



CITY OF MORRO BAY CITY COUNCIL AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

Regular Meeting - Tuesday, August 14, 2018 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

RECOGNITION

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
PRESENTATIONS

- Community Choice Energy (CCE) Update by Chris Read, City of San Luis Obispo
- Dynegy Presentation Regarding Pipeline Removal

PUBLIC COMMENT PERIOD

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 city of residence 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.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

- A-1 APPROVAL OF MINUTES FOR THE JUNE 13, 2018 CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE JUNE 23, 2018, COMMUNITY WORKSHOP; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FOR THE JULY 9, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 APPROVAL OF MINUTES FOR THE JULY 26, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-5 APPROVAL OF AMENDMENT NO. 5 TO CITY'S CONTRACT WITH MICHAEL BAKER, INTERNATIONAL FOR CONSULTING SERVICES FOR THE GENERAL PLAN/LOCAL COASTAL PROGRAM AND ZONING CODE UPDATE; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council authorize the City Manager to execute Amendment No. 5 to the agreement with Michael Baker International, in the amount of \$23,053.00 for completion of the comprehensive update of the City's General Plan/Local Coastal Program and Zoning Code.

- A-6 RECEIPT OF THIRD QUARTER INVESTMENT REPORT (PERIOD ENDING MARCH 31, 2018) FOR FISCAL YEAR 2017/18; (FINANCE)

RECOMMENDATION: Receive the attached Third Quarter Investment Report (period ending March 31, 2018) for Fiscal Year 2017/18.

- A-7 AUTHORIZATION FOR SOLE SOURCE PURCHASE OF A FIRE ENGINE PUMPER FROM PIERCE MANUFACTURING AND RECOMMENDED BUDGET ADJUSTMENTS; (FIRE)

RECOMMENDATION:

Council

- 1. Authorize the sole source purchase of an Arrow XT 1,500 GPM Fire Engine Pumper, from Pierce Manufacturing, in an amount not to exceed \$678,874, since it is the only fire engine manufacturer that can service all of Morro Bay's needs; and**
- 2. Authorize budget adjustments as detailed in Resolution No. 59-18 to support purchase of the fire engine with available cash.**

- A-8 DESIGNATION OF VOTING DELEGATE AND ALTERNATE AT LEAGUE OF CALIFORNIA CITIES 2018 ANNUAL CONFERENCE BUSINESS MEETING AND AUTHORIZE THE VOTING DELEGATE TO APPROVE THE PROPOSED RESOLUTIONS; (CITY CLERK)

RECOMMENDATION:

City Council:

1. **Select Mayor Pro Tem McPherson, as the voting delegate, and Council Member Headling, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference ; and**
2. **Authorize the Voting Delegate(s) to approve the proposed Resolutions provided as Attachment B.**

A-9 ADOPTION OF RESOLUTION NO. 60-18 ADVISORY BODIES HANDBOOK AND BY-LAWS AMENDING THE CITIZENS FINANCE ADVISORY COMMITTEE BY-LAWS; (CITY CLERK)

RECOMMENDATION: City Council adopt Resolution No. 60-18 amending the Advisory Bodies Handbook and By-Laws to reduce the term length for the Citizens Oversight Committee Acting in the Capacity of a Citizens Finance Advisory Committee ("Committee") from six years to four, in accordance with Ordinance No. 614, and modify the Committee's duties and responsibilities to include review of routine quarterly financial reports.

A-10 AMENDMENT NO. 1 TO THE CURRENT AGREEMENT FOR JOINT CONSTRUCTION AND FINANCING COSTS FOR AN ANIMAL SERVICES SHELTER; (CITY MANAGER)

RECOMMENDATION: Council authorize the City Manager to approve Amendment No. 1 to the Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter.

A-11 APPROVAL OF AMENDMENT NO. 3 TO CITY'S CONTRACT WITH MIKE BRANNAGAN (TERRA SOLUTIONS) FOR CONSULTING SERVICES FOR ARCGIS SERVER MAINTENANCE AND FOR OVERALL GIS DATA MANAGEMENT; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council authorize the City Manager to execute Amendment No. 3 to the agreement with Mike Brannagan (Terra Solutions), in the amount of \$60,000, for maintenance of the City's ArcGIS server and management of City Geographic Information System (GIS) data.

B. PUBLIC HEARINGS

B-1 CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) PROJECT APPROVAL OF THE MORRO BAY WATER RECLAMATION FACILITY (WRF); ADOPTION OF RESOLUTION NO. 61-18; AND PROVIDE OTHER DIRECTION AS DEEMED APPROPRIATE; (COMMUNITY DEVELOPMENT/PUBLIC WORKS)

RECOMMENDATION:

1. **Review the Final EIR, including comments received regarding the Draft EIR and responses to those comments; and**
2. **Take public comment; and**
3. **Adopt Resolution No. 61-18,**
 - a. **Certifying the Final EIR,**
 - b. **Adopting Findings of Fact, a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations,**
 - c. **Approving the WRF Project, and**
 - d. **Directing staff to pursue obtaining all necessary governmental permits, real property interests, financing, design, construction activities, and other related actions for the Project, and**
4. **Direct the Public Works Director to sign and have filed a Notice of Determination with the San Luis Obispo County Clerk**

C. BUSINESS ITEMS

- C-1 RATIFICATION OF THE ADMINISTRATIVE ACTION TAKEN TO EXTEND THE PROPOSITION 218 PUBLIC HEARING DATE FOR THE PROPOSED WATER RECLAMATION FACILITY (WRF) SURCHARGE TO SEPTEMBER 11, 2018, OR LATER AS DEEMED APPROPRIATE BY THE COUNCIL; (CITY MANAGER/CITY ATTORNEY)

RECOMMENDATION: City Council ratify the extension of the public hearing for the WRF surcharge, pursuant to Proposition 218, to September 11, 2018.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, August 28, 2018 at 6:00 p.m.** at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

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 REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

PRESENT:	Jamie Irons Robert Davis John Headding Matt Makowetski Marlys McPherson	Mayor Council Member Council Member Council Member Council Member
STAFF:	Scott Collins Joseph Pannone Lori Kudzma Jennifer Callaway Rob Livick Greg Allen Joe Mueller Eric Casares	City Manager City Attorney Deputy City Clerk Finance Director Public Works Director Police Chief Utility Division Manager WRF Project Manager (Carollo Engineers)

ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/oK33H2pKIUI?t=39s>

Mayor Irons called the meeting to order at 5:04p.m. with all members present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

<https://youtu.be/oK33H2pKIUI?t=1m27s>

Mayor Irons opened public comment for Item I on the agenda; seeing none, public comment was closed.

SPECIAL MEETING AGENDA ITEMS:

I. ADVISORY BODY INTERVIEWS

a. Water Reclamation Facility Citizen Advisory Committee (WRFCAC)

- One (1) current vacancy – Single purpose committee with no set term

b. Tourism Business Improvement District (TBID) Advisory Board

- One (1) current vacancy for a term ending January 31, 2020 (preference given for hotelier with 22 rooms or less)

<https://youtu.be/oK33H2pKIUI?t=1m46s>

The Council interviewed Jesse Barron and Steve Carnes for the current vacancy on the Water Reclamation Facility Citizen Advisory Committee (WRFCAC).

Mayor Irons opened public comment:

Bill Aubrey spoke in support of Steve Carnes.

Mayor Irons closed public comment.

Council Member McPherson inquired as to whether the policies and procedures would allow the Council to appoint someone to multiple boards.

City Attorney Pannone confirmed the Council could choose to make an exception.

MOTION: Council Member Davis moved to nominate Mr. Jesse Barron. The motion was seconded by Council Member Makowetski, and carried 4-1, with Mayor Irons voting no.

Note: This item was readdressed at the end of the meeting.

<https://youtu.be/oK33H2pKIUI?t=20m21s>

The Council interviewed Chris Kostecka for the current vacancy on the Tourism Business Improvement District (TBID) Advisory Board.

MOTION: Council Member Headding moved to approve Mr. Kostecka for the TBID Board. The motion was seconded by Council Member McPherson, and carried 5-0.

The Council took a brief recess at 5:36 p.m. and reconvened at 5:39 p.m. with all members present.

II. WATER RECLAMATION FACILITY PROGRAM UPDATE, SELECTION OF A PREFERRED PROPOSER FOR WRF ONSITE IMPROVEMENTS AND DIRECTION REGARDING RELATED POLICIES

<https://youtu.be/oK33H2pKIUI?t=36m3s>

City Manager Collins introduced the item and then handed it over to Eric Casares, Carollo Engineers.

Mr. Casares gave a presentation and answered questions from the Council.

Mayor Irons asked City Attorney Pannone to respond to questions related to possible conflict of interest for Black & Veatch.

Mr. Pannone elaborated that because Black & Veatch provided a draft master facilities plan did not give them any inside information or give them an unfair advantage in being able to submit for the RFP. The reason being that all information they provided was provided to everyone else. In addition, when the RFP was issued for the facilities master plan project, there is a paragraph in that RFP that expresses the importance that someone chosen to provide the master facilities plan could be allowed to submit on the project itself so long as they did not also end up with a project manager type contract. Everyone responding to the RFP were provided the same information.

The Council took a brief recess at 7:12 p.m. and reconvened at 7:21 p.m. with all members present.

Mayor Irons opened public comment for Item II:

Glenn Silloway, Morro Bay, spoke in support of the Council.

Jan Goldman, resident, spoke in support of the Council and the way things were presented tonight.

Pat Cowgill, moved here from small town in Los Angeles, and stated she was impressed with the amount of information presented to the public. Ms. Cowgill expressed concern about the negativity coming from others in the community.

Barry Branin, summarized his June meeting with the Water Board and suggested speaking one-on-one with the Coastal Commission.

Jeff Heller, supports the goals of the community. Has problem with how the project has been managed. Mr. Heller stated concerns that no urgent underground projects listed in

2015 have been repaired. Mr. Heller expressed concern over moving the sewer three miles from existing location.

Bart Beckman, expressed his appreciation for the City Manager meeting with him and taking the time to answer most of his questions. Mr. Beckman went over remaining questions.

Dan Sedley, Morro Bay resident, asked questions regarding the need for a sewer plant and the costs associated compared to Cayucos.

Kerrigan Mahan, Morro Bay resident, spoke against the project and expressed concerns regarding costs.

David Nelson spoke against the cost of the project. Mr. Nelson asked for clarification regarding the \$3million spent.

Steve Stevens applauded the concept of civility and requested a table be provided at the next workshop.

Bob Keller spoke in support of the Council and expressed concerns about cost.

Gayla Newman stated her bill has doubled since she moved here in 2011. Ms. Newman stated she will be working to make sure the Prop 218 does not pass.

Betty Winholtz spoke regarding process and content of this item. Ms. Winholtz believes the public input has been ignored. Ms. Winholtz requested full disclosure regarding the injection wells. Ms. Winholtz believes it is too soon to begin negotiations, wait until the 218 process is completed.

Nancy Bast believes Black & Veatch cannot be awarded the bid as they have an advantage. Ms. Bast would like the plant to remain where it is or move it next door.

Mayor Irons closed public comment.

<https://youtu.be/oK33H2pKIUI?t=2h51m17s>

Staff responded to public comment.

MOTION: Council Member Headding moved to select Filanc/Black & Veatch as the preferred proposer for the WRF onsite improvements and provide this direction: to begin negotiations by this action. The motion was seconded by Council Member Davis, and carried 5-0.

There was discussion regarding the location of the operations center, including consensus to look at considering modular buildings to reduce costs.

MOTION: Mayor Irons moved to direct staff to locate the operations center as Option 1 as presented (at the South Bay Blvd site). The motion was seconded by Council Member Davis, and carried 5-0.

There was discussion about getting the word out to the public about the Utility Discount Program.

MOTION: Council Member Makowetski moved to adopt and approve Resolution No. 42-18. The motion was seconded by Council Member Headding, and carried 5-0.

MOTION: Council Member Headding moved approval of staff bringing back a policy for annual rate review policy. The motion was seconded by Council Member Davis, and carried 5-0.

MOTION: Council Member Makowetski moved to adopt Resolution No. 43-18. The motion was seconded by Council Member Davis, and carried 5-0.

MOTION: Council Member McPherson moved adoption of Resolution No. 46-18. The motion was seconded by Council Member Headding, and carried 5-0.

III. DISCUSSION AND ADOPTION OF RESOLUTION NO. 44-18 APPROVING GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS IN CONNECTION WITH THE PROP 218 RATE HEARING
<https://youtu.be/oK33H2pKIUI?t=3h29m7s>

City Attorney Pannone gave the report and answered questions from the Council. There was discussion regarding the proposed process.

City Attorney Pannone suggested an edit to page 49 of the agenda packet Section 7B to read as follows: ... "by state law, and *all protests* will be maintained..."

There was Council consensus to reduce number of boxes on the sample protest ballot.

Mayor Irons opened public comment:

Nancy Bast believes the protest ballot process is an attempt to intimidate the public from exercising their right to protest increases.

Betty Winholtz questioned why another 218 within 5 years of the last increase. Ms. Winholtz listed questions regarding the process for protesting, including the requirement for individual envelopes. Ms. Winholtz would like to know the number of parcels owned by government agencies.

Gayla Newman believes if people already have enough information to know they want to protest they should be allowed to protest now.

Bart Beckman spoke against the draft protest ballot as presented.

Kathy Quigley made suggestions for changes to the draft ballot, specifically, reducing number of boxes and removing the declaration and penalty of perjury statements. Ms. Quigley also made comments about civility.

Linda Donnelly spoke regarding the letter received from the Howard Jarvis Tax Association. Ms. Donnelly pointed out that protestors are not required to be registered voters. Ms. Donnelly asked the policy be amended to be less restrictive.

Steve Stevens agreed with previous speaker and requested a table at the next workshop. Mr. Stevens also asked about the fact sheet from 2015.

Kerrigan Mahan spoke against the draft protest ballot, as presented.

The public comment period was closed.

There was Council consensus to remove 2 of the boxes on the draft ballot.

There was Council consensus to allow more than one protest ballot per envelope, as long as the envelope is mailed or delivered by one of the people that signed.

There was Council consensus to remove the penalty of perjury statement from the draft ballot and modify the certification statement to read as "I have personal knowledge of all the foregoing and it is true and correct."

MOTION: Council Member Headding moved to adopt policy with amended changes. The motion was seconded by Council Member McPherson, and carried unanimously 5-0.

IV. ANNUAL WATER REPORT FY 2017-18 AND ADOPTION OF RESOLUTION NO. 45-18
ALLOCATING WATER EQUIVALENCY UNITS (WEU) FOR FY 2018-19
<https://youtu.be/oK33H2pKIUI?t=4h17m18s>

Public Works Director Livick presented the report.

The Mayor opened public comment, seeing none, the public comment period was closed.

MOTION: Council Member McPherson moved adoption of Resolution No. 45-18, allocating 50 Water Equivalency Units for residential development and 65 for commercial development for a total of 115 WEUs for fiscal year 18/19. The motion was seconded by Council Member Headding, and carried 5-0.

<https://youtu.be/oK33H2pKIUI?t=4h33m3s>

Mayor Irons announced it was brought to his attention that the Council needed to revisit the WRFCAC appointment from earlier in the meeting.

City Attorney Pannone shared that according to the handbook, to appoint someone to two commissions or boards requires the Council vote to be unanimous.

Mayor Irons re-opened Item I on the agenda.

MOTION: Mayor Irons made a motion to rescind the motion for WRFCAC nomination for Jesse Barron. The motion was seconded by Council Member Makowetski, and carried 5-0.

MOTION: Mayor Irons moved to appoint Jesse Barron to WRFCAC Board. The motion was seconded by Council Member Davis, and carried 5-0.

ADJOURN

The meeting adjourned at 9:46 p.m.

Recorded by:

Lori M. Kudzma
Deputy City Clerk

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Joint Community Workshop

Addressing Morro Bay's Wastewater and Water Challenges

There was a quorum of City Council Members and Citizens Finance Advisory Committee Members in the audience for this workshop. No action was taken by either body.

The workshop was facilitated by Don Maruska, with City staff presenting various topics.

Facilitator Maruska shared the format for the workshop and that the public would be offered several opportunities to engage with staff, including: submission of written comments, interaction at individual information stations and public comment periods.

<https://youtu.be/JChzEEsSmxU?t=22m30s>

SPECIAL JOINT WORKSHOP AGENDA

- I. Learn from technical experts at information stations
- II. Presentation on project status
- III. Get answers to key questions with information from project team:
 - a. Why do we need a new plant in a new location?
 - b. What's being done to get the best value?
 - c. What are plans to improve current collection system?

- IV. Public Comment for Items II and III on the Agenda

<https://youtu.be/JChzEEsSmxU?t=1h9m20s>

Staff addressed questions asked by the public.

Facilitator Maruska read written comments submitted by the public and staff addressed the questions.

There was a brief break at 3:05 p.m. The workshop resumed at 3:15 p.m.

<https://youtu.be/JChzEEsSmxU?t=1h37m59s>

- V. Review key alternatives for future water/sewer rates
 - a. Input from attendees on preferences for structure of future rates

- VI. Public Comment for any additional items related to the WRF project

<https://youtu.be/JChzEEsSmxU?t=1h59m2s>

Facilitator Maruska read comments from the public and invited attendees to make comments at the podium. Staff addressed the questions raised by the public.

<https://youtu.be/JChzEEsSmxU?t=2h50m13s>

There was a dot exercise regarding preference for billing options & implementation of the rate increases.

- VII. Informal discussions and Q&A at information stations

Recorded by:

Lori M. Kudzma
Deputy City Clerk

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MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JULY 9, 2018 – 2:00 P.M.
CITY HALL CONFERENCE ROOM

AGENDA NO: A-3
MEETING DATE: August 14, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member – <i>via teleconference</i>
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney – <i>via teleconference</i>

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 2:00 p.m. with all members present. Council Member Headding and City Attorney Pannone participated via teleconference.

SUMMARY OF CLOSED SESSION ITEMS – The Mayor read a summary of Closed Session item.

CLOSED SESSION PUBLIC COMMENT – Mayor Irons opened public comment for items on the agenda; seeing none, the public comment period was closed.

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

CS-1 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY
NEGOTIATOR:

Property: Lease Site 89/89W, Boatyard, 845 Embarcadero

Property Negotiators: Cliff Branch

Agency Negotiators: Scott Collins, City Manager; Joseph Pannone, City Attorney

Negotiation: Price and Terms of Payment

RECONVENE IN OPEN SESSION – The City Council reconvened in Open Session. The Council did not take any reportable action pursuant to the Brown Act.

ADJOURNMENT - The meeting adjourned at 2:15 P.M.

Recorded by:

Dana Swanson
City Clerk

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MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JULY 26, 2018 – 10:00 A.M.
CITY HALL CONFERENCE ROOM

AGENDA NO: A-4
MEETING DATE: August 14, 2018

PRESENT:	Jamie Irons John Headding Matt Makowetski Marlys McPherson	Mayor – <i>via teleconference</i> Council Member Council Member Council Member
ABSENT:	Robert Davis	Council Member
STAFF:	Scott Collins Joseph Pannone Scot Graham Eric Endersby	City Manager City Attorney – <i>via teleconference</i> Community Development Director Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 10:00 a.m. with ~~all~~ three members present. Council Member Davis was absent and both Mayor Irons and City Attorney Pannone participated via teleconference.

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

CLOSED SESSION PUBLIC COMMENT – Mayor Irons opened public comment for items on the agenda.

Burt Caldwell, Libertine, provided background information on various projects previously approved for the lease site and requested the Council approve an extension to the lease and provide feedback on the type of development the City would have him pursue.

LeShawn Hannah, Chief Tim Crochet and Lieutenant Commander Jeannette Green from the U.S. Coast Guard, presented concept drawings of the proposed initial expansion of the Morro Bay station.

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 – CONFERENCE WITH REAL PROPERTY
NEGOTIATOR:

Property: Lease Sites 138,139,140 and 141 and adjacent public parking lot spaces

Property Negotiators: U.S. Coast Guard

Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney

Negotiation: Price and Terms of Payment

CS-2 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY
NEGOTIATOR:

Property: Lease Site 86/86W, Libertine, 801 Embarcadero

Property Negotiators: Burt Caldwell

Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney

Negotiation: Price and Terms of Payment

RECONVENE IN OPEN SESSION – The City Council reconvened in Open Session. The Council did not take any reportable action pursuant to the Brown Act.

ADJOURNMENT - The meeting adjourned at 11:31 a.m.

Recorded by:

Dana Swanson, City Clerk

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City of Morro Bay

City Hall
595 Harbor Street
Morro Bay, CA 93442
805-772-6201

MEMORANDUM

To: Honorable Mayor and City Council

From: Scot Graham, Community Development Director

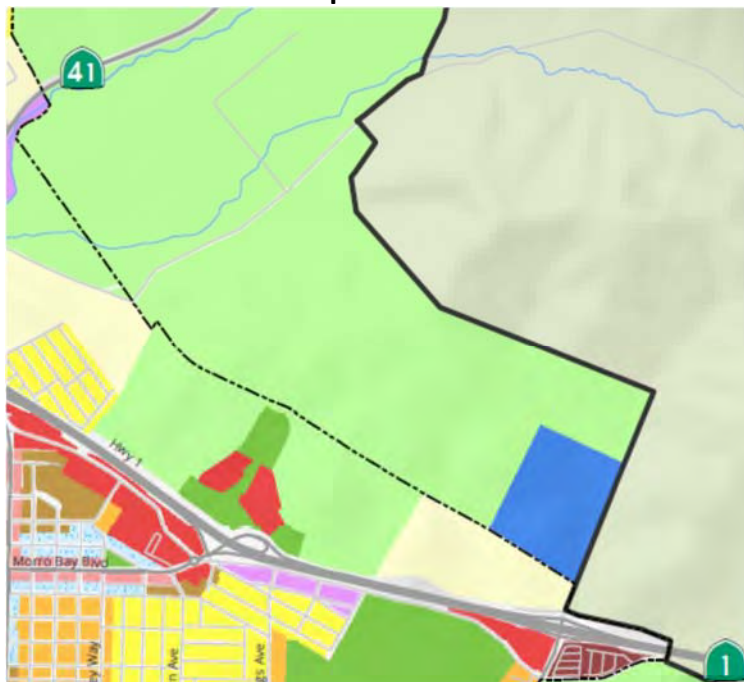
Date: August 10, 2018

Subject: Addendum to August 14, 2018 Council Agenda Item A-5; Approval of Amendment No. 5 to the City's Contract with Michael Baker International for consulting services for the General Plan/Local Coastal Program and Zoning Code update

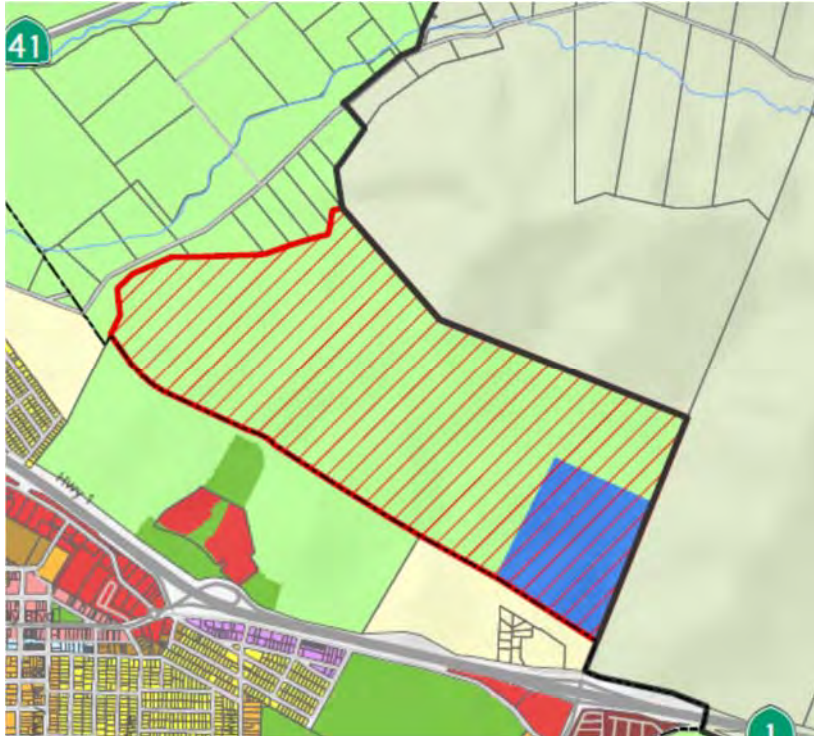
This addendum is provided to address questions related to the release of the staff report for the Michael Baker contract amendment (Consent Item A-5). Specifically, Task 3 of the Michael Baker Amendment proposal includes reference to a change in the Sphere of Influence (SOI) Mapping for the General Plan/Local Coastal Program update to include the entirety of the Tri-W lot, which is the preferred location for the Water Reclamation Facility (WRF).

The Draft General Plan/Local Coastal Program Land Use map did not initially include the Tri-W property in the proposed future SOI. Both the original draft Land Use Map and the revised Draft Land Use Map are provided below.

Initial Draft Land Use Map



Revised Draft Land Use Map (Tri-W in SOI Hatched area)



The requirement to add the Tri-W property into the SOI stems from Section 8 of the Memorandum of Understanding (MOU) between the City and the Tri-W property owner, Tri-W Enterprises, Inc (The MOU is provided as Attachment 2 to the Staff Report), which was approved by City Council at their October 11, 2016 Council meeting as a General Business item (item C-1). The MOU is for a purchase option on the Tri-W property and includes Section 8 which reads as follows:

8. ANNEXATION AND SPHERE OF INFLUENCE UPDATE. City will process an annexation proposal for the Property, as well as a proposal to modify its Sphere of Influence to include the Remainder Parcel.

The concern voiced by the public related to section 8 centers on the future development potential for the remainder of the Tri-W property, if included in the City's future SOI. The preferred WRF site location encompasses approximately 30 acres, leaving a remainder lot of approximately 366 acres. There are two primary barriers to any future annexation of the remainder lot: 1) Ordinance 197 and 2) the Local Agency Formation Commission's (LAFCO) approval of the August 17, 2017 SOI Update and Municipal Service Review (See LAFCO SOI document provided at Attachment 1 to this Addendum).

Ordinance 197

Ordinance No. 197 was approved by the City's voters in 1981. It provides any annexation of land to the City that includes land that is not "dedicated solely and entirely to a permanent

public use” will not become effective until it is approved by a vote of the people after the final decision to annex that land.

The entirety of the Tri-W property is subject to Ordinance 197, which allows annexation of property for public purposes without a vote of Morro Bay Citizens; however, private property annexation can only be accomplished with an affirmative vote of Morro Bay citizens.

August 2017 LAFCO Review

LAFCO prepared and adopted a Municipal Services Review (MSR) and SOI Update for the City of Morro Bay in August of 2017 (see MSR/SOI document provided in Attachment 1). The document identifies the Tri-W lot as Area 3 in the LAFCO SOI Update. The recommendation in the report is to consider future annexation of portion of the Tri-W site, where the WRF would be located, if the City moves forward with the project in this location. The recommendation goes on to suggest that any future annexation proposal for the remainder lot would not be supported. The MSR and SOI Update document was approved by LAFCO with these recommendations in place, through adoption of Resolution No. 2017-04 (LAFCO Resolution No. 2017-04 is provided as Attachment 3 to the Addendum).

Conclusion

The City’s Draft Land Use Map for the General Plan/Local Coastal Program Update was revised to incorporate the Tri-W property into the proposed future Sphere of Influence. The map revision was prepared in response to a negotiated Memorandum of Understanding between the City of Morro Bay and Tri-W Enterprises Inc., related to a purchase option for a portion of the Tri-W property identified as the preferred site for the WRF.

Attachments

1. LAFCO August 2017 MSR/SOI Review Document
2. LAFCO August 2017 Staff report
3. LAFCO Resolution 2017-04, Approving the August 2017 MSR/SOI Review

CITY OF MORRO BAY

ADOPTED SPHERE OF INFLUENCE UPDATE MUNICIPAL SERVICE REVIEW



**PREPARED BY:
SAN LUIS OBISPO
LOCAL AGENCY FORMATION COMMISSION
AUGUST 17, 2017**

SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION

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CHAPTER 1 - INTRODUCTION & EXECUTIVE SUMMARY

INTRODUCTION

The Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires the Local Agency Formation Commission (LAFCO) to update the Spheres of Influence (SOI) for all applicable jurisdictions in the County every five years or as needed. A Sphere of Influence is defined by Government Code 56425 as "...a plan for the probable physical boundary and service area of a local agency or municipality...". A SOI is generally considered a 20-year, long-range planning tool. The Act further requires that a Municipal Service Review (MSR) be conducted prior to, or in conjunction with, the update of a Sphere of Influence. The MSR evaluates the capability of a jurisdiction to serve their existing residents and future development in their Sphere of Influence.

Sphere of Influence

"...a plan for the probable physical boundary and service area of a local agency or municipality..."

Chapter Two is the Sphere of Influence Update and describes the requirements of the Cortese-Knox-Hertzberg Act. It also makes recommendations for updating the Spheres of Influence for the City of Morro Bay. The Sphere Update is based upon Chapter three in the Municipal Service Review that analyzes the jurisdiction's capability to provide services to existing and future residents. The SOI Update and Municipal Service Review are prepared to meet the requirements of the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (CKH). The Sphere of Influence Update and Municipal Service Review discuss the City of Morro Bay in accordance with Section 56430 of the California Government Code. The San Luis Obispo LAFCO's Municipal Service Review Guidelines were used to develop information, perform analysis and organize this study. The update of the Sphere of Influence for the City recognizes the existing circumstances and recommends no changes to the SOIs at this time.

The legislative authority for conducting Service Reviews is provided in section 56430 of the CKH Act. The Act states, ("That in order to prepare and to update Spheres of Influence in accordance with Section 56425, the Commission shall conduct a service review of the municipal services provided in the County or other appropriate area designated by the Commission ...") A Service Review must have written determinations that address the legislative factors in order to update a Sphere of Influence.

Information that addresses each of the seven factors is provided in Chapters 3 – the Municipal Service Review. The seven factors are listed below, and Written Determinations for each factor are found after each section.

LAFCOs are encouraged to compile a variety of information in preparing a Service Review. LAFCOs also may use a significant proposal (general plan update, master plan, specific plan, etc.) as a way to compile the information needed for a Service Review. Administrative, organizational, and financial information is also collected and evaluated.

SERVICE REVIEW & SPHERE OF INFLUENCE UPDATE PROCESS

The process for updating the Agency's Spheres of Influence includes several steps:

1. Gathering and compiling information regarding the jurisdictions service capability.
2. Update of City/County Memorandum of Agreement (MOA) regarding SOI boundaries and development provisions for the Sphere of Influence area.
3. Preparation and release of a Public Review Draft Sphere of Influence Update and Municipal Service Review. Completion of the environmental review process consistent with the California Environmental Quality Act (CEQA). Public Review and Comment period for all documents.
4. If agreed to, City and County approval of a Memorandum of Agreement (Appendix B). LAFCO is required by the CKH Act to give "great weight" to an agreement between the City and the County when considering the Sphere of Influence Update.
5. LAFCO consideration of Sphere of Influence Update, Municipal Service Review, Memorandum of Agreement, and Environmental Review documentation.

SEVEN SERVICE REVIEW FACTORS

1. **Growth and Population projections for the affected area**
2. **Location and characteristics of any disadvantaged unincorporated communities**
3. **Present and planned capacity of public facilities and adequacy of public services including infrastructure needs or deficiencies**
4. **Financial ability of agencies to provide services**
5. **Status of, and opportunity for, shared facilities**
6. **Accountability for community service needs including governmental structure and operational efficiencies**
7. **Any other matter related to effective or efficient service delivery, as required by commission policy**

Past LAFCO Actions. The last SOI Study for Morro Bay was completed in 2007 which included a significant reduction and evaluation of many of the same study areas. The SOI totals approximately 100 acres. Since that time no proposals or changes to the General Plan have been considered. In 2016, the City started a comprehensive update to its General Plan primarily looking within its city limit boundaries to establish policies. Appendix C contains a table that shows the latest LAFCO actions regarding the City.

Current LAFCO Action. LAFCO is being asked to consider the following actions as a part of this Sphere of Influence Update:

1. Approve and adopt the environmental documentation pursuant to CEQA;
2. Approve the Municipal Service Review found in Chapter Three of this document; and
3. Approve and adopt the Sphere of Influence Update for the City of Morro Bay in Chapter Two of this document.

Environmental Determination

The California Environmental Quality Act ("CEQA") requires that the Commission undertake and review an environmental analysis before granting approval of a project, as defined by CEQA. The MSR's are categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6 - Regulation Section 15306), which states: "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded."

Furthermore, the SOI update qualify for a general exemption from environmental review based upon CEQA Regulation Section 15061(b)(3), which states: "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There is no possibility that the MSR or SOI update would have a significant effect on the environment because there is no land use changes associated with the document. If the

Commission approves and adopts the MSR's and SOI update and determines that the project is exempt from CEQA, staff will prepare and file a notice of exemption with the Clerk of the County of San Luis Obispo, as required by CEQA Regulation Section 15062.

The study of impacts associated with the Sphere of Influence is often speculative since it is unclear what type of project might be proposed or if an area will even be annexed in the future. The City or County studies impacts comprehensively when a project-specific environmental review is completed. The City is in the process of preparing a Facilities Master Plan and Environmental Impact Report for a wastewater and future reclamation facility in study area three with the potential for alternative sites in study areas one and two. LAFCO may use these documents in any future action before LAFCO if deemed appropriate.

EXECUTIVE SUMMARY

The following is a summary of the key information contained in the Sphere of Influence Update and Municipal Service Review completed for the City of Morro Bay. The seven factors that are required to be addressed by the CKH Act are covered in this summary section. The analysis in the chapter that follows evaluates and addresses the factors unique to LAFCO's role and decision-making authority pursuant to the CKH Act. The following is a summary of the key information contained in this Service Review:

1. Growth & Population

According to the 2010 US Census, the City had a population of 10,234. Total housing units were estimated to be 6,689 units. The City's estimated build-out population within the current City limits is estimated to be 12,200. At 1.9 persons per household and an 80% occupancy rate the average estimated population would be approximately 12,200 at build-out. In the 2015 Urban Water Management Plan, the City of Morro Bay estimates that 10,608 people lived in the City. The City's Urban Water Management Plan projects the current City limit boundaries to yield a population of 12,200 persons. The 2015 UWMP based its projections from the City's General Plan.

Table 1-1: Historical & Projected Population Growth

	1980 ⁽¹⁾	1990 ⁽¹⁾	2000 ⁽¹⁾	2010 ⁽²⁾	2015 ⁽²⁾	2020 ⁽²⁾	2025 ⁽²⁾	2030 ⁽²⁾	2035 ⁽²⁾
Population	9,064	9,664	10,350	10,608	10,224	10,244	10,482	10,778	11,078
10 Year Increase	--	600	686	258	-364	20	238	296	300
10 year Avg. Increase	--	6.2%	6.6%	2.4%	-3.5%	<1%	2.2%	2.7%	2.7%
Average per Year	--	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%

(1) Source: U.S. Census

(2) Source: City's 2015 Urban Water Management Plan.

Housing Units and Growth Projections. In 2010, the City's Public Services Department estimated the City is about 95% built out with a potential for approximately 504 new dwellings in the community at this time. Under the certified Housing Element 2009 the City estimates a total of 504 units as a realistic build-out based on 80% of existing zoning at maximum densities.

The City's policies encourage in-fill development, mixed-use, and higher densities within the core to accommodate the growth at build-out.

Table 1-2: Build-out Summary: Vacant Land within City plus Expansion & SOI

Zone	Description	Acres	Approx. Units	Population
R-A	Low-density Residential	103	302	574
R-1/R-2	Low/Medium-density Residential	13.76	76	144
R-4	High-density Residential	5.73	108	205
Total Vacant Sites within City Limits		122.49	486	923

Source: City of Morro Bay 2016.

2. Infrastructure Needs & Deficiencies Location and Characteristics of any Disadvantaged Unincorporated Communities

LAFCO is responsible for determining the location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence. If a jurisdiction is reasonably capable of providing needed resources and basic infrastructure to disadvantaged unincorporated communities within the sphere of influence or contiguous to the sphere of influence, it is important that such findings of infrastructure and resource availability occur when revisions to the SOI and annexations are proposed by the agency or property owners. Morro Bay's Sphere of Influence does not have any disadvantage communities that have a present and probable need for public facilities and services nor are the areas contiguous to the sphere of influence qualify as a disadvantage community.

3. Infrastructure Needs & Deficiencies

LAFCO is responsible for determining that a jurisdiction is reasonably capable of providing needed resources and basic infrastructure to serve areas already within the City and in the Sphere of Influence. It is important that the infrastructure and resource capacities be adequate and reliable when revisions to the SOI and annexations are proposed by the City or property owners. In the case of this SOI Update, it is prudent for LAFCO to analyze present and long-term infrastructure demands and resource capabilities of the City of Morro Bay. LAFCO

accomplishes this by evaluating 1) the resources and services that are currently available, and 2) the ability of the City to expand such resources and services in line with future demands.

Water

The City of Morro Bay's Water supply can come from three sources: Morro & Chorro watersheds (groundwater), from State Water Project (SWP) since 1997, and Desalination plant. The City has been receiving State Water since 1997 and it has become the primary source of water for the City. The groundwater and desalination sources have become secondary supplies used on occasion when needed by the City. The table below shows the City's current water supply situation.

Table 1-3 – Morro Bay Current Water Supply

Source	Amount (acre feet)
Groundwater (pumping rights)	1,724
Morro 581	
Chorro 1,143	
Recycled Water	0
Desalination	645
SWP	1,313
Total	3,682

In 2015, the City reported annual water use of 1,074 acre-feet. The Supply/Safe Yield available to the City is currently estimated at 3,105 acre-feet per year. The City anticipated future water demand to be 1,452 acre-feet per year at build out under the existing General Plan.

Wastewater

Morro Bay operates the wastewater treatment facility under a Joint Powers Agreement (JPA) with the Cayucos Sanitary District. The City and Cayucos Sanitary District had decided to build individual plant to serve their needs, with the City continuing to upgrade the wastewater treatment plant to full secondary treatment and to provide tertiary filtration capacity of 1.5 million gallons per day. The current treatment system has the capacity to process 2.06 million gallons per day of wastewater on an average dry day. The system is operating at 56% of capacity with an estimated 1.15 million gallons per day currently being processed at the treatment facility.

The new plant will have less rated capacity based on extensive population projections developed for this project.

Roads

The Circulation Element of the City's General Plan describes how the City will manage transportation issues as the City grows and develops. The Circulation Element was updated in 2004 along with other elements in the General Plan but never certified. The City is current undertaking a new comprehensive update to its General Plan.

According to the San Luis Obispo Council of Government's (SLOCOG) 2014 Regional Transportation Plan a significant increase in traffic volume on Highway 1 is projected from the 2008 number of 23,100 average daily trips to 28,000 average daily trips in 2035. The Level of Service in the Morro Bay area on Highway 1 is expected to drop to LOS D. The North Coast segment of the route is projected to increase very modestly as development is expected to be minimal on the North Coast.

Harbor

The City provides boater assistance, water emergency response, and facilities maintenance for the regional harbor facility within city limits. Morro Bay Harbor is designated as "a state harbor of refuge" by special legislation and the home of USCG station Morro Bay with 35 federal personnel providing marine security for Diablo canyon and the California coastline between Monterey and Santa Barbara. The Harbor Department includes a staff of 5.75 employees with a budget of about \$1.6 million.

Fire

The Department maintains two stations located in the City. Station 53 is the operational station and is located at 715 Harbor Street. This station has been newly constructed/remodeled and is staffed daily. The other station (#54) is located on 460 Bonita Street and is un-staffed and is used to store equipment and vehicles. The Department responded to 1,908 calls in 2014. The Department has 10.5 full-time employees that work from one fire station.

Police

The Morro Bay provides law enforcement services for the residents of the City. The Police Station is located at the corner of Santa Rosa and Walnut. The total budget for the Police

Department for fiscal year 2016-17 is \$3.2 million. The Morro Bay Police Department consists of 20 employees, 16 of which are sworn police officers. The Department is divided into two bureaus, with a Police Captain commanding each.

4. Financing Constraints & Opportunities

The City prepared a ten-year budget forecast to provide a long-term perspective and help identify the structural imbalances. Indicators of the City's financial condition include pension and pent-up labor demand, unfunded replacement costs and deferred maintenance concerns for fiscal years 2016-2017. About 75% of the city's services can be funded under its current revenues. The City has been proactive in addressing the financial situation by setting aside reserves that have been used in making it through this period of financial challenge. In prior years, the City anticipated that a fiscal crisis might be looming and prepared by ensuring its reserves were funded at the level required by the budget policies. The City managed the current situation by taking several actions; 1) not filling several vacant positions, 2) eliminating several authorized positions, and 3) using reserves to address the revenue shortfall.

Measure Q, a local ½ percent sales tax was reauthorized by the voters in 2006. The projected revenue is expected to generate \$800,000 annually. This is a General Fund tax and has no sunset date. The General Fund comprises 70% of the City's total expenditures. The 2016-2017 Budget Plan falls short by \$3 million dollars of the desired services. The City is looking to sustain its current level of lean services over the next 5 to 8 years. The City has made budget adjustment while building the reserves to meet the policy level of 27%.

5. Opportunities for Shared Facilities

The annexation of the SOI study areas to the City may lead to shared roadway infrastructure with the County and the State. The SOI area includes opportunities to created shared facilities such as:

- ▶ Roadway connections
- ▶ Coordinated open space preservation
- ▶ Linkages between City and County recreational trails
- ▶ Preservation and enhancement of Agricultural Lands
- ▶ A regional Reclamation Facility, or joint facility

In the case of roadways and creek trails, the opportunity to coordinate connections between collector and arterial roadways will enhance regional traffic patterns, and will aid in emergency response times. The County has, on occasion, collected impact fees for a City that is affected by a project in the unincorporated areas. This type of coordination can lead to a reduction of impacts and a more positive solution to the problem of development on the City's fringe.

6. Accountability in Government Structure

The City Council is elected in compliance with California Election Laws. The City complies with the Brown Act Open-Meeting Law and provides the public with ample opportunities to obtain information about City issues, including website and phone access. The City's website contains a wealth of information about all of the City's Departments and services. The City Council holds regular meetings at 6:00 p.m. on the second and fourth Mondays of each month in the Veteran's Memorial Hall. All Council meetings are televised live and videotaped for later playback.

Morro Bay does maintain various customer-oriented programs, including a mission statement for each City department, customer satisfaction programs, regular in-house safety training and management, and similar programs designed to enhance the experience for the City customer.

REGIONAL ISSUES

The following is a summary of issues that are relevant to the Morro Bay area, and if further explored could help improve public services to the residents of the area.

Wastewater Treatment. An emerging issue is beginning to occur for communities to provide a higher level of treatment. Tertiary level of treatment or the potential for reclaimed water from wastewater is quickly becoming the focus of many communities. Not only does the reuse of wastewater flows benefit the environment but the potential shortages in water supply and the reliance on groundwater in the region could be addressed. Costs associated with joint or regional facilities to provide these services have caused friction such that the surrounding communities are building separate facilities. This may lead to a lost opportunity to provide a regional benefit. The North Coast and its communities should give special attention in this area so that at some point in the future the opportunity to consolidate wastewater services is not lost. The jurisdictions should continue to work to provide and meet regional standards for wastewater treatment and services to their residents. However, greater study and evaluation on

coordination and cost sharing should be addressed to ensure these services are efficiently being handled.

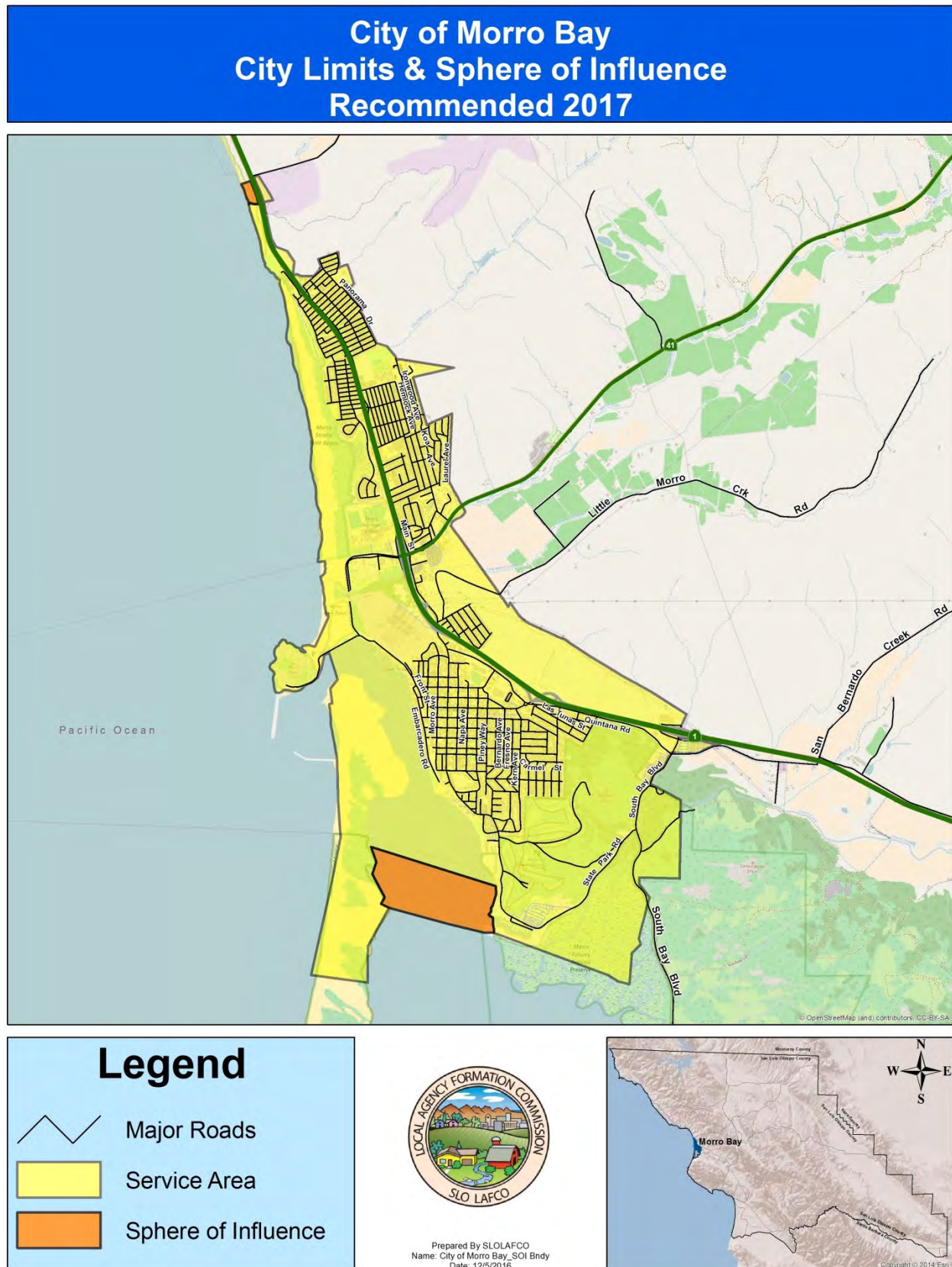
RECOMMENDATION

Based upon the information contained in Chapters 2 and 3 of this document, and the environmental determination, it is recommended that the Morro Bay Sphere of Influence remain unchanged and be re-adopted by LAFCO which includes the public lots owned by the city and public lots that may be created in the future pursuant to the memorandum of agreement. Chapter 2, Sphere of Influence Update, provides more detailed information regarding the basis for this recommendation.

CHAPTER 2 SPHERE OF INFLUENCE UPDATE

The Sphere of Influence Chapter describes the requirements of the Cortese-Knox-Hertzberg Act and provides background regarding the existing SOI for the City. It also identifies the Study Areas that were evaluated in determining the SOI's, the City-County agreement for Morro Bay, and the LAFCO staff recommendation. The MOA for the City of Morro bay can be found in Appendix B as well as summarized in this chapter. Also covered are the factors that are required by CKH for establishing a SOI. The Staff Recommendation is to maintain the existing SOI for City of Morro Bay.

Figure 1-1 – Recommended Sphere of Influence



CHAPTER 2

Morro Bay – SPHERE OF INFLUENCE UPDATE

INTRODUCTION

This Sphere of Influence (SOI) Update chapter is prepared for the City of Morro Bay and is based upon the following Municipal Service Review (Chapter 3) that analyzes the City's capability to serve existing and future residents. The SOI Update and Service Review were prepared to meet the requirements of the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (CKH). The fundamental role of the Local Agency Formation Commission, LAFCO, is to implement the CKH Act, consistent with local conditions and circumstances. LAFCO's decisions are guided by the CKH Act, found in Government Code 56000, et seq. The major goals of LAFCO include:

- Encouraging orderly growth and development which are essential to the social, fiscal, and economic well-being of the state;
- Promoting orderly development by encouraging the logical formation and determination of boundaries and working to provide housing for families of all incomes;
- Discouraging urban sprawl;
- Preserving open space and prime agricultural lands by guiding development in a manner that minimizes resource loss;
- Promoting logical formation and boundary modifications that direct the burdens and benefits of additional growth to those local agencies that are best suited to provide necessary services and housing;
- Making studies and obtaining and furnishing information which will contribute to the logical and reasonable development of local agencies and shaping their development so as to advantageously provide for the present and future needs of each county and its communities;
- Determining whether new or existing agencies can feasibly provide needed services in a more efficient or accountable manner and, where deemed necessary, consider reorganization with other single purpose agencies that provide related services;
- Updating SOIs every five years or as necessary.

To carry out State policies, LAFCO has the power to conduct studies, approve or disapprove proposals, modify boundaries, and impose reasonable terms and conditions on approval of proposals. Existing law does not provide LAFCO with direct land use authority, although some of LAFCO's discretionary actions consider land use in the decision making process. LAFCO is expected to weigh, balance, deliberate, and set forth the determinations of a specific action when considering a proposal.

An important tool used in implementing the CKH Act is the adoption of a Sphere of Influence (SOI) for a jurisdiction. A SOI is defined by Government Code 56425 as "...a plan for the probable physical boundary and service area of a local agency or municipality...". A SOI represents an area adjacent to a city or district where a jurisdiction might be reasonably expected to provide services over the next 20 years. This chapter, along with the following Municipal Service Review, provides the basis for updating the City of Morro Bay's Sphere of Influence, which is required to be updated every five years or as needed.

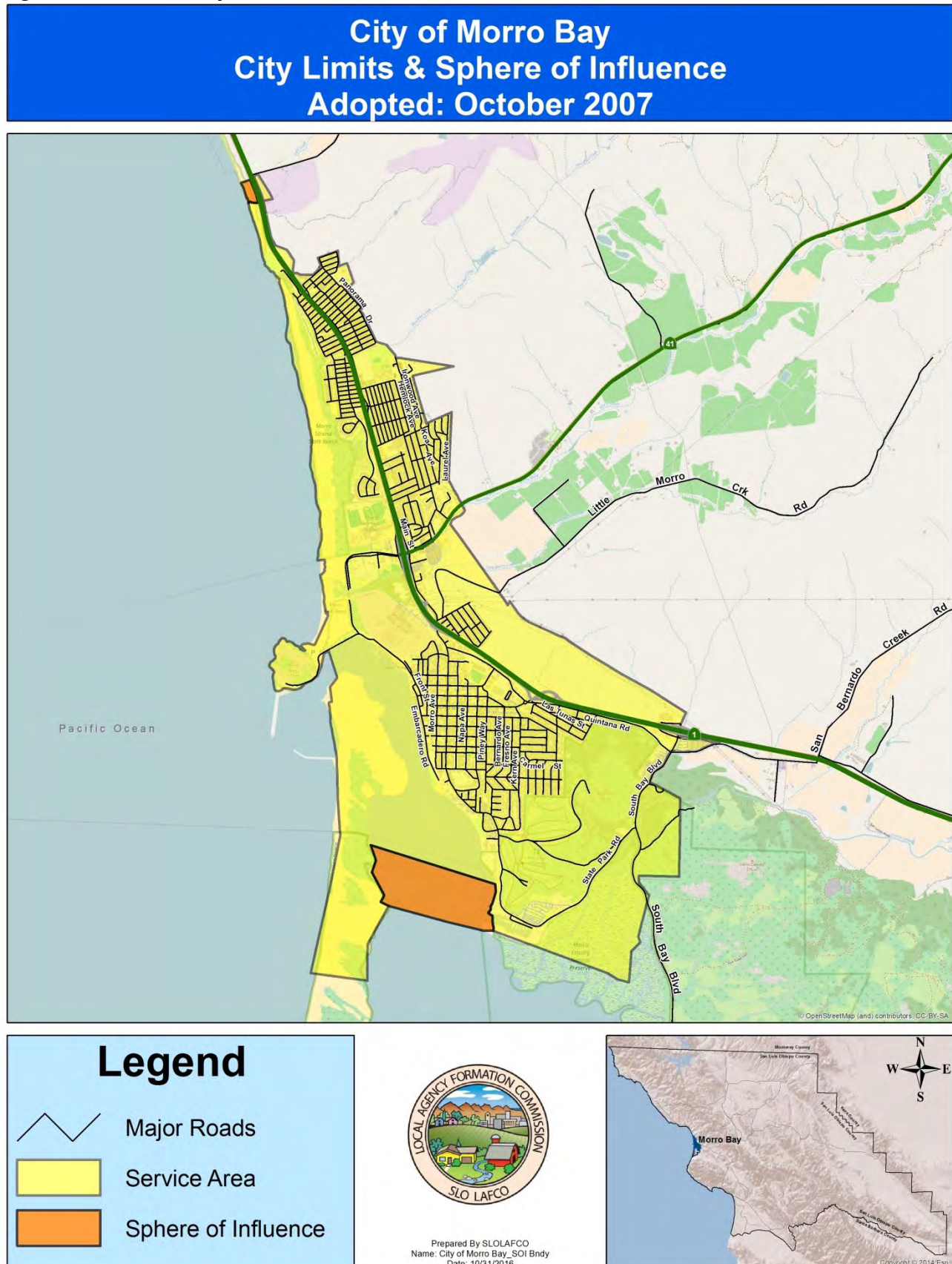
This Sphere of Influence Update chapter addresses the key factors called for in the Cortese/Knox/Hertzberg Act by referring to information contained in the Service Review. Also, the following written determinations must be addressed according to section 56425(e)(1-4) of the Cortese/Knox/Hertzberg Act:

- Present and planned land uses in the area, including agriculture, and open space lands;
- Present and probable need for public facilities and services in the area;
- Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide; and
- Existence of social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.
- The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

EXISTING SPHERE OF INFLUENCE

The City's existing Sphere of Influence is approximately 100+/- acres beyond the City limits and includes two general areas one within the bay south of town adjacent to the marina and the other north of town along the beach. The map on the next page shows the existing Sphere of Influence of the City.

Figure 2-1 – Morro Bay's SOI



SPHERE OF INFLUENCE STUDY AREAS

For analysis purposes, the City of Morro Bay and LAFCO staff prepared a map that included the existing SOI properties and two additional areas to be considered as the Study Areas for the Sphere of Influence. The Study Areas are used to help analyze and identify which properties should remain/ be included and which should be excluded from the Sphere of Influence. A summary of the Study Areas are listed in the table below:

Table 2-1: Study Areas

Study Areas	Acreage	Land Use/Zoning	Existing Land Use	Build-Out Potential
#1 Righetti Ranch	301	Agriculture	Residential/Grazing	2 units
#2 Rancho Colina	199	Agriculture/Rec	Grazing/MHP	2 units
#3 Tri-W Property	396	Agriculture	Grazing	2 units

Source: SLO County Planning & Building Department, General Plan.

