/or food products from restaurants. These higher strength wastewater streams require more treatment than residential strength wastewater and thus have higher rates for treatment.

Water Rates

In advance of setting the water rates in 1994, the City Council considered a number of different types of rate structures, including a flat rate (each billing unit costs the same), a multi-tiered system (flat rate for fixed costs plus variable rate for water delivered) and an inverted block rate (each successive billing unit costs more than the previous unit). The water rate philosophy adopted by the City Council was a version of the inverted block rate. This system's primary characteristic is that it provides for incentives for water

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City Manager Review: _____

City Attorney's Review: _____

conservation but it also provides that higher volume customers effectively pay a significantly higher unit cost for water for which the City pays a flat rate (i.e., State Water at \$1500 +/- per acre foot).

One of the areas wherein the inverted block rate was found lacking was that the originally calculated rates for low volume users, in this instance in the 0 – 3 billing unit per month category, did not recover the City's fixed cost for reading of meters, billing costs and maintenance of mains, service connections and meters. This fixed cost was estimated at the time to be about \$30 per month per customer.

Another area of consideration related to this group of users, was the absentee owners of vacation homes. Under the previous rate structure, these absentee owners would use no water for the months they did not occupy their vacation homes and not therefore pay a monthly bill. When they occupied the home they would pay a nominal amount for the small amount of water used, then not pay a bill for the remainder of the year. Their meters would still be read, zero balance bills mailed, and maintenance would still be performed but no revenue would be received.

To answer these concerns, the minimum monthly billing amount for 0 – 3 billing units per month based upon the calculated 3 billing unit cost of \$16.43 per month was implemented. This amount is less than the monthly fixed costs referenced above with the other customers subsidizing the remaining amount. Qualified customers able to provide low income documentation were afforded the opportunity to participate in a rate reduction program. There are currently approximately 50 customers on this program and due to inconsistencies with the requirements of proposition 218, the program will terminate in January of 2014.

The water rate structure has been in place unchanged since that time, with the exception of the rate reduction program which we can no longer offer due to Prop 218. During that same time, operational expenses have increased more than 200%. Additionally, there may be different strategies in a rate structure to encourage water conservation in accordance with the City's adopted 2010 Urban Water Management Plan and State Requirements. For the past four fiscal years, the City has not met its obligation to the State Water project for the debt coverage ratio. The City is required to earn/charge monies through rate payers so that the amount taken in is 1.25 times more than the amount required for operational expenses. Currently, this debt coverage ratio is only at 0.74 times the amount needed. Additionally, there are capital project needs within the system that are necessary to maintain a safe and dependable water supply, including the following major Capital projects: Desalinization Plant upgrades and replacement of the Nutmeg Water Tank. In addition to these major capital projects there are a host of smaller "maintenance" type projects whose costs are not insignificant. These projects include pump replacements, valve replacements and water meter replacements among other maintenance projects.

Wastewater Rates

The wastewater rate schedule underwent a similar consideration when it was originally adopted in the early 1980's based upon both community philosophical desires and Wastewater Treatment plant (WWTP) upgrade grant requirements. The adopted rate schedule is a multi-tiered system for residential customers with a flat rate component from 0 – 10 water billing units, which recovered fixed costs for both the Collection System and the WWTP and a variable component based upon usage above that amount and the constituents of the residential wastewater stream.

One matter for consideration in this issue is that while water use is directly metered and is therefore readily determined, discharges into the sewer system from customers are not directly metered and it can only be estimated how much wastewater is discharged from any given customer in any given billing period.

Water passing through the water meter is often used for irrigation and other purposes that do not result in a sewer discharge, thus making it impractical to clearly document the amount of discharge. The wastewater rate structure tries to accommodate this difference by providing an allowance for up to 10 billing units of water used. This allowance promises to alleviate arguments from customers as to whether their water use of, say, 7 billing units resulted in the discharge of 1, 5, or 7 units of wastewater.

With only two exceptions, since its original adoption, wastewater rate increases were implemented based upon uniform across-the-board percentage increases. One increase was implemented based upon the minimum monthly billing amount.

The second and most recent increase occurred in October 2007, where the City Council adopted a schedule of sewer rate increases to fund the construction of the wastewater treatment plant at the current site. This rate increase looked more closely at the residential and commercial categories and initially provided a 50% commercial and residential increase and a subsequent 7.25% annual commercial and 5% annual residential increase. This current rate schedule for increases ends in one year as Proposition 218 requires a new vote every five years for succeeding rate increases.

Due to events that have occurred since that adopted increase, including the denial of the Coastal Development Permit for the wastewater treatment plant at the current location and the community's desire to construct a new Water Reclamation Facility away from the coast, the assumptions used in the 2007 rate increase are no longer adequate. In late 2010/early 2011, finance staff worked with RBC Capital to verify debt service coverage in anticipation of entering into a State Revolving Fund loan, and discovered our revenues in excess of our expenditures were insufficient to meet debt coverage ratios.

In November 2012, the Public Services Director prepared a memo to City Council, advising them of the potential rate concerns with relocating the new Water Reclamation

Facility (WRF) at one of the alternative sites. The estimated rate adjustment of relocating to a new site is preliminarily estimated at 38-percent above the rate structure currently in place that was needed to build at the existing site. This proposed rate increase is not only needed to relocate and construct the new WRF, but also to pay for the Major Maintenance and Repairs to maintain operations at the existing plant, as well as meeting debt coverage ratios for financing a future WRF project.

In order for the City to make any adjustments to the water and sewer rates equitably, the City should perform the following tasks:

- Evaluate the revenue, operation and maintenance expense, and capital needs of the Water and Wastewater Funds and ensure that revenue is sufficient to meet long-term obligations.
- Develop five-year financial plans for the Water and Wastewater Funds that stabilizes rate adjustments to avoid rate spikes while meeting financial planning criteria for each fund.
- Create schedules of water and wastewater rates and charges that are fair and equitable, that provide predictable sources of revenue developed in the financial plans, and that meet Proposition 218 requirements for rates and charges.

The City has a need to determine the cost of services and review its rates for both water and wastewater. These studies typically include projection of revenue and expense, identification of capital improvements, proposed financing of the improvements, development of a pro forma statement showing all financial obligations and debt service coverage, allocation of costs, and design of rates. The water rate studies should follow methodologies of the American Water Works Association while wastewater rate studies follow methods of the Water Environment Federation. It is anticipated that to complete the studies and move forward with a Proposition 218 vote will take approximately one year.

Currently the City does not have the available resources to perform the rate study, coordinate the public outreach effort and coordinate the required proposition 218 election for setting rates. Therefore, staff recommends the issuance of an RFP to select the most qualified firm for the cost of services and rate studies.

CONCLUSION

Based on the projected needs for the maintenance of our water system, the relocation and construction of the water reclamation facility as well as continued maintenance of our current wastewater treatment plant and to increase the debt coverage ratio to the minimum required amounts, the request of Council is to authorize staff to prepare and issue an RFP and award for the analysis of Water and Sewer rates for potential adjustments in accordance with the City's recently adopted Consultant Hiring Policy.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 9, 2008

B-3 DISCUSSION ON WATER AND SEWER RATES AND THE
CALCULATIONS USED; (PUBLIC SERVICES)

Capital Projects Manager Bill Boucher stated this item has been placed on the agenda by Council request and intends to provide background and discussion on the genesis and calculations of the water and wastewater rate structures. The community's water rate structure was adopted in a two-step process in 1994 and 1995 and there have been no changes to the structure since that time. The most recent wastewater rate structure was adopted in November 2007 and will become effective on July 1, 2008. Any proposed changes to either rate structure must be done both with consideration of the public process required by Proposition 218 and adjusting portions of the rate structure upward if other portions are proposed to be lowered in order to generate the funding needed to pursue adopted programs and policies. The community's water and wastewater rates structures are both related to water consumption: water based upon direct meter readings and wastewater upon estimates of what portion of water delivered is "returned" to the sewer system. Wastewater rates also incorporate the constituents that the various types of customers add to the wastewater stream, such as detergents from laundry businesses and food products from restaurants. Mr. Boucher recommended the City Council receive this report for information, and direct staff accordingly.

Mayor Peters opened the hearing for public comment; there were no comments, and Mayor Peters closed the public comment hearing.

This was an informational item, and no action was taken.

Mayor Peters called for a break at 8:50 p.m.; the meeting resumed at 9:00 p.m.

B-4 DISCUSSION ON PLACING AN INITIATIVE ON THE NOVEMBER 2008
GENERAL ELECTION BALLOT IN REGARD TO A UTILITY USER TAX
AND/OR A TRANSIENT OCCUPANCY TAX AND/OR AMENDING
MEASURE D; (CITY ATTORNEY)

City Attorney Robert Schultz stated at previous City Council meetings, Council has requested information on placing a voter measure on the November 2008 General Election ballot in regard to increasing transient occupancy tax, establishing a Utility User Tax, and amending or repealing Measure D. Mr. Schultz requested Council direction regarding whether to proceed with preparing any measure, as the full text of the measure and the exact form of the question must be submitted to the San Luis Obispo County Clerk by July 23, 2008.

Mayor Peters opened the hearing for public comment.

AGENDA NO: B-3Meeting Date: June 9, 2008 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 5, 2008
FROM: William T. Boucher, Capital Projects Manager
SUBJECT: Discussion on Water and Sewer Rates and the Calculations Used

RECOMMENDATION: Staff recommends the City Council receive and file this Report.

FISCAL IMPACT: None identified at this time.

SUMMARY: This item has been placed on the agenda by Council request and intends to provide background and discussion on the genesis and calculations of the water and wastewater rate structures. The community's water rate structure was adopted in a two-step process in 1994 and 1995 and there have been no changes to the structure since that time. The most recent wastewater rate structure was adopted in November 2007 and will become effective on July 1, 2008.

Any proposed changes to either rate structure must be done both with consideration of the public process required by Proposition 218 and adjusting portions of the rate structure upward if other portions are proposed to be lowered in order to generate the funding needed to pursue adopted programs and policies.

BACKGROUND/ DISCUSSION: The community's water and wastewater rates structures are both related to water consumption: water based upon direct meter readings and wastewater upon estimates of what portion of water delivered is "returned" to the sewer system. Wastewater rates also incorporate the constituents that the various types of customers add to the wastewater stream, such as detergents from laundry businesses and food products from restaurants.

Water Rates: In advance of setting the water rates in 1994, the City Council considered a number of different types of rate structures, including a flat rate (each billing unit costs the same), a multi-tiered system (flat rate for fixed costs plus variable rate for water delivered)

Prepared By: BDept Review: [Signature]City Manager Review: [Signature]

City Attorney Review: _____

Page 1 of 3

and an inverted block rate (each successive billing unit costs more than the previous unit). The water rate philosophy adopted by the City Council was a version of the inverted block rate. This system's primary characteristic is that it provides for incentives for water conservation but it also provides that higher volume customers effectively pay a significantly higher unit cost for water for which the City pays a flat rate (i.e., State Water at \$1500 +/- per acre foot).

One of the areas wherein the inverted block rate was found lacking was that the originally calculated rates for low volume users, in this instance in the 0 – 3 billing unit per month category, did not recover the City's fixed cost for reading of meters, billing costs and maintenance of mains, service connections and meters. This fixed cost was estimated at the time to be about \$30 per month per customer.

Another area of consideration related to this group of users were absentee owners of vacation homes. Under the previous rate structure, these absentee owners would use no water for the months they did not occupy their vacation homes and not therefore pay a monthly bill. When they occupied the home they would pay a nominal amount for the small amount of water used, then not pay a bill for the remainder of the year. Their meters would still be read, zero balance bills mailed, and maintenance would still be performed but no revenue would be received.

To answer these concerns, the City Council adopted the current minimum monthly billing amount for 0 – 3 billing units per months based upon the calculated 3 billing unit cost of \$16.48 per month. This amount is less than the monthly fixed costs referenced above with the other customers subsidizing the remaining amount. Low volume customers having financial difficulty were afforded the opportunity to participate in a rate reduction program.

The water rate structure has been in place unchanged since that time and no rate increases are foreseen into the future.

Wastewater Rates: The wastewater rate schedule underwent a similar consideration when it was originally adopted in the early 1980's based upon both community philosophical desires and WWTP grant requirements. The adopted rate schedule is a multi-tiered system for residential customers with a flat rate component from 0 – 10 water billing units, which recovered fixed costs for both the Collection System and the WWTP and a variable component based upon usage above that amount and the constituents of the residential wastewater stream.

One matter for consideration in this issue is that while water use is directly metered and is therefore readily determined, discharges into the sewer system from customers are not directly metered and it can only be estimated how much wastewater is discharged from any given customer in any given billing period.

Water passing through the water meter is often used for irrigation and other purposes that does not result in a sewer discharge, making it impractical to clearly document the amount of discharge. The wastewater rate structure tries to accommodate this difference by providing an allowance for up to 10 billing units of water used. This allowance promises to alleviate arguments from customers as to whether their water use of, say, 7 billing units resulted in the discharge of 1, 5, or 7 units of wastewater.

Since its original adoption, the wastewater rates increases were implemented with two exceptions that were based upon uniform across-the-board percentage increases. One increase was implemented based upon the minimum monthly billing amount. The second and most recent increase, which is going into effect for water used in the month of July, looked more closely at the residential and commercial categories and provided a 50% commercial and residential increase and subsequent 7.25% annual commercial increase and 5% residential increases.

CONCLUSION: This report was prepared at Council request to provide information on how the existing water and wastewater rate structures were derived and implemented. No action is requested from the Council and Staff recommends the report be received and filed.

RESOLUTION NO. 55-07**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY ESTABLISHING USER RATES
FOR RESIDENTIAL WASTEWATER SERVICES****THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, in accordance with California Government Code Section 54344, the City Council has the authority to establish fees and charges for the City's Wastewater System; and

WHEREAS, the community of Morro Bay seeks to upgrade the wastewater treatment plant to tertiary treatment standards per the recommendations in the Wastewater Treatment Plant Facility Master Plan and to provide for a properly functioning wastewater collection system, complying with the State Water Resources Control Board requirements and the City of Morro Bay Sewer Collection System Master Plan; and

WHEREAS, after review of relevant financial data, it has been determined that existing Wastewater System rates and charges presently generate insufficient revenue for prudent operation of the System for the adequate health, safety, and welfare of the community; and

WHEREAS, the financial analysis for the wastewater treatment plant upgrade has provided a plan for funding of the treatment plant operations and maintenance activities into the future; and

WHEREAS, the City Council finds that an adjustment in rates charged for these services is necessary now to provide adequate funds to commence required activities on the wastewater treatment plant upgrade and the collection system for systems operations, maintenance and replacement; and

WHEREAS, a notice of the public hearing of the proposed changes to the wastewater rates was mailed to each rate payer not less than forty-five days prior to the public hearing, in compliance with Section 6 of Article XIII-D of the Constitution of the State of California; and

WHEREAS, a duly noticed public hearing of these proposed rate increases was held before the City Council on November 13, 2007; and

WHEREAS, at the hearing on November 13, 2007, Jim Nance, Judith Brown, Marcia Turner, John Barta, Nancy Bast, Michael Durrick, Don Rauch and Susan Mullen were present and spoke in opposition to the proposal; and David Nelson and Lanny McKay were present and spoke in support of the proposal; and

WHEREAS, on November 13, 2007, the City Clerk advised the Council that 267 written protests of the proposal were received prior to the hearing; and

WHEREAS, on November 13, 2007, the City Council received two written rate increase protests that were submitted at the time of the public hearing; and

WHEREAS, after hearing public testimony and staff's report and recommendations, the City Council has determined that certain rates and charges for the City's Wastewater System should be revised and amended.

NOW, THEREFORE, the City Council of the City of Morro Bay hereby resolves as follows:

SECTION 1: FINDINGS. After hearing testimony, considering the evidence offered, and duly deliberating the matters presented, the City Council of the City of Morro Bay finds and determines that:

- A. Pursuant to the authority of the Revenue Bond Law of 1941 (Government Code Sections 54300-54700) and of Morro Bay Municipal Code Chapter 13, the City of Morro Bay operates and maintains systems and facilities for the collection, treatment, and disposal of sewage and wastewater; and
- B. The City Council is empowered to prescribe, revise, and collect charges for the services and facilities furnished by the City's Wastewater System (the "System"); and
- C. The proceedings related to the proposed increases in wastewater rates and charges have been duly noticed in compliance with the Constitution of the State of California, Government Code Section 54354.5, and other applicable laws; and
- D. The rates and charges set forth below are not discriminatory; and
- E. The rates and charges set forth below are not excessive, inasmuch as revenues from said rates and charges will not exceed the costs of providing wastewater services; and
- F. The revenue generated by the rates and charges set forth below will be sufficient to pay the current expenses of maintenance and operation of the System, to honor other City obligations dependent upon System revenues, and to otherwise allow the City to comply with Government Code Section 54515 and other applicable laws and regulations.

SECTION 2: WASTEWATER SERVICE RATES AND CHARGES. Based upon these findings, the City Council hereby determines that it is in the interests of the general welfare of the community to adjust rates for Residential and Non-Residential categories pursuant to the following rate schedule:

Single Family Residential	\$34.02 flat for 10 ccf + \$3.04 each ccf over 10
Single Family Condos	\$34.02 flat for 3 ccf + \$3.04 each ccf over 3
Multiple Family Residential	\$34.02 flat for 10 ccf + \$3.04 each ccf over 10
Mobile Home Parks	\$3.04 per ccf (\$34.02 minimum)
Commercial/Domestic Strength	\$3.83 per ccf (\$34.02 minimum)
Commercial Laundry	\$3.83 per ccf (\$34.02 minimum)
Condo – Common Area (with sewer)	\$3.83 per ccf (\$34.02 minimum)
Laundromat	\$3.04 per ccf (\$34.02 minimum)
Car Wash	\$3.04 per ccf (\$34.02 minimum)
Restaurants	\$8.79 per ccf (\$34.02 minimum)
Bakeries	\$8.79 per ccf (\$34.02 minimum)
Retirement Home/Hospital	\$6.87 per ccf (\$34.02 minimum)
Motels	\$5.28 per ccf (\$34.02 minimum)
Mortuaries	\$5.73 per ccf (\$34.02 minimum)
Hotels with Dining	\$6.87 per ccf (\$34.02 minimum)
Seafood Processors	\$8.79 per ccf (\$34.02 minimum)
Water Softeners	\$3.04 per ccf (\$34.02 minimum)
Schools	\$3.04 per ccf (\$34.02 minimum)
Other Public Facilities	\$3.04 per ccf (\$34.02 minimum)
City Facilities on Sewer	\$3.04 per ccf (\$34.02 minimum)
Power Plant	\$391.01 flat rate – not read

SECTION 3: EFFECTIVE DATE. This Resolution is effective upon its adoption. However, the Rate Schedule set forth above in Section 2 shall begin with wastewater billed for the month of July 2008. Except as amended herein, all rates or charges related to the System as contained in Resolutions 39-06 and 59-06 shall remain in full force and effect.

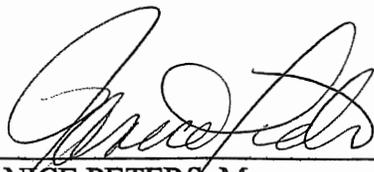
SECTION 4: ANNUAL INCREASES: To reduce the negative impacts of inflation and other cost increases beyond the community's control, a 5% increase in residential rates and a 7.25% increase in non-residential rates shall be effective July 1st of each subsequent year.

SECTION 5: COLLECTION. The City Council hereby directs that the rates and charges established by this Resolution shall be billed and collected together with charges for other utility services rendered by the City of Morro Bay.

SECTION 6: ENFORCEMENT. In the enforcement of the collection of the rates and charges established herein, the City of Morro Bay may use any available remedy at law or in equity, provided, however, that said rates and charges shall not be collected by means of the San Luis Obispo County Assessor's roll of real property taxes, nor shall any delinquent rates or charges be enforced by means of a lien on real property.

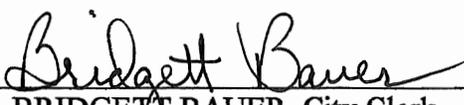
PASSED AND ADOPTED by the Morro Bay City Council at a regular meeting thereof held on the 13th day of November 2007 by the following vote:

AYES: Grantham, Peirce, Peters
NOES: DeMeritt, Winholtz
ABSENT: None
ABSTAIN: None



JANICE PETERS, Mayor

ATTEST:



BRIDGETT BAUER, City Clerk

RESOLUTION NO. 39-06

RESOLUTION OF THE CITY COUNCIL OF MORRO BAY
ESTABLISHING USER RATES FOR WASTEWATER SERVICESTHE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the community of Morro Bay seeks to provide for a properly functioning wastewater collection system, complying with the State Water Resources Control Board requirements and the City of Morro Bay Collection System Master Plan; and

WHEREAS, an upcoming financial analysis for the wastewater treatment plant upgrade will provide a plan for funding of collection and treatment capital, operations and maintenance activities into the future; and

WHEREAS, the City Council finds that an adjustment in rates charged for these services is necessary now to provide adequate funds to commence required activities in the collection system for system operations, maintenance and replacement.

NOW, THEREFORE, BE IT RESOLVED by the City Council, City of Morro Bay that it is in the interests of the general welfare of the community to adjust rates with an increase of 20%; and

BE IT FURTHER RESOLVED the following monthly user rate schedule for services is adopted, effective November 2006; and

BE IT FURTHER RESOLVED, to reduce the negative impacts of inflation and other cost increases beyond the community's control, a uniform 5% increase in rates shall be effective January 1st of each subsequent year.

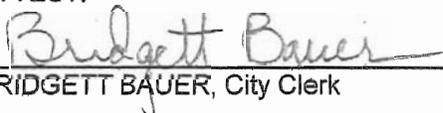
MONTHLY - WASTEWATER RATES

Multiple Family Residential	\$20.10 flat for 10 ccf + \$1.93 each ccf over 10
Mobile Home Parks	\$1.93 per ccf (\$20.10 minimum)
Commercial/Domestic Strength	\$2.43 per ccf (\$20.10 minimum)
Commercial Laundry	\$2.43 per ccf (\$20.10 minimum)
Condo - Common Area (with sewer)	\$2.43 per ccf (\$20.10 minimum)
Laundromat	\$1.93 per ccf (\$20.10 minimum)
Car Wash	\$1.93 per ccf (\$20.10 minimum)
Restaurants	\$5.58 per ccf (\$20.10 minimum)
Bakeries	\$5.58 per ccf (\$20.10 minimum)
Retirement Home/Hospital	\$4.36 per ccf (\$20.10 minimum)
Motels	\$3.35 per ccf (\$20.10 minimum)
Mortuaries	\$3.64 per ccf (\$20.10 minimum)
Hotels with Dining Room	\$4.36 per ccf (\$20.10 minimum)
Seafood Processors	\$5.58 per ccf (\$20.10 minimum)
Water Softeners	\$1.93 per ccf (\$20.10 minimum)
Schools	\$1.93 per ccf (\$20.10 minimum)
Other Public Facilities	\$1.93 per ccf (\$20.10 minimum)
City Facilities/on Sewer	\$1.93 per ccf (\$20.10 minimum)
Power Plant	\$248.26 Flat rate - not read

PASSED AND ADOPTED by the Morro Bay City Council at a regular meeting held thereof on the 28th day of August, 2006 by the following vote:

AYES: Baxey, DeMeritt, Peirce, Peters, Winholtz
NOES: None
ABSENT: None

ATTEST:


BRIDGETT BAUER, City Clerk


JANICE PETERS, Mayor

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 28, 2006

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 39-06 ADOPTING AN INTERIM WASTEWATER RATE INCREASE; (PUBLIC SERVICES)

Capital Projects Manager Bill Boucher stated in order to reduce the risk of untreated wastewater spills into the community and environment now and into the future, the City needs to increase user fees to fund identified programs. With an upcoming financial analysis leading to more significant rate increases on the horizon for the construction and operation of the committed Wastewater Treatment Plant upgrade, the City plans to dovetail the remainder of the Collection system programs into this overall analysis rather than trying to prepare a comprehensive analysis and rate structure now and revise it in a matter of weeks. A 20% rate increase should generate an additional \$300,000 in annual revenues, enabling the commencement of activities required by the State Waste Discharge Requirements and recommended tasks of the adopted Collection System Master Plan. Mr. Boucher recommended the City Council conduct a public hearing on this matter, and adopt Resolution No. 39-06 approving a 20% interim wastewater rate increase.

Mayor Peters opened the hearing for public comment.

Joey Racano expressed opposition to the interim wastewater rate increase because the City is not in compliance with the Clean Water Act and is operating without a waiver.

Marla Bruton stated there is grant money and bonds available through the regional full tertiary plan that could assist the City instead of increasing wastewater rates.

Sandra Brazil stated the City should be using the \$5 million that has been earmarked through the Joint Powers Authority with Cayucos Sanitary District that was meant for this purpose.

Jim Nance stated the City should offer a rate reduction for low-income people, and charge the high-end users with an increase in fees.

Jeff Odell referred to a gray water program used during a drought in Morro Bay about 20 years ago, and asked if that could be instituted again.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 28, 2006

Councilmember Winholtz stated she is not interested in increasing rates at this time, and would like to implement an across the board fee based on the previous increase approved by Council.

Councilmember Baxley stated the rates would need to be increased at some point in order to implement the Sewer Master Plan. He expressed concern with implementing this increase at the same time as placing the sales tax initiative on the November ballot.

Councilmember DeMeritt stated she does not support a retroactive fee increase. She said the citizens should be made aware that an increase is impending.

Councilmember Peirce stated a rate increase would be required because the Wastewater Treatment Plant is in need of upgrades.

Mayor Peters stated she supports an across the board rate increase based on Council's previous action but not retroactively. She said those who have not had to pay an increase should have their rates increased.

MOTION: Mayor Peters moved the City Council adopt Resolution No. 39-06 with the amendment to remove the top two designations and begin a 20% increase by September 1, 2006. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

MOTION: Mayor Peters moved the City Council direct staff to return with a resolution to include an increase for single-family residences and single-family residential condominium units to begin January 1, 2007 and to include a 5% increase on a quarterly basis. The motion was seconded by Councilmember Winholtz and carried with Councilmember DeMeritt and Councilmember Peirce voting no. (3-2)

C. UNFINISHED BUSINESS

C-1 AUTHORIZATION FOR WASTEWATER TREATMENT ALTERNATIVES FOR ADDED ALTERNATIVES IN THE CHORRO VALLEY; (PUBLIC SERVICES)

MOTION: Councilmember Peirce moved the City Council continue this item to the September 11, 2006 City Council meeting. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)



Meeting Date: August 14, 2006

Action: _____

Staff Report

TO : HONORABLE MAYOR AND CITY COUNCIL

DATE : AUGUST 4,
2006

FROM : WILLIAM T. BOUCHER

SUBJECT : CONSIDERATION OF INTERIM WASTEWATER RATE INCREASE

RECOMMENDATION : Staff recommends the City Council conduct a public hearing on this matter and, as result, adopt a 20% interim wastewater rate increase via the adoption of Resolution No. 39-06.

FISCAL IMPACT : A 20% rate increase should generate an additional \$300,000 in annual revenues, enabling the commencement of activities required by the State Waste Discharge Requirements and recommended tasks of the adopted Collection System Master Plan.

The average residential customer currently pays \$16.75 per month for wastewater and the proposed 20% interim increase will raise that cost to \$20.10. The increase will serve to help fund needed new programs in the Collection system pending the results of the financial analysis for expenses related to the upcoming improvements to the Wastewater Treatment Plant and Collection system capital projects.

The Sewer Revenue Fund is gradually being eroded due to the increasing maintenance needs resulting from the age of the Collection System and the preventative maintenance and operations costs of the recently-adopted WDR's.

A rate increase at this time of year will not capture the peak summer month of July but the accompanying Resolution No. 39-06 is written so as to include usage starting the month of August.

SUMMARY : In order to reduce the risk of untreated wastewater spills into the community and environment now and into the future, we need to increase user fees to fund identified programs.

With an upcoming financial analysis leading to more significant rate increases on the horizon for the construction and operation of the committed WWTP upgrade, we plan to dovetail the remainder of the Collection system programs into this overall analysis rather than trying to prepare a comprehensive analysis and rate structure now and revise it in a matter of weeks.

The purpose of this report is to provide for discussion of near term revenue needs for the Collection system and a supporting Resolution for an interim 20% "across-the-board" rate increase.

DISCUSSION : The recently-adopted Collection System Master Plan Update and State Waste Discharge Requirements (WDR) both compel the initiation of programs for our sewer collection system, including preparation and implementation of a sanitary sewer management plan, a spill prevention plan, reduction in stormwater inflow and infiltration (I/I), capital improvement projects and a computerized system for monitoring and reporting. All these programs have as their underlying intents the commitment to providing a sewer collection system with sufficient hydraulic capacity in accord with adopted planning policies, to maintain the system adequately to reduce risk of spills and to demonstrate

City Manager Review: _____

*Interim Sewer Rates
City Council,
August 10, 2006
Page 2 of 2*

the adequacy of these programs to the State regulators via computerized monitoring and reporting.

Maintaining the integrity and effectiveness of the current Collection System is far more cost/effective and conserving than designing the system and treatment plant for excessive flows.

The current wastewater rate schedule generates revenues in the total annual amount of about \$1.5 million. Adopted operational expenditures for the Collection system and Wastewater Treatment Plant for Fiscal Year 2006/07, not including any capital projects or Master Plan or WDR programs, total more than \$1.6 million.

Revenues from the existing rate structure are not quite adequate to meet the current financial obligations and will fall further short of those needed to fund the existing operations of the Collection system and WWTP plus the added requirements of the WDR and Master Plan. The WDR portion of these requirements alone is estimated to cost customers an average of an additional \$20 per month. With more than 5,400 customers, this translates to about \$1.3 million in supplementary revenue needed to meet these costs.

At the same time we are seeing these substantially increased costs for the Collection system, we are also committing to a community upgrade of the WWTP that is estimated have a construction cost of about \$20 million. A loan repayment for this amount would cost about \$1.1 million per year, plus increased operational expenses that would result as well.

One of the pre-construction requirements of the WWTP upgrade is to perform a financial analysis/rate study and to implement a financial program adequate to meet the demands of capital projects, operations and maintenance of the infrastructure. The current WWTP upgrade schedule has the consultant selection process for this analysis commencing August 1, 2006 with an estimated cost of \$85,000 (including the cost share for the Cayucos Sanitary District).

With costs anticipated to continue to rise due to inflation and other causes into the indefinite future, we have included a 5% annual adjustment for sewer rates in the attached Resolution No. 39-06, pending the results of the upcoming financial analysis.

CONCLUSION: While the Collection System will need to participate in this analysis and rates will need to be raised as result, it is critical that we implement an interim rate increase now so that we can commence the new mandated activities before the reporting requirements start this November and then winter rains hit. There are many tasks that need to be completed before these programs can begin, including those included in consideration of reorganization options: preparation and approval of job descriptions and salary ranges, budgetary adjustments, employee recruitment, training and equipment acquisition. This rate increase will allow us to commence those activities.

wtb:c:\bill\collections\cc-rates081406

attach.

RESOLUTION NO. 39-06

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - OCTOBER 14, 2002

B-2 CONSIDERATION OF WATER MANAGEMENT PLAN STATUS REPORT;
(PUBLIC SERVICES)

Capital Projects Manager Bill Boucher stated the Water Management Plan (WMP), adopted in 1994 and placed into effect upon Coastal Commission certification in 1995, established a blue print for water resources now and into the future. As a requirement of the WMP, the City is to periodically re-assess the condition of the community's potable water resources and submit a report to the Executive Director of the Coastal Commission. A Water Management Plan Status Report endorsed by subcommittees formed by the Planning Commission and Public Works Advisory Board, has come to the conclusion that the existing WMP remains valid and successful continuation of the programs will allow for adequate sustainable water supplies for the community at General Plan build-out. Mr. Boucher along with the Planning Commissioners and Public Works Advisory Board Members recommend the City Council approve the Water Management Plan Status Report, and direct staff to forward it to the Coastal Commission.

Mayor Anderson opened the hearing for public comment.

Bill Woodson, Chairman of Public Works Advisory Board, addressed the effectiveness of the sub-committees who reviewed the Water Management Plan Status Report. He said there are many opportunities for the City to benefit from water reclamation.

Betty Winholtz asked at what point would the City stop purchasing State Water.

Don Boatman stated water reclamation is beneficial because it saves water and is a good resource.

John Barta stated the review of the Water Management Plan by the sub-committee was a very useful and productive process. He said for policy purposes the water reclamation program is valuable; however, for operational, cost and practicality purposes, water reclamation is more difficult to implement.

Mayor Anderson closed the public comment hearing.

MOTION: Councilmember Elliott moved the City Council approve the Water Management Plan Status Report, and direct staff to forward it to the Coastal Commission. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - JUNE 22, 1998

Mayor Novak opened the hearing for public comment; there were no comments and the public hearing was closed.

Council consensus was in support of this grant program application.

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 57-98 approving the application for grant funds for the Coastal Resources Grant Program under Section 35030/35031 of the Public Resources Code for the reconstruction of the City dock located at 1250 Embarcadero. The motion was seconded by Councilmember Elliott and carried unanimously. (5-0)

B-5 RESOLUTION NO. 64-98 ESTABLISHING USER RATES FOR
WASTEWATER SERVICES; (BOUCHER)

Public Works Director Bill Boucher reviewed the proposed rate increase of 15% for the first year, and 10% for two successive years and 5% in the fourth year. He said the proposed increase will both serve the operational requirements of the Wastewater Collection and Wastewater Treatment Divisions, and also provide a means through which the current and past loans from the Wastewater Capital Improvement Fund can be repaid. Mr. Boucher stated staff and the Public Works Advisory Board recommend the City Council accept the Wastewater Revenue Study and increase wastewater rates through the adoption of Resolution No. 64-98.

Mayor Novak opened the hearing for public comment.

Harry Rogers stated it is easy to analyze the necessity of this rate increase.

John Barta stated the community needs to share in costs to save for tomorrow.

Jim Wood questioned the proposed rates for different commercial businesses (seafood processors will pay more than most other businesses).

Neil Farrell reminisced a story he wrote in 1992 regarding a house flooded with sewage.

Mayor Novak closed the public comment hearing.

The consensus of Council was in approval of the proposed wastewater rate increases; however, with the amendment to maintain the single family residential and multi-family residential surcharge at 10 ccf.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - JUNE 22, 1998

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 64-98 establishing user rates for wastewater services, with an amendment to maintain the single family residential and multi-family residential surcharge at 10 ccf. The motion was seconded by Councilmember Elliott and carried unanimously. (5-0)

B-6 REVIEW OF CODE ENFORCEMENT ACTION AT 430 PACIFIC STREET;
(HUNT)

City Attorney Rob Schultz reviewed the abatement procedures for 430 Pacific Street. This was an informational item and no action by the City Council was necessary.

The City Council received the report and no further action was taken.

C. UNFINISHED BUSINESS

C-1 RESOLUTION NO. 60-98 ADOPTING FISCAL YEAR 1998/99 BUDGETS;
(KOSER)

Finance Director Jim Koser presented the Fiscal Year 1998/99 Budgets as previously reviewed by the City Council and recommended adoption by approval of Resolution No. 60-98.

MOTION: Councilmember Peters moved the City Council adopt Resolution No. 60-98 approving the Operating and Capital Improvement Budgets and making Appropriations for Fiscal Year 1998/99. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

C-2 RESOLUTION NO. 54-98 ESTABLISHING THREE-HOUR PARKING TIME
LIMIT ON THE FOUR MID-EMBARCADERO WEST SIDE STREET ENDS
AND CITY-LEASED PARKING LOT NEXT TO THE SHELL SHOP; AND
ORDINANCE NO. 469 REVISING SECTION 10.36.120 (CURB MARKINGS)
AND SECTION 10.36.170 (FOR A LIMITED TIME) OF THE MORRO BAY
MUNICIPAL CODE - SECOND READING/ADOPTION; (BOUCHER)

Public Works Director Bill Boucher recommended approval of the second reading and adoption of Ordinance No. 469 revising Section 10.36.120 (Curb Markings) and Section 10.36.170 (For a Limited Time) of the Morro Bay Municipal Code, and adoption of Resolution No. 54-98 establishing Three-Hour Parking Time Limit on the Four Mid-Embarcadero West Side Street Ends and City-Leased Parking Lot next to the Shell Shop.

City of



**Morro Bay
DEPARTMENT of PUBLIC WORKS**

MEMORANDUM

to : Honorable Mayor and City Council
from : Director of Public Works
date : June 23, 1998
subject: Statewide Wastewater Rate Survey

I don't like to compare our rates to other communities during consideration of our needs. Now that you adopted my recommended structure last night perhaps you would like to know where our rates are now compared to other similar communities.

The State Water Resources Control Board (SWRCB) does biannual statewide rate surveys. The latest edition is dated April 1997(FY 1996-97 data). Current charges may now be higher for some agencies. The survey is based upon specific criteria to compare "apples to apples." I should note that for the purposes of this survey, we reported a service population of 10,000 although our actual population is slightly less. The rate comparison for comparable communities is as follows(all rates are monthly for single family dwellings):

CITY OF MORRO BAY: \$10.44 per month

	<u>Low</u>	<u>High</u>	<u>Average</u>	<u>Median</u>
Statewide (755 reporting);	\$2.71	\$75.00	\$18.11	\$15.84
By population:				
All 1,000 to 9,999	\$4.90	\$75.00	\$18.11	\$15.84
All 10,000 to 49,999	\$6.00	\$42.50	\$16.28	\$15.00
Grant Funded WWTP				
1,000 to 9,999	\$4.90	\$58.40	\$17.88	\$16.50
10,000 to 49,999	\$6.00	\$42.50	\$16.34	\$15.00
Flow, BOD, SS based rate				
1,000 to 9,999	\$5.00	\$75.00	\$18.03	\$15.03
10,000 to 49,000	\$6.00	\$41.83	\$16.30	\$15.00
By Treatment Level (Advanced Primary):				
All	\$4.90	\$38.75	\$16.17	\$15.00
Grant	\$4.90	\$38.75	\$16.58	\$15.00
Flow, BOD, SS based rate	\$7.50	\$38.75	\$16.49	\$14.50

By County:

 All SLO County \$6.00 \$33.50 \$16.67 \$15.00

Of the 23 agencies in our County reporting, with our \$10.44 per month charge, there are four places of lower costs (Avila, Oceano, CSA 7A and South County San.) and the remaining 18 are higher than us. Oceano provides and charges for collection system only with treatment by So. County San. (I presume Oceano folks get two bills, one for collection, one for treatment). CSA 7A is north of Lake Nacimiento.

As the survey shows, even after the last of the four programmed increases, our monthly charge of \$13.27 in FY 2001-02 will still be lower than the average and median for others in FY 1996-97. I'd guess one or more other communities might have an increase between now and then.