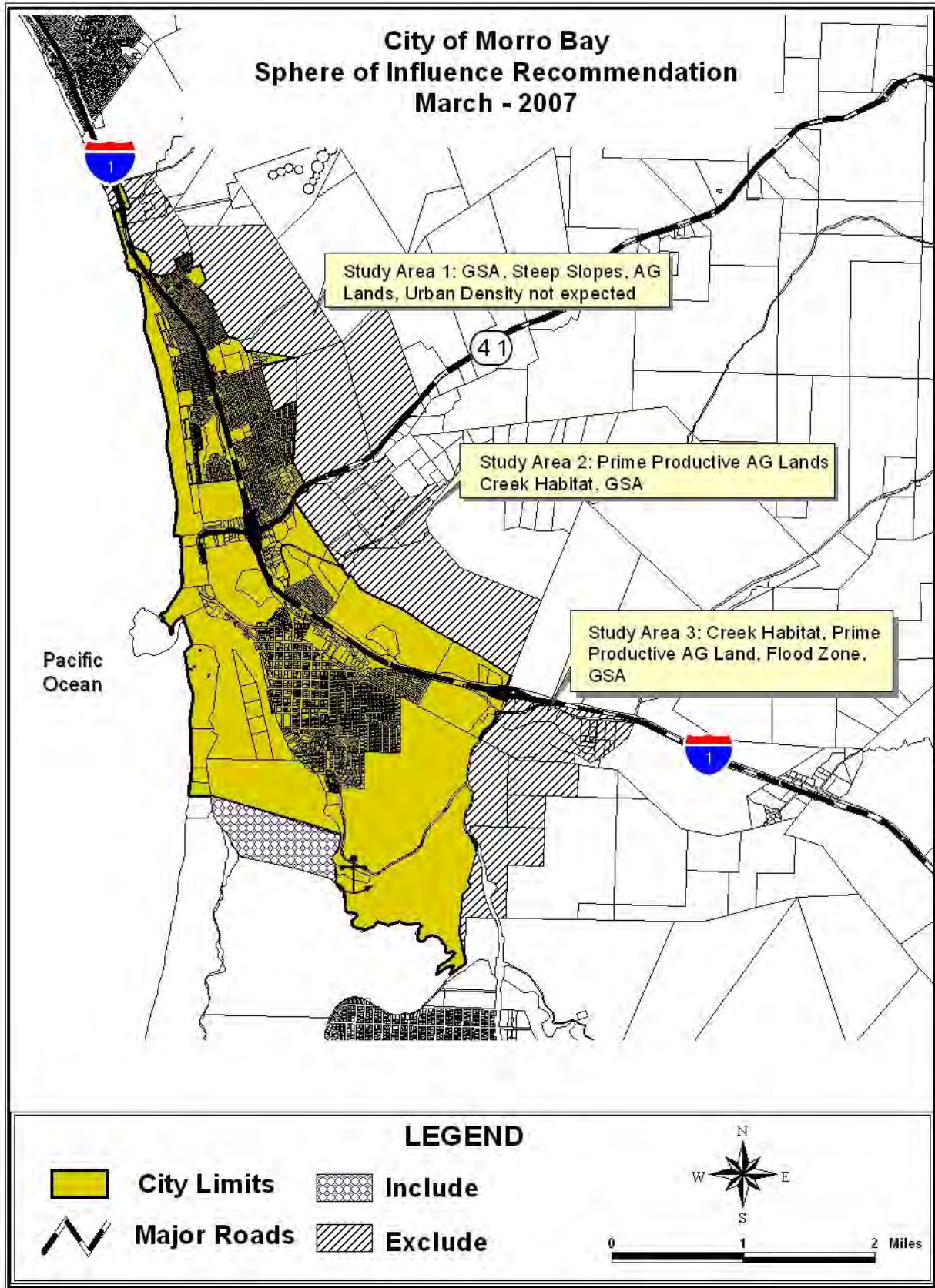
The Study Areas are described in more detail on the following pages and include: a map that focuses on the particular area, the recommendation made by LAFCO Staff and the recommendation by the MOA. The discussion addresses the size and location of the area, current zoning, possible City zoning for each area and other relevant information.

The following properties were not considered for addition into the Sphere of Influence due to resource constraints, land use issues, and/or infrastructure constraints. The 2007 SOI/MSR review studied these areas and concluded they should be excluded based on a number of constraints and information presented. Because no significant changes have occurred since 2007 these areas would not be reconsidered under this report.

Table 2-2: City of Morro Bay 2007 Study Areas Not Reviewed Here

Areas Studied	Description	Acres	Constraints
1	Located east of the City Limit and North of Highway 41 to Toro Creek Road. Grasslands, 17 parcels, 65% owned by Chevron, included marine terminal offices.	800	Geologic Study Area, steep, unstable hillsides, zoned agriculture
2	Located east of the City Limit and South of Highway 41 to South Bay Blvd. About 110 acres is prime agricultural lands and is in production. The Tri-W site is 394 acres and is grasslands used for grazing.	759	Geologic Study Area, steep, unstable hillsides, zoned agriculture.
3	Located south of the City and Highway 1. Includes Quintana Road. An estimated 181 acres of prime agricultural land is found adjacent and just south of Highway 101.	455	Constraints include the Chorro Creek and southern sensitive resource area, zoned agriculture

Figure 2-2 – 2007 SOI Study Areas



East of City/Chevron Terminal (Located in SLO County; Not within the SOI)

This Study Area was 800 acres and includes 18 parcels that are zoned agriculture. The area includes about 90 acres of prime agricultural land and much of the area has been used for grazing cattle in the past. A small patch of prime agricultural land exists adjacent to Highway 41 with a longer narrower finger extending along Toro Creek in the north. Another small finger of prime agricultural land is shown adjacent to the City and along an intermittent creek. The Marine Terminal office and drainage ponds are located on prime agricultural land. This site is in the northern part of the Study Area adjacent to Toro Creek. Most of the area (65%) is owned by Chevron. The eastern Tank Farm parcel was not included because of the unstable slopes and the ongoing cleanup of the site. The Department of Planning and Building's Interactive GIS Website provides land use information about various areas of the County. The table shows the results of searching this mapping program and indicates if an area may have certain resources or require special consideration. This tool helps identify in general terms if an issue may need further study. The northern part of this Study Area is located within the Highway 1-Cayucos Critical Viewshed, as identified in the Estero Area Plan. This area standard has been established to protect views of this scenic coastal area. Most of this Study Area (85%) is located in a Geologic Study Area (GSA). A GSA indicates that the area may be unstable geologically and requires thorough analysis if development is proposed in the area. The studies must be completed by qualified geotechnical engineers or engineering geologist and may limit the intensity of future development in this area. In general, the Estero Area Plan submitted to the Coastal Commission for certification calls for the preservation of the agricultural resources in this area as does the City's General Plan. The City does not currently have an adequate sewer facility to serve the area. No new development projects have been proposed in this area.

STUDY AREA # 1 POTENTIAL PLANNING ISSUES

Land Use

☒ Zoned Agriculture:

Combining Designations

☒ Flood Hazard: **Near Toro**

☒ Geologic Study Area - Landslide Risk

☒ Geologic Study Area - Faults

☒ Energy and Extractive Area

Coastal Designations

☒ Coastal Zone: **Includes small beach area**

Emergency Preparedness

☒ Protective Action Zones: **Diablo Cyn**

☒ Tsunami Inundation Area: **Toro Creek Area**

Chevron Property Tank Farm Parcels (Located in SLO County; Not within the SOI)

The City of Morro Bay requested that the entire Chevron Property be studied as part the 2007 SOI/MSR review. The property includes 35 parcels totaling 3,200 acres owned by Chevron. About 1,065 acres of the northern holdings were outside of the previous Sphere of Influence and adjacent to and above the community of Cayucos. The portion of this area adjacent to northeast side of the City was in Study Area one as described above. The reasons for this request included greater control of the area and possible future development of the area that may need services from the City. The area consists of 3,200 acres and includes some prime agricultural land along Toro Creek. The properties are within the County's Geologic Study Area designation because of steep slopes and the potential for landslides in the area. The area includes the Toro Creek habitat and is in the process of being cleaned up from its previous industrial use. The Site underwent clean-up and turned over to the Chevron real estate division. Chevron's real estate division is responsible for the future use, sale or development of the property. To date, Chevron has not indicated the future land uses that might be considered for the properties.

East of City/South of Hwy 41(Located in SLO County; Not within the SOI)

This Study Area was 759 acres and included 6 parcels that are zoned agriculture. One parcel is 396 acres and is owned by Tri-W Enterprises. This area will be included in this report as a new Study Area for the purposes of locating a Water Reclamation Facility. The area includes about 110 acres of prime agricultural land that is mostly (90 acres) concentrated just south of Highway 41, with a small portion (20+ acres) located on the Tri-W property. The most productive area includes rotational crops and avocados and located just south of Highway 41. Rotational crops can include a variety of row crops or grains. A smaller area of prime agricultural soil land is located on the Tri-W property. Crops are not grown on this parcel but it could be used for grazing cattle. The 1,375 acre conservation easement forms the boundary on the property to the south.

The Department of Planning and Building's Interactive GIS Website provides land use information about various planning issues. The table to the right shows the results of searching this mapping program that indicates if an area may have certain resources or require special consideration. This tool helps identify in general terms if an issue may need further study. A check-mark indicates if an issue may need further study prior to future development. It is important to note that this is a general screening tool and is not meant to replace site specific evaluation.

STUDY AREA #2 POTENTIAL PLANNING ISSUES

Land Use

☒ Zoned Agriculture: **Conversion of Prime AG**

Combining Designations

☒ Flood Hazard: **Near Hwy 41 Morro Creek**

☒ Geologic Study Area: **Landslide Risk**

☒ Energy and Extractive Area

Coastal Designations

☒ Coastal Zone: **Entire Area**

☒ Sensitive Habitat: **Morro/Little Morro Creek**

Emergency Preparedness

☒ Protective Action Zones:

☒ Tsunami Inundation Area: **Morro Creek Area**

Most of this Study Area (81%) is located in what the County designates as a Geologic Study Area (GSA). Coincidentally this includes the Tri-W site in its entirety. A GSA indicates that the area may be unstable geologically and requires thorough analysis if development is proposed in the area. The studies must be completed by qualified geotechnical engineers or engineering geologist. The City has made the Tri W property a preferred site for the Water Reclamation Facility. The City will pursue purchasing a portion of the property and creating a public lot for siting the facility.

Quintana Area to South Bay Blvd. (Located in SLO County; Not within the SOI)

This Study Area was 455 acres and included 23 parcels with 270 acres in the northern part of the area zoned agriculture and 185 acres in the southern portion zoned open space. The adjacent property is zoned open space and is owned by State Parks. The parcels in the Study Area vary in size from less than one acre up to

STUDY AREA #3 POTENTIAL PLANNING ISSUES

Land Use

☒ Zoned Agriculture: **restoration area**

Combining Designations

☒ Flood Hazard: **Near Chorro Creek in north**

☒ Geologic Study Area - Landslide Risk

☒ Sensitive Resource Area: **Chorro Creek/Estuary**

☒ Energy and Extractive Area

Coastal Designations

☒ Coastal Zone: **Entire Area**

☒ Archaeologically Sensitive Area: **Southern Tip**

☒ Wetlands: Southern tip near Estuary

Emergency Preparedness

☒ Protective Action Zones: **PAZ 9**

☒ Tsunami Inundation Area: **Chorro Creek Area up to Highway 1 and Quintana Rd**

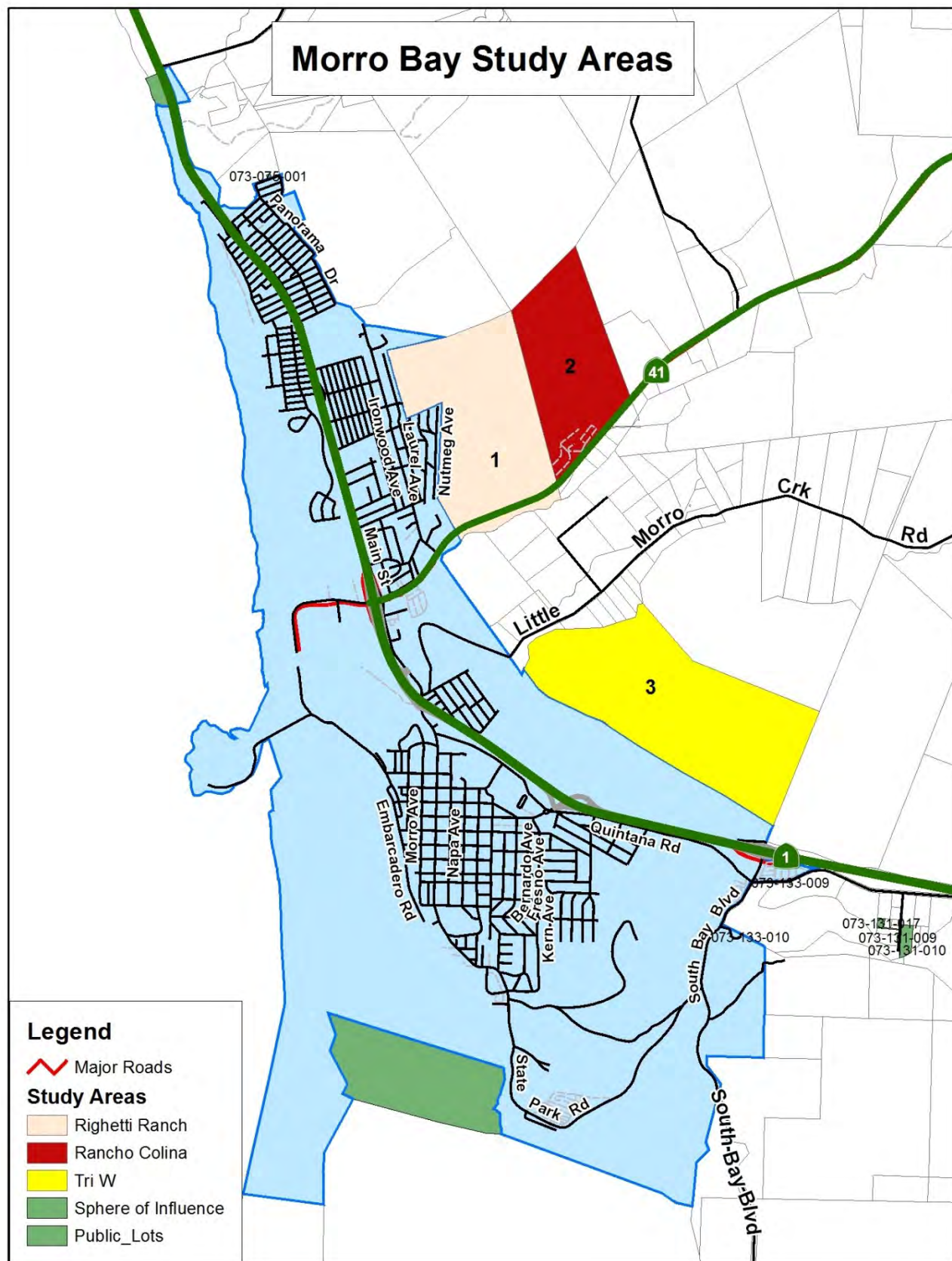
105 acres. An estimated 181 acres of prime agricultural land is found adjacent and just south of Highway 101. The area is largely vacant land with the exception of the 8-10 residences located near Quintana Road and Highway 101. Several accessory buildings are also located on these properties. Small farms operate in the area. Adjacent land uses in this Study Area include land that is in under conservation or Williamson Act contract to the east, Hollister Peak to the southeast, the 1,375-acre conservation easement the boundary on the property to the north and the State Park to the west. Chorro Creek runs through the northern part of the Study Area. The future land use in the area would likely be open space. The City has considered a part of the northern area as a potential site for infrastructure related to their future wastewater system.

No new development projects have been proposed in this area. The Department of Planning and Building's Interactive GIS Website provides land use information about various planning issues. The table above shows the results of searching this mapping program that indicates if an area may have certain resources or require special consideration. This tool helps identify in general terms if an issue may need further study. A check-mark indicates if an issue may need further study prior to future development. It is important to note that this is a general screening tool and is not meant to replace site specific evaluation. About 222 acres (48%) is located in what the County designates as a Geologic Study Area (GSA). A GSA indicates that the area may be unstable geologically and requires geotechnical analysis if development is proposed in the area.

Previously Studied in 2007 Study Areas

The above list of Study Areas that were reviewed in 2007 was not recommended to be included in the Sphere of Influence based on a number of factors. The Commission's action excluded these areas and added the two areas presented in the existing SOI map. In addition to the two areas added the Commission also clarified that the existing public lots under the City ownership were part of the City's SOI by reference. LAFCO's action also acknowledged the potential for new public lot creations that could assist the City with a future wastewater treatment facility siting. Because these areas were thoroughly studied in 2007 and the set of facts have not changed substantially these areas were not re-studied under this SOI/MSR Update with the exception of the properties along Hwy 41 and the Tri-W property with the potential for siting a future wastewater treatment facility/water reclamation facility.

Figure 2-3 – Study Areas

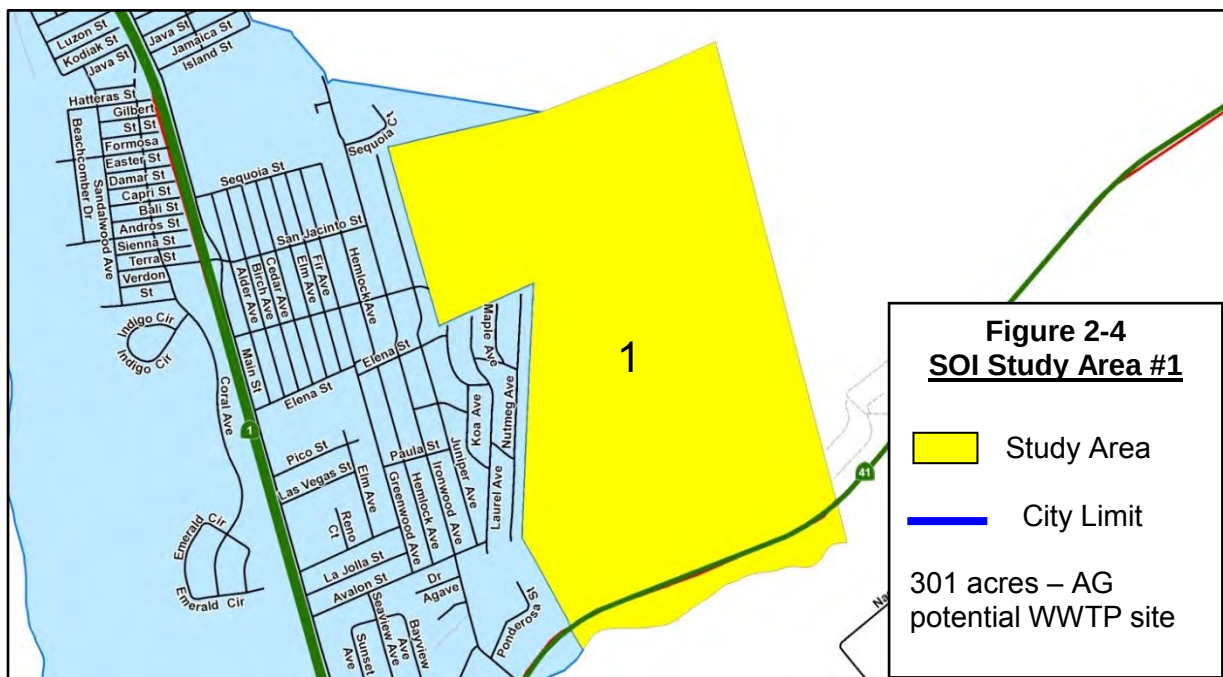


SOI Study Area #1 – Righetti Ranch (Located in SLO County; Not within the SOI)

The 301-acre area just east of the City limits consists of two parcels. A 43-acre parcel owned by Myers and a 251 acre parcel owned by the Righetti family. A portion of the larger property is currently leased by the City for the purposes of housing the Nutmeg Water Tanks. The California Coastal Commission has requested the City consider as an alternative the potential for an area closer to Highway 41 for the site of a new wastewater treatment and reclamation facility. The City would need to purchase or lease the property and apply for a General Plan Amendment (GPA) from the County if leased to develop a WWTP facility. If the City purchased the property, the City would need to pre-zone the site for use as a public facility before LAFCO considered any SOI or annexation amendments. The western boundary of the Righetti site is located just east of the boundary of the developed, residential areas of the City of Morro Bay. Currently, the site consists of a single-family residence and grazing areas. The land is surrounded by cropland to the south, undeveloped areas to the north and east and a mobile home park, RV park, and agricultural lands to the east.

City/County MOA. This area should be excluded from the SOI

LAFCO Staff Recommendation. The SOI should exclude Area One. The City's primary site for a future wastewater facility is the Rancho Colina site Study Area Two. The site is zoned agriculture and within a Geological Study Area (GSA) and was evaluated thoroughly in 2007 and determined to not be recommended. If the City proposes a facility for this property a public lot could be created and consistent with LAFCO's action previously that could be annexed under GC 56000 et seq.



SOI Study Area #2 – Rancho Colina (Located in SLO County; Not within the SOI).

The Rancho Colina site is 199-acres owned by William Macelvaine. The site is located north of Hwy 41 about one mile east from the City limits and consists of a mobile home park and grazing land. The site is designated REC and AG on the northern portion of site pursuant to the County's LCP. The site is currently developed with several facilities, including a single-family home occupied by the property owner, and by an existing wastewater treatment facility constructed in 1971, which serves the nearby Rancho Colina residential community. The City's focus is on a roughly 10 to 15-acre area in the lowest portion of the property, generally in the vicinity of the location of the existing WWTP, but could be expanded as appropriate.

City/County MOA. This area should be excluded from the SOI.

LAFCO Staff Recommendation. The SOI should exclude Area Two. This area is presently zoned agriculture and recreation with the land in grazing production and an existing mobile home park. Currently the site is identified as the primary location for a future wastewater treatment facility, if the City selects this site and builds a treatment facility a public lot could be created that is owned by the City and requested to be added to the SOI and annexed at that time.

Annexation of the entire site would not be permissible under CKH Act to have a non-contiguous boundary under private ownership. Non-contiguous annexations are only allowed for public facilities owned by the City. Since the City would need to complete a number of steps before the site could be considered for annexation, maintaining the existing SOI at this time would allow the City to complete the necessary steps before adding the property to the City limits. LAFCO continues to support the City selection of a preferred location to build a new wastewater treatment plant and would process an SOI and annexation proposal in an expedited manner.



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Memorandum of Agreement

The City Council and County Board of Supervisors considered a Memorandum of Agreement (MOA) between the City of Morro Bay and the County of San Luis Obispo in 2007. That MOA continues to cover the areas of most interest to the City and will continue to be in place under this update. The MOA is included as Appendix B. The CKH Act requires that this agreement be given “great weight” by the Commission in making its decision regarding the update of the City’s SOI; however, the City and the County never agreed upon the extent of the City’s Sphere of Influence. The general approach of the MOA was to ensure close coordination and cooperation between the City and County on the future planning and development of the areas within the City’s interest. Key provisions of the MOA include the following:

- X Written documentation to use other jurisdictions’ services as a way to mitigate an impact to services;
- X Referral of projects in the fringe area to the City and County;
- X Inclusion of SMART growth principals;
- X Fair distribution of mitigation/impact fees;
- X Meetings among emergency response agencies to discuss impacts and fiscal issues;
- X Prior City review of projects submitted to County & written documentation that the City will not consider annexing the project; and
- X Coordination of City and County agricultural and open space policies.

The MOA enhances the communication between the City and the County and helps to clarify the process for developing the areas. Also included in the MOA are the relevant goals from the each jurisdiction’s General Plan. The major goals for establishing a Sphere of Influence for the City include:

CITY OF MORRO BAY GENERAL PLAN

- ***City of Morro Bay-Goal 34:*** *A stable, long term boundary between the City and surrounding County with extensive open lands separating the City from other urban development.*

- **City of Morro Bay-Goal 35:** *Preserve agricultural uses in and adjacent to the City with conflict resolution between agricultural and urban land uses.*

COUNTY OF SAN LUIS OBISPO GENERAL PLAN

- **County of San Luis Obispo-Estero Area Plan.** *Prevent urban development outside the Morro Bay City Limits, and direct future growth onto developable, non-prime lands within the City.*
- **County of San Luis Obispo-Estero Area Plan.** *Maintain existing agricultural land use categories in order to protect agricultural resources; do not convert agricultural land to other land use categories or revise planning area standards so as to enable more intensive development.*

These goals are supported in each General Plan with policies and programs that work towards achieving these results. The Memorandum of Agreement is a way to implement both General Plans in a more coordinated manner.

City Council Action. The City Council approved the MOA on September 10, 2007.

County Board of Supervisors Action. The County Board of Supervisors approved the MOA on September 25, 2007

Conditions of Approval

The following conditions of approval are adopted based on this updated Sphere of Influence Update, Municipal Service Review, Memorandum of Agreement, the environmental review, and public input and to reflect the current situation for services and protection of agricultural and open space lands.

WATER

- a. As a condition of an annexation application being filed with LAFCO, the City shall document with a water supply analysis that an adequate, reliable, and sustainable water supply is available and deliverable to serve the areas proposed for annexation.

WASTEWATER

- a) As part of an annexation application, the City shall document the progress of the currently-planned upgrade to the wastewater treatment plant in compliance with a NPDES permit.

AGRICULTURE & OPEN SPACE

- a. The City shall identify all agricultural and open space lands to be protected in the annexation areas when rezoning or preparing land use entitlements for an area.
- b. Prior to LAFCO filing the certificate of completion (if an annexation is approved), conservation easement(s) or other appropriate mitigation measures as listed in LAFCO's Agricultural Policy 12, shall be recorded on the deed(s) of the properties affected by the annexation specifying the areas to be protected in perpetuity.

RECONSIDERING THE SOI/MSR

- a. LAFCO would revisit the SOI upon completion of the GP/LCP and One Water Plan update.

PRESENT AND PLANNED LAND USE

The land use zoning within the proposed Study Areas of the Sphere of Influence is Agriculture and Recreation. The two existing SOI areas are the beach area to the north and the Back Bay area to the south. Neither area is proposed for future development. The City's General Plan policies are being updated to manage the growth and development within these areas. Once the City identifies a site for its new wastewater treatment plant the Sphere of Influence will be considered amended.

PRESENT/PROBABLE NEED FOR PUBLIC SERVICES

The present need for public services in the proposed SOI area varies in the different areas. Many of the properties' current uses are for agricultural and open space purposes. The probable need for public services in the proposed Sphere of Influence is low. Urban levels of development are not anticipated in the existing Sphere of Influence. Also, the City needs to complete the upgrade of the sewer facility and increase the reliability of its water supply.

Present Capacity of Public Facilities and Adequacy of Public Services

Water supply is identified as a key issue because the City of Morro Bay primary source is the State Water Project which has not been consistently available over the last 5 years. The City's supplemental water supply is limited groundwater with potential for desalination or emergency water agreement with California Men's Colony. The City will restructure its water and wastewater rates to assist in the construction of a water reclamation facility. The City is in the planning stages of developing a new wastewater treatment facility and possibly produces some recycled water. In 2015 the City reported annual water use of 1,074 acre-feet. Under the existing General Plan, the City's build-out would demand an estimated 1,452 afy. The City, as mentioned earlier, is upgrading its wastewater facility to meet State and Regional requirements. The existing wastewater treatment plant is operated under a JPA between the City and Cayucos Sanitary District. The City and CSD have decided to go separate ways to address their wastewater needs.

SOCIAL AND ECONOMIC COMMUNITIES OF INTEREST

The City of Morro Bay has a variety of social and economic communities of interest, including numerous businesses, schools, churches, public sector facilities, and other Community Service programs that serve residents. The existing social fabric of the City will not change substantially by maintaining the Sphere of Influence. Once the City further develops its new wastewater treatment plant the Sphere of Influence can be requested for change and it is likely that the facility will be positive for the community and bringing in new families and economic buying power as well as possible revenues that could help the City's budget or achieve the preservation of agricultural lands and open space around the community. Industrial, commercial, and retail areas could bring jobs and economic growth into the City. Chapter Three of this report provides information that documents the effect of the proposed Sphere of Influence on the City and evaluates the City's ability to manage future expansions.

Present and Probable need for Public Facilities and Services of Disadvantaged Unincorporated Communities

The City of Morro Bay has a variety of economic diversity that lives within the City limits and surrounding area. Disadvantaged community means a community with an annual median household income that is less than 80 percent of the statewide annual median household

income. The City of Morro Bay's Sphere of Influence does not qualify under the definition of disadvantage community for the present and probable need for public facilities and services.

LOCAL SPHERE OF INFLUENCE GUIDELINES

The Cortese/Knox/Hertzberg Act (CKH Act) requires that each Commission establish written policies and procedures. The Act also states that LAFCOs are to exercise their powers consistent with those policies and procedures. San Luis Obispo LAFCO policies encourage and provide for well-ordered, efficient urban development patterns, balanced with preserving open space and agriculture land while discouraging urban sprawl. This Sphere of Influence Update and Municipal Service Review for the City of Morro Bay is consistent with those policies and the purposes of LAFCO. The recommended SOI discourages urban sprawl and encourages the preservation of open space and agricultural land by maintaining the existing Sphere of Influence. Once the City further develops their new wastewater treatment plant the Sphere of Influence can be requested for change and the conditions of approval above would help further LAFCO's mission. The City and County have adopted programs and policies in their General Plans to preserve the agricultural lands and natural resources surrounding the City which is consistent with LAFCO's policies.

The following policy is a key consideration for LAFCO because it provides guidance regarding the use of General Plans when establishing a Sphere of Influence. When General Plans are inconsistent, or have conflicting policies, LAFCO is to use the Plan that is most consistent with the legislative intent of the Cortese/Knox/Hertzberg Act. In this case the County's General Plan more clearly addresses the future land uses in some of the areas considered for inclusion in the Sphere of Influence. This is particularly true in the case of the Highway 41 properties.

- a. The adopted sphere of influence shall reflect City and County general plans, growth management policies, annexation policies, resource management policies, and any other policies related to ultimate boundary area of an affected agency unless those plan or policies conflict with the legislative intent of the CKH Act (Government Code Section 56000 et seq.).

Where inconsistencies between plans exist, LAFCO shall rely upon that plan which most closely follows the legislature's directive to discourage urban sprawl, direct development away from prime agricultural land and open space lands, and encourage the orderly formation and development of local governmental agencies based upon local conditions and circumstances.

Another key LAFCO policy for consideration is found below:

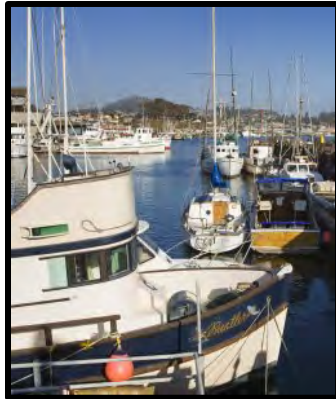
1. Territory not in need of urban services, including open space, agriculture, recreational, rural lands, or residential rural areas shall not be assigned to an agency's sphere of influence unless the area's exclusion would impede the planned, orderly and efficient development of the area.

Excluding the agricultural zoned areas that has steep terrain and other service related issues does not impede the orderly and efficient development of the area. These areas have the potential to be selected as the site for the City's future wastewater treatment facility and the creation of a public lot.

If the Tri-W site, or any other, is selected as the preferred location for a wastewater treatment plant site, the area intended for public facility use shall be sized accordingly. The entire (396 acre) property shall not be included in the Sphere of Influence and any prime farmland converted shall be offset by LAFCO's 1:1 protection Policy 12 consistent with the conditions listed above. All agriculture and urban impacts shall be studied and appropriate mitigation implemented before future annexation is approved.

CHAPTER 3

Morro Bay – MUNICIPAL SERVICE REVIEW



The legislative authority for conducting Municipal Service Reviews is provided in Section 56430 of the Cortese-Knox-Hertzberg Act (CKH). The Act states that, in order to update Spheres of Influence in accordance with Government Code Section 56425, LAFCOs are required to conduct a service review of the municipal services provided by the jurisdiction. The Municipal Service Review factors that need to be addressed include:

1. Growth and Population projections for the affected area
2. Location and characteristics of any disadvantaged unincorporated communities
3. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
4. Financial ability of agencies to provide services
5. Status of, and opportunity for, shared facilities
6. Accountability for community service needs including governmental structure and operational efficiencies
7. Any other matter related to effective or efficient service delivery, as required by commission policy

The above-listed factors are addressed in this chapter and written determinations are included for each factor as called for in the CKH Act.

The Morro Bay Sphere of Influence (SOI) was most recently updated in 2007, and included the reduction of the SOI in the east and the addition of two smaller areas just north and south of the City limits. The Sphere of Influence also includes any existing or future public lots owned by the City created through the County's public lot process. The two SOI areas comprise the present day Morro Bay SOI. The City also has the option of creating a public lot and this site would be added to the SOI. The purpose is to allow a public service facility to be included in the SOI. Figure 3-1 shows the adopted Sphere of Influence. Figure 3-2 shows the Study Areas considered under this review. Please note that a study area is intended to be studied for possible inclusion. The area may or may not be included in the SOI.

Figure 3-1 - Morro Bay's Existing SOI

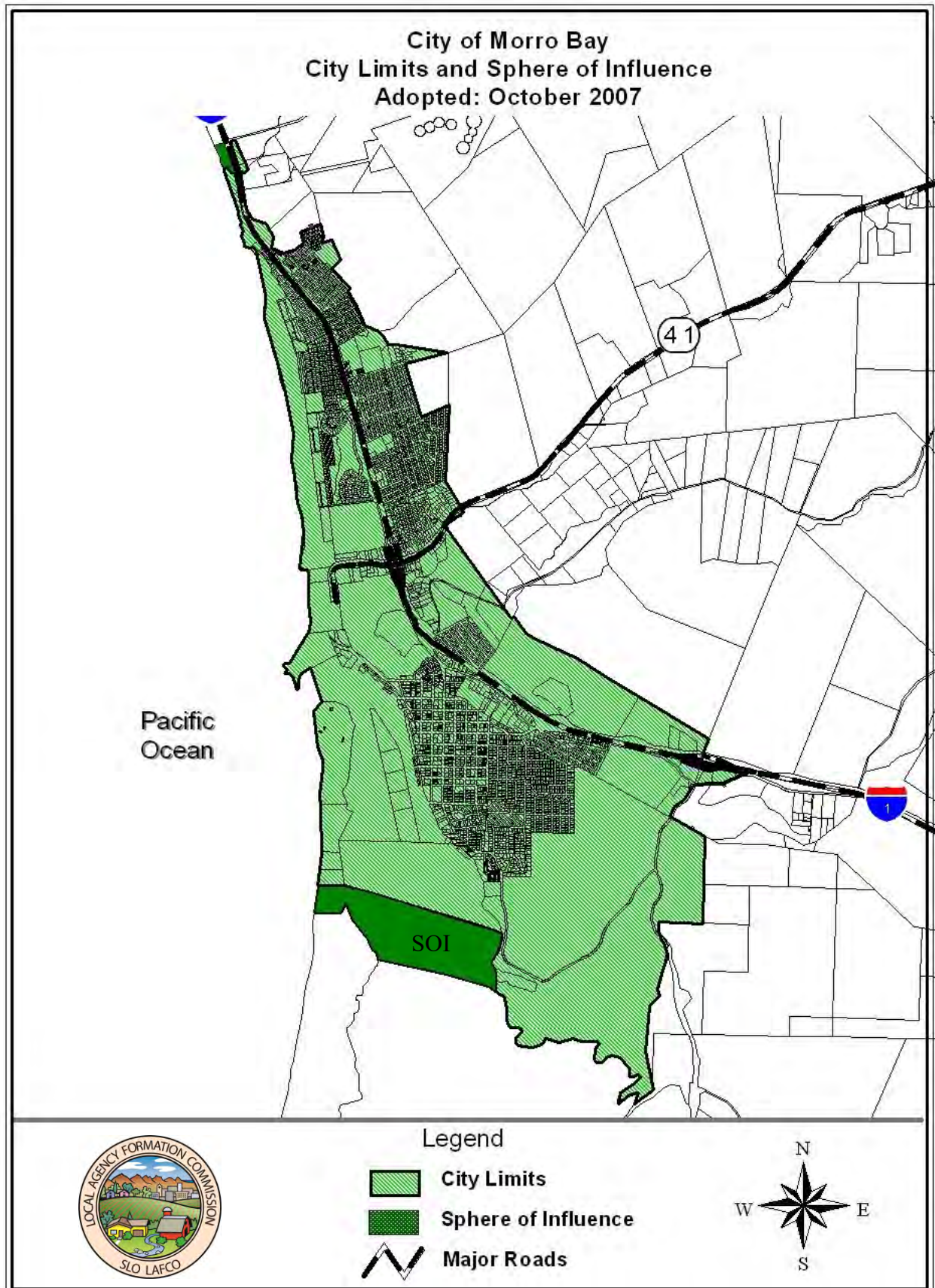
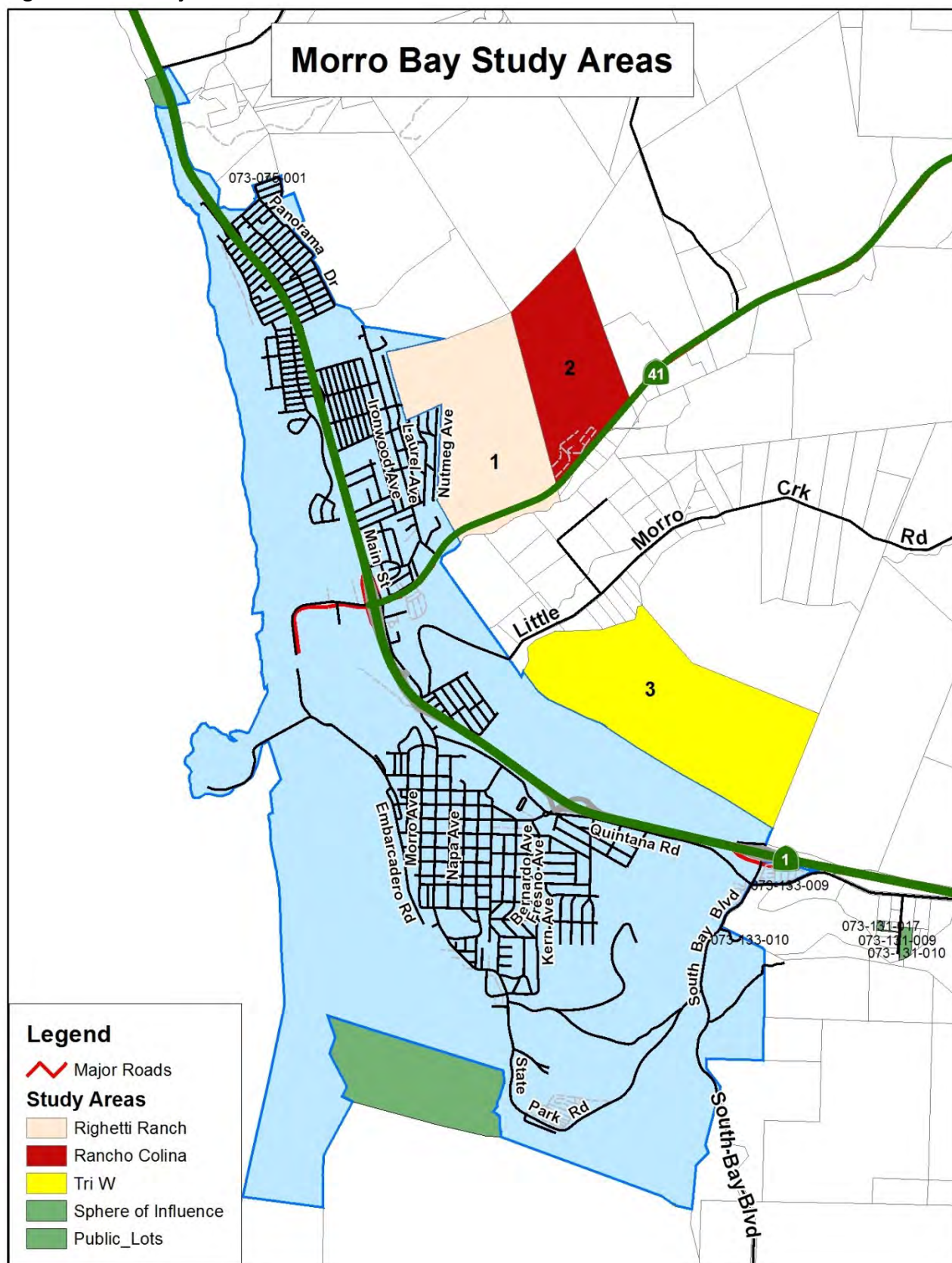


Figure 3-2 – Study Areas



3.1 GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA

Purpose: To identify future growth patterns and project population increases.

POPULATION

This factor is intended to identify growth and population projections for the affected area of a jurisdiction. This section will use various sources of information to project growth and population for the City of Morro Bay. The previous Sphere of Influence update and Municipal Service Review for Morro Bay provides background information. The Growth and Population factor includes a summary of population data and land use and zoning in the area as well as growth trends.

US Census

According to the 2010 US Census, the City had a population of 10,234. Total housing units were estimated to be 6,689 units. The City's estimated build-out population within the current City limits is estimated to be 12,200. At 1.9 persons per household and an 80% occupancy rate the average estimated population would be approximately 12,200 at build-out.

Most of the City's population growth occurred from 1950 to 1980. Since the late 1980's, the City of Morro Bay has experienced a slow rate of growth; less than 1% per year. From 2000 to 2010 the City's population decreased by 116 people. In summary, the City's slow growth rate is likely to continue based on the current General Plan/LCP and growth trends. The City's policies encourage in-fill development.

California Department of Finance Population Estimates-2005 to 2015

The California Department of Finance (DOF) population estimates come from administrative records of several state and federal government agencies, as well as numerous local jurisdictions. According to the DOF, the total state estimate was within one-half of one percent (0.5%) of the 2000 census count. The table below reflects the DOF estimates for Morro Bay and the County of San Luis Obispo over the last decade. DOF estimates Morro Bay's current population as 10,234.

Table 3-1: Population Estimates

	2005	2006	2007	2008	2009	2010*	2011	2012	2013	2014	2015
Morro Bay	10,270	10,521	10,485	10,521	10,576	10,234	10,294	10,274	10,234	10,194	10,152
County Total	261,699	263,939	266,043	268,636	270,901	269,637	270,305	271,483	271,754	272,773	273,792

Source: DOF E-4; E-1; P-1 Population Estimates for Cities, Counties and State, 2005-2015

* DOF made an adjustment after the 2010 Census was released for San Luis Obispo County.

Council of Governments Population Projections - 2011

The Council of Governments recently had the consulting firm of AECOM Technical Services update population projections for San Luis Obispo County, including the City of Morro Bay. The original study was completed in 2006 and was updated in 2011 to take into account the recent economic downturn. These projections use a variety of data sources and assumptions to project the future population of the cities and unincorporated areas of the County. These projections incorporate information from the State of California about future population increases, past and present County growth trends, and projected changes within the region. The consultants worked with local planners to anticipate future growth in the various areas of the County to estimate the potential for increases in population. The updated report presents low, medium, and high population growth projections for areas in the County including the City of Morro Bay. The table below shows those results:

**Table 3-2: Projected Population Growth Morro Bay
San Luis Obispo Council of Governments Projections**

	2010	2015	2020	2025	2030	2035	2040
LOW	10,073	10,152	10,244	10,450	10,708	10,969	11,237
MEDIUM	10,073	10,152	10,244	10,482	10,778	11,078	11,381
HIGH	10,073	10,152	10,244	10,509	10,842	11,177	11,512

Morro Bay is one of the seven cities in the county. The 2010 population for the City was 10,234, down only 116 residents from 2000. In 2010, there were 6,689 housing units with 1.9 persons per household and a 20% vacancy rate.

COUNTY'S GENERAL PLAN

The County's San Luis Obispo Estero Planning Area of its General Plan establishes land use policy in the unincorporated areas around the City of Morro Bay. The urban reserve line identifies where the County anticipates urban development over the next 20-years. The County's URL for Morro Bay essentially encompasses the same boundary as the existing City limits. County areas within the URL have been planned for urban development, while areas outside of the urban reserve line are larger parcels. The uses of these parcels are for the production of agricultural crops. These parcels are also considered of high aesthetic value. The County's Plan promotes the preservation of prime agricultural lands and open space corridors. It has a number of policies that call for guiding growth away from agricultural areas and promoting infill or other non-prime agricultural use.

The purpose of the Estero Area Plan is to establish a vision for the future of the Estero Planning Area that will guide development over the next 20 years. The vision described in this plan represents the desires of the affected communities, and the plan contains the policies, programs and standards to help achieve it. The planning area occupies a narrow strip along the coast north of the city of Morro Bay and south of the unincorporated community of Los Osos. Elsewhere, the planning area extends as far as seven miles inland. It includes large portions of the Morro and Little Morro Creek watersheds on the north, a portion of the Irish Hills on the south, and a portion of Cuesta College on the east. The planning area includes the city of Morro Bay and the unincorporated communities of Cayucos and Los Osos.

Goals for the Planning Area

1. Encourage economic development that will generate local employment for residents, create an adequate supply of goods and services locally, help generate revenues to fund needed public services and facilities, and make the area more economically self-sufficient.
2. Provide sufficient areas for a variety of commercial, tourist-serving and employment-generating businesses to provide jobs for residents, generate local business activity, increase taxable sales and reduce loss of such sales to other areas, and increase transient occupancy and property tax revenues.
3. Maintain a strong agricultural sector of the economy by offering incentives and positive county programs that support agriculture.
4. Take advantage of the planning area's scenic beauty and recreational attractions to expand tourist and visitor-serving development where appropriate such as a golf course;

small-scale resort/retreat; visitor accommodations; bicycle, hiking and equestrian trails; and low-cost recreation.

5. Promote both visitor-serving development and development that serves local residents, while maintaining the small-town, rural character of the area's communities.
6. Improve commercial areas by making them more attractive and pedestrian friendly in order to attract shoppers and businesses and increase economic and general activity.

The County's Estero Area Plan envisions continued opportunities for economic vitality and growth, along with the opportunity to maintain the environmental attributes that have contributed to the area's historically healthy economy. The community's excellent living environment and educational opportunities can act to attract or retain businesses providing high quality job opportunities for local residents, enabling them to afford housing within the area, while also enhancing local tax revenues needed for public services. The planning area's goal is to maintain a rural character in harmony with agriculture, business, recreational, environmental and residential opportunities. Conservation of the area's resources is an integral part of economic development in order to have a lasting economy that is strengthened by the region's environmental assets.

Conservation and Open Space Element

The County's Conservation and Open Space Element (COSE) was adopted in 2010 and consolidated five previous individual elements (conservation and open space, historic, esthetic, and energy elements). The COSE is utilized as a policy tool to protect and preserve the unique community resources. The element addresses many issues with regard to conservation, development, and utilization of natural resources. The element includes policies and strategies that address reducing greenhouse gas emissions, directing growth away from areas with constrained natural resources, water and energy conservation, use of low impact development and green building techniques, increased protection of community separators and scenic corridors. The County's overarching land use planning framework Strategic Growth Principles guided the element to direct growth to occur in a more sustainable manner.

Figure 3-3 (E) Land Use



Development projects are sometimes approved contingent upon receiving water and sewer services from community water and sewer systems such as those operated by the City. The County's General Plan identifies the type and intensity of development allowed in each of several land use categories (zoning) for County. The following table summarizes the existing zoning and acreage for the study areas being reviewed:

Table 3-3: Existing Land Use

Study Areas	Acreage	Land Use/Zoning	Existing Land Use	Build-Out Potential
#1 Righetti	260	Agriculture	Residential/Grazing	2 units
#2 Rancho Colina	187	Agriculture/Rec	Grazing/MHP	2 units
#3 Tri-W Property	396	Agriculture	Grazing	2 units

Source: SLO County Planning & Building Department, General Plan.

Williamson Act

A Williamson Act contract preserves land for a certain period of time that is used for agricultural purposes and provides the owner with a decrease in property taxes. Williamson Act contracts exist that surround the City of Morro Bay, however no contracts exist in any of the Study Areas. The Cortese-Knox-Hertzberg Act states that the Commission shall only include parcels under Williamson Act contract in a Sphere of Influence if the SOI change meets the criteria found in GC 56426.6 of the CKH Act. The Commission must find that the change in the SOI would facilitate planned, orderly and efficient pattern of land use or provision of services and the public interest in the change substantially outweighs the public interest to maintain the area in the contract.

RMS Biennial Report – 2010-2012

The County's Resource Management System (RMS) provides information to guide decisions about balancing land development with the resources necessary to sustain such development. It focuses on, 1) Collecting data, 2) Identifying resource problems and 3) Recommending solutions.

According to the 2010-2012 Resource Management System Biennial Report, the City estimates that it now serves approximately 10,100 residents in 2012 compared to an estimated 10,152 in 2000. Over the last 12 years, it is estimated that Morro Bay's population has decreased by approximately 52 people. This equates to 0.05% of population decrease over the 12 year

period. The table below reflects the population data from the census and the County's Resource Management System Biennial Report: The year 2030 population estimate is 10,778. Buildout population is approximately 12,200.

**Table 3-4: Historical & Projected Population Growth
Morro Bay California: Census and RMS Data**

	1990 ¹⁾	2000 ¹⁾	2010 ²⁾	2015 ²⁾	2020 ²⁾	2025 ²⁾	2030 ²⁾
Population	9,664	10,152	10,073	10,152	10,244	10,482	10,778
5 Year Increase	--	488	-79	79	92	238	296
5 year % Incr.	--	<1%	- <1%	<1%	<1%	<1%	<1%

Sources: 1) US Census, 2) Resource Management System Biennial Report, 2010-2012

City of Morro Bay Urban Water Management Plan, 2015

Housing Units and Growth Projections. In the 2015 Urban Water Management Plan, the City of Morro Bay estimates that 10,608 people lived in the City. In 2010, the U.S. Census stated the total number of dwelling units as 6,689 with an average household size of 1.9 persons and an occupancy rate of about 80%. The City's Urban Water Management Plan projects the current City limit boundaries to yield a population of 12,200 persons. The 2015 UWMP based its projections from the City's General Plan. The City of Morro Bay has not updated its General Plan since 2000s. However, the City is currently undertaking a comprehensive Plan Morro Bay study that will consider an update to the City's General Plan and Local Coastal Plan some time in 2018.

The Urban Water Management Plan estimates the population build-out for the year 2035 will be 12,255 persons. The use of 2 persons per household is based on current occupancy patterns. The table below is taken from the 2015 Urban Water Management Plan and shows historic and projected growth rates:

Table 3-5: Historical & Projected Population Growth

	1980 ⁽¹⁾	1990 ⁽¹⁾	2000 ⁽¹⁾	2010 ⁽²⁾	2015 ⁽²⁾	2020 ⁽²⁾	2025 ⁽²⁾	2030 ⁽²⁾	2035 ⁽²⁾
Population	9,064	9,664	10,350	10,608	10,224	10,244	10,482	10,778	11,078
10 Year Increase	--	600	686	258	-364	20	238	296	300
10 year Avg. Increase	--	6.2%	6.6%	2.4%	-3.5%	<1%	2.2%	2.7%	2.7%
Average per Year	--	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%

(1) Source: U.S. Census

(2) Source: City's 2015 Urban Water Management Plan.

CITY OF MORRO BAY GENERAL PLAN,

The City of Morro Bay adopted its General Plan and Local Coastal Program in 1988 and 1982 respectively. The City is once again working to update its General Plan entitled Plan Morro Bay. The 2004 General Plan and Local Coastal Plan was submitted to the Coastal Commission for review and certification. The certification process can be lengthy and the Coastal Commission process stalled during its review. The City intends to take a fresh look at what updates are necessary to accomplish its goals and get the plan through the Coastal Commission. The changes previously proposed to the existing General Plan were largely procedural and targeted at making the plan easier to use and clarifying the intent of the General Plan and Local Coastal Plan. A key piece to the update of the General Plan/LCP was that there are no changes made to land use designations or zoning designations that resulted in increased density, increased population potential, major infrastructure upgrades, or other development. The major organizational change was bringing together the Local Coastal Program with the General Plan into a single document. An update to the City's General Plan and policies will be necessary to reflect the current studies taking place to be updated and address when the GP/LCP is completed.

Over the past 40 years, the City has experienced a slow rate of growth; less than 1% per year. From 1950 to 1980 the City's population increased at an average growth rate of 2.2% per year. In the 1980's (1980-1990) the City's population again grew at a rate of 5.4% per year. From 1990 to 2000 population growth slowed to about a rate of .7% per year. Over the past 10 years the City has grown at a very slow rate of approximately .5% per year.

Morro Bay's growth is likely to remain at a nominal level as the economic recovery continues to evolve over the next few years. In 2010, the City's Public Services Department estimated the City is about 95% built out with a potential for approximately 504 new dwellings in the community at this time. Under the certified Housing Element 2009 the City estimates a total of 504 units as a realistic build-out based on 80% of existing zoning at maximum densities.

The City's policies encourage in-fill development, mixed-use, and higher densities within the core to accommodate the growth at build-out. The following table shows the vacant land available within the City:

Table 3-6 Build-out Summary: Vacant Land within City plus Expansion & SOI

Zone	Description	Acres	Approx. Units	Population
R-A	Low-density Residential	103	302	574
R-1/R-2	Low/Medium-density Residential	13.76	76	144
R-4	High-density Residential	5.73	108	205
Total Vacant Sites within City Limits		122.49	486	923

Source: City of Morro Bay 2016.

Recent Building Permit Activity

Building Permits have been compiled for Morro Bay from the Community Development Department. The table below shows the building permits by year from 2007 through 2016. Since 2007 the City has finalized 193 new single-family units and 9 multi-family units.

Table 3-7: Building Permits Finaled 2007-2016

	SF	MF
2016	19	1
2015	15	1
2014	15	0
2013	10	0
2012	11	0
2011	10	0
2010	17	1
2009	16	4
2008	32	1
2007	48	1
Total	193	9

Source: Morro Bay Community Development Department 2016

Land Use

The City's General Plan allows for new growth within the City based on an analysis of available resources (water, sewer, etc) and demand for those resources. The Elements of the City's General Plan have been formatted into one document that includes the Land Use Element, Circulation Element, Pubic Facilities and Services Element, Conservation and Open Space Element, Access and Recreation Element, Harbor Resources Element, and the Visual Resource and Scenic Highway Element. Each Element contains Goals, Policies, Implementation Standards, and Programs that are relevant to the particular topic.

It should be noted that the City's General Plan/LCP provides a clear and detailed policy base with regard to future growth and development. It comprehensively addresses the various facets of development, provides clear information to the public, and gives decision- makers a sound foundation for considering future projects. The following are the Goals, Policies, Implementation Standards, and Programs that address the Sphere of Influence or the provision of City Services to existing and future residents. Goals, Policies, standards or programs that directly address Sphere of Influence issues will be addressed when the City completes the GP/LCP and One Water Plan updates.

Study Areas

The areas being studied for possible inclusion into the City's Sphere of Influence are in the County's Estero Area Plan. These areas are zoned Agricultural and are currently developed with a single family residence, existing marine terminal facilities (some which are being demolished), and an existing wastewater treatment facility. These properties are not under Williamson Act contracts. Each area is described below:

The Righetti Ranch (Located in SLO County; Not Within the SOI). The 301-acre area just east of the City limits is owned by the Righetti family. A portion of this property is currently leased by the City for the purposes of accommodating the Nutmeg Water Tanks. The California Coastal Commission has requested the City consider this site as an alternative potential area closer to Highway 41 for the siting of a new wastewater treatment and reclamation facility. The City would potentially need to purchase or lease the property and apply for a General Plan Amendment (GPA) from the County if leased to develop a WWTP facility. If the City purchased the property, the City would need to pre-zone the site for use as a public facility before LAFCO considered any SOI or annexation amendments. Or the City could annex the property based on a zoning permit they approved in cooperation with the property owner. The western boundary of the Righetti site is located just east of the boundary of the developed, residential areas of the City of Morro Bay. Currently, the site consists of a single-family residence and grazing areas. The land is surrounded by cropland to the south, undeveloped areas to the north and east and a mobile home park, RV park, and agricultural lands to the east.