I hope this provides at least some usable information. Call me if you have any ?'s.

b

cc: City Manager
 Finance Director
 wtb:fbill\ccouncil\wwrate98

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING - DECEMBER 8, 1997

B-3 REQUEST FOR POLICY DIRECTION ON SPECIAL WATER RATES;
(BOUCHER)

Public Works Director Bill Boucher stated the City's Water Fund's financial status is reaching the point where existing and proposed special consideration of particular types of users may lead to the need for a community-wide rate increase to compensate for lost revenue. He noted if the current and proposed special rate consideration continues, the reductions in annual revenue will likely entail mitigation through a community-wide increase. If the special consideration is discontinued, future rate increases can be deferred, barring subsequent additional revenue reductions. Mr. Boucher stated the current special water rate for the one health care facility reduces Water Fund revenues by approximately \$32,500 per fiscal year. He recommended the City Council determine that special water rates are contrary to the general well-being of the community by adoption of Resolution No. 86-97 modifying the Master Fee Schedule for existing reduced water rates for Licensed Health Care Facilities to be the same as the prevailing community rates.

Mayor Novak opened the hearing for public comment.

John Barta addressed supply and demand. He stated he supports the resolution; however, there is not a shortage of water now or in the future. Mr. Barta made the following suggestions: 1) retrofit should be ceased with the adoption of the City's water report by the Coastal Commission; 2) an increase in revenues should be implemented by requesting vacant lot owners to purchase a water meter for their lot; and 3) the school district should obtain 1" water lines instead of 3" lines.

Mary Phillips stated the cost of living at SeaShell Communities is extremely high and should be able to afford their water. She also noted State Water is allowing her to quit her reverse osmosis system which also saves money.

Harry Rogers stated the City should be run shrewdly, and special water rates should not be allowed.

Mayor Novak closed the public comment hearing.

Council consensus was to not allow special water rates.

MOTION: Councilmember Elliott moved the City Council approve Resolution No. 86-97 which determines that special water rates are contrary to the general well-being of the community. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

Mayor Novak called for a break at 9:28 p.m.; the meeting resumed at 9:37 p.m.



CITY OF MORRO BAY
Department of Public Works

ATTACHMENT 3

AGENDA NO. B-3

Date 12/8/97 Action _____

CMBOSY. PW

- General Water Rates
- Special Water Rates

CMBOSY. Finance

- Water Rates

STAFF REPORT

Approved
(S-O?)

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: DECEMBER 1, 1997

SUBJECT: POLICY DIRECTION: SPECIAL WATER RATES

RECOMMENDATION

Staff recommends the City Council consider this matter, determine that special water rates are contrary to the general well-being of the community and approve Resolution No. 86-97 modifying the Master Fee Schedule for existing reduced water rates for Licensed Health Care Facilities to be the same as the prevailing community rates.

FISCAL IMPACT

The current special water rate for the one health care facility reduces Water Fund revenues by approximately \$32,500 per fiscal year.

SUMMARY

The Water Fund's financial status is reaching the point whereat existing and proposed special consideration of particular types of users may lead to the need for a community-wide rate increase to compensate for lost revenue.

The purpose of this report is to discuss the matter and it's financial impacts to the community. If the current and proposed special rate consideration continues, the reductions in annual revenue will likely entail mitigation through a community-wide rate increase. If the special consideration is discontinued, future rate increases can be deferred, barring subsequent additional revenue reductions.

Discontinuation of special water rates is recommended through adoption of Resolution No. 86-97. Ordinance No. 440 requires such a discontinuation be done through a modification of the Master Fee Schedule.

Department Director

City Administrator

Special Water Rates, City Council
November 25, 1997
Page 2 of 5

BACKGROUND

The community's water rate structure is a version of an "inverted block rate". This structure provides for philosophical encouragement of conservation through a progressively increasing unit cost for water. With the two-phased water rate increases in FY '94 and '95, both being of uniform percentages, all customers have seen an 85% increase in their monthly costs. A five billing unit (average single family dwelling) customer's monthly cost went from \$14.91 in 1993 to \$27.58 and a one thousand billing unit user went from \$6,361.77 to \$11,766.12. While the percentage increase is the same for these selected usages the increased dollar amount, by virtue of the rate structure, is significantly more for the higher volume customer.

During the public hearings on water rates in both 1994 and 1995 the City Council and the public strongly endorsed retaining the inverted block rate structure rather than implementing some other manner of billing, such as a "flat rate". Perhaps it is germane to provide an illustration of how a flat rate structure could vary in monthly costs for a cross-section of usages with equivalent annual revenues:

<u>Usage</u>	<u>Inverted Block Rate</u>	<u>Flat Rate</u>	<u>Difference</u>
5 units	\$ 27.58	\$ 33.75	+ \$ 6.17 (22.4%)
10 units	55.98	67.50	+ 11.52 (20.6%)
20 units	115.04	135.00	+ 19.96 (17.4%)
50 units	327.37	337.50	+ 10.13 (3.1%)
58 units	391.09	391.50	+ 0.41 (0.1%)
59 units	399.20	398.25	- 0.95 (0.2%)
100 units	755.68	675.00	- 80.68 (10.7%)
500 units	5,217.36	3,375.00	- 1,842.36 (35.3%)
1,000 units	11,766.08	6,750.00	- 5,016.08 (42.6%)

As clearly shows, a flat rate structure provides significant cost reductions for high volume users compared to the inverted block rate, compensated through increases for low volume users with the "break even" usage being in the 58-59 billing unit per month range.

Proponents of the flat rate structure argued that the inverted block rate ignores the fact that it costs no higher unit cost to deliver each increased incremental billing unit of water. For example, delivering a sixth billing unit costs no more than each of the first five.

The flat rate structure was rejected after due consideration in both 1994 and 1995. At the 1995 public hearings on the matter, staff was directed to develop and implement an increased inverted block rate structure with a minimum monthly charge for users of 0-2 billing units per month at the cost for three billing units (\$16.43), a 20% rate discount for customers in legitimate financial need and reduced rates for Licensed Health Care Facilities.

*Special Water Rates, City Council
November 25, 1997
Page 3 of 5*

In the more than two years since the implementation of these programs, both the revenues and expenditures of the Water Fund have been above those previously predicted. The 1995 rate recommendation was based upon the following predicted revenues and expenditures, compared to unaudited "actuals" seen for FY 96-97:

<u>Item</u>	<u>Predicted FY 96-97 Expenditures</u>	<u>Actual FY 96-97 Expenditures</u>
Operations	\$ 794,000	\$1,088,699.75
Reserve Fund	50,000	0
Contingency Fund	100,000	0
Desal Debt Service	541,332	541,331.74
SWP Excess Allocation	60,000	0
SWP Capital & Operations	1,528,668	1,922,357.36
Capital Projects	<u>407,000</u>	<u>229,400.00</u>
Total	\$3,481,000	\$3,781,788.85
Total Revenue	\$3,481,000	\$3,724,379.91
Unaudited Balance	0	(\$ 57,408.94) 1.2%

NOTE: FY 96-97 audit showed a Water Operating Fund deficit of \$49,498.

The State Water Project (SWP) expenditure increase can be primarily attributed to the requirement to pre-pay FY 97-98 operations costs for CCWA in the amount of \$305,449. This was the first year for which the full costs for operations was charged and the cost for this was contemplated for subsequent years (\$321,000 per subsequent year). The increases seen in the Operations category are attributable to significant Water Fund expenditures for water and for costs allocated to the General Fund. As the comparison shows, we have not allocated any monies for either Reserves nor Contingencies and proposed a significant reduction to Capital Projects in order to minimize the imbalance of the Fund.

In summary, the current rate structure generated about 1% less than needed to fulfill the level of Water Fund expenditures for fiscal year 96-97. Savings in expenditures for the Kings Tank Capital Improvement Project, and the re-allocation of these funds back to the Water Fund, allows for an overall Fund balance. This is a one time occurrence, not anticipated on an annual basis.

If we work within the scenario that a rate increase is only to be the last option pursued as mitigation, few options exist. Since expenditures cannot be feasibly reduced to below the current level, an augmentation of revenue is needed.

One option is to increase development impact fees above the current level of \$364.23 per

*Special Water Rates, City Council
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water equivalency. For fiscal year 1996-97, a total of \$34,146.45 was received. This option may generate sufficient annual funds to offset the reductions but in any given year the rate of new building may be such that no or little impact fees are received. As illustration, the total fees collected in fiscal year 95-96 were \$12,707.12. In addition, funds received from development impact fees can only be used for capital expenditures, not for annual operations and maintenance activities. While revenue from increased impact fees would go far to accelerate the schedule for capital improvement projects, it is difficult to recommend that annual revenue from impact fees be depended upon to mitigate on-going revenue shortfalls.

Another option is to eliminate water rate discounts to special users.

DISCUSSION

Special water rates have been discussed for a number of types of high volume users, including seafood processing, laundromats, health care facilities and schools to offset their increased water costs. With approval of findings for the establishment of special rates for health care facilities in 1994, other users found themselves in the position through which to assert that they also provide unique and essential services to the community and should therefore be granted special financial consideration. The School District is the first of these additional users to seek access to such a special consideration.

With proliferation of the policy that special water rates are appropriate for users which provide unique and valuable services to the community, annual revenues of the Water Fund have experienced reductions, which can be expected to continue. As discussed above, the Water Fund cannot continue to absorb such reductions in annual revenues without compensating with a community-wide rate increase as mitigation.

One customer within the community, Sea Shell Community/Pacific Care Center, is currently receiving discounted water costs through a special and reduced rate structure approved in 1994 via Resolution No. 73-94. For the period of January, 1995 through October, 1997, this customer (a for-profit commercial facility) has benefited from a reduction in their water costs by more than \$100,000, representing an overall total discount of almost 28%. This benefit is in addition to the more than \$34,000 (more than 44%) in savings this customer has received over the same period from a previously approved alteration to their sewer rate. Together these discounts for the two City utilities amount to a total of 30.5% of the total potential revenue from the facility.

The percentage of savings for this customer considerably exceed that which the City affords to those customers eligible under the low-income 20% discount lifeline program. For fiscal year 1996-97, the one customer received a water discount in the amount of \$32,460.00. This amount constituted more than 56% of the year's total unaudited Water Fund operational revenue shortfall, and almost 66% of the audited shortfall.

Special Water Rates, City Council
November 25, 1997
Page 5 of 5

The special rate for health care facilities was based upon findings that this type of facility provides unique and essential services to the community. The consideration was approved after impassioned testimony from the facility's manager that portions of the increased costs for water could not fully be passed on to MediCare/MediCal patients in the form of care cost increases and would result in decreased level of care for the elderly.

In a County-wide survey of water agencies, it was found that no other agency provides special water rates to any type of user, including 21 licensed health care facilities located in the survey area. One agency provides a lifeline discount for economically needy customers, akin to the City's program.

The Water Fund does not appear to be able to continue absorbing the loss of revenue that the special rate gives this one business enterprise. As this business is not the only customer capable of demonstrating itself as providing a unique and valuable service to the community, other customers can be expected to follow suit and seek to acquire discounted rates.

The San Luis Coastal Unified School District is now seeking to reduce its annual water costs. The District, having six separate meters for its three schools, is the single largest customer of the Water Fund. In the past, discussions have been held on means through which the District can reduce its costs that have now lead it to propose to cease to be a customer of the City but rather to import its own source of water and "wheel" it through the City system. This proposal could reduce the District's costs by about \$100,000 per year, with a commensurate reduction in Water Fund revenue.

This Department is currently performing an analysis of various options in the effort to determine whether there is some means through which a "win-win" solution can be reached that will both provide a cost reduction to the District in an amount and time frame acceptable to them but also not result in the need for an immediate community-wide rate increase as financial mitigation. At this point it is unknown as to whether this can be achieved but it appears clear that virtually any additional short-term revenue reduction cannot be absorbed.

SUMMARY

To provide financial mitigation for high volume users, a flat rate structure or special water rates have been considered. The flat rate structure was rejected. Implementation of a special rate for one particular user category was approved in 1994. With the financial ramifications of the current financial status of the Water Fund, it is now recommended to modify the existing special rate structure for health care facilities to the prevailing community rate via the adoption of Resolution No. 86-97. This elimination is necessary to reduce the need to implement a community-wide rate increase in the immediate future. If the School District proposal is approved, by whatever means, a rate increase may result if the loss of revenue cannot be fully offset.

RESOLUTION NO. 86-97**RESOLUTION MODIFYING SPECIAL WATER RATES FOR
LICENSED HEALTH CARE FACILITIES**

the City Council,
City of Morro Bay, California

WHEREAS, in 1994 via Resolution No. 73-94 reduced water rates were established for Licensed Health Care Facilities; and

WHEREAS, necessary annual expenditures of the Water Fund are such that the reduced revenue from continuation of such a rate would necessitate mitigation by means of a community-wide rate increase; and

WHEREAS, it is determined to be contrary to the public well-being to retain special consideration for one business category at the expense of a community-wide water rate increase; and

WHEREAS, Ordinance No. 440 requires the City Council to establish rates in the Master Fee Schedule for charges for water service to licensed health care facilities; and

WHEREAS, it is necessary and appropriate to modify said charges to be equal to the prevailing community-wide rates.

NOW, THEREFORE, BE IT RESOLVED, by the City Council, City of Morro Bay that the Master Fee Schedule is hereby revised to reflect that water rates for licensed health care facilities are the same as the prevailing community rate structure for water consumed effective the next regular period subsequent to this adoption.

PASSED AND ADOPTED by the City Council at a regular meeting thereof held on the 8th day of December, 1997 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CATHY NOVAK, Mayor

BRIDGETT BAUER, City Clerk

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REGULAR MEETING - OCTOBER 28, 1996
PAGE 5

Warren Dorn presented an American flag, made in Pasadena, to the City.

DECLARATION OF FUTURE AGENDA ITEMS - None.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF OCTOBER 14, 1996

Mr. Howell recommended Council approve the minutes as submitted.

A-2 STATEMENT OF CASH AND INVESTMENTS - SEPTEMBER 1996

Mr. Howell recommended Council receive the report for information.

A-3 EXPENDITURE REPORT - SEPTEMBER 1996

Mr. Howell recommended Council approve the report as submitted.

A-4 RESOLUTION NO. 76-96 APPROVING APPLICATION FOR ENVIRONMENTAL ENHANCEMENT GRANT FOR QUINTANA ROAD BIKE LANES AND HABITAT RESTORATION

Mr. Howell recommended Council approve Resolution No. 76-96 and authorize the Mayor to sign the application.

A-5 RESOLUTION NO. 77-96 APPROVING ASSIGNMENT OF LEASE SITE 129W-133W FROM MILT GUGGIA ENTERPRISES TO MING DYNASTY INC.

Mr. Howell recommended Council pull this item from the agenda.

MOTION: Councilmember Unger moved the City Council approve the Consent Calendar with the exception of Item A-5. The motion was seconded by Councilmember Novak and unanimously carried. (5-0)

B. UNFINISHED BUSINESS

B-1 REPORT ON WATER RATES AND FUTURE COSTS

Public Works Director Bill Boucher presented a report requested by Council regarding the City's water rate structure which included components and current financial status, and potential future cost components not included in revenue/expenditure consideration.

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REGULAR MEETING - OCTOBER 28, 1996
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Councilmember Unger referred to Page 2, asking about the expense of running the desal facility.

Mr. Boucher responded the plant cost more than \$1,000 per acre foot in 1995, not counting debt service.

Councilmember Anderson asked if there are any indications the City is not paying enough at this time to cover State Water costs.

Mr. Boucher responded there could be an accumulation of factors over time, such as increased State Water debt service, loss of the school district, or Proposition 204. He noted he does not contemplate a rate increase of extreme magnitude.

Councilmember Crotzer stated he does not believe people know the City is trying to double the amount of available State Water at this time. He expressed concern about infrastructure collapse because of artificially low water rates. Councilmember Crotzer asked if there is a capital financing and prudent reserves plan in place.

Finance Director Jim Koser responded the current rate structure provides no funds for capital projects or reserves, except as listed in the report.

Councilmember Crotzer stated the State Water Project has historically been unable to meet deliveries, and the City is trying to double its allotment from 1,313 to 2,626 acre feet which will increase the City's obligation to pay for future improvements or catastrophic repairs.

Councilmember Unger stated the City has been paying for the State Water Project since incorporation in 1964. She pointed out the citizens of Morro Bay voted for State Water, and she has been telling people rates look level at this time.

Councilmember Crotzer stated passage of Proposition 204 could impact water costs. He noted he has informed people all along the cost of State Water would not be less than \$500 per acre foot.

Mayor Yates stated rates have been increased twice in the last four years, and obligations are being met. He said he believes future increases will not amount to more than 1% or 2%, although there is no crystal ball to predict the future.

Councilmember Anderson stated he requested this report because he is concerned rates do not cover costs. He said he wants to know what the rate increase would cover in order to determine what other measures would be necessary. Councilmember Anderson stated

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REGULAR MEETING - OCTOBER 28, 1996
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money will be available for capital projects when the desal plant is paid for.

No further action was taken on this item.

Mayor Yates called for a break at 7:36 p.m.; the meeting resumed at 8:05 p.m.

C. NEW BUSINESS

STATUS REPORT ON NATURAL HISTORY MUSEUM RENOVATION PROJECT

This report was presented during the Public Comment Period.

D. PUBLIC HEARINGS, REPORTS & APPEARANCES

D-1 CONSIDERATION OF APPEAL OF PLANNING COMMISSION CONDITIONS FOR APPROVAL OF CONDITIONAL USE PERMIT 10-96; (PRICE: APPLICANT/APPELLANT; 2040 IRONWOOD AVENUE: LOCATION)

Acting Planning Director Shauna Nauman reviewed the conditions for approval of Conditional Use Permit 10-96 which the Planning Commission approved at their September 16, 1996 meeting. The appellant, Geraldine Price, is appealing the requirements for a drainage way and paved driveway stating these are unnecessary burdens which serve no beneficial purpose. Ms. Nauman recommended the City Council deny the appeal and uphold the Planning Commission's conditions of approval, and direct staff in regards to the refund of the appeal fee.

Mayor Yates opened the hearing for public comment.

Geraldine Price, appellant, requested the City Council remove the conditions of approval for drainage and parking requirements. She noted flooding has not been a problem on her property, except for the floods of 1995. Mrs. Price stated the addition of one room and one spout to the apartment will not create a change in water flow. She asked for less costly alternatives of surfacing the driveway stating the code allows gravel driveways. Mrs. Price also noted there is plenty of parking space on the property. She said her tenant would like to continue to park by his house to protect his car against neighborhood car burglaries. Mrs. Price also requested Council consider the refund of her appeal fee.

Thad Baxley requested the City Council deny Conditional Use Permit 10-95, as a laundry room has been made into a studio apartment in violation of the building code. He said increased traffic has increased the amount of water run-off on his property. Mr. Baxley stated he asked Mrs. Price to install additional drainage, and he was told it was his problem as he lived down the hill from her. He asked the Planning Commission

AGENDA NO. B-1
 Date 10/28/96 Action _____



CITY OF MORRO BAY

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: DEPARTMENT OF PUBLIC WORKS AND FINANCE DEPARTMENT
DATE: OCTOBER 28, 1996
SUBJECT: REPORT ON WATER RATES AND FUTURE COSTS

RECOMMENDATION

Staff recommends the City Council receive and file this report.

FISCAL IMPACT

None identified.

SUMMARY

Considerable discussion has been held regarding the current water rates structure's ability to accommodate current and future expenditures. At the October 14 City Council meeting the two Departments were directed to prepare a report discussing the matter.

The report is divided into two sections: discussion of Water Rate Structure, including components and current financial status, by the Finance Department and discussion of "what ifs" of Potential Future Cost Components Not Included in Revenue/Expenditure Consideration by the Public Works Department.

In summary, the current rate structure, while not able to withstand unanticipated reductions in revenues nor unforeseen expenditures, is capable of meeting current and programmed future expenditures. In other words, the Fund has been, and remains, pay as you go to the greatest extent.

Department Director *[Signature]*
 City Administrator *[Signature]*

BACKGROUND

The community has seen two water rate increases, totaling a compounded increase of almost 85%, since June, 1994. These increases were implemented in a two-phased approach; a 35% increase in June, 1994, via Resolution No. 56-94, to meet the minimum revenue requirement of the then-applicable State Water Project (SWP) debt service (pending the results of Measure J) and a 37% increase in May, 1995, via Resolution No. 57-95, to provide for long-term SWP debt service payment and related capital improvements. A portion, albeit small, of the second increase was to mitigate the approved special water rate structure for health care facilities.

Since these water rate increases, discussion and debate has occurred regarding the adequacy of the revenues derived from the rate structure for future needs. Staff has presented reports regarding programmed future capital improvements a number of times but discussion continues relating to significant water rate increases in the near future. At the October 14, 1996 City Council meeting, staff was directed to provide a report on this subject. Projects such as the Kings Avenue Water Tank, current SWP and desalination debt service, SWP reliability insurance and similar tasks have been discussed in the past and are not included in this report.

The attached sub-report by the Finance Department discusses the current financial status of the Water Fund and related matters. The Public Works Department has prepared the attached analysis of "what ifs", that is, the potential financial impacts of various un-programmed projects and revenue reductions.

It should be noted that despite efforts to the contrary, there is no reliable means through which to accurately predict what costs will be long into the future.

The annualized costs for the SWP debt service have increased for the current fiscal year (\$115,215), per the Finance Department's sub-report. Certain other unanticipated costs, particularly tasks required by the SWRCB as conditions of the groundwater appropriative rights permits and full implementation of the Cost Allocation Plan, have also occurred. These increases have been offset through deferring expenditures for other capital improvements into subsequent years without impacting the current water rates. Refinancing of the SWP revenue bonds, currently proposed, can provide significant offset to the recent SWP debt service increases (about \$75,000) but also increases the length of time over which debt service repayment occurs.

The current rate structure does not provide for significant accumulation of capital reserves (\$80,000 this year). Without such accumulation, the Fund serves on a cash needs approach. Unless additional and significant unanticipated expenditures and/or revenue reductions arise, individually or cumulatively, the Fund can meet the current and programmed needs. Once the Desalination Facility debt service (\$541,332 per year) is retired it is anticipated that the Fund will be capable of reserve fund accumulation.

The following sub-reports provide additional information.

FINANCE DEPARTMENT SUB-REPORT FOR OCTOBER 28, 1996
CITY COUNCIL MEETING

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: FINANCE DIRECTOR
DATE: October 28, 1996
SUBJECT: WATER RATE STRUCTURE

RECOMMENDATION

This report is provided for informational purposes only. Staff recommends that the City Council accept this report.

FISCAL IMPACT

None.

BACKGROUND

At the regular meeting of October 14, 1996, the City Council directed that the Public Works Director and the Finance Director prepare reports on water rates and possible future increases in water rates. The Public Works Director's report addresses many of the operational issues and capital project plans for the future. This report is intended to provide background on the rate setting process and the financial implications of different scenarios.

DISCUSSION

Background Financial Information

This analysis begins by looking at the most recent audited financial statements for the City of Morro Bay. On June 30, 1995, the audit shows we had three water related funds; the Water Operating Fund is the fund used to account for all operating revenues and expenses, including debt service and interfund transfers; the Water Maintenance (System) Fund is an inactive fund, with no activity in the audited year; the Water Capital Improvement Fund is used to accumulate capital for future capital project needs, in the audited year and in FY 1995-96 it was also used to fund debt service. At June 30, 1995, the audited financial statements included the following fund balances:

Finance Department Sub-report
 Water Rates/Expenditures, October 28, 1996
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Water Operating Fund	\$152,208
Water Maintenance Fund	\$ 7,325
Water Capital Imp Fund	\$333,470

Total Fund Balance All Funds	\$493,003

The Fiscal Year 1995-96 audit is well underway and audited financial statements should be available within a couple of months. Based upon the unaudited results of operations for Fiscal Year 1995-96, we would expect to see the following fund balances at June 30, 1996:

Water Operating Fund	\$(76,753)**
Water System Fund	\$ 7,325
Water Capital Imp Fund	\$650,000

Total Est. Fund Bal. All Funds	\$580,572

** The negative fund balance resulted from transferring all budgeted capital project contributions to the Capital Improvement Fund.

Thus, at the start of the current fiscal year, FY 1996-97, the Water Funds have no resources that are not committed to current work-in-progress. The Fiscal Year 1996-97 Water Operating fund budget is balanced and includes an \$80,000 transfer to reserves. Unless unexpected events arise, the Water Operating Fund should be able to restore the deficit and achieve an ending fund balance of \$0.

Components of the Rate Structure

Obviously, with no reserves available to subsidize water rates. The City needs to raise enough revenue to cover its current obligations. Current obligations are those shown in the budget for the Water Revenue Fund. They include the salaries and benefits of six (6) employees charged directly to the fund, operating and maintenance supplies, utilities, professional services, insurance, communications and various other services make up the direct operating expenses. Indirect operating expenses include capital to fund current year projects, not otherwise funded, the costs of support services provided by employees not charged directly to the fund, and a transfer for capital accumulation for future projects. The final component of the current operating budget is the amounts provided for debt service on State Water and the De-Sal plant. The total FY 1996-97 Operating Budget is \$3,448,328.

The components of FY 1996-97 Water Revenue Fund revenues are water rates, connection fees, penalties and late charges and interest on idle funds. Projected revenues are \$3,474,181. For these revenues 97.27% come from water rates. Our rate setting approach is known as the "Cash Needs

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Page 3

Approach", and that is descriptive of how we have operated in recent years.

Effect on Future Water Rates

Since water rates are set to cover current costs, and little else. We can avoid future water rate increases only to the extent that we can control those costs. The largest component of our cost is debt service which currently represents 62.93% of the total budget. Of the debt service component, the portion for servicing the De-Sal Plant will remain constant at \$541,332 through FY 2002-03. The portion for servicing State Water is actually paid through San Luis Obispo County Flood Control District. The county recently provided us with their projects through FY 97-98 and the project increase from FY 1996-97 is \$115,215. This amount would not necessarily require a rate increase but would require other budgetary reductions, such as reducing transfers for capital projects.

Another factor affecting water rates that has not been mentioned thus far is an increase in metered flows. This can occur because of general consumption increases as customers acclimate to the current rates, or due to an increase in the number of customers. Projections for the next couple of years include a modest increase in the number of customers, which will result in increased revenues from existing rates.

Philosophical Issues and Ultimate Control of Rates

There is a most significant aspect of the water rate setting process that has less to do with numbers and more to do with philosophical issues. Issues in this arena include but are not limited to the effect of rates on water conservation; the question of who benefits from the provision of state water and concomitant improvements, is it current customers or future customers who benefit most?; should rates be structured to favor residential users over business users?; should there flat charges, such as meter charges, and then slightly lower rates based on consumption?; should out-of-town users pay a larger share? Questions such as these can dramatically effect rates and how they are answered is to a large degree out of the control of staff. To that extent, any projections of future rate changes is subject to qualification.

CONCLUSION

Based upon the known financial information, no rate increase above those set in July, 1995, will be needed for the current fiscal year. For next fiscal year, the increased cost due to inflation and higher debt service can be absorbed by the existing rate structure if other costs are reduced. The City of Morro Bay will continue to remain vulnerable to unforeseen events due to the lack of reserves in the Water Funds. Future rate setting should consider incorporating a sound financial plan which would include the development of a capital financing plan and prudent reserves. In that way, ratepayers can be shielded from increases resulting from emergencies.

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POTENTIAL FUTURE COST COMPONENTS NOT INCLUDED IN REVENUE/EXPENDITURE CONSIDERATION

1. Statewide State Water Project Improvements: With the City's participation in the SWP it has obligation for pro rata share of statewide projects. Current statewide SWP subscriptions amount to approximately four million acre feet per year. If and when SWP excess allocation is secured, the City's share may be determined to be 2,626 acre feet although it's "capacity" share remains at 1,313 acre feet.

Improvements to the statewide system are under consideration, most particularly improvements and environmental mitigations in the Bay-Delta area. Proposition 204 on the November, 1996 ballot includes bonds in the amount of \$193 million for Bay-Delta Improvements and \$390 million for CALFED Bay-Delta Ecosystem Restoration, totaling \$583 million. If this ballot measure passes and is implemented, the City's total pro rata share would be about \$192,000 (for 1,313 acre feet) or about \$384,000 (for 2,626 acre feet). With a bond rate of 6% over 30 years, the debt service for the City's share would be about \$14,000 per year (1,313 acre feet) or \$28,000 per year (2,626 acre feet).

While it is likely these costs could be incorporated into the current rate/revenue structure without necessity for an additional increase, the total increase in Water Fund annual costs for the \$28,000 per year debt service is less than 1%.

In the future there may be additional statewide SWP system projects proposed. The City's ratepayers would be obligated to pay similar pro rata shares of any and all of these projects. Depending on the time frame within which these future projects are proposed and implemented, the City's costs may result in incremental annual cost increases. If subsequent projects are pursued prior to the retirement of the current bond debt service, total annual costs would increase but for any projects implemented after the retirement of the proposed re-financed SWP bond (in the year 2026) the ratepayers would have already seen deletion of the \$1.9 million per year SWP debt service.

It is not possible to quantify whether and when any additional statewide projects, above and beyond those contained within Proposition 204, would be proposed.

2.- Additional Potable Water Storage (or equivalent mitigation) if Chorro Valley Water is Unavailable: As result of the conditions of approval for the City's recently-issued groundwater appropriative rights permits, the potential exists that the community may lose the availability of the Chorro Valley wells during periods wherein the streamflow of Chorro Creek is below 1.4 cubic feet per second. The streamflow has historically been below this threshold level rate of flow between the months of May through November of most years.

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At the current rate of consumption (1.56 million gallons per day in August, 1996), potable water demands can be met in the short-term by full deliveries from the State Water Project and the City's Morro Valley wells. With the issuance of non-emergency permits for the desalination facility, there exists the ability to augment these production capabilities, although this operation is quite expensive and not contemplated as a long-term operational scenario.

As the community's population increases in accord with adopted planning policies, with the resultant increase in water demand, there will be a point whereat conjunctive use of State Water and the Morro Valley wells cannot meet peak summer demands. When this occurs in time is dependant upon the rate of new and/or more intensive development. With the delivery of 1.17 million gallons per day (mgd) from the SWP and permitted extractions of 0.68 mgd from the Morro Valley wells an increased summer demand of about 18.5% can be accommodated.

To be prepared for this seemingly eventual condition a number of options exist, several of which are now under pursuit.

-The City is pursuing judicial relief from the permit conditions which limit Chorro groundwater extractions based upon streamflow thresholds;

-This Department will be conducting a study of the City's Chorro Valley Ashurst well field, within which the City has five wells, to determine if, and if so to what extent, operation of these wells impacts streamflow. This study is specifically referenced in the permits and the City is eligible for permit amendments resultant of the conclusion of the study. Funds for the study were allocated in the current fiscal year budget and are being accumulated from the current water revenues. The study will be performed by a duly-qualified geo-hydrologist in conjunction with the Department of Fish and Game, the Regional Water Quality Control Board, National Estuary Program and other interested parties.

With the inability to shut down the Chorro Valley wells for any extensive period prior to delivery from some supplemental water source, the permit provides for preparation of the study after commencement of the deliveries. In informal discussion with SWRCB staff, it was alluded that the delay in issuing the groundwater permits since 1985 was result of waiting for the City to select and implement a supplemental water resource. Upon initiation of SWP deliveries, it will be necessary to wait until streamflow conditions drop to a rate whereat the study can provide the best science possible. It is anticipated that the study may be performed in late-summer, 1997.

-Irrespective of the results of this study and the possible permit modifications/amendments, the City is pursuing a wastewater reclamation feasibility study under a grant from CDBG. The study is being introduced to the City Council and the public as a separate agenda item at the October 28, 1996 meeting.

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 Water Rates/Expenditures, October 28, 1996
 Page 3

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The concept under consideration involves providing a treated wastewater discharge into the Chorro Creek watershed. Among the potential range of positive impacts to the watershed is the increase and regularizing of streamflow, particularly during low flow conditions. With an eventual discharge of 1.47 mgd, a 24-hour per day maximum flow rate of 2.27 cubic feet per second can be achieved as augmentation to existing creekflow. This rate of flow into the watershed would be more than the City would be extracting from the watershed as potable water and due regulatory consideration should be allowable.

-Construct storage facilities to hold water produced in winter and spring and deliver in summer and fall. This concept was outlined as a potential mitigation of cessation of groundwater extractions from the Chorro Valley in an August, 1995 City Council staff report on the matter of the impacts of the groundwater rights permits. While no cost estimates were provided, it was stated that the costs would be significant to add 48 million gallons of unprogrammed storage and potential treatment needs.

No such proposal exists nor can a circumstance be contemplated wherein a proposal with that magnitude of financial impacts upon the ratepayers would be considered by this Department to be a valid proposal. Other more feasible options exist which were not fully available in 1995, some outlined above, to restore Chorro Valley well operation. Restoration of Chorro Valley groundwater on a year-round basis is a critical component of future water supply in accord with current community planning policies.

-In the referenced August, 1995 staff report an alternate concept was outlined in which the community could revise it's General Plan and associated policy documents to accommodate the reduced population projections which could result from total loss of Chorro Valley water resources in the summer and fall, albeit without other mitigating circumstances. This option remains, as a concept, not a proposal, but is unexplored.

3. Unanticipated Revenue Loss Caused by San Luis Coastal Unified School District Proposal to Subscribe to State Water Project or Nacimiento Water Project: The School District, with it's three schools in the City, is one of the single highest sources of revenue for the Water Fund. The District has proposed to cease to be a customer of the City's water system and to receive water from either the State Water Project or the Nacimiento Project. While the District proposes to pay the City a modest annual amount for "wheeling" it's water through the City's system and would be subject to a pro rata share of costs in the Chorro Valley Pipeline, this proposal, if enacted, would result in substantial annual reductions in Water Fund revenue, possibly in excess of \$100,000 per year.

The financial impact of this proposal could necessitate a rate increase to offset the revenue loss if offsetting expenditure mitigations cannot be accomplished.

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Staff is in the process of determining whether the City is compelled to allow for this water customer to obtain an independent source of water. If no such compelling law exists, a recommendation to deny the proposal would be forwarded or, alternately, negotiations with the District would, by necessity provide adequate offset in revenue.

4. Substantial Reductions in Water Use: Water consumption estimates through which the current rate structure was developed were quite conservative. Actual consumption for the last two years has been about 3% higher than estimated and revenues have been slightly higher than predicted, albeit very slightly.

With the commencement of supplemental water supplies and revision of the Water Allocation Model and associated documents, the total number of water connections is predicted to increase modestly (by 30 customers per year) and thereby increase overall water consumption, without adversely impacting per capita consumption. In the event that overall water use increases along these lines of projection, certain accommodation can be provided for unanticipated expenditures. If, however, water usage decreases, the available revenues may not meet needs.

wtb:\fbill\ccouncil\water\1096rates

RESOLUTION NO. 57-95

RESOLUTION AMENDING THE MASTER FEE SCHEDULE INCREASING WATER RATES

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City wishes to continue to provide an adequate and reliable potable water supply; and

WHEREAS, to that end the City has approved participating in the State Water Project, construction of a desalination facility, and certain improvement projects necessary to treat, store and deliver potable water; and

WHEREAS, the existing water rate schedule delineated in the Master Fee Schedule does not provide for revenues adequate to meet identified needs for fiscal year 1995-96; and

WHEREAS, it is therefore appropriate and necessary to increase water rates effective July 1, 1995; and

WHEREAS, it has been deemed appropriate to provide for said increase through a uniform percentage increase to the water rate structure delineated in the Fiscal Year 1994-95 Master Fee Schedule; and

WHEREAS, it has been further determined appropriate to revise the minimum monthly charge for potable water.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the Master Fee schedule is hereby amended to reflect a uniform increase in water rates of 37% above those rates established in Resolution No. 56-94.

BE IT FURTHER RESOLVED the minimum monthly water billing rate shall be at that rate established for three billing units, irrespective of metered consumption of lesser amounts.

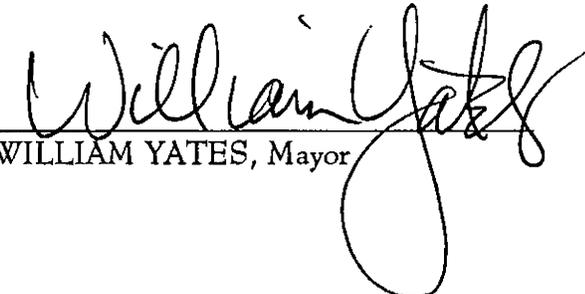
PASSED AND ADOPTED by the City Council of the City of Morro Bay at an adjourned regular meeting thereof held on the 25th day of May 1995 by the following vote:

AYES: Anderson, Unger, Yates

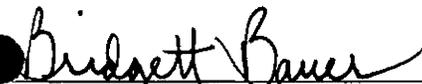
NOES: Crotzer, Novak

ABSENT: None

ABSTAIN: None


WILLIAM YATES, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk

LC:5:57-95A

MEMORANDUM

TO: Honorable Mayor and City Council

THROUGH: Forrest Henderson - City Administrator *FH*

FROM: Jon G. Crawford - Director of Public Works / City Engineer *JGC*

DATE: February 25, 1994

SUBJECT: Additional Water Rate Options Requested By WAB

At their recent special meeting on Wednesday February 23, 1994 members of the Water Advisory Board requested some additional options to the proposed water rate structures. Both options were based on the inverted block rate but deleted and reduced the impact fee, respectively. A copy of what has been transmitted to the Board members is attached for the City Council's information and use.

cc: Water Advisory Board
Rudy Hernandez - Finance Director
Bill Boucher - Operation Manager

WAB REQUESTED OPTION 2C INVERTED BLOCK RATE
NO IMPACT FEES

<u>Water Consumption</u>	<u>Unit Cost</u>	<u>Cumulative Costs</u>	<u>% Expense</u>
0-2 units	\$6.08	\$12.16	106.5%
3-4 units	\$6.38	\$24.92	109.6%
5-8 units	\$6.70	\$51.72	114.8%
9-12 units	\$7.04	\$79.88	118.7%
13-16 units	\$7.39	\$109.44	122.3%
17-20 units	\$7.76	\$140.48	125.9%
21-25 units	\$8.14	\$181.18	128.7%
26-50 units	\$8.55	\$394.93	123.1%
51-100 units	\$8.98	\$843.93	106.6%
101-150 units	\$9.43	\$1315.43	97.0%
151-200 units	\$9.90	\$1810.43	91.6%
201-300 units	\$10.39	\$2849.43	85.4%
301-500 units	\$10.91	\$5031.43	78.4%
501-750 units	\$11.46	\$7896.43	73.7%
751-1000 units	\$12.03	\$10,903.93	71.4%
1001-1500 units	\$12.63	\$17,218.93	69.1%
1501-2000 units	\$13.26	\$23,848.93	

WAB REQUESTED OPTION 2C INVERTED BLOCK RATE
IMPACT FEES = \$10,000 PER EQUIVALENCY

<u>Water Consumption</u>	<u>Unit Cost</u>	<u>Cumulative Costs</u>	<u>% Expense</u>
0-2 units	\$4.85	\$9.70	64.5%
3-4 units	\$5.10	\$19.90	67.4%
5-8 units	\$5.35	\$41.30	71.5%
9-12 units	\$5.62	\$63.78	74.6%
13-16 units	\$5.90	\$87.38	77.5%
17-20 units	\$6.19	\$112.14	80.3%
21-25 units	\$6.50	\$144.64	82.6%
26-50 units	\$6.83	\$315.39	78.2%
51-100 units	\$7.17	\$673.89	64.9%
101-150 units	\$7.53	\$1050.39	57.3%
151-200 units	\$7.90	\$1445.39	52.9%
201-300 units	\$8.30	\$2275.39	48.0%
301-500 units	\$8.71	\$4017.39	42.4%
501-750 units	\$9.15	\$6304.89	38.7%
751-1000 units	\$9.61	\$8707.39	36.9%
1001-1500 units	\$10.09	\$13,752.39	35.1%
1501-2000 units	\$10.60	\$19,052.39	



City of Morro
Bay
DEPARTMENT of PUBLIC WORKS

MEMORANDUM

to : Public Works Advisory Board

from : Director of Public Works

date : September 6, 1996

subject: Sun Bulletin Article Regarding Cayucos Water Rates

In an article in the September 4 - 10, 1996 issue of the Sun Bulletin, attached, increases in water rates for the community of Cayucos were outlined. The rate increases are driven by the construction of a water treatment plant to treat existing groundwater resources under the influence of a surface body of water (Surface Water Treatment Rule). This regulation is the same one which led the City to cease operation of Wells 8 and 12 several years ago due to the costs involved in construction and operation of a treatment plant.