The Rancho Colina Site (Located in SLO County; Not Within the SOI). The Rancho Colina site is 187-acres owned by William Macelvaine. The site is located north of Hwy 41 about one mile east from the City limits and consists of a mobile home park and grazing land. The site is designated recreation and agricultural on the northern portion of site pursuant to the County's LCP. The site is currently developed with several facilities, including a single-family home occupied by the property owner, and an existing wastewater treatment facility constructed in 1971, which serves the nearby Rancho Colina residential community. The City's focus is on the roughly 10 to 15-acre area in the lowest portion of the property, generally in the vicinity of the location of the existing WWTP, but could be expanded as appropriate.

Tri-W Property (Located in SLO County; Not within the SOI). The Tri W site is 396-acres owned by Tri-W Enterprises. The site is located adjacent to the City limits and consists of grazing land. Most of this site is generally over 250 feet in elevation, and ranging to nearly 500 feet, which is too high in elevation to be a suitable WRF site. However, there is a significant portion of the site at lower elevation (100 to 160 feet above sea level) that has potential for development a new WRF, primarily near the eastern edge of the site, about 1,500 to 2,000 feet north of the South Bay Boulevard/SR 1 interchange. Two separate and roughly 15-acre portions of this area are considered the most viable location for a WRF within the Tri-W site.

Housing Element. The City's Housing Element was adopted by the City Council and certified by the State Department of Housing and Community Development (HCD) in 2010 and again in 2014. The Goals, Policies and Programs found in the Housing Element are the Housing Implementation Plan for the period from January 1, 2014 through July 1, 2019. Under the previous planning cycle the city's total number of residential units was 98 that the City of Morro Bay must provide zoning for in that time period. Under the next planning cycle January 1, 2014 through July 1, 2019 the City must provide zoning for 154 residential units. HCD completed the review and certified the Housing Element in 2014.

Table 3-8: 2014-2019 - SLOCOG Regional Housing Needs Allocation

	Units By Income Category					% of Units
	Very Low	Low	Moderate	Above Moderate	Totals	
Arroyo Grande	60	38	43	101	242	5.8%
Atascadero	98	62	69	164	393	9.5%
Grover Beach	41	25	29	69	166	5.8%
Morro Bay	39	24	27	65	154	3.7%
Paso Robles	123	77	87	206	492	11.8%
Pismo Beach	38	24	27	64	152	3.6%
San Luis Obispo	285	179	201	478	1,144	27.3%
County Unincorp.	336	211	237	563	1,347	32.5%
Total Units	1020	640	720	1710	4,090	100%

Source: SLOCOG RHNA 2013

The Housing Element is one of the seven State mandated elements of the City's General Plan and is updated every six years to identify recent demographic and employment trends and can be correlated with the three-year cycle of transportation planning, which may affect existing and future housing demand and supply. The Housing Element is used to identify and provide for the

housing needs of the community. The Housing Element addresses the City's ability to meet the State assigned regional housing needs shown in the above table. It specifies the number of units to be zoned for in terms of affordability. The City has developed a set of objectives and specific policies and programs to prepare for the production of housing in the City of Morro Bay.

A Housing Element is required by California law to establish policies and programs that will support the provision of an adequate housing supply for citizens of all income levels. The intent of State law is to assure that jurisdictions in the State provide adequate housing to all members of the community. While the State Department of Housing and Community Development (HCD) reviews the Housing Element to assure compliance with housing law, each jurisdiction must identify its particular issues to successfully address its housing needs.

The Housing Element provides a detailed assessment of the housing stock in Morro Bay, including data on housing types, physical condition, cost and availability. The Element also examines special housing needs of the population such as the elderly, farm workers and the homeless. It identifies opportunities for energy conservation when housing is constructed or remodeled. The Element assesses the effectiveness of past housing programs. The availability and capacity of land and public services for housing development are examined along with factors that may constrain the production of affordable housing. Particular attention has been paid to the need for affordable housing.

An understanding of existing housing conditions in the City is necessary as a basis for new Housing Element policies to guide the use and development of housing that will be adequate and affordable. In addition to this focused information, throughout the document comparisons to San Luis Obispo County demographics and statistics are used to identify possible issues or pertinent relationships. This assessment is representative of the larger area and informative of the trends the entire county is experiencing, helping to gain a better understanding of the City in a regional context.

State law is more specific about the content of Housing Elements than any other portion of the General Plan. That specificity is reflected in the detailed demographics and other data contained herein. The Housing Element is also the only part of the General Plan that is subject to mandatory deadlines for periodic updates. Except for the Local Coastal Plan, it is the only

element that is subject to review and "certification" by the state. The City's Housing Element for the planning period 2014 to 2019 has been certified by the State.

According to the City's Housing Element a recent available land inventory has been conducted which concludes the City has additional land available for 507 new residential units within the City limits. The Housing Element also evaluated the City's infrastructure to accommodate these new potential residential developments. The Housing Element states that the City Council determined that there is adequate water for the buildout of the City under the current General Plan. The average consumption in 2008 according to the Water Management Plan was 122 gallons per capita per day (gpcd), which is below the 130-gpcd threshold amounts. The City estimates it is at 40% capacity for water service and 56% capacity for wastewater. The City is in the process of a major upgrade to the treatment standards. According to the annual daily flow average over five years, Morro Bay contributes to 75 percent of the flow while Cayucos accounts for 25 percent. The plant has adequate capacity through the year 2021 based on population estimates outlined in the Facility Master Plan Report. These services are further discussed in the next section.

The City's current General Plan is based on the ability of the City to accommodate a population of 12,200. Currently, the City's population is approximately 10,224 people. The year in which the City reaches their projected build-out is driven by a number of factors, including economic and real-estate market conditions. The City projects build-out no sooner than year 2035.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Growth and Population:

1. The City's General Plan provides for the logical and reasonable growth and development of the City and is currently being updated.
2. According to both the County's Resource Management System and the Council of Governments Population Projections the City of Morro Bay is projected to grow at a rate of less than 1% per year.

3. The projected number of people in the City of Morro Bay over the next 5, 10, 15 & 20 years based on the San Luis Obispo Council of Government's 2011 Update to Long Range Socio-Economic Projections can be accommodated within the existing City limits.
4. The City's current General Plan is based on the ability of the City to accommodate a population of 12,200. Currently, the City's population is approximately 10,224 people.
5. Development of the proposed Sphere of Influence areas in the City, under its land use policies and procedures, would allow for areas to be served with City services.
6. The Memorandum of Agreement between the City and County provides a mechanism for the City and the County to work together on land use projects proposed in the Sphere of Influence. The MOA would also include more specifics about the development process, logical phasing of development, timing of infrastructure and services, and the intent of the City and County.
7. A major constraint for future growth is the water and wastewater capacity of the City.

3.2 LOCATION AND CHARACTERISTICS OF ANY DISADVANTAGED UNINCORPORATED COMMUNITIES

Purpose: To identify any disadvantaged unincorporated communities.

LAFCO is responsible for determining the location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence of a jurisdiction. If a jurisdiction is reasonably capable of providing needed resources and basic infrastructure to disadvantaged unincorporated communities within the sphere of influence or contiguous to the sphere of influence, it is important that such findings of infrastructure and resource availability occur when revisions to the SOI and annexations are proposed by the District or property owners.

The community of Morro Bay has a variety of economic diversity that reside within the city boundary and surrounding area. A Disadvantaged community is defined as a community with an annual median household income that is less than 80 percent of the statewide annual median household income. Morro Bay's Sphere of Influence does not have any disadvantage communities that have a present and probable need for public facilities and services nor are the areas contiguous to the sphere of influence qualify as a disadvantage community.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding disadvantaged unincorporated communities:

1. The City of Morro Bay's Sphere of Influence does not have disadvantaged unincorporated community located within or adjacent to its boundaries.

3.3 PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES, INCLUDING INFRASTRUCTURE NEEDS OR DEFICIENCIES

Purpose: To identify the infrastructure needs and deficiencies in terms of supply, capacity, condition of facilities, and ability to provide services.

LAFCO is responsible for determining that a jurisdiction is reasonably capable of providing needed resources and basic infrastructure to serve areas already within the City and in the Sphere of Influence. It is important that the infrastructure and resource capacities be adequate and reliable when revisions to the SOI and annexations are proposed by the City or property owners.

The MSR analyzes present and long-term infrastructure demands and resource capabilities of the City of Morro Bay. LAFCO reviews and evaluates: 1) the resources and services that are currently available, and 2) the ability of the City to expand such resources and services in line with future demands.

The most important infrastructure needs are the provision of water and wastewater services. Beyond these basic services, police and fire protection, and circulation/road services are considered high priority needs for future growth of the City.

This section evaluates the City's resources and capabilities to provide services to existing and future residents. The key topics addressed include water supply and demand, the water pipeline system, wastewater system capacity and condition, fire and police protection, traffic and roads, as well as, other services.

WATER

The City updated its Urban Water Management Plan in 2015. The County updated its Urban Water Management Plan in 2015. These plans, and other documents, are the basis for this section of the Municipal Service Review. The City and County are currently updating their Water Master Plans. The City is also updating a One Water Plan document to address the City's water picture under one document. The MSR will be revisited once the document is completed by the City and the data in this report will be revised to reflect this new information. The Urban Water Management Plan are due every five years, in years ending in "5" and "0" for water suppliers having more than 3,000 connections or selling at least 3,000 acre-feet of water per year. A jurisdiction's ability to provide water to existing residents and the Sphere of Influence areas is a key consideration in updating an SOI. Because a Sphere is the area that is envisioned for probable growth and service by a jurisdiction, it is important that an adequate water supply be documented. Also to be considered are a jurisdiction's policies with regard to growth and the provision of water.

Water Supply

The City of Morro Bay's Water supply can come from three sources: Morro & Chorro watersheds (groundwater), from State Water Project (SWP) since 1997, and Desalination plant. The City has been receiving State Water since 1997 and it has become the primary source of water for the City. The groundwater and desalination sources have become secondary supplies used on occasion when needed by the City. To supplement its supply, the City also contracted to receive more short-term State water from agencies that are not using their allocations.

State Water Project. Since 1997 the City's primary source of water has been the State Water Project. The City entered into and executed two contracts with the San Luis Obispo County Flood Control and Water Conservation District to obtain State Water. The first contract addresses the construction of facilities such as water treatment and the Chorro Valley pipeline. The second contract covers the delivery of State Water and the payment for State water facilities. Both contracts were needed to allow the City to obtain State Water.

The City's State Water entitlement is 1,313 acre-feet per year, plus an additional drought buffer of 174% which equates to a total of approximately 2,290 afy of buffer. The drought buffer helps to insure delivery of the full allocation of water from the Department of Water Resources which

may be reduced because of a drought situation. The drought buffer is an “insurance policy” for the City that increases the reliability of the State Water Project. For example, the City would still receive 100% of its allocation as long as the State deliveries on a statewide basis remain at 36% or above. The table below shows the benefits of contracting for the drought buffer.

Table 3-9: State Water Entitlements and Drought Buffer

Statewide SWP Deliveries	Benefit of SWP Drought Buffer		
	Delivery to Morro Bay without Drought Buffer (AFY)	Delivery to Morro Bay with Drought Buffer (AFY)	Delivery to Morro Bay with Drought Buffer and Uncontracted County SWP Entitlement (AFY)
100%	1313	1313	1313
75%	985	1313	1313
50%	657	1313	1313
36%	479	1313	1313
33%	433	1187	1313
7%	92	252	1303
5%	66	180	931
4%	53	144	745

State Water is conveyed from the Coastal Branch Phase II pipeline through the Chorro Valley pipeline. The City had the foresight to upsize the pipeline from 10 to 16 inches to allow for increased deliveries that may come from other sources than just State Water. This capacity increase provides the City with water supply options in the future. However, increases in the City’s State Water allocation are not possible due to the limited capacity of the Coastal Branch Phase II pipeline, which was sized to only deliver the existing contract allocations of 4,830 afy. Analysis of the system capacity is currently underway and additional deliveries may be possible in the future. The uncertain availability of State Water is a possible constraint to future growth.

Agreement with California Men’s Colony. The City and the California Men’s Colony (CMC) have signed a mutual aid agreement. The agreement allows each jurisdiction to help the other during periods of water shortages. The agreement with CMC provides the City with access to water from Whale Rock and Salinas Reservoirs in emergency situations. The City would essentially borrow water from CMC and repay the loan with water from Morro Bay sources at a later date. This supply was used during the 30-day maintenance shutdown of the State Water Pipeline in 2001. The CMC water treatment facility treats water from Whale Rock, Chorro and

Salinas Reservoirs and the City is looking into a possible longer term agreement that would allow for more frequent water exchanges that benefit both the City and CMC. The existing water treatment facility could be used to treat up to 1.7 MGD (1,900 afy) for the City; however the agreement limits this supply based on an emergency situation and/or CMC demand for the water. The agreement is helpful; however it is not a reliable long-term source of water for the City.

Desalination Plant. In 1992 the City was facing an emergency drought situation and constructed a seawater desalination plant. Permits to construct the facility were expedited with the condition that the plant only be used during emergency drought situations. The final Environmental Impact Report evaluated the impacts of the facility for emergency and normal use of the plant. This led the Coastal Commission to approve a Local Coastal Plan Amendment that allows the City to operate the plant “as needed to ensure that the City’s minimum water quality standards are met, as routine replacement, and to offset drought conditions.”

The plant uses reverse osmosis to desalinate seawater pumped from five wells located on land near the Morro Bay Harbor. The desalination plant is capable of producing 400 gallons per minute which equates to 645 acre-feet per year. The plant has only been used on rare occasions due to the high operating costs. The plant was constructed in 1992 and was operated for several months, but was shut down because of the high operating costs. It was not used again until 1995 when it was used to supplement the water supply during a drought period. The plant was shut down from 1995-2002. The desalination plant is ready for operation as the community expands or if a supplemental water supply is needed to offset unforeseen shortages. Morro Bay’s desalination plant supplements the water supply at times during SWP shutdowns and emergencies. The City was recently re-permit the desalination plant for permanent use of saltwater wells, outfall line, and appurtenant piping for temporary use by the California Coastal Commission. With the treatment upgrade in 2009, the desalination plant can serve as a reliable source of water for Morro Bay in emergencies and perhaps as a regular source of supply.

Groundwater. Prior to receiving State Water, the City relied solely on the Chorro and Morro groundwater basins for its water supply. These alluvial basins are located in the Morro and Chorro Valleys and have limited storage capacity. This means that the basins can be drained after a short-term drought as was the case in the late 1980’s and early 1990’s. These basins rely on annual rainfall for recharge and replenishment which percolates into the basin and flows

to the ocean. These types of basins are similar to underground streams and are regulated by the State Water Resources Control Board (SWRCB). In 1972, the SWRCB categorized these basins as riparian underflow. The City of Morro Bay subsequently applied for appropriative water rights which were granted by the SWRCB in 1995. The Chorro Creek must be flowing at a minimum of 1.4 cubic feet per second for the City to pump from that aquifer.

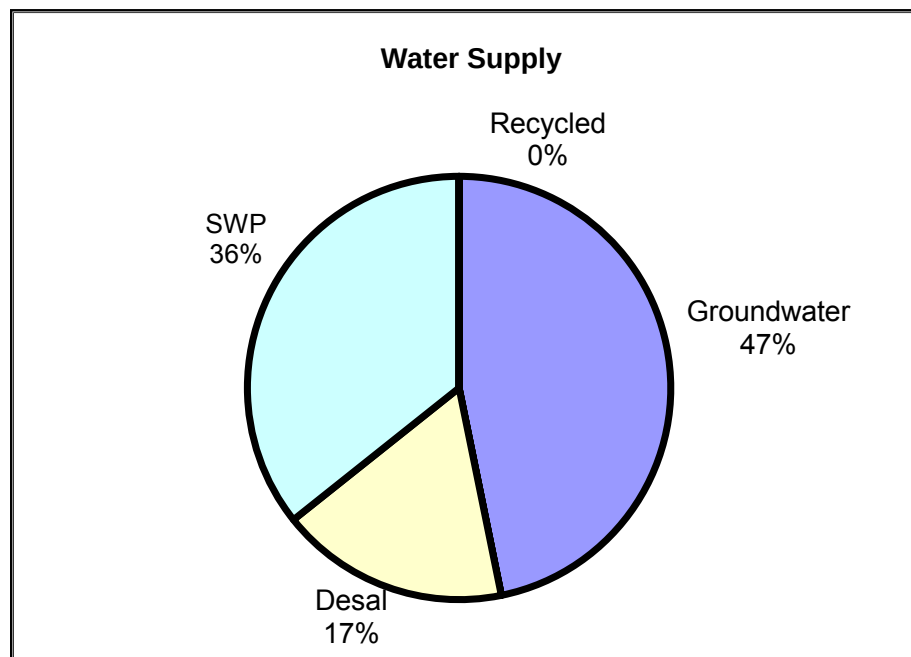
The Morro Groundwater Basin was previously unavailable to the City due to nearby methyl tertiary butyl ether (MTBE) contamination in the groundwater basin. The City began treatment for MTBE in 2002 and continued this treatment until MTBE contamination levels fell below the Regional Water Quality Control Board's (RWQCB) monitoring threshold in 2008. Since then the MTBE levels continue to remain below the RWQCB's monitoring threshold. One of the Chorro Basin wells (Well No. 8) has been abandoned and a second Chorro Basin well (Well No. 12) is out of service due to proximity to surface water and the associated water quality concerns. The City's Ashurst well field in the Chorro Groundwater Basin (consisting of wells 9, 9A, 10, 10A, and 16) was taken out of service (per direction from the California Department of Public Health) in 2009 due to nitrate contamination in the basin. The City's groundwater source does not appear to be a reliable long-term source at this point in time.

Recycled Water. The Morro Bay-Cayucos WWTP Facility discharges about 1.1 mgd of mixed primary and secondary treated effluent and does not currently have the ability to supply Title 22 recycled water. A *Comprehensive Recycled Water Study* was conducted jointly by the City and CSD in 1999 (Carollo, 1999). The City and CSD have decided to upgrade their WWTP's separately to provide tertiary treatment. Once the City's facility has been upgraded, there may be increased opportunities for the use of recycled water. The cost of a recycled water distribution system and water quality parameters may ultimately limit reuse.

Table 3-10 – Morro Bay Current Water Supply

Source	Amount (acre feet)
Groundwater (pumping rights)	1,724
Morro 581	
Chorro 1,143	
Recycled Water	0
Desalination	645
SWP	1,313
Total	3,682

Figure 3-4



The City uses an average per capita water use rate, moderated by the use of the ten-year from 1995 to 2004 to normalize weather events. The ten-year average is 125 gpcd. The 2020 water use target for the City is 113 gpcd. This water use rate is used with the City's build-out population and current population to project the primary water supply and reliability reserve. The City's aggressive approach to water conservation during drought years produces significant results in a relatively short period of time. The city reduced their per capita down even further in 2015 to 95 gpcd.

County Biennial Resource Summary Report – 2010-2012

The County Department of Planning and Building prepares the Biennial Resources Summary Report that summarizes the resource situation (including water) of Morro Bay and other incorporated cities of the County. The Report evaluates the capability of incorporated cities and unincorporated communities to provide public services. The Biennial Report uses a Level of Severity rating system for water supply and water delivery systems. The rating system for water includes evaluating the available supply and the production and distribution system for a particular jurisdiction. The following rating system is used:

The RMS utilizes three alert levels called levels of severity (LOS) to identify differing levels of resource deficiencies.

- Level I is the first alert level. Level I occurs when sufficient lead time exists either to expand the capacity of the resource, or to decrease the rate at which the resource is being depleted.
- Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity.
- Finally, Level III occurs when the demand for the resource equals or exceeds its supply. It is the most critical level of concern. The County should take actions to address resource deficiencies before Level III is reached.

The following is an excerpt from the 2010-2012 Biennial Resource Summary Report for Morro Bay:

The City receives water from a variety of sources: groundwater from the Morro Creek underflow, groundwater from the Chorro Creek underflow, converted saltwater through the City's desalination facility, and State water via the Chorro Valley pipeline. The desalination facility also treats brackish water from the Morro Creek underflow for nitrate removal. The City's desalination plant provides water during the times that the State Water Project pipeline is undergoing annual maintenance.

Total water supply= 3,105 acre feet per year (AFY)

**Table 3-11 Morro Bay Water Use
Estimates, AFY**

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
1,423	1,475	1,400	1,384	NA	1,420	1,369	1,317	1,223	1,240

Source: 2010-2012 RMS

Water Demand

The City completes water demand projections in order to know how much water might be needed to serve residents, businesses and other uses as growth and development occur in the

City. The City's Urban Water Management Plan provides information and establishes policies for meeting the current water demand and for projecting future water demand. This document is a valuable water resource planning tool and was updated in 2015. The City has provided the following historic water demand calculations. These numbers show the City's ability to conserve water when necessary. The City's highest water use year was in 1970 with an average of 193 gallons per person per day. The City's lowest water use year was 114 gallons per person per day in the drought year of 1991. However, the City just reported a new lowest year in 2015 with a water use of 95gpcd. The table on the following pages shows the water used and rainfall from 1960 to 2015.

In 2015, the City reported annual water use of 1,074 acre-feet.

TABLE 3-12						
TOTAL HISTORIC WATER PRODUCTION & RAINFALL						
FOR THE CITY OF MORRO BAY						
YEAR	RAINFALL	CITY POP.	PRODUCTION IN ACRE FEET	PRODUCTION IN MILLIONS OF GALLONS	AVERAGE DAILY PRODUCTION IN MILLIONS OF GALLONS	AVERAGE GALLONS PER CAPITA PER DAY
1960	10.48	5599	894	291	0.8	142
1961	8.6		842	274	0.75	
1962	17.22		999	326	0.89	
1963	18.52		840	274	0.75	
1964	11.26		881	287	0.79	
1965	16.08	6,400	1000	326	0.89	140
1966	11.24	6,500	1188	387	1.06	163
1967	20.09	6,600	1194	389	1.07	161
1968	9.64	6,750	1298	423	1.16	172
1969	28.74	6,900	1255	409	1.12	162
1970	9.84	7,109	1534	500	1.37	193
1971	14.2	7,450	1533	500	1.37	184
1972	7.41	7,517	1547	504	1.38	184
1973	27.51	7,725	1424	464	1.27	165
1974	22.35	7,942	1482	483	1.38	167
1975	14.43	8,165	1510	492	1.35	165
1976	11.38	8,394	1574	513	1.41	167
1977	8.35	8,525	1249	407	1.12	131
1978	29.68	8,625	1430	466	1.28	148
1979	17.06	9,150	1614	526	1.44	157
1980	20.99	9,064	1651	538	1.47	162
1981	13.11	9,206	1727	563	1.54	168
1982	20.01	9,297	1586	517	1.42	152
1983	35.01	9435	1534	500	1.37	145

CHAPTER 3

MUNICIPAL SERVICE REVIEW

1984	10.08	9599	1669	544	1.49	155
1985	10.02	9747	1691	551	1.51	155[129]a
1986	17.17	9881	1614	526	1.44	146[120]
1987	12.29	9819	1655	539	1.48	150[127]
1988	15.01	9975	1648	537	1.47	147[124]
1989	10.88	10133	1559	508	1.39	137[118]
1990	8.78	9664	1527	498	1.36	141[115]
1991	16.01	9806	1256	410	1.12	114[92]
1992	19.63	9736	1319	430	1.18	121[98]
1993	24.21	9979	1391	452	1.24	124[98]
1994	11.05	10071	1414	462	1.26	126[106]
1995	40.01	9518	1418	462	1.27	133[110]
1996	15.47	9687	1501	462	1.34	138[110]
1997	18.56	9696	1535	489	1.37	141[115]
1998	18.01	9845	1326	432	1.18	120[102]
1999	13.11	9871	1393	454	1.24	126[108]
2000	19.63	10410	1400	456	1.25	120[103]
2001	16.04	10486	1410	459	1.26	118[107]
2002	9.36	10510	1454	474	1.3	123[108]
2003	13.75	10485	1421	466	1.28	122[108]
2004	9.48	10522	1477	481	1.32	125[105]
2005	30.19	10270	1361	444	1.22	118[106]
2006	18.9	10,491	1371	447	1.23	117
2007	7.24	10,436	1446	471	1.29	118
2008	13.34	10,548	1439	469	1.23	122
2009	12.25	10,555	1448	472	1.29	120
2010	17.26	10,608	1259	410	1.12	106
2011	12.99	10,234	1243	405	1.11	108
2012	10.16	10,327	1203	392	1.07	105
2013	4.05	10,370	1349	440	1.21	117
2014	12.62	10,234	1183	385	1.05	103
2015	8.55	10,284	1074	354	0.97	95
Source: City of Morro Bay-Public Works Department						
a: [average] determined from metered water sold, not water produced						

Water Conservation. The City has a very effective water conservation program. In 1988, the year before drought conservation measures were implemented by the City, the average number of gallons used per person per day was 147. In 1991, the third year of drought/conservation measures, water use had decreased by 23%, to 114 gallons per person per day. The City's aggressive approach to water conservation during drought years produces significant results in a relatively short period of time. The City can implement this water conservation program in drought situations by phasing in water-saving measures.

The City also recognizes the importance of long-term water efficiency by supporting programs that will enhance water supply reliability and comply with any current and/or future state mandates in water use reductions. In 2009, Senate Bill X7-7 was passed requiring water agencies to reduce per capita water use by 20 percent by the year 2020. There are three options (with a fourth being developed) on how to determine the year 2020 target for the City. Using the methodology which best corresponds to the City's situation and recognizes the City's past investment in conservation, the City's target per capita water use would be 113 gpcd which is an additional five percent reduction from 2010 per capita water use. However, the city reduced their per capita down even further in 2015 to 95 gpcd.

Water Supply and Demand

The City's existing water supply is found adequate within its 2015 UWMP to serve the anticipated build out of its General Plan. The Supply/Safe Yield available to the City is currently estimated at 3,105 acre-feet per year. The demand in 2015 was estimated to be 1,074 acre-feet per year. The City anticipated future water demand to be 1,452 acre-feet per year at build out under the existing General Plan. However, the sources have some constraints that may limit reliability.

Water use in the City includes single-family, multi-family, commercial (includes institutional and industrial), and irrigation customers. No agricultural uses are supplied by City water and the City does not sell water to other agencies. The historical and projected number of connections and deliveries to the City's customers are presented in the table below.

Table 3-13 Past, Current, and Projected Water Deliveries

		Water Use Sectors				
		Single Family	Multi-Family	Commercial, Industrial, & Institutional	Irrigation	Total
2005	# of metered accounts	4,489	330	523	60	5,402
	Deliveries ac-ft/yr	706	105	384	19	1,214
2010	# of metered accounts	4,481	355	497	51	5,384
	Deliveries ac-ft/yr	653	99	489	14	1,255
2015	# of metered accounts	4,609	365	511	52	5,537
	Deliveries ac-ft/yr	693	105	520	15	1,334
2020	# of metered accounts	4,735	375	516	54	5,690

	Deliveries ac-ft/yr	695	106	521	15	1,336
2025	# of metered accounts	4,883	387	541	56	5,867
	Deliveries ac-ft/yr	709	108	531	15	1,364
2030	# of metered accounts	5,031	399	558	57	6,045
	Deliveries ac-ft/yr	733	111	549	16	1,409
2035	# of metered accounts	5,177	410	575	59	6,220
	Deliveries ac-ft/yr	755	115	566	16	1,452

Notes: Source: Morro Bay UWMP, 2010

1. Department of Water Resources, Tables 3 through 7
2. The City has no unmetered accounts

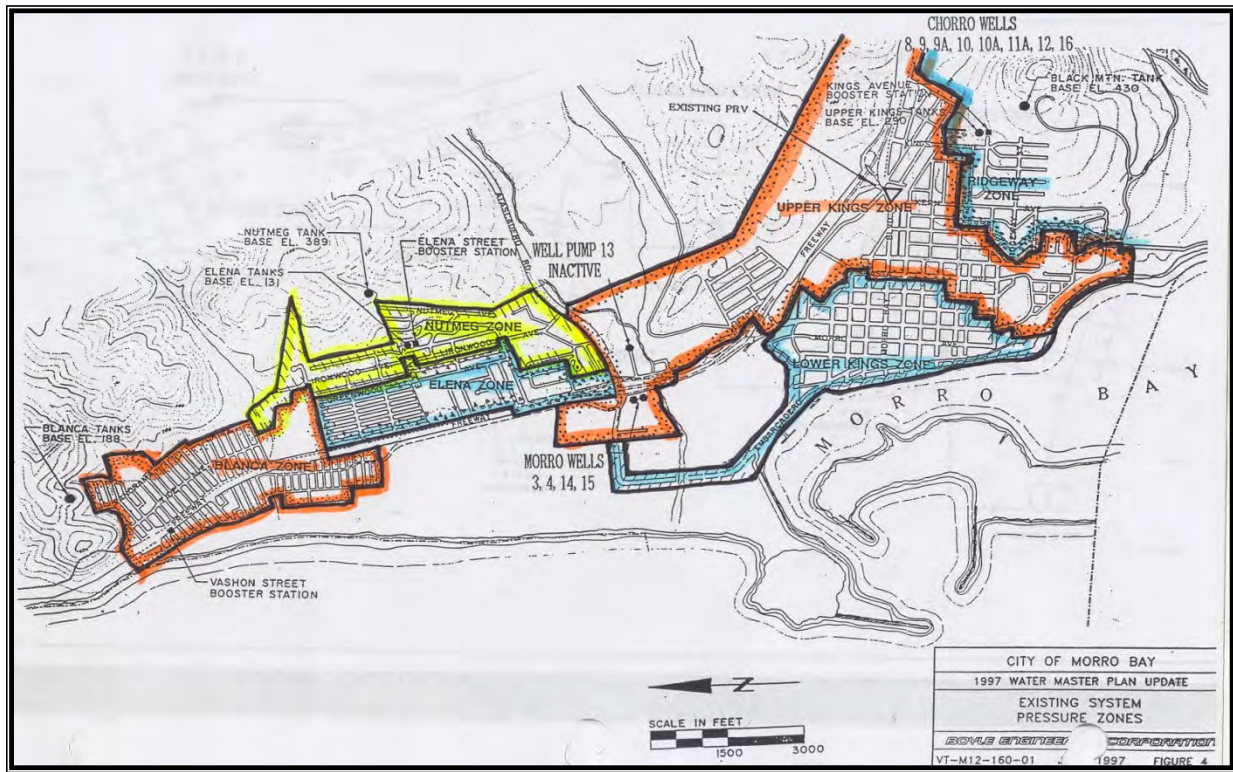
Water Distribution and Storage System

The City operates and maintains an extensive water transmission and distribution system. It consists of wells, storage tanks, pump stations, pressure relief valves and zone valves. The City is divided into six different pressure zones to ensure adequate water pressure throughout the City.

Water Distribution. The City's distribution system is made up of six pressure zones, five storage tanks, three booster stations, and one main pressure regulator. The water system operates in two main areas: the northern sub-area containing Blanca, Elena, and Nutmeg Zones and the southern sub-area with the Upper Kings, Lower Kings and Ridgeway Zones. These zones are in the process of being reconfigured to increase system efficiency pursuant to the recommendations found in the 1997 Water Master Plan. The City is in the process of converting to the plan-recommended pressure zone configuration but, as of the writing of this report, the system's pumps and pressure zones remain largely as described in the 1997 plan. The City has added a number of pipelines and tanks to the water system. A blending pipeline has been installed from the Morro wells to the Kings storage tanks. A 12" pipeline west of Highway 1 and north of Atascadero Road has also been installed as well as an 8" pipeline on Monterey Avenue north of Dunes Street. A pressure-regulating valve (prv) on Morro Bay Blvd. has been installed and two of the Blanca storage tanks have been replaced and upgraded. Also, the Morro wells have been rehabilitated with new pumps and motors.

Pressure Zones. The City's water distribution system is comprised of six pressure zones. These zones are shown on the map and help the City to maintain adequate water flow to different areas within the City.

Figure 3-5: Pressure Zones



Storage Facilities. The City operates and maintains five storage facilities and includes the following:

TANK	CAPACITY	CONDITION
• Upper Kings Tanks	2.5 Million Gallons	Good-Regularly Maintained
• Black Mountain Tank	.18 Million Gallons	Good-Regularly Maintained
• Elena Tanks	.12 Million Gallons	Good-Regularly Maintained
• Blanca Tanks	.61 Million Gallons	Recently Upgraded
• Nutmeg Tank	.14 Million Gallons	Good-Regularly Maintained
Total Capacity	3.55 Million Gallons	

These storage tanks are maintained on a regular basis. The five-year Capital Improvement Plan indicates that several improvements/replacements are scheduled for the above storage system.

Booster Stations. The City operates and maintains three booster stations: the Vashon Booster, the Elena Booster, and the Kings Avenue Booster. The City regularly maintains these

boosters. The plan is to consolidate the Blanca, Elena, and Lower Kings Pressure Zones which would eliminate the need for the Vashon Booster.

Pipelines. The City operates some transmission pipelines which are 10 inches or larger in diameter, however; most of the distribution lines are between 6 and 8 inches in diameter. Normally, transmission pipelines connect water supply, storage tanks, booster stations, and key points in the pressure zones. The City system is unusual in that it is set up with the water supply discharging into 6 and 8 inch lines in some locations. This is not an uncommon situation for older water systems such as the City of Morro Bay's system. Also the 6 and 8 inch lines are looped in a manner that assists in the flow of water throughout the City. The network of smaller distribution lines then transfers water to the end users. The Water Master Plan recommends a number of improvements that are still being implemented. The Capital Improvement Plan described below shows a number of those improvements.

Capital Improvement Plan-Water System. The City's Capital Improvement Plan (CIP) comprehensively schedules and finances all capital projects and equipment purchases. The City is facing fiscal challenges in balancing the budget due to General Fund revenue shortfalls. Because of this the General Fund CIP focused on maintaining, repairing or replacing the facilities, infrastructure and equipment on an as needed basis. The City's Capital Improvement Plan contains project-by-project information and aligns with the goals of the City for project implementation. The City's approach considers the current fiscal situation and makes adjustments based on the City's ability to pay for improvements. According to City Staff, the water system has adequate funding for the needed Capital Improvement Projects.

Projects Budgeted 2016/2017

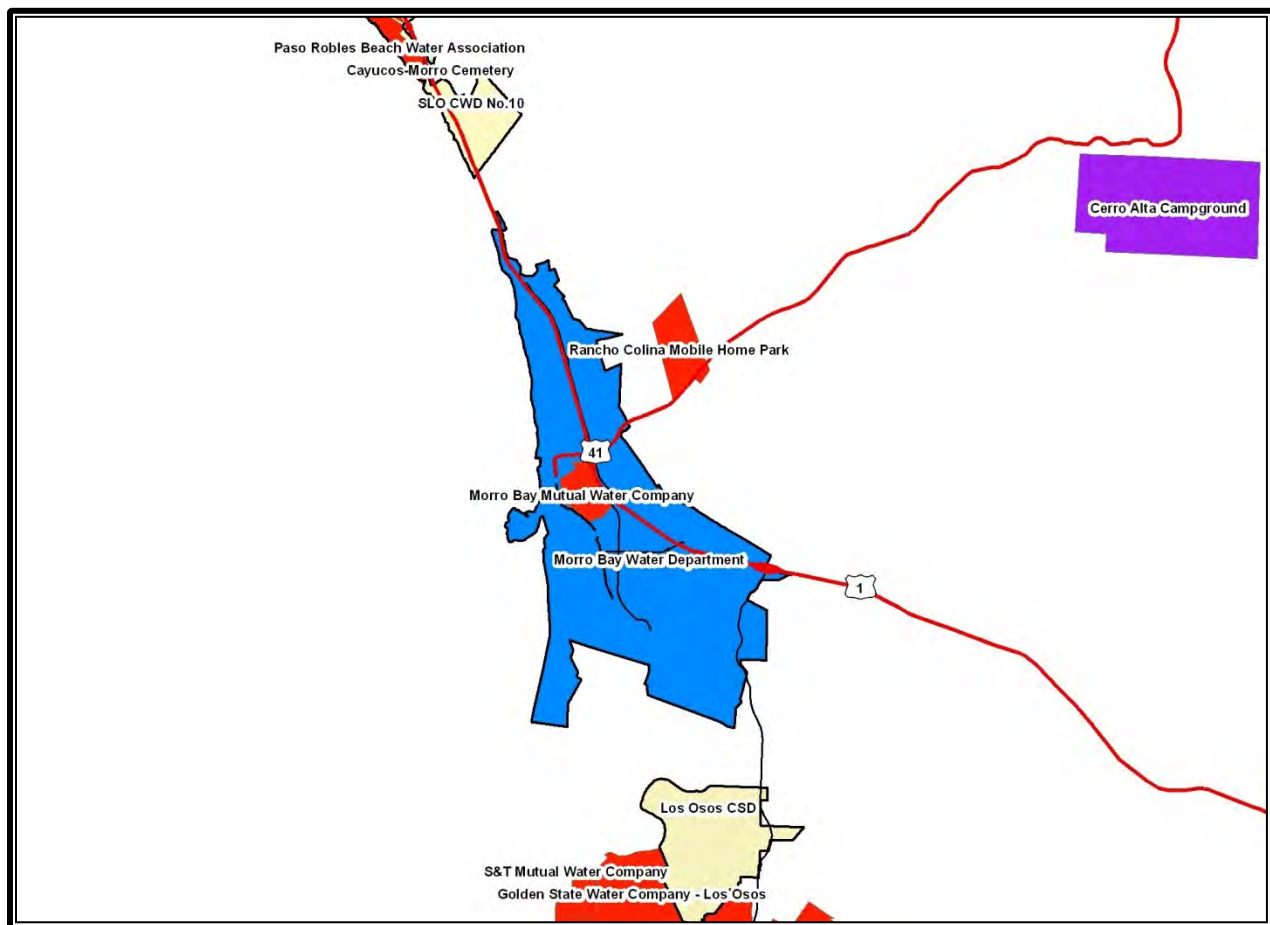
- ▶ Blanca pipeline budgeted \$250,000
- ▶ Nutmeg Tank, budgeted \$1,060,354
- ▶ Desal upgrade/energy recovery project, budgeted \$1,297,349
- ▶ Master Plan improvements, budgeted \$350,000
- ▶ Chorro Creek stream gauges budgeted \$455,660
- ▶ Brackish Water Reverse Osmosis budgeted \$?

Other Water Providers

In addition to the Morro Bay, nine other private/public water purveyors provide water services to area residents. Some providers are located within the City limits. The primary source for all of these other water providers is groundwater pumped water from local Groundwater Basin. These include:

- Cero Alta Campground
- Rancho Colina Mobile Home Park
- Morro Rock Mutual Water Company
- Morro Bay Mutual Water Company
- SLO County Water District (CSA 10)
- Cayucos-Morro Cemetery
- Paso Robles Beach Mutual Water Association
- Los Osos Community Services District
- Golden State Water Company – Los Osos

Figure 3-6 Other Water Providers



WASTEWATER COLLECTION & TREATMENT SYSTEM

Facility Description. Morro Bay operates the wastewater treatment facility under a Joint Powers Agreement (JPA) with the Cayucos Sanitary District. The Morro Bay/Cayucos Wastewater Treatment (MBCSD) facility is an advanced primary treatment plant that consists of screening, grit removal, primary clarification, trickling filters, secondary clarification, odor control, and chlorine disinfection. Wastewater contains large solids and grit that can interfere with treatment processes or cause undue mechanical wear and increased maintenance on downstream wastewater treatment equipment. To minimize potential problems, these materials are removed prior to primary treatment. Primary treatment involves the removal of floating solids and suspended solids, both fine and coarse, from raw sewage and is a means of treating urban wastewater by a physical and/or chemical process involving settlement of suspended solids, or other processes in which the incoming wastewater is processed. To avoid discharging contaminants into the ocean habitat, most sewer plants in the coastal area of California have upgraded to at least secondary treatment levels.

The City and Cayucos Sanitary District were in the process of upgrading the wastewater treatment plant to full secondary treatment and to provide tertiary filtration capacity of 1.5 million gallons per day. The tertiary filtered effluent would meet standards for disinfected secondary recycled water and as such could be used for limited beneficial uses. The project was required to be completely operational and in full compliance with state and federal permits by March 31, 2014. However, the schedule is now on hold due to the denial of the California Coastal Commission permit. The California Coastal Commission has requested alternative sites be considered, including the potential Study Areas. Since, the City and CSD has decided to go separate ways to address their wastewater needs.

Capacity. The treatment system currently has the capacity to process 2.06 million gallons per day of wastewater on an average dry day. The system is operating at 56% of capacity with an estimated 1.15 million gallons per day currently being processed at the treatment facility. The proposed City plant upgrade will provide tertiary filtration capacity of 1.5 million gallons per day (average dry weather flow—ADWF). The new plant will have less rated capacity based on extensive population projections developed for this project.

Wastewater Collection. The existing wastewater collection system within the City is made of a network of roughly 60 miles of gravity pipeline, 2.5 miles of force-main, 3 wastewater-pumping stations, and approximately 1,116 manholes, lampholes and clean-outs.

Projects Budgeted 2016/2017

- ▶ Section 6 rehabilitation, budgeted \$250,000
- ▶ Laurel easement rehabilitation, budgeted \$200,000
- ▶ Lift Station #1 rehabilitation, budgeted \$100,000
- ▶ Embarcadero rehabilitation, budgeted \$500,000
- ▶ North Main St. trunk line replacement, budgeted \$32,994
- ▶ New screening device for headworks, budgeted \$500,000
- ▶ Digester #2 cleaning and repairs, budgeted \$250,000
- ▶ Chlorine contact tank equipment replacement, budgeted \$200,000
- ▶ Preliminary facility master plan/facility master plan, budgeted \$500,000

Water and Sewer Rates Comparison

The following tables compare the water and sewer rates of the seven cities. The sample monthly bill was calculated using 10 units of water as a base. This information was gathered from website research from each City.

Table 3-14 – Single-Family Water Rates

Rate/Fee	Pismo Beach	Arroyo Grande	Grover Beach	Morro Bay	Paso Robles	Atascadero	San Luis Obispo
Monthly Service Meter Charge	\$32.57	\$7.19	\$10.06	\$24.18	\$0.00	\$18.00	\$8.00
Water (per 100 cubic feet)	\$2.72	\$3.42	\$3.34	\$7.00	\$4.40	\$2.10	\$7.90
Other Charges	\$0.00	\$20.33 (Lopez Treatment)	\$0.00	\$0.00	\$0.00	\$2.50 (Nacimiento)	\$9.88 (over 8 units) + 5% tax
Sample Monthly Bill (10 units of water)	\$59.77	\$61.72	\$76.86	\$71.18	\$44.00	\$41.50	\$94.66

Table 3-15 – Single-Family Sewer Rates

Rate/Fee	Pismo Beach	Arroyo Grande	Grover Beach	Morro Bay	Paso Robles	Atascadero	San Luis Obispo
Flat Monthly Rate	\$63.53	\$2.40	\$9.92	\$62.50	\$0	\$20.18	\$8.32
Sewer (per 100 cubic feet water)	\$0.00	\$0.67	\$0.00	\$0.00	\$7.80	\$0.00	\$9.17
Other Charges	\$0.00	\$14.86	\$14.86	\$0.00	\$0.00	\$0.00	\$0.00
Sample monthly bill (10 units of water)	\$63.53	\$23.96	\$24.78	\$62.50	\$78.00	\$20.18	\$100.02

Figures 3-10 and 3-11 show a rate comparison for all seven cities in the County. Overall, Morro Bay's water and sewer rates for residential customers are on the higher end than other county cities. The charts are based upon a sample billing using "10 units" of water as a basis.

Figure 3-7

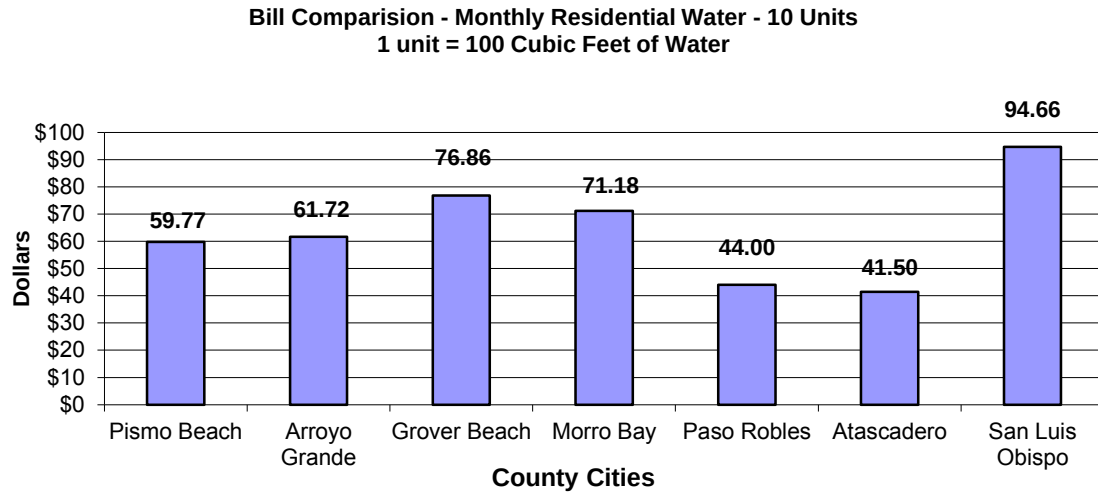


Figure 3-8

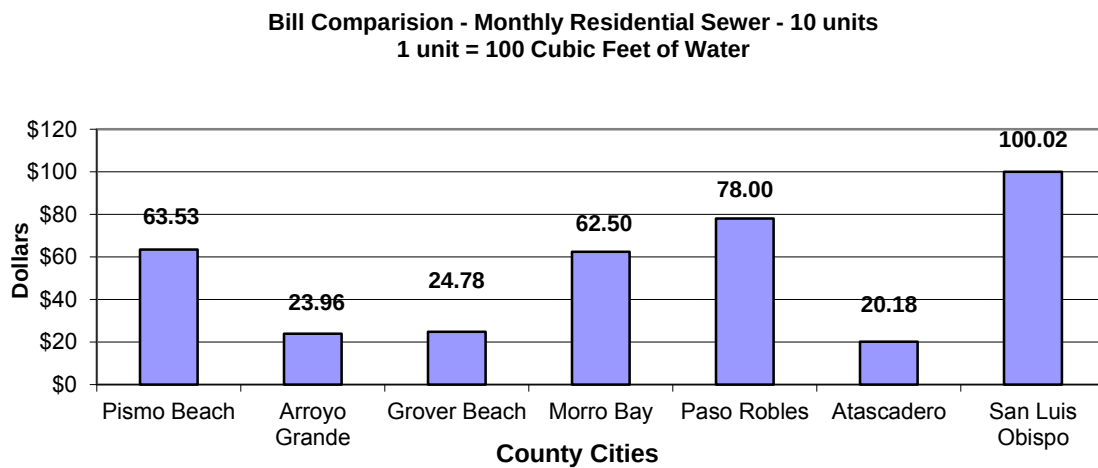
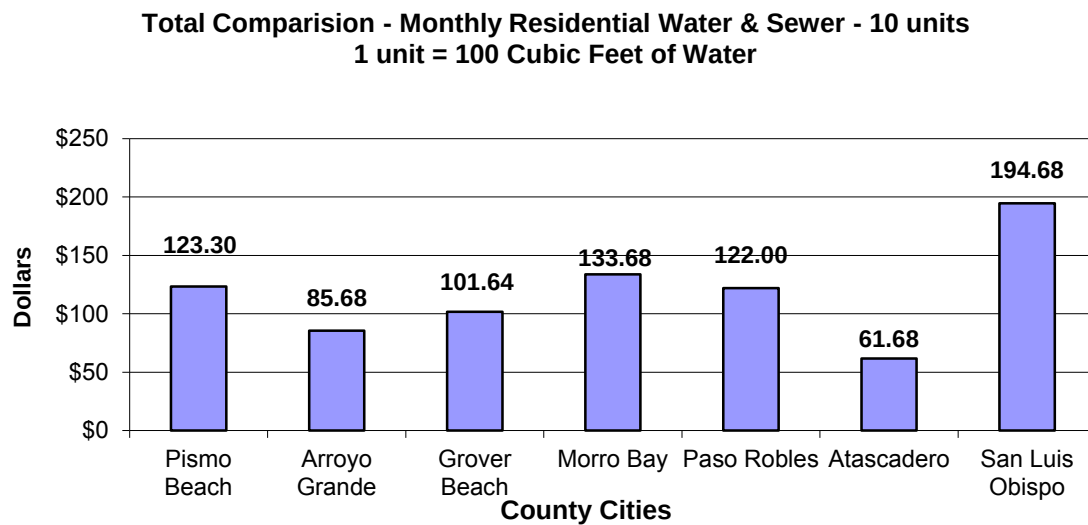


Figure 3-9



TRANSPORTATION - STREETS – ROADS

Morro Bay General Plan, Draft Circulation Element 2004

The Circulation Element of the City's General Plan describes how the City will manage transportation issues as the City grows and develops. The Circulation Element was updated in 2004 along with other elements in the General Plan but never certified. The City is current undertaking a new comprehensive update to its General Plan. The Element contains goals, policies and implementation standards and programs to guide the future development of the City's circulation system.

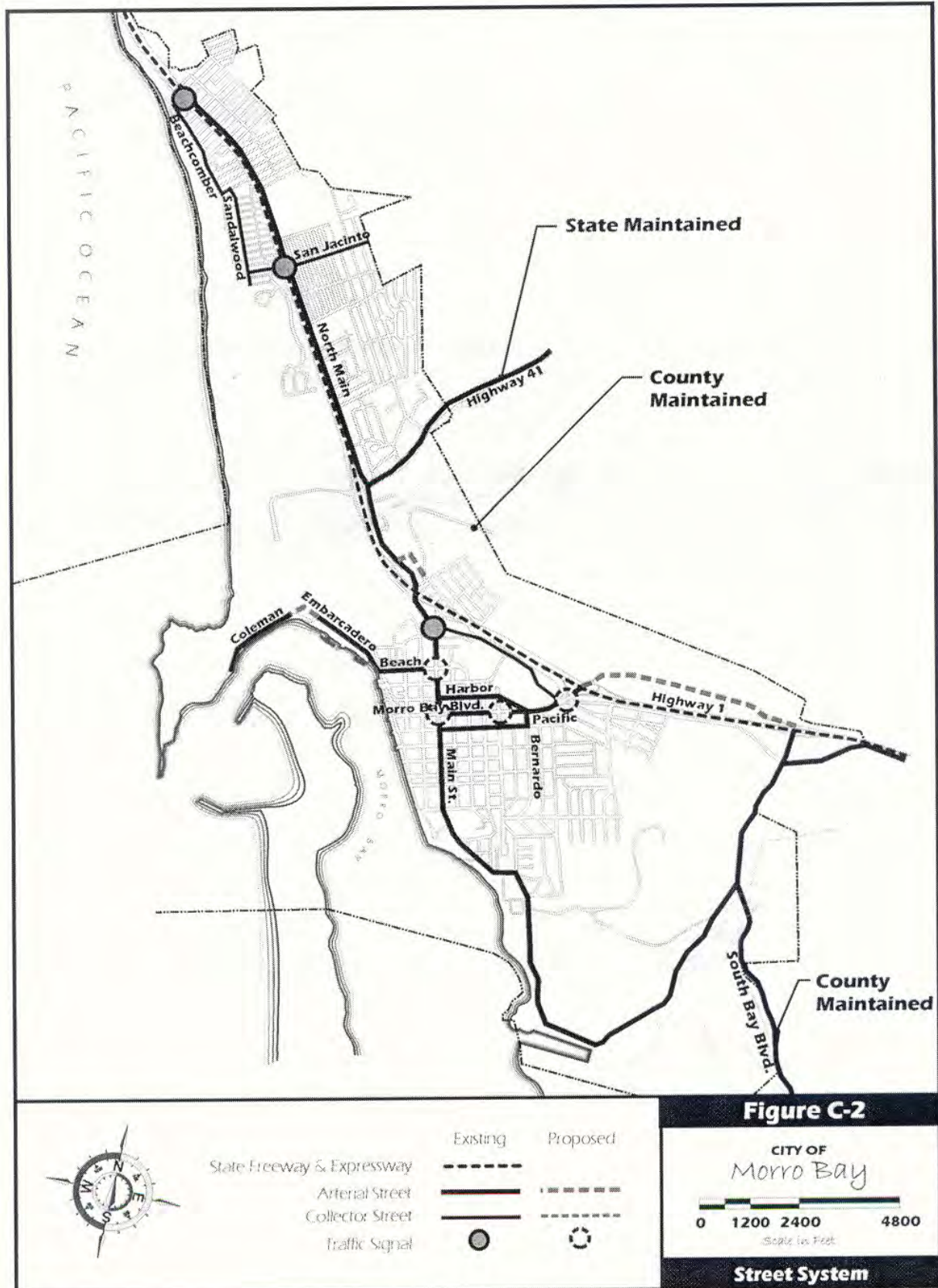
The Circulation Element provides sound policy base for the continued improvement of the City's circulation system. The map on the next page shows the existing and proposed arterials and collector streets. Existing and proposed traffic signals are also shown.

The following table shows a list of street projects that have been completed over the last five years.

Table 3-16: CIP Street Projects

<i>CIP No.</i>	<i>Dept.</i>	<i>Description</i>	<i>Current Status</i>
8307	Streets	STIP Street Rehab	-COMPLETED-
9825	Streets	Main Street Bike path	-COMPLETED-
n/a	Streets	Kern Street	-COMPLETED-
n/a	Streets	Beach Street	-COMPLETED-
n/a	Streets	Marina Street	-COMPLETED-
n/a	Streets	Pacific Street	-COMPLETED-
n/a	Streets	Harbor Street	-COMPLETED-
n/a	Streets	Mimosa Street	-COMPLETED-
n/a	Streets	PD Alley	-COMPLETED-

Figure 3-10 Circulation System



Below is a list of local street improvement projects proposed in the City's Capital Improvement Program. Funding for these projects is allocated based upon available funding and budget priorities.

Projects Budgeted 2016/2017

- ▶ Five Year Pavement Management Plan - Street Maintenance Projects – \$250,000
- ▶ Clarabelle – \$31,724
- ▶ Driftwood – \$9,485
- ▶ Napa – \$123,285
- ▶ Pacific – \$50,125
- ▶ Piney – \$305,970
- ▶ Prescott – \$43,200
- ▶ Shasta – \$72,770
- ▶ Sienna – \$21,419
- ▶ Surf Alley – \$4,556
- ▶ Tuscan – \$13,631
- ▶ Zanzibar – \$17,525

SLOCOG Regional Transportation Plan, 2014

The most recent adopted RTP, Sustainable Communities Strategy, acts as a blueprint for a transportation system that addresses transportation projects that will meet access and mobility needs. The 2014 Regional Transportation Plan (2014 RTP) is intended to be a comprehensive Plan guiding transportation policy for the region and will make recommendations concerning improvements to the existing transportation network of highways, transit, air and water, rail and bicycling.

Regional Improvements. According to the San Luis Obispo Council of Government's (SLOCOG) 2014 Regional Transportation Plan a significant increase in traffic volume on Highway 1 is projected from the 2008 number of 23,100 average daily trips to 28,000 average

daily trips in 2035. The Level of Service in the Morro Bay area on Highway 1 is expected to drop to LOS D. The North Coast segment of the route is projected to increase very modestly as development is expected to be minimal on the North Coast. The SLOCOG 2014 RTP Planned improvements would be limited to enhancements such as billboard removal, Class I bike facilities, undergrounding of utilities, improvements at the Hwy1/SR41 interchange and various beautification and non-motorized transportation improvements.

Transit. RTA provides regional fixed-route services within San Luis Obispo County. RTA's Route 9 operates on the Highway 101 corridor between San Miguel, Paso Robles, Templeton, Atascadero, Santa Margarita, and San Luis Obispo. Route 12-A operates between San Luis Obispo, Cuesta College, Morro Bay, Baywood Park, and Los Osos. There is also one express trip (in each direction) between Los Osos, Cal Poly and San Luis Obispo on weekdays. San Luis Obispo Transit operates seven fixed-route buses and trolley, on weekdays and weekends.

Route 12-A operates between San Luis Obispo, Cuesta College, Morro Bay, Baywood Park, and Los Osos. There is also one express trip (in each direction) between Los Osos, Cal Poly and San Luis Obispo on weekdays.

Route 12-B operates between Morro Bay, Cayucos, Cambria, and San Simeon and feeds Route 12-A in Morro Bay on weekdays.

Ride-On a non-profit organization that provides social services clients' transportation and transportation alternatives to members of the general public to increase mobility while reducing congestion, air pollution, and parking demand. Seniors' Shuttle offers rides with advanced reservations to seniors (age 65 and over) by geographical sector; the shuttle operates between 9 am and 4 pm with coverage as follows: North Coast on Mondays and Wednesdays.

The Trolley - The City of Morro Bay operates three seasonal trolley routes seven days a week with extended evening hours on Fridays through Mondays with a \$1.00 cash fare. Morro Bay also operates a year-around general public paratransit service from 6:45 am to 6 pm on weekdays within the city limits. As of July 1, 2010, the paratransit service will be replaced by a weekday flex fixed route service from 6:40 am to 5:30 pm with a \$1.25 base fare for fixed route and \$2.50 base fare for the deviated service.

HARBOR SERVICES

The City provides boater assistance, water emergency response, and facilities maintenance for the regional harbor facility within city limits. Morro Bay Harbor is designated as "a state harbor of refuge" by special legislation and the home of USCG station Morro Bay with 35 federal personnel providing marine security for Diablo Canyon Nuclear Power plant and the California coastline between Monterey and Santa Barbara. The Harbor Department includes a staff of 5.75 employees with a budget of about \$1.6 million. The Chief Harbor Patrol Officer and Harbor Patrol officers are City employees who respond to water emergencies outside city jurisdiction, depending on incident location and resources available. The City provides community education for boating and beach safety, and resources management; i.e. snowy plover management, state/federal/private NGO wildlife and environmental protection initiatives etc. In recent years the City has seen public demand for these services increase and along with unfunded state and federal mandates requiring additional management effort and financial resources with no associated revenues.

The federally designated navigational channels must be maintained through dredging at an approximate annual cost of \$1.5 million or the harbor would become un-navigable to most vessels. This would be a significant detriment for safety, regional vessel traffic, and the county economic environment. The city considers maintenance dredging of the harbor navigational channels as a critical service. The city maintains all waterfront public facilities such as the large T piers, and the no-cost public boat launch ramp right down to the street end docks, and these types of maintenance are very costly, requiring significant resources be dedicated for Waterfront facilities maintenance every year. The Harbor Department has the following objectives:

- To maintain all harbor facilities including responsibility for all City piers, docks, equipment and harbor patrol vessels. Maintain and enhance existing City facilities and waterfront businesses through reconstruction projects as need and funding priorities allow. Assist other City departments whenever possible in City with services. Interface with outside agencies to sustain and enhance business environment and quality of life in Morro Bay. Coordinate Federal dredging activities. Provide a clean, safe waterfront area.
- Administer tidelands lease property management program for 50 lease agreements providing annual revenues. Represent the public interest in all lease site use/agreement

negotiations and build a partnership concept with tenants through City cooperation in Embarcadero business promotion improvements.

- Responsible for general administration of the Harbor including; code enforcement of Chapter 15 of the Municipal Code, collection of user fees and providing general City business office functions in an efficient manner.
- The Harbor Patrol shall maintain equipment and City waterfront facilities at a level that reflects well on the City of Morro Bay. Provide boater assistance and water emergency response in a friendly and professional level equal to or higher than other harbors in California.

Fire

The City's Fire Department provides a full range of services including fire suppression, wild land fire response, paramedical emergency medical service, initial HAZMAT response, vehicle extrication, technical rescue and confined space response. The Fire Department is the first responder to non-law enforcement emergency incidents including those at the Power Plant. The Department responded to 1,908 calls in 2014. The Fire Department total budget for FY 16/17 is \$2,327,667.

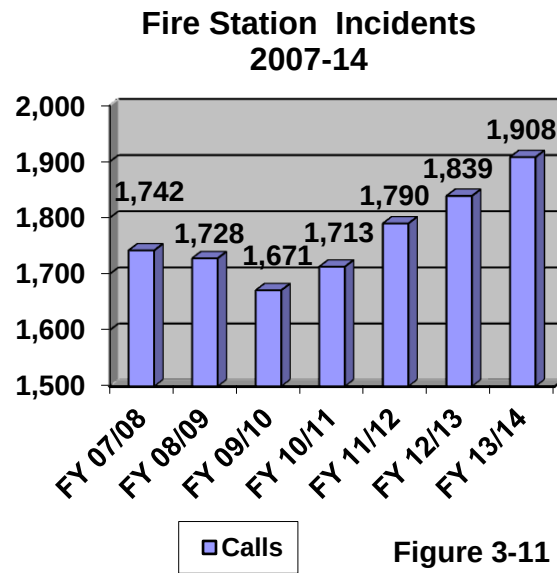


Figure 3-11

The Department maintains two stations located in the City. Station 53 is the operational station and is located at 715 Harbor Street. This station has been newly constructed/remodeled and is staffed daily. The other station (#54) is located on 460 Bonita Street and is un-staffed and is used to store equipment and vehicles.

The Department has 10.5 full-time employees that work from one fire station. The City has a minimum staffing level of two firefighter/paramedics from one station, with three staff on duty unless staff is training, on sick leave or vacation.

The City's Fire Department is able to serve the City's emergency response needs, however, expansion of the Fire Department would be considered if growth and development increase. The sales tax increase, (measure Q), provides some funding for emergency response needs; however, more financial resources may be needed to construct a new station and increase staffing levels. The Department has difficulty in responding to simultaneous calls for service.

POLICE

The Morro Bay provides law enforcement services for the residents of the City. The Police Station is located at the corner of Santa Rosa and Walnut. The total budget for the Police Department for fiscal year 2016-17 is \$3.2 million. The services provided by the Department are briefly described below. The Morro Bay Police Department consists of 20 employees, 16 of which are sworn police officers. The Department is divided into two bureaus, with a Police Captain commanding each.

The Operations Bureau consists of a Patrol Services Division, Traffic Safety Unit, Situation Oriented Response Team (SORT), and Neighborhood Services. In 2008 construction began on the new Emergency Communications Center located adjacent to Fire Station #1. The ECC is equipped with new state-of-the-art technology.

Service Levels. Service levels for Police are often measured in terms of the number of sworn officers per 1,000 people in a community. This is a general measure and should be used only as one piece of information in characterizing police service levels. Service levels vary from city to city because of minimum patrol staffing, officer safety, available back-up from surrounding law enforcement agencies, demographics, geographic features, special service needs, specific crime problems, and other factors. The following is a ratio of full-time sworn officers per 1,000 in population for the Morro Bay in 2014, calculated using the following formula:

$$\begin{aligned} 10,234 \text{ population} \div 1,000 &= 10.23 \text{ people} \\ 18 \text{ sworn employees} \div 10.23 &= 1.75 \text{ officers per 1000 people} \end{aligned}$$

Nationwide the Department of Justice-FBI law enforcement statistics show the ratio to be an estimated two and a half officers per 1000 people for communities the size of Morro Bay. The average officers/1,000 ratio for the seven cities in San Luis Obispo County is about 1.6 officers, with Pismo Beach being the highest at 2.6 and Paso Robles the lowest at 0.90 officers/1,000.

The figures below show the violent and property crime rates per 1,000 people for the Morro Bay from 2007 through 2013. Violent crimes include homicide, rape, robbery, and aggravated assault and have been steadily decreasing. Property crimes include burglary, larceny, auto theft, and arson. This information is from the California Department of Justice Crime statistics. The 2007-2013 crime statistics are based on data from the State of California's Office of Attorney General, Department of Justice, Criminal Justice Statistics Center.

Figure 3-12: Violent Crime Rate

Source: California and FBI Crime Index Table 11, 2007-2013

Morro Bay - Violent Crime per 1000 people

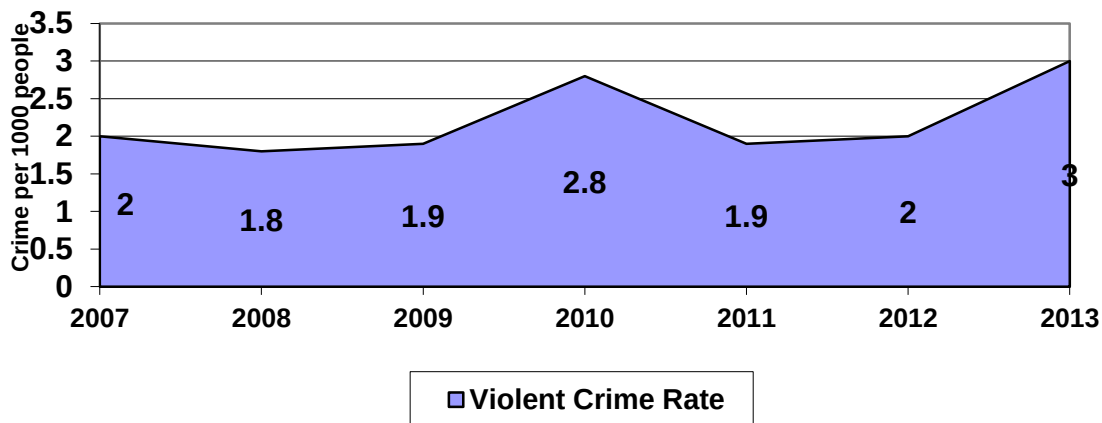
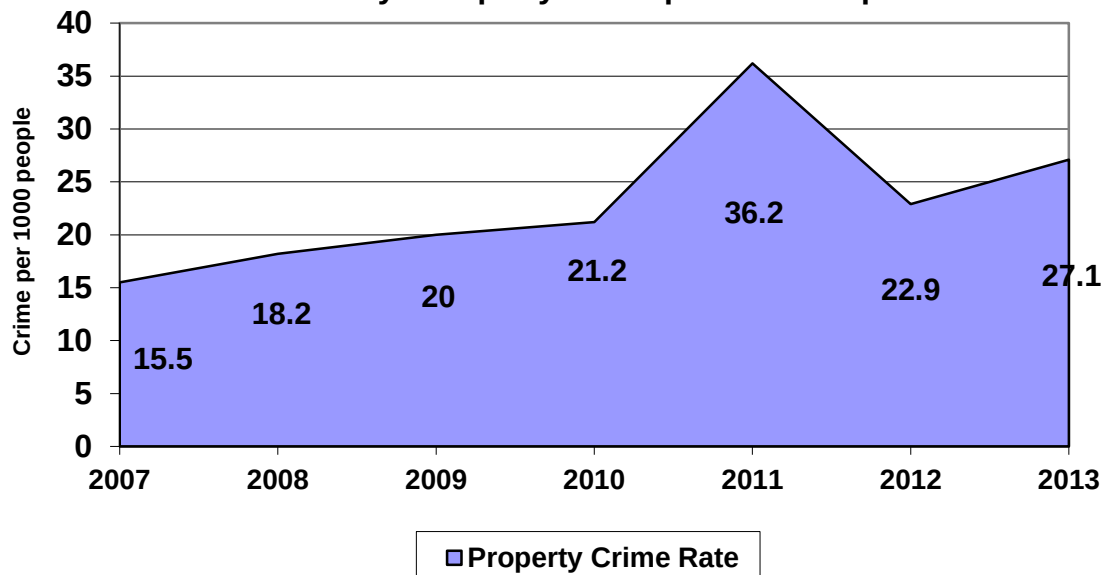


Figure 3-13: Property Crime Rate

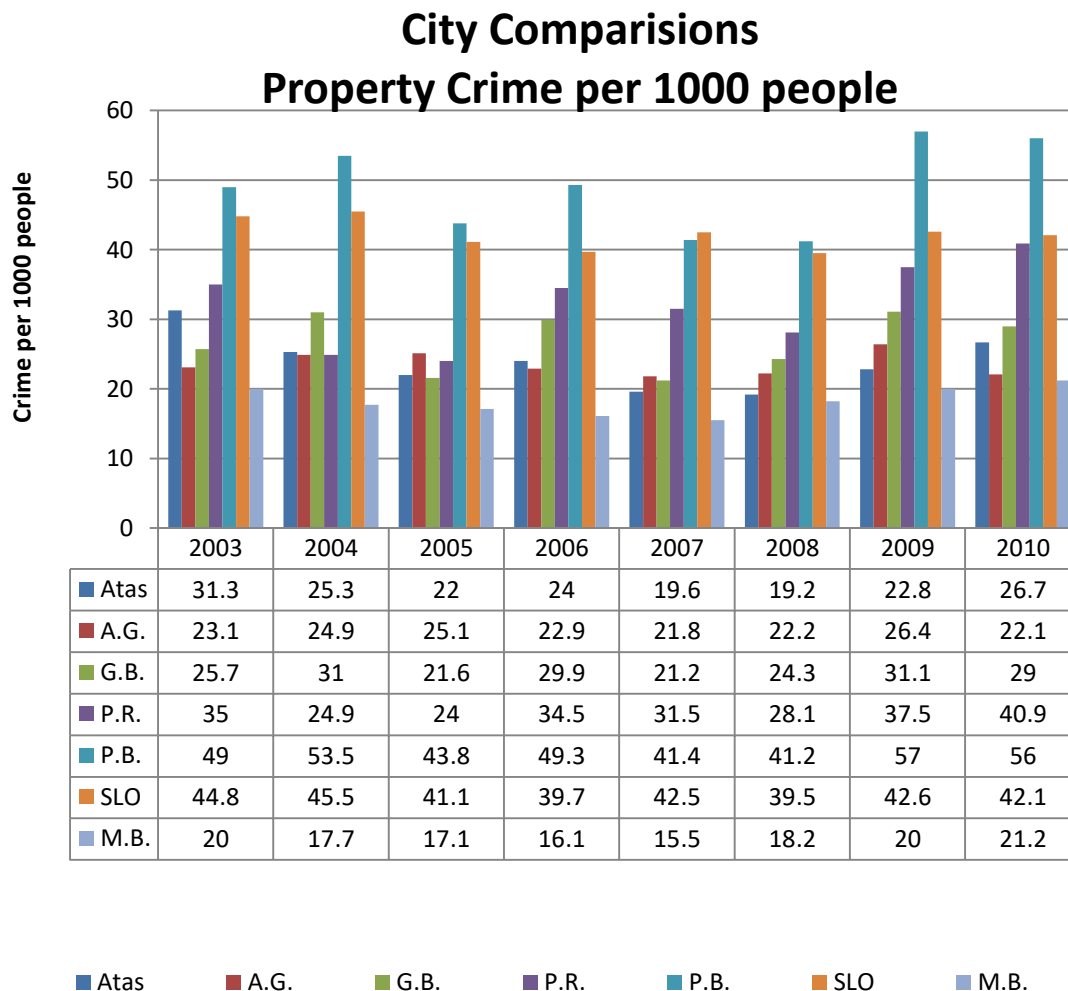
Source: California and FBI Crime Index Table 11, 2007-2013

Morro Bay - Property Crime per 1000 People



The following figures show the Morro Bay property and violent crime rates compared to the other cities in the County. Property crime involves burglary, larceny, auto theft and arson. The crime rate is normally calculated as the number of crimes per 100,000 people. Due to the lower population of San Luis Obispo County and cities, the crime rate shown is per 1,000 people. Morro Bay had a crime rate of 20 in 2003 with a steady crime rate increased to 27.1 in 2013.

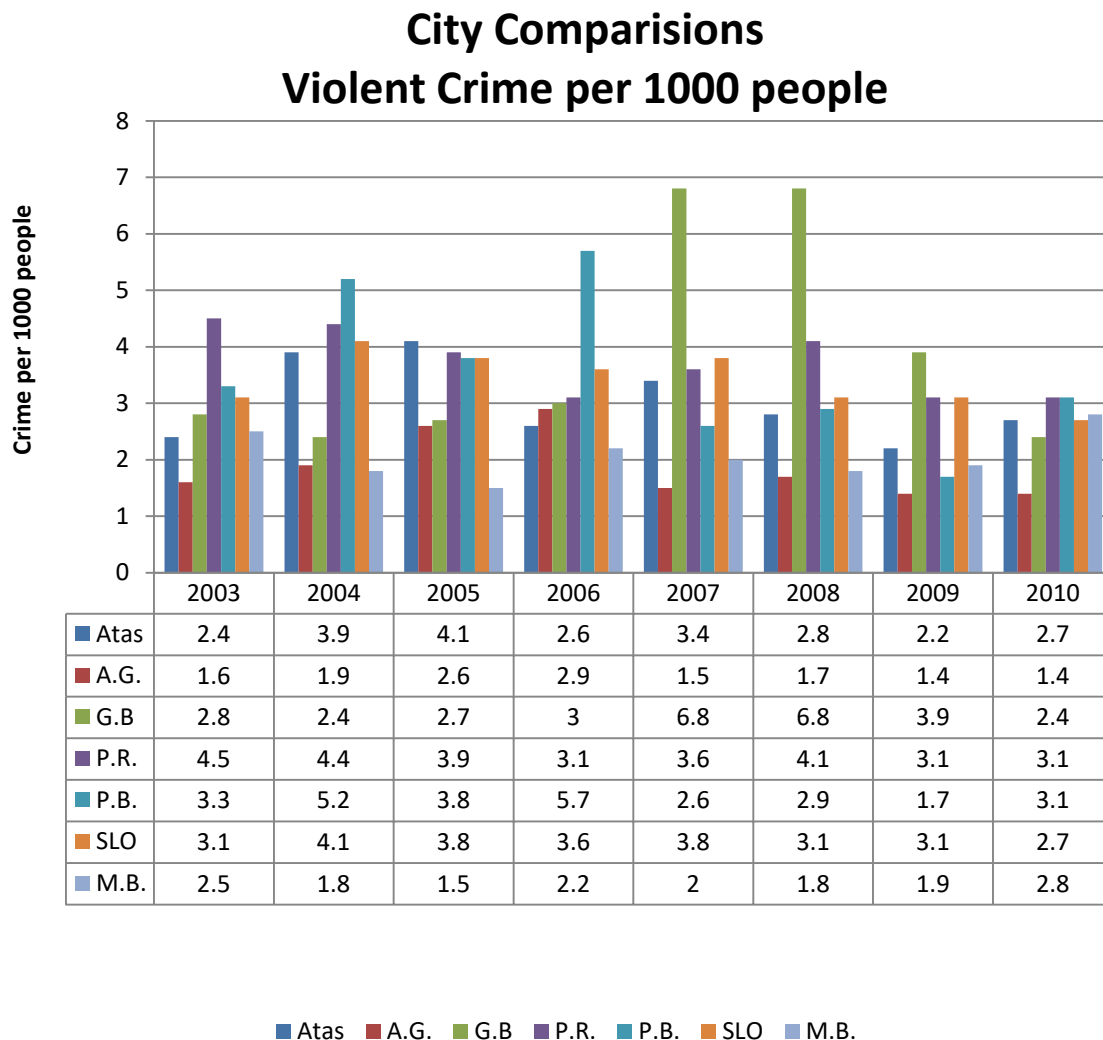
Figure 3-14: Comparative Crime Rate



Source: DOF E4, 2010 and California Department of Justice Department

Violent crime involves homicide, rape, robbery, and aggravated assault. These statistics are from the California Department of Justice Law Enforcement Information Center and the California Department of Finance E4 report, 2010. The crime rate is normally calculated as the number of crimes per 100,000 people. Due to the lower population of San Luis Obispo County cities, the crime rate shown above is per 1,000 people.

Figure 3-15: Comparative Crime Rate



Source: DOF E4, 2010 and California Department of Justice Department

The City's General Plan requires that all new development pay impact fees for additional equipment and fixed facilities needed to serve the new development with police services. The City also has a policy of maintaining staffing levels that enable the Police Department to give adequate attention to calls for service, to patrol and crime prevention, and to administrative requirements.

DEVELOPMENT IMPACT FEES

Government Code Section 66000 is intended to hold agencies to a higher level of accountability whenever charges are established, increased, or imposed and whenever updates or reviews are performed. Section 66000 requires ordinances to include language that commits the local agency to establish reasonable development charges and, if those charges are found not to be reasonable, to refund the difference. The City levies a series of development impact fees for new development to address many differing needs. All these fees are based on Government Code Section 66000 et seq., which requires the agency setting fees to (i) identify the purpose of the fee, (ii) identify the use to which the fees will be put, (iii) determine the reasonable relationship (or "nexus") between the type of development charged the fee, the amount of the fee and its use, and (iv) determine the reasonable relationship between the need for the public facility or improvement and the project upon which the fee is imposed. Fees collected by the City include: fees in-lieu of parkland dedication, park development projects, water and sewer capacity and improvement fees, road and circulation fees, public safety fees, and general administrative capital improvement fees.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Infrastructure Needs and Deficiencies:

Water Supply and Demand

1. The City is able to provide the services (sewer, police and fire) to the development within the City. However, the recent drought has significantly stretched the City's supply capabilities. The policies and standards in the City's General Plan provide for future services to be funded by the developer.
2. The Safe Yield of the City's Water Supply is estimated to be 3,105 afy in the Biennial 2010-2012 RMS. The estimated demand by the City at build out of the current General Plan is 1,452 afy.
3. The City currently has an adequate water supply to serve the City's anticipated build-out under its current General Plan. However, the City is working to increase the reliability of its supply.
4. The City's General Plan policies would not allow water services to be provided in excess of the available supply.

Wastewater

5. The City operates and regularly maintains the wastewater collection and treatment system, which consists of sewer pipelines, manholes, pump stations, and a wastewater treatment facility.
6. The treatment facility has the capacity to process 2.06 million gallons per day of wastewater and is currently processing an average of 1.15 million gallons per day. The system is operating at 56% of capacity.
7. The City is in the process of planning for and eventually constructing a new facility that will provide tertiary filtration capacity of 1.5 million gallons per day. The City's future growth depends on the construction of a new facility.

8. The City regularly upgrades their current Sewer System by approving projects and allocating funds as part of their Capital Improvement Program and Plan.

Roads and Streets

9. The City's Circulation Element, in conjunction with the Land Use Element and Capital Improvement Plan, prioritizes and manages the transportation and traffic network.
10. The City improves the transportation network by allocating funds and implementing transportation improvement projects through the Capital Improvement Plan. The City is facing some challenges with adequately funding street maintenance and capital improvements. The City's FY16/17 Budget for street maintenance is funded at 33% and Capital Improvements is funded at 10%.
11. Several transportation projects are in the planning stages and are progressing toward construction. These projects will provide for the continued upgrade of the City circulation system.

Infrastructure

12. Development proposals in the Sphere of Influence would be required to extend physical infrastructure to their respective sites as needed and pay their share for facilities and other City services as a condition of project development.
13. The City is in the process of upgrading and maintaining many of its public facilities, including roads, and wastewater treatment and collection system through its Capital Improvement Plan.
14. The City's General Plan, Capital Improvement Plan, and Circulation Element address the provision of infrastructure for wastewater, roads and other public facility needs.
15. The City should be able to provide the services (sewer, police and fire) to areas within the existing Sphere of Influence while continuing to adequately serve existing residents, pursuant to the policies and standards contained in the General Plan are implemented when considering annexations and development projects.

16. The City's facilities comply with environmental and safety standards and no major enforcement actions by state or federal agencies were identified.

Police and Fire

17. The City's Police Department is adequately staffed to provide law enforcement services to its residents given the comparable crime rate with other cities in the County. The City is facing some challenges with adequately funding police services. The City's FY16/17 Budget for police services is funded at 95%.
18. The City is facing some challenges with adequately funding fire services. The City's FY16/17 Budget for fire services is funded at 92%.
19. The City will have the opportunity to add police and fire staff as needed to serve the Sphere of Influence area if annexations are proposed.

3.4 FINANCIAL ABILITY OF AGENCIES TO PROVIDE SERVICES

Purpose: To review the City's existing financial documentation and identify any financial constraints or opportunities.

Budget

The Morro Bay's budget document is well organized, thorough and clearly articulates the City's future financial plans. The City has established a comprehensive fiscal policy base that guides the preparation and management of the budget, identifies the City's goals and work programs, and summarizes the progress toward previously established City goals. From this policy base the City prepares the Annual Budget. The budget is a financial planning process that is based on input from the community, comprehensive fiscal information, and clearly stated documentation. The City prepared a ten-year budget forecast to provide a long-term perspective and help identify the structural imbalances.

Indicators of the City's financial condition include pension and pent-up labor demand, unfunded replacement costs and deferred maintenance concerns for fiscal years 2016-2017. The City recognizes the challenging situation is faced with. About 75% of the city's services can be funded under its current revenues. The budget projects inadequate funding to continue with some basic services and adequately maintain existing facilities, infrastructure and equipment. The budget forecast identifies four areas of concern; Police services are funded at 95% only addressing officers and not equipment or administrative staff, Fire services are funded at 92% addressing firefighters and not equipment or administrative staff, street maintenance is funded at 33%, and Capital Replacement is funded at 10%. This is a significant challenge considering that the City is anticipating two fiscal impacts of a pension contribution spike and moderate recession for 2017 leaving the City to face a very challenging financial situation.

Priority Based Budget Process

1. Identify goals and priorities in advance of preparing the budget
2. In the fall, meet with the five City advisory boards/committees to identify budget goals and priorities.
3. A list of goals and priorities is considered by the City Council for review and feedback.
4. Public Workshops are conducted with notices sent to all residents in their water bills. Purpose is to gather feedback from the residents regarding the goals and priorities.
5. Public Hearings to consider the budget are conducted.

The City has been proactive in addressing the financial situation by setting aside reserves that have been used in making it through this period of financial challenge. In prior years, the City anticipated that a fiscal crisis might be looming and prepared by ensuring its reserves were funded at the level required by the budget policies. The City managed the current situation by taking several actions; 1) not filling several vacant positions, 2) eliminating several authorized positions, and 3) using reserves to address the revenue shortfall.

In 2006, the City passed Measure Q, which enacted a general purpose ½-cent sales tax that generates more than \$800,000 annually. This is a General Fund tax and has no sunset date. The Citizens Oversight Committee was established to review the semi-annual expense report of the City relative to activities funded with the additional general purpose local sales tax monies. The City Council divides the annual revenue estimate between the departments based on the language in the measure and campaign polls, and department requests. To date these funds have been predominantly used for infrastructure and public safety.

In recent years the City Council's decisions related to pension reform have helped to ensure a balanced budget. Twenty-three percent of the City's workforce (22 employees) are now under the new pension formulas. The City conducts two goal setting workshops which resulted in 10 City goals:

1. Develop a New Water Reclamation Facility
2. Improve Streets
3. Update Plans for Current and Future Land Use Needs
4. Maintain Core Public Safety Services
5. Ensure Fiscal Sustainability
6. Support Economic Development
7. Improve City Infrastructure
8. Enhance Quality of Life
9. Boost Community Disaster Preparedness
10. Leverage Outside Resources to Support City Goals

The actions that are being implemented by the City based on the past two years of working with the employees include 1) reducing wage and benefit costs; 2) paying attention to expense control; and 3) reducing the size of the City organization.

The 2016-2017 Budget Plan falls short by \$3 million dollars to provide the desired level of services. The City is looking to sustain its current level of limited services over the next 5 to 8 years. The City has made budget adjustments while building the reserves to meet the policy level. The budget is designed to implement the Council's top priorities.

The City levies a series of development impact fees for new development to address a variety of impacts and services. All these fees are based on Government Code Section 66000 et seq., which requires the agency setting fees to (i) identify the purpose of the fee, (ii) identify the use to which the fees will be put, (iii) determine the reasonable relationship (or "nexus") between the type of development charged the fee, the amount of the fee and its use, and (iv) determine the reasonable relationship between the need for the public facility or improvement and the project upon which the fee is imposed. Fees collected by the City include: fees in-lieu of parkland dedication, park development projects, water and sewer capacity and improvement fees, road and circulation fees, public safety fees, and general administrative capital improvement fees.

Annual Audits

Annual audits are required by State Law and are performed with the purpose of identifying any inconsistencies or non-compliance with mandated accounting requirements. As part of this Service Review, the 2015 audit prepared by an independent auditor over the last year was submitted to LAFCO by the City for review. In reviewing the audit, the City was found to be in compliance with standard accounting principles and standards. The Auditor identified no issues or financial problems and provided an "unqualified opinion" regarding the financial statement presented by the City. The following excerpt from the Independent Auditor documents the auditor's opinion:

"In our opinion, the City complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2015."

An "unqualified" independent audit indicates that the organization is managing its financial resources in accordance with accepted accounting principles and standards. This is an indicator of the financial health of an organization and provides information regarding its financial practices. The City also posts its annual budget and audits on its website. This provides the

public with easy access to the annual budget and audits. Conversely, an independent auditor would identify accounting financial concerns if these were found.

Constraints

Like many jurisdictions during this difficult fiscal period the Morro Bay has carefully managed its financial resources. Construction of new infrastructure to serve the SOI areas presents a challenge in terms of funding such projects. Serving the SOI areas will likely require a plan for financing infrastructure improvements in these areas. This plan would address funding sources for a number of needed improvements including roads, pipeline infrastructure, and other capital improvements. Funding and timing of these improvements would require planning and investment of resources.

LAFCO considers the ability of a jurisdiction to pay for improvements or services associated with future annexed sites. This planning can begin by identifying what opportunities there are to fund infrastructure and maintenance needs associated with future annexation and development. Also identifying limitations on financing such improvements, as well as the opportunities that exist to construct and maintain those improvements, is important.

Fiscal Trend Analysis

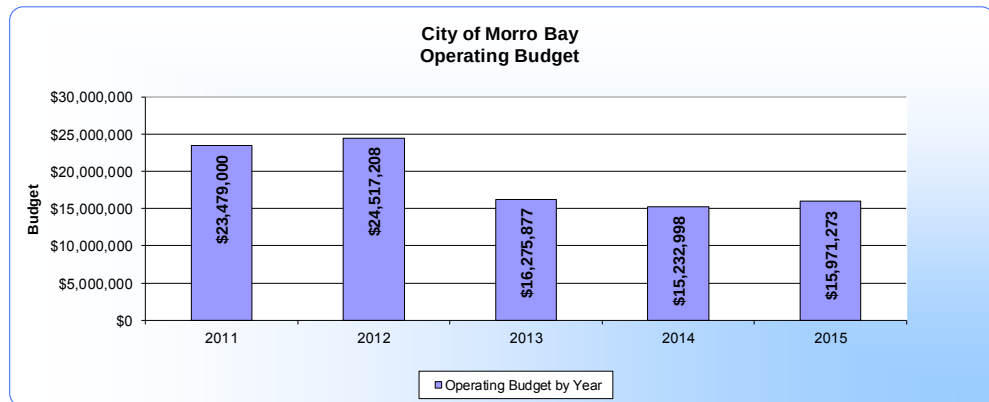
The following charts show the fiscal trend analysis for the past five years for key fiscal indicators that represent an early warning system for an agencies fiscal health. The key indicators are overall operating budget, general fund expenditures, property tax revenues, elastic revenues (which include transit occupancy tax, sales tax, and franchise fees), reserves, long-term debt, and fund balance for each year. The information was derived from the City's comprehensive annual financial statement for each year.

Operating Budget Figure 3-16

Formula:
Consolidated
Expenditures /
Fiscal year

Trend Analysis:
Monitor expenditures
over time.

Source:
Comprehensive Annual
Financial Statements:
Statement of Activities
Basic Financial
Statements: Statement
of Revenues,
Expenses & Changes
in Net Assets



Description:

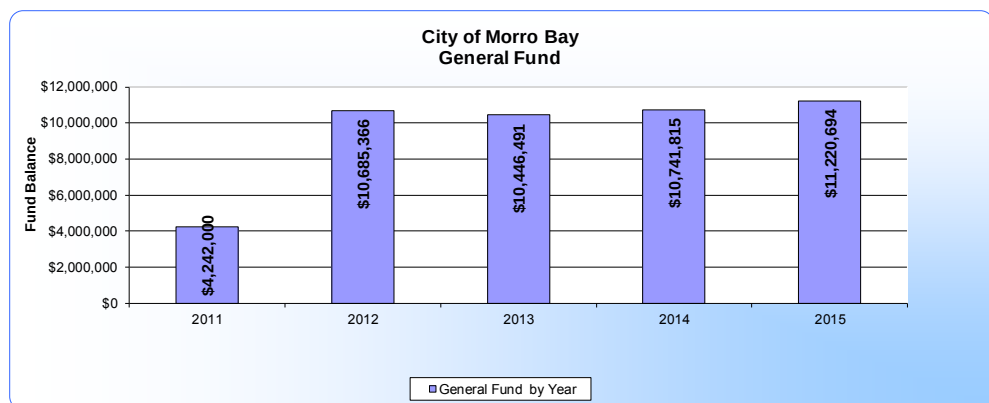
This indicator refers to the overall operating budget and expenditures including enterprise funds. It shows the expenditure pattern over a period of several years.

General Fund Budget Figure 3-17

Formula:
General Fund
Expenditures / Fiscal
year

Trend Analysis:
Monitor expenditures
over time.

Source:
Comprehensive Annual
Financial Statements:
Statement of Activities
Basic Financial
Statements: Statement
of Revenues, Expenses
& Changes in Net
Assets



Description:

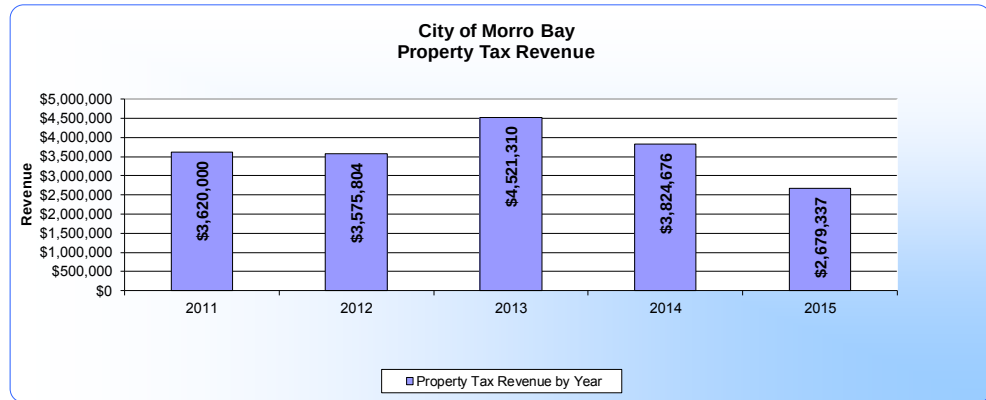
This indicator refers to the General Fund expenditures Not including debt service, capital improvements or capital projects contributions. For special districts it is assumed that all expenditures (except as otherwise stated) are expenditures for services related to charges.

Property Tax Revenues Figure 3-18

Formula:
Property tax revenue /
Fiscal year

Trend Analysis:
Monitor property tax
revenues over time.

Source:
Comprehensive Annual
Financial Statements:
Statement of Activities
Basic Financial
Statements:
Statement of
Revenues,
Expenses & Changes in
Net Assets



Description:

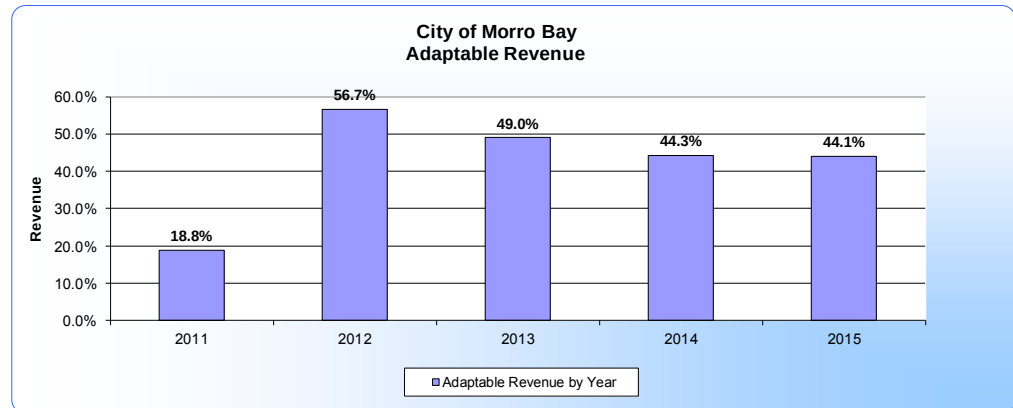
This indicator will have more importance for those agencies heavily reliant upon property tax revenues such as cities. As these revenues are closely tied to market conditions, this indicator can depict the ability of an agency to respond to economic fluctuations. The property taxes are distributed based on the calendar year and the years indicated in the chart are the ending years for each calendar year.

Adaptable Revenues Figure 3-19

Formula:
Adaptable operating
revenues / Net
operating revenues

Trend Analysis:
Monitor amount of
adaptable operating
revenues as a
percentage of net
operating revenues.

Source:
Comprehensive Annual
Financial Statements:
Statement of Activities
Basic Financial
Statements:
Statement of Revenues,
Expenses & Changes in
Net Assets



Description:

This indicator can help agencies determine how adaptable revenues are impacting their abilities to provide services. If revenues rely heavily on adaptable sources the agency may want to explore opportunities for increasing inelastic sources to offset the shortfalls in the inelastic revenues. Adaptable revenues consist of TOT, sales tax, and franchise fees, for special district elastic revenues also include water and sewer sales and availability.

Reserves Figure 3-20

Formula:

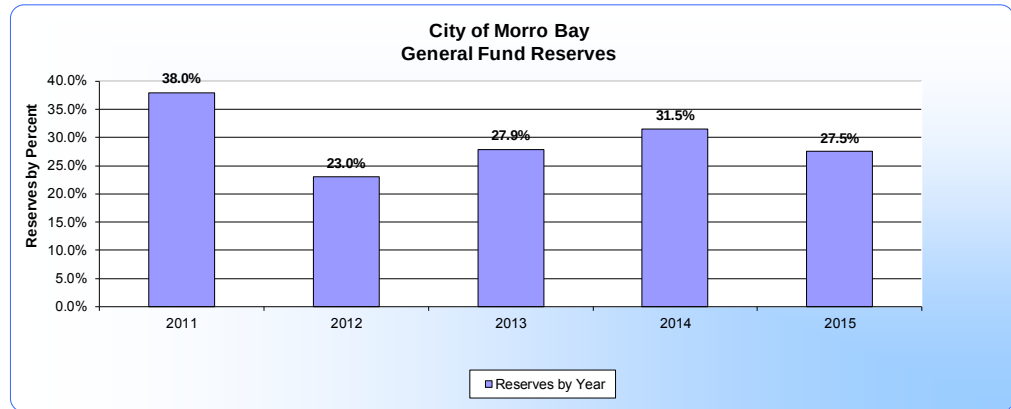
Unrestricted operating revenues / Net operating or general fund expenditures

Trend Analysis:

Monitor amount of reserves as a percentage of net operating or general fund expenditures.

Source:

Comprehensive Annual Financial Statements: Statement of Activities
Basic Financial Statements: Statement of Revenues, Expenses & Changes in Net Assets



Description:

As the percentage of reserves increases, a local government gains its ability to respond to changing conditions and to citizens' needs and demands. Decreases in reserves may also indicate future inability to maintain or enhance service levels. For special districts reserves are a % of next FY operating budget. It should be noted that reserves for agencies with infrastructure maintenance obligations will likely exceed 100% as the agency builds the necessary reserves to upgrade and maintain infrastructure.

Long-Term Debt/Liabilities Figure 3-21

Formula:

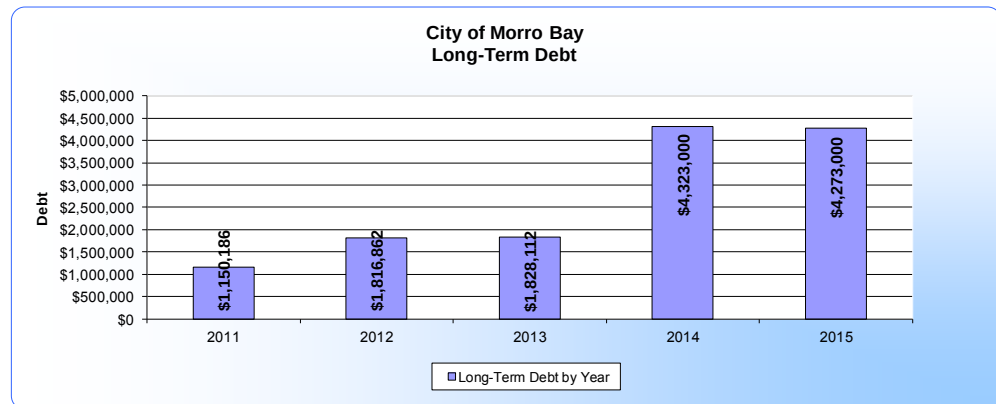
Current liabilities / Net operating revenues

Trend Analysis:

Monitor Long-term debt at the end of the year as a percentage of net operating revenues over time.

Source:

Statement of Net Assets



Description:

A major component of a jurisdictions liability may be long-term debt in the form of tax or bond anticipation notes. Although long-term borrowing is an accepted way to deal with uneven cash flow, an increasing amount of long-term debt outstanding at the end of successive years can indicate deficit spending problems.

Changes in Fund Balance Figure 3-22

Formula:

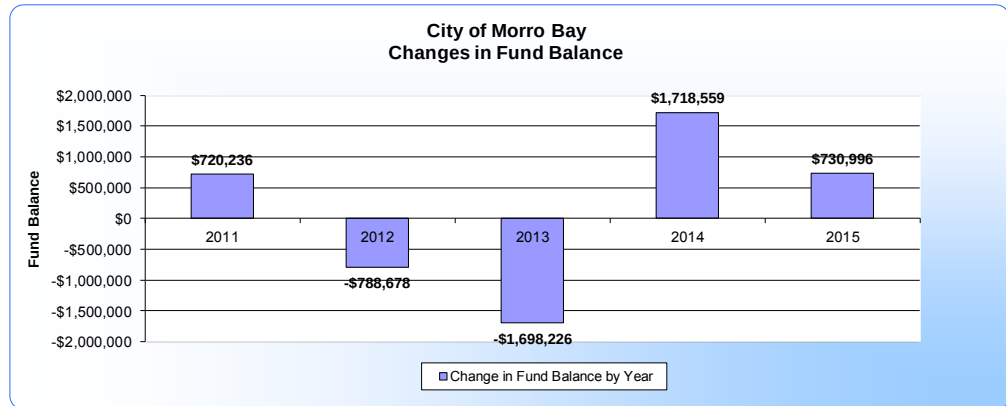
General fund operating deficit or surplus / Fund operating revenue

Trend Analysis:

Monitor general fund operating deficit or surplus as a percentage of net operating revenues.

Source:

Comprehensive Annual Financial Statements: Statement of Revenues, Expenses and Changes in Fund Balance (Government Funds)
Basic Financial Statements: Statement of Revenues Expenses & Changes in Net Assets

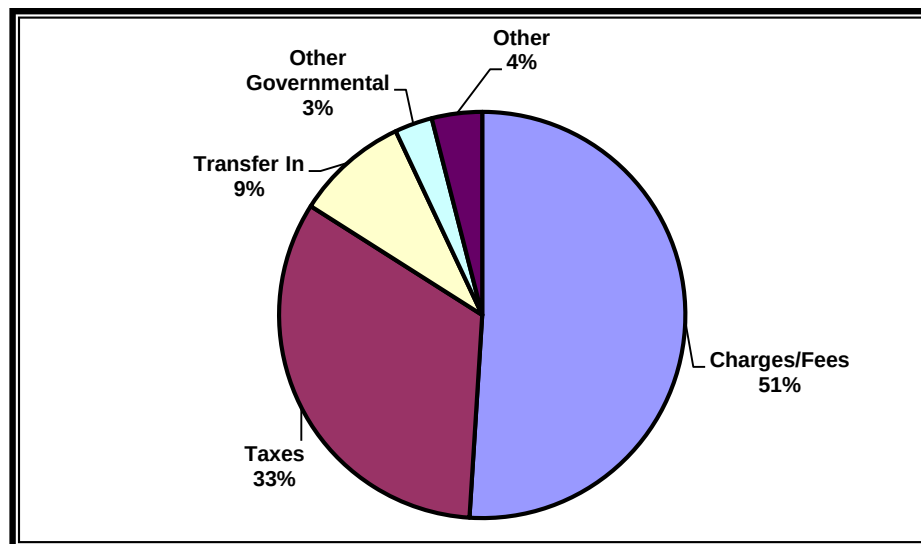


Description:

This indicator is especially important because a pattern of operating deficits of the general fund can be one of the first signs of an imbalance between revenue structure and expenditures. It should be noted that it would not indicate a problem if the agency had planned the operating deficits and was deliberately drawing down reserve fund balances or using extra revenues from another fund for temporary needs.

Major Revenues. Property tax is the City's number one General Fund revenue, accounting for 29% of General Fund sources and is expected to increase by 1% or \$3.6 million in 2016-17. Sales tax has been on the decline for the past several years. The City is anticipating a modest recovery of 2% growth or \$1.8 million in 2016-17. TOT revenues also make-up the top three revenues for the City. The City has had relative steady revenue in TOT of \$2.9 million in 2016-17.

Figure 3-23 Major sources of Revenues



Long-Term Debts

The City uses debt financing only for one-time capital improvements whose life will exceed the term of the financing and where expected revenues are sufficient to cover the long-term debt. The City does not use long-term debt financing for any recurring purpose such as current operating and maintenance expenditures. At the end of the fiscal year 2015 the City had a total debt outstanding of over \$4million. The largest amounts are comprised of \$134,121 for construction of the T-Pier and other harbor improvements from 1997, \$442,828 owned for accumulated unpaid vacation, sick pay, and other employee benefits. The City maintains a double A ("AA") rating from Standard & Poor's.

Revenues

While residential uses generally do not cover the full cost of municipal services from property taxes and local sales taxes that are generated, the opportunity to require privately maintained amenities, roads and open space in residential development projects, coupled with the inclusion of commercial development suggests that the SOI areas as recommended may be able to break even in terms of revenues versus costs of services. In December 2016, the median home price in the City was \$572,100. Since the property taxes are calculated based on the sales price of homes, the higher the selling price the more property tax revenue would be generated. These issues would be thoroughly analyzed as the development review process moved forward for areas located in the SOI and being considered for annexation.

Increased revenues from new homes would be directly derived from property taxes. The likely fiscal benefits to the City from the areas annexed may include modest levels of property tax collections from residential land development or Transient Occupancy Tax if tourist-oriented development takes place. Other residential income that could help offset the costs of residential development would be derived from indirect sales and use taxes and one-time development impact fees. Commercial uses would generate sales tax for the City.

Likely fiscal costs to the City would typically include public maintenance of infrastructure completed for the new projects. Possible programs to minimize and off-set public maintenance costs include private maintenance through homeowner's associations, as well as public maintenance through a utility or assessment district established by the City. Assessment districts can be a valuable tool used in many communities to offset on-going maintenance costs.

The use of these districts should be considered for undeveloped properties planned to be included in the City.

Morro Bay, like most cities, requires new development projects, and in particular annexations, to “pay their own way.” At the time an annexation is considered for any of the SOI properties, the City requires an economic analysis to be prepared to identify a cost-benefit breakdown of the proposed land uses and projects.

The current Master Property Tax Agreement policy for property tax exchanges upon annexation of “raw land” allows for the County to retain all of the base property tax, with 66% of the increment being allocated to the County. The City retains 33% of the property tax increment and all of the sales tax, if any. A different tax exchange agreement can be negotiated between the City and the County if both parties agree.

Other income from residential uses would be derived from indirect sales and use taxes, as well as enterprise fund payments, and one-time development impact fees. Morro Bay would also gain sales tax and transient occupancy tax (TOT) revenues from any retail or visitor-serving uses added to the SOI sites.

Reserves

The City has adopted a Fiscal Policy which includes maintaining a General Fund Reserve of 27.5% of budgeted annual operating expenditures and emergency reserves. This is considered the minimum level for maintaining a good credit rating, to provide for economic uncertainties, contingencies for unforeseen expenses, and cash flow requirements. Healthy reserves are one indicator that the City is in sound financial condition. The combination of conservative revenue projections and holding the line on expenditures has helped Morro Bay build a reserve of upwards of \$3.59 million at the end of fiscal year 2016 or 22%. The City will have met its goal for the first time since 2008. However, the City is projecting to use these reserves to balance its budget over the next 5 years.

Rates and Fees

In 2009, the City retained Maximus, Inc to complete a city-wide Cost for Services Study to reflect current conditions in Morro Bay. The purpose of the study was to address the need to maintain the City’s services at levels equal to the standards set by the City Council and to

maintain effective policy and management control of City Services. As described earlier, the annexation of any site will be done through the preparation of specific plans that will include payment of annexation and development fees by the landowners, as well as requirements to install and maintain basic infrastructure to serve the developments. Impact fees for the following types of facilities and improvements were evaluated; planning, building and safety, police, fire, utilities, and recreation, (water, wastewater, transportation facilities were adjusted in 2006 with a CIP index). This study provided information and guidance to the City Council on how the City can continue as a viable financial entity, finance the services and facilities that its citizens and businesses have come to expect, and yet be able to live with budgetary limits. Using this study the City adjusted their fee structure by increasing the costs of key development applications. This adjustment resulted in the City recouping a higher percentage of the actual expense of providing and maintaining various facilities and infrastructure needs for new development.

In 2006, the City retained MuniFinancial to provide Transportation Impact Fee Justification Study. Using this study the City adjusted its fee structure by increasing the cost of new development and identifying the public facilities and costs associated with mitigating the direct cumulative impacts.

Water and Sewer Rates

In 2015, the City provided water and sewer rate studies and related reports and recommendations for the City's water and sewer enterprise funds. This report provided rate increases for the FY's 2015 to 2020 to maintain reliable water and sewer service. The City will give public noticing for customers to protest the increased rates of providing water service. If the City does not receive a majority of written protest for rate increase subsequently the City will adopt new rates for water and sewer service.

The City's water and sewer services are operated as enterprise funds. This means that revenues to support operations and capital improvements are borne by the ratepayer. Water and sewer funds are reviewed annually by the City Council at a public hearing where the Council then determines the appropriate rate for service. If rate increases are needed, they are usually implemented at the beginning of the new fiscal year, July 1st, and all rates are prorated accordingly. The following is a table that compares the rates and fees of several service providers for water and sewer services:

Table 3-17: Residential Water Rates Comparison

Rate/Fee	Paso Robles	Atascadero ²⁾	Morro Bay	Pismo Beach	Arroyo Grande	Grover Beach	San Luis Obispo ¹⁾
Monthly Service Charge	\$0.00	\$20.50	\$24.18	\$32.57	\$27.52 ³⁾	\$10.06	\$8
Water Fee	\$0	\$2.10 (3-12 ccf)	\$4.00 (1-3 ccf)	\$2.72 (1-10 ccf)	\$3.42 (1-18 ccf)	\$3.34 (0-12 ccf)	\$7.90 (0-8 ccf)
Per unit used: 100 cubic feet = 1 ccf	\$4.40 (all ccf)	\$3.25 (13-25 ccf)	\$7.00 (4-10 ccf)	\$3.36 (11-20 ccf)	\$3.76 (19-36 ccf)	\$3.53 (13-20 ccf)	\$9.88 (9 + ccf)
100 cubic foot = 748 gallons		\$4.80 (26-50 ccf)	\$9.50 (11-50 ccf)	\$3.97 (21-35 ccf)	\$5.02 (36+ccf)	\$4.04 (21-42 ccf)	5% utility tax
		\$5.50 (51 + ccf)	\$12.50 (50+ ccf)	\$5.43 (36 + ccf)		\$4.57 (42 + ccf)	

1) SLO has a 5% tax

2) Nacimiento Charge \$2.50

3) Lopez Charge

Jurisdictions that have a limited water supply, such as Morro Bay, typically have a graduated rate structure that increases significantly with higher water use. This encourages conservation on the part of the water users and discourages wasteful practices. The Morro Bay water rates are higher in comparison to others in the County. Comparing the various rates and fees, a sample bill using 20 units of water over a two-month period was calculated. In comparison, Morro Bay would have the highest water rates of all the jurisdictions:

Figure 3-24: Rates for Water Use at 20 CCF

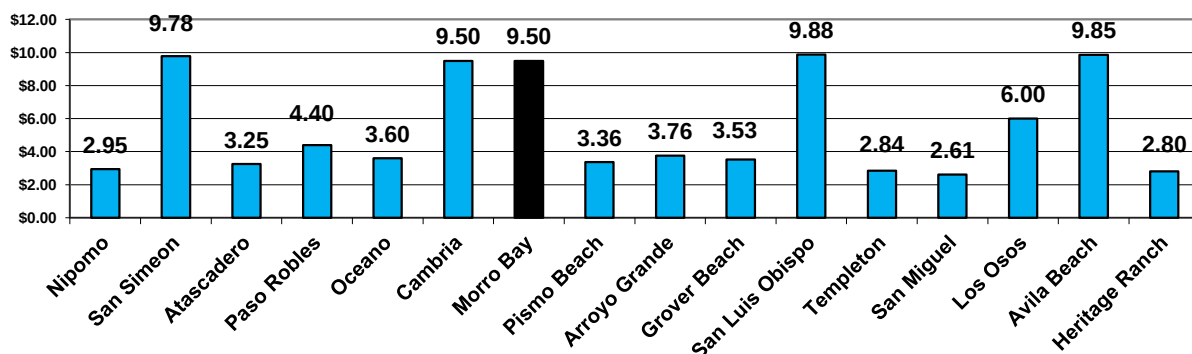


Table 3-18 – Single-Family Water Rates and Monthly Bill

Rate/Fee	Paso Robles	Atascadero	San Luis Obispo	Cambria	Morro Bay	Pismo Beach	Arroyo Grande	Los Osos	Grover Beach	Templeton
Monthly Service Meter Charge	\$0.00	\$18.00 Up to 2 ccf	\$8.00	\$25.50	\$24.18	\$32.57	\$7.19	\$52.36	\$10.06	\$17.05 Up to 3 ccf
Water (per 1 Unit)	20 units @ \$4.40 (all ccf)	9 units @ \$2.10 (3-12 ccf) 9 units @ \$3.25 (13-25 ccf)	8 units @ \$7.90 (0-8 ccf) 12 units @ \$9.88 (9 + ccf)	4 units @ \$6.50 (1-4 ccf) 12 units @ \$8.50 (5-16 ccf) 4 units @ \$9.50 (16 + ccf)	3 units @ \$4.00 (1-3 ccf) 5 units @ \$7.00 (4-10 ccf) 10 units @ \$9.50 (11-50 ccf)	10 units @ \$2.72 (1-10 ccf) 10 units @ \$3.36 (11- 20 ccf)	18 units @ \$3.42 (1-18 ccf) 2 units @ \$3.76 (18-36 ccf)	5 units @ \$2.00 (1-5 ccf) 5 units @ \$3.75 (6-10 ccf) 10 units @ \$6.00 (11-20 ccf)	12 units @ \$3.34 (0-12 ccf) 8 units @ \$3.53 (13-20 ccf)	14 units @ \$2.13 (3-20 ccf) 3 units @ \$2.84 (20-39 ccf)
Other Charges	\$0.00	\$2.50 (3)	5% Tax	\$0.00	\$0.00	\$0.00	\$20.33 (2)	\$0.00	\$0.00	\$0.00
Sample Monthly Bill (20 units of water)	\$88.00	\$68.65	\$199.25	\$191.50	\$166.18	\$93.37	\$96.60	\$141.11	\$78.38	\$55.39

(1) Price per unit for Dam retrofit.

(2) Lopez Charge.