It may be germane to point out that the costs the Cayucos ratepayers are now experiencing are those to treat their existing supply, not for a supplemental source. Note that there are three suppliers in Cayucos; CSA-10A, Paso Robles Beach and Morro Rock Mutual.

Morro Rock Mutual isn't increasing rates at this time.

A cursory comparison of their new residential rates and Morro Bay's is revealing:

<u>Supplier</u>	<u>Consumption</u>	<u>Monthly cost</u>
Morro Bay	0-3 billing units	\$16.43
Morro Bay	5 billing units	\$27.58
CSA -10A	Flat (5/8")	\$25.00 (billed every 2 months at minimum \$50/10 billing units)
P.R. Beach flat	Flat (5/8")	\$24.00 ("Water usage is then tacked on to the fees." Additional costs unspecified.)

For customers using up to 3 billing units per month CSA-10A rates are 52% higher than Morro Bay's and P.R. Beach's are 46% higher (at least).

Presumably, the acquisition of supplemental water resources for Cayucos will result in additional increases.

MEMORANDUM

TO: Honorable Mayor and City Council

THROUGH: Forrest Henderson - City Administrator *FH*

FROM: Jon G. Crawford - Director of Public Works / City Engineer *Jon G. Crawford*

SUBJECT: Proposed Water Rate Increases

Enclosed please find a copy of the staff report to the Water Advisory Board regarding the proposed increase in water rates. I am available to respond to your questions and concerns on the approach I took and how I hoped to spread the costs. Also included is the City of San Luis Obispo's impact fee ordinance as an example of the approach we can take in reducing the potential impacts to our consumers.

cc: *David Hunt*

CITY OF MORRO BAY
DEPARTMENT OF PUBLIC WORKSSTAFF REPORT

TO: WATER ADVISORY BOARD

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: PROPOSED WATER RATE INCREASE AND ALTERNATIVE RATE STRUCTURES

RECOMMENDATION

Staff recommends the Water Advisory board review the proposed rate structures and provide direction where the Board interprets the need for revision. Staff would further recommend the Board recommend Option 2A, Inverted Block rates in conjunction with the adoption of water impact fees for new construction. Staff would further recommend the Board also request the City Council to adopt the full needed increase at the earliest possible date and not subject the consumer to multiple increases.

SUMMARY

When the desalination facilities were constructed, all the focus of the existing rate structure was whether the debt service for these facilities could be covered. The long term needs of the existing delivery system and its expansion were non-existent. In addition the necessary rate structure to pay for the short term construction costs and the long term delivery costs of the State Water Project were not addressed. During the FY 1993-94 budget cycle, staff had included a 25% increase in the existing rate structure in order to get a jump on the revenue needs for the System. The proposed increase was removed from the budget and a majority of the existing reserves were used to balance the budget for the fiscal year. The existing budget of \$6,466,674 with \$290,000 in reserves is offset by revenues of \$1.8 M from rates and fees, a DWR loan of \$2.5 M, \$1.4 M in one time reimbursement (desal lease/option agreement) and \$1.05 M in one-time transfers from reserve funds.

With the City Council's decision of December 13, 1993 directing staff to pursue State Water as the favored option of the draft Water Management Plan for the City, staff sees the immediate need to revisit rate increases in order to meet the City's contractual obligations to the County for state water delivery and as a way to raise revenues to meet the existing deficiencies within the system, respectively. Staff also has noted the concerns of individual City Councilmembers and the WAB that the existing rate schedule is complicated at best and places too great a burden on the high-end

WATER ADVISORY STAFF REPORT

Page 3

revenue stream since the first years revenue needs are less and construction is only now rising from its economic woes. Attached is a copy of the City of San Luis Obispo ordinance regarding development impact fees.

WATER RATE OPTIONS

The various options are attached for your review. Staff will be available at your meeting for discussion of how the rates were obtained/calculated and other potential options. As a comparison, if the existing rate formula were to be continued, a one time increase of 229% would be required to generate the revenues shown while "only" a 133% increase if impact fees are adopted.

Annual Increase

Adoption of any of the proposed rate structures does not eliminate the need for continued review and increase of rates due to changes in construction costs, other forms of inflation or need to accelerate needed facilities. It is also anticipated that the proposed impact fee will need to be annually updated (read:increased) to correlate to the increased impacts on the system.

SUMMARY OF RATE INCREASE OPTIONS

OPTION 1A - FLAT RATE/SINGLE INCREASE

\$6.55 per unit - effective April 1, 1994

Range of % Increase = +124% to -4% Avg. = 118.0%

OPTION 1B - FLAT RATE/MULTIPLE INCREASE

\$5.00 per unit - effective April 1, 1994 (Avg. = 67.7%)

\$6.00 per unit - effective December 1, 1994 (20%)

\$6.78 per unit - effective July 1, 1995 (13%)

OPTION 1C - FLAT RATE/SINGLE INCREASE

Require Implementation of Impact Fees = \$15-17,500/equiv.

Assume 90 equivalencies of impact

\$4.45 per unit - effective April 1, 1994 (Avg. - 49.2%)

OPTION 1D - FLAT RATE/MULTIPLE INCREASE/IMPACT FEES

\$3.96 per unit - effective April 1, 1994 (Avg. = 32.8%)

\$4.51 per unit - effective July 1, 1994 (13.9%)

OPTION 2A - INVERTED BLOCK RATE**Requires Adoption of Impact Fees = \$15-17,500 per Water Equivalency**

Water Consumption	Unit Cost	Incremental Costs	Cumulative Costs	% Increase
0-2 units	\$4.08	\$8.16	\$8.16	39.30%
3-4 units	\$4.29	\$8.58	\$16.74	40.80%
5-8 units	\$4.50	\$18.00	\$34.74	44.30%
9-12 units	\$4.73	\$18.92	\$53.66	46.90%
13-16 units	\$4.96	\$19.84	\$73.50	49.30%
17-20 units	\$5.21	\$20.84	\$94.34	51.70%
20-25 units	\$5.47	\$27.35	\$121.69	53.60%
26-50 units	\$5.74	\$143.50	\$265.19	49.80%
51-100 units	\$6.03	\$301.50	\$566.69	38.70%
101-150 units	\$6.33	\$316.50	\$883.19	32.30%
151-200 units	\$6.65	\$332.50	\$1,215.69	28.80%
201-300 units	\$6.98	\$698.00	\$1,913.69	24.50%
301-500 units	\$7.33	\$1,466.00	\$3,379.69	19.80%
501-750 units	\$7.70	\$1,925.00	\$5,304.69	16.70%
751-1000 units	\$8.08	\$2,020.00	\$7,324.69	15.10%
1001-1500 units	\$8.48	\$4,240.00	\$11,564.69	13.60%
1501-2000 units	\$8.91	\$4,455.00	\$16,019.69	0.00%

Budgetary Estimates for Water Rates

	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	...	2003-04
Expenditures								
Allocated Costs	\$179,000	\$193,000	\$208,000	\$219,000	\$238,000	\$255,000	...	\$375,000
Personnel Costs	233,000	276,000	290,000	344,000	362,000	380,000	...	485,000
Supplies (Office)	47,000	49,000	52,000	55,000	57,000	60,000	...	73,000
Services and Charges	455,000	565,000	723,000	759,000	798,000	837,000	...	1,068,000
Capital Outlay	0	30,000	30,000	30,000	30,000	35,000	...	40,000
Debt Service	654,000	1,271,000	2,083,000	2,083,000	2,083,000	2,083,000	...	1,541,000
Operational Contingency	15,000	52,000	58,000	62,000	68,000	72,000	...	100,000
Capital Projects	418,000	550,000	655,000	621,000	543,000	520,000	...	500,000
Total Anticipated Expenditures	\$2,001,000	\$2,986,000	\$4,099,000	\$4,173,000	\$4,177,000	\$4,242,000	...	\$4,182,000
Capital Reserves	\$200,000	\$300,000	\$100,000	\$200,000	\$250,000	\$300,000	...	\$675,000
Debt Service Reserves	190,000	250,000	450,000	450,000	475,000	475,000	...	400,000
State Water Reserves	0	400,000	600,000	600,000	600,000	600,000	...	675,000
<i>Combined Reserves Carryover</i>	0	(390,000)	(950,000)	(1,150,000)	(1,250,000)	(1,325,000)	...	(1,500,000)
Additional Reserves Required	390,000	560,000	200,000	(100,000)	75,000	50,000	...	250,000
REVENUE REQUIRED	\$2,391,000	\$3,546,000	\$4,299,000	\$4,273,000	\$4,252,000	\$4,292,000	...	\$4,432,000
Water Usage (Low End Projection)	1350 A.F.	1350 A.F.	1400 A.F.	1450 A.F.	1500 A.F.	1550 A.F.	...	1900 A.F.
	\$4.06/unit	\$6.03/unit	\$7.04/unit	\$6.77/unit	\$6.50/unit	\$6.36/unit	...	\$5.36/unit

ARROYO GRANDE**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 17,395 (CA Dept. of Finance 1/1/2013)**Number of Services:** 6,292**Water Rates (eff. July 1, 2013):**Bi-Monthly Water Service Charges per 100 CF:
(based on 5/8" meter)

	<u>Inside City</u>	<u>Outside City</u>
Minimum Charge:	\$11.50	\$14.38
First 12 units/bi-month	\$3.37	\$4.21
Next 20 units/bi-month	\$3.74	\$4.68
Next 32 units/bi-month	\$4.23	\$5.29
Over 64 units/bi-month	\$5.12	\$6.40
Lopez Charge:	\$40.66	\$50.82
New Account Fee:	\$15.00	
Renter Deposit:	\$180.00	can be paid in two \$90.00 payments. Owner can waive deposit if owner is responsible for closing bill.
Returned Check Charge:	\$25.00	
Delinquent Charge:	10%	after 30 days
Late Charge:	\$30.00	after 45 days (if shut off)
New Meter Charges:	\$207.00 \$997.00 \$2,150.00	for 5/8" meter Distribution Fee Water Availability
Retrofit Requirements:	None	

ATASCADERO

RESIDENTIAL WATER RATES

JULY 2013

(Prepared by Atascadero Mutual Water Company)

Population Served: 32,660**Number of Services:** 10,609**Water Rates (eff. April 18, 2012):****Monthly Water Service Charges:**

Minimum Charge: \$18.00 (includes 2,000 gals.)

3,000 to 12,000 gals.:	\$2.10 per 1,000 gals.
13,000 to 25,000 gals.:	\$3.25 per 1,000 gals.
26,000 to 50,000 gals.:	\$4.80 per 1,000 gals.
51,000 to 75,000 gals.:	\$5.50 per 1,000 gals.
76,000 gals. and up:	\$6.00 per 1,000 gals.*

Homes in surcharge area pay an additional 15%

Nacimiento Water Surcharge \$2.50 per month**

Applies only to non-single family residences**Per meter except standby accounts*

New Account Fee:	None	
Renter Deposit:	None	owners are responsible for account
Returned Check Charge:	\$20.00	
Delinquent Charge:	\$50.00	(if shut off)
	\$100.00	(after-hours turn-on if shut off for non-payment)
Late Charge:	\$5.00	after 30 days
New Meter Charges:		
(3/4" meter)	\$1,670.00	Installation Fee (if installed by AMWC)
	\$19,600.00	Connection Fee

CAMBRIA

RESIDENTIAL WATER RATES
JULY 2013
(Prepared by Atascadero Mutual Water Company)

Population Served: 6,500

Number of Services: 4,014

Water Rates (eff. July 1, 2009):

Bi-Monthly Water Service Charges:

Bi-monthly residential rates per 100 CF Unit:

0-6 units	\$23.82	16 units	\$84.45
7 units	\$29.87	17 units	\$90.63
8 units	\$35.92	18 units	\$96.81
9 units	\$41.97	19 units	\$102.99
10 units	\$48.02	20 units	\$109.17
11 units	\$54.07	25 units	\$140.67
12 units	\$60.12	30 units	\$172.17
13 units	\$66.17	35 units	\$204.37
14 units	\$72.22	40 units	\$236.57
15 units	\$78.27	45 units	\$271.32 and so on

New Account Fee: \$ 38.50

Renter Deposit: \$100.00

Returned Check Charge: \$25.00

Delinquent Charge: \$29.50 48-hr. notice fee

Late Charge: 10% of delinquent amount with a min. of \$10.00 after 30 days

New Meter Charge: \$3,255.00 water connection plus
\$ 2,170.00 sewer connection fee
applicable retrofit fee

Retrofit Requirements: Assuming 2-bath home being built

0 - 4,000 sf parcel	\$5,000 (or 100 points)
4,001 - 8,000 sf parcel	\$6,250 (or 125 points)
8,001 - 16,000 sf parcel	\$7,500 (or 150 points)

* Points calculated based on fixture retrofit values

GROVER BEACH**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 13,211 (CA Dept. of Finance 1/1/2013)**Number of Services:** 4,690**Water Rates (eff. April 1, 2012):****Bi-Monthly Water Service Charges per 100 CF Unit:**
(plus 1% utility users tax)

Minimum Monthly Charge for 5/8" & 3/4" meter:	\$9.82/mo.
First 12 units	\$3.26
Next 8 units	\$3.44
Next 22 units	\$3.95
Over 42 units	\$4.38

New Account Fee: \$88.00**Tenant Deposit:** \$215.00**Returned Check Charge:** \$25.00**Delinquent Charge:** \$73.00 (business hours)
\$266.00 (after-hours turn-on)**Late Charge:** 10% or \$10.00**Door Hanger Fee:** \$20.00**New Meter Charges:**
(1" meter) \$427.00 plus 25%**Retrofit Requirements:** \$2,775.00 permit fee – goes into fund
to retrofit existing homes

HERITAGE RANCH**RESIDENTIAL WATER RATES**

July 2013

(Prepared by Atascadero Mutual Water Company)

Population Served: 3,500**Number of Services:** 1,760**Water Rates effective July 1, 2013:**Monthly Water Service Charges:

Fixed meter fee for a 5/8" x 3/4" water service = \$20.41

(1 Unit = 100 cubic feet or 748 gallons)

0-2 units:	Included in fixed meter fee (base rate)
3-21 units	\$2.80 per unit
22 units and up:	\$3.46 per unit

New Account/Transfer Fee: \$ 25.00**Renter Deposit:** Accounts must be held by property owner.
No deposit required.

Returned Check Charge:

\$ 20.00	– 1 st returned check
\$ 35.00	– 2 nd returned check
\$ 35.00	– 3 rd returned check
\$ 40.00	– each subsequent returned check

Delinquent Charge:

\$ 40.00	during normal business hours (if shut off)
\$120.00	if shut off after hours

Late Charge: 10% of account balance after 30 days

New Meter Charges:

\$500.00	Installation
\$1,456.00	Connection Fee

(5/8" meter)

MORRO BAY**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 10,317 (CA Dept. of Finance 1/1/2013)**Number of Services:** 5,400 (approx)**Water Rates (eff. July 1, 1995):**Monthly Water Service Charges per 100 CF Unit:

0-3 units	\$16.43	12 units	\$67.55	21 units	\$121.17
4 units	\$21.99	13 units	\$73.38	22 units	\$127.39
5 units	\$27.58	14 units	\$79.24	23 units	\$133.70
6 units	\$33.20	15 units	\$85.13	24 units	\$140.07
7 units	\$38.85	16 units	\$91.06	25 units	\$146.54
8 units	\$44.53	17 units	\$97.01	26 units	\$153.09
9 units	\$50.24	18 units	\$102.99	27 units	\$159.70
10 units	\$55.98	19 units	\$109.00	28 units	\$166.37
11 units	\$61.75	20 units	\$115.04	etc.	

NOTE: Water rates unchanged since 1995

New Account Fee:	\$25.00	application fee
Renter Deposit:	\$100.00	
Returned Check Charge:	\$ 25.00	for first,
	\$ 35.00	for all others
Delinquent Charges:	\$ 53.00	posting fee
	\$ 45.00	reconnect fee
Late Charge:	10%	after 30 days
New Meter Charges:	1" – 1-1/2"	\$1,771.00
	3/4" – 5/8"	\$1,320.00
		(purchase, install, and tie-in to line)

NIPOMO**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

	Town Div.
Population Served:	10,867
Number of Services:	4,187
Water Rates (eff. November 1, 2011):	
<u>Bi-Monthly water service charges:</u>	
Flat Rate for 1" meter or less	\$ 35.72
0 – 24 units	\$ 1.80
25 – 40 units	\$ 2.25
41 – 100 units	\$ 3.15
Greater than 100 units	\$ 5.40
 New Account Fee:	 \$ 10.00
Renter Deposit:	None owners ultimately responsible
Returned Check Charge:	\$ 15.00
Delinquent Charge:	\$ 50.00
Late Charge:	\$ 5.00 or 10%, whichever is less
New Meter Charge:	\$ 275.00 (5/8" meter)
Retrofit Requirements:	SLO County requirement: toilet (1.2 gpf) & showerhead (2.5 gpm) at the time of sale or transfer of title to another entity.

PASO ROBLES**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 30,504 (CA Dept. of Finance 1/1/2013)**Number of Services:** 10,664**Water Rates (eff. January 1, 2013):****Monthly Water Service Charges:****Rate per unit (per 100 CF):** \$3.20**New Account Fee:** \$42.00**Renter Deposit:** \$91.00**Returned Check Charge:** \$21.00**Delinquent Charge:** 10%**Door Hanger Fee:** \$32.00**No Payment Fee:** \$91.00**Late Charge:** 10% Applied on the 5th of each month**Other Charges (after-hours):** \$357.00

New Meter Charges:	\$179.00	Install meter only (3/4")
	\$206.00	Meter and meter box
	(Fee based on labor)	Tie into water main
	\$17,750.00	Connection Fee (3/4")

Retrofit Requirements: None

PISMO BEACH**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 8573**Number of Services:** 4,809**Water Rates (eff. June 1, 2012):****Bi-Monthly Water Service Charges:**

Meter Charge for 5/8": \$32.57

Charges for water usage:

0 - 1,200 CF: \$2.35 per 100 CF

1,200 + CF: \$3.05 per 100 CF

New Account Fee: \$45.00**Renter Deposit:** \$180.00 owners are not responsible
for account balance**First Returned Check Charge:** \$25.00

Subsequent Returned Check Charge: \$35.00

Delinquent Charge: \$30.00 (meter locked off)**Other Charges:** \$166.00 per year special tax per
EDU for fixed costs for
State and County (Lopez)
water, included in yearly tax
bill**New Meter Charges:** \$270.00 for installation
(3/4") (owner provides connection
and meter box)\$7,603.00 State Water Fee paid on
building application**Retrofit Requirements:** None

SAN LUIS OBISPO**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 45,541 (CA Dept. of Finance 1/1/2013)**Number of Services:** 14,500**Water Rates (eff. July 1, 2013):****Monthly Water Service Charges Per 100 CF Unit:**
(plus 5% utility users tax)

	<u>Inside City</u>	<u>Outside City</u>
Base Fee	\$5.00	\$10.00
1-8	\$6.56	\$13.12
9+	\$8.19	\$16.38
Account Set-up Fee:	\$ 60.00	during business hours
	\$255.00	after hours/weekends
Deposit Required:	\$ 90.00	if customer refuses to furnish Social Security #; otherwise, no deposit required
Returned Check Charge:	\$ 25.00	
Delinquent Charge:	\$ 97.00	restoration fee plus \$90.00 refundable deposit
Late Charge:	\$15.00 or 1.5%	of outstanding balance, whichever is greater, after 30 days
New Meter Charge:	\$ 82.00	install (owner provides connection and meter box)
Water Impact Fee:	\$17,383.00	SFR Rate
Retrofit Requirements:	None	

SANTA MARGARITA**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 1,259**Number of Services:** 539**Water Rates (eff. July 1, 2013):****Bi-Monthly Water Service Charges:****(CCF = 100 cubic feet or 748 gallons)**

0-10 CCF:	\$59.26 (minimum charge)
11 – 16 CCF:	\$2.83 per unit
Greater than 16 CCF and up:	\$3.62 per unit

New Account/Transfer Fee: None**Renter Deposit:** \$40.00**Returned Check Charge:** \$35.00**Reconnection of Water Service Charge:** \$60.00**Late Charge:** \$20.00**New Meter Charges:****(5/8" meter)**

\$1,500.00 Water Service Connection
\$350.00 Water Service Meter

TEMPLETON**RESIDENTIAL WATER RATES
JULY 2013**

(Prepared by Atascadero Mutual Water Company)

Population Served: 7,000

Number of Services: 2,650

Water Rates (eff. January 1, 2013):

Monthly water service charges:

Minimum Monthly charge (5/8" meter): \$16.10
(includes up to 300 CF)

301 – 2,000:	\$1.90/100 cu. ft.
2,001 – 4,000:	\$2.55/100 cu. ft.
4,001 – 8,000:	\$3.30/100 cu. ft.
8,001 +:	\$4.30/100 cu. ft.

Water service outside TCSD boundaries is at 120% of rates above.

New Account Fee: \$10.00

Renter Deposit: None owner ultimately responsible

Returned Check Charge: \$30.00 (can be waived)

Reconnection Charge: \$50.00 (can be waived)

Late Charge: 10% penalty after 20 days, plus 0.5%
interest after 30 days

New Meter Charge: \$24,478.00

CITY OF MORRO BAY
2010/11 ADOPTED ANNUAL BUDGET

WATER ACCUMULATION FUND

	<u>2004/05</u> <u>Actual</u>	<u>2005/06</u> <u>Actual</u>	<u>2006/07</u> <u>Actual</u>	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Amended</u> <u>Budget</u>	<u>2010/11</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 4,462,804	\$ 4,604,919	\$ 4,726,652	\$ 4,838,700	\$ 6,306,130	\$ 5,166,472	\$ 4,163,683
Revenues from:							
Impact fees	12,005	27,608	11,014	2,461	7,076	-	-
Interest income	64,637	94,125	189,119	299,987	156,771	50,000	50,000
Other income	-	-	-	-	1,537	-	-
Subtotal	76,642	121,733	200,133	302,448	165,384	50,000	50,000
Transfers in from operating fund	442,803	-	14,310	-	111,121	-	-
Total revenues and transfers in	519,445	121,733	214,443	302,448	276,505	50,000	50,000
Capital improvements	(377,330)	-	(102,395)	1,164,982	(1,288,628)	(100,000)	-
Transfer out to operating fund	-	-	-	-	(127,535)	(952,789)	(299,391)
Ending cash balance	<u>\$ 4,604,919</u>	<u>\$ 4,726,652</u>	<u>\$ 4,838,700</u>	<u>\$ 6,306,130</u>	<u>\$ 5,166,472</u>	<u>\$ 4,163,683</u>	<u>\$ 3,914,292</u>

CITY OF MORRO BAY
2011/12 ADOPTED ANNUAL BUDGET

WATER RESERVE FUND

	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>2010/11</u> <u>Amended</u> <u>Budget</u>	<u>2011/12</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 4,838,700	\$ 6,306,130	\$ 5,166,472	\$ 4,984,596	\$ 4,735,205
Revenues from:					
Impact fees	2,461	7,076	10,315	-	-
Interest income	299,987	156,771	85,426	50,000	15,000
Other income	-	1,537	534	-	-
Subtotal	302,448	165,384	96,275	50,000	15,000
Transfers in from operating fund	-	111,121	-	-	-
Total revenues and transfers in	302,448	276,505	96,275	50,000	15,000
Capital improvements	1,164,982	(1,288,628)	(278,151)	-	(750,000)
Transfer out to operating fund	-	(127,535)	-	(299,391)	(1,163,468)
Ending cash balance	\$ <u>6,306,130</u>	\$ <u>5,166,472</u>	\$ <u>4,984,596</u>	\$ <u>4,735,205</u>	\$ <u>2,836,737</u>

CITY OF MORRO BAY
2012/13 ADOPTED ANNUAL BUDGET

WATER RESERVE FUND

	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>Audited</u> <u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Amended</u> <u>Budget</u>	<u>2012/13</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 6,306,130	\$ 5,166,472	\$ 4,984,596	\$ 4,842,676	\$ 2,944,208
Revenues from:					
Impact fees	7,076	10,315	16,566	-	-
Interest income	156,771	85,426	44,964	15,000	15,000
Other income	1,537	534	546	-	-
Subtotal	165,384	96,275	62,076	15,000	15,000
Transfers in from operating fund	111,121	-	-	-	-
Total revenues and transfers in	276,505	96,275	62,076	15,000	15,000
Capital Improvements	(1,288,628)	(278,151)	-	(750,000)	-
Transfer out to operating fund	(127,535)	-	(203,996)	(1,163,468)	(928,896)
Total expenses	(1,416,163)	(278,151)	(203,996)	(1,913,468)	(928,896)
Revenues over(under) expenditures	(1,139,658)	(181,876)	(141,920)	(1,898,468)	(913,896)
Ending cash balance	\$ 5,166,472	\$ 4,984,596	\$ 4,842,676	\$ 2,944,208	\$ 2,030,312

CITY OF MORRO BAY
2013/14 ADOPTED ANNUAL BUDGET

WATER RESERVE FUND

	<u>2009/10 Actual</u>	<u>2010/11 Actual</u>	<u>2011/12 Actual</u>	<u>2012/13 Amended Budget</u>	<u>2013/14 Adopted Budget</u>
Beginning cash balance	\$ 5,166,472	\$ 4,984,596	\$ 4,842,676	\$ 4,350,747	\$ 3,436,851
Revenues from:					
Impact fees	10,315	16,566	6,920	-	-
Interest income	85,426	44,964	40,977	15,000	10,000
Other income	534	546	218	-	-
Subtotal	96,275	62,076	48,115	15,000	10,000
Transfers in from operating fund	-	-	135,864	-	-
Total revenues and transfers in	96,275	62,076	183,979	15,000	10,000
Capital improvements	(278,151)	-	-	-	(1,850,000)
Transfer out to operating fund	-	(203,996)	(675,908)	(928,896)	(250,755)
Total expenses	(278,151)	(203,996)	(675,908)	(928,896)	(2,100,755)
Revenues over(under) expenditures	(181,876)	(141,920)	(491,929)	(913,896)	(2,090,755)
Ending cash balance	\$ <u>4,984,596</u>	\$ <u>4,842,676</u>	\$ <u>4,350,747</u>	\$ <u>3,436,851</u>	\$ <u>1,346,096</u>

CITY OF MORRO BAY
2010/11 ADOPTED ANNUAL BUDGET

WATER REVENUE FUND

	<u>2004/05</u> <u>Actual</u>	<u>2005/06</u> <u>Actual</u>	<u>2006/07</u> <u>Actual</u>	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Amended</u> <u>Budget</u>	<u>2010/11</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 2,819,512	\$ 2,205,399	\$ 2,474,363	\$ 631,029	\$ (158,147)	\$ 786,088	\$ 786,088
Revenues from:							
Water sales	3,675,746	3,671,259	3,711,493	3,701,091	3,588,500	3,300,000	3,300,000
Service fees	58,961	104,491	91,919	83,297	129,144	39,700	67,000
Investment earnings	66,502	57,567	39,275	15,672	-	-	-
Other revenues	35,706	41,896	53,734	53,243	4,242	33,400	-
Subtotal	<u>3,836,915</u>	<u>3,875,213</u>	<u>3,896,421</u>	<u>3,853,303</u>	<u>3,721,886</u>	<u>3,373,100</u>	<u>3,367,000</u>
Transfers in from:							
Accumulation fund	-	-	-	-	127,535	952,789	299,391
Other	-	-	-	4,355	1,611,718	-	-
Total revenues and transfers in	<u>3,836,915</u>	<u>3,875,213</u>	<u>3,896,421</u>	<u>3,857,658</u>	<u>5,461,139</u>	<u>4,325,889</u>	<u>3,666,391</u>
Expenses for:							
Personnel	(498,897)	(653,335)	(633,342)	(630,708)	(653,711)	(718,084)	(733,810)
Supplies	(119,826)	(110,893)	(210,613)	(161,783)	(146,245)	(213,000)	(160,000)
Services	(2,314,931)	(1,798,090)	(2,125,578)	(2,267,215)	(2,399,436)	(2,534,015)	(2,504,606)
Other	(247,336)	(262,172)	(246,965)	(636,417)	(777,449)	(570,000)	-
Subtotal	<u>(3,180,990)</u>	<u>(2,824,490)</u>	<u>(3,216,498)</u>	<u>(3,696,123)</u>	<u>(3,976,841)</u>	<u>(4,035,099)</u>	<u>(3,398,416)</u>
Transfers out to:							
General fund for cost allocation	(253,323)	(256,323)	(256,323)	(261,160)	(428,942)	(290,790)	(267,975)
Equipment replacement fund	-	(23,236)	-	-	-	-	-
Capital improvement fund	(1,016,715)	(11,618)	(2,266,934)	(689,551)	-	-	-
Accumulation fund	-	(490,582)	-	-	(111,121)	-	-
Subtotal	<u>(1,270,038)</u>	<u>(781,759)</u>	<u>(2,523,257)</u>	<u>(950,711)</u>	<u>(540,063)</u>	<u>(290,790)</u>	<u>(267,975)</u>
Total expenses and transfers out	<u>(4,451,028)</u>	<u>(3,606,249)</u>	<u>(5,739,755)</u>	<u>(4,646,834)</u>	<u>(4,516,904)</u>	<u>(4,325,889)</u>	<u>(3,666,391)</u>
Revenues over(under) expenses and transfers out	<u>(614,113)</u>	<u>268,964</u>	<u>(1,843,334)</u>	<u>(789,176)</u>	<u>944,235</u>	<u>-</u>	<u>-</u>
Ending cash balance	<u>\$ 2,205,399</u>	<u>\$ 2,474,363</u>	<u>\$ 631,029</u>	<u>\$ (158,147)</u>	<u>\$ 786,088</u>	<u>\$ 786,088</u>	<u>\$ 786,088</u>

CITY OF MORRO BAY
2011/12 ADOPTED ANNUAL BUDGET

WATER REVENUE FUND

	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>2010/11</u> <u>Amended</u> <u>Budget</u>	<u>2011/12</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 689,551	\$ 64,347	\$ 76,105	\$ (340,834)	\$ (340,834)
Revenues from:					
Water sales	3,701,091	3,588,500	3,451,279	3,300,000	3,300,000
Service fees	125,999	129,144	111,950	67,000	68,000
Investment earnings	15,672	-	-	-	-
Other revenues	10,541	4,242	791	-	20,000
Subtotal	<u>3,853,303</u>	<u>3,721,886</u>	<u>3,564,020</u>	<u>3,367,000</u>	<u>3,388,000</u>
Transfers in from:					
Reserve fund	-	127,535	-	299,391	1,913,468
Other	-	1,611,718	54,612	-	-
Subtotal	<u>-</u>	<u>1,739,253</u>	<u>54,612</u>	<u>299,391</u>	<u>1,913,468</u>
Total revenues and transfers in	<u>3,853,303</u>	<u>5,461,139</u>	<u>3,618,632</u>	<u>3,666,391</u>	<u>5,301,468</u>
Expenses for:					
Personnel	(630,708)	(653,711)	(728,891)	(733,810)	(877,800)
Supplies	(93,702)	(146,244)	(255,591)	(160,000)	(190,000)
Services	(2,335,296)	(2,399,437)	(2,533,363)	(2,504,606)	(2,861,646)
Other - no depreciation	(468,090)	(176,164)	(299,612)	-	(10,000)
Subtotal	<u>(3,527,796)</u>	<u>(3,375,556)</u>	<u>(3,817,457)</u>	<u>(3,398,416)</u>	<u>(3,939,446)</u>
Transfers out to:					
General fund for cost allocation	(261,160)	(428,942)	-	(267,975)	(271,188)
Equipment replacement fund	-	-	-	-	-
Capital improvement fund	(689,551)	(1,533,762)	(218,114)	-	(750,000)
Reserve fund	-	(111,121)	-	-	-
Subtotal	<u>(950,711)</u>	<u>(2,073,825)</u>	<u>(218,114)</u>	<u>(267,975)</u>	<u>(1,021,188)</u>
Total expenses and transfers out	<u>(4,478,507)</u>	<u>(5,449,381)</u>	<u>(4,035,571)</u>	<u>(3,666,391)</u>	<u>(4,960,634)</u>
Revenues over(under) expenses and transfers out	<u>(625,204)</u>	<u>11,758</u>	<u>(416,939)</u>	<u>-</u>	<u>340,834</u>
Ending cash balance	\$ <u>64,347</u>	\$ <u>76,105</u>	\$ <u>(340,834)</u>	\$ <u>(340,834)</u>	\$ <u>-</u>

NOTES:

Resolution No. 48-08, adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.

CITY OF MORRO BAY
2012/13 ADOPTED ANNUAL BUDGET

WATER REVENUE FUND

	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>Audited</u> <u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Amended</u> <u>Budget</u>	<u>2012/13</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 64,347	\$ 76,105	\$ (340,834)	\$ (629,196)	\$ (288,362)
Revenues from:					
Water sales	3,588,500	3,451,279	3,323,916	3,300,000	3,400,000
Service fees	129,144	111,950	103,643	68,000	62,500
Other revenues	4,242	791	5,135	20,000	-
Subtotal	<u>3,721,886</u>	<u>3,564,020</u>	<u>3,432,694</u>	<u>3,388,000</u>	<u>3,462,500</u>
Transfers in from:					
Reserve fund	127,535	-	222,327	1,913,468	928,896
Other	1,611,718	54,612	342	-	-
Subtotal	<u>1,739,253</u>	<u>54,612</u>	<u>222,669</u>	<u>1,913,468</u>	<u>928,896</u>
Total revenues and transfers in	<u>5,461,139</u>	<u>3,618,632</u>	<u>3,655,363</u>	<u>5,301,468</u>	<u>4,391,396</u>
Expenses for:					
Personnel	(653,711)	(728,891)	(755,617)	(877,800)	(990,600)
Supplies	(146,244)	(255,591)	(228,166)	(190,000)	(170,000)
Services	(2,399,437)	(2,533,363)	(2,586,033)	(2,861,646)	(2,656,246)
Other (no depreciation)	(176,164)	(299,612)	(105,934)	(10,000)	(15,000)
Subtotal	<u>(3,375,556)</u>	<u>(3,817,457)</u>	<u>(3,675,750)</u>	<u>(3,939,446)</u>	<u>(3,831,846)</u>
Transfers out to:					
General fund for cost allocation	(428,942)	-	(267,975)	(271,188)	(271,188)
Equipment replacement fund	-	-	-	-	-
Capital improvement fund	(1,533,762)	(218,114)	-	(750,000)	-
Reserve fund	(111,121)	-	-	-	-
Subtotal	<u>(2,073,825)</u>	<u>(218,114)</u>	<u>(267,975)</u>	<u>(1,021,188)</u>	<u>(271,188)</u>
Total expenses and transfers out	<u>(5,449,381)</u>	<u>(4,035,571)</u>	<u>(3,943,725)</u>	<u>(4,960,634)</u>	<u>(4,103,034)</u>
Revenues over(under) expenses and transfers out	<u>11,758</u>	<u>(416,939)</u>	<u>(288,362)</u>	<u>340,834</u>	<u>288,362</u>
Ending cash balance	\$ <u>76,105</u>	\$ <u>(340,834)</u>	\$ <u>(629,196)</u>	\$ <u>(288,362)</u>	\$ <u>-</u>

NOTES:

Resolution No. 48-08; adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.

CITY OF MORRO BAY
2013/14 ADOPTED ANNUAL BUDGET

WATER REVENUE FUND

	2009/10 Actual	2010/11 Actual	2011/12 Actual	2012/13 Amended Budget	2013/14 Adopted Budget
Beginning cash balance	\$ (38,519)	\$ (455,458)	\$ 375,192	\$ (114)	\$ 288,248
Revenues from:					
Water sales	3,451,279	3,323,916	3,325,454	3,400,000	3,400,000
Service fees	111,950	103,643	100,040	62,500	65,000
Other revenues	791	5,135	1,552	-	-
Subtotal	<u>3,564,020</u>	<u>3,432,694</u>	<u>3,427,046</u>	<u>3,462,500</u>	<u>3,465,000</u>
Transfers in from:					
Reserve fund	-	222,327	662,808	928,896	250,755
Other	54,612	342	14,408	-	-
Subtotal	<u>54,612</u>	<u>222,669</u>	<u>677,216</u>	<u>928,896</u>	<u>250,755</u>
Total revenues and transfers in	<u>3,618,632</u>	<u>3,655,363</u>	<u>4,104,262</u>	<u>4,391,396</u>	<u>3,715,755</u>
Expenses for:					
Personnel	(728,891)	(755,617)	(782,729)	(990,600)	(917,839)
Supplies	(255,591)	(228,166)	(182,847)	(170,000)	(126,750)
Services	(2,533,363)	(1,467,021)	(3,208,479)	(2,656,246)	(2,683,073)
Other (no depreciation)	(299,612)	(105,934)	(34,325)	(15,000)	-
Subtotal	<u>(3,817,457)</u>	<u>(2,556,738)</u>	<u>(4,208,380)</u>	<u>(3,831,846)</u>	<u>(3,727,662)</u>
Transfers out to:					
General fund for cost allocation	-	(267,975)	(271,188)	(271,188)	(276,341)
Equipment replacement fund	-	-	-	-	-
Capital improvement fund	(218,114)	-	-	-	-
Reserve fund	-	-	-	-	-
Subtotal	<u>(218,114)</u>	<u>(267,975)</u>	<u>(271,188)</u>	<u>(271,188)</u>	<u>(276,341)</u>
Total expenses and transfers out	<u>(4,035,571)</u>	<u>(2,824,713)</u>	<u>(4,479,568)</u>	<u>(4,103,034)</u>	<u>(4,004,003)</u>
Revenues over(under) expenses and transfers out	<u>(416,939)</u>	<u>830,650</u>	<u>(375,306)</u>	<u>288,362</u>	<u>(288,248)</u>
Ending cash balance	\$ <u>(455,458)</u>	\$ <u>375,192</u>	\$ <u>(114)</u>	\$ <u>288,248</u>	\$ <u>-</u>

NOTES:

Resolution No. 48-08, adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.