(3) Nacimiento

Sewer rates are compared in the table below:

Table 3-19: Single-Family Sewer Rates

Rate/Fee	Paso Robles ⁽¹⁾	Atascadero	Morro Bay	Pismo Beach	Arroyo Grande ⁽²⁾	Grover Beach	San Luis Obispo ⁽²⁾
Flat Monthly Rate	\$78.00	\$20.18	\$62.50	\$63.53	\$17.26	\$24.78	\$8.32

Note: (1) based on a \$7.80 per unit use @ 10 ccf (2) additional use rate may apply based on amount of water used.

Because the City still has limited built-out potential , the opportunities to recover impact fees is limited in the community. Other programs defined by the City will require the annexed sites to cover their full costs, including one-time capital projects as well as long-term maintenance, repair and replacement needs. Several of these programs have been discussed and describe how the SOI/Annexation areas would comply with these requirements.

The properties in the SOI areas do not presently receive public services for which a fee is paid (such as water deliveries, wastewater service or storm drainage management). These services in particular are not available in the SOI areas. As these areas are largely undeveloped at this time, the impact of new services will be fees for those services. There is no evidence suggesting that the annexation of these areas by Morro Bay will result in unreasonable fees for these services as properties annex and develop within the City. It is expected that fees for the SOI areas will be in line with citywide fees for such services. Largely, the annexation would be of public lots for City service purposes resulting in minimal demands.

The City and the County shall work together to ensure that the cost of services for the jurisdictions is equitable. The MOA will be used to further define this relationship. As stated above the City has specific policies that would require the equitable sharing of the services costs for Sphere of Influence areas.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Financial Constraints and Opportunities:

1. The City prepares an annual budget with a mid-year update, and strives to use the best practices in managing their financial resources.
2. The City conducts annual budget and goal setting workshops that allow the public to participate in fiscal management that is integrated with long range planning.
3. The City has in place a variety of capital improvement plans, development impact fees, and developer-required mitigation in the form of infrastructure improvements required from new projects and similar programs to monitor public service needs of new development. It is reasonable to conclude that the City endeavors to avoid long-term City obligations for the capital improvements or maintenance of new development projects, such as those that would occur in the SOI areas.
4. The City has in place financial regulations that are implemented through ordinances and resolutions. This is important because the manner of maintaining public infrastructure and maintenance services is documented and available for public inspection and scrutiny.
5. The likely fiscal benefits to the City from the proposed SOI areas could include modest levels of property tax collections.
6. Likely fiscal costs to the City would typically include public maintenance of infrastructure completed for the new projects in the SOI. Possible programs to minimize and off-set public maintenance costs include private maintenance through homeowner's associations, as well as public maintenance through a JPA or utility district established.
7. There are no apparent short- or long-term fiscal constraints limiting the Morro Bay's ability to serve the suggested properties within the SOI because they are either an existing public lot, small area of a northern beach property, or within the water of the marina. However, further study at the time of annexation should be completed.

8. The City is proactively planning for and taking actions to manage the impacts of fiscal difficulties on the City's financial resources.
9. The City has in place financial policies that provide a structure for responsible decision-making.
10. Rates and fees for services are established using the City's policy and procedures and special studies as the need arises.
11. The City completed a fee study that identified the cost of services, the subsidy a service received from the City, which resulted in establishing new fees for selected City permit applications.
12. The City uses the budget cycle to consider updating the fees and rates schedule that is implemented on an on-going basis.
13. Development impacts are used to offset the costs of building infrastructure to serve new development. New development within the SOI will be required to pay the associated costs of infrastructure and services.

3.5 STATUS OF, AND OPPORTUNITY FOR, SHARED FACILITIES

Purpose: To identify the opportunities for jurisdictions to share facilities and resources creating a more efficient service delivery system.

In the case of annexing new lands into a City, LAFCO can evaluate whether services or facilities can be provided in a more efficient manner if the City, County, District, and/or State are cooperatively working to construct and maintain facilities. In some cases, it may be possible to establish a cooperative approach to facility planning by encouraging the City, County and State to work cooperatively in such efforts.

The annexation of the SOI study areas to the City may lead to shared roadway infrastructure with the County and the State. The SOI area includes opportunities to created shared facilities such as:

- ▶ Roadway connections
- ▶ Coordinated open space preservation
- ▶ Linkages between City and County recreational trails
- ▶ Preservation and enhancement of Agricultural Lands

In the case of roadways and creek trails, the opportunity to coordinate connections between collector and arterial roadways will enhance regional traffic patterns, and will aid in emergency response times. The County has, on occasion, collected impact fees for a City that is affected by a project in the unincorporated areas. This type of coordination can lead to a reduction of impacts and a more positive solution to the problem of development on the City's fringe. Roads that may involve the City, County and State involvement include Highways 1, and 41. Other important City/County roadways would include South Bay Blvd.

The recreational aspects of trail connections, tied into an open space and equestrian trails, offer opportunities for the City and County to join their recreational resources not only to the benefit of the City residents, but for the general public of the County as well. Coordination of open space corridors that cross over the proposed City-County limit lines would enhance the viability of habitat from the area and preserve important habitat for generations to come.

Currently, there is no duplication of existing or planned facilities in the SOI study areas. The City would assume those services provided by the County in the SOI study areas as they are annexed and developed. These do not constitute (and would not in the future) duplication of services in the SOI areas, rather a transfer of services.

The City also works cooperatively with the State Corrections Department in providing emergency water from the California Men's Colony. These relationships are cooperative and help each agency provide public services in a more efficient manner. The City also works cooperatively and maintains working relationships with the following agencies:

- CAL Fire/SLO County Fire through reciprocal Automatic Aid Agreement and all neighboring fire agencies through the San Luis Obispo Operational Area Fire and rescue Mutual Aid Operational Agreement.
- Regional Water Quality Control Board regarding wastewater discharge
- California Department of Fish and Game to protect wildlife and environmental resources.
- Cayucos Sanitary District for the operation of the existing wastewater facility.

Morro Bay operates the current wastewater treatment facility under a Joint Powers Agreement (JPA) with the Cayucos Sanitary District. Continued current operations and future dismantling are necessary as the two jurisdiction proceed with new plans to construct two separate facilities. The City and Cayucos Sanitary District have decided to build individual plant to serve their needs.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Opportunities for Shared Facilities:

1. The annexation of SOI study areas to Morro Bay may lead to shared infrastructure with the State and County if cooperative agreements can be worked out. The potential to create shared relationships for providing some services may be appropriate when providing certain services.
2. At present, the distinction between City and County services in the SOI study areas is clear. The City would assume those services provided by the County in the SOI study areas if they are annexed and developed. These are not now, and would not be in the future, duplication of services in the SOI areas.
3. The City works cooperatively with a variety of State and Federal Agencies to facilitate improvements that benefit the City and protect residents and visitors.
4. There may be opportunities for the City and County to work out cooperative service agreements for the areas proposed in the SOI (i.e. fire protection, police services, flood management, road maintenance and improvements, and recreation) because a variety of cost-sharing programs could be pursued that might be cost effective to the City and the County.
5. The City and Cayucos Sanitary District are each developing its own wastewater facility. A more cooperative approach may have resulted in shared costs and savings. However, the City and the District decided to move along separate paths when they could not agree on a number of substantive issues.

3.6 ACCOUNTABILITY FOR COMMUNITY SERVICE NEEDS INCLUDING GOVERNMENTAL STRUCTURE AND OPERATIONAL EFFICIENCIES

Purpose: To evaluate the accessibility and levels of public participation associated with the agency's decision-making and management processes.

The governing body of the Morro Bay is the City Council that is elected in compliance with California Election Laws. The City complies with the Brown Act Open-Meeting Law and provides the public with ample opportunities to obtain information about City issues, including website and phone access. The City's website contains a wealth of information about all of the City's Departments and services. Several newsletters are produced to inform the public of current events, services, utilities information, sales tax and activities in the community. The City supports directly or participates in local business groups and community promotion to the visitor industry (Conference and Visitors Bureau and Chamber of Commerce).

The City Council holds regular meetings at 6:00 p.m. on the second and fourth Mondays of each month in the Veteran's Memorial Hall. Other meetings or study sessions are held as needed. Agendas are posted consistent with the Brown Act. A public comment period is scheduled at the beginning of each meeting for citizens to comment on City issues not on the agenda. All Council meetings are televised live and videotaped for later playback.

The City's budgeting process is based on a one-year cycle that encourages full participation by the public, advisory bodies, Department Staff and Management. Supplemental budget updates are provided as needed.

The City's organizational structure is shown in the chart found on the next page. It should be noted that the City has a number of advisory bodies that provide the council with a variety of recommendations on a range of topics. These bodies consist of citizens and are staffed by the relevant department:

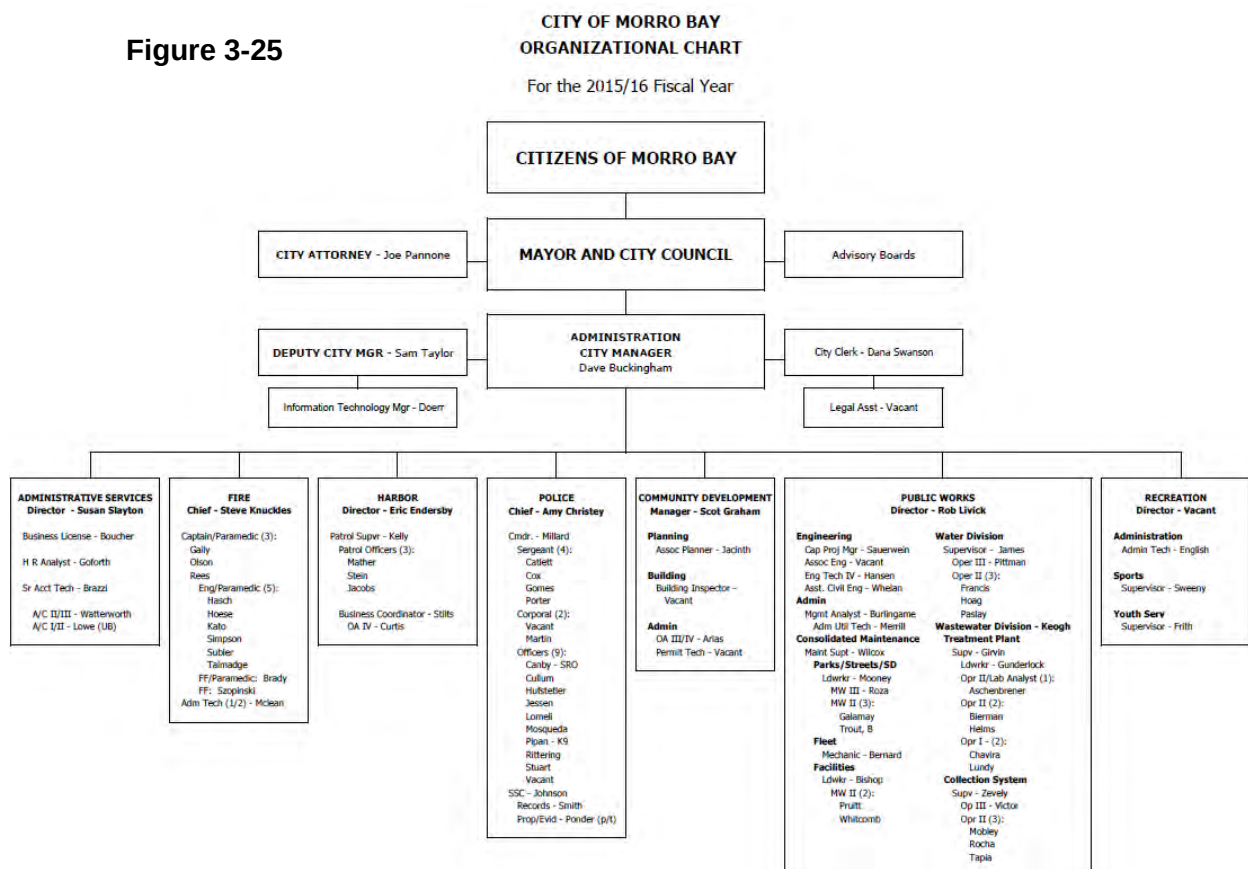
- Citizens Oversight Committee
- Harbor Advisory Board
- Public Works Advisory Board

- Planning Commission
- Recreation & Parks Commission
- Tourism Business Improvement District

Overall, the City is well-organized and equipped administratively to serve the recommended Sphere of Influence. The City accomplishes many goals and implements a variety of initiatives. It is apparent that City manages its resources in an efficient manner and makes every effort to carefully allocate its revenues.

The City's Budget process is discussed in the Financial Constraints and Opportunities section of this report. The organizational chart shows a structure that is straightforward and efficient. It does not include complex decision making loops that would delay decisions.

Figure 3-25



Morro Bay does maintain various customer-oriented programs, including a mission statement for each City department, customer satisfaction programs, regular in-house safety training and management, and similar programs designed to enhance the experience for the City customer.

It is assumed that public participation in the planning and development process for the SOI territories would be about the same for either City or County development projects. Both the City and the County have well developed Citizen Participation programs that enable access to information and allow for citizen involvement. The City and County have a track record of extensive outreach to the community in making land use and other decisions.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Local Accountability and Governance:

1. The City has historically made broad efforts to maintain a public dialogue in the community. The City's outreach program includes providing information regarding current issues of significance to the community through a variety of media. In particular, the City produces a newsletter that is distributed quarterly and various other publication throughout the year, has conducted workshops, and public town hall meetings to address matters for the broadest public input possible. The City conducts goal-setting meetings to establish community priorities.
2. The City has maintained relationships with local news media, providing information and/or interviews as requested. Locally elected and appointed officials pride themselves on being available to their constituencies.
3. The City conducts budget reviews and goal-setting workshops that are designed to keep the public informed regarding budgetary situations. It is possible for the public to participate in the budget hearing process. Annual audits are completed and made available to the public upon request.
4. The City is well-organized, and is administratively capable of managing any annexations that may be proposed for the Sphere of Influence.
5. The City evaluates the services provided to residents and services that may need to be upgraded or started.
6. Long-term effects of individual annexations and development will be analyzed on a case by case basis when site-specific annexations are presented. A cost-benefit analysis should evaluate effects on both the City and County when these are prepared and submitted for review.
7. The City has recently updated many of its service plans, including the Sewer System Management Plan, Housing Element of the General Plan, and fee and rate structures.

8. Because development relies on infrastructure available from the City, it is logical that the City assume the lead in planning for these SOI areas, consistent with the General Plan. It is reasonable to conclude that public services can be provided by the Morro Bay, and that those services will meet or exceed present levels of service provided in the County.
9. Public participation in the development review process may be improved if the City and County adopt a cooperative effort. This cooperation could result in heightened public involvement at both the City and County levels.

3.7 OTHER MATTERS

This factor allows LAFCO to discuss other issues and topics that may need to be addressed or focused on in the MSR.

The following is a summary of issues that are relevant to the Morro Bay area, and if further explored could help improve public services to the residents of the area.

Wastewater Treatment. An emerging issue is beginning to occur for communities to provide a higher level of treatment. Tertiary level of treatment or the potential for reclaimed water from wastewater is quickly becoming the focus of many communities. Not only does the reuse of wastewater flows benefit the environment but the potential shortages in water supply and the reliance on groundwater in the region could be addressed. Costs associated with joint or regional facilities to provide these services have caused friction such that the surrounding communities are building separate facilities. This may lead to a lost opportunity to provide a regional benefit. The North Coast and its communities should give special attention in this area so that at some point in the future the opportunity to consolidate wastewater services is not lost. The jurisdictions should continue to work to provide and meet regional standards for wastewater treatment and services to their residents. However, greater study and evaluation on coordination and cost sharing should be addressed to ensure these services are efficiently being handled.

REFERENCES

- Morro Bay Budget FY 2010/11 to FY 2016/17
- Morro Bay Capital Improvement Project 2016-2017, 2016
- SLO County Resource Management System Biennial Report, 2011
- SLOCOG AECOM Population & Employment Forecast, 2011
- Morro Bay Fee Schedule, 2011
- Morro Bay Urban Water Management Plan, 2010
- SLO County Conservation, Open Space Element, 2010
- San Luis Obispo Council of Governments Regional Transportation Planning Agency, Regional Transportation Plan, 2010.
- California Department of Finance E-4 Report, 2010
- California Department of Finance E-4 Report, 2010
- SLO County Estero Area Plan, revised 2009
- San Luis Obispo County Tourism Analysis Report, 2008
- SLOCOG Regional Housing Needs Allocation, 2008
- Morro Bay LAFCO, Sphere of Influence Study, 2007.
- Morro Bay General Plan,
- Morro Bay, Official Website, www.ci.san-luis-obispo.ca.us/.
- County of San Luis Obispo, Official Website, www.slocounty.ca.gov.
- San Luis Obispo Council of Governments, Official Website, www.slocog.org.
- California Attorney General, Official Website, www.ag.ca.gov.

NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: San Luis Obispo LAFCO
1042 Pacific Street
San Luis Obispo, CA 93401

Tommy Gong, County Clerk
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93401

CONTACT: David Church, Executive Officer
(805) 781-5795

PROJECT TITLE: CITY OF MORRO BAY SPHERE OF INFLUENCE UPDATE AND MUNICIPAL SERVICE REVIEW

Project Location and Description. The City of Morro Bay's Sphere of Influence is not recommended to change from the existing adopted Sphere Boundary. The City's existing Sphere of Influence is approximately 100+/- acres beyond the City limits. The Sphere of Influence is a 20-year planning boundary that indicates what areas might be annexed and served by the jurisdiction in the future. These areas are recommended to remain in the SOI in part because the City envisions future growth based on its General Plan. The City is in process of preparing General Plan Update and Environmental Impact Reports for wastewater facility to be located in the study areas.

Public Agency Approving Project. The Local Agency Formation Commission (LAFCO) of San Luis Obispo County will be conducted a public hearing on this item in August 17, 2017 at 9:00 a.m. in the Board of Supervisors Chambers in San Luis Obispo at the County Government Center.

Environmental Determination. The purpose of the environmental review process is to provide information about the environmental effects of the actions and decisions made by LAFCO and to comply with the California Environmental Quality Act (CEQA). In this case, it has been determined with certainty that there is no possibility that the project may have a significant environmental effect on the environment and therefore it is found to be exempt from CEQA pursuant to section 15061(b)(3) of the State Guidelines. The Local Agency Formation Commission will file this Notice of Exemption upon approval of the Sphere of Influence Update.

Reasons for Exemption. A Sphere of Influence is a plan for probable, physical boundary and service areas of a local agency or jurisdiction. As such, it does not give property inside the Sphere boundary any more development rights than what already exist. The Sphere of Influence Boundary is a long-range planning tool that assists LAFCO in making decisions about a jurisdiction's future boundary. The Sphere indicates areas that might be served by the City. It is unknown if an area will ever be annexed to the City. Also, it is often uncertain what type of precise land use is going to be proposed for a specific area. In the case of Morro Bay's Sphere of Influence Update, the boundary will not change nor has the setting changed significantly with regard to the SOI.

The study of impacts associated with the Sphere of Influence is often speculative since it is unclear what type of project might be proposed or if an area will even be annexed in the future. The City or County studies impacts comprehensively when a project-specific environmental review is completed. The City is currently evaluating and preparing an Environmental Impact Report for a wastewater facility in the study areas.

David Church, Executive Officer

Date

BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, September 25, 2007

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian, James R. Patterson, and
Chairperson Jerry Lenthall

ABSENT: None

In the matter of the Consent Agenda:

This is the time set for consideration of the Consent Agenda.

Thereafter, on motion of Supervisor Harry L. Ovitt, seconded by Supervisor K. H. 'Katcho' Achadjian ,
and on the following roll call vote:

AYES: Supervisors Harry L. Ovitt, K. H. 'Katcho' Achadjian, Bruce S. Gibson, James R.
Patterson, Chairperson Jerry Lenthall

NOES: None

ABSENT: None

ABSTAINING: None

Consent Agenda Item B-7 is amended to change the coversheet and the budget adjustment amount to \$115,000 and replace all pages within the packet to reflect this change. Item B-8 is amended to correct the coversheet to reflect the item is continued to November 6, 2007. Item B-9 is amended by correcting the budget adjustment amount from \$151,266 to \$151,226 on the coversheet. Item B-14 is amended by replacing Exhibit B of the staff report to revise Section 4.4E with a minor edit recommended by County Counsel to strengthen the legality of the document. Item B-18 is withdrawn. Items B-22 and B-23 are added to the Consent Agenda. Consent Agenda Items B-1 through B-23 are approved as recommended by the County Administrative Officer and as amended by this Board. Further, Consent Agenda Items B-1 through B-23, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

File
9/26/2007 cmc

STATE OF CALIFORNIA)
) ss.
County of San Luis Obispo)

I, **JULIE L. RODEWALD**, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 26th day of September, 2007.

(SEAL) **JULIE L. RODEWALD**
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: CM Christensen
Deputy Clerk

7 B-1 thru B-23

9/25/2007

B-14

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF MORRO BAY AND
THE COUNTY OF SAN LUIS OBISPO**

This Agreement between the City of Morro Bay (hereafter "City") and the County San Luis Obispo County (hereafter "County") is entered into by the City on this 10th day of September, 2007, and by the County on this 25th day of September, 2007.

WITNESSETH

WHEREAS, the City and County desire to work together to address future issues regarding the development proposals that may affect both the City and the County; and

WHEREAS, the Planning Referral Area found in Exhibit A shows where development projects shall be referred to the County of San Luis Obispo and the City of Morro Bay, and the City and County have agreed to the terms and provisions found in Exhibit B of this agreement; and

WHEREAS, the City and County have reached agreement regarding the boundaries of a referral area (Exhibit A), and the Planning Processes and Procedures to be followed (Exhibit B) to ensure the orderly and logical development of the City; and

WHEREAS, the City updated the General Plan and Local Coastal Plan in 2004, and it is well organized and provides a clear policy base for growth and development within the City and defines policies that the City will implement to ensure the preservation of coastal resources, agricultural land, open space and the character of Morro Bay; and

WHEREAS, the City's updated 2004 General Plan and Local Coastal Plan, which clarifies and combines the existing 1988 General Plan and 1982 Local Coastal Plan, has been submitted to the California Coastal Commission for review and certification; and

WHEREAS, the County's General Plan Elements, Estero and Adelaida Area Plans and Local Coastal Plan contain policies that call for the preservation of coastal resources, agricultural land and open space as well as community separators that maintain a community's distinctive identity and preserve the rural character of the areas between and on the fringes of communities and cities; and

NOW, THEREFORE, be it resolved that the parties agree as follows:

1. The map found in Exhibit A provides for the referral of development projects to the City and County within the Planning Referral Area as shown;
2. The Planning Processes and Procedures contained in Exhibit B provide a framework for the City and County working together to cooperatively review the development proposals within the Planning Referral Area;
3. The Planning Processes and Procedures contained in Exhibit B are intended to provide the City and the County with the methods for developing land use policies and standards for the areas shown in Exhibit A.

4. The City's and County's General Plan and Local Coastal Plan policies shall be used to guide the logical and orderly development of these Areas while preserving the agricultural and open space lands.
5. It is the intent of the City and County to honor this agreement to the fullest extent possible.



Mayor, City Council
City of Morro Bay

APPROVED AS TO FORM AND LEGAL EFFECT:

City Attorney

Dated: _____

ATTEST:

City Clerk

Dated: _____

EXHIBIT A
Planning Referral Area

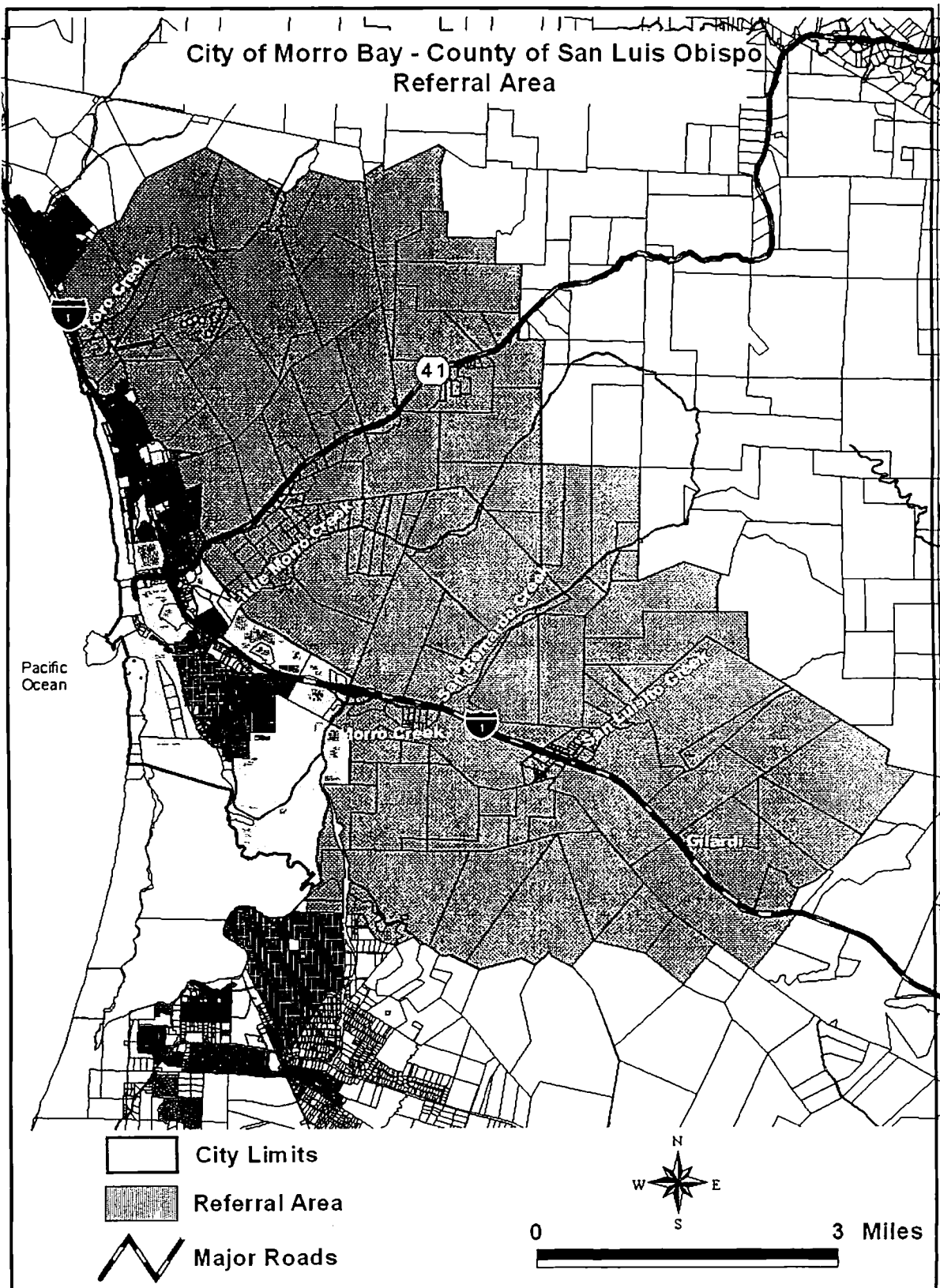


Exhibit B
PLANNING PROCESSES AND PROCEDURES

The following processes and procedures are agreed to and shall be used by the City of Morro Bay and the County of San Luis Obispo to develop land use policies applicable to the Planning Referral Area shown in Exhibit A:

1. **Interagency Cooperation.** The City and the County shall work cooperatively to plan for future land uses and the provision of public services and facilities within the Project Referral Area. Discretionary development projects or activities and General Plan Amendments within the Planning Referral Area found in Exhibit A shall be referred to each jurisdiction for review and comment prior to action on a development proposal. The County shall seek the City's comments regarding these projects in the Planning Referral Area as defined in Exhibit A. The City shall seek the County's comments regarding projects that affect the unincorporated area found in this area. The City shall be notified of any pre-application meeting that may occur regarding a project within the referral area. When a discretionary project application is accepted for processing, it shall be referred to the following contact person(s) for early review and comment:

Division Manager, Long Range Planning
County of San Luis Obispo
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Public Services Director
City of Morro Bay
Department of Public Services
595 Harbor Street
Morro Bay, CA 93442

Projects and activities that effect agricultural lands and resources shall be referred to the County Agricultural Commissioner's office at the following address:

Agricultural Commissioner
San Luis Obispo County Department of Agriculture
2156 Sierra Way, Suite A
San Luis Obispo, CA 93401

2. **Services.** In evaluating any development, the agency considering approval (City or County) should rely on its ability to provide the required services to that development; unless service agreements between the City and County can be arranged prior to approval. The City or County shall not presume that any public services will be provided by the other agency without documenting that such services are available and that the jurisdiction is capable of providing such services. Development/mitigation fees needed to offset the impacts from projects approved by either jurisdiction in the Planning Referral Area (**Exhibit A**) shall be collected and distributed in a fair and equitable manner.
3. **Fire and Law Enforcement Services.** Costs associated with fire and emergency response services shall be given special attention. When necessary, the County and City Planning Staff shall meet with the City's Police and Fire Chief and the

County Sheriff and Fire Department Chief regarding development in the unincorporated areas that would impact the police and fire service levels. The purpose of this meeting is to identify and discuss fiscal and service impacts of development related to police and fire services, and appropriate mitigation measures.

4. **Special Areas of Interest.** The City and County agree to the following processes and procedures for specific areas discussed:

4.1 **Chevron/Texaco Properties** is approximately 3,200 acres of land that is zoned agriculture abutting the northeast area of the City on the east-side of Highway 1. The following planning process is agreed to by the City and County:

- a. Meetings between City and County Staff to discuss the future processing of any General Plan amendments or land use proposals for the properties owned by Chevron/Texaco shall occur at the earliest possible time in the planning process. The purpose of these meetings is to discuss the potential future land uses that may be proposed for this site, to coordinate the review of land use proposals, and to coordinate the policies and standards of the respective General Plans.
- b. From these meetings, the City and County staff shall prepare a joint action plan that identifies the steps for processing any land use development projects, proposals, or activities for the Chevron/Texaco properties. The action plan shall be submitted by City and County Staff to the City Council and Board of Supervisors for consideration and adoption by resolution:
- c. The joint action plan shall discuss, but is not limited to the following issues:
 1. A description of any proposed land use changes or development proposal for the properties;
 2. Modification of the City's Sphere of Influence to include certain parcels that may eventually be served by the City;
 3. Potential Annexation of properties into the City;
 4. Agricultural and Open Space Resources;
 5. Coordination of the review of land development proposals.
 6. Services to be provided by what jurisdiction;
 7. General Plan modifications that may be necessary or required
 8. A schedule for the completion of various steps and tasks
 9. Other issues/topics as needed

4.2 **The Highway 41 Corridor** includes the Rancho Colina Mobile Home Park to the north and adjacent to the Highway, prime agricultural lands to the south, and several large lot rural homes. The area to the south and adjacent to Highway 41 is productive, prime agricultural land that shall be preserved. The Rancho Colina Mobile Home Park may need an outside user agreement to provide sewer services that would alleviate a potential threat to public health. Several individual

residences on large parcels exist in this area along Highway 41 and to the south on Little Morro Creek Road.

- a. **Rancho Colina Mobile Home Park.** If the City and property owner agree to an outside user agreement that limits the extension of services to only the existing Rancho Colina Mobile Home Park based on the potential public health threat identified by the Regional Water Quality Control Board. An outside use agreement instead of annexation to the City would discourage development of parcels in-between the City and the mobile home park, thus limiting urban sprawl and a leapfrog development pattern in the area. LAFCO would give strong preference to an outside user agreement. If the mobile home park is to be annexed to the City, a separate parcel for only the mobile home park should be created prior to annexation, unless a development plan for the balance of the parcel is being considered by the City.
 - b. **Private Residences-Highway 41/Little Morro Creek Road.** These residences on large rural lots are currently served by private water wells and on-site septic systems. Should the provision of services by the City become necessary, any water and sewer services should be sized to a capacity to serve only the existing lots unless other development plans under current zoning necessitate increased level of services from the City. To receive City services, these residences would require an amendment to the Sphere of Influence and annexation into the City for services. Alternatively, a public health and safety threat would need to be documented and an outside user agreement may be considered depending on the circumstances.
- 4.3 **Public Facilities.** The City owns, operates and constructs water tanks, water treatment facilities, wastewater treatment plants, and recreational facilities that serve City residents. These facilities are (or may be) sited on separate parcels or where a public lot is created to annex such a facility. The City owns or leases several parcels with public facilities to serve residents. The public lot process creates a lot that is sized to accommodate the particular facility located on the site and must be owned by the City. This process involves approval by the County. The following process would allow for an approved public lot that is to be used for a public facility to be included in the Sphere of Influence once the lot is created:
- a. Upon the City filing an application for a public lot to accommodate a facility that would provide services to the City, the County will expeditiously review and submit for approval the application to the Subdivision Review Board.
 - b. If the project description includes only the creation of a public lot and the details of the facility are still unknown, the County shall complete the CEQA review based on the creation of the public lot. The City shall complete the CEQA process for the detailed project description and rezoning of the area for annexation when the scope and details of the project are known. Key potential environmental impacts such as visual, cultural, and grading shall be addressed through the CEQA process by the City.

- c. A lot owned by the City, or an approved public lot created for the purpose of siting or replacing a public facility associated with the City's water and sewer services, shall be considered part of the Sphere of Influence. The City shall submit documentation to LAFCO that indicates a public lot has been created and title to the lot has transferred to the City (or the City owns the lot) for the purposes stated above and requesting that said lot be included in the Sphere of Influence. Public Lots that are currently owned by the City and used for municipal purposes may be annexed to the City pursuant to Government Code Section 56742. The following lots are included:

City of Morro Bay - Property Inventory

APN	Owner	Location	Street	Acreage	Use
73-075-001	City	Outside City	Blanca St.	.29 ac	Blanca Tank Site
73-133-009	City	Outside City	Quintana Rd.	.08 ac	Vacant
73-133-010	City	Outside City	St. Park Area	.08 ac	Well M-1 Site
73-131-009	City	Outside City	Chorro Ck Rd.	.37 ac	Wells 9 & 10 Site
73-131-010	City	Outside City	Chorro Ck Rd.	4.99 ac	Wells 12 & 16 Site
73-131-017	City	Outside City	Chorro Ck Rd.	1.1 ac	Well 10A Site
73-132-002	City	Outside City	Chorro Ck Rd.	.38 ac	Well 9A Site (agreement)
73-182-013	City	Outside City	Canet Rd.	.36 ac	Well 11A Site

- d. Parcels that are contiguous to City Limits, not owned by the City, and are used for public facilities, may be annexed pursuant to LAFCO policies and procedures.

4.4 The State Parks Marina and adjacent area (Exhibit C) requires regular dredging to maintain the navigation channels used by vessels to exit and enter the Marina. The City is making major improvements to the marina. To improve boater access to the newly renovated Morro Bay State Park Marina, the City proposes to deepen a portion of the entrance channel immediately west of the Marina. The deepening (to a depth of -12 ft MLLW) would be accomplished by dredging and will be a continuation of the dredging that is to occur within the Marina itself. Dredge spoils would be moved to a location that has yet to be identified. To facilitate the dredged area tie-in to the existing -12 ft isobath within the north-south channel northwest of the Marina, the proposed channel deepening extends west of the City Limit line and into County property by approximately 222 ft. The area under County jurisdiction is approximately 11,100 square feet. The marina improvement project involves approvals from the California Coastal Commission, the Army Corps of Engineers, the California State Lands Commission, California Department of Fish and Game, U.S Fish and Wildlife Service and other agencies.

- a. The City is the lead agency regarding the permitting of the marina improvement and dredging project. The County is a responsible agency and intends to help the City complete the project including mitigations as expeditiously as possible by waiving the need for County permits (such as Coastal Development Permits, Grading, etc.) regarding the dredging part of the project to the extent that such waivers are determined to be allowed by State Law and County Ordinances. The

County may not be able to waive permits for the deposition of dredge spoils on unincorporated properties.

- b. The City has initiated the preparation of Environmental Impact Report and Environmental Assessment to address potential environmental impacts associated with the proposed Marina dredging, disposal of dredge spoils and improvements. In addition, the City has conducted pre-application meetings with key regulatory agencies involved in the ultimate permitting of the project.
- c. The CEQA/NEPA documentation and approval process will address the project as a whole including the proposed dredging and deposition of dredge spoils within the County property. In addition, project related permit applications will include activities associated with the entirety of the project and be issued by the City of Morro Bay.
- d. It is the City's intent to address and incorporate the County's environmental and regulatory requirements, including analysis of consistency of the project with the County's Local Coastal Plan, within the overall project approval process. This shall ultimately be confirmed through the Coastal Commission review of the permits and documentation prepared by the City.
- e. The County shall provide any guidance regarding the issues and permitting requirements it would have the City address as it proceeds with the environmental review and permitting of the proposed project. The County shall not impose further permitting requirements unless prevented from doing so by County ordinance or State law.

5. General Plan Coordination. The County shall give great weight to the City's General Plan/Local Coastal Plan policies when reviewing development proposals in the City's Planning Referral Area. The City shall give great weight to the County's General Plan/Local Coastal Plan policies when reviewing development proposals in the Planning Referral Area.

- 6. **Agriculture and Open Space.** The City and the County shall work together to preserve the agricultural and open space resources using the City's Conservation and Open Space Element and the County's Agriculture and Open Space Policies. The criteria contained in the County's Agriculture and Open Space Element and the pertinent policies in the City's General Plan/Local Coastal Plan, shall be addressed in the preparation of any land use entitlements and Environmental Documentation.
- 7. **Smart Growth Principles.** Development projects proposed should be consistent with Smart Growth Principals. These principals are evident in both the City's and County's General Plans/Local Coastal Plans and adopted policies and should be thoughtfully applied to new development in the Planning Referral Area (Exhibit A). The goals associated with Smart Growth from the City's General Plan/Local Coastal Plan include:

CITY OF MORRO BAY - KEY SMART GROWTH PRINCIPLES

Goal #1 Resources that are managed for the future.

Goal #2 Agricultural buffer around the community

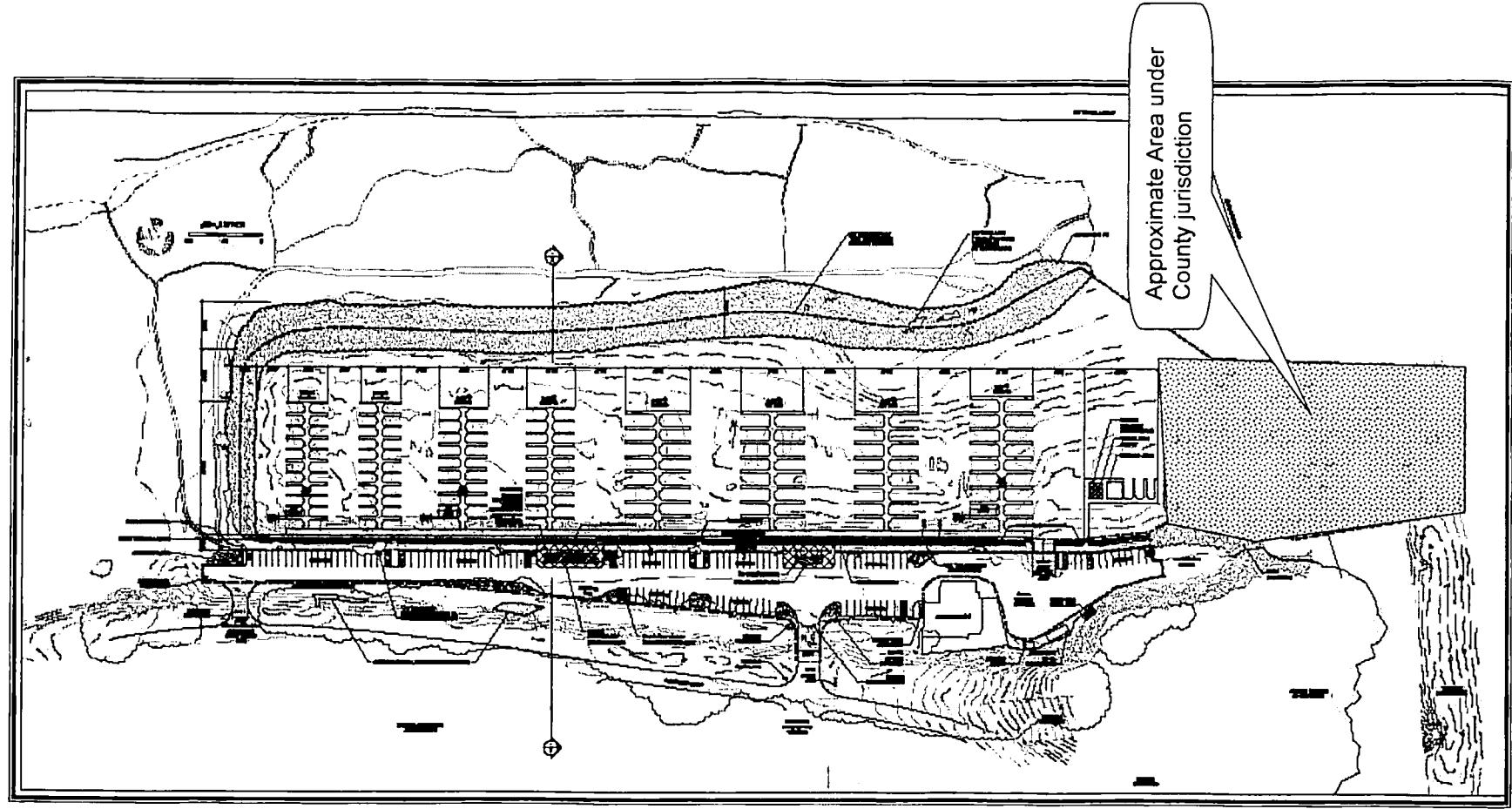
- Goal #6** A diversified economic base that provides shopping, services, clean industry, and employment opportunities for the community.
- Goal #8** Productive use of existing commercial buildings.
- Goal #9** Compatible mixed uses in specified appropriate areas.
- Goal #15** A pedestrian-friendly community.
- Goal #16** A connected pedestrian circulation system.
- Goal #19** An interconnected system of streets that avoids concentration of traffic on a few routes.
- Goal #23** A reduction in automobile use supported and promoted by safe and reliable alternatives such as walking, bicycling, car pools, and public transportation,
- Goal #34** A stable, long term boundary between the City and surrounding County with extensive open lands separating the City from other urban development.
- Goal #35** Preserve agricultural uses in and adjacent to the City without conflict between agricultural and urban uses.

COUNTY OF SAN LUIS OBISPO-GUIDING PRINCIPLES FOR SMART GROWTH

The County Board of Supervisors endorsed the following Smart Growth principles:

1. Strengthen Regional Cooperation
2. Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas
3. Strengthen and Direct Development Towards Existing Communities
4. Foster Distinctive, Attractive Communities with a Strong Sense of Place
5. Provide a Variety of Transportation and Land Use Choices
6. Create a Range of Housing Opportunities and Choices
7. Encourage Mixed Land Uses
8. Create Walkable Neighborhoods and Towns
9. Take Advantage of Compact Building Design
10. Make Development Decisions Predictable Fair and Cost Effective
11. Encourage Community and Stakeholder Collaboration

Exhibit C
Marina Dredging Area



BOARD OF SUPERVISORS' AGENDA FOR SEPTEMBER 25, 2007

PAGE 3

- B-5 Submittal of a resolution recognizing the San Luis Obispo Council 1271 of the Knights of Columbus on their 100th anniversary. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

General Services Items:

- B-6 Request to: 1) amend the fixed asset List for Fund Center 113 - General Services to add a new commercial range and oven for the San Luis Obispo Veterans Memorial Building; and 2) approve a corresponding budget adjustment in the amount of \$13,143 from Countywide Community Buildings Renovation project (WBS 350010). (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- B-7 Request to approve creation of the Cayucos – Hardie Park – Repair Playground Equipment Project (WBS 350065) destroyed by fire in July 2007 and a corresponding budget adjustment in the amount of \$125,000. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- B-8 Request that the review of Outstanding Trail Offers be continued to allow for public, Trails Committee, and Parks and Recreation Commission input. (RECOMMEND ITEM BE CONTINUED TO NOVEMBER B, 2007.)

Health Agency Items:

- B-9 Request to approve an agreement with Transitions-Mental Health Association to purchase real property for the delivery of services under the Mental Health Services Act and a corresponding budget adjustment in the amount of \$151,266 from unanticipated revenue. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- B-10 Request to approve renewal contracts (Clerk's File) for Fiscal Year 2007-08 with Crestwood Behavioral Health, Inc., Country Villa Merced Behavioral Center, LLC, Sylmar Health and Rehabilitation, Inc. and 7th Avenue Center, LLC to provide Mental Health Rehabilitation/Institution for Mental Disease (IMD) services. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

Planning and Building Items:

- B-11 Submittal of a resolution approving the Open Space Agreement for Minor Use Permit (DRC2003-00095) with Karen Wikler; 2nd District. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- B-12 Submittal of a resolution approving an Avigation Easement from the Caritas Corporation, a California Non-Profit Mutual Benefit Corporation, for the Oceano County Airport; 4th District. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- B-13 Submittal of a resolution approving a Supplemental Regulatory Agreement and Declaration of Restrictive Covenants with the Caritas Corporation for Conditional Use Permit (DRC2003-00068); 4th District. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)
- ~~B-14~~ Request to approve the proposed Memorandum of Agreement for the Sphere of Influence Update for the City of Morro Bay; 2nd District. (RECOMMEND APPROVAL AND INSTRUCT CHAIRPERSON TO SIGN.)

LAFCO Actions, City of Morro Bay 1963-2016

Date	Action	LAFCO File No	Proposal	Acres
03/03/06	SOI/MSR	1-S-06	SOI Update & MSR for the City of Morro Bay Approved 10/07	N/A
09/87	Annexation	2-R-87	Anx #4 - Gist	7,800 sf
03/18/82	Dissolution	3-R-82	Dissolve CSA #15 MB - Cayucos Ambulance	
09/13/78	Annexation	18-R-78	Anx #3 - Del Mar Park	10+
03/01/77	Annexation	4-R-77	Anx #2 to MB - Denied 06/16/77	43.2
06/72	Annexation	11-R-72	Anx #2 to MB - Incomplete	
05/10/65	Annexation	File #21	Anx to MB - Hwy 1 & freeway convergence	Unkn



LAFCO - San Luis Obispo - Local Agency Formation Commission

SLO LAFCO - Serving the Area of San Luis Obispo County

COMMISSIONERS

Chairman
MARSHALL OCHYLSKI
Special District Member

Vice-Chairman
ED WAAGE
City Member

DEBBIE ARNOLD
County Member

LYNN COMPTON
County Member

ROBERT ENNS
Special District Member

ROBERTA FONZI
City Member

TOM MURRAY
Public Member

ALTERNATES

ED EBY
Special District Member

JAMIE L. IRONS
City Member

HEATHER JENSEN
Public Member

ADAM HILL
County Member

STAFF

DAVID CHURCH
Executive Officer

RAYMOND A. BIERING
Legal Counsel

MIKE PRATER
Senior Analyst

DONNA J. BLOYD
Commission Clerk

TO: MEMBERS, FORMATION COMMISSION

FROM: DAVID CHURCH, EXECUTIVE OFFICER

DATE: AUGUST 17, 2017

SUBJECT: CONTINUED FROM JUNE 15; APPROVAL OF SPHERE OF INFLUENCE UPDATE/ MUNICIPAL SERVICE REVIEW AND ENVIRONMENTAL DETERMINATION FOR THE CITY OF MORRO BAY

Recommendation: It is respectfully recommended that LAFCO take the following actions to update the Sphere of Influence for the City of Morro Bay:

1. Certify the Notice of Exemption found in Attachment A as complete and adequate.
2. Approve by resolution the Sphere of Influence Update and Municipal Service Review with the proposed changes found in Attachment C. The resolution shall incorporate by reference the written determinations related to the factors addressed in the Municipal Service Review and conditions of approval.

Summary. At the June 15, 2017 Commission meeting the Commission continued this matter until revisions could be made that clarifies the MSR and addresses the concerns raised. Below is the list of concerns raised at the June meeting: 1) The location of the northern SOI boundary encompassing the beach and the northern finger of the City limit line as they relate to the community of Cayucos, 2) Water and supply demand estimates at buildout, 3) Tri-W: study site regarding intent and size for future public facilities, 4) Agriculture and urban impacts related to WWTP and, 5) Conditional approval for site selected by the City for WWTP. As a reminder the City of Morro Bay's last update to its Sphere of Influence (SOI) was completed in 2007.

A Sphere of Influence Update and Municipal Service Review have been prepared for the City of Morro Bay in accordance with the Cortese-Knox-Hertzberg Act. The Sphere Update contained in Chapter Two of the document proposes that Morro Bay's Sphere of Influence remain the same and only retain the existing SOI areas. The conditional approval has been recommended to be deleted. The City would have an opportunity to amend the SOI in the future.

Attachments

**A: Resolution Approving
SOI/MSR Update for the City
of Morro Bay**

**B: City of Morro Bay Public
Review Draft LAFCO Website:
www.slolafo.com**

**Under SOI Service Review
Page**

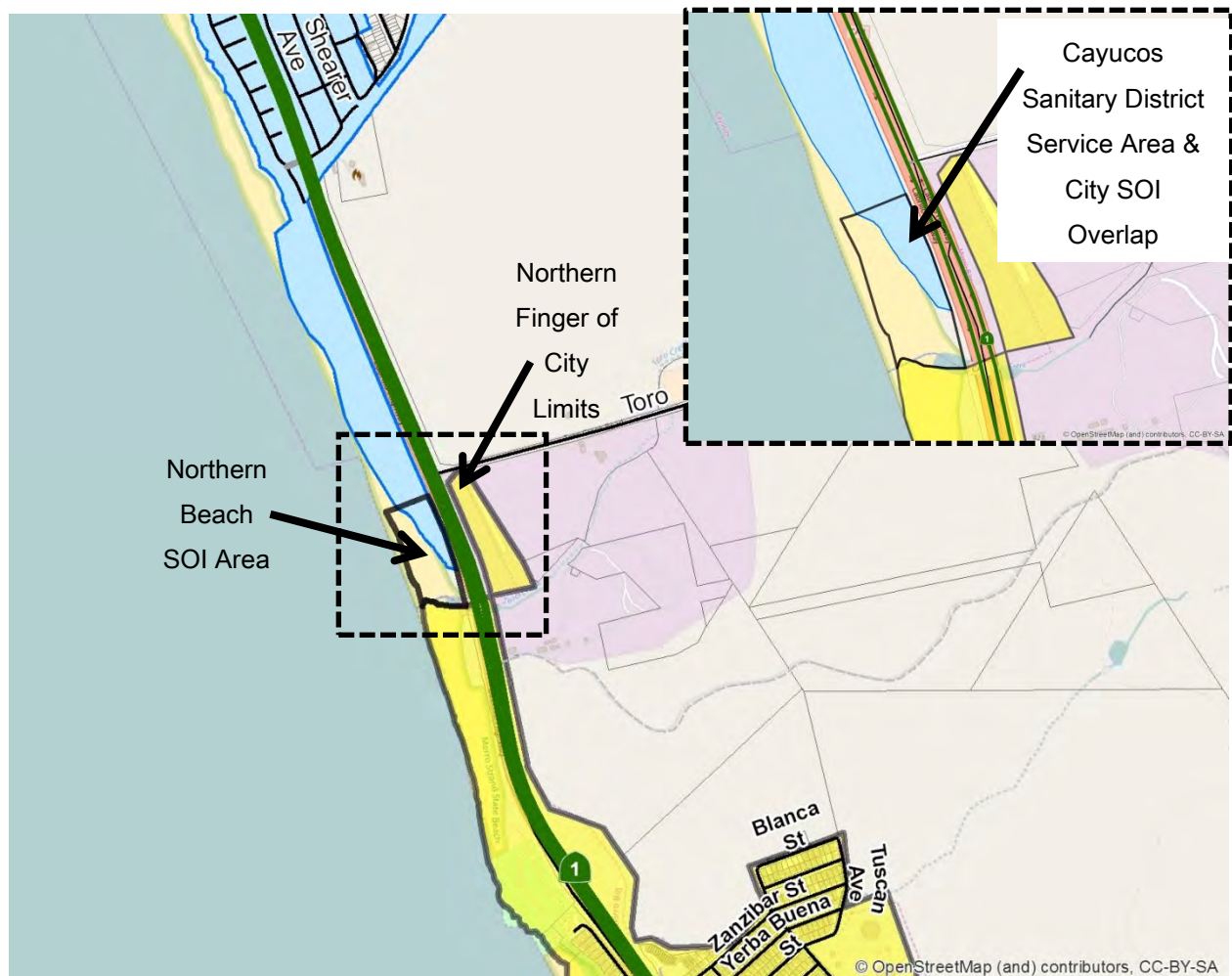
C: Proposed Changes

LOCAL AGENCY FORMATION COMMISSION
City of Morro Bay Sphere Update

August 17, 2017
Page 2

Concerns Addressed. 1) The location of the northern SOI boundary encompassing the beach and the northern finger of the City Limit line as they relate to the community of Cayucos. The northern finger of the City Limits runs just south of Toro Creek Road along Hwy 1 that includes the most westerly parcel of Chevron's property. This parcel is separated by the Caltrans right-of-way creating a gap from the remaining City limits, which only touches at a single point. This area was part of the original city incorporation in 1964.

The northern beach SOI for the City was established in 2007. This area overlaps with the Cayucos Sanitary District service area. The area was added at the City's request to potentially facilitate a future dog park. The area is currently used as an unofficial off leash dog beach.



2) Water and supply demand estimates at buildout. The MSR incorrectly stated water demand at buildout for the City is 3,105 afy. The correct estimate should be taken from the City's Urban Water Management Plan, updated in 2015, which states the water buildout demand would be 1,452 afy. The total safe yield of the City's water supply is estimated at 3,105 afy. This has been revised in the table of changes.

3) Tri-W study site regarding intent and size for future public facilities. The size and intent of any future public facility site is unknown at this time. Currently the City is considering an

LOCAL AGENCY FORMATION COMMISSION
City of Morro Bay Sphere Update

August 17, 2017
Page 3

approximate 30-acre area to locate a new wastewater treatment plant and other ancillary uses. The WWTP generally would require about 8 to 10 acres. Because the site and all uses have not been identified yet staff is recommending removal of the site selection conditional approval from the SOI. Also see below under concern #5.

4) Agriculture and urban impacts related to WWTP. The impact related to agriculture and surrounding urban uses will be studied under the WWTP EIR being prepared by the City. LAFCO would likely be a Responsible Agency and use the EIR in making a future decision regarding SOI amendments and annexation at that time.

5) Conditional approval for site selected by the City for WWTP. Staff is recommending deleting this condition, since the site has not been selected and a full environmental impact analysis has not been completed. The condition to reconsider the SOI/MSR after the City has completed its General Plan update and One Water Plan will allow the City's SOI to be adjusted if necessary. Also the City could request that LAFCO adopt an SOI and annexation concurrently for the selected WWTP site once the EIR is certified.

Conditions of Approval

The following conditions of approval are adopted based on this updated Sphere of Influence Update, Municipal Service Review, draft Memorandum of Agreement, the environmental review, and public input. These reflect the current situation for services and protection of agricultural and open space lands.

WATER

- a. As a condition of an annexation application being filed with LAFCO, the City shall document with a water supply analysis that an adequate, reliable, and sustainable water supply is available and deliverable to serve the areas proposed for annexation.

Rationale. This condition requires that a reliable, adequate, and sustainable water supply be documented prior to the annexation being considered by LAFCO.

WASTEWATER

- a) As part of an annexation application the City shall document the progress of the currently-planned upgrade to the wastewater treatment plant in compliance with a NPDES permit.

Rationale. The City's existing wastewater treatment facility has a rated capacity of 1.5 million gallons per day of wastewater. The City is in the process of planning for an upgrade and relocation of a new plant which will also have the capacity up to 1.5 mgd. The City will need to document compliance with its NPDES permit.