CITY OF MORRO BAY
2010/11 ADOPTED ANNUAL BUDGET

SEWER ACCUMULATION FUND

	<u>2004/05</u> Actual	<u>2005/06</u> Actual	<u>2006/07</u> Actual	<u>2007/08</u> Actual	<u>2008/09</u> Actual	<u>2009/10</u> Amended Budget	<u>2010/11</u> Adopted Budget
Beginning cash balance	\$ 1,820,465	\$ 1,916,242	\$ 1,862,146	\$ 2,113,842	\$ 2,652,349	\$ 2,958,118	\$ 1,993,326
Revenues from:							
Impact fees	84,424	147,530	90,334	25,541	34,471	-	-
Interest income	41,353	62,880	218,504	142,330	72,761	-	30,000
Subtotal	125,777	210,410	308,838	168,871	107,232	-	30,000
Transfers in from:							
Capital improvement	-	-	180,003	412,397	-	-	-
Revenue fund	-	-	-	241,071	773,534	-	347,509
Total revenues and transfers in	125,777	210,410	488,841	822,339	880,766	-	377,509
Capital improvements	(30,000)	-	(179,145)	(253,075)	(29,799)	(400,000)	-
Transfer out to:							
Sewer Equipment Replacement Fund	-	-	-	-	-	(15,000)	-
Sewer Revenue Fund	-	(264,506)	(58,000)	(30,757)	(545,198)	(549,792)	-
Total capital and transfers out	(30,000)	(264,506)	(237,145)	(283,832)	(574,997)	(964,792)	-
Revenues and transfers over (under) capital improvements and transfers out	95,777	(54,096)	251,696	538,507	305,769	(964,792)	377,509
Ending cash balance	\$ 1,916,242	\$ 1,862,146	\$ 2,113,842	\$ 2,652,349	\$ 2,958,118	\$ 1,993,326	\$ 2,370,835

CITY OF MORRO BAY
2011/12 ADOPTED ANNUAL BUDGET

SEWER RESERVE FUND

	2007/08 Actual	2008/09 Actual	2009/10 Actual	2010/11 Amended Budget	2011/12 Adopted Budget
Beginning cash balance	\$ 1,813,842	\$ 2,352,349	\$ 2,658,118	\$ 2,978,205	\$ 3,355,714
Revenues from:					
Impact fees	26,541	34,471	21,197	-	-
Interest income	142,330	72,761	66,248	30,000	10,000
Subtotal	<u>168,871</u>	<u>107,232</u>	<u>87,445</u>	<u>30,000</u>	<u>10,000</u>
Transfers in from:					
Capital improvement	412,397	-	389,349	-	-
Revenue fund	241,071	773,534	-	347,509	1,100,000
Subtotal	<u>653,468</u>	<u>773,534</u>	<u>389,349</u>	<u>347,509</u>	<u>1,100,000</u>
Total revenues and transfers in	<u>822,339</u>	<u>880,766</u>	<u>476,794</u>	<u>377,509</u>	<u>1,110,000</u>
Capital improvements	<u>(253,075)</u>	<u>(29,799)</u>	<u>(156,707)</u>	<u>-</u>	<u>-</u>
Transfer out to:					
Sewer Equipment Replacement Fund	-	-	-	-	-
Sewer Revenue Fund	<u>(30,757)</u>	<u>(545,198)</u>	<u>-</u>	<u>-</u>	<u>-</u>
Subtotal	<u>(30,757)</u>	<u>(545,198)</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total capital and transfers out	<u>(283,832)</u>	<u>(574,997)</u>	<u>(156,707)</u>	<u>-</u>	<u>-</u>
Revenues and transfers over(under) capital improvements and transfers out	<u>538,507</u>	<u>305,769</u>	<u>320,087</u>	<u>377,509</u>	<u>1,110,000</u>
Ending cash balance	\$ <u>2,352,349</u>	\$ <u>2,658,118</u>	\$ <u>2,978,205</u>	\$ <u>3,355,714</u>	\$ <u>4,465,714</u>

CITY OF MORRO BAY
2012/13 ADOPTED ANNUAL BUDGET

SEWER RESERVE FUND

	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>Audited</u> <u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Amended</u> <u>Budget</u>	<u>2012/13</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 2,352,349	\$ 2,658,118	\$ 2,978,205	\$ 2,997,320	\$ 4,107,320
Revenues from:					
Impact fees	34,471	21,197	32,563	-	-
Interest income	72,761	66,248	40,305	10,000	30,000
Subtotal	<u>107,232</u>	<u>87,445</u>	<u>72,868</u>	<u>10,000</u>	<u>30,000</u>
Transfers in from:					
Capital improvement	-	389,349	630	-	-
Revenue fund	773,534	-	-	1,100,000	1,794,657
Subtotal	<u>773,534</u>	<u>389,349</u>	<u>630</u>	<u>1,100,000</u>	<u>1,794,657</u>
Total revenues and transfers in	<u>880,766</u>	<u>476,794</u>	<u>73,498</u>	<u>1,110,000</u>	<u>1,824,657</u>
Capital improvements	<u>(29,799)</u>	<u>(156,707)</u>	<u>-</u>	<u>-</u>	<u>-</u>
Transfer out to:					
Sewer Equipment Replacement Fund	-	-	(53,708)	-	(25,000)
Sewer Revenue Fund	(545,198)	-	(675)	-	-
Subtotal	<u>(545,198)</u>	<u>-</u>	<u>(54,383)</u>	<u>-</u>	<u>(25,000)</u>
Total capital and transfers out	<u>(574,997)</u>	<u>(156,707)</u>	<u>(54,383)</u>	<u>-</u>	<u>(25,000)</u>
Revenues and transfers over(under) capital improvements and transfers out	<u>305,769</u>	<u>320,087</u>	<u>19,115</u>	<u>1,110,000</u>	<u>1,799,657</u>
Ending cash balance	\$ <u>2,658,118</u>	\$ <u>2,978,205</u>	\$ <u>2,997,320</u>	\$ <u>4,107,320</u>	\$ <u>5,906,977</u>

CITY OF MORRO BAY
2013/14 ADOPTED ANNUAL BUDGET

SEWER RESERVE FUND

	<u>2009/10</u> <u>Actual</u>	<u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Actual</u>	<u>2012/13</u> <u>Amended</u> <u>Budget</u>	<u>2013/14</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 2,658,118	\$ 2,978,205	\$ 2,997,320	\$ 3,885,574	\$ 5,665,231
Revenues from:					
Impact fees	21,197	32,563	12,703	-	-
Interest income	66,248	40,305	33,523	30,000	20,000
Subtotal	<u>87,445</u>	<u>72,868</u>	<u>46,226</u>	<u>30,000</u>	<u>20,000</u>
Transfers in from:					
Capital improvement	389,349	630	-	-	-
Revenue fund	-	-	2,027,123	1,794,657	584,353
Subtotal	<u>389,349</u>	<u>630</u>	<u>2,027,123</u>	<u>1,794,657</u>	<u>584,353</u>
Total revenues and transfers in	<u>476,794</u>	<u>73,498</u>	<u>2,073,349</u>	<u>1,824,657</u>	<u>604,353</u>
Capital improvements	<u>(156,707)</u>	<u>-</u>	<u>(1,185,095)</u>	<u>-</u>	<u>(1,110,000)</u>
Transfer out to:					
Sewer Equipment Replacement Fund	-	(53,708)	-	(45,000)	(115,000)
Sewer Revenue Fund	-	(675)	-	-	-
Subtotal	<u>-</u>	<u>(54,383)</u>	<u>-</u>	<u>(45,000)</u>	<u>(115,000)</u>
Total capital and transfers out	<u>(156,707)</u>	<u>(54,383)</u>	<u>(1,185,095)</u>	<u>(45,000)</u>	<u>(1,225,000)</u>
Revenues and transfers over(under) capital improvements and transfers out	<u>320,087</u>	<u>19,115</u>	<u>888,254</u>	<u>1,779,657</u>	<u>(620,647)</u>
Ending cash balance	\$ <u>2,978,205</u>	\$ <u>2,997,320</u>	\$ <u>3,885,574</u>	\$ <u>5,665,231</u>	\$ <u>5,044,584</u>

CITY OF MORRO BAY
2010/11 ADOPTED ANNUAL BUDGET

SEWER REVENUE FUND

	<u>2004/05</u> <u>Actual</u>	<u>2005/06</u> <u>Actual</u>	<u>2006/07</u> <u>Actual</u>	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Amended</u> <u>Budget</u>	<u>2010/11</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ (186,477)	\$ (156,680)	\$ 206,109	\$ 466,730	\$ (66,465)	\$ (126,716)	\$ 762,076
Revenues from:							
Sewer user fees	1,361,839	1,457,052	1,447,950	2,023,289	3,091,638	2,750,000	2,853,000
Intergovernmental	-	-	-	-	66,721	-	-
Investment earnings	20,238	34,214	19,000	2,384	19,132	-	18,000
Other revenues	3,595	7,820	(1,000)	-	22,283	19,250	-
Subtotal	<u>1,385,672</u>	<u>1,499,086</u>	<u>1,465,950</u>	<u>2,025,673</u>	<u>3,199,774</u>	<u>2,769,250</u>	<u>2,871,000</u>
Transfers in from:							
Accumulation fund	-	264,506	458,464	30,737	-	549,792	-
Other	-	-	-	4,470	545,198	-	-
Total revenues and transfers in	<u>1,385,672</u>	<u>1,763,592</u>	<u>1,924,414</u>	<u>2,060,880</u>	<u>3,744,972</u>	<u>3,319,042</u>	<u>2,871,000</u>
Expenses for:							
Personnel	(141,199)	(131,147)	(263,697)	(343,824)	(386,628)	(582,648)	(638,000)
Supplies	(7,266)	(8,474)	(18,700)	(27,946)	(90,622)	(145,000)	(108,000)
Services	(11,101)	(2,436)	(54,845)	(155,353)	(271,600)	(276,646)	(283,396)
MB/CSD Wastewater Treatment Plant	(1,026,299)	(1,074,828)	(1,156,541)	(1,654,871)	(1,502,500)	(1,225,855)	(1,334,380)
Subtotal	<u>(1,185,865)</u>	<u>(1,216,885)</u>	<u>(1,493,783)</u>	<u>(2,181,994)</u>	<u>(2,251,350)</u>	<u>(2,230,149)</u>	<u>(2,363,776)</u>
Transfers out to:							
General fund for cost allocation	(170,010)	(170,010)	(170,010)	(170,010)	(177,233)	(200,101)	(159,715)
Capital improvement	-	-	-	(181,132)	(543,106)	-	-
Equipment replacement fund	-	(13,908)	-	-	(60,000)	-	-
Accumulation fund	-	-	-	(60,939)	(773,534)	-	(347,509)
Subtotal	<u>(170,010)</u>	<u>(183,918)</u>	<u>(170,010)</u>	<u>(412,081)</u>	<u>(1,553,873)</u>	<u>(200,101)</u>	<u>(507,224)</u>
Total expenses and transfers out	<u>(1,355,875)</u>	<u>(1,400,803)</u>	<u>(1,663,793)</u>	<u>(2,594,075)</u>	<u>(3,805,223)</u>	<u>(2,430,250)</u>	<u>(2,871,000)</u>
Revenues over(under) expenses and transfers out	<u>29,797</u>	<u>362,789</u>	<u>260,621</u>	<u>(533,195)</u>	<u>(60,251)</u>	<u>888,792</u>	<u>-</u>
Ending cash balance	<u>\$ (156,680)</u>	<u>\$ 206,109</u>	<u>\$ 466,730</u>	<u>\$ (66,465)</u>	<u>\$ (126,716)</u>	<u>\$ 762,076</u>	<u>\$ 762,076</u>

CITY OF MORRO BAY
2011/12 ADOPTED ANNUAL BUDGET

SEWER REVENUE FUND

	<u>2007/08</u> <u>Actual</u>	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>2010/11</u> <u>Amended</u> <u>Budget</u>	<u>2011/12</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 466,730	\$ 232,709	\$ 590,827	\$ 1,279,756	\$ 1,279,756
Revenues from:					
Sewer user fees	2,002,547	3,110,842	3,296,452	2,853,000	3,317,000
Intergovernmental	-	-	143,193	-	-
Investment earnings	21,066	19,132	19,582	18,000	19,000
Other revenues	2,060	2,517	2,528	-	-
Subtotal	<u>2,025,673</u>	<u>3,132,491</u>	<u>3,461,755</u>	<u>2,871,000</u>	<u>3,336,000</u>
Transfers in from:					
Reserve fund	33,188	-	58,348	-	-
Other	2,019	545,198	-	-	-
Subtotal	<u>35,207</u>	<u>545,198</u>	<u>58,348</u>	<u>-</u>	<u>-</u>
Total revenues and transfers in	<u>2,060,880</u>	<u>3,677,689</u>	<u>3,520,103</u>	<u>2,871,000</u>	<u>3,336,000</u>
Expenses for:					
Personnel	(344,044)	(386,628)	(452,449)	(638,000)	(777,800)
Supplies	(60,634)	(86,677)	(103,511)	(108,000)	(100,000)
Services	(220,856)	(237,502)	(288,626)	(283,396)	(539,384)
Other (no depreciation)	(32,431)	(49,664)	(271,073)	-	(8,000)
Capital improvement	(180,132)	-	-	-	(250,000)
MB/CSD Wastewater Treatment Plant	(1,225,855)	(1,546,314)	(1,568,081)	(1,334,380)	(1,395,745)
Subtotal	<u>(2,063,952)</u>	<u>(2,306,785)</u>	<u>(2,683,740)</u>	<u>(2,363,776)</u>	<u>(3,070,929)</u>
Transfers out to:					
General fund for cost allocation	(170,010)	(177,233)	(147,434)	(159,715)	(161,630)
Equipment replacement fund	-	(60,000)	-	-	-
Reserve fund	(60,939)	(775,553)	-	(347,509)	(1,100,000)
Subtotal	<u>(230,949)</u>	<u>(1,012,786)</u>	<u>(147,434)</u>	<u>(507,224)</u>	<u>(1,261,630)</u>
Total expenses and transfers out	<u>(2,294,901)</u>	<u>(3,319,571)</u>	<u>(2,831,174)</u>	<u>(2,871,000)</u>	<u>(4,332,559)</u>
Revenues over(under) expenses and transfers out	<u>(234,021)</u>	<u>358,118</u>	<u>688,929</u>	<u>-</u>	<u>(996,559)</u>
Ending cash balance	<u>\$ 232,709</u>	<u>\$ 590,827</u>	<u>\$ 1,279,756</u>	<u>\$ 1,279,756</u>	<u>\$ 283,197</u>

NOTES:

Resolution No. 48-08, adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.
With the 2011/12 fiscal year, excess cash, approximately \$1,100,000, will transfer to the Sewer Reserve Fund.

CITY OF MORRO BAY
2012/13 ADOPTED ANNUAL BUDGET

SEWER REVENUE FUND

	<u>2008/09</u> <u>Actual</u>	<u>2009/10</u> <u>Actual</u>	<u>Audited</u> <u>2010/11</u> <u>Actual</u>	<u>2011/12</u> <u>Amended</u> <u>Budget</u>	<u>2012/13</u> <u>Adopted</u> <u>Budget</u>
Beginning cash balance	\$ 232,709	\$ 590,827	\$ 1,279,756	\$ 2,055,392	\$ 1,058,833
Revenues from:					
Sewer user fees	3,110,842	3,296,452	3,445,189	3,317,000	3,517,000
Intergovernmental	-	143,193	214,930	-	-
Rental income	19,132	19,582	19,582	19,000	19,000
Other revenues	2,517	2,528	30,283	-	-
Subtotal	<u>3,132,491</u>	<u>3,461,755</u>	<u>3,709,984</u>	<u>3,336,000</u>	<u>3,536,000</u>
Transfers in from:					
Reserve fund	-	58,348	54,321	-	-
Other	545,198	-	7	-	-
Subtotal	<u>545,198</u>	<u>58,348</u>	<u>54,328</u>	<u>-</u>	<u>-</u>
Total revenues and transfers in	<u>3,677,689</u>	<u>3,520,103</u>	<u>3,764,312</u>	<u>3,336,000</u>	<u>3,536,000</u>
Expenses for:					
Personnel	(386,628)	(452,449)	(515,655)	(777,800)	(634,288)
Supplies	(86,677)	(103,511)	(60,457)	(100,000)	(92,500)
Services	(237,502)	(288,626)	(307,088)	(539,384)	(437,134)
Other (no depreciation)	(49,664)	(271,073)	(21,004)	(8,000)	(10,000)
Capital improvement	-	-	-	(250,000)	-
MB/CSD Wastewater Treatment Plant	(1,546,314)	(1,568,081)	(1,924,757)	(1,395,745)	(1,464,624)
Subtotal	<u>(2,306,785)</u>	<u>(2,683,740)</u>	<u>(2,828,961)</u>	<u>(3,070,929)</u>	<u>(2,638,546)</u>
Transfers out to:					
General fund for cost allocation	(177,233)	(147,434)	(159,715)	(161,630)	(161,630)
Equipment replacement fund	(60,000)	-	-	-	-
Reserve fund	(775,553)	-	-	(1,100,000)	(1,794,657)
Subtotal	<u>(1,012,786)</u>	<u>(147,434)</u>	<u>(159,715)</u>	<u>(1,261,630)</u>	<u>(1,956,287)</u>
Total expenses and transfers out	<u>(3,319,571)</u>	<u>(2,831,174)</u>	<u>(2,988,676)</u>	<u>(4,332,559)</u>	<u>(4,594,833)</u>
Revenues over(under) expenses and transfers out	<u>358,118</u>	<u>688,929</u>	<u>775,636</u>	<u>(996,559)</u>	<u>(1,058,833)</u>
Ending cash balance	\$ <u>590,827</u>	\$ <u>1,279,756</u>	\$ <u>2,055,392</u>	\$ <u>1,058,833</u>	\$ <u>-</u>

NOTES:

Resolution No. 48-08, adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.

With the 2011/12 fiscal year, excess cash, approximately \$1,100,000, will transfer to the Sewer Reserve Fund.

CITY OF MORRO BAY
2013/14 ADOPTED ANNUAL BUDGET

SEWER REVENUE FUND

	<u>2009/10</u> Actual	<u>2010/11</u> Actual	<u>2011/12</u> Actual	<u>2012/13</u> Amended Budget	<u>2013/14</u> Adopted Budget
Beginning cash balance	\$ 590,827	\$ 1,279,756	\$ 2,055,392	\$ 2,238,999	\$ 1,180,166
Revenues from:					
Sewer user fees	3,296,452	3,445,189	3,610,534	3,517,000	3,675,000
Intergovernmental	143,193	214,930	24,688	-	-
Rental income	19,582	19,582	19,665	19,000	19,000
Other revenues	2,528	30,283	29,931	-	25,000
Subtotal	<u>3,461,755</u>	<u>3,709,984</u>	<u>3,684,818</u>	<u>3,536,000</u>	<u>3,719,000</u>
Transfers in from:					
Reserve fund	58,348	54,321	1,170,112	-	-
Other	-	7	-	-	-
Subtotal	<u>58,348</u>	<u>54,328</u>	<u>1,170,112</u>	<u>-</u>	<u>-</u>
Total revenues and transfers in	<u>3,520,103</u>	<u>3,764,312</u>	<u>4,854,930</u>	<u>3,536,000</u>	<u>3,719,000</u>
Expenses for:					
Personnel	(452,449)	(515,655)	(527,364)	(634,288)	(748,307)
Supplies	(103,511)	(60,457)	(54,824)	(92,500)	(91,500)
Services	(288,626)	(307,088)	(188,275)	(437,134)	(446,855)
Other (no depreciation)	(271,073)	(21,004)	(91,448)	(10,000)	-
MB/CSD Wastewater Treatment Plant	(1,568,081)	(1,924,757)	(1,853,768)	(1,464,624)	(2,863,450)
Subtotal	<u>(2,683,740)</u>	<u>(2,828,961)</u>	<u>(2,715,679)</u>	<u>(2,638,546)</u>	<u>(4,150,112)</u>
Transfers out to:					
General fund for cost allocation	(147,434)	(159,715)	(161,630)	(161,630)	(164,701)
Equipment replacement fund	-	-	-	-	-
Reserve fund	-	-	(1,794,014)	(1,794,657)	(584,353)
Subtotal	<u>(147,434)</u>	<u>(159,715)</u>	<u>(1,955,644)</u>	<u>(1,956,287)</u>	<u>(749,054)</u>
Total expenses and transfers out	<u>(2,831,174)</u>	<u>(2,988,676)</u>	<u>(4,671,323)</u>	<u>(4,594,833)</u>	<u>(4,899,166)</u>
Revenues over(under) expenses and transfers out	<u>688,929</u>	<u>775,636</u>	<u>183,607</u>	<u>(1,058,833)</u>	<u>(1,180,166)</u>
Ending cash balance	\$ <u>1,279,756</u>	\$ <u>2,055,392</u>	\$ <u>2,238,999</u>	\$ <u>1,180,166</u>	\$ <u>-</u>

NOTES:

Resolution No. 48-08, adopted on August 11, 2008, authorizes the annual transfer of excess cash to the reserve fund.

With the 2011/12 fiscal year, excess cash, approximately \$1,100,000, will transfer to the Sewer Reserve Fund.



AGENDA NO: C-2

MEETING DATE: 10/22/2013

Staff Report

TO: Honorable Mayor and Council **DATE:** 10/17/2013
FROM: Joe Woods, Recreation and Parks Director
SUBJECT: Review and Confirm the Master Planning Process for the Northern Waterfront Improvement Plan

RECOMMENDATION

Staff recommends City Council review the history and progress of the Northern Waterfront Improvement Plan (NWIP) and direct staff to continue with the Park Master Planning process.

ALTERNATIVES

1. Council to direct staff to continue with the Park Master Planning process using the Park Fee Fund or other designated resources.
2. Council redirects staff and resources to a different priority, and place the NWIP planning process either on hold or as a lower priority.

FISCAL IMPACT

The Park Master Planning process will explore design concepts for NWIP with the process including site tours, workshops, meetings and formal presentations. The current proposal from RRM Design Group will take the City through the entire process resulting in a Final Master Plan. Cost for this outsourcing is estimated at \$70,000 and the current balance of the Park Fee Fund is \$64,990. The proposal is flexible to allow reductions of costs equal to that of services. Staff will work with contract services to ensure project and services received are within the budgeted amounts.

SUMMARY

The Northern Waterfront Implementation Plan (NWIP) (Concept C) was adopted by City Council in 2008, and depicts areas to be developed either as recreational or as boating facilities. The Plan includes Coleman Park, Target Rock and Morro Rock Parking Lot. The NWIP has been approved by City Council, and is in position for detailed planning according to the adopted Park Master Planning procedures. The City has a preliminary start in this process with the conceptual projects received from the Landscaping Architectural Department of Cal Poly and the Park design drawings from the Bill and Toni Woody; which have been and will continue to be instrumental in our public workshop discussions. The implementation of the Park Master Planning process will require allocated funds which are currently available in the Park Fee Fund.

Prepared By: JMW

Dept Review: JMW

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

In 1997-98 - the City completed a community based planning effort (called the Boating Access Facility Committee/Plan) that determined the best location for a new boat repair and boat dry storage facility was the land north of the MBPP intake structure and on the east side of Embarcadero extension up to Morro Creek.

In 2007 - as the Harbor Walk project was completing construction Harbor staff was picking up work on this project again while the Recreation and Parks Department was considering embarking on a future parks facility planning process for the North Embarcadero.

Fall 2007 - the City council authorized a joint planning effort with Harbor and Recreation and Parks looking at the North Embarcadero area future uses, after the Harbor Walk project was in place. Harbor Walk design team RRM was hired to investigate property boundaries, land use/zoning and conceptual uses for the area.

December 2007 - a joint meeting of the Recreation and Parks Commission (RPC) and the Harbor Advisory Board (HAB) reviewed a presentation by RRM on these issues. At that meeting it was determined that RRM and City staff should solicit additional public input and develop alternative plans for further analysis.

Jan 2008 - a site walk was held, the HAB held public hearings in February and March 2008 as did the RPC.

March 2008 – RPC recommends City Council move forward with Concept C plan.

April 2008 - HAB recommends City Council move ahead with Concept C plan

May 2008 - City Council passes the following motion

Councilmember Grantham moved the City Council initiate a park master planning effort for the area based on Concept C; and, continue work on development of a boat repair/dry storage facility based on Concept C. The motion was seconded by Councilmember Peirce.

March – May 2009 - Initial Staff Level Review of Preliminary Boating Access Facility Plan Completed. Staff recommended initiation of Conditional Use Permit (CUP) process following completion of CEQA analysis.

June – July 2009 - CEQA analysis performed. Initial study lead to a Mitigated Negative Declaration (MND).

July – Sept 2009 - Draft MND circulated for public review and comment. Few comments were received within the comment period. Additional comments were received after close of comment period from Coastal Commission and State Parks staff.

April - May 2010 - RRM provides staff with a scope of services for completing the NWIP Concept Plan and navigating the City through a comprehensive public input process to develop a site specific plan. The available resources at that time were insufficient to execute a contract.

August - October 2011 - City Council requested that the subject of an improved beach access facility from the Rock parking lot mid-lot area down to the beach sand be agendaized and brought back for Council's discussion. In October, Council unanimously agreed to send the item to the City's Advisory Boards for review and recommendations. Council then began the discussion of the Rock parking lot as it pertains to the Northern Waterfront Implementation Plan.

October 2011 - A presentation by Bill and Toni Woody outlined the Morro Rock parking lot and illustrated detailed development to that area. The Woody's proposed detail plan for the Morro Rock parking lot shows a new boardwalk with fencing, picnic and play areas, asphalt road, volleyball courts and new planters with seats. Improvements to the parking lot could range from the very passive approach to a more active approach as outlined in the Woody's plan. Council agreed that additional workshops with stakeholders, general public and other Advisory Boards would provide the needed community consensus.

March 2012 – RPC reviews NWIP Concept plan and the Woody's plan for the Rock parking lot and made the following recommendation to Council.

***MOTION:** Commissioner Sidaris moved the Commission adopt the Parking Lot Plan and incorporate it into Concept C. The motion was seconded by Commissioner Romero and carried. (4-0)*

Commissioner Sidaris recommended we need a bit of greenbelt and not sure of the road working out with the roundabout. He would like to see the parking lot better graded and kept somewhat natural and the volleyball courts not in the shade. Commissioner Bates concurred as did Commissioner Romero and Chair Croley.

***MOTION:** Commissioner Bates moved the Commission recommend their approval of the Morro Rock development plan in its entirety with the exception of the volleyball courts and the proposed road and parking area configuration. Commissioner Sidaris amended the motion to include greenbelt space. Commissioner Bates accepted the amendment to the motion. The motion was seconded by Commissioner Sidaris and carried. (4-0)*

March 2012 – Council reviewed staff's recommendation on a beach access ramp at Morro Rock. Council made the following decision:

***MOTION:** Councilmember Smukler moved the City Council support the beach access concept and direct staff to return within six (6) months with an update. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.*

June 2012 – HAB reviews NWIP Concept Plan and the Woody's plan for the Rock parking lot and made the following recommendations to Council.

***MOTION:** Mr. Eckles moved to incorporate the conceptual plan designed by the Woody's into the larger Morro Bay Northern Waterfront Implementation Plan, Concept C. The Motion was seconded by Mr. Luffee.*

After further discussion by the Board, the Motion was amended to include the final words, "subject to modification."

***AMENDED MOTION:** Mr. Eckles moved to incorporate the conceptual plan designed by the Woody's into the larger Morro Bay Northern Waterfront Implementation Plan, Concept C, subject to modification. The Amended Motion was seconded by Mr. Luffee, and carried by a vote of 5 to 1, with Ms. Meissen opposed.*

June 2012 – PWAB reviews the NWIP Concept Plan and the Woody's plan for the Rock parking lot and made the following recommendations to Council.

***MOTION:** Shively moved to accept the proposal and pass on with the concerns brought up by the individual PWAB board members to City Council.*

August 2012 – City Council reviewed the recommendations to move forward with the master planning of the Northern Embarcadero Areas including Coleman Park, Target Rock and the Morro Rock Parking lot. Council concluded with the following motion:

***MOTION:** Councilmember Johnson moved that we move forward with master planning the Northern Embarcadero areas to include Coleman Park, Target Rock and the Morro Rock Parking Lot and wait until implementation until funds are available for the project. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.*

DISCUSSION

After public review at the City Advisory Board level, the consensus is to include the Morro Rock parking area into the Northern Embarcadero Implementation Plan with modifications. This plan is in concept form and needs to be further developed using the Park Master Planning process which was established in 1989 by Resolution No.04-89. Beginning in 2007, the City contracted with RRM to provide public workshops and conceptual drawings for Coleman Park and the Target Rock areas and that effort resulted in the NWIP Concept C. RRM has provided a second to master plan proposal for the NWIP, which is attached for review.

Currently, all areas within the NWIP are identified in the Waterfront Master Plan (WMP), and staff continues to work within those guidelines, with the understanding that elements are subject to change as directed by Council. Staff has some detailed plans for the Target Rock area which were developed by the Landscape Architect Department at Cal Poly. As well as the planned development of the Fisherman's Family Sculpture. Furthermore, staff has received a detailed plan for the Morro Rock parking lot which was developed by the Woodys. All of these plans have merit and will be used in the master planning process.

CONCLUSION

The Morro Bay Northern Waterfront Implementation Plan Concept C has been adopted by City

Council and includes areas from Morro Creek along the Embarcadero dirt extended as well as Coleman Park and the Target Rock areas and the Morro Rock parking lot. The process of Park Master Planning involves a particular amount of public input and would take the existing concept plans and develop them into site specific plans. The RRM Master Planning Proposal would address all the related areas, include all stakeholders and meet the City's adopted Master Planning procedures.

**Coleman Park Master Plan
Exhibit A - Scope of Services**



Project Overview

The principle goal is to work with the City's Technical Advisory Committee (TAC) and community members to explore design concepts for the Coleman Park, Target Rock and Morro Rock parking lot areas, collectively, Northern Embarcadero Improvement Plan (NEIP). The design effort will result in a graphic master plan and supporting master plan summary report.

Scope of Services Task Summary

Task A: Master Planning & Design Services

Subtask A.01: TAC Mtg #1 - Kick Off and Site Tour

Subtask A.02: Community Meeting #1 (TAC Mtg #2) – Idea Generation Workshop

Subtask A.03: Conceptual Design Alternatives

Subtask A.04: Community Meeting #2 (TAC Mtg #3) – Alternatives Evaluation Workshop

Subtask A.05: Preliminary Master Plan

Subtask A.06: Recreation and Parks Commission Study Session

Subtask A.07: Final Master Plan

Subtask A.08: Recreation and Parks Commission Presentation

Subtask A.09: City Council Presentation

Task B: Project Coordination Services

Subtask B.01: Project Coordination & Management

Subtask B.02: Supplemental Field Survey

Subtask B.03: Planning Commission Presentation (Optional)

Detailed Scope of Services

Task A: Master Plan Development

RRM will quickly begin master plan development activities, engaging community members to discover the project's most promising design opportunities. This master plan development phase will generally include the following scope of services:

Subtask A.01: TAC Mtg #1 - Kick Off and Site Tour

RRM and City staff will conduct a kick-off meeting with the Technical Advisory Committee (TAC). Principally, this meeting will provide an opportunity to discuss the project's main objectives, major tasks and key milestones. This meeting will also provide a forum to review the studies and planning efforts completed to date, and confirm the tentative agenda for the upcoming Idea Generation Workshop.

Following the kick-off meeting, RRM will conduct an interactive site tour with City staff and TAC members. This will be a half-day event to discuss and explore design concepts for the Coleman Park, Target Rock and Morro Rock parking lot areas, collectively, Northern Embarcadero Improvement Plan (NEIP).

This tour will also provide a first-hand opportunity to evaluate site constraints and gain an overall feel for how exposure to natural elements affects different locations within the study area. Tentatively, the kick-off and site tour will be arranged around the following agenda:

- 8:00 - 8:45** Assemble at the Community Center, sign in all workshop participants, present the day's agenda, conduct the kick off meeting, and then board the Trolley for a quick ride down to Tidelands Park.
- 9:00 - 10:00** Walking tour of Tidelands Park to discuss its major elements and how they are used by the community, and to help participants begin to visualize design possibilities for the NEIP. Discussion will be lead by Recreation and Parks staff and the design team. Then, we'll ride the Trolley to the Harborwalk Trailhead parking lot.
- 10:15 - 12:00** Interactive walk through the project area to discuss potential design opportunities and ideas. This walk will allow all participants to experience the Coleman Park, Target Rock and Morro Rock parking lot areas, the specific characteristics of each site and their relation to the bay and Harborwalk. Then, we'll head back to the Community Center.

Deliverables:

- Prepare for and conduct one (1) kick-off meeting and mobile workshop with TAC.
- Meeting and site tour notes.

Subtask A.02: Community Meeting #1 (TAC Mtg #2) – Idea Generation Workshop

RRM will conduct an interactive workshop with community members. The principle goal is to explore design concepts for the NEIP's Coleman Park, Target Rock and Morro Rock parking lot areas. This will be accomplished through an interactive process working with small break-out groups of workshop participants to help them articulate and record their group's design ideas on reduced site plans.

Tentatively, the workshop program is envisioned as follows:

- Overview of the project area and goals for the workshop
- Slideshow of interesting and imaginative waterfront parks to get everyone's creative juices flowing
- Small break-out group idea generation session
- Next steps discussion

Immediately following the workshop, RRM will meet with the TAC to discuss the results of the workshop and ideas generated by the participants. This will give the TAC an opportunity to reflect on the community's thoughts and ideas at the workshop, and then brainstorm potential design solutions with the project team as we prepare to develop the conceptual design alternatives.

In preparation for the workshop, RRM's team will prepare an agenda, workshop materials, and sign-in sheets, and. This scope assumes City staff will coordinate workshop flyers, noticing, facility logistics and refreshments.

Deliverables:

- Prepare agenda, sign-in sheets, and workshop presentation materials.
- Prepare for and conduct one (1) public workshop/TAC meeting.
- Summary of workshop and TAC results memo.

Subtask A.03: Conceptual Design Alternatives

Building on the results of the idea generation workshop, RRM will develop two (2) conceptual design alternatives for the park. The plans will reflect ideas generated by the community and reflect the unique identity of Morro Bay. The conceptual plans will locate and illustrate major park elements such as overlook and seating areas, creative play areas, water access elements, buildings, and circulation into and through the site. Each park concept will be communicated through plan graphics along with supportive character photos and imagery to help communicate the "feel" of the park.

As we work through the alternative design options, RRM will submit progress plans, as necessary, to City staff to ensure that collaboration among the City/RRM team is maintained, and to make sure we are on the "same page" prior to bringing the conceptual design alternatives back to the community.

Deliverables:

- Two (2) conceptual design plan alternatives
- Two (2) character photos and imagery Board

Subtask A.04: Community Meeting #2 (TAC Mtg #3) – Alternatives Evaluation Workshop

RRM will facilitate this second community meeting to evaluate the design options with community members and City staff. The conceptual design alternatives will be presented and evaluated through an interactive process with the goal of arriving at consensus for preferred design scheme. This will be accomplished by providing workshop participants with plan reductions and breaking into smaller groups for discussion. The workshop program is envisioned as follows:

- Open house session (informal discussion with participants and exhibit viewing)
- Presentation of conceptual design plan options
- Small group concept evaluation session
- Interactive design consensus exercise

RRM staff will guide all participants during this workshop and will help each breakout group as they work together toward consensus.

Immediately following the workshop, RRM will meet with the TAC to discuss the results of the workshop and the design consensus reached by the workshop participants. This will give the TAC an opportunity to weigh on the consensus plan and provide their input to the design team as we prepare to develop the preliminary master plan.

In preparation for the workshop, RRM's team will prepare an agenda, workshop materials, and sign-in sheets, and. This scope assumes City staff will coordinate workshop noticing, facility logistics and refreshments.

Deliverables:

- Prepare agenda, sign-in sheets, and workshop presentation materials.
- Prepare for and conduct one (1) public workshop/TAC meeting.
- Summary of workshop and TAC results memo.

Subtask A.05: Preliminary Master Plan

With refinement ideas in hand from the alternatives evaluation workshop, and design direction from City staff, RRM will prepare the preliminary master plan in preparation for presentation to community members at the upcoming Recreation and Parks Commission study session. The preliminary master plan will "polish" the rough concepts and ideas developed in the conceptual plans, adding greater dimension to park's design aspects and incorporating the community's latest design improvement ideas to illustrate all project elements.

The preliminary master plan will be communicated through plan graphics and two (2) rough perspective character sketches to illustrate the parks' design from a park-goers point of view. The vantage points of each of the perspective sketches will be selected by RRM to best represent the work being proposed and the setting it will occupy.

As we work through design refinement, RRM will submit progress plans, as necessary, to City staff to ensure that collaboration among the City/RRM team is maintained, and to make sure we have a "tight" design package for presentation to the Recreation and Parks Commission.

Deliverables:

- One (1) preliminary master plan
- Two (2) perspective sketches

Subtask A.06: Recreation and Parks Commission Study Session

RRM will work with City staff to prepare for and facilitate a Recreation and Parks Commission study session to present the preliminary master plan for review and feedback. This meeting will serve a dual purpose, serving as a third community meeting while facilitating "hand's-on" interaction with Recreation and Parks Commissioners. Input gained from the Commissioners and public will play a crucial role in informing the design team as the final master plan is prepared.

Deliverables:

- Prepare for and facilitate Recreation and Parks Commission study session.

Subtask A.07: Final Master Plan

With refinement ideas in hand after the Recreation and Parks Commission study session, and with design direction from City staff, RRM will prepare the final master plan. This plan will lock in the park's design aspects

to fix and illustrate all project elements. The final master plan will be communicated through plan graphics and a summary report. The two (2) rough perspective character sketches developed in Subtask A.05 will be finalized to fully communicate the look and feel of the park.

As part of this effort, RRM will prepare a construction cost projection based on the final master plan. The cost opinion will break out each general element on a line item spreadsheet with item descriptions and unit costs.

Deliverables:

- *One (1) final illustrative master plan*
- *Two (2) perspective sketches*
- *Construction Cost Projection*
- *Summary memorandum*

Subtask A.08: Recreation and Parks Commission Presentation

RRM will work with City staff to prepare for and present the final master plan to the Recreation and Parks Commission. RRM will develop a power point and/or other presentation support media/graphics as determined appropriate by the City/RRM team.

Deliverables:

- *Prepare for and present the final master plan to the Recreation and Parks Commission.*
- *Support media/graphics.*

Subtask A.09: City Council Presentation

RRM will work with City staff to prepare for and present the final master plan to the City Council. RRM will update the power point and/or other presentation support media/graphics used in the Planning Commission presentation.

Deliverables:

- *Prepare for and present the final master plan to the City Council.*
- *Update support media/graphics.*

Task B: Project Coordination

Managing the design team while keeping the project running smoothly is paramount its success. RRM will coordinate and manage all project aspects for the City, and this phase will generally include the following scope of services:

Subtask B.01: Project Coordination and Management

RRM's project manager will coordinate with City and design staff, resource agencies, stakeholders and other agencies as necessary on an on-going basis throughout all phases of the project. This task also includes meetings, project schedule creation and maintenance, internal QA/QC, agency requirements review, document retrieval, day-to-day project coordination efforts including general correspondence, telephone conferencing and Web meetings likely to be required in supporting City staff as the project evolves.