LOCAL AGENCY FORMATION COMMISSION
City of Morro Bay Sphere Update

August 17, 2017
Page 4

AGRICULTURE & OPEN SPACE

- a. The City shall identify all agricultural and open space lands to be protected in the annexation areas when pre-zoning or preparing land use entitlements for an area.
- b. Prior to LAFCO filing the certificate of completion (if an annexation is approved), conservation easement(s) or other appropriate mitigation measures as listed in LAFCO's Agricultural Policy 12, shall be recorded on the deed(s) of the properties affected by the annexation specifying the areas to be protected in perpetuity.

Rationale. A number of potential large areas of agriculture and open space lands are described in the Study Areas and draft MOA that would likely be subject to LAFCO Policies as part of any future proposal. The preservation of those areas in perpetuity is a key policy discussion in any future annexation. Conservation easements are a mechanism that, if executed properly, can permanently protect land proposed for preservation. Once the City has identified an area to be preserved that area should have a Conservation Easement in place before the annexation is complete. This is consistent with LAFCO's past practice for other annexations.

RECONSIDERING THE SOI/MSR

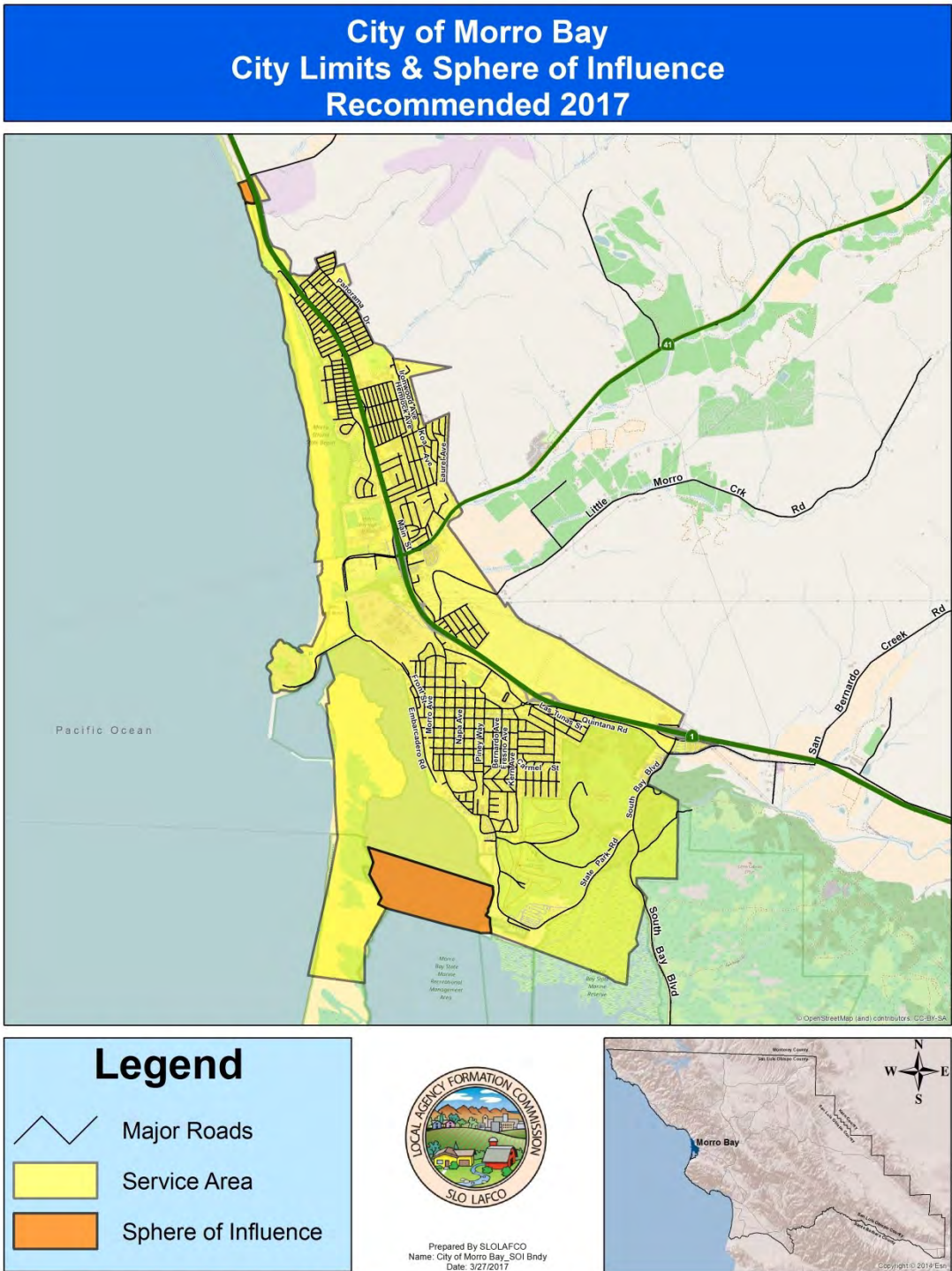
- a. LAFCO would revisit the SOI when the City completes the General Plan/Local Coastal Plan (GP/LCP) and One Water Plan update.

Rationale. This condition reflects the City's efforts to update its General Plan and Local Coastal Plan (GP/LCP) and the One Water Plan that are underway. These documents would provide important information that could be included in a future MOA and MSR. The City indicates that these documents will provide relevant information that can be used to update its SOI/MSR. LAFCO staff agrees with this approach.

Recommended Sphere of Influence

The recommended Sphere of Influence map is found on the next page. It includes the existing Sphere of Influence areas.

Recommended Sphere of Influence



Environmental Determination

LAFCO is the Lead Agency for the proposed Sphere of Influence Update and Service Review. As Lead Agency, LAFCO is responsible for complying with the California Environmental Quality Act (CEQA). In this case, it has been determined with certainty that there is no possibility that the project may have a significant environmental effect on the environment and therefore it is found to be exempt from CEQA pursuant to section 15061(b)(3) of the State Guidelines.

A Sphere of Influence is a plan for probable, physical boundary and service areas of a local agency or jurisdiction. As such, it does not give property inside the Sphere boundary any more development rights than what already exist. The Sphere of Influence boundary is a long-range planning tool that assists LAFCO in making decisions about a jurisdiction's future boundary. The Sphere indicates areas that might be served by the City. It is unknown if an area will ever be annexed to the City. Also, it is often uncertain what type of precise land use is going to be proposed for a specific area. In the case of Morro Bay's Sphere of Influence Update, the boundary will change minimally and the setting has not changed significantly with regard to the SOI.

The study of impacts associated with the Sphere of Influence is often speculative since it is unclear what type of project might be proposed or if an area will even be annexed in the future. The City or County studies impacts comprehensively when a project-specific environmental review is completed. The City is currently evaluating and preparing an Environmental Impact Report for a new wastewater treatment plant/reclamation facility in the study areas.

Comments-Changes: Attachment C

Comments were submitted regarding the SOI update. Changes have been made related to the Commissions discussion on June 15, 2017. Staff has recommended changes found in Attachment C of this staff report that summarizes the changes proposed to the SOI/MSR Update.

Attachment A
Resolution Approving
SOI/MSR Update for the
City of Morro Bay

IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, August 17, 2017

Present:

Absent:

RESOLUTION NO. 2017-XX

**RESOLUTION APPROVING THE MUNICIPAL SERVICE REVIEW, AND ADOPTING THE
SPHERE OF INFLUENCE UPDATE FOR THE CITY OF MORRO BAY**

The following resolution is now offered and read:

WHEREAS, pursuant to Government Code Section 56425 et. seq. and the Commission's duly adopted Policies for Spheres of Influence, the Commission hereby updates the Sphere of Influence (Exhibit A), for the City of Morro Bay; and

WHEREAS, the Executive Officer has given the notices required by law and forwarded copies of his report to officers, persons and public agencies prescribed by law; and

WHEREAS, the public hearing for this matter was conducted at 9:00 a.m. on June 15, 2017 and continued to August 17, 2017; and

WHEREAS, at said hearings, this Commission heard and received all oral and written protests, objections, and evidence which were made, presented or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said Sphere of Influence Update and Municipal Service Review for the City of Morro Bay; and

WHEREAS, the Notice of Exemption, is adequate as the documentation to comply with the California Environmental Quality Act (CEQA) for this Sphere of Influence Update and Municipal Service Review for the City of Morro Bay; and

WHEREAS, the Commission has considered all factors required to be considered by Government Code Section 56425 (e) and adopts the determinations set forth in the Public Review Draft with recommended changes of the Sphere of Influence Update and Municipal Service Review with said determinations being incorporated by reference herein as though set forth in full; and

WHEREAS, the Commission duly considered the Sphere of Influence Update and Municipal Service Review for the City of Morro Bay, as described in the June 15, 2017 and August 17, 2017 Staff Reports with recommended changes and pursuant to the conditions of approval found in Exhibit B of this resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Notice of Exemption prepared for this proposal is complete and adequate, having been prepared in accordance with the provisions of the California Environmental Quality Act and is hereby determined to be sufficient for the Commission's actions and is incorporated by reference.
3. That the Executive Officer of this Commission is authorized and directed to mail copies of this resolution in the manner provided by law.
4. That the Municipal Service Review for the City of Morro Bay is approved with written determinations addressing the seven factors stated in the Cortese-Knox-Hertzberg Act of 2000 and are hereby incorporated by reference.
5. That the Sphere of Influence Update for the City of Morro Bay is adopted pursuant to the map in Exhibit A of this Resolution and those areas are subject to the requirements of the Cortese-Knox-Hertzberg Act.

Upon a motion of Commissioner _____seconded by Commissioner _____,
and on the following roll call vote:

AYES:

NAYS:

ABSTAIN:

The foregoing resolution is hereby adopted.

Ed Waage, Vice-Chair	Date
Local Agency Formation Commission	

ATTEST:

David Church
LAFCO Executive Officer

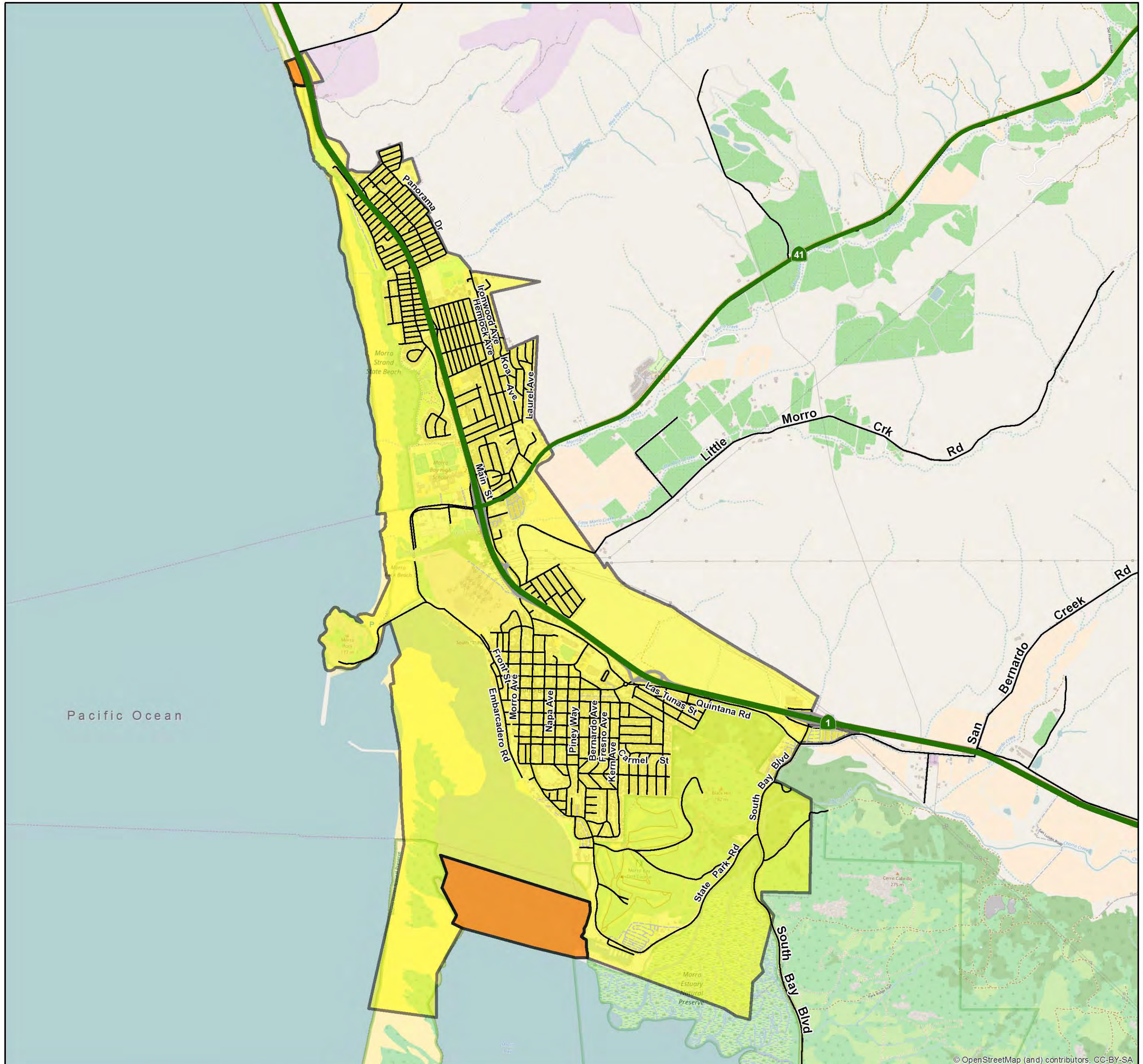
Date _____

APPROVED AS TO FORM AND LEGAL EFFECT:

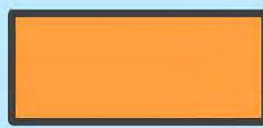
Raymond A. Biering
LAFCO Legal Counsel

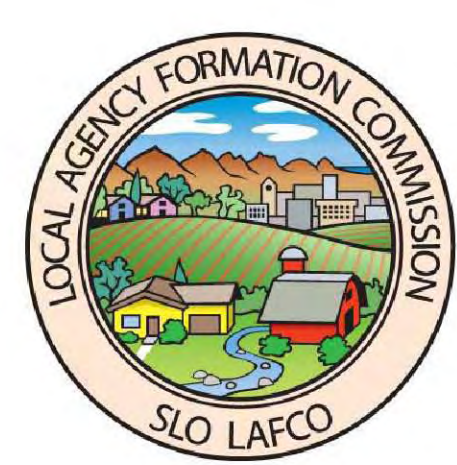
Date

City of Morro Bay City Limits & Sphere of Influence Recommended 2017



Legend

-  Major Roads
-  Service Area
-  Sphere of Influence



Prepared By SLOLAFCO
Name: City of Morro Bay_SOI Bndy
Date: 12/5/2016

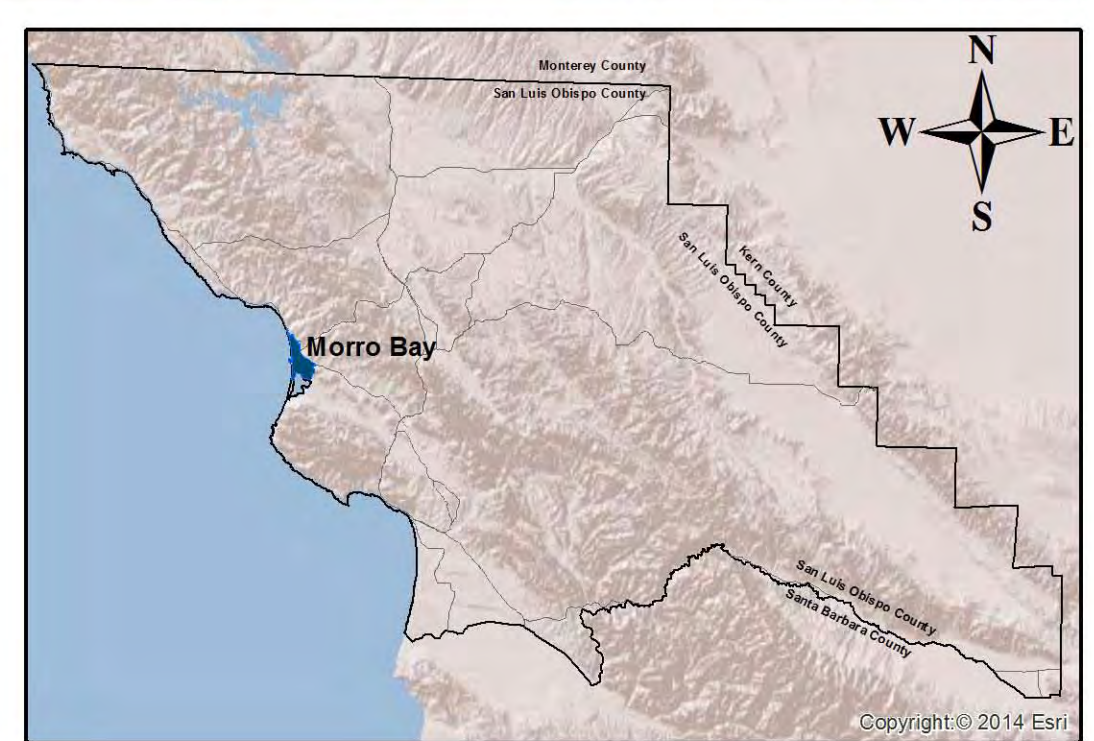


Exhibit B

City of Morro Bay SOI 2017

Conditions of Approval

The following conditions of approval are adopted based on this updated Sphere of Influence Update, Municipal Service Review, draft Memorandum of Agreement, the environmental review, and public input. These reflect the current situation for services and protection of agricultural and open space lands.

WATER

- a. As a condition of an annexation application being filed with LAFCO, the City shall document with a water supply analysis that an adequate, reliable, and sustainable water supply is available and deliverable to serve the areas proposed for annexation.

WASTEWATER

- a) As part of an annexation application, the City shall document the progress of the currently-planned upgrade to the wastewater treatment plant in compliance with a NPDES permit.

AGRICULTURE & OPEN SPACE

- a. The City shall identify all agricultural and open space lands to be protected in the annexation areas when pre-zoning or preparing land use entitlements for an area.
- b. Prior to LAFCO filing the certificate of completion (if an annexation is approved), conservation easement(s) or other appropriate mitigation measures as listed in LAFCO's Agricultural Policy 12, shall be recorded on the deed(s) of the properties affected by the annexation specifying the areas to be protected in perpetuity.

RECONSIDERING THE SOI/MSR

- a. LAFCO would revisit the SOI when the City completes the General Plan/Local Coastal Plan (GP/LCP) and One Water Plan update.

NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: San Luis Obispo LAFCO
1042 Pacific Street
San Luis Obispo, CA 93401

Tommy Gong, County Clerk
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93401

CONTACT: David Church, Executive Officer
(805) 781-5795

PROJECT TITLE: CITY OF MORRO BAY SPHERE OF INFLUENCE UPDATE AND MUNICIPAL SERVICE REVIEW

Project Location and Description. The City of Morro Bay's Sphere of Influence is not recommended to change from the existing adopted Sphere Boundary. The City's existing Sphere of Influence is approximately 100+/- acres beyond the City limits. The Sphere of Influence is a 20-year planning boundary that indicates what areas might be annexed and served by the jurisdiction in the future. These areas are recommended to remain in the SOI in part because the City envisions future growth based on its General Plan. The City is in process of preparing General Plan Update and Environmental Impact Reports for wastewater facility to be located in the study areas.

Public Agency Approving Project. The Local Agency Formation Commission (LAFCO) of San Luis Obispo County will be conducted a public hearing on this item in August 17, 2017 at 9:00 a.m. in the Board of Supervisors Chambers in San Luis Obispo at the County Government Center.

Environmental Determination. The purpose of the environmental review process is to provide information about the environmental effects of the actions and decisions made by LAFCO and to comply with the California Environmental Quality Act (CEQA). In this case, it has been determined with certainty that there is no possibility that the project may have a significant environmental effect on the environment and therefore it is found to be exempt from CEQA pursuant to section 15061(b)(3) of the State Guidelines. The Local Agency Formation Commission will file this Notice of Exemption upon approval of the Sphere of Influence Update.

Reasons for Exemption. A Sphere of Influence is a plan for probable, physical boundary and service areas of a local agency or jurisdiction. As such, it does not give property inside the Sphere boundary any more development rights than what already exist. The Sphere of Influence Boundary is a long-range planning tool that assists LAFCO in making decisions about a jurisdiction's future boundary. The Sphere indicates areas that might be served by the City. It is unknown if an area will ever be annexed to the City. Also, it is often uncertain what type of precise land use is going to be proposed for a specific area. In the case of Morro Bay's Sphere of Influence Update, the boundary will not change nor has the setting changed significantly with regard to the SOI.

The study of impacts associated with the Sphere of Influence is often speculative since it is unclear what type of project might be proposed or if an area will even be annexed in the future. The City or County studies impacts comprehensively when a project-specific environmental review is completed. The City is currently evaluating and preparing an Environmental Impact Report for a wastewater facility in the study areas.

David Church, Executive Officer

Date

Attachment B

Public Review Draft

Sphere of Influence and Municipal Service Review update
for the City of Morro Bay

Found on LAFCOs website at

www.slolafco.com/sphere-of-influence-service-reviews.html

under the SOI Service Review page

Attachment C

Proposed Changes

ATTACHMENT C

PROPOSED CHANGES TO DOCUMENTS

SPHERE OF INFLUENCE UPDATE

MUNICIPAL SERVICE REVIEW

#	Page #	Commenter	Proposed Change
1	Cover Page	LAFCO	Update Commission Members
2	TOC	LAFCO	Chapter 3 fix error to read City of Morro Bay
3	1-11	LAFCO	Deleted reference to adding the selected WWTP site upon certification of the EIR.
4	2-15	LAFCO	Added a condition to revisit the SOI/MSR upon completion of the GP/LCP and One Water Plan update. Delete Wastewater Condition language.
5	2-15	LAFCO	Revised factor 56425(e)(1) regarding Present and Planned Land Uses.
6	2-16	LAFCO	Revised factor 56425(e)(2) regarding Present and Probable need for Public Facilities and Services. Revised projected buildout water demand from 3,105 afy to 1,452 afy. (3,105 afy is the total safe yield water supply not buildout)
7	2-16	LAFCO	Added factor 56425(e)(3) regarding Present Capacity of Public Facilities and Adequacy of Public Services.
8	2-18	LAFCO	Added intent and expectations for Tri-W property or any other selected site to be added to the SOI in the future.
9	3-11 to 3-20 and 3-23	MB Staff	Revise statements regarding the City's General Plan and policies to reflect the current studies taking place to be updated and address when the GP/LCP is completed. This effectively will result in deleted all references to the GP/LCP and state these will be updated when completed by the City process.
10	3-25	LAFCO	Fix typo in first paragraph fourth sentence. To read "updating" not update
11	3-27	MB Staff	Revise statements regarding the City's One Water Plan to reflect these updates will take place to update the MSR when completed. This effectively will result in revising references to the City's water picture and state these will be updated when completed by the City process.
12	Reference page	LAFCO	Delete reference to Morro Bay General Plan, 2004

SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION

Commissioners

Chairman: ~~Marshall Ochylski, Special District Member~~~~TBD~~

Vice Chairman: ~~Ed Waage, City Member~~ ~~Marshall Ochylski,~~
~~Special District Member~~

~~TBD~~~~Debbie Arnold~~, County Member

Roberta Fonzi, City Member

~~Bruce Gibson~~~~Lynn Compton~~, County Member

Robert Enns, Special District Member

~~Ed Waage, City Member~~

Tom Murray, Public Member

Alternates

Ed Eby, Special District Member

Heather Jensen, Public Member

Jamie Irons, City Member

Adam Hill, County Member

Staff

David Church, AICP, Executive Officer

Raymond A. Biering, Legal Counsel

Mike Prater, LAFCO Sr. Analyst

Donna J. Bloyd, Commission Clerk

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coordination and cost sharing should be addressed to ensure these services are efficiently being handled.

RECOMMENDATION

Based upon the information contained in Chapters 2 and 3 of this document, and the environmental determination, it is recommended that the Morro Bay Sphere of Influence remain unchanged and be re-adopted by LAFCO which includes the public lots owned by the city and public lots that may be created in the future pursuant to the memorandum of agreement. ~~The site selected by the City for the wastewater facility shall be included in the Sphere of Influence upon certification of the Environmental Impact Report.~~ Chapter 2, Sphere of Influence Update, provides more detailed information regarding the basis for this recommendation.

CHAPTER 2 SPHERE OF INFLUENCE UPDATE

The Sphere of Influence Chapter describes the requirements of the Cortese-Knox-Hertzberg Act and provides background regarding the existing SOI for the City. It also identifies the Study Areas that were evaluated in determining the SOI's, the City-County agreement for Morro Bay, and the LAFCO staff recommendation. The MOA for the City of Morro bay can be found in Appendix B as well as summarized in this chapter. Also covered are the factors that are required by CKH for establishing a SOI. The Staff Recommendation is to maintain the existing SOI for City of Morro Bay.

WASTEWATER

- a) ~~As part of an annexation Prior to LAFCO filing the certificate of completion the application, the~~ City shall document the progress of the currently-planned upgrade to the wastewater treatment plant in compliance with a NPDES permit.

AGRICULTURE & OPEN SPACE

- a. The City shall identify all agricultural and open space lands to be protected in the annexation areas when rezoning or preparing land use entitlements for an area.
- b. Prior to LAFCO filing the certificate of completion (if an annexation is approved), conservation easement(s) or other appropriate mitigation measures as listed in LAFCO's Agricultural Policy 12, shall be recorded on the deed(s) of the properties affected by the annexation specifying the areas to be protected in perpetuity.

~~**CITY SELECTION OF WASTEWATER SITE**~~

- ~~a. The site selected by the City for the wastewater facility shall be included in the Sphere of Influence upon certification of the Environmental Impact Report.~~

~~**RECONSIDERING THE SOI/MSR**~~

- ~~a. LAFCO would revisit the SOI upon completion of the GP/LCP and One Water Plan update.~~

PRESENT AND PLANNED LAND USE

The land use zoning within the proposed Study Areas of the Sphere of Influence is Agriculture and Recreation. ~~The two existing SOI areas are the beach area to the north and the Back Bay area to the south. Neither area is proposed for future development. The planned use for these areas might include public facilities, residential, and open space. The recommend SOI area would promote the efficient provision of public services to a smaller more realistic area, focus development towards the existing urban area, encourage the preservation of open space and agricultural land and would further discourage urban sprawl.~~ The City's General Plan policies are being updated to manage the growth and development within these areas~~enable the City to effectively manage the growth and development within this area. The policies would encourage a more compact urban form, preservation of agricultural and open space, efficient provision of public services, and a more efficient circulation pattern.~~ Once the City identifies a site for its

~~further develops their~~ new wastewater treatment plant the Sphere of Influence will be considered amended~~can be requested for change~~.

PRESENT/PROBABLE NEED FOR PUBLIC SERVICES

The present need for public services in the proposed SOI area varies in the different areas. Many of the properties' current uses are for agricultural and open space purposes. The probable need for public services in the proposed Sphere of Influence is low. ~~It's unlikely that~~ ~~u~~Urban levels of development ~~will are not be proposed~~anticipated in the existing Sphere of Influence. Also, the City needs to complete the upgrade of the sewer facility and increase the reliability of ~~their~~its water supply. Once the City ~~further develops their~~approves its new wastewater treatment plant the Sphere of Influence ~~can be requested for change and the public services would be re-evaluated~~will be considered amended.

Present Capacity of Public Facilities and Adequacy of Public Services

Water supply is identified as a key issue because the City of Morro Bay primary source is the State Water Project which has not been consistently available over the last 5 years. The City's supplemental water supply is limited groundwater with potential for desalination or emergency water agreement with California Men's Colony. The City will restructure its water and wastewater rates to assist in the construction of a water reclamation facility. The City is in the planning stages of developing a new wastewater treatment facility and possibly produces some recycled water. In 2015 the City reported annual water use of 1,074 acre-feet. Under the existing General Plan, the City's build-out would demand an estimated 1,452 afy. The City, as mentioned earlier, is upgrading its wastewater facility to meet State and Regional requirements. The existing wastewater treatment plant is operated under a JPA between the City and Cayucos Sanitary District. The City and CSD have decided to go separate ways to address their wastewater needs.

SOCIAL AND ECONOMIC COMMUNITIES OF INTEREST

The City of Morro Bay has a variety of social and economic communities of interest, including numerous businesses, schools, churches, public sector facilities, and other Community Service programs that serve residents. The existing social fabric of the City will not change substantially by maintaining the Sphere of Influence. Once the City further develops ~~their~~its new wastewater treatment plant the Sphere of Influence can be requested for change and it is likely that the

the legislative intent of the Cortese/Knox/Hertzberg Act. In this case the County's General Plan more clearly addresses the future land uses in the some of the areas considered for inclusion in the Sphere of Influence. This is particularly true in the case of the Highway 41 properties.

- a. The adopted sphere of influence shall reflect City and County general plans, growth management policies, annexation policies, resource management policies, and any other policies related to ultimate boundary area of an affected agency unless those plan or policies conflict with the legislative intent of the CKH Act (Government Code Section 56000 et seq.).

Where inconsistencies between plans exist, LAFCO shall rely upon that plan which most closely follows the legislature's directive to discourage urban sprawl, direct development away from prime agricultural land and open space lands, and encourage the orderly formation and development of local governmental agencies based upon local conditions and circumstances.

Another key LAFCO policy for consideration is found below:

1. Territory not in need or urban services, including open space, agriculture, recreational, rural lands, or residential rural areas shall not be assigned to an agency's sphere of influence unless the area's exclusion would impede the planned, orderly and efficient development of the area.

Excluding the agricultural zoned areas that has steep terrain and other service related issues does not impede the orderly and efficient development of the area. These areas have the potential to be selected as the site for the City's future wastewater treatment facility and the creation of a public lot which would be considered to be added to the City's SOI once completed.

If the Tri-W site, or any other, is selected as the preferred location for a wastewater treatment plant site, the area intended for public facility use shall be sized accordingly. The entire (396 acre) property shall not be included in the Sphere of Influence and any prime farmland converted shall be offset by LAFCO's 1:1 protection Policy 12 consistent with the conditions listed above. All agriculture and urban impacts shall be studied and appropriate mitigation implemented before future annexation is approved.

Table 3-5: Historical & Projected Population Growth

	1980 ⁽¹⁾	1990 ⁽¹⁾	2000 ⁽¹⁾	2010 ⁽²⁾	2015 ⁽²⁾	2020 ⁽²⁾	2025 ⁽²⁾	2030 ⁽²⁾	2035 ⁽²⁾
Population	9,064	9,664	10,350	10,608	10,224	10,244	10,482	10,778	11,078
10 Year Increase	--	600	686	258	-364	20	238	296	300
10 year Avg. Increase	--	6.2%	6.6%	2.4%	-3.5%	<1%	2.2%	2.7%	2.7%
Average per Year	--	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%

(1) Source: U.S. Census

(2) Source: City's 2015 Urban Water Management Plan.

CITY OF MORRO BAY GENERAL PLAN, 2004(UPDATE)

The City of Morro Bay adopted ~~an update to~~ its General Plan and Local Coastal Program in ~~2004~~1988 and 1982 respectively. The City is once again working to update its General Plan entitled Plan Morro Bay. The 2004 General Plan and Local Coastal Plan was submitted to the Coastal Commission for review and certification. The certification process can be lengthy and the Coastal Commission process stalled during its review. The City intends to take a fresh look at what updates are necessary to accomplish its goals and get the plan through the Coastal Commission. The changes previously proposed to the existing General Plan were largely procedural and targeted at making the plan easier to use and clarifying the intent of the General Plan and Local Coastal Plan. A key piece to the update of the General Plan/LCP was that there are no changes made to land use designations or zoning designations that resulted in increased density, increased population potential, major infrastructure upgrades, or other development. The major organizational change was bringing together the Local Coastal Program with the General Plan into a single document. An update to the City's General Plan and policies will be necessary to reflect the current studies taking place to be updated and address when the GP/LCP is completed.

Over the past 40 years, the City has experienced a slow rate of growth; less than 1% per year. From 1950 to 1980 the City's population increased at an average growth rate of 2.2% per year. In the 1980's (1980-1990) the City's population again grew at a rate of 5.4% per year. From 1990 to 2000 population growth slowed to about a rate of .7% per year. Over the past 10 years the City has grown at a very slow rate of approximately .5% per year.

Table 3-7: Building Permits Finaled 2007-2016

	SF	MF
2016	19	1
2015	15	1
2014	15	0
2013	10	0
2012	11	0
2011	10	0
2010	17	1
2009	16	4
2008	32	1
2007	48	1
Total	193	9

Source: Morro Bay Community Development Department 2016

Land Use

The City's General Plan allows for new growth within the City based on an analysis of available resources (water, sewer, etc) and demand for those resources. The Elements of the City's General Plan have been formatted into one document that includes the Land Use Element, Circulation Element, Pubic Facilities and Services Element, Conservation and Open Space Element, Access and Recreation Element, Harbor Resources Element, and the Visual Resource and Scenic Highway Element. Each Element contains Goals, Policies, Implementation Standards, and Programs that are relevant to the particular topic.

It should be noted that the City's General Plan/LCP provides a clear and detailed policy base with regard to future growth and development. It comprehensively addresses the various facets of development, provides clear information to the public, and gives decision- makers a sound foundation for considering future projects. The following are the Goals, Policies, Implementation Standards, and Programs that address the Sphere of Influence or the provision of City Services to existing and future residents. Goals, Policies, standards or programs that directly address Sphere of Influence issues ~~are clearly marked~~ will be addressed when the City completes the GP/LCP and One Water Plan updates.

~~Policies Specific to SOI. The Land Use Element provides direction regarding the use of land within the City Limits and within the Sphere of Influence. Inside the City Limits, Land Use Designations, or zoning, identify what particular land uses are envisioned for a specific location or area. The following Goals have been adopted by the City~~

~~Goal 1: Resources that are managed for the future.~~

~~Implementation Standard LU-1A: The approval of future development shall be contingent upon the availability of sufficient City services at the time of the development proposal.~~

~~Implementation Program LU-1B: The City shall pre-zone all lands within its sphere of influence in keeping with Policy LU-1 utilizing all methods available to insure County cooperation. Pre-zoning shall be applied to the sphere of influence with the intent to minimize urban expansion and maximize environmental conservation.~~

~~Implementation Program LU-1C: The City shall periodically evaluate and update the Zoning Ordinance to reflect current development philosophies regarding resources and density incentives for innovative projects to ensure the ordinance is functional and usable.~~

~~Policy LU-2: The City shall follow fiscal policy measures that would encourage maintenance and improvement of the existing community.~~

~~Implementation Program LU-2A: The City shall periodically review development fees in order to ensure that costs are fair and consistent with service impacts for the new development.~~

~~Policy LU-3: The City shall annually review growth consistent with available resources.~~

~~Implementation Program LU-3A: The City shall review the amount of annual growth based upon the resources available.~~

~~Goal 2: Agricultural buffer around the community.~~

~~Please see the goals and policies in the Conservation and Open Space Element of General Plan.~~

~~Goal 3: Preservation of the natural coastal environment.~~

~~Goal 4: An aesthetically pleasing community that maintains the "small town, fishing village" image with new development that complements existing development and does not detract from the natural environment.~~

~~Goal 5: Residential areas consistent with the City's character.~~

~~Goal 6: A diversified economic base that provides shopping, services, clean industry, and employment opportunities for the community.~~

~~Goal 7: Improved commercial areas and a thriving revitalized downtown compatible with surrounding land uses.~~

~~Goal 8: Productive use of existing commercial buildings.~~

~~Goal 9: Compatible mixed uses in specified appropriate areas.~~

~~Goal 10: Waterfront development that is attractive and does not conflict with the fishing industry.~~

~~Goal 11: An architectural character for the Embarcadero in keeping with a working fishing community.~~

~~Goal 12: A tourist destination consistent with the City's small town character.~~

~~Goal 13: Employment opportunities for all residents.~~

~~Goal 14: Protection from adverse impacts from energy related development and promotion of appropriate energy development.~~

The ~~Circulation Element~~ plans for improvements to the City's transportation system that will accommodate existing residents and future growth. Only the goals are listed below. Policies, Standards, and programs supporting these goals are provided in detail in the ~~Circulation Element~~.

~~Goal 15: A pedestrian-friendly community.~~

~~Goal 16: A connected pedestrian circulation system.~~

~~Goal 17: Accessibility for people with disabilities.~~

~~Goal 18: A safe, scenic, efficient system of bike paths.~~

~~Goal 19: An interconnected system of streets that avoids concentration of traffic on a few routes.~~

~~Goal 20: Streets safe for all forms of transportation.~~

~~Goal 21: An efficient and safe truck route system.~~

~~Goal 22: Parking facilities of appropriate capacity and location that are subordinate to the pedestrian orientation of the City's commercial areas.~~

~~Goal 23: A reduction in automobile use supported and promoted by safe and reliable alternatives such as walking, bicycling, car pools and public transportation.~~

~~Goal 24: No adverse impacts from pipelines and utility transmission lines.~~

The ~~Public Facilities Element~~ addresses issues regarding water supply, wastewater, drainage, local government services, public facilities and healthcare. Many of these policies, programs and standards are related to the ~~Sphere of Influence~~.

~~Goal 25: An adequate water supply.~~

~~Policy PF-1: The City shall provide adequate water and sewer capacity to meet allowable uses as determined under the Zoning Ordinance. The City will annually evaluate its resources to insure adequacy of future supply. In the event there is a failure to provide adequate resources and allocation of resources becomes necessary, resources shall be allocated in such a manner so as to not preclude service to coastal dependent land uses, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor serving land uses.~~

~~Policy PF-2: Efforts to conserve or reduce water consumption through the implementation of water-saving techniques shall be recognized by the City.~~

~~**Implementation Standard PF-2A:** All new development shall incorporate water conservation fixtures as set by the City Council.~~

~~**Implementation Program PF-2B:** The City of Morro Bay shall adopt a five-year Capital Improvement Program that specifies maintenance, improvements, and extensions of water and sanitary sewer facilities, including adopted recommendations of the water management plan.~~

~~**Implementation Program PF-2C:** Implementation of the City's Urban Water Management Plan shall ensure at a minimum, the following:~~

~~1. An adequate water supply for coastal dependent activities such as commercial fishing, oyster farming, fish and shellfish processing, recreational boating and fishing and industrial energy development.~~

~~2. Continued protection of the Morro Bay wetland areas with assurances that the wetlands shall continue to be seasonally flushed of accumulated salts from sediments.~~

~~3. An adequate ground surface water supply to protect the biological productivity of coastal waters including riparian stream corridors upon which the andronomous fishery depends for viability.~~

~~4. Sufficient water for agricultural operations in the Morro and Chorro Valleys.~~

~~**Goal 26:** Reuse of affordable and cost effective reclaimed water.~~

~~Implementation program and standard are found in the General Plan/LCP.~~

~~**Goal 27:** Wastewater treatment facilities that accommodate the City's needs.~~

~~**Implementation Standard PF-4A:** The City shall maintain and update its wastewater treatment facilities master plan (sewer system master plan) so that it reflects existing and future conditions, needs, and meets legal requirements.~~

~~**Implementation Standard PF-4B:** The City shall establish and maintain a wastewater rate structure that is adequate for current and future treatment and infrastructure needs.~~

~~**Goal 28:** An efficient water and sewer system.~~

~~**Policy PF-5:** The City shall require conditions that may cause leaks in water lines to be eliminated with a goal of reducing un-metered water loss to less than ten percent of water use.~~

~~**Implementation Program PF-5A:** The City shall replace existing pipelines that are old, undersized and leaking.~~

~~**Implementation Standard PF-5B:** The City shall require new construction to replace existing leaking water lines with new lines within and immediately adjacent to each development, with the exception of single family construction and minor additions.~~

~~**Policy PF-6:** The City shall maintain adequate water flows for fire suppression and domestic water flows to meet expected needs.~~

~~**Implementation Program PF-6A:** The City shall undertake studies and develop plans to ensure adequate water flow for fire suppression and domestic water needs. The City shall implement those plans in conjunction with its Capital Improvement Program.~~

~~**Implementation Standard PF-6B:** The City shall require new developments to construct new adequate water pipeline systems to serve that development and, where necessary, replace existing water mains that may be inadequate to meet the expected needs of that development. Individual single family residences and minor additions are accepted.~~

~~**Policy PF- 7:** The City shall use its existing sewer facilities efficiently with a goal of eliminating sewer line leakages.~~

~~**Implementation Program PF- 7 A:** Where feasible, the City shall eliminate leakages from, and infiltration into, sewer lines.~~

~~**Implementation Standard PF- 7B:** The City shall require new developments to construct adequate sewer pipeline systems to serve that development and, where necessary, replace existing sewers that are inadequate to meet the expected sewage production needs of that development. Individual single family residences and minor additions are accepted.~~

~~**Implementation Program PF- 7C:** The City shall undertake studies and develop plans to ensure adequate capacity and efficient use of sewer capacity. The City shall implement those plans in conjunction with its Capital Improvement Program.~~

Implementation and program standards for the following goals are found in the City's General Plan/Local Coastal Plan.

~~**Goal 29:** Adequate facilities to control storm drainage.~~

~~**Goal 30:** Funding for public infrastructure maintenance and improvements.~~

~~**Goal 31:** Community cultural opportunities including library, arts and sciences.~~

~~**Goal 32:** Increased health care options.~~

~~**Goal 33:** Energy Conservation and reduced energy consumption in City facilities.~~

The ~~**Conservation and Open Space Element**~~ addresses natural resources such as water, soils, creeks, harbors, fisheries as well as agricultural resources. This Element is important in updating the Sphere of Influence because it contains detailed goals, policies, standards, and programs targeted at preserving agricultural and open space lands. It is important to note that the City has adopted a detailed policy base with regard to agricultural resources. This policy base includes standards and programs that provide specific direction regarding agricultural resources. This policy base will be referenced in the Memorandum of Agreement. An example of this policy base is provided below:

~~**Goal 34:** A stable, long-term boundary between the City and surrounding County with extensive open lands separating the City from other urban development.~~

~~**Goal 35:** Preserve agricultural uses in and adjacent to the City without conflict between agricultural and urban land uses.~~

~~**Policy OSC-I:** The City shall maintain agricultural lands within the city limits and work with appropriate jurisdictions to maintain the maximum amount of "prime" agricultural land in the region and shall consider placing the following implementation standards in the Zoning Ordinance.~~

~~**Implementation Standard OSC-1A:** All non-prime land within the City of Morro Bay suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Public Resources Code Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.~~

~~**Implementation Standard OSC-1B:** All non-agricultural development permitted on non-prime agricultural lands shall preserve the maximum amount of lands in agricultural use. In approving any land divisions or non-agricultural use, all of the following findings shall be made by the City:~~

~~(1) Continued or renewed agricultural use is not feasible without the proposed division and/or supplemental non-agricultural use;~~

~~(2) The proposed division and/or use will allow for and support the continued use of the site as a productive agricultural unit, would contribute to long term agricultural viability and would preserve all agricultural lands;~~

~~(3) The proposed division and/or use will result in no adverse effect upon the continuance or establishment of agricultural uses on the undeveloped portion of the property or on surrounding or nearby properties;~~

~~(4) Buffer areas are provided between agricultural and non-agricultural uses;~~

~~(5) Adequate water supply, sewage disposal and other public services are available to service the proposed development after provision has been made for the continuance of existing agricultural operations and future operations which may require water needs exceeding the present needs;~~

~~(6) The proposed division and/or use will not adversely impact environmentally sensitive areas, scenic resources or the rural character of the site, where applicable. Where new non-agricultural developments are permitted on lands in or previously in agricultural production, sensitive habitats shall be protected, restored and enhanced as a condition of development approval; and~~

~~(7) The development provides a benefit to the community by providing needed land use and not competing with established or already underutilized land uses.~~

~~**Implementation Standard OSC-1C:** Where continued agricultural use is not feasible without some supplemental non-agricultural use, the City shall give priority to public recreational uses, visitor-serving recreational and agriculturally related visitor-serving commercial use. The City shall require all division and/or non-agricultural development on non-prime agricultural lands have a City approved development plan showing how the proposed division or development would affect the subject property. In reviewing a proposed development plan and determining the density of permitted use, the City shall require the following conditions:~~

- ~~1. Development shall be clustered to retain the maximum amount of agricultural land in agricultural production or available for agricultural use. No more than two percent of the gross acreage of the property shall be converted to non-agricultural uses (including roads and public works). Residential density shall not exceed one dwelling unit per 20 acres. The remaining acreage shall be left in agricultural production and/or open space if agricultural uses are found to be infeasible.~~

~~Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams and adjacent agricultural operations.~~

- ~~2. Prime agricultural land, as defined in Implementation Program OSC 1D, shall not be removed from production unless consistent with PRC Section 30241.~~
- ~~3. Land divisions or development proposals shall include a means of permanently securing the remaining acreage in agricultural use, such as agricultural preserves, open space easements, or granting of development rights. Covenants not to further divide shall also be executed and recorded prior to issuance of development permits.~~
- ~~4. The creation of a homeowners' or other organization or the submission of agricultural management plans shall be required to provide for continued agricultural use of agricultural lands and their availability either on a lease or purchase basis. Such organizations or plans shall also provide for the maintenance of water or road systems.~~
- ~~5. Agricultural lands supplemented by development shall be accompanied by covenants or other suitable recorded mechanisms to ensure the maintenance of buffers.~~

~~**Implementation Program OSC 1D:** The City, and the City/County through cooperative review and permitting arrangements, shall maintain the maximum amount of "prime" agricultural land (as defined in Section 30113 of the Coastal Act and as identified through consultation with the U.S.D.A. Natural Resource Conservation Service) in agricultural production to assure the protection of the areas' agricultural economy. The City shall join with the county in a cooperative planning management to assure that conflicts shall be minimized between City and County agricultural and urban land uses through all of the following:~~

~~(a) By joint planning efforts to establish stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.~~

~~(b) By limiting conversions of agricultural lands around the periphery of the City to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses and where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.~~

~~(c) By permitting the conversion of agricultural lands surrounded by urban uses where the conversion of the land would be consistent with PRC Section 30250.~~

~~(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.~~

~~(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.~~

~~(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b) and all development adjacent to prime agricultural lands shall not diminish the productivity of prime agricultural lands.~~

~~The City's policies regarding agricultural and open space resources are consistent with the LAFCO legislative goal of preserving open space and agricultural lands and directing growth~~

~~toward urbanized areas. This discourages urban sprawl and recognizes the importance of preserving the agricultural lands. The County has similar policies in the Estero Area Plan and the Conservation and Open Space Element.~~

Study Areas

The areas being studied for possible inclusion into the City's Sphere of Influence are in the County's Estero Area Plan. These areas are zoned Agricultural and are currently developed with a single family residence, existing marine terminal facilities (some which are being demolished), and an existing wastewater treatment facility. These properties are not under Williamson Act contracts. Each area is described below:

The Righetti Ranch (Located in SLO County; Not Within the SOI). The 301-acre area just east of the City limits is owned by the Righetti family. A portion of this property is currently leased by the City for the purposes of accommodating the Nutmeg Water Tanks. The California Coastal Commission has requested the City consider this site as an alternative potential area closer to Highway 41 for the siting of a new wastewater treatment and reclamation facility. The City would potentially need to purchase or lease the property and apply for a General Plan Amendment (GPA) from the County if leased to develop a WWTP facility. If the City purchased the property, the City would need to pre-zone the site for use as a public facility before LAFCO considered any SOI or annexation amendments. Or the City could annex the property based on a zoning permit they approved in cooperation with the property owner. The western boundary of the Righetti site is located just east of the boundary of the developed, residential areas of the City of Morro Bay. Currently, the site consists of a single-family residence and grazing areas. The land is surrounded by cropland to the south, undeveloped areas to the north and east and a mobile home park, RV park, and agricultural lands to the east.

The Rancho Colina Site (Located in SLO County; Not Within the SOI). The Rancho Colina site is 187-acres owned by William Macelvaine. The site is located north of Hwy 41 about one mile east from the City limits and consists of a mobile home park and grazing land. The site is designated recreation and agricultural on the northern portion of site pursuant to the County's LCP. The site is currently developed with several facilities, including a single-family home occupied by the property owner, and an existing wastewater treatment facility constructed in 1971, which serves the nearby Rancho Colina residential community. The City's focus is on the

State law is more specific about the content of Housing Elements than any other portion of the General Plan. That specificity is reflected in the detailed demographics and other data contained herein. The Housing Element is also the only part of the General Plan that is subject to mandatory deadlines for periodic updates. Except for the Local Coastal Plan, it is the only element that is subject to review and "certification" by the state. The City's Housing Element for the planning period 2014 to 2019 has been certified by the State.

According to the City's Housing Element a recent available land inventory has been conducted which concludes the City has additional land available for 507 new residential units within the City limits. The Housing Element also evaluated the City's infrastructure to accommodate these new potential residential developments. The Housing Element states that the City Council determined that there is adequate water for the buildout of the City under the current General Plan. The average consumption in 2008 according to the Water Management Plan was 122 gallons per capita per day (gpcd), which is below the 130-gpcd threshold amounts. The City estimates it is at 40% capacity for water service and 56% capacity for wastewater. The City is in the process of a major upgrade to the treatment standards. According to the annual daily flow average over five years, Morro Bay contributes to 75 percent of the flow while Cayucos accounts for 25 percent. The plant has adequate capacity through the year 2021 based on population estimates outlined in the Facility Master Plan Report. These services are further discussed in the next section.

The City's current General Plan is based on the ability of the City to accommodate a population of 12,200. Currently, the City's population is approximately 10,224 people. The year in which the City reaches their projected build-out is driven by a number of factors, including economic and real-estate market conditions. The City projects build-out no sooner than year 2035.

WRITTEN DETERMINATIONS

The following written determinations are based on the information contained in the above section regarding Growth and Population:

1. The City's General Plan provides for the logical and reasonable growth and development of the City and ~~was updated in 2004~~ is currently being updated.

WATER

The City updated its Urban Water Management Plan in 2015. The County updated its Urban Water Management Plan in 2015. These plans, and other documents, are the basis for this section of the Municipal Service Review. The City and County are currently updating their Water Master Plans. The City is also updating a One Water Plan document to address the City's water picture under one document. The MSR will be revisited once the document is completed by the City and the data in this report will be revised to reflect this new information.

The Urban Water Management Plan are due every five years, in years ending in "5" and "0" for water suppliers having more than 3,000 connections or selling at least 3,000 acre-feet of water per year. A jurisdiction's ability to provide water to existing residents and the Sphere of Influence areas is a key consideration in updating an SOI. Because a Sphere is the area that is envisioned for probable growth and service by a jurisdiction, it is important that an adequate water supply be documented. Also to be considered are a jurisdiction's policies with regard to growth and the provision of water.

Water Supply

The City of Morro Bay's Water supply can come from three sources: Morro & Chorro watersheds (groundwater), from State Water Project (SWP) since 1997, and Desalination plant. The City has been receiving State Water since 1997 and it has become the primary source of water for the City. The groundwater and desalination sources have become secondary supplies used on occasion when needed by the City. To supplement its supply, the City also contracted to receive more short-term State water from agencies that are not using their allocations.

State Water Project. Since 1997 the City's primary source of water has been the State Water Project. The City entered into and executed two contracts with the San Luis Obispo County Flood Control and Water Conservation District to obtain State Water. The first contract addresses the construction of facilities such as water treatment and the Chorro Valley pipeline. The second contract covers the delivery of State Water and the payment for State water facilities. Both contracts were needed to allow the City to obtain State Water.

The City's State Water entitlement is 1,313 acre-feet per year, plus an additional drought buffer of 174% which equates to a total of approximately 2,290 afy of buffer. The drought buffer helps to insure delivery of the full allocation of water from the Department of Water Resources which

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REFERENCES

- Morro Bay Budget FY 2010/11 to FY 2016/17
- Morro Bay Capital Improvement Project 2016-2017, 2016
- SLO County Resource Management System Biennial Report, 2011
- SLOCOG AECOM Population & Employment Forecast, 2011
- Morro Bay Fee Schedule, 2011
- Morro Bay Urban Water Management Plan, 2010
- SLO County Conservation, Open Space Element, 2010
- San Luis Obispo Council of Governments Regional Transportation Planning Agency, Regional Transportation Plan, 2010.
- California Department of Finance E-4 Report, 2010
- California Department of Finance E-4 Report, 2010
- SLO County Estero Area Plan, revised 2009
- San Luis Obispo County Tourism Analysis Report, 2008
- SLOCOG Regional Housing Needs Allocation, 2008
- Morro Bay LAFCO, Sphere of Influence Study, 2007.
- Morro Bay General Plan, ~~2004~~
- Morro Bay, Official Website, www.ci.san-luis-obispo.ca.us/.
- County of San Luis Obispo, Official Website, www.slocounty.ca.gov.
- San Luis Obispo Council of Governments, Official Website, www.slocog.org.
- California Attorney General, Official Website, www.ag.ca.gov.

IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, August 17, 2017

Present: Chairman Marshall Ochylski, Vice Chairman Ed Waage, Commissioners, Debbie Arnold, Lynn Compton, Robert Enns, Roberta Fonzi, and Alternate Commissioners Ed Eby and Heather Jensen

Absent: Commissioner Tom Murray and Alternate Commissioners Adam Hill and Jamie Irons

RESOLUTION NO. 2017-04

RESOLUTION APPROVING THE MUNICIPAL SERVICE REVIEW, AND ADOPTING THE SPHERE OF INFLUENCE UPDATE FOR THE CITY OF MORRO BAY

The following resolution is now offered and read:

WHEREAS, pursuant to Government Code Section 56425 et. seq. and the Commission's duly adopted Policies for Spheres of Influence, the Commission hereby updates the Sphere of Influence (Exhibit A), for the City of Morro Bay; and

WHEREAS, the Executive Officer has given the notices required by law and forwarded copies of his report to officers, persons and public agencies prescribed by law; and

WHEREAS, the public hearing for this matter was conducted at 9:00 a.m. on June 15, 2017 and continued to August 17, 2017; and

WHEREAS, at said hearings, this Commission heard and received all oral and written protests, objections, and evidence which were made, presented or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said Sphere of Influence Update and Municipal Service Review for the City of Morro Bay; and

WHEREAS, the Notice of Exemption, is adequate as the documentation to comply with the California Environmental Quality Act (CEQA) for this Sphere of Influence Update and Municipal Service Review for the City of Morro Bay; and

WHEREAS, the Commission has considered all factors required to be considered by Government Code Section 56425(e) and adopts the determinations set forth in the Public Review Draft with recommended changes of the Sphere of Influence Update and Municipal Service Review with said determinations being incorporated by reference herein as though set forth in full; and

WHEREAS, the Commission duly considered the Sphere of Influence Update and Municipal Service Review for the City of Morro Bay, as described in the June 15, 2017 and August 17, 2017 Staff Reports with recommended changes and pursuant to the conditions of approval found in Exhibit B of this resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Notice of Exemption prepared for this proposal is complete and adequate, having been prepared in accordance with the provisions of the California Environmental Quality Act and is hereby determined to be sufficient for the Commission's actions and is incorporated by reference.
3. That the Executive Officer of this Commission is authorized and directed to mail copies of this resolution in the manner provided by law.
4. That the Municipal Service Review for the City of Morro Bay is approved with written determinations addressing the seven factors stated in the Cortese-Knox-Hertzberg Act of 2000 and are hereby incorporated by reference.
5. That the Sphere of Influence Update for the City of Morro Bay is adopted pursuant to the map in Exhibit A of this Resolution and those areas are subject to the requirements of the Cortese-Knox-Hertzberg Act.

Resolution No. 2017-04
Page 3

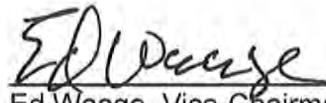
Upon a motion of Commissioner Fonzi, seconded by Commissioner Compton, and on the following roll call vote:

AYES: Commissioners Fonzi, Compton, Arnold, Eby, Enns, Jenson and Vice-Chairman Waage

NAYS: None

ABSTAIN: None

The foregoing resolution is hereby adopted.