Deliverables:

- *Memos, meeting minutes, and general correspondence for document control, compiled in a three-ring binder located in our office and available for access by City staff.*

Subtask B.02: Supplemental Field Survey

RRM will facilitate a limited topographic survey that will supplement and update the topographic map previously prepared by RRM as part of the Harborwalk project. The supplemental survey area includes the Target Rock area that was not part of the Harborwalk project, and will include contours at one-foot intervals, rip-rap extent, pavement edges, State Park's gate, and surface evidence of utilities. This information is necessary for creation of a complete topographic base file on which to base the master plan design work.

Deliverables: - Supplemental Digital Topographic Map file in AutoCAD format

Subtask B.03: Planning Commission Presentation (Optional Subtask)

RRM will work with City staff to prepare for and present the final master plan to the Planning Commission. RRM will update the power point and/or other presentation support media/graphics used in the Recreation and Parks Commission presentation.

Deliverables: - Prepare for and present the final master plan to the Planning Commission.
- Update support media/graphics.

Client Responsibilities

- Document distribution for technical reviews.
- Meeting notification, facility, logistics and refreshments.
- One contact person who will serve as the City's representative and will consolidate all review comments into one list of official comments to which RRM can respond for each milestone document submittal.

Limitation Of Scope

Please note that the tasks to be performed by the RRM team are limited to those outlined above. This scope of services excludes the following:

- Revisions to the Final Master Plan
- Meeting noticing
- Environmental planning
- Phasing plan
- Additional perspective sketches
- Additional Workshops

Any additional services that RRM Design Group is asked to perform over and above the tasks described above will be billed on a negotiated and City-approved fixed fee or hourly basis as additional services.



AGENDA NO: D-1

MEETING DATE: 10/22/13

Staff Report

TO: Morro Bay City Council

DATE: October 16, 2013

FROM: Fire Chief, Steven Knuckles

SUBJECT: Multi-hazard Emergency Response Plan and Emergency Operations Center Review

RECOMMENDATION

This report is being presented as information only, no action is required.

ALTERNATIVES

As this is an informational status review, there are no alternatives applicable.

FISCAL IMPACT

There are no additional impacts to the adopted 2013/14 the EOC Disaster Preparedness Budget as a result of this report.

SUMMARY

The purpose of the City of Morro Bay's Multi-hazard Emergency Response Plan (MERP) is to prescribe the City's policies and concepts for responding to emergencies, which could affect the health, safety, environment, and property of the public within the City limits. In addition, this plan intends to: provide a basis for City coordinated disaster response capability; establish a mutual understanding of the emergency responsibilities and functions of civil government during emergencies; identify those historical and major potential disasters that may affect the City; provide continuity of government; and, coordinate operations with the emergency service organizations of other jurisdictions. As such, it incorporates pre-emergency preparedness, alert and mobilization and emergency procedures necessary for an emergency response at the City level.

BACKGROUND

The Multi-hazard Emergency Response Plan consists of three parts. Part 1 is the Basic Plan, which serves as an overview for elements of response that are common to all types of emergencies. This is the official portion of the Plan that is reviewed and adopted by the City Council.

Prepared By: SK

Dept Review:

City Manager Review:

City Attorney Review: _____

Part 2 contains hazard-specific annexes, which provides a checklist approach to the eight identified emergencies Part 2 is maintained independent of Parts 1 and 3.

Part 3 of the plan consists of support materials and references, which are stand-alone documents. These materials are maintained independent of Parts 1 and 2. The materials are intended to provide emergency personnel with information and data to support the City's emergency response effort. As appropriate, references to the support materials are provided in Parts 1 and 2 of the plan.

Standardized Emergency Management System (SEMS)

Almost all major emergencies result in response by more than one jurisdiction. Therefore, in accordance with Senate Bill 1841, the City through the Basic Plan, adopts the use of the SEMS to assure that program development is consistent with all levels of government. This system has been mandated by the California Legislature and must be complied with to be eligible for disaster relief funding.

SEMS incorporates the Incident Command System (ICS) at the field level of operations. SEMS is a modular emergency management system designed for incidents involving a multi-jurisdictional response. It provides effective direction and control of an emergency from the time of notification, through all its stages, until the situation de-escalates to a point where emergency resources are no longer needed.

National Incident Management System (NIMS)

On February 28, 2003, the President issued Homeland Security Presidential Directive 5 (HSPD-5), "Management of Domestic Incidents," which directed the Secretary of Homeland Security to develop and administer a National Incident Management System (NIMS).

The purpose of NIMS is to facilitate the flow of emergency information and resources within and between agencies at all organizational levels, improve the process of coordination between responding agencies, and to provide for the rapid mobilization, deployment, use and tracking of resources during emergencies.

Emergency Position Staffing

The MERP includes the Incident Management Organization Chart for various emergencies. The staffing and actual structure of the organization will vary based on the type and severity of an emergency. It outlines the City personnel that will be trained to fill various emergency positions. Each position allows for varied personnel. Some personnel may be cross-trained to fill several positions.

The Incident Management Organization at the EOC is headed by the qualified staff member, usually a Department Head, identified as having the primary management role based on the particular emergency. This individual will assume the role of Emergency Operations Center Director (EOC Director) and be responsible for all EOC functions. The City Manager is the direct link between the City Council and the EOC Director relating to policy issues. The EOC Director has overall responsibility for the City's emergency management.

Operational Concepts

The City's response to emergencies will depend on the type and magnitude of the emergency situation; however many elements of response are similar. Some of the basic elements of emergency response common to all types of emergencies include the following:

- Event Recognition
- Notification of Response Personnel
- Mobilization of Response Personnel
- Activation of Emergency Response Facilities and Resources
- Situation Reporting and Assessment
- Public Alerting and Information
- Protective Action Determination and Implementation
- Reentry and Recovery

Since emergency preparedness involves planning for worst-case events, the City of Morro Bay must be prepared to respond promptly and effectively and have provision for mutual aid resources if the response effort requires resources beyond the City's capabilities.

The hazard-specific annexes in Part 2 of this plan provide the detailed concepts of operations for each type of emergency addressed in the Basic Plan.

Plan & Procedure Maintenance

This Basic Plan Part 1 (MERP) and Part 3 will be maintained and updated on a regular basis by the Fire Chief or his designated representative. The Fire Department will also be directly responsible for coordinating revisions of the hazard specific annexes, i.e. Earthquake, Storm/Flood, Nuclear Power Plant, Hazardous Materials, Major Fire, Tsunami, and Civil Disturbance Emergency Plans. The department listed as having primary management authority for a given annex, shall be responsible for developing, maintaining, and updating that specific hazard annex on an annual basis. The plan will be reviewed by a committee and a final copy forwarded to the Fire Chief for implementation.

Training

The MERP provides for the City to sponsor, coordinate, and conduct an annual training exercise on a particular City emergency response plan. Federal regulations require a biennial exercise on the Nuclear Power Plant Emergency Response Plan, provided the previous exercise was judged by FEMA as satisfactory. During the year, following a "satisfactory" nuclear exercise, the City will sponsor, coordinate and conduct the disaster exercise on a non-nuclear emergency response plan.

The Fire Department will develop and administer all non-nuclear disaster exercises. The primary purpose of these exercises will be to evaluate and improve the particular emergency response plan that the exercise is based on.

Emergency Operations Center (EOC)

Our City's EOC is located at the Morro Bay Community Center, 1001 Kennedy Way. Our EOC uses the multi-purpose room for the command, operations, planning, logistics, and finance functions.

Adjacent to the multi-purpose room, we have a fully functional dispatch center to include radio communications for all City services plus Amateur High-Frequency Radios. (HAM) We have breakout communication rooms, a full kitchen to support the EOC personnel, and large rooms to house EOC personnel for long duration events. All rooms that are used for the EOC functions have backup propane generator electrical service. The first EOC activation occurred on 12/31/99 with positive results. The City's secondary EOCs are the Fire Station at 715 Harbor Street, the San Luis Obispo County EOC, and the Pavilion Building in Atascadero.

DISCUSSION

The MERP covers the City's response to the following types of emergencies:

- EARTHQUAKE
- HAZARDOUS MATERIALS
- MAJOR FIRE
- NUCLEAR POWER PLANT
- STORM/FLOOD
- TSUNAMI
- CIVIL DISTURBANCE
- MASS CASUALTY INCIDENT

The objectives of the Plan are to:

- Protect the public, property, and the environment in the City of Morro Bay;
- Establish official City policy for response to emergencies;
- Identify authorities and assign responsibilities for planning and response activities;
- Identify the scope of potential hazards which form a basis for planning;
- Identify other jurisdictions and organizations with which planning and emergency response activities should be coordinated;
- Establish the City Emergency Organization which will manage emergency response;
- Establish the City's policy for providing emergency information to the public;
- Outline preplanned response actions which will be taken by City emergency personnel to the emergency's effects;
- Describe the resources available to support emergency response activities; and
- Establish responsibilities for the maintenance of the City of Morro Bay disaster preparedness program, including the MERP.

CONCLUSION

Morro Bay's Multi-hazard Emergency Response Plan, our citywide training, and our Emergency Operations Center is a great example of collaboration and leadership from our City Councils, City staff, and City volunteers with the goal to assist our community and our neighbors in their time of need.

ATTACHMENTS:

1. Part 1 of the Multi-hazard Emergency Response Plan

City of Morro Bay
Multi-Hazard Emergency Response Plan

PART 1
BASIC PLAN

Developed by

Morro Bay Fire Department
Jeffrey F. Jones, Fire Chief

October 2003

Revised
January 2008

PREFACE

The purpose of the City of Morro Bay Multi-hazard Emergency Response Plan is to prescribe the City's policies and concepts for responding to any and all emergencies that could affect the health, safety, and property of the public within the city limits. The plan covers all emergencies and it is broken down into the following types of major events:

- EARTHQUAKE
- HAZARDOUS MATERIAL
- MULTI-CASUALTY
- STORM/FLOOD
- WILDLAND - MAJOR FIRE
- CIVIL DISTURBANCE -TERRORISM
- NUCLEAR POWER PLANT
- TSUNAMI

PLAN ADOPTION

This is the official City of Morro Bay Multi-hazard Emergency Response Plan for responding to various emergencies causing damage in the City of Morro Bay. The Plan's responsibilities and authorities are effective as indicated below.

Janice Peters, Mayor

Andrea Lueker, Interim City Manager

Date

CITY OF MORRO BAY
MULTI-HAZARD EMERGENCY RESPONSE PLAN

DISTRIBUTION LIST

City Locations

City Manager	Emergency Operations Center
City Clerk	Fire Department
Public Services Department	Police Department
Harbor Department	Recreation & Parks Department

Libraries

Morro Bay Library

County Agencies

SLO County Office of Emergency Services

State Agencies

California Office of Emergency Services, Region I

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SECTION I - INTRODUCTION

A. PURPOSE

The purpose of the City of Morro Bay Multi-hazard Emergency Response Plan (MERP) is to prescribe the City's policies and concepts for responding to major emergencies that could affect the health, safety, and property of the public within the city limits. In specific annexes the plan covers the City's response in more detail to the following types of emergencies:

- EARTHQUAKE
- HAZARDOUS MATERIAL
- MULTI-CASUALTY
- STORM-FLOOD
- WILDLAND-MAJOR FIRE
- CIVIL DISTURBANCE-TERRORISM
- NUCLEAR POWER PLANT
- TSUNAMI

B. OBJECTIVES

The objectives of this Plan are to:

- Protect the public and property in the City.
- Establish official City policy for response to emergencies utilizing the National Incident Management System (NIMS) integrated with the Standard Emergency Management System (SEMS) and the Incident Command System (ICS).
- Identify authorities and assign responsibilities for planning and response activities.
- Identify the scope of potential hazards that form a basis for planning
- Identify other jurisdictions and organizations with which planning and emergency response activities should be coordinated.
- Establish the City Emergency Organization, which will manage emergency response.
- Establish the City's policy for providing emergency information to the public.
- Outline preplanned response actions that will be taken by City emergency personnel to mitigate the emergency's effects.
- Describe the resources available to support emergency response activities.
- Establish responsibilities for the maintenance of the overall City emergency preparedness program.

C. PLAN ORGANIZATION

The City's emergency preparedness program consists of three parts: Part 1 - Basic Plan; Part 2 - hazard-specific annexes (which cover each type of emergency listed in Section A); and, Part 3 Support Materials containing resource and reference materials and a recovery plan for the City.

An abstract of each part is provided below:

1. PART 1 – Basic Plan

Part 1 serves as an overview for elements of response that are common to all types of emergencies. Objectives and policy for the City are established in this section and therefore this portion of the plan requires the approval of the City Council.

2. PART 2 - Hazard-Specific Annexes

Part 2 contains hazard-specific plans including the Standard Operating Procedures that are used to implement the concepts and policies set forth in this plan. This portion of the plan is tactical in nature and therefore changes are frequent. This part of the plan is maintained independent of Parts 1 and 3. Part 2 does not require the approval of the City Council. The annexes contained in Part 2 are as follows:

- Annex A - Earthquake
- Annex B - Hazardous Material
- Annex C - Multi-Casualty
- Annex D - Storm-Flood
- Annex E. Wildland-Major Fire
- Annex F. Civil Disturbance-Terrorism
- Annex H. Nuclear Power Plant
- Annex G. Tsunami

Each Annex covers the planning elements specific to the type of emergency addressed. The Disaster Management Guides, contained in each annex, provide direction to emergency workers in the implementation of the concepts and policies applicable to each type of emergency. They give guidance on how, when, and by whom emergency actions are performed and give information and references necessary to support emergency workers in their tasks.

3. PART 3 - Support Materials

Part 3 consists of support materials and references that are stand-alone documents. These materials are maintained independent of Parts 1 and 2. The materials are intended to provide emergency personnel with information and data to support the City's emergency response and recovery efforts. As appropriate, references to the support materials are provided in Parts 1 and 2 of the plan.

Support materials in Part III include:

- City of Morro Bay Special Needs Population List (**Confidential**)
- San Luis Obispo County Emergency Alerting System (EAS) and Sample Messages
- City of Morro Bay Resource List (Vehicles and Equipment)
- City of Morro Bay Phone listing (**Confidential - limited distribution**)
- San Luis Obispo County Resource Directory
- Recovery plan

D. Plan Coordination

Almost all major emergencies result in the response from more than one agency or jurisdiction. Therefore, the City must assure that program development and emergency incident response is coordinated with surrounding jurisdictions.

The following is a sample listing of jurisdictions where plan development and response coordination is required:

- Federal Emergency Management Agency (FEMA)
- California Office of Emergency Services
- San Luis Obispo County Office of Emergency Services
- San Luis Obispo County Fire Department
- San Luis Obispo County Sheriff
- All Cities within San Luis Obispo County

SECTION II - AUTHORITIES and REFERENCES

A. Authorities

The following is a list of the authorities used for the development and implementation of this plan.

1. Federal Authorities

- Federal Civil Defense Act of 1950 (PL 920)
- Federal Disaster Relief Act of 1974 (PL 93-288)
- Public Law 84-99
- Homeland Security Presidential Directive (HSPD)-5

2. State Authorities

- California Government Code (Chapter 7, Division 1, Title 2) Section 8550 et. seq. - California Emergency Service Act
- California Government Code (Article 3.7, Chapter 7, Div. 1, Title 2) Sections 8574.7 to 8574.9 - Toxic Disasters.
- California Government Code (Article 11, Chapter 7, Div. 1, Title 2) Section 8615 - Mutual Aid.
- California Hazardous Materials Incident Contingency Plan
- California Health and Safety Code (Div. 1, Part 2, Chapter 8) Section 1158 - Supervision by Local Health Officer During Health Emergencies.
- California Health and Safety Code (Div. 20, Chapter 6.5, Article 2) Sections 25180 - Enforcement of Hazardous Waste Laws, and Section 25185 - Powers of Health Office to enter/inspect.
- California Health and Safety Code (Div. 20, Chapter 7, Sections 25600 to 25610) - Control of Radioactive Contamination of the Environment.
- California Natural Disaster Assistance Act
- California Vehicle Code (Article 4, Chapter 2, Div. 2) Section 2454 - Scene Management as amended in Chapter 543 of 1982 Statutes.
- California Vehicle Code (Article 4, Chapter 2, Div. 2) Section 2452 - Hazardous Substance Defined.
- California Vehicle Code (Article 4, Chapter 2, Div. 2) Section 2453 - Hazardous Spill Notification System
- California Vehicle Code (Article 4, Chapter 2, Div. 2) Section 2450 - Hazardous Substances Highway Spill Containment and Abatement Act.
- California Vehicle Code (Article 4, Chapter 2, Div. 2) Section 2451 - Public Health: Legislative Finding.
- City of Morro Bay Municipal Code Chapter 8.08 Disaster

Preparedness.

- San Luis Obispo County Code (Ord. No. 1384) Chapter 2.80 - Emergency Organization and Functions
- San Luis Obispo County/Cities Basic Plan for Peacetime Emergencies 1981
- San Luis Obispo County/Cities Basic Plan for Peacetime Emergencies, 1981. Municipal Code Chapter 2.24 Emergency Services, pg. 17-20.

B. REFERENCES

The following is a listing of references used in the development of this emergency plan.

- California Emergency Plan, 1998
- California Emergency Resources Management Plan
- California Fire and Rescue Operations Plan
- California Law Enforcement Mutual Aid Plan
- California Master Mutual Aid Agreement
- California Emergency Medical Services Authority Multi-Causality Incident Guidelines
- City of San Luis Obispo Multi-hazard Emergency Response Plan.
- City of Morro Bay, Fire Department Policies and Procedures Manual.
- City of Morro Bay, Multi-hazard Emergency Response Plan, 2002
- Fire Service Emergency Management Handbook, FEMA 1985.
- FIRESCOPE Field Operations Guide - ICS 420-1
- San Luis Obispo County Basic Plan for Peacetime Emergencies
- San Luis Obispo County Earthquake Emergency Response Plan, San Luis Obispo County Office of Emergency Services, 1986.
- San Luis Obispo County Hazardous Materials Emergency Response Plan, San Luis Obispo County OES, 1985.
- San Luis Obispo County/Cities Nuclear Power Plant Emergency Response Plan, 1990.

SECTION III - HAZARD OVERVIEW

This section provides a general overview of the potential threat presented by each of the types of emergencies listed in Part 1, Section I. A detailed hazard assessment for each type of emergency is presented in the hazard-specific annexes found in Part 2 of the MERP. Each annex examines the potential effects that could result if an emergency of that type were to occur.

A. EARTHQUAKE

There are four (4) known seismically active faults that run through San Luis Obispo County. These include the San Andreas Fault, the Nacimiento-Rinconada Fault, the Hosgri Fault, and the San Simeon Fault. The San Andreas Fault capable of an 8.5 magnitude earthquake, is the best known of these four and potentially poses the greatest threat. Increases along this fault between Parkfield and Cholame indicate that we are past due for a 5.5 to 7.4 Richter magnitude earthquake in this area. The 6.3 San Simeon Earthquake of December 2003 damaged the Morro Bay Headquarters fire station and caused two fatalities in Paso Robles.

Potential emergencies or problems that may be triggered as a result of a light-to-heavy damage earthquake impacting the City include: building collapse (particularly un-reinforced masonry structures) causing need for rescue; mass injuries; hazardous materials releases; major fires; utility disruptions; major natural gas leaks; communication disruptions; need for evacuation; command and coordination problems; roadway and transportation system disruptions; and hospital/school disruptions to list a few.

The potential direct and indirect consequences of a major earthquake will severely stress the resources of the City and will require a high level of self-help, coordination and cooperation. Out-of-city assistance from other local, regional, state, federal and private agencies may be delayed by more than 72 hours, depending on the regional severity of the earthquake.

The Fire Department assumes the primary role in the management of an earthquake emergency.

B. HAZARDOUS MATERIALS

A hazardous material is any substance, natural or man-made, that may be harmful to life or to the environment. A hazardous materials incident is any emergency where these substances are involved. Hazardous materials incidents may occur at fixed facilities, along any air or land transportation

route, and in unpredictable areas relatively inaccessible by ground transportation. The City contains two (2) major transportation arteries, Highway 1 and Highway 41, where thousands of tons of hazardous materials are transported annually through and into densely populated areas of the City. In 2001 an anhydrous ammonia leak at a fixed facility on Beach Street caused the evacuation of over 3,000 people in Morro Bay.

Pesticides and chemicals are stored at numerous sites around the City. Fixed facilities are found mainly in two areas: the Morro Bay Power Plant and the waterfront area. Air transportation of hazardous materials poses a small but still potential hazard. Hazardous waste is occasionally shipped along Highway 1, as an alternate to US 101 to a major dumpsite located in the Kettleman Hills near Highway 5.

The potential for a hazardous materials emergency exists primarily through transportation accidents of surface vehicles. Although the probability for a disastrous hazardous materials incident is low, the probability for extreme risk to life and property is high should such an emergency occur.

The Fire Department assumes the primary role in the management of a Hazardous Materials emergency.

C. MULTI- CASUALTY

A multi-casualty incident is one that involves a sufficient number of injured persons to overwhelm the first responding medical resources or an incident with a significant medical hazard to a large population (natural disaster, haz mat, etc) or involves evacuation of a medical facility (hospital, convalescent home, etc).

Given the travel routes through the city, the modes of public transportation available (vehicle and vessel) and the fact that the City is located below the normal flight path of the commercial aviation system, a distinct possibility for a large transportation accident exists within the City Limits.

Additionally, the Harbor Festival and other large public events, along with the seasonal dangerous surf conditions at the Harbor entrance dictate the need for a Multi-casualty Plan.

As indicated in the plan, the responsibility for managing the event will be dictated by where and why the event has occurred; however, quite typically these events are managed under a Unified Command with the Fire Department in a lead role.

D. STORM - FLOOD

Rainfall and inclement weather are primarily seasonal phenomena in the City, roughly corresponding to the November through March winter rainfall season associated with Mediterranean climate of the central coast of California.

Several creek drainage systems, including Chorro Creek, the Morro/Little Morro Creek convergence, No-Name Creek, Alva Paul Creek, Toro Creek, and San Bernardo Creek flow into and/or near the City. Chorro Creek is the largest and runs along the southern boundary of the City near two mobile home parks. Morro Creek runs parallel to Highway 41. Little Morro Creek runs parallel to Little Morro Creek Road and combines with Morro Creek within the City near Main Street. No-Name Creek runs through the City along Island Street. Alva Paul runs through the city along Whidbey and Yerba Buena Streets. Toro Creek runs along the farthest northern boundary of the City. San Bernardo Creek runs under Highway 1 south of the City. As seen in the 1995 Floods, these creeks can present varying hazards during a flood and can block access to and egress from the City.

When rainfall and surface run-off from a storm exceeds a drainage system's capacity to adequately channel and contain the water flooding may occur. Potential flood areas include: the South Bay Boulevard area between Highway 1 and State Park Road; the area between Highway 41/Atascadero Road and Radcliff Avenue; low-lying sections of Island Street and Beachcomber; Highway 1, at the northern City limits; and, Highway 1 south of the City limits. Other problems and hazards associated with flooding and inclement weather include utility disruptions, broken power lines lying on the ground, trees damaged and blown down, and transportation route disruptions.

The Public Services Department assumes the primary role in management of a storm emergency or flood.

E. WILDLAND- MAJOR FIRE

The potential for a major fire in the City of Morro Bay always exists. Residential, industrial, commercial, harbor front, and wildland areas all present potential disaster situations. The cause of a disastrous fire within the city may be a major structural fire fanned by ocean or Santa Ana winds or a major wildland/urban interface fire (I-zone fire).

The areas most at risk for a conflagration are the hillside homes of north Morro Bay, structures and vessels located on or adjacent to the waterfront areas of the City, the older businesses lining Morro Bay Boulevard, and the structures in and adjacent to the Morro Bay State Park.

Throughout much of the City, homes and businesses are built closely

together with little defensible space and are located on narrow roads that make access difficult. In addition, the construction used in many of these buildings is wood-frame with wood siding and combustible roofs; a method of building that offers a significant amount of fuel to a wind or topographically driven fire.

The T-Pier fire of 1988 demonstrated the potential for a major structural fire in other areas of the City. The close proximity of vessels, commercial buildings, residential areas, and other structures could promote a conflagration. These factors combined with certain weather and tidal factors pose a significant threat for a major fire in the harbor area of the City of Morro Bay.

The City, located on the western coastal fringe of the Santa Lucia Mountain Range is in a fairly favorable position with respect to the wildland fire threat. However, in 1994 the Highway 41 Fire burned toward the City with amazing speed. While this threat was short lived, the potential does exist for a major wildland fire to burn into the City.

The areas that are at risk from a large-scale wildland fire are, for the most part, located on the edge of the City limits. These "fringe" areas are where there is the most I-zone potential. The neighborhoods bordering the Morro Bay State Park and Black Hill area also possess this potential. Additionally, the lands that adjoin the City are not subject to the rigorous weed abatement programs enforced by the Morro Bay Fire Department.

As a result, the potential exists for a major fire that could quickly overrun the capabilities of both the City's and other local government fire departments. Command and coordination of resources, area evacuations/sheltering of those displaced, and reoccupation are major plan components.

The Fire Department assumes the primary role in the management of a Major Fire emergency.

F. CIVIL DISTURBANCE- TERRORISM

For planning purposes, these two types of events have been combined together. These occurrences are primarily law enforcement responsibilities; however it is difficult to predict how the emergency(s) may impact the community, as they may occur in a variety of forms. Successful outcomes to these occurrences will often require the use of more than one annex of the City Emergency response plan. The plan focus then becomes more related to resource coordination and objectives rather than tactical procedures.

1. Civil Disturbance

The spontaneous disruption of normal orderly conduct and activities in urban areas, or outbreak of rioting or violence that is of a large nature is referred to as civil disturbance or disorder. Civil disorder is a demonstration of popular unrest that may manifest itself in acts of violence and destruction against property and human life. Civil disorder can be spurred by specific events, such as large sporting events or criminal trials, or can be the result of long-term disfavor with authority. Civil disorder is usually noted by the fact that normal on-duty police and emergency services personnel cannot adequately deal with the situation until additional resources can be acquired. This is the time frame when civil unrest can grow to large proportions.

The threat to law enforcement and safety personnel can be severe and bold in nature. Securing of essential facilities and services is necessary. Looting and fires can take place as a result of perceived or actual non-intervention by authorities.

High-density event-oriented populations occur at various times throughout the year. They are events that attract large numbers of persons such as; school events, parades, and festivals.

The Harbor Festival can host as many as 20,000 people at a time. Because of the myriad events that are available that weekend, virtually any type of audience can be expected to be in attendance at any one time. The prospect of a large concentration of individuals who are of a mind set to cause a civil disorder is a real possibility.

The threat from the indigenous population is non-existent.

The Police Department assumes the primary role in the management of Civil Disturbance Emergency.

2. Terrorism

Terrorism involves a struggle between competing principles and ideologies below the level of conventional war. Principal targets include military personnel and facilities, commercial establishments, government buildings and property, and/or any location large numbers of people congregate.

The effects of terrorist activities can vary significantly, depending on the type, severity, scope, and duration of the activity. Terrorist activities may result in disruption of utility services, property damage, injuries and the loss of lives.

While San Luis Obispo County is a low population area, with generally low population density when compared with major metropolitan areas, the possibility of a terrorist action, which might have an impact on the City, cannot be discounted. Terrorist actions may include biological, chemical, incendiary, explosive, nuclear/radiological, or electronic (such as software system) attacks.

The Police Department assumes the primary role in the management of Terrorism.

G. NUCLEAR POWER PLANT

The Diablo Canyon Nuclear Power Plant is operated by the Pacific Gas and Electric Company (PG&E). The plant is located on the San Luis Obispo County coast approximately 10 miles southwest of the City of Morro Bay. The plant consists of two nuclear power generating units. Both units are operational. Each unit is a pressurized water-type reactor having an electric power generating capacity in excess of 1,000 megawatts.

When any nuclear power plant is operated, the potential for a radiological accident exists, though the probability of a serious accident is very low. The principal deterrent to an accident is prevention through conservative design, construction and operation, which assures that the integrity of the reactor system is maintained. Protective systems are installed and are automatically activated to counteract the resulting effects when any part of the reactor system fails. Emergency planning is necessary to assure public safety in the unlikely event that reactor safety systems fail.

The Fire Department assumes the primary role in the management of a nuclear emergency

H. TSUNAMI

A tsunami, or seismic sea wave, is a series of waves generated by seismic activity in or near the Pacific Ocean. They may be as far apart as one hour, and up to twenty feet high on this part of the coast. There is no way to determine in advance the amplitude or size of the waves. A small tsunami at one beach can be a giant a few miles away.

Tsunamis have done great damage to communities located on the California coast. A tsunami in 1964 killed 12 people in Crescent City and damaged piers and boats in Morro Bay. Damage in Morro Bay was caused as the bay emptied and filled every 15 minutes for over an hour. A 1960 tsunami killed 61 people in Hawaii; six hours after a warning had been

issued. Sooner or later, tsunamis strike every coastline in the Pacific, and for this reason they pose a threat to the citizens and visitors of Morro Bay. Should such an emergency occur, the risk to life and property could be extreme.

The Fire Department assumes the primary role in the management of a Tsunami emergency.

SECTION IV – PLANNING BASIS

This section discusses the planning basis for each type of emergency addressed in this plan. It covers the planning regulation, guidance, concepts, and policies that form the City's foundation for response to each of the types of emergency covered by this plan. The City of Morro Bay Multi-hazard Emergency Response Plan, including the Hazard Specific Annexes, was developed using State Multi-hazard functional planning guidelines and as such, complies with State and Federal mandates. Compatibility with San Luis Obispo County Multi-hazard Emergency Response Plans is built into the City's plan. Common elements in the plan include: an annual review and update of all plans, regular field or tabletop exercises, development of Standard Operating Procedures (SOP's) for field level operations by each involved City department, automatic EOC activation points and incident management using NIMS (National Incident Management System) integrated with SEMS (Standard Emergency Management System) and ICS (Incident Command System).

A. EARTHQUAKE

The effects of a heavy damage earthquake will be widespread, quickly exhausting resources and requiring extensive outside aid. The earthquake annex of this plan concentrates on obtaining and coordinating these resources through use of the Incident Command System and establishment of an Emergency Operations Center. The San Luis Obispo County Emergency Response Plan was a primary reference to assure that coordination with San Luis Obispo County efforts would occur. Areas of responsibility for City departments are outlined and the development of Standard Operating Procedures for each department is assigned.

B. HAZARDOUS MATERIALS

The release of hazardous materials, into the environment, can cause a wide range of problems. The Hazardous Materials Emergency Response Plan determines responsibilities and outlines a management system (ICS) and Standard Operating Procedures used to mitigate the effects of such an event. Incident Commander authority is determined based on incident location. Assistance for mitigation, clean up and funding is addressed. Evacuation of significant portions of the City is planned for, as is a chain of mandatory regulatory agency notifications.

C. MULTI- CASUALTY

The multi-casualty incident (MCI) Plan has been developed on a countywide basis to provide an organized emergency medical response to an incident or incidents that involve numerous victims.

The goals of the plan are to organize and implement a countywide system EMS plan of action to manage multi-casualty incidents; provide the greatest medical good for the greatest number of patients; give early notification to area hospitals so they can assess and prepare their casualty care capabilities; early triage and separation of specific patient problems to ensure their distribution to the most appropriate hospital; avoid patient overload at any one hospital; ensure all EMS agencies follow the same multi-casualty incident plan of action.

D. STORM- FLOOD

The occasional seasonal effects of heavy winter storms have historically caused short-term problems within the City. The Storm/Flood Plan designates Public Services as the lead agency for battling the effects of a flood. The plan identifies a management organization and emergency resources and facilities.

E. WILDLAND- MAJOR FIRE

The effects of a large-scale wildland fire or major structure fire(s) will require many fire suppression resources be brought into the City. A quick response and efficient management of these resources is contained in this plan. Evacuation and securing of fire-damaged areas via Police assistance is also a primary planning element.

F. CIVIL DISTURBANCE- TERRORISM

The handling of any civil disturbance is very delicate in nature. Our actions in response to civil disturbance should attempt to prevent an escalation of the situation and to protect people and property. We should constantly evaluate the situation and respond at a level necessary to control or mitigate confrontations. This annex identifies a management plan and addresses actions and resources necessary for civil disturbance emergencies.

It is prudent to increase preparedness and awareness efforts in addressing the threat of terrorism throughout the nation, including San Luis Obispo

County. There are a number of emergency management systems and emergency procedures that come into play should an event occur locally. The specific type of terrorist act will dictate which specific plan(s) will best handle the event. Any event of consequence will see significant Federal Government intervention and support based on the national security concerns.

G. NUCLEAR POWER PLANT

Nuclear power plant emergency plans are developed using guidance from the federal planning document titled NUREG-0654/FEMA-REP-1, Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants. The U.S. Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) developed NUREG-0654/FEMA-REP-1 jointly after the Three Mile Island accident in the 1979. The document incorporates the lessons learned from inquiries into the response actions taken during the accident.

The State of California also has established guidance for maintenance of nuclear power requirements and guidance used in development of the concepts of nuclear power plant emergency response. This Annex was prepared with assistance from the County Office of Emergency Services in conjunction with the County's Nuclear Power Plant.

H. TSUNAMI

A review of the history of our coastline demonstrates the necessity of being prepared for a tsunami. The California coast has experienced numerous events and thus must maintain plans capable of handling a tsunami emergency. This annex addresses evacuation and warning procedures necessary to ensure a safe and timely response to reports of a possible tsunami striking the City of Morro Bay.

SECTION V - EMERGENCY MANAGEMENT

A. DISCUSSION

The City will manage emergencies using the National Incident Management System (NIMS) integrated with the Standard Emergency Management System (SEMS) and Incident Command System (ICS). NIMS, SEMS, and ICS are modular emergency management systems designed for incidents involving a multi-jurisdictional response. They provide effective direction and control of an emergency from the time of notification, through all its stages, until the situation de-escalates to a point where emergency resources are no longer needed.

B. NATIONAL INCIDENT MANAGEMENT SYSTEM INTEGRATED WITH THE STANDARD EMERGENCY MANAGEMENT SYSTEM (SEMS)

In an emergency, governmental response is an extraordinary extension of the responsibility and action, coupled with the normal day-to-day activities, associated with governing. Any emergency event of major consequence will more than likely overwhelm local government resources requiring assistance from a multitude of agencies. The National Incident Management System (NIMS) integrated with the Standardized Emergency Management System (SEMS), which has been adopted by the City of Morro Bay, establishes a nationwide standard response structure and basic protocols to be used by all agencies in both emergency response and recovery for a major event. Its authority and structure can be found in Chapter 1 of Division 2 of Title 19 of the California Code of Regulations and Homeland Security Presidential Directive (HSPD)-5.

Fully activated, the NIMS/SEMS consists of six levels: field response, local government, operational areas (countywide), OES Mutual Aid Regions, state government, and federal government.

C. INCIDENT COMMAND SYSTEM

ICS consists of several components. When applied together, the following provide the basis for effective emergency management:

- Common terminology
- Modular organization
- Integrated communications
- Unified command structure

- Consolidated action plans
- Manageable span-of-control
- Pre-designated incident facilities
- Comprehensive resource management

The modular aspect of ICS establishes a dynamic emergency organization based on the resources needed to support all phases of an emergency. The organization's staff will be integrated from the top down. If a situation escalates, additional resources can be brought into the organization, and, likewise, when the situation de-escalates, resources can be released when they are no longer needed.

D. CITY EMERGENCY ORGANIZATION

The figures at the end of this section illustrate the City of Morro Bay's Incident Management Organization for various types of emergencies. The staffing and actual structure of the organization will vary based on the type and severity of an emergency.

Table V-1 lists the City personnel that will be trained to fill the emergency positions shown in figures. Each position has alternate personnel. Some personnel are cross-trained to fill several positions. The Incident Commander (IC) heads the Incident Management Organization. The IC has overall responsibility for the City's emergency management. By ordinance, the City Manager is designated as the Director of Emergency Services and is to provide policy guidance to the Incident Commander.

The Police Department Watch Commander or the on-duty Fire Captain will act as the IC at the onset of an emergency. When a designated Incident Commander arrives at the City Emergency Operations Center (EOC), the acting IC will relinquish command and act as Deputy Incident Commander until command is stable and the arriving Incident Commander has been briefed. When the Incident Management Organization is mobilized, the Incident Commander is supported by five functional groups.

The functional ICS groups are:

- Command Staff
- Operations Section
- Planning Section
- Logistics Section
- Finance Section

Except for the Command Staff, which includes the Incident Commander

and support staff, each of these groups is headed by a Section Chief. The Section Chiefs comprise the General Staff, which is the management team under the direction of the Incident Commander. The Section Chiefs may activate functions as needed to support the operational needs of their assigned section.

E. RESPONSIBILITIES

This section outlines the general responsibilities of the functional Incident Management Organization groups.

1. Policy Group

The Policy group is comprised of the Mayor and City Council, and assisted by the City Manager and City Attorney. This group is responsible to provide legal and policy direction to the EOC Director and/or the Incident Commander.

2. Incident Commander

The Incident Commander (IC) has overall responsibility for all emergency operations. Depending on the type of emergency, personnel authorized to act in the capacity of Incident Commander are as follows:

- Fire Chief
- Police Chief
- Public Services Director
- City Manager
- Designated Fire and Police Personnel

The Incident Commander's responsibilities include:

- Directing the Command Staff and General Staff.
- Developing and implementing strategic decisions.
- Approving the order and release of resources.
- Activating ICS elements.
- Ensuring planning meetings are conducted.
- Approving and authorizing implementation of Incident Action Plans.
- Determining information needs and informing the Command Staff.
- Reviewing and authorizing the release of information to the news media and public.
- Ensuring the general welfare and safety of Incident Management Organization personnel.

- Approving the plan for demobilization and recovery.

3. Safety Officer

The Safety Officer (SOFR) is responsible for monitoring and assessing hazardous and unsafe situations and developing measures for assuring personnel safety. The Safety Officer will make recommendations to the IC to correct unsafe acts or conditions. The Safety Officer will provide input in the development of Incident Action Plans to identify and mitigate safety concerns during emergency operations.

4. Information Officer/Liaison Officer

The Information Officer (IOFR) is responsible for developing and releasing information about the emergency to the news media, to incident personnel, to other appropriate agencies and organizations and the general public.

The Liaison Officer (LOFR) serves as the primary point of contact for personnel assigned to the incident by assisting or cooperating outside agencies. These are personnel other than those on direct tactical assignments or those involved in a Unified Command.

In some situations one person may handle both the Information Officer and the Liaison Functions. In large-scale emergency situations additional staff may be required in order for these functions to operate effectively.

The Information Officer's/Liaison Officer's responsibilities include:

- Gathering and disseminating emergency information.
- Develop material for use in media briefings.
- Obtaining Incident Commander approval for the release of information.
- Inform media and conduct briefings.
- Coordinating the release of emergency information to the public and news media with other agencies.
- Responding to special requests for information.
- Providing information about the emergency to the Incident Management Organization.
- Be a contact point for Agency Representatives.
- Identifying contacts and communication links with outside

- agencies and organizations.
- Providing information to and responding to requests from interagency and intra-agency contacts.

5. Operations Section

The Operations Section Chief (OSC), who is a member of the General Staff, heads this Section. The Section is responsible for the following operations:

- Providing and coordinating law enforcement services, including assisting other law enforcement agencies in traffic management.
- Providing and coordinating public services, including providing and placing barricades and signs for traffic management activities.
- Providing and coordinating fire protection services.
- Providing and coordinating emergency medical services for the City.
- Establishing and managing staging areas.
- Ensuring the general welfare and safety of section personnel.

The Law Enforcement Branch, Fire Services Branch, Public Works Branch, and the Medical Branch are examples of functions that operate under the direction of the Operations Section Chief.

6. Planning Section

The Planning Section Chief (PSC), who is a member of the General Staff, heads this section. The Section is responsible for obtaining, evaluating, disseminating and using information concerning the developing status of the emergency. This information is needed by the Incident Management Organization to have an understanding of the current situation and develop appropriate courses of action to effectively manage the emergency response. The Section is responsible for the following operations:

- Collect and process situation information about the incident.
- Supervise preparation of the Incident Action Plan.
- Determine need for specialized resources in support of the incident.

- Assemble information on alternative strategies.

The Resources Unit, Situation Unit, Documentation Unit, and technical specialist are examples of functions that operate under the direction of the Planning Section Chief.

7. Logistics Section

The Logistics Section Chief (LSC), who is a member of the General Staff, heads this section. The Logistics Section Chief, with assistance from several units, is responsible for providing the Incident Management Organization with logistical needs such as facilities, communications, equipment, emergency worker feeding and supplies. The Logistics Section Chief is also responsible for ensuring the general welfare and safety of section personnel. The Section is responsible for the following operations:

- Identify service and support requirements for planned and expected operations.
- Develop incident Communications Plan, Medical Plan and Traffic Plan.
- Coordinate and process requests for additional resources.
- Review Incident Action Plan and estimate Section needs for next operational period.

The Equipment Unit, Communications Unit, Facilities Unit, Food Unit, and Supply Unit are examples of functions that operate under the direction of the Logistics Section Chief.

8. Finance / Admin Section

The Finance Section Chief, who is a member of the General staff, heads this section. The Finance Section is responsible for all financial and cost aspects associated with the emergency. The Chief manages and is assisted by four units, The Time Unit, Procurement Unit, Cost Unit, Compensation and Claims Unit. These are examples of functions that are under the direction of the Finance Section Chief. The Section is responsible for the following operations:

- Manage all financial aspects of an incident.
- Ensure that all obligation documents initiated at the incident are properly prepared and completed.

- Brief Policy Group on all incident-related financial issues needing attention or follow-up.

TABLE V-1

CITY OF MORRO BAY
INCIDENT MANAGEMENT ORGANIZATION CHART

The following section outlines position assignments for Incident Management Organization members. The assignments are made corresponding to position within the regular city organization structure by position only. To obtain the names and phone numbers that correspond to these positions, reference the City EOC Plan. Members of the regular city organization that are assigned to the Incident Management Organization shall be made aware of their assignment and offered special training for their incident management function. These assignments are recommendations only. Any person familiar with the ICS may be used to fill positions that are short on personnel, especially in the early stages of an incident.

<u>Position</u>	<u>Primary</u>	<u>Alternate</u>
Policy Group	City Council City Manager City Attorney	Appointed Commission and Board Members (<u>See Table VI-1.</u>)
EOC Director , Incident Commander or Unified Command	Fire Chief Police Chief Public Services Director	Fire Captain Police Commander City Engineer Capital Projects Manager
Administration	City Manager Assistant City Manager	Department Head Management Analyst City Clerk
Information Officer	Management Analyst Fire Dept. PIO Police Dept. PIO	City Clerk City Attorney Assistant City Manager
*Liaison	Recreation <i>and Parks</i> Director	Fire Captain Police Sergeant
*Operations Section Chief	Fire Captain Police Commander City Engineer	Fire Engineer Police Sergeant Capital Projects Manager
*Planning Section Chief	Fire Captain Police Commander	Public Services Director
*Logistics Section Chief	Capital Projects Manager	Recreation <i>and Parks</i> Director

Finance/Admin
Section Chief
*Interchangeable Positions

Finance Director

Facilities Coordinator

City Accountant
Accounting Supervisor

SECTION VI - CONCEPTS OF OPERATION

This section outlines the concepts under which the City will respond to emergencies. Though the City's response to emergencies will depend on the type and magnitude of the situation, many elements of response are similar.

A. BASIC ELEMENTS OF EMERGENCY RESPONSE

Some of the basic elements of emergency response common to all types of emergencies include the following:

- Event Recognition
- Notification of Response Personnel
- Mobilization of Response Personnel
- Activation of Emergency Response Facilities and Resources
- Situation Reporting and Assessment
- Public Alerting and Information
- Protective Action Determination and Implementation
- Reentry and Recovery

Response to all emergencies involves the use of the elements listed above. The type and magnitude of each emergency will determine the level of response necessary.

Some emergencies can be preceded with a buildup period lasting from hours to days, which if recognized provide advanced warning to the population groups which might be affected. In certain instances, all of the emergencies addressed in the plan could be preceded by events that could be recognized as advance warning. These slowly building events allow the emergency organizations and resources to be mobilized and prepare for emergency response. In other instances, emergencies can occur with little or no advance warning. This will require emergency organizations and resources to be mobilized just prior to or after the onset of the event.

Since emergency preparedness involves planning for worst-case events, the City of Morro Bay must be prepared to respond promptly and effectively and have provision for mutual aid resources if the response effort requires resources beyond the City's capabilities.

The hazard-specific annexes contained in Part 2 of the MERP provide the detailed concepts of operations for each type of emergency addressed in this plan.

B. MUTUAL AID CONCEPTS

It shall be the policy of the City to utilize mutual aid as the primary means to expand the number of personnel and resources assigned to the City's Emergency Organization. Mutual aid procedures should be consistent with the California Master Mutual Aid Agreement, California Law Enforcement Mutual Aid Plan, California Fire and Rescue Mutual Aid System, and the San Luis Obispo County Fire and Rescue Mutual Aid Plan. Mutual Aid, like the Incident Command System, is provided under the broad direction of the requesting jurisdiction and under the direct control of the aiding jurisdiction/agency. All assisting agencies that support this plan should work in cooperation with other local, state, federal and private agencies in an effort to maximize resources and minimize damages. It is further understood that mutual aid may be severely delayed and will require extreme cooperation between local surviving agency resources.

C. PRESERVERANCE OF GOVERNMENT

A major disaster could result in great loss of life and property, including the death or injury of key government officials. At the same time there could be partial or complete destruction of established seats of government, and the destruction of public and private records essential to continued operations of government and industry.

In the aftermath of a major disaster, law and order must be preserved and essential government services must be maintained. To this end, it is particularly essential that local units of government continue to function.

1. Lines of Succession

Article 15 of the California Emergency Services Act provides the authority, as well as the procedures to be employed, to ensure continued function of government through the appointment of political positions, chief executives, and department heads should they be unable to serve in a locally declared state of emergency. In general the act allows for the governing body to designate and appoint up to three standby officers for positions it deems necessary. For City Council Members, if a quorum cannot be met due to injury, illness, or death during a locally declared state of emergency in Morro Bay, temporary appointments will be made to create a full City Council of five (5) members. Table VI -1, at the end of this section, delineates the lines of succession for the City of Morro Bay.

2. Temporary City Seat of Government and EOC

Should, during any emergency situation, the normal seat of government be unusable, the seat of City government will be moved first to the Morro Bay Community Center and secondarily to the City of Atascadero.

Should, for any emergency situation, the city's primary EOC be unusable a back-up or secondary EOC will be established at the Fire Department or the San Luis Obispo County EOC.

3. Vital Records

The City Clerk is responsible for the vital Records of the City of Morro Bay. These records are routinely stored in the Clerks office located at City Hall. Back-up data systems are stored off-site at a safe location.

TABLE VI-1

LINES OF SUCCESSION

SERVICE / DEPARTMENT	TITLE- POSITION
Policy Group	<ol style="list-style-type: none"> 1. Mayor and City Council Members 2. Planning Commission Chair 3. Public Works Advisory Board Chair 4. Recreation and Parks Commission Chair 5. Harbor Advisory Board Chair 6. Community Promotions Committee Chair 7. Planning Commission Vice-Chair 8. Public Works Advisory Board Vice-Chair 9. Recreation and Parks Commission Vice-Chair 10. Harbor Advisory Board Vice-Chair 11. Community Promotions Committee Vice-Chair
City Manager / Emergency Services Director	<ol style="list-style-type: none"> 1. City Manager 2. Assistant City Manager 3. Fire Chief 4. Police Chief
City Clerk	<ol style="list-style-type: none"> 1. City Clerk 2. Deputy City Clerk
Human Resources	<ol style="list-style-type: none"> 1. Personnel Officer 2. Administration Technician
Fire	<ol style="list-style-type: none"> 1. Fire Chief 2. Fire Captain 3. Fire Engineer/Acting Captain
Police	<ol style="list-style-type: none"> 1. Chief of Police 2. Police Commander 3. Watch Commander
Harbor	<ol style="list-style-type: none"> 1. Harbor Director 2. Chief Harbor Patrol Officer 3. Harbor Business Coordinator
Finance	<ol style="list-style-type: none"> 1. Finance Director 2. Accountant 3. Senior Accounting Technician
Recreation and Parks	<ol style="list-style-type: none"> 1. Recreation and Parks Director 2. Facilities Superintendent 3. Parks Superintendent
Public Services	<ol style="list-style-type: none"> 1. Public Services Director 2. City Engineer 3. Capital Project Manger
Information Systems	<ol style="list-style-type: none"> 1. Information Systems Manager 2. Computer Technician

SECTION VII - EMERGENCY RESOURCES

A. EMERGENCY FACILITIES

The Support Materials Section (Part III) of this plan provides a description of City emergency facilities and resources. It also provides guidance in the activation and operation of the City EOC. The Disaster Preparedness Advisory Committee shall direct City Departments (Fire, Police, Public Services and others) to establish and maintain emergency equipment, supplies, facilities and communications systems for use in disaster situations.

B. EMERGENCY EQUIPMENT AND SUPPLIES

The City Disaster Preparedness Advisory Committee will establish emergency equipment and supply inventory levels. Emergency vehicles, equipment inventory and a listing of available supplies are found in Part III of the Multi-Hazard Plan.

SECTION VIII - PROGRAM MAINTANANCE

A. DISASTER COUNCIL

The Disaster Council has been established (Chapter 8.08 of the Municipal Code) to oversee and coordinate disaster preparedness measures in the City. The committee is chaired by the City Manager and includes department heads. The Disaster Council is empowered to develop and recommend for adoption by the City Council emergency and mutual aid plans and agreements for the City.

A Disaster Preparedness Advisory Committee (DPAC) is established to assist the Disaster Council with its work. This committee is chaired by the Fire Chief (Deputy Director of Emergency Services) and is comprised of representatives of the Police Department, Public Services Department, Recreation and Parks Department, and City Administration.

This committee is strictly a work group for pre-disaster preparedness and does not convene during the emergency phase of operations.

B. PLAN AND PROCEDURE MAINTENANCE

This plan, in its entirety, will be reviewed, maintained, and updated on a yearly basis by the Fire Chief or his designated representative. The Basic Plan (Part 1) sets objectives and policy for the City and therefore changes require the approval of the City Council. Part II - the Hazard Specific Annexes and Part III - Support Documents are tactical and reference documents and contain information that changes frequently. The Fire Department will be directly responsible for updating and revising the Hazard Specific Annexes and related Support Materials. Revision of Parts II and III do not require City Council approval.

Department SOP's, specific to the disaster annexes (i.e. Earthquake, Hazardous Materials, Flood and Wildland Fire Emergencies) shall be developed maintained and updated on a yearly basis by each department (i.e. Public Services, Police, Fire, Recreation and Parks Department). Each department shall send an updated copy of their SOP's to the Fire Chief via DPAC representatives.

C. EMERGENCY RESOURCES MAINTENANCE

The Disaster Preparedness Advisory Committee shall direct City Departments (Fire, Police, Public Services and others) to establish and maintain emergency equipment, supplies, facilities and communications

systems for use in disaster situations.

D. TRAINING

It is the policy of the City to sponsor and coordinate an annual disaster drill or exercise on a particular City emergency response plan. The Fire Department will develop and administer the drills or exercises. The primary purpose of these events will be to evaluate and improve the particular emergency response plan that the event is based on. The exercise or drill should also provide a beneficial training and learning experience to all its participants.

All actions during the exercise will be observed and recorded by a multi-department/jurisdictional evaluator group made up of the departments participating in the exercise. A general "no fault" discussion and critique will follow the exercise. This critique will afford department players and the evaluator group with an opportunity to jointly comment on perceived strengths, weaknesses and needed improvements on the particular emergency response plan exercised. A closed evaluator group meeting will follow the critique for the purpose of recording on a consensus basis specific recommendations for plan improvement. These recommendations should then be submitted to the Morro Bay Fire Department within 30 days after the actual exercise.

An actual activation of the EOC may substitute for the annual disaster drill or exercise.



AGENDA NO: D-2

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: October 15, 2013

FROM: Eric Endersby, Harbor Director

SUBJECT: Authorization to Enter into Renegotiation of Lease Terms and Conditions for Lease Site 53-56/53W-56W located at 501 Embarcadero (Estero Landing Inc., Ken Scott)

RECOMMENDATION

Provide staff direction, staff is recommending Alternative A.

ALTERNATIVES

- A. Authorize staff to enter into renegotiation of certain lease terms and conditions for Lease Site 53-56/53W-56W with Ken Scott, owner of Estero Landing, Inc.
- B. Do not authorize staff to enter into said renegotiations.

FISCAL IMPACT

None at this time.

BACKGROUND

The lease for Lease Site 53-56/53W-56W with Estero Landing/Ken Scott is a 40-year lease that began in 2008. That lease stipulated that Mr. Scott demolish the old improvements and build a new retail and motel structure, new side-tie dock, and other public access improvements. All construction and improvements were completed in late 2009 when the new facility was opened for business.

DISCUSSION

Mr. Scott is seeking City Council authorization to attempt to renegotiate two terms in his lease, specifically:

- Section 1.01 Term; and
- Section 2.04 Percentage Rent

Past practice was to bring such requests directly to Council in closed session; however, the current practice is to generally bring all new waterfront lease matters to Council in regular session first to seek public comment and Council direction before proceeding further. Should Council authorize renegotiations with Mr. Scott, staff will bring Mr. Scott's specific requests to Council in a future closed session.

Prepared By: EE Dept Review: _____

City Manager Review: _____

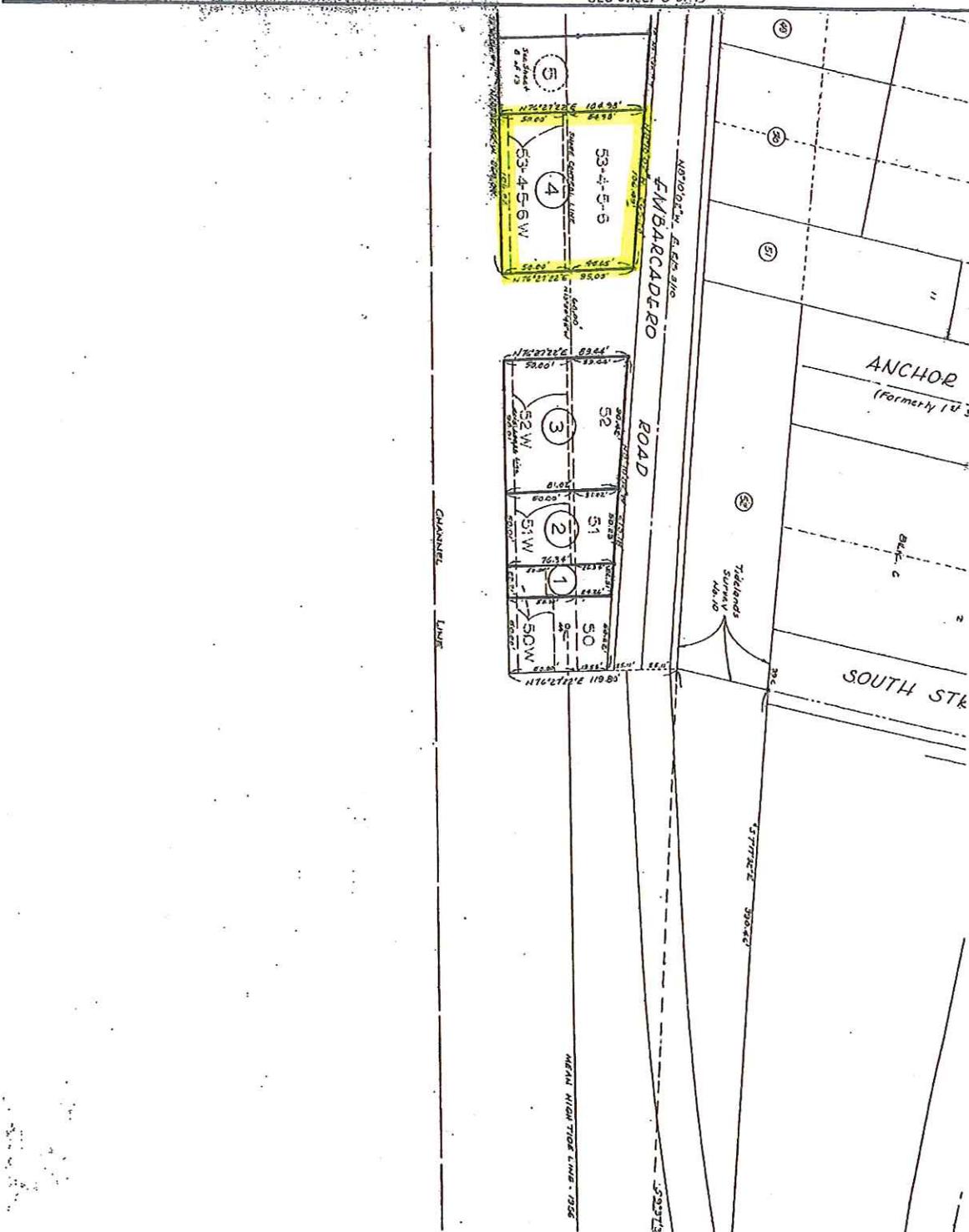
City Attorney Review: _____

CONCLUSION

Ken Scott has requested renegotiation of Sections 1.01 and 2.04 of his lease for Estero Landing, and staff is bringing Mr. Scott's request forward for Council's consideration. Due to the nature of Mr. Scott's requests staff is recommending Alternative A as Mr. Scott is a tenant in good standing and entertaining his renegotiation request is in keeping with past City practice of proactively managing its waterfront leases.

EXHIBIT A

See Sheet 8 of 13







AGENDA NO: D-3

MEETING DATE: 10/22/2013

Mayor Report

TO: MAYOR AND CITY COUNCIL **DATE: October 17, 2013**
FROM: MAYOR IRONS

**SUBJECT: REPORT ON RESULTS OF OBTAINING OUTSIDE INDEPENDENT
LEGAL COUNSEL**

RECOMMENDATION

Receive and file.

FISCAL IMPACT

Not to exceed contract of \$12,500.00. This cost is based on 50 hours at \$250.00/hr.

BACKGROUND

On September 24th at a regular City Council meeting, Council heard and discussed Item A-7, "Obtain Outside Independent Legal Counsel to Advise City Council on City Manager and City Attorney Contracts and Related Issues". Council voted 3-1-1 (Irons, Smukler, C. Johnson - Yes, Leage - No, N. Johnson - Absent) to authorize Mayor Irons to obtain outside legal counsel. Three legal firms were identified at that meeting as candidates for their experience in municipal and personnel law; Schneider & Associates, Myers, Widders, Gibson, Jones & Feingold, L.L.P., and Simas & Associates.

As a result of the local news, the Law Offices of Lazano Smith from San Luis Obispo inquired into submitting a proposal. Their proposal was accepted and is included in this report.

DISCUSSION

There are many local law firms available in San Luis Obispo County. Effort was made to seek firms that had no conflicts with the City of Morro Bay or City Council. Therefore, research was focused primarily on firms specializing in municipal and personnel law that were out of the area to avoid potential conflicts. Ultimately, two firms in Ventura County, one dual located firm, and Lazano Smith submitted proposals. Proposals were evaluated for: Experience and Qualifications, Proposal Content, Conflict, Cost, Availability, and References. All of the law firms presented impressive qualifications and favorable references were received. Simas and Associates ranked higher than the others after speaking with references and considering that travel costs may be lower due to Mr.

Prepared By: JIrons

City Manager Review: _____

City Attorney Review: _____

Simas' having an office in San Luis Obispo and Sacramento.

CONCLUSION

Pursuant to the authority provided by Council to the Mayor at the September 24th regular Council meeting, the Mayor entered into a contract for services with Mr. Simas of Steve Simas & Associates to provide independent legal counsel on City Manager and City Attorney contracts and related issues. Mr. Simas has been in contact with all Councilmembers.

ATTACHMENTS

- A. Proposal letter
- B. Schneider & Associates, proposal
- C. Myers, Widders, Gibson, Jones & Feingold L.L.P., proposal
- D. Steve Simas & Associates, proposal
- E. Lazono & Smith, proposal
- F. Contract with Simas & Associates

Last night City Council voted 3-1 to authorize me to obtain outside legal counsel. You may want to refer to recent SLO Tribune articles. I was asked by our council in what matter would I obtain legal counsel? I reported that I have three firms in mind and named yours. I would like to start the process to select a firm as I committed to do. I will be documenting this process to report to council and the public in a regular city council meeting. One immediate question for you. At the close of the meeting last night a resident (who is an attorney) approached me and questioned the legality of the Mayor being granted the authority to obtain outside legal counsel. This is another reason why we need help. Our city attorney has not mentioned any legal issue with this. I would respectfully request the following;

- 1) A brief statement of your firms qualification to provide legal service to the City Council of The City of Morro Bay for the purpose of reviewing the contracts of our City Attorney and City Manager, and all personnel matters relating to discipline/dismissal/release, severance, investigating any improprieties including Brown Act violations, reviewing the September 12th Closed Session meeting, noticing closed session meetings, and advising City Council through this personnel matter.
- 2) A brief statement of any conflict with the City of Morro Bay, City Council, or the City Attorney or City Manager.
- 3) References, and who in the firm will be assigned to this case.
- 4) Council expressed a sense of urgency to get through this as timely as possible. Could you outline your availability.
- 5) Given the brief knowledge of this matter, could you outline the process in which you would suggest proceeding through this?
 - a) Determining the legality of the Mayor obtaining legal counsel and formalizing a contract.
 - b) Individual interviews with council members?
 - c) Any investigations.
 - d) Noticing and holding meetings open and closed session.
 - e) Press and public communications
 - f) Hourly rate and expenses

I am available by phone to discuss any questions you have. Depending on responses I would like to conclude this selection process by Monday September 30th.

Sincerely,

Jamie Irons
Mayor
City of Morro Bay
805-550-6595



SCHNEIDERS & ASSOCIATES, L.L.P.

**Proposal
for
Special Counsel
to
the City of Morro Bay, California**

September 26, 2013

Presented by:
Theodore J. Schneider, Esq.

SCHNEIDERS & ASSOCIATES, L.L.P.

ATTORNEYS AT LAW

ROY SCHNEIDER
THEODORE J. SCHNEIDER
JULIE A. SALTOUN
RENNEE R. DEHESA
KATHLEEN J. SMITH



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KATHERINE H. BECKER

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Reply to Oxnard Office

Writer's email: rschneider@rstlegal.com

September 26, 2013

Jamie L. Irons, Mayor
City of Morro Bay, California
595 Harbor Street
Morro Bay, CA 93442

**RE: City of Morro Bay
Proposal for Special Counsel Services**

Dear Mr. Irons:

Thank you for the opportunity to submit my qualifications for serving as Special Counsel to the City of Morro Bay, California (the "City"). I am delighted to provide the City Council with my background given my extensive municipal and public law experience, specifically with respect to handling government personnel and Brown Act matters.

1. Firm Qualifications

Having served as the City Attorney for the City of Fillmore for over four years from January 2008 to July 2012, and as Assistant City Attorney to the Cities of Ojai and Fillmore for the three years prior, I am confident that my combined professional background and municipal law experience will enable me to expertly and efficiently serve the City as Special Counsel. You will find enclosed my resume which covers the depth of my relevant experience and knowledge relating to the Special Counsel position.

While serving as City Attorney and Assistant City Attorney for Fillmore and Ojai, I handled a number of complex employment related matters which we resolved through negotiations or through the administrative process. As City Attorney, I was responsible for reviewing and negotiating employment contracts (including for the City Manager and department heads), and dealing with investigating improprieties, including claims for harassment, financial wrongdoing and Brown Act violations.

In August 2012, I established an Oxnard-based law firm, Schneiders & Associates, L.L.P. with my father and business partner, Roy Schneider. We recruited a highly skilled and experienced team of six attorneys and other legal professionals. Since then, we can proudly say that we retained over 90% of our clientele from our previous law firm where we were partners, and as of April 1, 2013, the firm opened a Westlake Village satellite office. Our establishment is a business-oriented firm that prides itself in responsiveness and assisting our clients with practical and business-like solutions to the legal issues that they face.

I will be the attorney primarily responsible for the work as Special Counsel with respect to this engagement, but the other attorneys in our firm may provide assistance to me as needed and as appropriate. For example, in the unfortunate event that the instant matter devolves into litigation, our team is expert and well-equipped to represent the City's interests in connection with any such adversarial proceeding.

2. Conflicts of Interest

We do not have and do not foresee any conflicts from our representation of the City of Morro Bay.

3. References

Please see attachment.

4. Availability

We are located in Ventura County, often servicing clients in Santa Barbara and San Luis Obispo counties. Therefore, I can be called to be present at a City Council meeting with relatively short notice. I have no plans to be away from the office for any extended period in the coming months, and my team and I are positioned and prepared to timely complete your requested service.

5. Outline of Process

- (a) If the majority of the City Council authorized the Mayor to retain outside legal counsel (which they did 3-1), then the Mayor has the legal authority to act on behalf of the City to retain the attorney, and sign the legal services agreement. Cities are permitted to contract for special services, including legal services, without complying with formal competitive bidding procedures. See Cal. Gov. Code § 53060.
- (b) We propose conducting a thorough review of contracts, emails and other written communication between the City Attorney, staff, and members of the Council related to this matter as well as review of pertinent minutes of open meetings and closed sessions. We also intend to interview all relevant personnel, including current or past City officials, who may have knowledge of the facts or issues involved in the current controversy.

- (c) We will undertake such further independent investigation of the claims and issues involved in this matter as prudence dictates, even if such investigation goes beyond a review of City communications and interviews.
- (d) Taking into consideration all of the relevant facts and circumstances, as applied to the Brown Act, we will determine whether the contemplated meetings to consider the current controversy should be held as open meetings or closed sessions. We will make sure all proper notices for conducting same are posted. We are well versed in the Brown Act's agenda requirement, as well as permissible closed sessions and the required public reports thereafter.
- (e) We will work with the Council and any other designated official to develop appropriate press releases and public communications, all of which should be handled through this office, during the investigatory period as well as upon completion and conclusion of this assignment. I have considerable experience dealing with the press in Fillmore during periods of controversy or crisis in the City. You may contact the Editor of the Fillmore Gazette if you wish to learn more about my handling of press releases, interviews and the like. Please see References. Our experience dictates that honest and forthright communication on a regular basis with the public and press is imperative; provided, all such communication is circumspect and carefully crafted not to jeopardize or adversely affect the City's legal position.

Hourly Rates

My current hourly rate is \$300.00 for non-governmental clients, others in our office range from \$275.00 to \$350.00. Our current hourly rate for public agency and municipal clients for transactional work, attending meetings, research and advice is \$165.00, and for litigation related matters is \$200.00 for all attorneys in our office. Our paralegals and legal assistants bill at the rate of \$75 to \$110 per hour, depending upon experience. We established our reduced rates for government clients as set forth above because of our firsthand understanding of their unique fiscal concerns in these economic times and our deep appreciation for the public interest that such agencies serve.

If you have any questions or would like additional information, please do not hesitate to contact me. We look forward to hearing from you in this regard.

Very truly yours,

SCHNEIDERS & ASSOCIATES, L.L.P.



THEODORE J. SCHNEIDER



BAR ADMITTANCE

On December 2, 2002, Theodore J. Schneider was admitted to the State Bar of California.

EDUCATION

Ted graduated *Order of the Coif* from the University of California, Davis School of Law in 2002 and *cum laude* from the University of California, San Diego in 1999 with a BA in Political Science.

PROFESSIONAL BACKGROUND

In August 2012, Ted established Schneiders & Associates, L.L.P. Prior to establishing his law firm, Ted worked as a corporate associate for a large international law firm and a corporate transactional and municipal law partner with a long-time established Ventura County law firm. Ted advises and represents business clients ranging from small local companies to publicly traded multinational corporations in various transactions, including incorporation, mergers and acquisitions (stock and asset sales) and corporate governance. Ted consults with his clients to draft, review and negotiate contracts, including buy-sell agreements, service contracts, supply agreements, releases and waivers, shareholder agreements, operating agreements and licensing agreements.

Ted assists his clients with their labor and employment matters. Ted's employment law practice involves advising his clients with respect to wage and hour laws, sexual harassment, leave laws, employee classification and anti-discrimination laws. Ted has extensive experience advising his employer-clients with respect to employee claims. Ted manages independent investigations, coordinates with applicable government agencies and resolves such claims before they escalate into lawsuits. Ted has drafted and negotiated employment agreements for executives of multinational corporations and municipalities.

Ted also advises clients with respect to real estate matters, including the environmental aspects of real estate transactions; zoning and land use; acquisition and sale of vacant land, office buildings, apartment buildings, shopping centers and other commercial and residential properties; leasing; and contractor, architect, broker and management agreements. Ted's real estate clients range from privately-held entrepreneurial developers to the owners and developers of some of Ventura County's largest real estate projects.

MUNICIPAL & PUBLIC LAW EXPERIENCE

Ted began his public entity law career upon joining an established Ventura County law firm in 2005 and assuming the role of Assistant City Attorney for the City of Ojai and the City of

Fillmore. In January 2008, Ted was appointed City Attorney for the City of Fillmore and served in that capacity until July 2012.

As Fillmore City Attorney, Ted was responsible for advising the Fillmore City Council as well as City department heads and City boards and commissions as to their legal matters. Ted attended all City Council and Planning Commission meetings for the City of Fillmore, as well as weekly department head meetings.

As City Attorney, Ted prepared and presented numerous staff reports and memoranda on a variety of legal issues related to municipal employment matters, ordinances and resolutions, conflicts of interest, public works bidding and contracting, tort claims, land use and planning, risk management, mobile home park law, development agreements, CEQA, Brown Act compliance, tax issues, election procedures and challenges, and civil practice and procedure (state and federal court) for purposes of aiding the municipality's evaluation of ongoing and anticipated litigation.

As City Attorney, Ted successfully defended the City of Fillmore in connection with a meritless Brown Act lawsuit brought against the City and successfully avoided numerous lawsuits through negotiations with developers over Development Agreement disputes and related land use and entitlement matters. In addition, he successfully represented the City of Fillmore in several lawsuits both as a defendant and plaintiff, which included causes of actions for breach of contract, petitions for traditional and administrative writs of mandate, and inverse condemnation. Working closely with City staff, Council and private developers, Ted was instrumental in successfully petitioning the Ventura Local Agency Formation Commission to permit Fillmore to annex property needed to enlarge a business park in the City.

Ted has advised a number of school districts located in Ventura County in connection with land use, easement rights, and the acquisition and disposition of school sites, including Ventura and Conejo Valley Unified School Districts, and Mesa Union School District. He recently assisted Conejo Valley Unified School District and Mesa Union School District in the sale of surplus properties.

Ted reviewed all contracts for the City of Fillmore, including construction contracts, consulting contracts and service contracts. He also negotiated oil and gas pipeline franchises, solid waste management franchises and cable television franchises.

Ted was instrumental in advising the City of Fillmore with respect to the development of the City's water recycling plant, including the design, build, operate contract for the plant, and advising with respect to rate increases and Proposition 218.

Ted's municipal experience covers a broad range of areas, including drafting and reviewing resolutions, ordinances and municipal contracts and he has extensive experience drafting and negotiating agreements with consultants and other governmental entity service providers. He has drafted ordinances on topics ranging from sign regulations to administrative penalties for noncompliance with municipal code provisions.

On behalf of Ted's municipal clients, he successfully facilitated numerous code enforcement activities.

Additionally, Ted has extensive experience with the Public Records Act, prevailing wage laws, finance, subdivisions, and regularly advises his clients on legal matters relating to these issues.

Ted assists his clients, including public agencies and their department heads, with respect to all aspects of personnel matters, including employee discipline, wrongful termination, retaliation, discrimination, hostile work environment, sexual harassment, leaves of absence, workers' compensation, Americans with Disabilities Act, Fair Employment and Housing Act, Fair Labor Standards Act, and the California Labor Code. Ted also provides California's AB1825 mandatory two-hour training for supervisory employees in the identification, investigation and prevention of sexual harassment in the workplace.

Ted has prepared and presented numerous times to local government officials mandatory ethics training required by AB1234. With respect to ethics, Ted is versed in the Political Reform Act, and has analyzed and opined on many fact patterns for which conflicts of interest may arise for public entity officials and staff.

COMMUNITY INVOLVEMENT

Ted is a member of the Ventura County Bar Association and is a current member and past President of the Tri-Counties Local Government Attorneys' Association. He has participated in numerous conferences of the League of California Cities ranging in all areas of public entity and municipal law. Ted serves as the Vice Chair to the Board of Directors for the Ventura College Foundation. Ted also serves on the Board of Directors for the Ventura County Community Development Corporation.

References



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RESPONSE TO MAYOR IRONS' QUESTIONS

1. Firm qualifications are attached.
2. No conflicts that we are aware of.
3. Firm references are attached.
4. Available immediately.
- 5.

(a) *Legality of City Council Authorizing the Mayor to Hire Special Outside General Counsel.*

Generally, a city, acting through a majority of its city council, may authorize one of its members, or a staff person, to hire outside special counsel. (Gov't Code §§37103, 53060.) The outside attorney would represent the city itself, not any individual public official. (California Rules of Profession Conduct §3-600A.)

(b) *May Outside Counsel Interview City Council Members Concerning a Closed Session Matter.*

Although, generally, matters discussed in closed session are confidential and may not be disclosed to outside third parties unless authorized by the council (Gov't Code §54963(a)), acting special counsel, because of his or her attorney/client privileged status, would not be considered as an "outside" third party and, in any event, such disclosures would already have been authorized. Discussions between such counsel and the members of the city council about the closed session meeting would not violate Section 54963(a) of the Brown Act. One *caveat*, the city council members could not be compelled to discuss this matter with outside counsel.

(c) *Any Investigation*

Outside special counsel would discuss the issues with all concerned parties.

(d) *Noticing and Holding Open and Closed Session Meetings.*

Closed sessions of the Council are an exception, rather than the rule, under the Brown Act. (Gov't Code §54962.) Therefore, all procedural requirements must be followed with

care and exactitude, including, but not limited to, noticing (Gov't Code §54954.2(a))¹, announcements to be made before the closed session (Gov't Code §54957.7(a)) and “reporting out” obligations (Gov't Code §§54957.1(b), 54957.7(b)).

(e) Press and Public Communications.

The Council would determine who is authorized to speak to the media and what is authorized to be said. Generally, written press releases are the best means to communicate with the media.

¹It should be noted that the closed session announcement contained in the Special Meeting Agenda for the September 12, 2013 special meeting of the Morro Bay City Council set forth the positions (City Manager, City Attorney) of those persons whose possible discipline, dismissal or release were to be discussed. Government Code Section 54957(b)(1) DOES NOT REQUIRE that the positions of those employees whose discipline is to be discussed in closed session be disclosed.

I. QUALIFICATIONS AND EXPERIENCE

1. BACKGROUND AND HISTORY

The Firm has been serving its clients for over 40 years. Since its inception, the Firm has strived to go beyond legal representation, by serving our clients and our communities. In every aspect we perform - counseling, transactional work, or litigation - our goal is to provide the highest caliber services while keeping our clients' best interests in mind. We have held ourselves to these standards since the formation of our law firm in 1971. Our success and the positive results we have obtained for our clients are testaments to dedication to quality and care.

The Firm comprises 17 attorneys and a dedicated support staff. Our talented lawyers bring a breadth and depth of knowledge and experience that provides our clients with exceptional service and results. Many of our attorneys are involved with local city governance, serving as Special Counsel, General Counsel, or City Attorney for communities near our offices. Several of the Firm's attorneys are active speakers, instructors, and professors in business and educational organizations. As one of Ventura County's oldest law firms, we have a history of success and the momentum to handle what the future holds.

In addition, the Firm highly supports philanthropy and service and encourages its attorneys and support staff to take leadership roles with many of them actively participating in local charities and organizations as volunteers, committee chairs, board members and/or officers. The Firm also provides pro bono services to select nonprofit organizations, including Habitat for Humanity of Ventura County, Rescue Mission Alliance, and is currently performing pro bono services for the Moorpark High School Aquatics Booster Club to incorporate them as a 501c3 nonprofit and obtain their federal and state tax-exemption. In addition to the Firm's commitment to local charities and organizations, it also encourages its attorneys to engage actively with local Chambers of Commerce and business trade associations. In this regard, the Firm sponsors exhibits and regularly speaks before these groups on topics of general business interests.

Myers, Widders, Gibson, Jones & Feingold, L.L.P. is authorized to practice law before all courts of the States of California and Nevada, all California and Nevada federal district courts, the United States Court of Appeals for the Ninth Circuit and the United States Supreme Court.

2. FIRM MUNICIPAL QUALIFICATIONS

Over the past 30 years, Myers, Widders, Gibson, Jones & Feingold, L.L.P., through its municipal and public law practice group, has developed a team of attorneys with the skills and qualifications necessary to represent and advise municipalities, agencies and special districts on state and federal laws applicable to their day-to-day operations and complex matters, including but not limited to:

- Ralph M. Brown Act
- Election procedures and challenges
- Conflicts of interest
- Joint Powers Agreements
- Labor and employment
- Proposition 218
- Purchase and sale of real property
- California Environmental Quality Act
- Financing techniques
- California Public Records Act
- Public works bidding and contract negotiations, including franchise agreements
- Tax allocation and revenue bonds
- General liability, risk management and insurance recovery
- Land use and zoning, including general and specific plans
- Eminent Domain
- National Pollutant Discharge Elimination System
- Redevelopment Agency and Successor Agency advice
- Construction defects
- Code enforcement and prosecutions

There are currently seven attorneys with the Firm who emphasize their practice on the representation of municipalities and/or agencies. The attorneys serving the City will be as follows:

DESIGNATED ATTORNEYS:

Monte L. Widders

Steven P. Lee

Erik B. Feingold

SUPPORT ATTORNEYS, AS-NEEDED:

J. Roger Myers

Dennis Neil Jones

Michael S. Martin

Cari Ann Potts

Katherine E. Stone

Resumes for each of these attorneys can be found on pages 6 through 24 of the Proposal.