Ed Waage, Vice-Chairman Date
Local Agency Formation Commission

ATTEST:



David Church Date
LAFCO Executive Officer

APPROVED AS TO FORM AND LEGAL EFFECT:



Raymond A. Biering Date
LAFCO Legal Counsel



AGENDA NO: A-5

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: July 27, 2018

FROM: Scot Graham, Community Development Director

SUBJECT: Approval of Amendment No. 5 to City's Contract with Michael Baker International for consulting services for the General Plan/Local Coastal Program and Zoning Code Update

RECOMMENDATION

Council authorize the City Manager to execute Amendment No. 5 to the agreement with Michael Baker International, in the amount of \$23,053.00 for completion of the comprehensive update of the City's General Plan/Local Coastal Program and Zoning Code.

ALTERNATIVES

1. Review the report and provide direction to staff for revision, amendment or alteration to the Amendment and continue item to a future meeting.
2. Deny the Amendment request.

FISCAL IMPACT

The proposed amendment would add \$23,053.00 to the project budget. The City collects a General Plan maintenance fee associated with Building Permit issuance and the necessary additional funds would be sourced from that account. The General Plan Maintenance Fund has available money to cover the cost of Amendment No. 5.

BACKGROUND/DISCUSSION

The City initially entered into an Agreement with Michael Baker International on January 19, 2016, for update of the City's General Plan/Local Coastal Program (GP/LCP) and Zoning Code (consistency update), for a cost of \$806,138.00. The Agreement has been amended four times to add the following additional work items: 1) Downtown and Waterfront Strategic Plan (\$100,000.00), 2) Comprehensive Zoning Code Update (\$100,000.00), 3) Implementation of a successful Coastal Commission Round 3 Grant for Development of a Sea Level Rise strategy and updated model, ESHA Map layer update, Bayside Lateral Access Plan, Low Cost Visitor Serving Accommodations Inventory and Strategy (\$200,000.00), 4) Inclusion of up to 6 additional consultant attended General Plan Advisory Committee and Planning Commission/Council meetings (\$29,340.00).

The GP/LCP and Zoning Code update process is well underway, and the GPAC has

Prepared By: SG

Dept Review: SG

City Manager Review: SC

City Attorney Review: JWP

completed its review of both documents. The Planning Commission has completed review of 3 of the 4 Zoning Code Modules and is scheduled to start review of Plan Morro Bay (GP/LCP) on August 7, 2018.

Amendment 5 to the Agreement is being requested to cover costs of additional work associated with three of the project tasks (Tasks 2, 3 and 4). The additional funding is proposed in association with increased work scope for two of the project subconsultants, Rincon Consultants (EIR) and Lisa Wise Consulting (Zoning Code). The Amendment request is provided as Exhibit A to Attachment 1.

The additional work items include the following:

Task 2

The San Luis Obispo Council of Governments (SLOCOG) released updated traffic data for Highway 1 through our area, which superseded the traffic data included in the Community Baseline Assessment (CBA). The CBA traffic data fed into the creation of noise contours in the CBA and it was anticipated that these contours would be used for the Noise Element. The release by SLOCOG of the updated traffic numbers was incorporated into the City's Traffic and Circulation assessment prepared by Central Coast Transportation (GP/LCP traffic consultant). The new traffic numbers necessitated a need to update the Noise Contours for the Noise Element. Cost \$3,570.00.

Task 3. Environmental Assessment (Admin. Draft Program EIR)

In order to meet project timelines, the GP/LCP, Zoning Code and EIR are being developed on parallel tracks. Shifts in development capacity associated with the GP/LCP Land Use Maps, necessitated changes to the Zoning Code and Zoning Map and required subsequent revision to the Draft EIR for the project. City staff also directed a change to the draft Sphere of Influence (SOI) to include the entirety of the Tri-W lot where the Water Reclamation Facility is proposed, in order to conform with the MOU between Tri-W and the City (MOU Provided as Attachment 2). Those changes resulted in the need to update several sections of the EIR including map figures, overall project description, Air Quality, Land Use, Planning, Population and Housing, Public Services and Utilities. Cost \$8,483.00.

Task 4. Zoning Ordinance Update and Coastal Implementation Plan

Subtask 4.3.D Review Meetings

The GPAC and Planning Commission are taking longer to review the Zoning Code modules than anticipated in the original Agreement. Lisa Wise consulting is the lead on the Zoning Code update and the number of meetings the consultant team are required to attend based on the current agreement will be exceeded. Staff anticipates a need for up to an additional 5 meetings (PC/Council) to complete review and approval of the Zoning Code/Coastal Implementation Plan. Cost \$6,000.00.

Subtask 4.3.E. Development Potential Evaluation

The Planning Commission requested an evaluation of the development potential associated with the proposed increase to 37-feet in a portion of the commercial areas downtown. Staff agreed the evaluation was necessary and requested preparation of the study by the Lisa Wise

Consulting. Cost \$5,000.00

Total Amendment No. 5 Cost: \$23,053.00

CONCLUSION

The above described work is necessary to bring the General Plan/Local Coastal Program and Zoning Code update project to completion. The City has funding available in the General Plan Maintenance account to cover the cost of the contract amendment and Staff therefore recommends approval of Amendment No. 5 to the Michael Baker International contract.

ATTACHMENTS

1. Michael Baker International Contract Amendment No. 5
2. October 2016 MOU between the City and TRI W. Enterprises, Inc.

**AMENDMENT NO. 5 TO THE
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY AND MICHAEL BAKER INTERNATIONAL**

This Amendment No. 5 is entered into as of August 16, 2018, between the City of Morro Bay, a municipal corporation (“City”) and Michael Baker International, a Pennsylvania corporation (“Consultant”) (collectively, City and Consultant are sometimes referred to as the “Parties”).

RECITALS

WHEREAS, City and Consultant entered into an agreement as of January 19, 2016, for consulting services related to the update of the City’s General Plan, Local Coastal Program and Zoning Code (the “Project”), which was approved by the City Council for a not to exceed amount of Eight Hundred Six Thousand One Hundred Eight Dollars and No Cents (\$806,138.00) (the “Agreement”); and

WHEREAS, the Parties anticipated the Agreement would include an update of the General Plan, Local Coastal Program and Zoning Code, as described in Exhibit A to the Agreement; and

WHEREAS, effective on June 22, 2016, City and Consultant agreed to amend the Agreement to add services for the preparation of a Downtown Waterfront Strategic Plan for an additional One Hundred Thousand Dollars and No Cents (\$100,000.00) (“Amendment No. 1”). The Agreement and Amendment No. 1 are hereinafter referred to as the “Amended Agreement;”

WHEREAS, effective on August 30, 2016, City and Consultant agreed to amend the Agreement to add services for the comprehensive update to the Zoning Code for an additional One Hundred Thousand Dollars and No Cents (\$100,000.00) (“Amendment No. 2”).
and

WHEREAS, effective on October 29, 2016, City and Consultant agreed to amend the Agreement to add services consistent with the City’s successful Round 3 Coastal Commission LCP Grant award for the comprehensive update to the City’s General Plan, Local Coastal Program and Zoning Code for an additional Two Hundred Thousand Dollars and No Cents (\$200,000.00) (“Amendment No. 3”). and

WHEREAS, effective on June 28, 2017, City and Consultant agreed to amend the Agreement to extend the project completion date to December 2018 and to add commensurate services adding up to six additional General Plan Advisory Committee meetings, six additional Planning Commission and/or Council meetings for an additional Twenty-nine Thousand Three Hundred Forty Dollars and No Cents (\$29,340.00) (Amendment No. 4); and

WHEREAS, the Agreement and Amendments No. 1, No. 2, No. 3 and No. 4 are hereinafter referred to as the “Amended Agreement;” and

WHEREAS, effective on August 16, 2018, City and Consultant agreed to amend the Agreement to add services to revise and update the Draft Noise Element based on recently released traffic information by SLOCOG, Update the Administrative Draft EIR to account for increased development capacity and to address a change in the draft Sphere of Influence, additional consultant attendance at 5 additional GPAC, Planning Commission or Council meetings related to the Zoning Code/Coastal Implementation Plan Update and to provide an evaluation of the development potential related to a proposed height increase to 37-feet in a portion of the downtown, as described in Exhibit A of this Amendment No. 5; and

WHEREAS, Consultant has specific knowledge and experience to accomplish the necessary tasks; and

WHEREAS, due to the expansion of tasks to be provided, the compensation payable pursuant to the Amended Agreement must be increased by Twenty-three Thousand Fifty-three Dollars and No Cents (\$23,053.00); and

WHEREAS, the City Council approved that expenditure at the regularly scheduled City Council meeting on August 14, 2018, which approval provides the authority required pursuant to Subdivision 5.(b) of the Amended Agreement.

NOW THEREFORE, City and Consultant mutually agree to amend the Amended Agreement as follows:

1. The services to be provided by Consultant pursuant to the Amended Agreement shall be expanded to include update of the draft Noise Element, update of the Administrative Draft EIR to account for increased development capacity, revised draft Sphere of Influence, additional consultant attendance at 5 additional GPAC, Planning Commission or Council meetings related to the Zoning Code Update and evaluation of the development potential associated with a height increase to 37-feet in the downtown, as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Additional Work").
2. The compensation to be paid for the Additional Work shall not exceed \$23,053.00 for a total not to exceed amount of \$1,258,531.00 for the entire Amended Agreement, as amended herein.
3. Except as expressly stated herein, all terms and conditions in the Amended Agreement shall remain in full force and effect.
4. The effective date of this Amendment No. 5 is August 16, 2018.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 5 to be executed by their duly authorized representatives as of the day first written above.

City of Morro Bay,
a municipal corporation

By: _____
Scott Collins, City Manager

Attest:

Dana Swanson, City Clerk

APPROVED AS TO FORM

Joseph W. Pannone, City Attorney

Michael Baker International,
a Pennsylvania Corporation

By: _____

Its _____

By: _____

Its _____

July 25, 2018

Scot Graham, Community Development Director
CITY OF MORRO BAY
955 Shasta Ave.
Morro Bay, CA 93442

RE: PLAN MORRO BAY CONTRACT AMENDMENT REQUEST

Dear Scot:

This letter is a request for a contract amendment for additional funds on three tasks for preparation of Plan Morro Bay and the accompanying Zoning Code update and environmental impact report (Tasks 2, 3 and 4). The additional work and funding requested is detailed in this memo. The work described in the memo includes additional work by Rincon Consultants and Lisa Wise Consulting. Please let us know if you have any questions. We look forward to your response.

Sincerely,



David Schaarsmith, AICP
Vice President



Amy Sinsheimer, AICP
Project Manager

Task 2: Blueprint and Greenprint Preparation

2.5 Public Review Draft Blueprint and Greenprint Plans

Due to updated traffic data being available from SLOCOG for draft Plan Morro Bay that was not available at the time the Community Baseline Assessment was prepared, the figures prepared for the Noise Element and CBA Noise section were in need of updating for draft Plan Morro Bay. Additional funding is requested to address the figure updates.

Existing and Future Noise Contours. The Michael Baker Project Team prepared a second set of existing and future noise contours originally prepared for the Community Baseline Assessment, based on updated existing and future intersection volume data provided by Central Coast Transportation Consulting (CCTC) in April 2018. Our original scope of work assumed that we would be able to directly incorporate the noise contours prepared for the Community Baseline Assessment, which were based on roadway segment counts prepared by Metro Traffic Data, Inc. This task required coordination with amongst member of the Michael Baker Project Team to verify the updated traffic data, recalculation of roadway segment volumes based on the existing and future intersection volume data, recalculation of noise contour distances for fourteen area roadways based on the updated roadway segment volumes, as well as preparation of eight updated figures to be incorporated into the EIR and Draft Plan Morro Bay.

Budget Table

Subtask	Description of Subtask	Total Cost
2.4	Existing and Future Noise Contours	\$3,570
Total Cost		\$3,570

Task 3: Environmental Assessment

3.2 Administrative Draft Program EIR

Due to revisions to the project description additional funding is requested to complete the following specific subtasks of the Administrative Draft Program EIR.

Project Description/Development Capacity Revisions. The Michael Baker Project Team prepared a second round of revisions to the administrative draft EIR Project Description in April 2018, in response to changes made to the Draft Plan Morro Bay development capacity table subsequent to the City's February 2018 review of the EIR Project Description. Changes to the Draft Plan Morro Bay development capacity table, including changes to acreage, dwelling unit and household counts, nonresidential square footage, and population estimates, required subsequent updates to the EIR Project Description, as well as updates to several draft sections of the EIR to ensure consistency and accuracy, including Air Quality, Land Use and Planning, Population and Housing, Public Services, and Utilities.

EIR Figure Revisions for Updated Sphere of Influence. The City has directed the Michael Baker Project Team to update the Future SOI for the General Plan/LCP Update to include the entire parcel that the proposed wastewater reclamation facility (WRF) project is located on. Michael Baker International anticipates revisions to the mapping and text describing the areas included as Future SOI in the Draft Plan Morro Bay as well as to the figures and text in the EIR. Therefore, this task includes revising 24 EIR figures to reflect the updated Future SOI, as well as minor text revisions to description of the Future SOI throughout the EIR, including the Project Description and Biological Resources analysis. This task does not anticipate the need for substantive updates to the EIR analysis, because the updated Future SOI area is within the General Plan/LCP Update planning area.

Associated Project Management and Coordination. To support the above tasks, the Michael Baker Team is continuing to provide additional project management and coordination effort.

Budget Table

Subtask	Description of Subtask	Total Cost
3.2	Project Description/Development Capacity Revisions	\$5,210
3.2	EIR Figure Revisions for Updated Sphere of Influence	\$1,050
3.2	Associated Project Management and Coordination	\$1,680
Expenses	Supplies, Travel, Communications	\$543
Total Cost		\$8,483

Task 4: Zoning Ordinance Update and Coastal Implementation Plan

Add new Subtasks 4.3.D and 4.3.E to Task 4.3 Draft Regulations as follows:

Subtask 4.3.D. Review Meetings. Lisa Wise Consulting will present and review draft regulations at five (5) additional meetings with the General Plan Advisory Committee, Planning Commission, or other review body to gather comments and get feedback on the draft regulations for incorporation into the Public Review Draft Ordinance.

Subtask 4.3.E. Development Potential Evaluation. Lisa Wise Consulting will evaluate development and redevelopment potential of properties in the CC land use designation based on parcel size, parcel configuration, site development, and other considerations for use in consideration of appropriate height limits.

Budget Table

Subtask	Description of Subtask	Total Cost
4.3.D	5 additional GPAC, Planning Commission, or other review body meetings	\$6,000 (\$1,200 per meeting)
4.3.E	Development Potential Evaluation	\$5,000
Total Cost		\$11,000

Total Request Budget Table

The following table includes total additional funds requested by task.

Task	Total Cost
2. Blueprint and Greenprint Preparation	\$3,570
3. Environmental Assessment	\$8,483
4. Zoning Ordinance Update and Coastal Implementation Plan	\$11,000
Total Cost	\$23,053

**MEMORANDUM OF UNDERSTANDING BETWEEN
TRI W ENTERPRISES, INC.
AND
THE CITY OF MORRO BAY, CALIFORNIA**

This Memorandum of Understanding ("hereinafter "this Memorandum") is entered into this 25th day of October, 2016, by and between Tri W Enterprises, Inc., a California corporation (hereinafter "Owner") and the City of Morro Bay, a California municipal corporation (hereinafter "City") for the potential acquisition of certain real property as herein set forth.

RECITALS:

- A. City is undertaking a project that involves the development of a new water reclamation facility (the "WRF") for City's community.
- B. The development of the WRF requires the acquisition of certain real property for the plant site, disposal site, environmental mitigation area, and for other appurtenant facilities imperative to the operation
- C. A portion of the property identified as San Luis Obispo County Assessor's Parcel Number 073-101-017, which is owned by Owner has been identified by City as one such property that is preferred for acquisition by City for use in constructing and operating the WRF.
- D. Because of the overriding public necessity for the below described property, if the parties are not able to come to a negotiated agreement for City's purchase of the below described property, then, provided the purpose of the Option Period (as defined below) is satisfactorily completed, City would have likely commenced the public review and meeting process to consider authorizing the use of its condemnation powers to acquire the property described below.

IT IS HEREBY MUTUALLY AGREED AMONG THE PARTIES AS FOLLOWS:

- 1. OPTION. City will have the option to acquire a fee simple interest in the real property consisting of approximately 30 acres of San Luis Obispo County Assessor's Parcel Number 073-101-017, further described in Exhibit A-1 and shown on Exhibit A-2, and all improvements thereon (collectively, hereinafter "Property") for construction and operation of the WRF. Owner shall reserve and retain any required utility easements including, but not limited to, power, telephone, CATV. The purpose of the Option Period is to provide City with the necessary and legally required time to complete all necessary master planning and environmental assessments before it may proceed with the purchase of the Property.
- 2. OPTION PERIOD. As used in this Memorandum, the Option Period shall mean the term commencing on the effective date of this Memorandum and concluding on the forty-fifth day after the earlier of (i) the statute of limitations has run on any challenge City's approved Environmental Impact Report for the WRF, (hereinafter "EIR") without one being timely filed, or (ii) a timely legal challenge was filed and a final court judgment has determined the EIR is valid.

3. PURCHASE PRICE. The Purchase Price shall be determined based upon a property appraisal of all of the Property that City desires to purchase, prepared by a real estate appraiser agreed to in writing by both Owner and City, based upon a scope of appraisal work also agreed to in writing by both Owner and City. Neither City nor Owner shall unreasonably delay their written approvals of either the appraiser or the scope of work. The appraisal shall be prepared after City provides written notice to Owner of its intent to exercise its right to purchase the Property during the Option Period. City shall be responsible for all appraisal costs. Owner acknowledges and agrees, when actually paid, the Purchase Price shall be full payment to Owner for the Property and for all damages of every kind and nature, including, but not limited to, just compensation, relocation benefits, pre-condemnation activities, bonus value for any leasehold interest, including for inverse condemnation and loss of goodwill by reason of the acquisition of the Property. In recognition that the sum to be paid is in lieu of any and all loss of goodwill or relocation payments to which Owner may otherwise be entitled, Owner shall also waive any and all relocation benefits and any loss of goodwill or other payments for any and all closure or relocation.

4. OPENING OF ESCROW. If City exercises its option during the Option Period, then escrow shall be opened for that purchase within 30 days after notice from City it is exercising its option.

5. CLOSE OF ESCROW. Close of Escrow shall occur within 30 days after opening of escrow.

6. OWNER'S RIGHT OF REPURCHASE. If after the Close of Escrow City does not proceed with the construction of the WRF, then, until 45 days after City provides written notice to Owner of City's decision not to so proceed, Owner shall have the right to repurchase the land for the Purchase Price paid by City.

7. ENTRY ONTO PROPERTY. Owner grants to City and its authorized agents permission to enter the Property at all reasonable times prior to the Close of Escrow for the purposes of making inspections, tests, borings, samplings, and other such investigations as City shall deem reasonable to determine the physical condition of the Property including but not limited to the geophysical condition of the property, the biological condition of the property relative to environmental mitigation issues, and the existence of any archaeological resources. City shall pay for all related costs. City shall make available to Owner copies of all public reports in its possession including all tests, borings, samplings, any other such investigations, and appraisals by City's consultants on the Property. Prior to entering the Property, City agrees to make good-faith effort to give 48-hours' advanced notice to Marshall Ochylski, the Owner's Agent at 805-441-4466 and marshall@slollegal.com prior to commencing any borings or other physical investigations upon the Property. City agrees to indemnify and hold harmless the Owner from any and all liability resulting from City's activities upon the Property excepting when such liabilities result from the gross negligence of the Owner. City further agrees, in the event City does not acquire the Property, City shall restore any impacts from its activities thereon to their original condition.

8. ANNEXATION AND SPHERE OF INFLUENCE UPDATE. City will process an annexation proposal for the Property, as well as a proposal to modify its Sphere of Influence to include the Remainder Parcel.

9. MAINTENANCE OF ACCESS AND UTILITY EASEMENT. The Access and Utility Easement to be provided over the Remainder Parcel as shown on Exhibit A-2 will be improved and maintained by the City.

10. CITY TO CONTINUE TO SUPPLY CITY SERVICES TO ADJACENT PARCELS WITHIN CITY LIMITS. The Adjacent Parcels Within the City Limits (defined as San Luis Obispo County Assessor's Parcel Numbers APN: 068-401-012 and 068-401-013) currently have water service from City meters and City hereby agrees to continue to provide that water service at rates applied to other similar users within City.

11. RESOLUTION OF EXISTING ACCESS EASEMENTS. City will provide assistance to Owner for Owner to confirm the validity of the existing access easements adjoining both the Adjacent Parcels Within the City Limits and the Remainder Parcel and will assist Owner to assure access from the City's rights-of-way to those parcels.

12. ACCESS TO REMAINDER PARCEL. To the extent City's governmental approval is necessary for vehicular access over the Adjacent Parcels Within the City Limits to the Remainder Parcel City will assist Owner in processing any and all such approvals.

13. AVAILABILITY OF RECYCLED WATER. To the extent allowed by California law, if City treats wastewater for use as recycled water, and if City intends to provide water to agricultural users, then City agrees to provide that recycled water for agricultural uses on the Remainder Parcel at rates applied to other similar users within City.

14. REIMBURSEMENT OF LEGAL FEES. City will reimburse Owner for legal fees required to prepare and implement the Memorandum in an amount not to exceed \$5,000.00.

15. COOPERATION WITH FUNDING AGENCIES. Owner agrees to cooperate with City, at no expense to City, in complying with the property acquisition requirements imposed by governmental funding agencies that may contribute funds towards the purchase of the Property or any other aspects of the WRF. Such collaboration shall include, but not be limited to, providing access to the property for appraisals and inspections

16. CONTACT PERSON. Each party's Contact Person shall be as follows:

For Owner: Marshall E. Ochylski
Attorney at Law
979 Osos Street, Suite F7
San Luis Obispo, CA 93401
805-544-4546
marshall@slollegal.com

For City: David Buckingham
City Manager
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

Either party can change its above Contact Person by written notice to the other party.

18. MISCELLANEOUS TERMS.

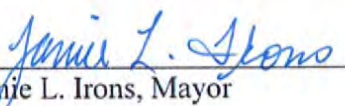
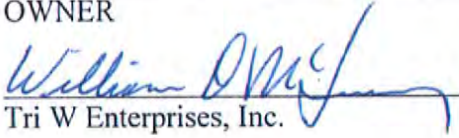
This Memorandum is intended to be an outline to assist the parties in preparing a definitive purchase agreement. This Memorandum is not intended to contractually bind either party in any way, nor shall either party be legally bound until a purchase and sale agreement, in form and content satisfactory to both parties, is fully executed. Notwithstanding the foregoing, the parties will act in good faith to implement the understandings set forth in this Memorandum and either party may bring an action for specific performance if the other party fails to do so.

This Memorandum may be executed in counterparts, each of which so executed so irrespective of the date of the execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same instrument.

Nothing in this Memorandum is intended to conflict with Federal, State of California or local laws, rules or regulations applicable to the acquisition of property by a governmental agency or determination for location, funding and construction of the WRF ("Current Rules and Regulations"). If a term of this Memorandum is inconsistent with any Current Rules and Regulations, then that term shall be invalid but the remaining terms and conditions of this shall remain in full force and effect.

This Agreement may be modified upon the mutual written consent of the parties. A modification will become effective on the date that all parties have agreed in writing to the modification.

The Effective Date of this Memorandum shall be the date it is signed by both parties.

CITY  Jamie L. Irons, Mayor Date: <u>Oct 25</u> , 2016 ATTEST: <u>See next page</u>	OWNER  Tri W Enterprises, Inc. By: William McInerney Its: CFO and Vice President of Finance



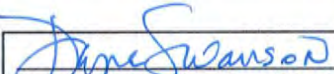
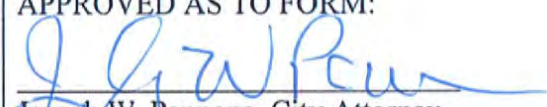
 Dana Swanson, City Clerk APPROVED AS TO FORM:  Joseph W. Pannone, City Attorney	Date: <u>Oct. 25</u> , 2016

EXHIBIT A-1
LEGAL DESCRIPTION
[TBD]

A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a single name.

Legal Description WRF Property Parcel

Being a portion of Parcel 2 of Parcel Map No. CO MB 89-363 in the City of Morro Bay as shown on map recorded in Book 48, at Page 13 of Parcel Maps in the Office of the San Luis Obispo County Recorder, in the State of California, described as follows:

Beginning at a point on the south line of said Parcel 2, distant thereon N 56°43'00" W, 93.00 feet from the southeast corner of said Parcel;

- 1) thence, leaving said south line, N 21°25'57" E, 405.00 feet to the beginning of a tangent curve, concave westerly, having a radius of 55.00 feet;
 - 2) thence northerly, along said curve, through a central angle of 6°15'00", 6.00 feet;
 - 3) thence N 15°10'57" E, 263.00 feet, to the beginning of a tangent curve, concave easterly, having a radius of 145.00 feet;
 - 4) thence northerly, along said curve, through a central angle of 19°45'00", 49.98 feet;
 - 5) thence N 34°55'57" E, 152.50 feet to the beginning of a tangent curve, concave westerly, having a radius of 55.00 feet;
 - 6) thence northerly, along said curve, through a central angle of 34°55'00", 33.52 feet;
 - 7) thence N 0°00'57" E, 230.00 feet to the beginning of a tangent curve, concave southwesterly, having a radius of 55.00 feet;
 - 8) thence northwesterly, along said curve, through a central angle of 19°35'00", 18.80 feet;
 - 9) thence N 19°34'03" W, 502.75 feet;
 - 10) thence N 71°15'46" E, 191.00 feet;
- thence N 22°32'32" W, 15.00 feet;
- thence N 12°25'03" W, 30.00 feet;
- thence N 19°29'39" W, 40.00 feet;
- thence N 50°56'25" W, 13.00 feet;
- thence N 64°47'41" W, 54.00 feet;
- thence N 50°09'25" W, 65.00 feet;
- thence N 59°15'13" W, 20.00 feet;
- thence S 66°13'53" W, 220.00 feet;
- thence S 47°27'38" W, 540.00 feet;

thence S 33°36'30" W, 891.37 feet to the south line of said Parcel 2;

thence, along said south line, S 56°43'00" E, 1073.93 feet to the Point of Beginning.

Legal Description Access and Utility Easement

A 60.00 foot wide strip across above described Parcel 2, lying contiguous with, and easterly of, courses one through 9 of herein above described WRF Property Parcel.

The east line of said 60.00 foot wide strip is to terminate southerly at the south line of said Parcel 2, and to terminate northwesterly at herein above described course ten.

End of Descriptions.

JoAnn B. Head 10-12-16
JoAnn B. Head

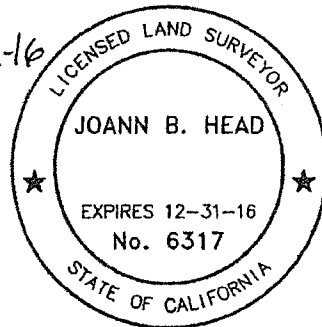


EXHIBIT "A"

APN 073-101-017

PARCEL 2
CO MB 89-363
(48/PM/13)

APN
073-121-022

WRF PROPERTY
PARCEL

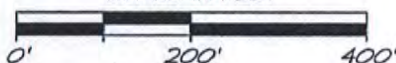
60.00' WIDE ACCESS
AND UTILITY EASEMENT

LINE TABLE

L1	N 22°32'32" W	15.00'
L2	N 12°25'03" W	30.00'
L3	N 19°29'39" W	40.00'
L4	N 50°56'25" W	13.00'
L5	N 64°47'41" W	54.00'
L6	N 50°09'25" W	65.00'
L7	N 59°15'13" W	20.00'



SCALE IN FEET



S 56°43'00" E 1073.93'

N 56°43'00" W 93.00'

JOANN HEAD LAND SURVEYING

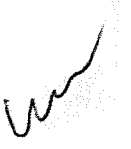
Post Office Box 887
Santa Margarita, CA 93453
(805) 674-1530

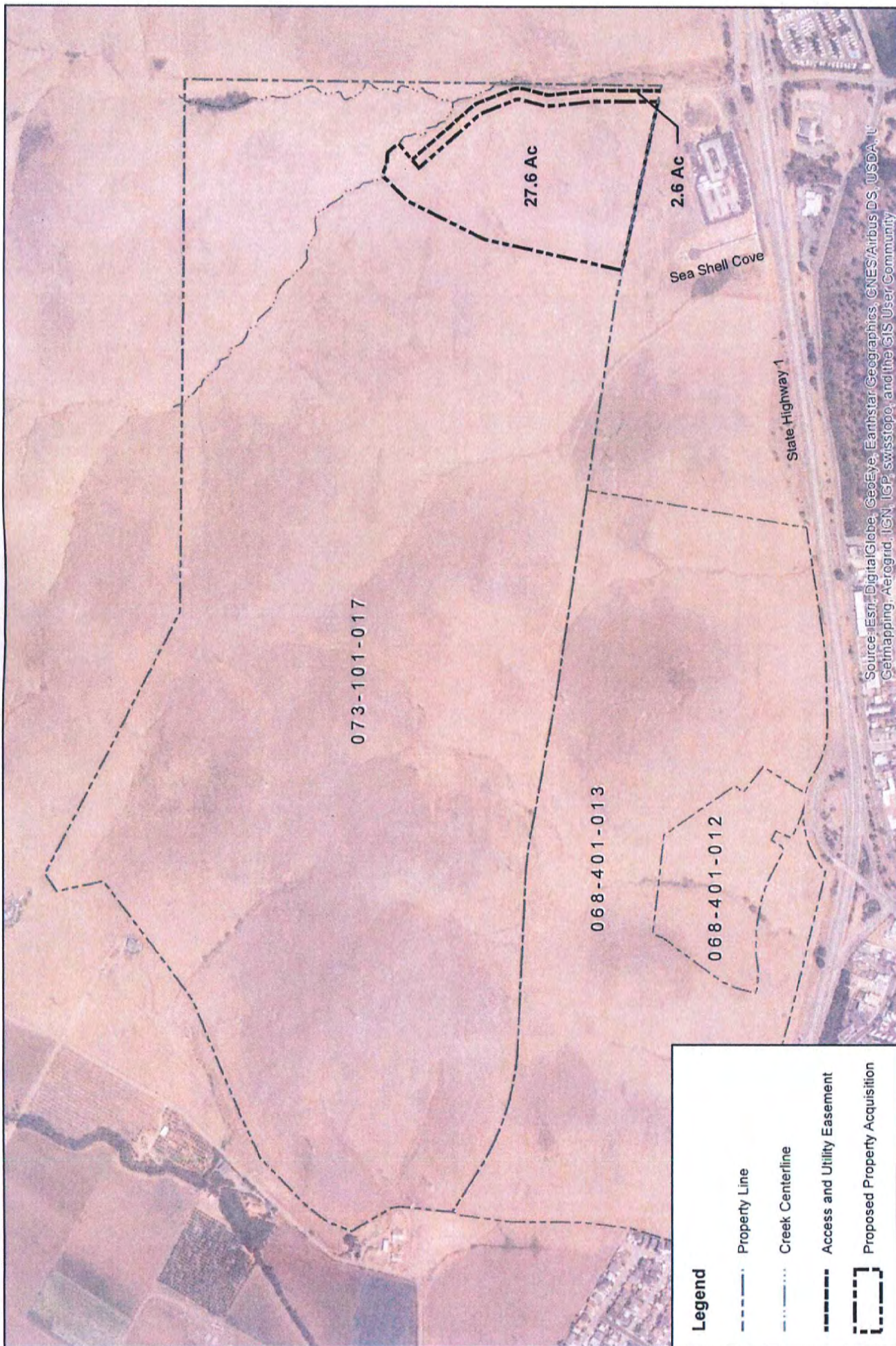
October, 2016

020-05 ex01.dwg

EXHIBIT A-2

SITE MAP

A handwritten signature in black ink, consisting of a series of loops and a final upward stroke, located in the bottom right corner of the page.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community

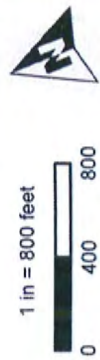


Exhibit A-2

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AGENDA NO: A-6

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: July 23, 2018

FROM: Jennifer Callaway, Finance Director

SUBJECT: Receipt of Third Quarter Investment Report (period ending March 31, 2018) for Fiscal Year 2017/18

RECOMMENDATION

Receive the attached Third Quarter Investment Report (period ending March 31, 2018) for Fiscal Year 2017/18.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

DISCUSSION

Attached for Council consideration is the Third Quarter Investment Report for FY 2017/18.

As of March 31, 2018, the City's weighted portfolio yield of 1.14% was below the Local Agency Investment Fund (LAIF) yield of 1.51%. With interest rates increasing staff will monitor rates closely and as investments mature replace those investments with an appropriate maturity and credit rating equivalent investment.

During the quarter, yields have generally been increasing anticipating continued economic growth. Passage of the new tax provisions added to investor's belief in growth in the economy and inflation, while also increasing the federal budget deficit and supply of Treasury debt. Many believe that the new tax provisions will lead to higher potential for inflation and higher future interest rates.

As such, staff's strategy will be to focus on the purchase of short-term (two years or less in maturity) investments as the rewards for longer term investments in the three to five-year maturity do not have adequate spreads to justify the risk of holding longer term maturities.

The Citizen's Finance Advisory Committee (CFAC) received the FY 2017/18 3rd Quarter Investment report on July 17, 2018 with no recommended changes.

CONCLUSION

Staff recommends the Council receive the Third Quarter Investment Report (period ending March 31, 2018) for Fiscal Year 2017/18.

ATTACHMENT

1. Third Quarter Investment Report for FY 2017/18 (period ending March 31, 2018)

Prepared By: JC

Dept Review:

City Manager Review: SC

City Attorney Review: JWP

CITY OF MORRO BAY
QUARTERLY PORTFOLIO PERFORMANCE
3/31/2018

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
LAIF	LOCAL AGENCY INVESTMENT FUND	\$ 7,743,195	\$ 7,743,195	1.51%	DAILY	DAILY	1
MONEY MARKET ACCOUNT:							
MM	RABOBANK - MONEY MARKET	2,531,522	2,531,522	0.20%	DAILY	DAILY	1
SWEEP	RABOBANK - SWEEP	4,099,121	4,099,121	0.05%	DAILY	DAILY	1
MM	OPUS BANK	4,044,881	4,044,881	1.59%	DAILY	DAILY	1
Government Agency							
3134G8PD5	FHLM Corp	500,003	497,548	1.350%	3/30/2016	9/30/2019	
3136G1KD0	FNMA	498,933	499,015	1.000%	6/13/2013	4/30/2018	
CERTIFICATES OF DEPOSIT:							
1404202A7	ZION BANK - CAPITAL ONE BANK	250,005	252,772	2.400%	4/12/2017	4/12/2022	1,473
902856	TBK BANK	250,000	250,000	2.050%	1/24/2017	1/11/2019	286
4100093030	LEADER BANK	250,000	250,000	1.551%	1/6/2014	1/6/2019	281
254671VW7	ZION BANK - DISCOVER BANK	250,001	251,224	2.000%	9/11/2013	9/11/2018	164
05568P5Y9	ZION BANK - BMW BANK	250,001	251,262	2.100%	10/25/2013	10/25/2018	208
36160NYZ6	ZION BANK - Synchrony Bank CD	250,001	251,661	2.150%	10/25/2013	10/25/2018	208
38148PGK7	ZION BANK - GOLDMAN SACHS BANK	250,003	245,243	1.550%	8/3/2016	8/3/2021	1,221
3090683803	STATE FARM BANK	250,000	250,000	1.980%	10/21/2013	10/21/2018	204
4923509568	PENTAGON FEDERAL CREDIT UNION	250,000	250,000	3.000%	2/5/2014	2/5/2019	311
		<u>\$ 21,667,666</u>	<u>\$ 21,667,443</u>				
					% OF LIQUID PORTFOLIO HOLDINGS	WEIGHTED AVERAGE RATE OF EARNINGS	WEIGHTED AVERAGE MATURITY
					<u>85.006%</u>	<u>1.140%</u>	<u>51</u>

Portfolio holdings as of the third quarter ended March 31, 2018, are in compliance with the current Investment Policy. With 85.006 %

of the portfolio held in liquid instruments, the City's portfolio is well above the 65 % to 70 % target liquidity rate approved by the City Council in March 2018.



AGENDA NO: A-7

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: August 14, 2018

FROM: Steven C. Knuckles, Fire Chief

SUBJECT: Authorization for Sole Source Purchase of a Fire Engine Pumper from Pierce Manufacturing and Recommended Budget Adjustments

RECOMMENDATION

Council

1. Authorize the sole source purchase of an Arrow XT 1,500 GPM Fire Engine Pumper, from Pierce Manufacturing, in an amount not to exceed \$678,874, since it is the only fire engine manufacturer that can service all of Morro Bay's needs; and
2. Authorize budget adjustments as detailed in Resolution No. 59-18 to support purchase of the fire engine with available cash.

ALTERNATIVES

Follow the bidding or open market procedure as described in Morro Bay Municipal Code.

FISCAL IMPACT

The Fire Engine Pumper (Engine 5391) will be purchased with funds from the Bertha Shultz Trust (\$300,000, Fund 515-2305), Measure Q (\$60,000, Fund 003), Government Impact Fees (\$73,500, Fund 900), the Vehicle Replacement Fund (\$20,374, Fund 050) and a loan from the City's General Fund Emergency Reserve (\$225,000, Fund 051). The original budget for the fire engine purchase was approved in the FY 2018/19 adopted budget for \$675,000. The recommended contract amount includes a manufacturing discount of \$28,100 due to the City providing full payment. Staff's recommendation is the General Fund Emergency Reserve funds would be utilized as a cash advance in lieu of outside financing and to be reimbursed by Measure Q in the amount of \$56,250 for the next four years (FY 2019/20, 2020/21, 2021/22, and 2022/23). The General Fund Emergency Reserve (GFER) is estimated to close FY 2017/18 with \$3.1 Million, \$225,000 above the target minimum balance.

SUMMARY

Staff is requesting City Council authorization to bypass the bid process and enter into a contract with Pierce Manufacturing to purchase a fire engine pumper. Staff believes the fire engine pumper produced by Pierce Manufacturing are unique, *i.e.* Pump Under Cab (PUC) powered by a Power Take Off (PTO), shorter wheel base, largest compartment space available than all others, dedicated service facility in Paso Robles, and, therefore, only available from one vendor. Comparing eight fire engine pumper manufacturers, Pierce Manufacturing provided the only PUC powered by a PTO design with the increased compartment space and turning radius. One manufacturer has discontinued manufacturing structure fire engines. The price range with the remaining seven

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Prepared By: SK

Dept Review: SK, JC

City Manager Review: SC

City Attorney Review: JWP

manufacturers are \$467,625 to \$886,875 with the average at \$661,731.

Our current Engine 5391 has served the Morro Bay community since 1994 and has roughly responded to 23,000 incidents, including 1,200 fires. Because our current Engine 5391 was still performing well on its pump testing in 2014, we extended its replacement to 25 years due in 2019. The last couple of years we have experienced mechanical failures in the engine and pump costing over \$30,000. More importantly, Engine 5391 was out of service for 11 weeks (21%) in 2018 due to needed repairs.

A report was presented to our Community Finance Advisory Committee(CFAC) on July 17, 2018with the CFAC recommending the sole source purchase through Pierce Manufacturing. The CFAC recommended this staff report include the comparable prices from the other Fire Engine manufacturers.

BACKGROUND

It is vital for the City to maintain a reliable fleet of fire apparatus to meet our mission of delivering quality emergency services in Morro Bay. The Morro Bay Fire Department (MBFD) 5-Year Strategic Plan recommendation and our 2012 update support this, stating;

“Assure all Fire Department apparatus is up to date, meets National Fire Protection Association (NFPA) standards, and is reliable.

“Solution: Provide for an ongoing apparatus replacement program which replaces first line squads at 10 years, engines at 20 years and first line Ladder Truck at 25 years.”

The objectives of our replacement engine are to:

- Comply with Occupational Safety and Health Administration (OSHA), and NFPA requirements.
- Meet the requirements of a Type I pumper as per FIREScope.
- Perform mobile fire attack while moving for wildland interface firefighting.
- Provide 1,500 gallons per minute pump and carry a minimum of 2,725 feet of firehose to continue Morro Bay's ISO rating of “3”.
- Travel on all roads in Morro Bay and Auto / Mutual Aid areas in San Luis Obispo County especially north coast communities.
- Carry the identical complement of equipment as Engine 5392 and Truck 5341.
- Use local resources in San Luis Obispo County for warranty, maintenance, and fire pump repair to reduce travel time and out of service days.
- Provide for consistent equipment operations to standardize training for utilization and operational effectiveness for cross staffing multiple apparatus daily.
- Purchase from a stable company that will be in business during the life of the fire engine to insure proprietary parts are available for warranty work and repairs.

Staff has been diligently researching fire engine pumper designs and standards, manufacturing trends, state-of-the-art technology, Occupational Safety and Health Administration (OSHA), National Fire Protection Association (NFPA) requirements, and EPA emissions requirements. Staff has also researched more than five fire apparatus manufacturers and fire apparatus service organizations, and met with users of four late-model fire apparatus. Other factors staff took into consideration in this process include:

1. The size of the company and stability that help to guarantee the company remains in business throughout the life of the fire engine purchased by the City. That would help to ensure proprietary parts are available, archived construction drawings and parts lists can be easily retrieved and future engines purchased by the City will be built consistent with units already in service.
2. The age of the company and experience in constructing fire apparatus equates to a thorough understanding of the fire service and ability to provide the best product to the City. It also helps to ensure they have a long history of examining problems and solving them before the MBFD experiences difficulties.
3. The larger and more stable the company is, the better it can provide warranty support, not only for the entire unit, but also for the individual components such as electrical and structural components, frame rails, cabs, and bodies.
4. If the manufacturer under consideration is a single source builder, (*i.e.* builds both the cab and chassis and the body in its own plant), then the MBFD needs only to go to one place for support rather than have to consult multiple parties if it needs technical assistance. Manufacturers of engines that purchase cab and chassis units from other builders can only support what they construct. They are dependent on the subcontractor accepting responsibility, assuming the subcontractor is still in business.
5. Larger, more stable manufacturers that build the entire unit integrate properly engineered electrical, plumbing, and drive train components from the ground up rather than depend on numerous subcontractors. This helps to ensure that everything works together as is designed.
6. Engine and drive train components have never been as complex and sophisticated as they are today. Motors and transmissions are fully electronic and demand careful and meticulous engineering. Fire apparatus manufacturers under consideration must be able to prove that they can properly install, cool, and utilize diesel motors, transmissions, axles, alternators, generators, and other essential components used in fire service applications.

Since 1981, the MBFD has purchased six fire apparatus from Pierce Manufacturing with success:

- 1981 Engine 5381 (Replaced in 2008, 27 years of service)
- 1982 Truck 5341 (Replaced in 2014, 32 years of service)
- 1994 Engine 5391 (Scheduled replacement in 2019)

- 2008 Engine 5392 (Scheduled replacement in 2033)
- 2009 Rescue 5351 (Scheduled replacement in 2029)
- 2014 Truck 5341 (Scheduled replacement in 2044)

In light of those facts, Pierce Manufacturing became the optimum choice. Oshkosh Truck Manufacturing Company, a long-time manufacturer of heavy trucks, wholly owns Pierce Manufacturing Inc. Pierce also offers its customers:

- A dedicated service facility in Paso Robles. No other manufacturer has that. We would have to drive over 200 miles for service and warranty repairs. Major cost for just transporting unit.
- The only manufacturer that builds a 1,500 GPM Pump Under Cap (PUC) that offers up to 300 cubic feet of compartment space with 177.50" wheelbase. The most compartment space to wheelbase in the industry.
- The 1,500 GPM low profile Pierce PUC pump allows for better maneuverability in tight areas in our city.
- The ability to perform mobile fire attack during wildland fires; this is a Pierce exclusive.
- TAK4 Independent Front Suspension, which provides better ride qualities and most of all decrease stopping distances for safer operations.
- Providing an Arrow XT model to match our current MBFD units, Engine 5392 and Truck 5341, for safety, easier operation, and continuity.
- The Detroit DD13 Engine and Drivetrain, which will match our current units. A Pierce exclusive that will provide many years of service to MBFD backed up by Detroit diesel dealerships in SLO County.
- Local references since San Luis Obispo, Santa Maria, Five Cities Fire Authority, Los Osos, Atascadero, and Cambria Fire Departments have purchased Pierce products in the last two years.

DISCUSSION

Morro Bay Municipal Code, section 3.08.070 states: "Bidding or open market procedure may be dispensed with ... or when the commodity can be obtained from only one vendor." While there are a number of fire engine manufacturers, Pierce is the only company producing a rear engine PTO, which allows for a shorter fire engine pumper wheelbase and turning radius while providing more storage space. The shorter turning radius allows the fire engine pumper access to all Morro Bay streets, while carrying all "first out" equipment, which distinguishes it from all other fire engine pumper on the market. Other manufacturers that have the storage capacity for all of the "first out" equipment have a much larger wheelbase, which cannot access all streets in Morro Bay. Therefore, due to the many tight physical constraints resulting from Morro Bay's hillsides and narrow residential streets, the public's safety can be best served by the City's purchase of a fire engine pumper with a shorter than typical turning radius. Based on staff's review of what is available in the industry, Pierce is the sole source able to provide that equipment.

Pierce Manufacturing builds high quality fire engine pumpers, manufacturing their own cab, chassis, body, and pump. Purchasing a Pierce fire engine will maintain our City-owned fleet of fire engines

as 100% Pierce-manufactured. Similarities in features and operation improves operational effectiveness. Firefighters depend on the quality product manufactured by Pierce as well as the availability of parts, service, and support. Our experience with Pierce instills confidence the product will operate well for the next 20-25 years and the company will be around to support our needs. Our experience with other manufactures does not instill this same level of confidence. MBFD engine 2504, purchased in 1980, experienced significant problems early on and was failing after only 10 years of service. There are less expensive manufacturers than Pierce; however, staff feels any initial savings in the purchase price would only put the City at greater risk of having to spend more in the long run due to repairs and early replacement.

The City Attorney and Finance Director have reviewed the sole source justification and believe a sole source purchase is justified.

Funding Sources

Given direction from the City Council and CFAC related to the financing of the fire engine, staff recommends the engine be purchased with available cash as follows:

Bertha Schultz Trust Fund	\$300,000 (\$25,000 above approved budget authority of \$275,000)
FY 2018/19 Measure Q	\$ 60,000 (approved in the FY 2018/19 adopted budget)
Government Impact Fees	\$ 73,500 (approved in the FY 2018/19 adopted budget)
Vehicle Replacement Fund	\$ 20,374 (Budget adjustment required)
GFER Loan	\$225,000 (Budget adjustment required)

In an effort to balance the needs of equipment and funding for streets and infrastructure needs, staff's recommendation is for the Vehicle Replacement fund (estimated fund balance at June 30, 2018 \$195,000) to contribute \$20,374 with no repayment provision. A resolution outlining necessary budget adjustments and cash advance terms for the recommended \$225,000 advance from the GFER is included as Attachment 2. Staff does not propose to charge the Measure Q Fund interest on the loan amount, and the Measure Q Fund would reimburse the GFER over a four-year period at a flat rate of \$56,250 per year. Exhibit A to Resolution No. 59-18 provides for the required budget adjustments to support staff's recommendation.

CONCLUSION

The Fire Engine Pumper Replacement Committee was created to research, design, and develop our purchase request with objective to design a fire engine pumper that will fill our community's needs to the year of 2039-2044. That committee, headed by Engineer Paramedic Travis Hasch with Captain Paramedic Michael Talmadge, Engineer Paramedic Scott Subler, and Engineer Paramedic Jeff Simpson assisting concluded the sole source purchase of an Arrow XT, 1,500 GPM PUC, from Pierce Manufacturing, in an amount not to exceed \$678,874 is the most fiscally and operationally responsible decision.

ATTACHMENTS

1. 2018 1,500 GPM, 500 gallon tank, 40 gallon foam cell, ladders through body, PUC design
2. Resolution No. 59-18 Authorizing cash advance and budget adjustments

RESOLUTION NO. 59-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZING LOAN REPAYMENT TERMS TO ADVANCE \$225,000 FROM THE CITY'S
GENERAL FUND EMERGENCY RESERVE TO SUPPORT THE PURCHASE OF A NEW FIRE
ENGINE WITH EQUAL ANNUAL FOUR-YEAR INSTALLMENT PAYMENTS REIMBURSING THE
GENERAL FUND EMERGENCY RESERVE FROM THE MEASURE Q FUND AND
AUTHORIZING THE REQUIRED FISCAL YEAR 2018/19 BUDGET ADJUSTMENTS TO
SUPPORT THE FIRE ENGINE PURCHASE**

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

WHEREAS, the City of Morro Bay adopted the Fiscal Year 2018/19 budget, including \$675,000 to purchase a new fire engine.

WHEREAS, the City of Morro Bay's adopted budget included appropriation of \$275,000 from the Bertha Schultz Donation Fund, \$60,000 from the Measure Q fund, \$73,500 from the Government Impact Fees Fund, and the remainder of the expenditure to be financed through the manufacturing company; and

WHEREAS, the City prefers to not pay interest on the financing of the fire engine and pay for the engine with available cash; and

WHEREAS, the City has identified an additional \$25,000 in the Bertha Schultz Donation Fund to contribute towards the fire engine purchase; and

WHEREAS, the City has identified \$20,374 in the General Government Vehicle Replacement Fund to contribute towards the fire engine; and

WHEREAS, the City agrees to advance \$225,000 from the General Fund Emergency Reserve Fund towards the purchase of the fire engine with the understanding that these funds will be reimbursed on a flat, annual basis in the amount of \$56,250 from the Measure Q fund in FY 2019/20, 2020/21, 2021/22 and 2022/23; and

WHEREAS, the City does not intend to charge interest on the advance from the GFER as it is in the city's best interest to balance the need for infrastructure repairs and maintenance with vehicle needs; and

WHEREAS, the City Council authorizes a budget adjustment of \$25,000 from fund balance in additional appropriation from the Bertha Schultz Donation Fund (515-2350); and

WHEREAS, the City Council authorizes a budget adjustment to appropriate \$20,374 from the General Government Vehicle Replacement Fund (Fund 0550) fund balance with the understanding that this amount will not be reimbursed from Measure Q; and

WHEREAS, the City Council authorizes a budget adjustment to transfer \$225,000 from the General Fund Emergency Reserve to the General Fund and an appropriation of that \$225,000 within the general fund to purchase the Fire Engine.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the operating budgets of the City of Morro Bay are amended by the additional revenues and expenditures, as shown on the attached schedule to support the purchase of a new fire engine in an amount not to exceed \$678,874; and

The City Council of the City of Morro Bay, California, accepts the repayment terms of the cash advance from the City's General Fund Emergency Reserve over a four-year period with no interest and repayment coming from the Measure Q fund.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 14th day of August 2018, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

Exhibit A to Attachment 2

Revenue				
Fund	Program	Account	Description	Adjustment
915	9627	3820	Transfer from Special Rev (Vehicle Replacement Fund)	\$ 20,374
915	9627	3282	Donation (Bertha Schultz Fund)	\$ 25,000
915	9627	3801	Transfer In (GFER)	\$ 225,000
915	9627	3924	Proceeds from Borrowing	\$ (266,500)
Total Revenue Adjustments				\$ 3,874

Expenditure				
Fund	Program	Account	Description	Adjustment
051	7710	8501	Transfer Out (to 915-9627)	\$ 225,000
050	7710	8501	Transfer Out (to 915-9627)	\$ 20,374
515		2305	Fire Donation Account	\$ 25,000
915	9627	7204	Other Vehicles	\$ 3,874
Total Expenditure Adjustments				\$ 274,248.00

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AGENDA NO: A-8

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: August 7, 2018

FROM: Dana Swanson, City Clerk

SUBJECT: Designation of Voting Delegate and Alternate at League of California Cities 2018 Annual Conference Business Meeting and Authorize the Voting Delegate to Approve the Proposed Resolutions

RECOMMENDATION

Staff recommends the City Council:

1. Select Mayor Pro Tem McPherson, as the voting delegate, and Council Member Headding, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference; and
2. Authorize the Voting Delegate(s) to approve the proposed Resolutions provided as Attachment B.

ALTERNATIVES

1. The Council may choose to disapprove one or both of the proposed Resolutions.
2. The Council may choose not to select any delegates; however, the City would not have voting rights at the annual business meeting.

BACKGROUND

In order to conduct the annual business meeting held in conjunction with the League of California Cities Annual Conference, every represented city must have its City Council designate a voting representative who will be registered at the conference and present at the annual business meeting (the General Assembly). Each member city may also appoint up to two alternates, one of whom may vote in the event the designated voting delegate is unable to serve in that capacity. A voting card will be issued to the designated city official at the conference.

Conference attendance provides an exceptional opportunity for elected officials to hear from leading experts, expand their knowledge regarding municipal government, and view innovative resources that could benefit the delivery of services, enhance resources, and strengthen the City.

DISCUSSION

The League of California Cities 2018 Annual Conference is scheduled for September 12-14, 2018, in Long Beach, California. The Opening General Session is tentatively scheduled at 1:30 p.m. on Wednesday, September 12, with education sessions Wednesday afternoon through noon Friday. The League's Annual Business Meeting and General Assembly will take place at 12:30 p.m. Friday, September 14. The delegates in attendance at the General Assembly will be asked to vote on resolutions submitted from members and developed for the Assembly's consideration. If adopted,

Prepared By: DS

Dept Review: _____

City Manager Review: SC

City Attorney Review: _____

the resolutions are used to set League policy or to provide direction for the League's work effort in the coming year. This year two resolutions are being offered for membership consideration. The resolutions are detailed in Attachment 2 and listed below according to title, source, and Committee assignment.

In order to vote at the League of California Cities 2018 Annual Conference Business Meeting, the City Council must select a voting delegate. In the event the designated voting delegate is unable to serve in this capacity, the City Council may appoint up to two alternate voting delegates. The voting delegate must be registered to attend the conference; however, they may register for Friday only. Currently, Mayor Pro Tem McPherson and Council Member Headding are registered to attend the Annual Conference.

Resolution No. 1:

RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE LEAGUE TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE AND EXPLORE THE PREPARATION OF A BALLOT MEASURE AND/OR CONSTITUTIONAL AMENDMENT THAT WOULD FURTHER STRENGTHEN LOCAL DEMOCRACY AND AUTHORITY

Source: City of Beverly Hills

Referred to: Governance, Transparency & Labor Relations; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works Policy Committees.

Resolution No. 2:

RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Source: City of Malibu

Referred to: Environmental Quality Policy Committee.

CONCLUSION

Staff recommends the City Council select Mayor Pro Tem McPherson, as the voting delegate, and Council Member Headding, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference and authorize the voting delegate(s) to approve the proposed resolutions.

ATTACHMENTS

1. Informational materials from the League of California Cities regarding designation of voting delegate and alternate(s).
2. 2018 Annual Conference Resolutions



1400 K Street, Suite 400 • Sacramento,
California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Council Action Advised by July 31, 2018

RECEIVED
City of Morro Bay
MAY 30 2018

May 17, 2018

City Clerk

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 12 - 14, Long Beach**

The League's 2018 Annual Conference is scheduled for September 12 – 14 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 31, 2018. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 12, 8:00 a.m. – 6:00 p.m.; Thursday, September 13, 7:00 a.m. – 4:00 p.m.; and Friday, September 14, 7:30 a.m.– 11:30 a.m.. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Friday, August 31. If you have questions, please call Kayla Curry at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2018 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, August 31, 2018. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail: _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, August 31, 2018

League of California Cities
ATTN: Kayla Curry
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: kcurry@cacities.org
(916) 658-8254



Annual Conference Resolutions Packet

2018 Annual Conference Resolutions



*Long Beach, California
September 12 – 14, 2018*

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to League policy committees.