3. EXPERIENCE AND TRAINING

The Firm's experience in high visibility, complex land use and municipal litigation is unique. Always on the cutting edge, members of the Firm have been involved in such important cases as *Palmer v. Ojai* (1986) 178 Cal.App.3d 280; *Nollan v. Coastal Commission* (1987) 483 U.S. 825, 107 S.Ct. 3141, 97 L.Ed.2d 677; *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798; *Pardee Construction Company v. City of Camarillo* (1984) 37 Cal.3d 465, 690 P.2d 701, 208 Cal.Rptr. 228; *Long Beach Equities v. County of Ventura (City of Simi Valley)* 1991 231 Cal.App.3d 1016; *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259; *Building Industry Association v. Superior Court (Oceanside)* (1989) 211 Cal.App.3d 277; *Building Industry Association of Southern California v. City of Camarillo* (1986) 41 Cal.3d 810, 718 P.2d 68, 226 Cal.Rptr. 81; *Del Oro Hills v. City of Oceanside* (1991) 31 Cal.App.4th 1060, 37 Cal.Rptr.2d 677, and *Widders v. Furchtenicht* (2008) Court of Appeal, 2nd Appellate District case no. B196583.

Along with the legal services provided, the Firm recognizes the importance of loss prevention and risk management and offers a wide range of seminars, workshops, and other educational opportunities for its clients. In addition, the Firm's municipal attorneys are active members of the Tri-Counties Local Government Attorneys' Association, the

League of California Cities, the Public Law Section of the California State Bar and the Ventura County Trial Lawyers Association (“VCTLA”). The Firm’s attorneys have presented as speakers at a number of conferences on various topics in addition to their regular attendance at continuing education conferences. J. Roger Myers and Monte L. Widders are past Presidents of the Tri-Counties Local Government Attorneys’ Association and Dennis Neil Jones is a past President of VCTLA. Of Counsel to the Firm, Gregory J. Ramirez is currently the Chairman of the City of Ventura Planning Commission.

4. SUPPORT STAFF

The Firm’s attorneys are ably assisted by a dedicated support staff, including paralegals, legal assistants and other legal professionals, many of whom have been with the Firm for ten years or longer. Several of the support staff are experienced in both municipal litigation and transactional matters, and can perform certain aspects of the drafting and proofing of routine contracts, resolutions, and ordinances. The assistance results in a more efficient use of City resources spent on attorney’s fees. Below is the Firm’s current list of support staff who will assist the City along with a brief description of their general duties:

Mary E. Moros is legal assistant to Monte L. Widders, and is the Firm’s office manager. As legal assistant to Mr. Widders, she has extensive experience in preparing and processing complaints for municipal code violations and in preparing and reviewing ordinances, staff reports, resolutions, leases and other municipal documents. She also has experience in reviewing various documents, including declarations of covenants, conditions and restrictions, purchase and sale agreements, and other transaction legal documents. She also assists others on an as needed basis. Ms. Moros has been with the Firm since 1979.

Gloria J. Tovias is legal assistant to J. Roger Myers and Steven P. Lee. She has experience in civil and municipal litigation, appellate work, and estate planning, probate and trust administration. She is also familiar with the preparation of resolutions and ordinances. Ms. Tovias has been with the Firm since 1977.

Maria E. Russell is legal assistant to Dennis Neil Jones, Michael S. Martin, Cari Ann Potts and Katherine E. Stone. She had been Ms. Stone’s assistant, working in all aspects of municipal litigation and appeals, from 1998 to 2005. She then began working for the Firm as a legal assistant in complex construction defect, insurance coverage and collection litigation cases, which tasks primarily include drafting pleadings in state, federal and appellate courts, managing discovery, deposition preparation and document productions.

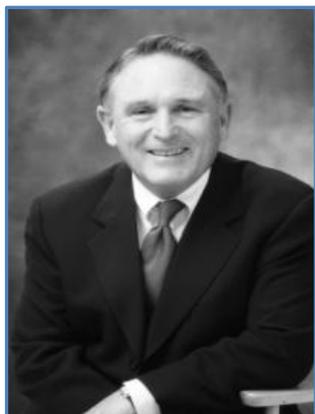
Evelyn K. Martin is legal assistant to Steven P. Lee, specializing in litigation matters, including, but not limited to, personal injury, contract litigation, real estate litigation, collections, District Court proceedings and Appellate Court proceedings. She has also

worked in litigation matters involving several local municipalities. Ms. Martin has been with the Firm since 2001.

Jami L. Knupp is a Certified Paralegal with 25 years of experience in various areas of law. Ms. Knupp's current position focuses on all aspects of corporate and transactional law. Ms. Knupp is an active member of the Ventura County Paralegal Association and is a two-term past President of the association. She has been with the Firm since April 2011.

5. OFFICE LOCATIONS AND ACCESSIBILITY

The Firm maintains permanent offices in Ventura, San Luis Obispo, Valencia, Thousand Oaks, and Mammoth Lakes, California. The Ventura office is the Firm's main location. The office is open from 8:30 a.m. – 5:00 p.m., Monday through Friday.



1. BAR ADMITTANCE

In 1970, Monte L. Widders was admitted to the State Bar of California and the Federal Bar for the Central District of California and, in 1975, he was admitted to the United States Supreme Court. His State Bar of California number is 46154. Mr. Widders has been practicing law for 43 years.

2. EDUCATION

Mr. Widders received his Bachelor of Arts degree from the University of California at Los Angeles in 1966 and he graduated in 1969 from the University of Southern California, Gould School of Law.

3. PROFESSIONAL BACKGROUND

Mr. Widders began his career with a large Los Angeles law firm in 1969. In 1971, Mr. Widders opened his own practice in Santa Barbara, California and worked part-time with J. Roger Myers in 1972 and 1973. In 1974, he formed a law partnership with J. Roger Myers in Ventura, California. That partnership today is known as Myers, Widders, Gibson, Jones & Feingold, L.L.P.

4. MUNICIPAL LAW EXPERIENCE

Mr. Widders' first experience with municipal law occurred in 1974, when he was elected to the Carpinteria City Council. He served as Mayor of that City in 1978. In 1980, Mr. Widders was appointed City Attorney of Ojai, California, as well as general counsel for the Ojai Redevelopment Agency. He served in these capacities until recently retiring as full-time City Attorney and as general counsel for the Redevelopment Agency in May 2011.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

In addition to serving as City Attorney of Ojai and its redevelopment counsel, Mr. Widders has represented numerous other public entities as special counsel, including the County of Ventura and the Cities of San Buenaventura, Fillmore, Santa Paula, Carpinteria, Simi Valley and Thousand Oaks, Special Districts such as the Casitas Municipal Water District, the Ojai Valley Water Conservation District and the Ventura Regional Housing Authority. Currently, Mr. Widders acts as special real estate counsel for the Ventura Unified School District, the Conejo Valley Unified School District, Mesa Union School District and Pleasant Valley School District. In 2007, he assisted the Ventura Unified School District in its sale of more than

\$50,000,000 in surplus properties and the acquisition of new headquarters from Kinko's. Mr. Widders has lectured extensively in the field of municipal law, both at the League of California Cities as well as the Tri-Counties Local Government Attorneys' Association. Mr. Widders presented a paper on the Public Records Act to the California City Clerks' Association. He is past President and member of the Tri-Counties Local Government Attorneys' Association. In 1996 and 1997, he helped edit the *California Municipal Law Handbook*.

Mr. Widders has extensive municipal litigation experience, including published cases, e.g., *Palmer v. Ojai* (1986) 178 Cal.App.3d 280, 223 Cal.Rptr. 542 and *Widders v. Furchtenicht* (2008) Court of Appeal, 2nd Appellate District case no. B196583. He has successfully defended Ojai's approval of development projects and general plan elements. He has represented other cities in court as well, including the City of Thousand Oaks in a large construction defect lawsuit. While City Attorney for the City of Ojai, the City prevailed in all litigation matters in which it was involved.

Mr. Widders has broad experience in all aspects of CEQA. He was instrumental in drafting Ojai's award winning Land Use and Circulation Elements to its General Plan. He has drafted local CEQA guidelines and thresholds as well as reviewing hundreds of environmental documents (EIRS, negative declarations, initial studies). He has also successfully defended numerous lawsuits challenging Ojai's approval of land development projects based upon CEQA grounds. He also successfully defended Ojai's approval of its state-approved Housing Element when challenged by a local environmental group.

Mr. Widders also acted as redevelopment counsel for Ojai for 27 years. He was instrumental in drafting an expansion of the redevelopment plan area in 1998. He has supervised the issuance of redevelopment bonds. Mr. Widders has also acted as special real estate counsel for Ojai's active housing programs. This includes working closely with affordable housing developers as well as the Ventura Area Housing Authority ("AHA"). Mr. Widders is familiar with the area of tax-credit financing for affordable housing projects. He also has developed a program, with the AHA, to assist with redevelopment "set aside" moneys for the purchase by the AHA of "Section 8" apartments.

Mr. Widders was involved in all aspects of the drafting and supervision of the Ojai General Plan, including its new housing, safety, noise, land use, seismic safety and conservation elements.

Mr. Widders assisted in the sale of Ojai surplus property. He negotiated the purchase of what became the Ojai Valley Museum from the Archdiocese of Los Angeles. He negotiated the purchase of the Rotary Entrance Park property from Southern Pacific Railroad and assisted in the development of the Park. He advised in the negotiation and purchase of

what is now referred to as Cluff Vista Park and was involved in the clean-up of hazardous waste of Cluff Vista Park, a former Shell gas station.

Mr. Widders is currently assisting Mesa Union School District and Conejo Valley Unified School District in the sale of surplus properties.

The Firm, under Mr. Widders' direction, has developed an active code enforcement department. The Firm has represented numerous cities in code enforcement of nuisances, substandard buildings, sign enforcement and delinquent transient occupancy taxes.

Mr. Widders has developed an expertise in municipal finance. He drafted the finance section of the California Municipal Law Handbook and has lectured on all aspects of Proposition 218. He has drafted special tax laws, including a successful parcel tax ordinance supporting the Ojai Library. He has formed numerous special assessment districts, including developing the new concept of "overlay" districts to preserve landscape and lighting district funding under Proposition 218. He has overseen a large number of municipal bond issues, including "conduit" funding for non-profit organizations and tax allocation bonds for Ojai's Redevelopment Agency. Mr. Widders is also familiar with the Public Employees Retirement System and all aspects of the annual budget process.

Mr. Widders has substantial experience in drafting municipal contracts, joint powers agreements and school district cooperation agreements. He has hands-on experience in negotiating and drafting cable television, solid waste and public utility franchise agreements, including extensive interaction with the PUC and its staff.

Mr. Widders has advised both public and private clients on employment law issues. He has drafted employment manuals and participated in all aspects of disciplinary proceedings.

Mr. Widders has extensive experience in drafting and reviewing resolutions and ordinances, including emergency ordinances. He assisted in the implementation and drafting of the adopted Maricopa Specific Plan, a specific plan for the western portion of the City of Ojai. That plan includes sophisticated commercial growth controls as well as transfer of development rights. Mr. Widders designed and drafted the first "Social Host" ordinance in the Tri-Counties.

Mr. Widders has prepared Public Records Act ("PRA") policies and litigated issues concerning access to public records. He has lectured the California City Clerks' Association on the implications of electronic media on the PRA. He has extensive experience with Brown Act issues, including serving on the League of California Cities' Brown Act revision committee, prepared conflict of interest codes, signed numerous Fair Political Practices Act ("FPPA") opinions and worked closely with the FPPA staff.

Mr. Widders has prepared special election documents, including attorney's statements, ballots, *etc.*, opposed both referenda and initiatives and opposed and defeated attempts by Waste Management, Inc. to re-zone open space for a regional landfill through a special election. (*Ojai v. Waste Management, Inc.*)

6. PROFESSIONAL ASSOCIATIONS

Mr. Widders is a dedicated Rotarian and, in 1999, was honored as the "Rotarian of the Year". Mr. Widders has also provided legal assistance to a number of charitable organizations and affordable housing nonprofit corporations, including the Ojai Valley Youth Foundation, the Ojai Education Foundation, Habitat for Humanity of Ventura County, Inc. and Cabrillo Economic Development Corporation.



1. BAR ADMITTANCE

In 1993, Steven P. Lee was admitted to the State Bar of California. His State Bar of California number is 164514. Mr. Lee has been practicing law for 20 years.

2. EDUCATION

Mr. Lee graduated from the University of California at Santa Barbara in 1988 and received his law degree from Santa Clara University School of Law in 1992. He studied international law in Geneva, Switzerland and Strasbourg, France.

3. PROFESSIONAL BACKGROUND

Mr. Lee began his career working in San Francisco at the Law Offices of Robert Gold in 1993. From 1993 to 2001, he worked at Tharpe & Howell in Santa Barbara as a litigation attorney. Mr. Lee joined Myers, Widders, Gibson, Jones & Feingold, L.L.P. in 2001 as a public and private entity attorney and became a partner in 2010.

4. MUNICIPAL LAW EXPERIENCE

In 2011, Mr. Lee was the Acting City Attorney for the City of Ojai and in 2012 he was the Interim City Attorney for the City of Fillmore. For approximately ten years prior to that, Mr. Lee acted as Assistant City Attorney for both cities where he attended regular, special and closed session Council meetings, as well as staff and commission meetings.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

During his tenure, Mr. Lee advised both the Ojai and Fillmore City Councils, and their department heads, with respect to all aspects of personnel matters, including employee discipline, wrongful termination, retaliation, discrimination, hostile work environment, sexual harassment, leaves of absence, workers' compensation, Americans with Disabilities Act, Fair Employment and Housing Act, Fair Labor Standards Act, and the California Labor Code. Mr. Lee provided the mandatory two-hour training for all supervisory employees for both Cities in the identification, investigation and prevention of sexual harassment in the workplace, and was instrumental in drafting the employee handbooks for both cities. Mr. Lee has guided the Cities of Ojai and Fillmore through the Skelly employee due process procedures from initial employee discipline through termination. He has handled

employee grievances and also has experience with the hearings before the Public Employment Relations Board.

Mr. Lee has represented the City of Ojai and the City of Fillmore in litigation matters, including alternative dispute resolution proceedings. He has attended board meetings for the Carpinteria Valley Water District and Mesa Union School District and is assistant general counsel to the Ventura County Schools Self-Funding Authority.

Mr. Lee is experienced in the areas of the Brown Act, the Public Records Act, prevailing wages, CEQA, conflicts of interest, easement, Proposition 218, code enforcement, and Federal Transit Authority issues. He has drafted and reviewed resolutions, ordinances and construction contracts, and worked closely with municipal staff on ordinances and consulting and service contracts.

Since 1993, Mr. Lee has represented private entities of all sizes, from small privately held companies to large publicly held companies on a broad range of matters, including corporate, contract, unfair business practices, real estate, employment, litigation and appeal matters. He is experienced in all aspects of civil litigation from pre-litigation investigations to defending and prosecuting lawsuits through mediation, arbitration and trial. He has successfully defended class action lawsuits regarding product liability, wage and hour and prevailing wage issues.

6. PROFESSIONAL ASSOCIATIONS

Mr. Lee is a member of the Ventura County Trial Lawyers Association, Ventura County Bar Association – Business Litigation Section and Employment Law Section, and the Tri-Counties Local Government Attorney’s Association. He is a Board Member of the Kiwanis Club of Ventura and was the former Ventura County Chapter Leader for the University of California at Santa Barbara Alumni Association.



1. BAR ADMITTANCE

Erik B. Feingold was admitted to the State Bar of California in 1993. His State Bar of California number is 168566. Mr. Feingold has been practicing law for 20 years.

2. EDUCATION

Mr. Feingold earned his law degree in 1993 from Thomas Jefferson School of Law, where he was a member of Law Review and a judicial extern for the Honorable Donald Work, Associate Justice for the California Court of Appeal, Fourth Appellate District in San Diego.

3. PROFESSIONAL BACKGROUND

Mr. Feingold joined Myers, Widders, Gibson, Jones & Feingold, L.L.P. in 2001 after having been formerly associated in the litigation department of a large interstate law firm in their Santa Barbara office. He was elevated to partner in 2007.

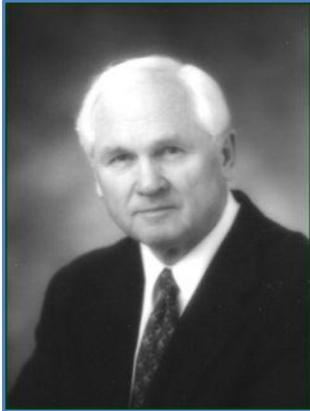
4. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Mr. Feingold is a litigator with twenty years of experience at the trial and appellate levels representing insurance policyholders, automobile accident victims, legal professionals, construction companies and developers in all aspects of litigation. Mr. Feingold's practice focuses on all aspects of litigation involving catastrophic personal injuries, business and real estate disputes, general business and employment law, elder abuse, insurance and construction law. In January of 2011, Mr. Feingold, along with attorney Michael Alder of Beverly Hills, obtained the largest personal injury verdict in Ventura County history in the amount of \$39M on behalf of a catastrophically injured CHP officer.

5. PROFESSIONAL ASSOCIATIONS

Mr. Feingold is active in the community and with the Ventura County Bar Association. He is the current president of the Business Litigation Section, a member of the Board of Directors of the Ventura County Bar Association, is on the board of the Judicial Evaluations Committee, and is a member of the Ventura County Trial Lawyers Association. He has been a member of the Downtown Ventura Rotary Club for twelve years, having served two board terms. He is a past member of the Ventura County District Attorney's Office Real Estate Fraud Advisory Board and is a Board Member of the Ventura County Coastal Association of Realtors. Mr. Feingold is a past professor of law teaching civil procedure at the Southern

California Institute of Law and has lectured on the topics of trade secret litigation, elder abuse, construction defect litigation, insurance coverage, mechanics' liens, real estate nondisclosure litigation and fraud, and business collections issues. He co-authored a nationally published article on insurance coverage and has appeared on numerous televised panel discussions on real estate legal issues.



1. BAR ADMITTANCE

J. Roger Myers was admitted to the State Bar of California on January 15, 1970. He is also admitted to the U.S. District Court, Central, Eastern and Southern Districts of California, U.S. Court of Claims and the U.S. Court of Appeals, Ninth Circuit. His State Bar of California number is 45673. Mr. Myers has been practicing law for more than 40 years.

2. EDUCATION

Mr. Myers graduated from the University of Nebraska in 1963 with a Bachelor of Arts degree in Political Science and English. He graduated in 1969 from the University of California, Hastings College of Law.

3. PROFESSIONAL BACKGROUND

Mr. Myers was a captain in the U.S. Marine Corps and served in the Vietnam War in 1965 and 1966 with a field artillery battery. Mr. Myers joined the Ventura County District Attorney's Office in 1969 and left in 1971 to enter private practice. In 1974, he joined Monte L. Widders to form Myers & Widders. That partnership today is known as Myers, Widders, Gibson, Jones & Feingold, L.L.P.

4. MUNICIPAL LAW EXPERIENCE

Mr. Myers has extensive municipal law experience in both litigation and transactional matters. From 1972 to 1973, he served as assistant general counsel to the Ventura Port District. In 1974, he served as interim general counsel. Mr. Myers was appointed City Attorney for Fillmore in July of 1992. As of January 1, 2008, Mr. Myers retired as full-time City Attorney for the City of Fillmore. Mr. Myers also acted as Assistant City Attorney for Ojai from 1980 to 2012. Mr. Myers has continued assisting the Firm's municipal and public agency clients, particularly in litigation. Mr. Myers was appointed as general counsel to the Carpinteria Valley Water District on January 1, 2011.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Mr. Myers has served as special trial counsel for a number of municipalities, including Ojai, Redondo Beach, Oceanside, Ventura and Thousand Oaks, the County of Madera and the Metropolitan Water District. Mr. Myers has tried more than 50 civil jury trials, including several direct condemnation cases. He has also tried over 100 civil court trials and

appeared before many administrative law courts, city councils, county boards of supervisors and special district boards. Mr. Myers acted as special trial counsel in two major land use cases, *Palmer v. Ojai* and *BIA v. Oceanside* (consolidated with *Del Oro Hills v. Oceanside*). He was trial counsel in the recent cases of *Widders v. Furchtenicht* and *City of Livermore* and *City of Industry v. City of Fillmore*. He has taken hundreds of depositions and appeared at as many law and motion hearings. Mr. Myers serves as an arbitrator for the Ventura County Superior Court and as a settlement officer.

In his capacity as City Attorney for Fillmore, he advised the City Council, Planning Commission and staff on CEQA and land use matters. He has defended Oceanside, Simi Valley and Huntington Beach. He has also defended other agencies in land use matters, including the County of Madera and the Port of Oakland.

Mr. Myers advised the City of Fillmore on risk management when he was the Fillmore City Attorney.

Mr. Myers served as general counsel of the Fillmore Redevelopment Agency from 1992 until retiring from that position in 2007. He has participated in the negotiation and drafting of many disposition and development agreements, exclusive right to negotiate agreements and related matters.

Mr. Myers advised the City of Fillmore on its most recent General Plan update and defended the General Plan update when it was challenged in the Ventura Superior Court.

Mr. Myers advises private clients on various real estate issues. He has represented several real estate brokers on issues during his career.

Mr. Myers has code enforcement experience for both Ojai and Fillmore. His prosecution experience dates back to 1969 when he first joined the Ventura County District Attorney's Office.

Mr. Myers has participated in the budgetary process with the City of Fillmore since 1992. He has written the City Attorney's opinion letter for several bond offerings. He has responded to the auditor's letters for the City's annual audits. He gave a seminar to the Ventura County CPA-Law Society on the topic of "audit letters".

Mr. Myers has drafted numerous contracts for both public and private sector clients and litigated numerous contract disputes. Mr. Myers has advised the City of Fillmore on such issues as completeness and responsiveness of bids for public works contracts. He drafted an ordinance which allows informal bidding procedures pursuant to Public Contract Code §§22000, *et seq.*

Mr. Myers has advised the Cities of Ojai and Fillmore on personnel matters on a regular basis. He has defended unfair labor practices litigation filed by Local 501 which represents a portion of the Fillmore work force. He assisted in preparation of a personnel manual for the City of Fillmore.

Mr. Myers has drafted numerous ordinances and resolutions for the Cities of Ojai and Fillmore. He drafted emergency ordinances in the wake of the 1994 Northridge earthquake.

Mr. Myers regularly advises the Cities of Fillmore and Ojai on the Public Records Act, Fair Political Practices Act, Brown Act, and the Elections Code. He was retained by the Ventura Community College District to provide its Board and management with a seminar on the Brown Act.

Mr. Myers has advised the City of Fillmore on election matters since 1992. He has written the City Attorney's ballot title and summary for initiatives. He has written City-sponsored initiatives, including a utility user tax measure, a "SOAR" initiative and a parcel tax initiative. He has litigated whether ballot arguments are proper.

6. PROFESSIONAL ASSOCIATIONS

Mr. Myers is a past President of the Ventura County Bar Association and Tri-Counties Local Government Attorneys' Association. He served as a Master of the Jerome Berenson Chapter of the American Inns of Court. He was Chairman of the Board of Directors of Bank of Ventura until it was sold in September 2000. He currently serves as Vice Chairman of County Commerce Bank.

Mr. Myers is active in community and civic affairs. He is the 2007 recipient of the Ben E. Nordman service award. This award is made yearly by the Ventura County Bar Association to "recognize outstanding community contributions by a Ventura County lawyer through charitable and public service activities." Mr. Myers was a Rotarian for 39 years, is past chairman of the Board of Education of St. Paul's Episcopal Day School and past chairman and current member of the Board of Directors of the Faria Beach Homeowners' Association. He is currently on the Vestry of St. Paul's Episcopal Church in Ventura. He has also served on the Board of Education for the Ojai Unified School District and he was a member of the Board of Monica Ros School in Ojai.



1. BAR ADMITTANCE

Dennis Neil Jones is also admitted to the United States District Courts for the Central District of California and the District of Nevada; the United States Courts of Appeals for the Ninth and Federal Circuits. Mr. Jones has been practicing law for more than 29 years.

2. EDUCATION

Mr. Jones graduated with honors from the University of Southern California in 1976 with a Bachelor of Arts degree in Journalism/Public Relations. After receiving a USC Graduate Fellowship and a William Randolph Hearst Foundation National Journalism Award, he obtained a Masters Degree in Public Administration and a Certificate in Judicial Administration in 1978. Mr. Jones then attended the University of San Diego School of Law on a full WICHE Fellowship, graduating in 1983.

3. PROFESSIONAL BACKGROUND

Mr. Jones worked in the field of Court Administration from 1977 to 1980 for the District Court in Las Vegas, Nevada, where he was the Director of the Clark County Jail Overcrowding Project, founded a Pretrial Services agency and testified as an expert witness in a Federal class action jail overcrowding trial. Upon Mr. Jones' admission in 1984 to the State Bars of California and Nevada, he joined the Los Angeles branch of a large, national law firm. In 1999, after practicing primarily in Los Angeles for sixteen years, he formed a law partnership now known as Myers, Widders, Gibson, Jones & Feingold, L.L.P.

4. MUNICIPAL LAW EXPERIENCE

Since joining the Firm in 1999, Mr. Jones has been assisting its municipal clients with insurance coverage and joint powers insuring agreement disputes, including issues relating to the duty to defend and the duty to indemnify cities in litigated matters.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Mr. Jones currently represents Ventura County Schools Self-Funding Authority ("VCSSFA") in a declaratory relief action pending in the Ventura County Superior Court. The action seeks a judicial determination of VCSSFA's right to defend two school district board members in three underlying lawsuits. Mr. Jones successfully obtained coverage for the County of Madera in a multimillion dollar lawsuit concerning a golf course development

and for the City Manager of Ojai in a slander lawsuit. He currently represents the City of Oxnard as coverage counsel in connection with an underlying inverse condemnation lawsuit involving a city-owned waste treatment facility. All three claims arose under Joint Powers Authority (“JPA”) agreements. As JPA and insurance coverage becomes more complex and problematic, the need for experienced coverage counsel to obtain coverage becomes more crucial. Mr. Jones’ other case handling experience includes insurance regulatory, wildfire and other property claims, professional errors and omissions coverage, legal malpractice, patent infringement, real estate, environmental, personal injury and other complex tort and business litigation.

Mr. Jones represented John Garamendi, Insurance Commissioner of California, for several years in an asset recovery action arising out of the insolvency of Coastal Insurance Company. After the completion of his term, Mr. Garamendi was elected Lt. Governor. Mr. Jones has also represented developers, general contractors, subcontractors and property owners in insurance coverage and construction defect actions for approximately 17 years.

Mr. Jones’ reported appellate decisions include *Valentino v. Elliott Sav-on-Gas, Inc.* (1988) 201 Cal.App.3d 692; *People ex rel Garamendi v. American Autoplan, Inc.* (1993) 20 Cal.App.4th 710; *Adler v. Western Home Insurance Co.*, 878 F.Supp. 1329 (C.D.Cal 1995); *S. Bravo Systems v. Environ Products, Inc.*, 78 F.3d 603 (Fed. Cir. 1996), *Harry S. Low as Insurance Commissioner v. Golden Eagle (Metabolife International)* 99 Cal.App.4th 109 (2002), *Burnett v. Chimney Sweep* 123 Cal.App.4th 1057 (2004) and *Goldstein v. Barak Construction, Inc.* (2009) 164 Cal.App.4th 835.

Mr. Jones has litigated insurance coverage disputes arising out of underlying employment, disability, discrimination and workers’ compensation claims and involving CGL and EPL policies.

6. PROFESSIONAL ASSOCIATIONS

Mr. Jones is one of the premiere insurance coverage lawyers in the State, having been named a Southern California “Super Lawyer” in the field of insurance coverage six out of the last seven years by *Law & Politics* signifying that he is in the top 5% of all attorneys, based upon voting by his peers. He is an active member of the California and Nevada Bar Associations, the Ventura County Bar Association, the Consumer Attorneys of California, the Nevada Justice Association and the Ventura County Trial Lawyers Association, where he served as President in 2008. Mr. Jones also serves on the Boards of Directors for the Ojai Community Hospital Foundation, the Santa Barbara Chapter of the Indoor Air Quality Association and the Ojai Education Foundation (advisory member). Mr. Jones civic involvement also includes Friends of the South Bay Youth Project, Board Member (1995-1999), Manhattan Beach Education Foundation, Board Member (1997-1999), and the Rotary Club of Ojai West (2000 – present).



1. BAR ADMITTANCE

Michael S. Martin was admitted to the State Bar of California on June 7, 2005. His State Bar of California number is 237207. Mr. Martin has been practicing law for seven years.

2. EDUCATION

Mr. Martin earned his Bachelor of Arts degree from Abilene Christian University in 1991 and his M.Div. from Princeton Seminary in 1994. He earned his Juris Doctorate from Ventura

College of Law in 2004.

3. PROFESSIONAL BACKGROUND

Mr. Martin is fluent in Portuguese which he learned while he and his wife worked in Brazil with a non-profit organization from 1994 to 2000.

4. MUNICIPAL LAW EXPERIENCE

Upon returning to the United States from Brazil, Mr. Martin joined the Firm as a clerk and began studying law and, upon passing the bar exam, joined the Firm as an associate attorney in 2005, giving him over 12 years of combined experience working with the Firm's municipal law department.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Mr. Martin has been actively involved in code enforcement activities on behalf of the Firm's municipal clients, including the Cities of Ojai, Fillmore and Ventura. These activities have included collectively handling hundreds of civil and administrative claims and criminal prosecutions of municipal code violations.

Mr. Martin's practice emphasizes general civil litigation including construction remedies, construction defects, homeowners' associations, commercial and consumer collections and enforcement of judgments.

Mr. Martin regularly reviews and drafts commercial and residential building contracts, credit applications, service agreements, purchase orders, and invoices for the sale or rental of equipment and the sale of goods. He advises clients on the strategies and specific language needed to clarify issues related to these documents, to advance their interests and to help to prevent future legal disputes.

Mr. Martin has conducted legal research regarding the applicability of the Public Records Act to electronic communications. He also prepared a PowerPoint Presentation on the Public Records Act which was presented at a League of California Cities conference.

6. PROFESSIONAL ASSOCIATIONS

Mr. Martin was named a 2013 Southern California “Rising Star” in the field of business litigation by *Super Lawyers*. This honor is limited to only 2.5% of the attorneys in California. Mr. Martin is a member of the California State Bar, the American Bar Association and the Ventura County Bar Association, where he is a member of the Ventura County Trial Lawyers Association. Mr. Martin serves on the Advisory Board of Police Activity League for the City of Ventura’s Police Department and is active in the construction industry and currently serves as: Legislative Committee Chair for the California Landscape Contractors Association; Board Member of LandPac—the political actions committee for the California Landscape Contractors Association; Member of the Ventura County Contractors Association; and Secretary for the Board of Directors of the Channel Islands Chapter of the California Landscape Contractors Association.



1. BAR ADMITTANCE

Cari Ann Potts was admitted to the State Bar of California on December 3, 2009. Her State Bar of California number is 267408.

2. EDUCATION

Ms. Potts graduated from the University of Southern California, Gould School of Law in 2009, where she received high honors in a substantial number of her courses. Ms. Potts earned her Bachelor of Arts degree from the University of California at Los Angeles in 2004 with high honors.

3. PROFESSIONAL BACKGROUND

Ms. Potts began her legal career working as a law clerk for the City of Thousand Oaks City Attorney's Office in 2007, a large Los Angeles law firm, Best, Best & Krieger LLP ("BBK"), and the City of Goleta's City Attorney's Office in 2008 and later as a contract attorney for the City of Goleta in 2009. Ms. Potts returned to BBK in 2010 as an associate attorney before joining the Firm in 2011, bringing with her a breadth of municipal law experience.

4. MUNICIPAL LAW EXPERIENCE

Ms. Potts' primary legal experience prior to joining the Firm is in the municipal law field, having served as a law clerk for the City of Thousand Oaks, and also as a law clerk and later as a contract attorney for the City of Goleta. During her tenure at BBK, Ms. Potts concentrated her practice in the area of municipal law by undertaking the drafting of ordinances, resolutions, complex agreements, staff reports and comprehensive client memoranda for use by private, municipal and special district clients.

Ms. Potts' litigation experience includes law and motion work for her former municipal clients, including defense of section 1983 claims and land use claims against municipal clients such as the Cities of Downey and Covina.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Since joining the Firm, Ms. Potts has expanded her experience into civil litigation, preparing and conducting written and oral discovery, preparing pleadings and law and motion, and

assisting in trial and arbitration preparation. Ms. Potts has continued her municipal law practice, helping counsel the Cities of Fillmore and Ojai.

Given her experience in counseling municipal entities, Ms. Potts has a broad, working knowledge of the Brown Act and California's conflict of interest mandates, and has handled a variety of public contracting issues.

Ms. Potts has been actively counseling the Ventura County Schools Self-Funding Authority ("VCSFFA") and drafting various pleadings in its current litigation matters, and has been handling a number of the requests made of the VCSFFA under the California Public Records Act.

6. PROFESSIONAL ASSOCIATIONS

Ms. Potts is a member of the Ventura County Bar Association, the Ventura County Bar Association – Business Litigation Section, the Women Lawyers of Ventura County, and Rotary Club of Ventura – East.



1. BAR ADMITTANCE

Ms. Stone was admitted to the State Bar of California in 1974, United States Supreme Court in 1978, and is admitted to the Ninth Circuit Court of Appeals, the Federal Court of Claims and all United States District Courts in California. Ms. Stone's State Bar of California number is 62919. She has been practicing law for over 38 years.

2. EDUCATION

Ms. Stone received her Bachelor of Arts degree from the University of California at Los Angeles, in 1971; she graduated in 1974 *cum laude* from Loyola Law School.

3. PROFESSIONAL BACKGROUND

Ms. Stone became Deputy Attorney General for the California Department of Justice representing the State Land Commission, Coastal Commission and civil rights agencies in complex litigation from 1975 to 1980. In 1980 she joined the firm of Burke, Williams & Sorensen and became a partner a year later. She founded Freilich, Stone, Leitner & Carlisle in 1988. She moved her practice to Ventura in 1993, where she serves as Of Counsel to the Firm.

4. MUNICIPAL LAW EXPERIENCE

Ms. Stone's practice focuses on complex state and federal court litigation involving state and local governments' regulation of land use and the environment, inverse condemnation, takings, eminent domain, growth management, coastal zone management, housing, development agreements, toxics and waste management, special districts, NEPA, CEQA, general plan, and procedures involving development approvals, exactions, fees and taxes, subdivisions, administrative procedures and public law requirements, including public meeting laws and conflicts of interest.

5. SPECIFIC AREAS OF EXPERTISE AND TRAINING

Ms. Stone has represented primarily public agencies during her 38-year career. She is familiar with all aspect of public agency law. Her representation includes serving as Deputy Attorney General, City Attorney of Bradbury, Assistant City Attorney for numerous cities, Special Counsel for many cities, counties and special districts, including the

Metropolitan Water District, Ventura Port District, City of San Buenaventura, City of Riverside and other cities. Ms. Stone has taught and published articles on land use law.

6. PROFESSIONAL ASSOCIATIONS

Ms. Stone served as a member of the Appellate Law Advisory Commission, the State Bar of California (2004-2006), American Bar Association, Ventura County Bar Association; Advisory Committee, Community Land Use Project, League of California Cities; Executive Committee, Environmental Law Section, the State Bar of California (1994-1999); Executive Committee, Public Law Section, the State Bar of California Advisor (1991-1992), Chair (1990-1991), Member (1988-1991).

II. PUBLIC ENTITY CLIENTS/POTENTIAL CONFLICTS OF INTEREST

Cities / Counties

Fillmore

Ojai

Oxnard

Riverside County

Simi Valley

Thousand Oaks

Ventura

Services Provided

City Attorney (former)

City Attorney (former)

Insurance Coverage Counsel

Special Counsel for land use matters

Special Counsel for land use matters

Special Counsel

Special Counsel on eminent domain lawsuit

Special Districts

Carpinteria Valley Water District

Conejo Valley Unified School District

Ventura County Schools Self-Funding Authority

Oxnard Union High School District

Rio School District

Mesa Union School District

Pleasant Valley School District

Conejo Valley Unified School District

Services Provided

General Counsel

Special Counsel for real estate matters

Litigation

Litigation

Litigation

Special Counsel for real estate matters

Special Counsel for real estate matters

Special Counsel for real estate matters

Others

Butler Ranch Mutual Water Company

Cabrillo Economic Development Corporation

Services Provided

General Counsel

Special Counsel for land use matters

The Firm does not foresee any conflicts from its representation of the City of Morro Bay with any of its public entity clients. During the past 30 years, the Firm has avoided such conflicts.

In addition, it has been the Firm's general policy not to represent clients adverse to public entities.

It should be noted that the Firm has been successful in defending all of its public entity clients in all lawsuits within the last five years.

III. Firm Professional References

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SAN LUIS OBISPO

Steven L. Simas
Justin D. Hein
Nicole D. Hanley

— Of Counsel —

Richard K. Turner
Ziyad I. Naccasha
Richard P. Fisher

September 30, 2013

Hon. Jamie Irons
Mayor, City of Morro Bay
City Hall
595 Harbor Street
Morro Bay, California 93442

VIA E-MAIL AND US MAIL
jirons@morro-bay.ca.us

Re: Proposal for Legal Representation

Dear Mayor Irons:

This letter is to transmit the proposal of Simas & Associates, Ltd. to serve as outside legal counsel to the City of Morro Bay.

Qualifications of Simas & Associates, Ltd.

Simas & Associates, Ltd. is one of California's leaders in administrative law and government law, including public sector employment law and health care law. Since 2002, the firm has been advising and representing public and private sector employers, businesses, licensed professionals and others in administrative hearings, civil litigation and petitions for writ of mandate. With offices in both San Luis Obispo and Sacramento, Simas & Associates, Ltd. serves clients throughout the state.

Simas & Associates, Ltd. has provided legal services and representation in numerous projects and matters over the years that are relevant and comparable to representing the interests of the City of Morro Bay in the above-referenced matter. This includes representing public agencies, litigating administrative hearings and appeals and appearing before public agencies. Some of the most pertinent examples include the following:

- **Outside counsel to San Luis Obispo Civil Service Commission** – For the past year and a half, Simas & Associates, Ltd. has served as outside counsel to the San Luis Obispo County Civil Service Commission. This includes advising

the Commission, conducting hearings, training, preparing written rulings and decisions and defending the Commission in court on writ petitions.

- **Public Entity Writ Petitions** – Simas & Associates, Ltd. represented the Association of Bay Area Government, a consortium of county and city governments in the Bay Area, in a petition for writ of administrative mandate matter involving a dispute with CalPERS.
- **Civil Service Matters, Grievances and Appeals** -- In the past year, Simas & Associates, Ltd. has represented government officials, peace officers, physicians, attorneys and other civil service personnel before the California State Personnel Board, the Department of Personnel Administration, the Sacramento County Civil Service Commission, the Placer County Civil Service Commission, the Sacramento City Civil Service Commission, and internal administrative and grievance processes of public and private sector hospitals.¹
- **Public Employer Representation** – Simas & Associates, Ltd. represented special districts and the public employer of In Home Supportive Services Providers in Northern California in matters involving labor and employment disputes including the Meyers Milias Brown Act, unfair labor practice charges, and related matters (for 5-6 years from 2004 to 2010).
- **State Agency Employer Representation** – CalPERS, the Department of Corrections and Rehabilitation and the Administrative Office of the Courts have contracted with Simas & Associates, Ltd. to serve as conflict counsel in the defense of employment cases (all of which involve civil service employees).
- **Employment Law/School Districts** -- For the past 7-8 years, Simas & Associates, Ltd. has provided legal counsel to Schools Legal Service in Kern County, including on issues involving discrimination, open meetings, protected activity and administrative law. The firm has also conducted employment investigations for client school districts.

¹ While Simas & Associates, Ltd. practices primarily employer-side labor and employment law, the firm takes cases that are related to another case (such as a physician peer review matter related to employment at a county hospital), that are for existing clients or referrals from existing clients, or otherwise for lawyers, administrative law judges who have no union representation.

- **Labor and Employment Law Help Lines** -- Simas & Associates, Ltd. provides labor and employment law “help lines” for two statewide trade associations, answering questions from their members throughout the state.
- **Public Contracts** – Simas & Associates, Ltd. is experienced with public contract bid protests and procurements, and has advised both public and private clients regarding public contract issues and defended them in related administrative and civil litigation.

We look forward to using our experience and expertise as excerpted above to represent the City of Morro Bay.

No Conflicts of Interest

Neither I nor any of the personnel involved in this legal representation have any conflicts of interest with any city officials including the City Attorney and City Manager, or the City Counsel. As I grew up in San Luis Obispo, I believe my grandfather was acquainted with Council Member George Leage.

In addition, because most of Simas & Associates, Ltd.’s staff is located in Sacramento, there are similarly no conflicts arising from firm staff.

Personnel Assigned to the Case

As the principal of the firm and senior attorney, I would be the primary responsible attorney for these issues. We would call on my colleague, Justin Hein, and our Paralegal, Julianne Allen, as needed for legal support, research, and related tasks.

A brief biography of these individuals is attached.

References

The following are recent references:

1. Rita Neal, County Counsel
Office of County Counsel
County Government Center, Room D320
San Luis Obispo, California 93408
(805) 781-5400

Hon. Jamie Irons
Mayor, City of Morro Bay
September 27, 2013
Page 4

2. Robert Bergman, President
San Luis Obispo County Civil Service Commission
New County Government Center
1055 Monterey Street
Suite D-250
San Luis Obispo, CA 93408
bbergman@fix.net
3. Tami Douglas-Schatz
Human Resources Director
County of San Luis Obispo
New County Government Center
1055 Monterey Street
Suite D-250
San Luis Obispo, CA 93408
(805) 781-5959
4. Michael J. D'Arelli
Executive Director & COO
American Agents Alliance
1029 J. Street, Suite 120
Sacramento CA 95814
(916) 283-9473
mike@agentsalliance.com

Plan to Proceed and Timing

Because the matters as reported in the *Telegram Tribune* have an urgent timeline, we have immediate availability to undertake this representation. Without waiving the attorney-client privilege or divulging information covered by it, I address the general process by which we would undertake to review this matter and then advise the City Council.

1. Review the agendas, minutes, and alleged Brown Act violations surrounding the September 12, 2013 meeting and closed session;
2. Provide legal advice regarding this review;

3. Review the contracts, severance pay issues for Ms. Leuker and Mr. Schultz, and the issues surrounding the November 1, 2012 meeting and possible Brown Act violations as reported by the *Telegram Tribune*;
4. Provide legal advice regarding this review;
5. Develop a plan for interviews, fact gathering, and investigation if determined to be necessary;² and
6. Develop a timeline and plan for noticing Closed Sessions under the Brown Act to discuss any findings, legal advice, etc. pursuant to Government Code sections 54956.9 and 54957.

Fees and Insurance

Simas & Associates, Ltd. proposes an hourly attorney rate of \$250.00, an hourly associate attorney rate of \$225.00, and an hourly paralegal rate of \$125.00.

Simas & Associates, Ltd. poses the proper Insurance Policies and will provide the Certificates of Insurance to the HR Director if needed.

We are mindful of issues of confidentiality and the sensitive nature of these matters. In addition, you have asked about how we would deal with the media. Of course we would work with the City's media or public relations representatives if available to develop a plan for responding to the media and constituents along with developing our plan of action from our legal research and any investigations.³

We appreciate the opportunity to present this proposal to you and look forward to hearing from you. Should you have any questions, please contact me at 805.547.9300 or my e-mail address at ssimas@simasgovlaw.com.

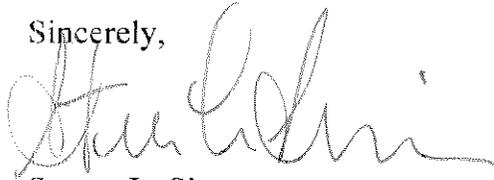
² Simas & Associates, Ltd. partners with Douglas Dixon Investigations in cases where a separate private investigator may be necessary. See www.simasgovlaw.com/ <http://simasgovlaw.com/index.php/who-we-are/attorney-profiles/douglas-dixon/>.

³ Simas & Associates, Ltd. also partners with Ross and Associates in Sacramento (www.rossandassociates.com) to consult on media and public relations issues as necessary.

Hon. Jamie Irons
Mayor, City of Morro Bay
September 27, 2013
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Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Simas". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Steven L. Simas
Simas & Associates, Ltd.

SLS:ms
Enclosures



SIMAS & ASSOCIATES
LTD

Personnel Biographies

Steven L. Simas -- Mr. Simas is the founding member of the firm and graduated from California Polytechnic State University, San Luis Obispo, with a Bachelor of Science degree in Business Administration and U.C. Davis School of Law with his Juris Doctorate. He served as a deputy attorney general in the employment law section of the Office of the Attorney General in Sacramento where he advised and defended state agencies, including the California Highway Patrol, Department of Justice, Department of Corrections and Rehabilitation and other agencies in matters involving civil service, employment discrimination, writs of mandate and other related administrative and civil litigation. He also served as the Chief Consultant to the Assembly Committee on Labor and Employment in the California Legislature, which oversaw labor and employment legislation.

In 1997, he received a gubernatorial appointment as counsel to the Public Employment Relations Board where he served for two years advising the Board on matter involving local and state agency collective bargaining laws and drafting Board decisions. Mr. Simas has also served as a Temporary Judge for the Sacramento Superior Court, Small Claims and Traffic Divisions from 1998 until approximately 2008, and was the Chair of the Sacramento County Bar, Administrative Law Section in 2005 and 2006, and still serves on the Executive Committee. He is also a member of the San Luis Obispo County Bar Association, Vice President for the Sacramento Region of the California Academy of Attorneys for Health Care Professionals, and a member of the Council on Litigation Management, and the American Veterinary Medical Legal Association.

Mr. Simas is admitted to practice before the United States District Court, Eastern and Central Districts of California, the Ninth Circuit Court of Appeals, and the United States Supreme Court. He has three published appellate opinions in the California Supreme Court and courts of appeal.

Mr. Simas practices public and private sector employment law, administrative law and civil litigation. He is a member of the San Luis Obispo County Bar Association and the Vice Chair of the Administrative Law section of the Sacramento County Bar Association.

Justin D. Hein -- Mr. Hein joined Simas & Associates earlier in 2011 after managing a taxation law firm for the previous 6 years. He is a graduate of the

University of Wisconsin-Madison and received his law degree at the University of Wisconsin Law School in 2005.

In his prior position, Mr. Hein oversaw the business operations of a 25-member law firm that employed a staff of over 150. His management areas included Client Service, Marketing, Public Relations, Human Resources, and Information Technology. In this role, he also represented thousands of the firm's individual and business clients before the Internal Revenue Service.

While in law school, Mr. Hein served as a judicial extern for the Honorable James A. Richman of the Superior Court of California, Alameda County and as a research project assistant for Assistant Dean Carolyn Butler and Professors D. Gordon Smith and John Ohnesorge.

Mr. Hein is licensed to practice law in the State of Wisconsin and the State of California. Mr. Hein is also admitted to practice law before the U.S. Tax Court and is a member of the American Bar Association, San Luis Obispo County Bar Association, and Sacramento County Bar Association. Mr. Hein is also a Barrister with the Schwartz / Levi Chapter of the American Inns of Court.

His practice areas include: Employment Law, Healthcare Law, Administrative Law, Contract Law, Business Law, Auto Dealer Law, Professional Licensing Law, Gambling Control Law, and Civil Litigation and Appeals.

Julianne Allen -- Ms. Allen attended the University of California, Los Angeles and San Francisco State University before obtaining her Paralegal certificate from the University of California, Davis Extension in 2007.

For six years she assisted in a solo attorney, general civil practice firm. The firm focused mainly on Family and Real Estate law, but practiced in all areas of civil law, ranging from Domestic Violence Restraining Orders to Federal Environmental litigation. In 2005, Ms. Allen assisted in a trial which won a \$2.3 million dollar verdict against the State of California.

She joined Simas & Associates in 2009, and specializes in administrative and civil litigation support, including the intricacies of file petitions for writs of traditional and administrative mandate and corresponding requests for stays.



Patricia Andreen
Attorney at Law

E-mail: pandreen@lozanosmith.com

September 26, 2013

Jamie Irons
City of Morro Bay
595 Harbor St.
Morro Bay, CA 93442

Re: Request for Qualifications to Provide Legal Services

Dear Mayor Irons:

Lozano Smith is pleased to provide this proposal in response to the request for qualifications to provide legal services for the City of Morro Bay. We understand the need for careful and immediate selection of counsel to handle the pressing contract, personnel and Brown Act issues. We've worked with public agencies on these issues for 25 years. We're experts in these particular areas of law, and equally important, passionate every step of the way. We're local and we're available to start immediately. Ultimately, we're ready to come alongside you and your council in these delicate times.

I would like to summarize several features of our law firm, but more importantly, address your specific questions outlined in the request.

Firm Overview in Municipal Law:

Since 1988, Lozano Smith has partnered with public agencies in their mission to serve and enhance their communities through provision of high quality, timely and cost-effective legal services. With over 110 employees, and 65 being attorneys, our firm is fully dedicated to the practice of public agency law. Since its founding, Lozano Smith attorneys have served in every capacity on behalf of municipalities out of our eight California offices: Monterey, Sacramento, Fresno, Petaluma, Los Angeles, Redding, San Diego and Walnut Creek.

Our attorneys engaged in the practice of municipal law built a foundation for this practice by serving as City Attorney, County Counsel, Deputy District Attorney, Deputy California Attorney General, and legal staff to the California Appellate Courts. The firm has provided special counsel services in a wide variety of areas for cities, and county governments. We're grateful to currently be serving as City Attorney for multiple cities. We regularly consult with and advise these clients regarding governance, ethics, policies and procedures and professional conduct. Currently representing over 250 public agencies of all types in the State of California, we are familiar with all legal services requested by the City of Morro Bay.

The team to serve the City of Morro Bay includes Patricia Andreen, Senior Counsel in the Monterey office and David Wolfe, Partner in the Fresno office. Expanded biographies are included outlining experience and expertise.

Limited Liability Partnership

4 Lower Ragsdale Dr. Suite 200 Monterey, CA 93940 Tel 831.646.1501 Fax 831.646.1801

1. Firm Qualifications Specific to request for qualifications:

Advice regarding the open meeting requirements

Lozano Smith attorneys regularly provide advice regarding the open meeting requirements of the Ralph M. Brown Act. We have successfully defended Brown Act suits at trial and on appeal, including *Duval v. Board of Trustees* (2001) 93 Cal.App.4th 902. The Duval case established the principle that a legislative body may conduct comprehensive personnel evaluations in closed session, including a discussion of evaluation criteria and setting goals for future performance.

In addition to providing thorough coverage of Brown Act basics, which are outlined in the firm's published Brown Act Handbook, our attorneys work with clients to provide tips for effective communication among board members and the public. We also cover conduct on the part of board members that may expose individual board members, and the district as a whole, to liability. All of our Brown Act trainings include a thorough review of the following issues:

- Allowable closed session topics;
- The public's role at board meetings;
- Maintaining confidentiality of closed session discussions;
- Regular and special meetings of the board;
- Hypothetical situations;
- Board member conduct and liability;
- Board bylaws;
- Effective communication between board members; and
- Tips for effective communication with the public.

Attendance, upon request, at council meetings

Our attorneys attend public agency meetings on a daily basis, both to participate and to ensure compliance with open meetings laws. The firm frequently conducts training sessions for elected officials and staff on open meetings laws and tips for effective meetings. In addition, we routinely attend a wide range of committee meetings, including ad hoc committees, budget committees, community advisory committees and joint committees with other public agencies.

Advice on requests for information under the California Public Records Act

We routinely handle Public Records Act requests. Our attorneys regularly deal with complex issues such as requests for salary or personnel information, electronic documents, and documents related to closed-session meetings or pending litigation. Our attorneys are experts on the application of the Public Records Act to e-mails and electronic record retention.

Individual council member liability

When advising the city council, Lozano Smith is mindful of political realities as well as potential liability exposure for individual council members. There are specific statutes that govern the rights and obligations of individual council members, including defense and indemnity for acts within the scope of their official duties, fiduciary responsibilities and conflicts of interest. Lozano Smith has worked with many city councils and other public agency boards when issues arise.

Employee Discipline and Dismissal

Lozano Smith is well qualified and experienced to provide legal assistance on virtually any personnel issue affecting represented and unrepresented employees. We assist in preparing documents that are legally compliant, effective and applicable collective bargaining agreements. The firm's attorneys are recognized experts on employment issues and are known for cooperatively negotiating creative solutions to employee discipline and dismissal actions.

2. Conflict of Interest with City of Morro Bay, City Council, City Attorney or City Manager:

We know of no conflicts that would prevent our representation of the City in all matters related to representation of current clients. Lozano Smith has implemented a conflicts checking system that will disclose conflicts, if they arise, on matters as they are assigned to us. It is our legal duty to inform you if any conflicts arise and to obtain the consent of both parties prior to continuing to represent either.

3. References:

Jan Marx

Mayor of San Luis Obispo
Work: (805) 541-2716
Reference for Patricia Andreen

Deborah Bowers

Superintendent of Atascadero Unified School District, city of Morro Bay resident
Cell: (805) 391-3210
Work: (805) 462-4217.
Reference for Patricia Andreen

Pete Zotovich

Former principal of Morro Bay High School, current Superintendent at San Antonio Union School District.
Cell: (805) 748-0824.
Reference for Patricia Andreen

Robert Woolley

City Manager, City of Clovis
Work: (559) 324-2111
Reference for David Wolfe

David Elias

City Manager, City of Fowler
Work: (559) 834-3113 ext. 101
Reference for David Wolfe

4. Availability to Commence Work:

Ms. Andreen has a local part time practice in San Luis Obispo. She typically responds to calls and emails within one to two hours and she can devote a substantial amount of time to this project from the outset. Mr. Wolfe is in Fresno and he is available for consultation by phone most every day. He regularly attends City Council meetings in Clovis and Fowler and can come to a council meeting in Morro Bay if given adequate notice. It will be most cost effective for Ms. Andreen to do most of the local work.

5. Outline of Process to Proceed:

Legality of Mayor Entering the Contract: Ms. Andreen will review the actual motion to confirm this, but she was informed by the City Clerk that there was a delegation of authority to the mayor by three votes of the council. This is not uncommon and should be effective to enter a valid contract so long as any parameters set by the council are observed, as to cost, duties, etc. To remove any doubt, we would prefer to have council ratify the agreement at its next meeting.

Investigation/Process: Ms. Andreen would personally interview all parties to determine different perspectives and report to the city council on investigative findings and legal conclusions. Ms. Andreen has done similar investigations for local school districts that had alleged Brown Act violations. The board was able to move on after the investigation concluded and Ms. Andreen was able to soothe the troubled waters. There may ultimately be a negotiated settlement. Personnel/potential litigation matters can often, but not always, be handled in closed sessions, and Ms. Andreen is an expert on the Brown Act and recent amendments. Recent legislation imposes additional sunshine requirements for local government, particularly regarding compensation for administrators. Ms. Andreen will fully advise the board and staff of its obligations and will assist in preparing agenda items upon request.

Press Contact: This is an area for discussion with staff and council. Generally the best practice is to say very little until the investigation is concluded. At that time a public report will be the likely outcome. Settlements with public employees are public records. The public trust must be gained and that will be an overriding goal of the process. It is important to reassure public employees that this process will not unduly distract from important public business. The fairness of the process is a paramount concern and Lozano Smith lawyers are familiar with working on sensitive personnel matters in the fishbowl of public life.

We look forward to the opportunity to further discuss how we can meet legal service needs of the City of Morro Bay specific to all the areas listed in the request. Please feel free to contact us should you have any questions or require additional information.

Sincerely,

LOZANO SMITH

Patricia Andreen
PA/dsm

Enclosures:
Attorney Biographies
Legal Services Agreement
Professional Rate Schedule



David J. Wolfe

Partner
dwolfe@lozanosmith.com

7404 N Spalding Avenue
Fresno, CA 93720
T 559.431.5600 | F 559.261.9366

Education

J.D., (*with distinction*), University of the Pacific,
McGeorge School of Law
B.A. (*magna cum laude*), University of
Connecticut

Practice Areas

Facilities & Business
Local Government

Bar Admission

California, 1988

Overview

David J. Wolfe is a Partner in Lozano Smith's Fresno office and co-chair of the firm's Local Government Practice Group. Mr. Wolfe serves as the City Attorney for the City of Clovis and the City Attorney for the City of Fowler. He regularly participates in activities with the League of California Cities. He has served as Judge Pro Tem for the Fresno County Superior Court.

Prior to joining the firm in 1991, he practiced as an appellate attorney for the California Court of Appeal, 3rd Appellate District, in Sacramento, California.

Additional Experience

Mr. Wolfe is an expert in drafting ordinances and formulating creative solutions to complex issues involving public health and safety nuisances. Mr. Wolfe has drafted ordinances which have proved successful in providing tools to address problems associated with adult businesses, entertainment establishments, massage parlors and medical marijuana.

Significant Case

Mr. Wolfe successfully argued before the California Supreme Court the case of *Galland v. City of Clovis* (2001) 24 Cal. 4th 1003, which established the standard for public agency liability arising out of administrative hearings.

Education

Mr. Wolfe received his J.D. from the University of the Pacific, McGeorge School of Law, *with distinction*. He received his B.A. from the University of Connecticut, *magna cum laude*.

Notably, Mr. Wolfe is one of only nine attorneys in the state who successfully completed all four segments of the League of California Cities' Seminar 2000-2001. The Seminar was presented over a two-year period and covered all aspects of California Municipal Law.



Patricia G. Andreen

Senior Counsel
pandreen@lozanosmith.com

4 Lower Ragsdale Drive, Suite 200
Monterey, CA 93940
T 831.646.1501 | F 831.646.1801

Education

J.D. (second in her class), San Joaquin College of Law
B.A., Smith College

Practice Areas

Labor & Employment
Facilities & Business

Bar Admission

California, 1978

Overview

Patricia Andreen is Senior Counsel in Lozano Smith's Monterey office. Her practice includes labor, employment, facilities, students and special education matters. She has extensive experience in employment law including FEHA claims, wage issues, wrongful termination and sexual harassment. Ms. Andreen has also assisted with litigation involving CEQA issues, civil rights claims under section 1983, sexual harassment and construction matters.

In the Fresno County Counsel's office, she was the lead lawyer in a division representing forty school districts in most aspects of schools' legal issues. After being promoted to Senior Deputy, she was assigned to handle labor relations matters for the County as well as litigation concerning personnel and other matters.

Additional experience

Ms. Andreen has been a law professor to Bar Review students throughout California and the East Coast. She has taught Legal Research and Writing at San Joaquin College of Law.

Ms. Andreen has also served as a Governing Board Member. She was elected twice as Chair and once as Clerk for San Luis Coastal Unified School District. She has a passion for helping districts solve problems and a practical perspective gained from her school district experience.

Education

Ms. Andreen graduated with a B.A. from Smith College in Northampton, Massachusetts, and was on the dean's list. She earned her J.D. from the San Joaquin College of Law graduating second in her class.



AGREEMENT FOR LOZANO SMITH LEGAL SERVICES

THIS AGREEMENT is effective _____ 2013, between the City of Morro Bay (“Client”) and the law firm of Lozano Smith, LLP (“Attorney”).

Client and Attorney agree as follows:

Client hires Attorney as its legal counsel with respect to matters the Client refers to Attorney. Attorney shall provide legal services to represent Client in such matters, keep Client informed of significant developments and respond to Client’s inquiries regarding those matters. Client understands that Attorney cannot guarantee any particular results, including the costs and expenses of representation. Client has been advised of the right to seek independent legal advice regarding this Agreement.

Client agrees to pay Attorney for services rendered based on the attached rate schedule, with hourly fees and expenses not to exceed \$12,500. Attorney will respect the cap imposed by the Client and will request authorization for additional hours only if necessary. Agreements for legal fees on other-than-an-hourly basis may be made by mutual agreement for special projects (including as set forth in future addenda to this Agreement).

Attorney shall send Client a statement for fees and costs incurred every calendar month. Statements shall set forth the amount, rate and description of services provided. Client shall pay Attorney’s statements within thirty (30) calendar days after receipt. An interest charge of one percent (1%) per month shall be assessed on balances that are more than thirty (30) calendar days past due, not to exceed 10% per annum.

In addition to regular telephone, mail and other common business communication methods, Client authorizes Attorney to use facsimile transmissions, cellular telephone calls, unencrypted email, and other computer transmissions in communicating with Client. Unless otherwise instructed by Client, any such communications may include confidential information.

Client may discharge Attorney at any time by written notice. Unless otherwise agreed, and except as required by law, Attorney will provide no further services after receipt of such notice. Attorney may withdraw its services with Client’s consent or as allowed or required by law, upon ten (10) calendar days written notice. Upon discharge or withdrawal, Attorney shall transition all outstanding legal work and services to others as Client shall direct.

SO AGREED:

CITY OF MORRO BAY

LOZANO SMITH, LLP

By:
Its:

Date

Gregory A. Wedner
Managing Partner

September 27, 2013

Date



PROFESSIONAL RATE SCHEDULE
FOR CITY OF MORRO BAY
(Effective September 27, 2013)

1. HOURLY PROFESSIONAL RATES

Client agrees to pay Attorney by the following standard hourly rate*:

Partner / Senior Counsel / Of Counsel	\$ 240 per hour
Associate	\$ 210 per hour
Law Clerk / Paralegal	\$ 125 per hour

* Rates for Specific Attorneys Available Upon Request

2. BILLING PRACTICE

Lozano Smith will provide a monthly, itemized statement for services rendered. Time billed is broken into 1/10 (.10) hour increments, allowing for maximum efficiency in the use of attorney time. Invoices will clearly indicate the department or individuals for whom services were rendered.

Written responses to audit letter inquiries will be charged to Client on an hourly basis, With the minimum charge for such responses equaling .5 hours. Travel time shall be prorated if the assigned attorney travels for two or more clients on the same trip.

3. COSTS AND EXPENSES

In-office copying/electronic communication printing	\$ 0.25 per page
Facsimile	\$ 0.25 per page
Postage	Actual Usage
Mileage	IRS Standard Rate

Other costs, such as messenger, meals, and lodging shall be charged on an actual and necessary basis.

**CONTRACT FOR SPECIAL SERVICES
BY INDEPENDENT CONTRACTOR**

Pursuant to this CONTRACT, SIMAS & ASSOCIATES, LTD., an independent contractor (“Firm”) shall provide to the CITY OF MORRO BAY (“City”) legal services involving legal advice and representation regarding the employment of the city manager and city attorney, issues regarding severance packages, and any other issues that may arise out of or be related to the employment and/or employment contracts of the city manager and city attorney.

WITNESSETH

WHEREAS, the City of Morro Bay has an immediate need for special legal services for outside counsel to review the contracts and the employment of the City Manager and City Attorney; and

WHEREAS, Firm has extensive experience in government law, personnel and employment law, and in the representation of public entities; and

WHEREAS, City desires to engage the services of Firm to provide specialized legal services in the area of public agency employment law, contracting, and related issues, and to provide legal services in a competent, professional, ethical and cost-effective manner;

NOW THEREFORE, the parties mutually agree as follows:

1. **Scope of Services**. Pursuant to this Contract, Firm shall provide to the City legal services involving legal advice and representation regarding the employment of the city manager and city attorney, and recent issues surrounding increased severance packages.

Firm shall keep the City Council fully advised of all developments and legal research and recommendations.

Firm shall comply with the City-approved budget and shall notify the City Council immediately of any development that will significantly impact the City’s interests in this matter.

Firm shall seek settlement authority from the City Council before negotiating settlement or resolution of any matter.

On a day to day basis, Firm's contact will be Mayor Jamie Irons. Firm shall keep Mayor Irons advised on all legal issues and recommendations, budget matters, and settlement and negotiation issues as they arise and shall, as soon as practical thereafter, advise the entire City Council of all developments as set forth in the above paragraphs

2. **Compensation.** City shall pay to Firm as compensation for all services performed an hourly rate of \$250.00 per hour for attorney time for partners, \$225.00 per hour for associates, and \$125.00 per hour for paralegal time. Payment shall be made within thirty (30) days after the receipt of an itemized statement from Firm as required by paragraph 3 herein.

3. **Billing.** Firm shall submit to the City, on a monthly basis, a detailed statement of services provided and performed during that preceding period, including the number of hours of work performed.

4. **Term of Contract.** This Contract shall commence on October 7, 2013 and shall terminate on October 6, 2014, unless renewed by the City Council by and through its Mayor Jamie Irons for an additional term not to exceed 2 years, however subject to the rights of modification contained herein in the provision of paragraphs 5 and 6.

5. **Termination of Contract for Convenience of Either Party.** Either party may terminate this Contract at any time for any reason by giving thirty (30) days' written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Firm shall be paid for all work satisfactorily completed prior to the effective date of said termination. Upon termination, Firm shall comply with the requirements as set forth in paragraph 7.

6. **Termination of Contract for Cause.** If Firm fails to perform its duties to the satisfaction of the City, or if Firm fails to fulfill in a timely and professional manner Firm's obligations under this Contract, or if Firm shall violate any of the terms or provisions of this Contract, or if Firm, Firm's agents or employees fail to exercise good

behavior either during or outside of working hours of such a nature as to bring discredit upon the City, or if Firm engages in any conduct or activity which has the potential to put the City at risk, or if Firm violates any Rule of Professional Conduct or Conflict of Interest Rule, then City shall have the right to terminate this Contract, effective immediately, upon the City giving written notice thereof to the Firm. Termination shall have no affect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Firm shall be paid for all work satisfactorily completed prior to the effective date of such termination. If City's termination of Firm for cause is defective for any reason, including but not limited to City's reliance on erroneous facts concerning City's performance, or any defect in notice thereof, City's maximum liability shall not exceed the amount payable to Firm under paragraph 5 above.

7. **Requirements Upon Termination.** Upon termination under paragraph 5 or 6, Firm shall arrange for the orderly transmission of all files then currently assigned to it. At City's direction, the original files, in their entirety, shall be transferred to the designee of the City. Once files are transferred, should any communication or correspondence come to Firm regarding a transferred case, such communication or correspondence shall be immediately forwarded to the City's designee.

Firm understands and recognizes that the California Rules of Professional Conduct, including but not limited to Rule 3-310 (Avoiding the Representation of Adverse Interest) apply not only to representation of the City while subject to this Contract, but also apply once this Contract is terminated. Accordingly, following termination, Firm shall not represent another party that is adverse to City nor encourage another party to take an adverse position against City.

8. **Equal Employment Opportunity.** During the performance of this Contract, Firm agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

9. **Entire Agreement and Modification.** This Contract supersedes all previous contracts and constitutes the entire understanding of the parties hereto. Firm

shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Firm specifically acknowledges that in entering into and executing this Contract, Firm relies solely upon the provisions contained in this Contract and no others.

10. **Non-Assignment of Contract.** Inasmuch as this Contract is intended to secure the specialized services of the Firm, Firm may not assign, transfer, delegate, or sublet any interest therein without the prior written consent of City and any such assignment, transfer, delegation, or sublease without the City's prior written consent shall be considered null and void.

11. **Covenant.** This Contract has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Contract.

12. **Enforceability.** If any term, covenant, condition or provision of this agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

13. **Employment Status.** Firm shall, during the entire term of the Contract, be construed to be an independent contractor and nothing in this Contract is intended or shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow City to exercise discretion or control over the professional manner in which Firm performs the services which are the subject matter of this Contract; provided however that the services to be provided by Firm shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Firm understands and agrees that Firm's personnel are not and will not be eligible for membership in or any benefits from any City benefit programs which would accrue to a City employee.

14. **Warranty of Firm.** Firm warrants that Firm and each of the personnel employed or otherwise retained by Firm are properly certified, licensed and insured under the laws and regulations of the State of California to provide the special services herein agreed to.

15. **Indemnification.** Firm shall defend, indemnify and hold harmless the City, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney's fees, liabilities or other losses that may be asserted by any person or entity, including Firm, and that arise out of or are made in connection with the acts or omissions, relating to the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the City, its officers and employees. However, this indemnity will not extend to any claims or losses arising out of sole negligence or willful misconduct of the City, its employees or officers.

16. **Insurance.** Firm shall procure the following required insurance coverages at its sole cost and expense and maintain in full force and effect for the period covered by this Contract such insurance. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than B+VIII and are admitted insurance companies in the State of California, or (2) insurers of equivalent documented quality which the City approves in writing.

A. **General Requirements.** The following requirements apply to all insurance to be provided by the Firm:

1. A certificate of insurance shall be furnished to City prior to commencement of work. Upon request by the City, Firm shall provide a certified copy of any insurance policy to the City within ten (10) working days;
2. Certificates and policies shall state that the policies not be cancelled or reduced in coverage or changed in any other

material aspect without thirty (30) days' prior notice to the City;

3. Approval of the insurance by City shall not relieve or decrease the extent to which the Firm may be held responsible for payment of damages resulting from Firm's services or operations pursuant to this Contract; and
4. The parties expressly agree that insurance clauses in this Contract are an integral part of performance exchanged in this Contract. Compensation stated in this Contract includes compensation for the risk transfer to the Firm by the insurance clauses.

B. **Professional Liability Insurance.** The Firm shall maintain in full force and effect during the entire term of this Contract, professional liability "errors and omissions" insurance with limits of liability not less than \$1 million per claim or occurrence to cover all services rendered by Firm pursuant to this Contract.

C. **Commercial General Liability ("CGL").** Firm shall maintain in full force and effect, for the period covered by this Contract Commercial General Liability insurance with limits of liability not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, property damage, and automobile coverage in the total amount of \$1 million; and including the following coverages:

1. Personal injury and bodily injury, including death resulting therefrom;
2. Property damage; and
3. Automobile coverage which shall include all non-owned and hired vehicles.

D. **Endorsements.** The following endorsements must be provided in the CGL policy:

- a. If the insurance policy covers an “accident” basis, it must be changed to “occurrence”;
- b. The policy must cover personal injury as well as bodily injuries;
- c. Blanket contractual liability must be afforded and the policy must contain a “Cross Liability” or “Severability of Interest” endorsement; and
- d. The City of Morro Bay, its officers, employees and agents shall be named as additional insureds under the policy. The policy shall provide that the insurance will operate as primary insurance. No other insurance affected by the City, whether commercial or self-insurance, will be called upon to contribute to a loss hereunder. Nothing contained in this Contract shall be construed to require Firm’s insurance to indemnify City in contravention of Insurance Code Section 11580.04.

E. **Worker’s Compensation Insurance.** In accordance with the provisions of Labor Code Section 3700, if Firm has any employees, Firm is required to be insured against liability for Workers Compensation or to undertake self-insurance. Firm agrees to comply with such provisions before commencing the performance of the work of this Contract. The policy shall be endorsed with the following specific language:

1. Firm and its insurer shall waive all rights and subrogation against the City, its officers and employees for Workers Compensation losses arising out of this agreement.

17. **Records.**

- a. Firm shall keep complete and accurate records for the services performed pursuant to this Contract and any records required by law or government regulation and shall make such records available to City upon request.

- b. Firm shall assure the confidentiality of any records that are required by law to be so maintained.
- c. Firm shall prepare and forward such additional or supplementary records as City may reasonably request.

18. **Notices.** Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to City at:

Jamie Irons, Mayor
City of Morro Bay
City Hall
595 Harbor Street
Morro Bay, CA 93442

and to the Firm:

Simas & Associates, Ltd.
3835 North Freeway Boulevard, Suite 228
Sacramento, California 95834

19. **Conflict of Interest.** Firm covenants that it has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance and services required under this Contract and that no person having any such interest shall be employed by Firm.

No member, officer, or employee of the City during their tenure, shall have any interest, direct or indirect, in this Contract or the proceeds thereof. The Firm is subject to the requirements of the Political Reform Act as promulgated by the Fair Political Practices Commission and implemented by the California Code of Regulations, title 2, section 18000, et. seq. The Firm shall at all times comply with the applicable provisions therein, including, but not specifically limited to California Code of Regulations, title 2, chapter 7. "Conflicts of Interest" (Section 18700, et seq.). The Firm shall also comply with all applicable provisions of other laws pertaining to conflict of interest requirements. If the Firm must declare a conflict of interest, the Firm shall forthwith report the conflict, in writing, to the City and shall provide any additional details requested by the City in a timely manner.

20. **California Rules of Professional Conduct.** Firm shall at all times comply with the rules of Professional Conduct and any amendments thereto, as adopted by the State Bar of California and approved by the California Supreme Court. Failure to comply with said rules will be grounds for immediate termination.

IN WITNESS THEREOF, City and Firm have executed this Contract on this day and year first hereinabove set forth.

City of Morro Bay

Firm:

By: _____
JAMIE IRONS, MAYOR

By: _____
STEVEN L. SIMAS, OWNER

Date: October _____, 2013

Date: October _____, 2013



AGENDA NO: D-4

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: October 17, 2013

FROM: Robert Schultz, City Attorney

SUBJECT: Discussion Regarding Parking In-Lieu Fees in the Downtown Area

RECOMMENDATION

Staff recommends that City Council review the staff report and Resolution 39-08 and provide direction regarding Parking In-Lieu Fees in the Downtown Area.

ALTERNATIVES

1. Direct staff to bring back a Resolution amending Parking In-Lieu Fees in the Downtown Area.
2. Allow the Parking In-Lieu Fees in the Downtown Area to remain at the current rate.

FISCAL IMPACT

None at this time

SUMMARY

The City's Parking In-Lieu Fund was established in 1988 to provide increased business opportunities along the community's Waterfront and in the downtown area. Rather than providing on-site parking, owners were allowed the option to pay the City a fee, thereby increasing the area available for business development. Morro Bay Municipal Code 17.44 specifically states that Parking In-Lieu fees shall be used for planning, design, acquisition or lease of land and development/redevelopment of public parking facilities. Resolution No. 137-88 set the Parking In-Lieu fee at \$4,000 per parking space.

In 2005, based upon concerns expressed that the City was not in compliance with Policy 2.08 of the Land Use Plan of the Local Coastal Plan, the City Council determined that \$15,000 was the amount necessary to provide parking, including planning, design, land acquisition or lease, and construction of improvements; and increased the Parking in Lieu Fee from \$4,000 per space to \$15, 000 per space.

In 2008, City Council adopted Resolution 39-08 amending the Parking In-Lieu Fee in the commercial downtown area to \$2,000 per space for a period of five years in order to promote economic development in the downtown area. That Resolution expired in July 2013, thereby

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

increasing the fee back to \$15,000 per space in the downtown area.

DISCUSSION

At the August 13, 2013 City Council Meeting, Mayor Irons requested a discussion regarding the Parking In-Lieu Fee Resolution for the downtown area, as the previous Resolution has expired.

CONCLUSION

Staff recommends Council review the staff report and Resolution 39-08 and provide direction regarding Parking In-Lieu Fees in the Downtown Area.

RESOLUTION NO. 39-08

**RESOLUTION AMENDING THE PARKING IN-LIEU FEE
IN THE COMMERCIAL DOWNTOWN AREA**

**THE CITY OF MORRO BAY
City of Morro Bay, California**

WHEREAS, the City Council has adopted a Parking Management Plan and Morro Bay Municipal Code Section 17.44.020, which authorizes the establishment of Parking In-Lieu Fees by Resolution of the Council; and

WHEREAS, in-lieu of parking fees allow for more efficient use of land for commercial purposes and preservation of the pedestrian ambiance and architectural character of Downtown Morro Bay; and

WHEREAS, in compliance with the Parking Management Plan and Morro Bay Municipal Code Section 17.44.020, the City Council does hereby consider and estimate an amount necessary to provide parking in the downtown area; and

WHEREAS, the City of Morro Bay also has a variety of goals and policies to enhance the economic strength and physical appearance of the downtown area; and

WHEREAS, the City Council recognizes that payment of total costs at one time would exceed an amount the typical business or new development could afford; and

WHEREAS, in furtherance of these goals, the City Council hereby desires to establish a reduced parking in-lieu fee for the Downtown Area.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, that the Parking In-Lieu Fee of \$2,000 per space is hereby established in the Downtown Area for five years.

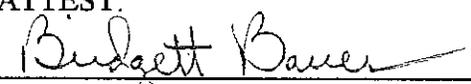
BE IT FURTHER RESOLVED by the City Council of the City of Morro Bay, that the area shall be described as the Commercial Downtown Area impacted by parking in-lieu fees and shall only apply to projects that have not received any entitlements or permits.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 23rd day of June 2008, by the following vote:

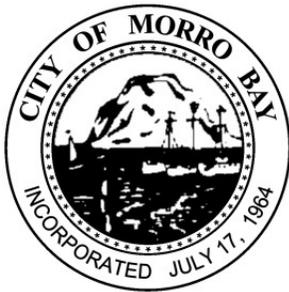
AYES: DeMeritt, Grantham, Peirce, Winholtz, Peters
NOES: None
ABSENT: None



JANICE PETERS, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk



AGENDA NO: D-5

MEETING DATE: October 22, 2013

Staff Report

TO: Honorable Mayor and City Council

DATE: October 16, 2013

FROM: Kathleen Wold, Planning Manager

SUBJECT: Discussion of Items to Place on the Joint City Council/Planning Commission Meeting

RECOMMENDATION

Staff recommends that City Council discuss and direct staff to agendize items for the Joint City Council/Planning Commission Meeting scheduled for Tuesday, October 29, 2013.

ALTERNATIVES

Defer the Joint meeting until April, 2014.

DISCUSSION

The City of Morro Bay's Planning Commission Bylaws stipulate that, "Upon the request of the City Council, hold a joint meeting with the City Council twice annually to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The City Clerk shall in January of each year bring forth an agenda item to the City Council to schedule the two joint meetings."

The minutes from the January 8, 2013 City Council meeting reflect that the City Council would look into scheduling the Joint Planning Commission/City Council meetings on the 5th Tuesdays in April and October.

On September 18, 2013 Planning staff agendized a discussion item on joint meeting topics for the Planning Commissioners consideration. The results of that meeting produced no items for discussion.

Prepared By: KW

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

CONCLUSION

Staff requests that the Council provide staff with items to be discussed at the Joint Meeting on October 29, 2013 as well as provide direction as to any materials that the Council would like staff to present.