POLICY COMMITTEES: Five policy committees will meet at the Annual Conference to consider and take action on the resolutions referred to them. The committees are: Environmental Quality, Governance, Transparency & Labor Relations; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works. The committees will meet from 9:00 – 11:00 a.m. on Wednesday, September 12, at the Hyatt Regency Long Beach. The sponsors of the resolutions have been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 13, at the Hyatt Long Beach, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 13. Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

LOCATION OF MEETINGS

Policy Committee Meetings

Wednesday, September 12, 9:00 – 11:00 a.m.
Hyatt Regency Long Beach
200 South Pine Avenue, Long Beach

The following committees will be meeting:

1. Environmental Quality
2. Governance, Transparency & Labor Relations
3. Housing, Community & Economic Development
4. Revenue & Taxation
5. Transportation, Communication & Public Works

General Resolutions Committee

Thursday, September 13, 1:00 p.m.
Hyatt Regency Long Beach
200 South Pine Avenue, Long Beach

Annual Business Meeting and General Assembly Luncheon

Friday, September 14, 12:30 p.m.
Long Beach Convention Center
300 East Ocean Boulevard, Long Beach

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

ENVIRONMENTAL QUALITY POLICY COMMITTEE

		1	2	3
2	Repeal Preemption of Regulating Pesticides			

GOVERNANCE, TRANSPARENCY & LABOR RELATIONS POLICY COMMITTEE

		1	2	3
1	Local Municipal Authority, Control, and Revenue			

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
1	Local Municipal Authority, Control, and Revenue			

REVENUE & TAXATION POLICY COMMITTEE

		1	2	3
1	Local Municipal Authority, Control, and Revenue			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
1	Local Municipal Authority, Control, and Revenue			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: www.cacities.org. The entire Resolutions Packet will be posted at: www.cacities.org/resolutions.

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

KEY TO ACTIONS TAKEN

A	Approve
D	Disapprove
N	No Action
R	Refer to appropriate policy committee for study
a	Amend+
Aa	Approve as amended+
Aaa	Approve with additional amendment(s)+
Ra	Refer as amended to appropriate policy committee for study+
Raa	Additional amendments and refer+
Da	Amend (for clarity or brevity) and Disapprove+
Na	Amend (for clarity or brevity) and take No Action+
W	Withdrawn by Sponsor

ACTION FOOTNOTES

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE LEAGUE TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE AND EXPLORE THE PREPARATION OF A BALLOT MEASURE AND/OR CONSTITUTIONAL AMENDMENT THAT WOULD FURTHER STRENGTHEN LOCAL DEMOCRACY AND AUTHORITY

Source: City of Beverly Hills

Concurrence of five or more cities/city officials: Cities: Arcadia, Burbank, Cupertino; Duarte; Oceanside; Ontario; Palo Alto; Redondo Beach; Santa Cruz; Sunnyvale; Torrance; West Hollywood

Referred to: Governance, Transparency & Labor Relations; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works Policy Committees

WHEREAS, the State of California is comprised of diverse communities that are home to persons of differing backgrounds, needs, and aspirations; yet united by the vision that the most accessible, responsive, effective, and transparent form of democratic government is found at the local level and in their own communities; and

WHEREAS, subsidiarity is the principle that democratic decisions are best made at the most local level best suited to address the needs of the People, and suggests that local governments should be allowed to find solutions at the local level before the California Legislature imposes uniform and overreaching measures throughout the State; and

WHEREAS, the California Constitution recognizes that local self-government is the cornerstone of democracy by empowering cities to enact local laws and policies designed to protect the local public health, safety and welfare of their residents and govern the municipal affairs of charter cities; and

WHEREAS, over recent years there have been an increasing number of measures introduced within the Legislature or proposed for the state ballot, often sponsored by powerful interest groups and corporations, aimed at undermining the authority, control and revenue options for local governments and their residents; and

WHEREAS, powerful interest groups and corporations are willing to spend millions in political contributions to legislators to advance legislation, or to hire paid signature gatherers to qualify deceptive ballot proposals attempting to overrule or silence the voices of local residents and their democratically-elected local governments affected by their proposed policies; and

WHEREAS, powerful interest groups and corporations propose and advance such measures because they view local democracy as an obstacle that disrupts the efficiency of implementing corporate plans and increasing profits and therefore object when local residents—either through their elected city councils, boards of supervisors, special district boards, or by action of local voters—enact local ordinances and policies tailored to fit the needs of their individual communities; and

WHEREAS, public polling repeatedly demonstrates that local residents and voters have the highest levels of confidence in levels of government that are closest to the people, and thus would be likely to strongly support a ballot measure that would further strengthen the ability of communities to govern themselves without micromanagement from the state or having their authority undermined by deep-pocketed and powerful interests and corporations.

RESOLVED that the League of California Cities should assess the increasing vulnerabilities to local authority, control and revenue and explore the preparation of a ballot measure and/or constitutional amendment that would give the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy to best preserve their local quality of life.

Background Information on Resolution No. 1

Source: City of Beverly Hills

Background:

The relationship between the state and cities functions best as a partnership where major policy issues are approached by the state with careful consideration of the varied conditions among the state's 482 cities and 58 counties. There should be an appreciation of the importance of retaining local flexibility to tailor policies to reflect the needs and circumstances of the local community. Still, cities have had to respond to state legislation that undermines the principle of "local control" over important issues such as land use, housing, finance, infrastructure, elections, labor relations and other issues directly affecting cities.

Alexis de Tocqueville's "Democracy in America" examined the operation of the principle of subsidiarity in the early 19th century. Subsidiarity is an organizing principle that states matters should be handled by the smallest, lowest or least centralized competent authority. Tocqueville wrote that "Decentralization has not only an administrative value, but also a civic dimension, since it increases the opportunities for citizens to take interest in public affairs; it makes them get accustomed to using freedom." Tocqueville's works were first published in 1835 with a second volume published in 1840. The United States had a population of just 17 million people in 1840, less than 50% of the population of California today and yet there was value found in decentralization.

Another consideration is to examine how the European Union ("EU") operates. There are two prime guiding principles for the EU. The first is principle of conferral, which states that the EU should act only within the limits of the competences conferred on it by the treaties. The second, which is relevant to this resolution, is the principle of subsidiarity, which states that the EU should act only where an objective cannot be sufficiently achieved by the member states acting alone. Sacramento should operate in a similar manner and only govern when objectives need to be achieved at a much larger level than a local government.

For years, Governor Jerry Brown himself has spoken on the principle of "subsidiarity." Governor Brown has asserted for numerous years that local officials should have the flexibility to act without micromanagement from Sacramento.

Legislation introduced in both 2017 and 2018 by the state legislature has continually threatened local control in flagrant opposition to the principle of subsidiarity. This has included, but not been limited to, Senate Bill 649 (Hueso) Wireless Telecommunications Facilities ("SB 649") in 2017; AB 252 (Ridley-Thomas) Local government: taxation: prohibition: video streaming services ("AB 252") in 2017; and Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus ("SB 827") in 2018.

SB 649 would have applied to all telecommunications providers and the equipment they use, including "micro-wireless," "small cell," and "macro-towers," as well as a range of video and cable services. The bill would have allowed the use of "small cell" wireless

antennas and related equipment without a local discretionary permit in all zoning districts as a use by-right, subject only to an administrative permit. Additionally, SB 649 provided a de facto CEQA exemption for the installation of such facilities and precluded consideration by the public for the aesthetic, nuisance, and environmental impacts of these facilities. SB 649 would have also removed the ability for cities to obtain fair and reasonable compensation when authorizing the use of public property and rights of way from a “for profit” company for this type of use.

SB 649 passed out of the State Assembly by a vote of 46-16-17 and out of the State Senate by a vote of 22-10-8 despite over 300 cities and 47 counties in California providing letters of opposition. Ultimately, Governor Brown vetoed the bill as he believed “that the interest which localities have in managing rights of way requires a more balanced solution than the one achieved in this bill.” It is strongly believed that the issue of wireless telecommunications facilities is not over and it is anticipated that legislation will be introduced on this topic in January 2019.

Another example of an incursion into local control was AB 252, which would have prohibited any tax on the sale or use of video streaming services, including sales and use taxes and utility user taxes. Over the last two decades, voters in 107 cities and 3 counties have adopted measures to modernize their Utility User Tax (“UUT”) ordinances. Of these jurisdictions, 87 cities and 1 county approved ordinances to allow a UUT on video providers. Prior to its first Committee hearing, AB 252 received opposition letters from 37 cities, the League of California Cities, South Bay Council of Governments, California Contract Cities Association, and nine other organizations. This bill failed in the Assembly Revenue and Taxation Committee 8-0-2, which the author of the Committee chaired.

More recently, SB 827 would have overridden local control on housing development that was within ½ mile of a major transit stop or ¼ mile from a high-quality bus corridor as defined by the legislation with some limitations. On April 17, 2018, SB 827 failed in the Senate Transportation and Housing Committee 4-6-3 but was granted reconsideration. State legislators have indicated they will continue to introduce legislation that will override local zoning ordinances for the development of affordable housing in conjunction with mixed use and/or luxury condominium/apartment housing.

These are just three examples of the increasing attempts by Sacramento to supersede local control. Presently, there are discussions occurring in Sacramento to ban cities from creating their own municipal broadband or to prohibit local ordinances over the regulation of shared mobility devices such as dockless electric scooters. These decisions should remain with each individual jurisdiction to decide based on the uniqueness of their community and the constituents that live in each city.

Often fueled by the actions of special interest groups, Sacramento is continually attempting to overreach their authority with various incursions on local control. The desire in Sacramento to strip communities of their ability to make decisions over issues which should remain at the local level seems to intensify each state legislative cycle. Increasingly, legislation is being introduced with a “one-size-fits-all” approach which is detrimental in a

state with over 40 million residents that have extremely diverse communities from the desert to the sea, from the southern to the northern borders.

Loren King in the book “Cities, Subsidiarity and Federalism” states, “Decisions should be made at the lowest feasible scale possible”. The proposed resolution directs the League of California Cities to assess the increasing vulnerabilities to local authority, control and revenue. It also directs the League of California Cities to explore the preparation of a ballot measure and/or constitutional amendment which would aim to ensure that decisions are made as close to home as possible.

Local government, when done right, is the best form of democracy precisely because it is closest to home. A ballot measure and/or constitutional amendment would provide the state’s voters an opportunity to further strengthen local authority and maintain the role of local democracy to best preserve their local quality of life while still leaving the appropriate issues at the county, regional or state legislature depending on the topic. Any ballot measure and/or constitutional amendment should institutionalize the principle of subsidiarity, while encouraging inclusive regional cooperation that recognizes the diversity of California’s many individual communities. The time has come to allow the residents of California’s voters to decide if they prefer top down governance from Sacramento or bottom up governing from their own locally elected officials.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Dan Carrigg, Johnnie Pina
Committees: Governance, Transparency and Labor Relations
Housing, Community & Economic Development
Revenue & Taxation
Transportation, Communication and Public Works

Summary:

This Resolution states that the League of California Cities should assess the vulnerabilities to local authority, control and revenue and explore the preparation of a ballot measure and or constitutional amendment that would give the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

Background:

The City of Beverly Hills is sponsoring this resolution in reaction to their concerns over measures coming from the Legislature and the initiative process attempting to roll back local control and hinder cities from providing optimal services to their residents.

As examples, the city cites the 2017-2018 legislative cycle, the Legislature introduced bills such as Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, and AB 252 (Ridley-Thomas) proposing to prohibit taxes on video streaming services, and more recently Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing. SB 649 was vetoed by the Governor and SB 827 died in policy committee, however if these measures had been signed into law they would have impinged on the ability of a local government to be responsive to the needs of their constituents.

The city maintains that "local government, when done right, is the best form of democracy precisely because it is closest to home. A ballot measure and/or constitutional amendment would provide the state's voters an opportunity to further strengthen local authority and maintain the role of local democracy to best preserve their local quality of life while still leaving the appropriate issues at the county, regional or state legislature depending on the topic."

Fiscal Impact:

By requesting the League to "assess" vulnerabilities and "explore" the preparation of a ballot measure that would further protect local authority, there are no proposals to be quantified. But it is presumed that the League would not pursue a measure that did not have positive impacts of further protecting local authority.

For the League as an organization, however, the fiscal impact of sponsoring a ballot measure can be very expensive. It can take several million dollars to qualify a measure via signature gathering, and much more to fund an effective campaign and overcome organized opposition.

Comments:

- 1) Ballot measure advocacy is a settled aspect of California's political process. This year's November ballot is an example of that, with proposals ranging from dividing California

into three states, restoring rent control, repealing transportation funding, to funding housing and water bonds. Three other measures are not on the November ballot after their sponsors spent millions gathering signatures to qualify measures, then leveraged last-minute legislative deals in exchange for pulling them from the ballot.

- 2) Most major stakeholder organizations in Sacramento have realized that they cannot rely on legislative advocacy alone to protect their interests, but must develop and maintain the capacity to protect their interests in the ballot process as well.
- 3) The League has been engaged in ballot advocacy for nearly 20 years. In the early 2000's, city officials were angered by repeated state raids of local revenues. These concerns led to the League --for the first time in its then 100-year history--developing a ballot advocacy infrastructure that included forming and fundraising for an issues political action committee (PAC), establishing a network of regional managers, and building a coalition with other organizations that ultimately led to the passage of Prop. 1A of 2004. Over the years, the League's successful campaigns include the passage of Proposition 1A and Proposition 99 and the defeat of Propositions 90 and 98.

a. Yes on Proposition 1A (2004)

As a result of the passage of Prop 1A, local government revenues that otherwise would have been raided by the state legislature were kept in local coffers. This resulted in increased funding for public safety, health, libraries, parks and other locally delivered services. Proposition 1A PASSED WITH 83.7% OF THE VOTE.

b. No on Proposition 90 (2006)

Prop. 90 was a well-financed special interest-backed initiative that sought to eliminate most of local governments' land use decision making authority. Led by the League, the opposition educated voters on how this measure's far reaching provisions would have cost taxpayers billions of dollars by driving up the cost of infrastructure projects, prevented voters and state and local agencies from enacting environmental protections, jeopardized public safety services and more. Proposition 90 FAILED WITH 52.4% OF THE VOTERS VOTING NO.

c. No on Proposition 98 Yes on Proposition 99 (2008)

Given the hidden agendas within Prop 98, our message was not always an easy one to communicate to the electorate. The No on 98/ Yes on 99 campaign was able to educate voters on the important differences between both measures. As a result, important eminent domain reforms were enacted and both land use decision making and rent control were preserved within our communities. Proposition 98 FAILED WITH 61.6% OF THE VOTERS VOTING NO. Proposition 99 PASSED BY 61% OF THE VOTE.

d. Yes on Proposition 22 (2010)

As a result of the passage, local governments have been able to pay for infrastructure investment, create local jobs and avoid devastating cuts in our communities. Proposition 22 APPROVED BY 60.7% OF VOTERS.

- 4) While the League has been able to recently defeat several major legislative proposals aimed at undermining local authority, and avoid a battle over the Business Roundtable's measure in November due to the "soda tax" deal, the threats to local authority and revenue remain a constant concern. Other interest groups may be emboldened by some of the recent "deals" cut by ballot proponents and seek to implement similar strategies for the 2020 ballot. The next Governor may also have different philosophies than Governor Jerry Brown on "subsidiarity."
- 5) The League's President opted to send this resolution to four policy committees for several reasons: (a) the recent major threats to local control covered broad policy areas: telecom, land use, contracting, and revenue; and (b) having this issue vetted broadly within the League policy process will provide a better assessment of the depth of concern for the vulnerability to local control within the membership
- 6) If the membership chooses to approve this measure, it is strongly advisable to retain continued flexibility for the League to "assess" vulnerabilities and "explore" options. Any ballot initiative consideration must be approached very carefully by the organization. It is a difficult and very expensive endeavor that can have additional political ramifications. For 120 years the League's core mission has been to protect local control - and it has gone to the ballot successfully before to do so -- but any such effort must be approached thoughtfully, prudently and cautiously.

Existing League Policy:

Related to this Resolution, existing policy provides:

- The League of California Cities' Mission Statement is, "To expand and protect local control for cities through education and advocacy. To enhance the quality of life for all Californians"
- The League of California Cities' Summary of Existing Policy and Guidelines states, "We Believe
 - Local self-governance is the cornerstone of democracy.
 - Our strength lies in the unity of our diverse communities of interest.
 - In the involvement of all stakeholders in establishing goals and in solving problems.
 - In conducting the business of government with openness, respect, and civility.
 - The spirit of public service is what builds communities.
 - Open decision-making that is of the highest ethical standards honors the public trust.
 - Cities are the economic engine of California.
 - The vitality of cities is dependent upon their fiscal stability and local autonomy.
 - The active participation of all city officials increases the League's effectiveness.
 - Focused advocacy and lobbying is most effective through partnerships and collaboration.
 - Well-informed city officials mean responsive, visionary leadership, and effective and efficient
 - city operations."
- Click here to view the [Summary of Existing Policy and Guiding Principles 2018](#).

Support:

The following letters of concurrence were received: Steven Scharf, Cupertino City Council Member; Michael S. Goldman, Sunnyvale City Council; Lydia Kou, Palo Alto City Council Member; David Terrazas, Mayor of Santa Cruz; Peter Weiss, Mayor of Oceanside; Alan D. Wapner, Mayor pro Tem of Ontario; Patrick Furey, Mayor of Torrance; Lauren Meister, West Hollywood Council Member; Liz Reilly, Duarte Mayor Pro Tem; Bill Brand, Mayor of Redondo Beach; Sho Tay, Mayor of Arcadia; Emily Gabel-Luddy, Mayor of Burbank.

2. A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Source: City of Malibu

Concurrence of five or more cities/city officials: Cities: Agoura Hills; Calabasas; Davis; Menlo Park; Moorpark; Ojai; Oxnard; Richmond; West Hollywood

Referred to: Environmental Quality

WHEREAS, anticoagulant rodenticides are poisonous bait products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals, including pets, that accidentally ingest the products. Approximately 10,000 children under the age of six are accidentally poisoned by anticoagulant rodenticides each year nationwide; and

WHEREAS, in response to these harms, the California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides; and

WHEREAS, the state of California currently only recognizes the harm posed by second-generation anticoagulant rodenticides, which are prohibited in state wildlife habitat areas but are still available for agricultural purposes and by certified applicators throughout the state of California; and

WHEREAS, first-generation anticoagulant rodenticides are still available to the public and used throughout California without limitation; and

WHEREAS, nonpoisonous rodent control methods, such as controlling trash, sealing buildings, setting traps, erecting raptor poles and owl boxes, and removing rodent nesting areas are also effective rodent control methods; and

WHEREAS, the state of California preempts cities from regulating pesticides; and

WHEREAS, many cities across California have passed resolutions restricting pesticide use on city property and have expressed the desire to ban the use of pesticides within their jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the General Assembly of the League of California Cities, assembled in Long Beach, California on September 14, 2018, to do as follows:

1. Encourage the state of California to fund and sponsor further research into the negative impacts of anticoagulant rodenticides to determine whether the use of these products should be further restricted or banned statewide.

2. Direct the League of California Cities staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impact of anticoagulant rodenticides;
3. Encourage cities throughout California to eliminate use of anticoagulant rodenticides as part of their maintenance program in city-owned parks, lands, and facilities and to report on the effectiveness of other rodent control methods used in in their maintenance program;
4. Encourage property owners throughout California to eliminate use of anticoagulant rodenticides on their properties;
5. Encourage cities throughout California to join in these advocacy efforts to mitigate the unintended negative impacts of anticoagulant rodenticides;
6. Endorse a repeal of California Food and Agriculture Code § 11501.1 to end local preemption of regulating pesticides; and
7. Call for the Governor and the Legislature to work with the League of California Cities and other stakeholders to consider and implement this reform.

Background Information on Resolution

Source: City of Malibu

Background:

A. Anticoagulant rodenticides are unnecessarily destructive and dangerous

Anticoagulant rodenticides contain lethal agents that disrupt the normal blood clotting or coagulation process causing dosed rodents to die from uncontrolled bleeding or hemorrhaging. Deaths typically occur between four days and two weeks after rodents begin to feed on the bait. Animals commonly targeted by anticoagulant rodenticides include rats, mice, gophers and squirrels. Non-target predator wildlife victims, which are exposed to an 80-90% risk of poisoning, include owls, hawks, bobcats, bears, foxes, coyotes, and mountain lions. The endangered species at risk of poisoning include fishers, spotted owls, and San Joaquin foxes. The use of anticoagulant rodenticides not only harms rodents, but it commonly harms pets, such as dogs, cats, and bunnies, and other wildlife that mistakenly eat the bait through primary poisoning or that unknowingly consume animals that have ingested the anticoagulant rodenticide through secondary poisoning. Children also suffer poisoning by mistakenly ingesting anticoagulant rodenticides.

California recognizes the grave harm that can be caused by anticoagulant rodenticides and has partially restricted access to second-generation anticoagulant rodenticides by the public:

Because of documented hazards to wildlife, pets and children, the California Department of Pesticide Regulation has restricted public access to some of these materials in California. As of July 1, 2014, rodenticide products containing the active ingredients brodifacoum, bromadiolone, difethialone and difenacoum are only to be used by licensed applicators (professional exterminators).¹

California has also prohibited the use of these ingredients in any “wildlife habitat area,” which is defined as “any state park, state wildlife refuge, or state conservancy.”²

The United State Environmental Protection Agency³ and the California Department of Pesticide Regulation⁴ have both documented in detail the damage to wildlife from second-generation anticoagulant rodenticides in support of the 2014 consumer ban on the purchase and use of the products. While first-generation anticoagulant rodenticides are less toxic, they are far more abundant due to their continued availability to all members of public.⁴ The California Department of Fish & Wildlife was tasked with collecting data on poisoning incidents to ascertain the effectiveness of the restrictions on second-generation anticoagulant rodenticides. After almost four years of collecting data, there was no evidence supporting a reduction in the number of poisonings.

¹ <https://www.wildlife.ca.gov/living-with-wildlife/rodenticides>.

² Cal. Food and Agric. Code § 12978.7.

³ <https://www.epa.gov/rodenticides/restrictions-rodenticide-products>

⁴ https://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/brodifacoum_final_assess.pdf

Recent studies by the University of California, Los Angeles and the National Park Service on bobcats have shown that first-generation anticoagulant rodenticide poisoning levels similar to the second-generation anticoagulant rodenticides poisoning levels.⁵ A comprehensive study of 111 mountain lions in 37 California counties found first-generation anticoagulant rodenticides in the liver tissue of 81 mountain lions (73% of those studied) across 33 of the 37 counties, and second-generation anticoagulant rodenticides in 102 mountain lions (92% of those studied) across 35 of the 37 counties.⁶ First-generation anticoagulant rodenticides were identified as contributing to the poisoning of Griffith Park mountain lion, P-22, (who was rescued), and the deaths of Newbury Park mountain lion, P-34, and Verdugo Hills mountain lion, P-41.

This data demonstrates the inadequacy of current legislative measures to ameliorate the documented problem caused by both second-generation and first-generation anticoagulant rodenticides.

B. State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides

A general law city may not enact local laws that conflict with general state law.⁷ Local legislation that conflicts with state law is void.⁸ A local law conflicts with state law if it (1) duplicates, (2) contradicts, or (3) enters a field that has been fully occupied by state law, whether expressly or by implication. A local law falling into any of these categories is “preempted” and is unenforceable.

State law expressly bars local governments from regulating or prohibiting pesticide use. This bar is codified in the California Food and Agricultural Code § 11501.1(a):

This division and Division 7 . . . are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors, or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, transportation, or use of pesticides, and any of these ordinances, laws or regulations are void and of no force or effect.

State law also authorizes the state to take action against any local entity that promulgates an ordinance or regulation that violates § 11501.1(a).⁹ The statute was specifically adopted to overrule a 30 year old court decision in *People v. County of Mendocino*,¹⁰ which had held that a

⁵ L. E. K. Serieys, et al, “Anticoagulant rodenticides in urban bobcats: exposure, risk factors and potential effects based on a 16-year study,” *Ecotoxicology* (2015) 24:844–862.

⁶ J. Rudd, et al, “Prevalence of First-Generation and Second-Generation Rodenticide Exposure in California Mountain Lions,” Proceeding of the 28th Vertebrate Pest Conference, February 2018.

⁷ Cal. Const. art. XI § 7.

⁸ *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 743.

⁹ Cal. Food and Agric. Code § 11501.1, subd. (b).

¹⁰ *People ex rel. Deukmejian v. County of Mendocino* (1984) 36 Cal. 3d 476.

local regulation prohibiting aerial application of phenoxy herbicides was not then preempted by state or federal law.¹¹

The use of pesticides is broadly regulated by state law. In the language of preemption law, the state “occupies the field,” leaving no room for additional local law on the subject. Accordingly, a city’s ban on the use of anticoagulant rodenticides would be unenforceable.

C. California should repeal the preemption in Cal. Food and Agric. Code § 11501.1 to provide cities with the authority to decide how to regulate pesticides within their own jurisdictions based on local concerns

The state of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

Recognizing that cities’ power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations” is presently preempted by the general laws of the state, cities throughout California request that the state provide cities with the authority to decide how to deal with rodents based on their land use.

Depending on such land use, cities may decide to allow the use of nonpoisonous control methods, non-anticoagulant rodenticides, or anticoagulant rodenticides, if necessary. Nonpoisonous methods to control rodent pests, include sealing entrances to buildings, sanitizing property, removing rodent habitats, such as ivy or wood piles, setting traps, and erecting raptor poles or owl boxes. For example, a recent landmark study by Ventura County established that installing raptor poles for hawks and owls was more effective than anticoagulant rodenticides in reducing the damage to water control levees caused by ground squirrel burrows. Burrows decreased by 66% with the change.¹²

The ultimate goal is to allow cities to address their local concerns with the input of community members at open and public meetings. Presently, cities are unable to adequately address local concerns; they are limited to encouraging or discouraging behavior.

D. Conclusion

The negative effects from the use of anticoagulant rodenticides across California has garnered the interest of cities and community members to remedy the problem. By presenting this resolution to the League of California Cities, the City of Malibu hopes to organize support and gain interest at the state level to repeal the preemption in Cal. Food and Agric. Code § 11501.1 to provide cities with the authority to regulate pesticides based on individual, local concerns.

¹¹ *IT Corp. v. Solano County Bd. Of Supervisors* (1991) 1 Cal. 4th 81, fn. 9; *Turner v. Chevron USA Inc.*, 2006 WL 1314013, fn. 14 (unpublished).

¹² <http://vcportal.ventura.org/BOS/District2/RaptorPilotStudy.pdf>

League of California Cities Staff Analysis on Resolution No. 2

Staff: Erin Evans-Fudem
Committee: Environmental Quality

Summary:

This resolution seeks to have the state and the League study the negative impacts of anticoagulant rodenticides and address the inability of cities to regulate the use of rodenticides and pesticides.

Specifically related to anticoagulant rodenticides, the resolution would encourage the state to fund research into the negative impacts and a potential restriction or ban; direct the League to consider creating a task force to study and report on the unintended negative consequences; encourage cities and property owners to eliminate use; and encourage cities to join advocacy efforts. In addition, the resolution would direct the League to endorse repeal of a statute that preempts local regulation of pesticides.

Background:

The City of Malibu is sponsoring this resolution out of concern about the effect of a certain type of rodent control (anticoagulant rodenticides) has on other wildlife. According to the City, anticoagulant rodenticides disrupt the blood clotting process and therefore cause rodents to die from bleeding or hemorrhaging. This rodenticide is commonly used on rats, mice, gophers, and squirrels. Predator animals that eat rodents can be exposed to anticoagulant rodenticides if they consume animals that have eaten the bait. These animals include owls, hawks, bobcats, bears, foxes, coyotes, and mountain lions. Furthermore, pets can also be exposed to anticoagulant rodenticides if they eat the bait or consume animals that have eaten the bait.

Some cities have passed “ceremonial resolutions” locally. For example, the City of Malibu has two ordinances in place to discontinue use of rodenticides and traps in city-owned parks, roads, and facilities, as well as encourage businesses and property owners not to use anticoagulant rodenticides on their property.

Fiscal Impact:

Costs to cities would include using alternative methods of rodent control and studying the efficacy. Since the resolution encourages, but does not mandate action by cities, city costs would be taken on voluntarily.

Fiscal impact to the League would include costs associated with the task force, scientific research, and educating League staff and members. For the task force, the League may incur costs associated with staffing, convening, and educating a task force to study anticoagulant rodenticides, as well as the cost of writing a report. This could include a need for outside experts with knowledge of pesticides and their ecological impacts. League resources would also be utilized to support proposals to repeal the statute preempting local regulation of pesticides; however, this cost may be absorbed with existing staff resources.

Comments:

Pesticides are regulated by federal and state governments. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) reserves for the federal government authority over pesticide labeling. States can adopt stricter labeling requirements and can effectively ban sale and use of pesticides that do not meet state health or safety standards.¹ For 51 years, California has reserved regulation of pesticides for the state only, preempting local regulation.² This preemption has been ratified and confirmed in subsequent court decisions and legislation. However, County Agricultural Commissioners work to enforce the state laws. Local governments may regulate or restrict pesticide use in their own operations, including use in municipal buildings or parks.³⁴

Broad direction. This resolution would direct the League to take a position allowing broad local discretion over pesticide regulation in general. Because the regulation of anticoagulant rodenticides is largely based in science, additional or outside expertise may be needed to ensure full understanding of the science behind rodent control methods. The resolution itself is not limited to allowing local governments to regulate anticoagulant rodenticides, which this resolution otherwise targets.

Rodent control methods. There are numerous methods of controlling rodents, including lethal traps, live traps, and poison baits. There are two generations of rodenticide poisons because after rodents became resistant to the first generation, the second was developed. The U.S. Environmental Protection Agency (U.S. EPA) provides the following information below related to the science and use of anticoagulant rodenticides:

Most of the rodenticides used today are anticoagulant compounds that interfere with blood clotting and cause death from excessive bleeding. Deaths typically occur between four days and two weeks after rodents begin to feed on the bait.

First-generation anticoagulants include the anticoagulants that were developed as rodenticides before 1970. These compounds are much more toxic when feeding occurs on several successive days rather than on one day only. Chlorpophacinone, diphacinone and warfarin are first-generation anticoagulants that are registered to control rats and mice in the United States.

Second-generation anticoagulants were developed beginning in the 1970s to control rodents that are resistant to first-generation anticoagulants. Second-generation anticoagulants also are more likely than first-generation anticoagulants to be able to kill after a single night's feeding. These compounds kill over a similar course of time but tend to remain in animal tissues longer than do first-generation ones. These properties mean that second-generation products pose greater risks to nontarget species that might feed on bait only once or that might feed upon animals that have eaten the bait. Due to these

¹ California Department of Pesticide Regulation (CDPR), *A Guide to Pesticide Regulation in California: 2017 Update*, pg. 9, <https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf>.

² California Food and Agriculture Code § 11501.1 (1967).

³ CDPR, *A Guide to Pesticide Regulation in California: 2017 Update*, pg. 9, <https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf>.

⁴ County Agricultural Commissioners work with CDPR to enforce state laws. CDPR, *A Guide to Pesticide Regulation in California: 2017 Update*, pg. 13, <https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf>.

risks, second-generation anticoagulant rodenticides no longer are registered for use in products geared toward consumers and are registered only for the commercial pest control and structural pest control markets. Second-generation anticoagulants registered in the United States include brodifacoum, bromadiolone, difenacoum, and difethialone.

Other rodenticides that currently are registered to control mice include bromethalin, cholecalciferol and zinc phosphide. These compounds are not anticoagulants. Each is toxic in other ways.⁵

Legislative attempts to ban. Several legislative measures have been introduced to ban the use of certain anticoagulant rodenticides (AB 1687, Bloom, 2017. AB 2596, Bloom, 2016). However, neither of these measures were heard and failed to pass key legislative deadlines.

Existing League Policy:

The League does not have policy related to pesticides or rodenticides.

Related to federal regulation, League policy states:

- The League supports flexibility for state and local government to enact environmental and other standard or mandates that are stronger than the federal standards. However, the League reserves the right to question or oppose stronger standards on the merits. The League also opposes legislation that prohibits state and local governments from enacting stricter standards.

Support:

The following letters of concurrence were received: William Koehler, Mayor of Agoura Hills; Fred Gaines, Mayor of Calabasas; Brett Lee, Mayor Pro Tem of Davis; Catherine Carlton, Menlo Park City Council Member; Janice Parvin, Mayor of Moorpark; Suza Francina, Ojai City Council Member; Carmen Ramirez, Oxnard City Council Member; Tom Butt, Mayor of Richmond; Lindsey Horvath, West Hollywood City Council Member

⁵ U.S. EPA, Restrictions on Rodenticide Products, <https://www.epa.gov/rodenticides/restrictions-rodenticide-products>

LETTERS OF CONCURRENCE

Resolution No. 1

Local Municipal Authority, Control and Revenue



City of Arcadia

Office of the City Council

Sho Tay
Mayor

April A. Verlato
Mayor Pro Tem

Peter M. Amundson
Council Member

Tom Beck
Council Member

Roger Chandler
Council Member

July 10, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING
VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE**

Dear Committee:

As the Mayor of the City of Arcadia, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that prohibits constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons, I strongly support this resolution.

Sincerely,

Sho Tay
Mayor, City of Arcadia

cc: City of Arcadia City Council
Vice Mayor John Mirisch, City of Beverly Hills

CITY OF BURBANK

OFFICE OF THE MAYOR

July 11, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING
VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE**

Dear Committee:

As the Mayor of the City of Burbank, on my own behalf, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

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These continual incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,

A handwritten signature in black ink that reads "Emily Gabel-Luddy". The signature is written in a cursive, flowing style.

Emily Gabel-Luddy
Mayor, City of Burbank

cc: Vice Mayor John Mirisch, City of Beverly Hills
Jennifer Quan, League Regional Public Affairs Manager (via email)

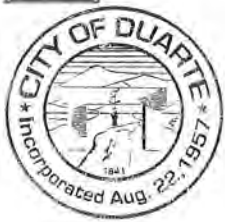
From: Steven Scharf <scharf.steven@gmail.com>
Sent: Sunday, July 08, 2018 8:34 PM
To: Cindy Owens
Subject: Letter of Support for California League of Cities Resolution

Dear Ms. Cowens,

I was forwarded your email requesting support for a resolution in support of "the preparation of a ballot measure and/or state constitutional amendment that would strengthen local authority and preserve the role of local democracy at the local level as the state legislature is continually attempting to override the local authority of cities."

Speaking only for myself, and not on behalf of the City of Cupertino or other Cupertino City Council Members, I hereby give my support for such a measure. You may use my name as a supporter.

Sincerely,
Steven Scharf
Cupertino City Council Member



City of Duarte

1600 Huntington Drive | Duarte, CA 91010 | Bus. 626.357.7931 | Fax 626.358.0018 | www.accessduarte.com

July 10, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Mayor
John Fasana

Mayor Pro Tem
Liz Reilly

Councilmembers
Margaret E. Finlay
Samuel Kang
Tzeitel Paras-Caracci

City Manager
Darrell J. George

2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL, AND REVENUE

Dear Committee:

The City of Duarte supports the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) (Wireless Telecommunications Facilities) or the more recently introduced Senate Bill 827 (Wiener) (Planning and Zoning: Transit-Rich Housing Bonus) that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a State ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents in local jurisdictions from passing a soda tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result of the passage of that Assembly Bill, the State ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by the State legislature and powerful interest groups should be prohibited in areas where it is unwarranted, and does not best serve the unique communities that make up the State of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons, the City of Duarte strongly supports this resolution.

Sincerely,

Liz Reilly
Mayor Pro Tem

cc: Vice Mayor John Mirisch, City of Beverly Hills



CITY OF OCEANSIDE

MAYOR
PETER WEISS

July 10, 2018

COUNCIL MEMBERS
JACK FELLER
JEROME KERN
CHARLES "CHUCK" LOWERY
ESTHER SANCHEZ

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE
INCREASING VULNERABILITIES TO LOCAL MUNICIPAL
AUTHORITY, CONTROL AND REVENUE**

Dear Committee:

I'm writing on behalf of the City of Oceanside to support the League of California Cities' ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents in local jurisdictions from passing a soda tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by the state legislature and powerful interest groups should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons, I strongly support this resolution.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Weiss".

Peter Weiss
MAYOR

cc: Vice Mayor John Mirisch, City of Beverly Hills

PAUL S. LEON
MAYORALAN D. WAPNER
MAYOR PRO TEMJIM W. BOWMAN
DEBRA DORST-PORADA
RUBEN VALENCIA
COUNCIL MEMBERSSCOTT OCHOA
CITY MANAGERSHEILA MAUTZ
CITY CLERKJAMES R. MILHISER
TREASURER

July 10, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**Re: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING
VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND
REVENUE**

Dear Committee Members,

As Mayor pro Tem for the City of Ontario, I support the Annual Conference Resolution proposed by the City of Beverly Hills calling for the League of California Cities to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

In recent years, the state legislature has aggressively ramped up its efforts to wrestle authority away from local government. In the past session alone, we saw egregious and unprecedented attacks on local control with several bills that strike at the heart of local government. These bills, including Senate Bill 649 (Hueso – Wireless Telecommunications Facilities) and Senate Bill 827 (Wiener – Planning and Zoning: Transit-Rich Housing Bonus) show a blatant contempt for the ability of local governments to meet the needs of the local community.

Unfortunately, these bills are likely only the beginning. As such, there is a need for a ballot measure and/or constitutional amendment to clearly enshrine the role of local government in regulating local issues. The passage of the proposed resolution by the City of Beverly Hills recognizes that it is local government, not the state legislature, that best understands the local community and is therefore best-situated to regulate and respond to local issues. For these reasons, I strongly support this resolution.

Sincerely,

Alan D. Wapner
Mayor pro Tem – City of Ontario

cc: Vice Mayor John Mirisch, City of Beverly Hills

City of Palo Alto
Office of the Mayor and City Council

July 11, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Re: EXPLORING A RESOLUTION TO RESPOND TO INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY

Dear Committee Members:

As one Councilmember of the City of Palo Alto, and in my individual capacity and not on behalf of the Council as a body, or the City, I write to support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills. This resolution asks the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide voters an opportunity to further strengthen local authority and preserve the role of local democracy. If the resolution passes, I encourage the League to ensure any potential measure includes both charter and general law cities.

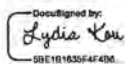
State legislation introduced in both 2017 and 2018 has continually threatened to erode local control. Whether this was SB 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced SB 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned on constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I support this resolution.

Sincerely,


DocuSigned by:
Lydia Kou
50E101A3D5AF4006

Lydia Kou
Councilmember, City of Palo Alto

cc:
Palo Alto City Council
Mayor John Mirisch, City of Beverly Hills
James Keene, Palo Alto City Manager

P.O. Box 10250
Palo Alto, CA 94303
650.329.2477
650.328.3631 fax

Bill Brand
Mayor

415 Diamond Street, P.O. BOX 270
Redondo Beach, California 90277-0270
www.redondo.org

tel 310 372-1171
ext. 2260
fax 310 374-2039

July 9, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES
TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE**

Dear Committee:

As Mayor of Redondo Beach, I support the League of California Cities Annual Conference Resolution proposed by the City of Beverly Hills calling for the LCC to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the Legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, The State Legislature is continuing to introduce proposals that impinge on the ability of local governments to institute discretionary legislation that is responsive to the needs of their communities.

These continual incursions into local control by the State Legislature, and powerful special interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the State of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,



Bill Brand

cc: Vice Mayor John Mirisch, City of Beverly Hills



MAYOR AND CITY COUNCIL

809 Center Street, Room 10, Santa Cruz, CA 95060 • (831) 420-5020 • Fax: (831) 420-5011 • citycouncil@cityofsantacruz.com

July 9, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING
VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL, AND REVENUE**

Dear General Resolutions Committee Members:

As Mayor of the City of Santa Cruz, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the Legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a State ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents of local jurisdictions from passing a soda tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result of the passage of that Assembly Bill, the State ballot initiative was pulled from the November 2018 Ballot.

These continual incursions into local control by the State Legislature and powerful interest groups should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the State of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,

David Terrazas
Mayor

cc: Vice Mayor John Mirisch, City of Beverly Hills

From: Michael Goldman <miklg@yahoo.com>
Sent: Saturday, July 07, 2018 4:37 PM
To: Cindy Owens
Subject: Letter of Support for California League of Cities Resolution

Dear Ms. Cowens,

I was forwarded your email requesting support for a resolution in support of "the preparation of a ballot measure and/or state constitutional amendment that would strengthen local authority and preserve the role of local democracy at the local level as the state legislature is continually attempting to override the local authority of cities."

Speaking solely on my own behalf, I hereby give my whole-hearted support for such a measure. The essence of democracy is the control by the people of their community. As public servants, we elected officials serve the democratically expressed will of the public.

Sincerely,

Michael S. Goldman

Sunnyvale City Council, Seat 7



CITY OF TORRANCE

PATRICK J. FUREY
MAYOR

July 5, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING
VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND
REVENUE**

Dear Committee:

As Mayor of the City of Torrance, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned on constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continually incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely

Patrick J. Furey
Mayor

cc: Vice Mayor John Mirisch, City of Beverly Hills



CITY OF WEST HOLLYWOOD

CITY HALL
8300 SANTA MONICA BLVD.
WEST HOLLYWOOD, CA
90069-6216
TEL: (323) 848-6460
FAX: (323) 848-6562

TTY: For hearing impaired
(323) 848-6496

CITY COUNCIL

JOHN J. DURAN
Mayor

JOHN D'AMICO
Mayor Pro Tempore

JOHN HEILMAN
Councilmember

LINDSEY P. HORVATH
Councilmember

LAUREN MEISTER
Councilmember

July 11, 2018

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE
INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY,
CONTROL AND REVENUE**

Dear Committee:

As a Councilmember of the City of West Hollywood, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

During the current 2017-2018 regular session of the California Legislature, legislators introduced several pieces of legislation that have attempted to erode local control. Whether this was Senate Bill (SB) 649 (Hueso) Wireless Telecommunications Facilities, or more recently SB 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus, which was defeated in Committee, legislators continue to introduce proposals that impinge on the ability of local governments to self-determine.

Another good example of how the Legislature takes actions that are detrimental to local governments' control is the legislative compromise between the Legislature and beverages' manufacturers who agreed to withdraw their ballot initiative in exchange for the approval of Assembly Bill (AB) 1838 (Committee on Budget): Local government: taxation: prohibition: groceries, (Chapter 61, Statutes of 2016). As you know, AB 1838 basically prohibited the adoption of a local "soda tax" by any municipality for the next twelve years.





General Resolutions Committee
League of California Cities
July 11, 2018
Page two of two

These incursions into local control by the Legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,

Lauren Meister,
Councilmember

cc: Vice Mayor John Mirisch, City of Beverly Hills



LETTERS OF CONCURRENCE

Resolution No. 2

Repeal Preemption of Regulating Pesticides



"Gateway to the Santa Monica Mountains National Recreation Area"

July 10, 2018

The Honorable Rich Garbarino
League of California Cities
1400 K Street
Sacramento, CA 95814

Re: RESOLUTION OF LEAGUE OF CALIFORNIA CITIES DECLARING ITS
CONTRACT TO SUPPORT THE REPEAL OF PREEMPTION IN
CALIFORNIA FOOD AND AGRICULTURE CODE §11501.1 THAT
PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino:

The City of Agoura Hills supports the proposed above referenced resolution that supports the repeal of preemption in California Food and Agriculture Code §11501.1 that prevents local Governments from regulating pesticides.

Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on September 14, 2018.

As the gateway to the Santa Monica Mountains we have been witness to the harmful effects of anticoagulant rodenticides on wildlife in our community, and surrounding areas.

For this reason, the City of Agoura Hills is supportive of this resolution, and requests the league's support.

Sincerely,

WILLIAM D. KOEHLER
Mayor - City of Agoura Hills

cc: Ms. Meg Desmond - mdesmond@cacities.org
Ms. Mary Linden - mlinden@malibucity.org
Mr. Greg Ramirez - gramirez@ci.agoura-hills.ca.us



CITY of CALABASAS

FRED GAINES
Mayor

July 9, 2018

ORIGINAL BY U.S. MAIL

VIA EMAIL mdesmond@cacities.org

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, CA 95814

Re: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS
COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA
FOOD AND AGRICULTURE CODE §11501.1 THAT PREVENTS LOCAL
GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino:

The City of Calabasas supports the proposed resolution to support the repeal of the preemption clause in California Food and Agriculture Code Section 11501.1 regarding pesticide use and regulation so that each city in the State of California is able to decide how to regulate pesticides within their own jurisdiction to adequately address local concerns.

Accordingly, we concur in the submission by the City of Malibu of the above-referenced resolution for consideration by the League of Cities General Assembly at its annual meeting on September 14, 2018.

The City of Calabasas has identified the devastating effect of anticoagulant rodenticides on wildlife in our community and on the ecosystem in our native Santa Monica Mountains. While our City has adopted resolutions and implemented programs to discourage the use of the pesticides by our residents and businesses, we are limited by State law from taking more effective actions.

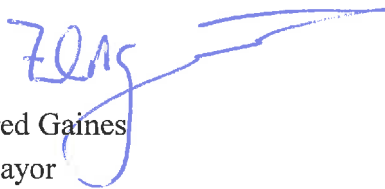
100 Civic Center Way
Calabasas, CA 91302
(818) 224-1600
Fax (818) 241-7324



The Honorable Rich Garbarino, President
League of California Cities
July 9, 2018
Page 2

The City of Calabasas is in strong support of providing cities across the State of California with the authority to regulate pesticides based on local concerns in the communities and supports the proposed Resolution.

Sincerely,


Fred Gaines
Mayor

cc: Mary Linden (MLinden@malibucity.org)



July 13, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, California 95814

RE: A Resolution of the League of California Cities Declaring Its Commitment to Support the
Repeal of Preemption in California Food and Agriculture Code § 11501.1 That Prevents
Local Governments from Regulating Pesticides

Dear President Garbarino:

Anticoagulant rodenticides poison unintended targets, including predator wildlife in California and pets that ingest the products. These poisons cause painful, internal hemorrhaging in non-target animals. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Brett Lee
Mayor Pro Tem

July 5, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, California 95814

RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO
SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE §
11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

Anticoagulant rodenticides are products that are poisoning 80% to 90% of predator wildlife in our cities and throughout California. These poisons cause painful, internal hemorrhaging in non-target animals - including pets - that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

My own mother lost a dearly loved pet dog, who was poisoned when it ate a poisoned rat!

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

State law now preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Catherine Carlton

Environmental Committee Vice Chair for the League of California Cities



CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021
Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 12, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, CA 95814

**RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS
COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA
FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL
GOVERNMENTS FROM REGULATING PESTICIDES**

Dear President Garbarino:

The City of Moorpark supports the above referenced resolution being brought to a vote at the upcoming League of California Cities Conference on September 14, 2018.

As a community surrounded by the beauty of the Santa Monica Mountains and its wildlife, the City adopted a resolution in 2013 urging Moorpark residents and businesses to not use anticoagulant rodenticides in Moorpark. In 2014, the City applauded passage of AB 2657, which removed many second generation anticoagulant rodenticides from the state.

However, as we are all unfortunately aware, scientific research continues to find anticoagulant rodenticides in non-target animals, including the natural predators that help regulate rodent populations and endangered species throughout California. Accordingly, the City has supported subsequent legislative proposals to ban all anticoagulant rodenticides statewide, including AB 2422, which is currently stalled in the state legislature.

The City further believes that local governments should have the opportunity to regulate pesticide usage within their jurisdictions if the communities they represent desire to do so. Therefore, the City supports the above referenced resolution being brought to a vote.

Yours truly,

Janice Parvin
Mayor

cc: City Council
City Manager
Assistant City Manager
Assistant to the City Manager
League of California Cities, Meg Desmond (mdesmond@cacities.org)
City of Malibu, Mary Linden (MLinden@malibucity.org)

Councilmember Suza Francina
City of Ojai
401 South Ventura Street, Ojai, CA 93023
Email: Suzaojaicitycouncil@gmail.com
Cell: 805 603 8635

July 9, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS
COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA
FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL
GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

Anticoagulant rodenticides are products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,
Suza Francina
Councilmember, City of Ojai

July 12, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS
COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA
FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL
GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

I write as one council member of the City of Oxnard regarding the state law that preempts general law cities such as ours from regulating the use of pesticides. Our city is heavily impacted with environmental burdens associated with pesticide use as well as other industrial toxins, which affect the health of the people, wildlife and our environment. Oxnard residents are requesting that the use of pesticides in our public spaces be curtailed and restricted. This would include anticoagulant rodenticides, products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

Letter to President Garbarino
July 12, 2018
Page two

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018. Thank you very much for your attention to this.

Sincerely,

A handwritten signature in black ink that reads "Carmen Ramirez". The signature is written in a cursive, flowing style with a large initial 'C' and a stylized 'R'.

Carmen Ramirez



Bay Front. Home Front. Out Front.

July 6, 2018

The Honorable Rich Garbarino
President, League of California Cities
1400 K Street
Sacramento, California 95814

Re: In Support to Repeal the Preemption in California Food and Agriculture Code § 11501.1 that
Prevents Local Governments from regulating pesticides

Dear President Garbarino,

Anticoagulant rodenticides poison 80% to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides, which has minimized the impact of the State's ban. Despite collecting data for almost four years, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to the partial restriction of the supply.

As a member of the League of California Cities' Environmental Quality Policy Committee, I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Mayor Tom Butt
Richmond, California



CITY OF WEST HOLLYWOOD

CITY HALL
8300 SANTA MONICA BLVD.
WEST HOLLYWOOD, CA
90069-6216
TEL: (323) 848-6460
FAX: (323) 848-6562

TTY: For hearing impaired
(323) 848-6496

CITY COUNCIL

JOHN J. DURAN
Mayor

JOHN D'AMICO
Mayor Pro Tempore

JOHN HEILMAN
Councilmember

LINDSEY P. HORVATH
Councilmember

LAUREN MEISTER
Councilmember

July 13, 2018

The Honorable Rich Garbarino, President
League of California Cities
1400 K Street
Sacramento, CA 95814

RE: A Resolution of the League of California Cities Declaring its Commitment to
Support the Repeal of Preemption in California Food and Agriculture
Code § 11501.1 that Prevents Local Governments from Regulating Pesticides

Dear President Garbarino,

I am writing to express my support for the above-mentioned resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 in order to give cities across California the authority to regulate and/or prohibit the use of pesticides in their local communities. I concur with the submission of the proposed resolution to the League of California Cities General Assembly annual meeting on September 14, 2018.

Granting local governments the ability to self-regulate pesticide use better enables cities to protect the health and safety of the public, animals, and the environment. Given that no two cities are identical, local governments must have the power to take a systematic approach to pesticide use and regulation that fits the specific needs of their city. Repealing this section of the code will provide cities the opportunity to act in the best interest of their jurisdiction to set a standard of regulation that offers comprehensive protection, better formulated to protect a community's individual needs.

The City of West Hollywood is in strong support of environmentally-sensitive pest management practices that minimize risk to people, companion and wild animals, resources, and the environment. As the proposed resolution explains, anticoagulant rodenticides have devastating effects on wildlife. The City of West Hollywood has implemented an Integrated Pest Management Program that supports environmentally-sensitive pest management while protecting the health and safety of the public. This policy is in compliance with the State and Federal regulations while catering to and prioritizing the needs of the City of West Hollywood.

Sincerely,

Lindsey Horvath
Councilmember

cc: Meg Desmond, League of CA Cities
Councilmember Laura Z. Rosenthal, City of Malibu
Elizabeth Shavelson, Assistant to the City Manager, City of Malibu
Mary Linden, Executive Assistant, City of Malibu





AGENDA NO: A-9

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: August 7, 2018

FROM: Dana Swanson, City Clerk

SUBJECT: Adoption of Resolution No. 60-18 Advisory Bodies Handbook and By-Laws Amending the Citizens Finance Advisory Committee By-Laws

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 60-18 amending the Advisory Bodies Handbook and By-Laws to reduce the term length for the Citizens Oversight Committee Acting in the Capacity of a Citizens Finance Advisory Committee ("Committee") from six years to four, in accordance with Ordinance No. 614, and modify the Committee's duties and responsibilities to include review of routine quarterly financial reports.

ALTERNATIVES

The Council may direct further changes on the proposed policies for adoption at a future meeting.

FISCAL IMPACT

There is no fiscal impact associated with this action.

BACKGROUND and DISCUSSION

On May 8, 2018, the City Council amended and readopted the Advisory Bodies Handbook and By-Laws in its entirety and directed staff to return with an Ordinance amending the Morro Bay Municipal Code to reduce the Committee's term length from six years to four. Ordinance No. 614 amending Subsection 3.22.120 B reducing the term length was introduced on June 12 and adopted on June 26, 2018, taking effect July 27, 2018. It is now appropriate to adopt by Resolution the same policy change to the Committee's By-Laws.

Additionally, on June 26, the Council agenda'd consideration of modifying the duties and responsibilities of the Committee to include review of routine quarterly financial reports (when possible) prior to coming to Council and to bring that policy revision back as a Consent item.

CONCLUSION

Resolution No. 60-18 amends the Citizens Finance Advisory Committee's By-Laws in accordance with Council direction and consistent with Morro Bay Municipal Code.

ATTACHMENTS

1. Ordinance No. 614
2. Proposed Resolution No. 60-18 Adopting Advisory Bodies Handbook and By-Laws

Prepared By: DS

Dept Review: _____

City Manager Review: SC

City Attorney Review: _____

ORDINANCE NO. 614

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA, AMENDING
SECTION 2.08.090 OF THE MORRO BAY MUNICIPAL CODE (MBMC)
REGARDING THE PREPARATION OF MINUTES
FOR COUNCIL MEETINGS AND SUBDIVISION 3.22.120 B
OF THE MBMC REGARDING TERMS OF THE
CITIZENS OVERSIGHT COMMITTEE

THE CITY COUNCIL
City of Morro Bay, California

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

SECTION 1: Section 2.08.090 of the Morro Bay Municipal Code (MBMC) is hereby amended, in its entirety, to read, as follows:

2.08.090 – Copy of minutes.

As soon as reasonably possible following each council meeting, the city clerk shall include a copy of the minutes thereof, as a Consent Item for the agenda of a regular council meeting. Thereafter, the reading of those minutes by the city clerk at that meeting may be dispensed with by a majority vote of the members present, as evidenced by the council's approval of those minutes.

SECTION 2: Subdivision 3.22.120 B. of the MBMC is hereby amended, in its entirety, to read, as follows:

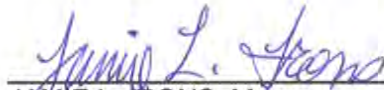
3.22.120 B. Committee Membership. The committee shall have seven citizen-members appointed by the city council for staggered four-year terms. Appointees shall be residents of the city; however, no member of the committee shall be an elected official. Each unanticipated vacancy shall be filled only for the duration of the unexpired term for that vacancy.

SECTION 3. This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting of the City Council of Morro Bay, held on the 12th day of June 2018, by motion of Council Member Headding, seconded by Council Member Davis.

PASSED AND ADOPTED on the 26th day of June, 2018, by the following vote:

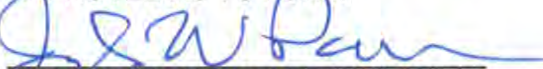
AYES: Irons, Davis, Headding, Makowetski
NOES: None
ABSENT: McPherson


JAMIE L. IRONS, Mayor

ATTEST:


LORI M. KUDZMA, Deputy City Clerk

APPROVED AS TO FORM:


JOSEPH W. PANNONE, City Attorney

RESOLUTION NO. 60-18

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING THE ADVISORY BODIES HANDBOOK AND BY-LAWS**

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

WHEREAS, to ensure all Advisory Board Members are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on an Advisory Board, and to establish consistency throughout the by-laws for all commissions and advisory boards, the City of Morro Bay adopted the Advisory Boards Handbook and By-Laws on August 12, 2002; and

WHEREAS, the Advisory Boards Handbook and By-Laws for the City of Morro Bay is a composite of the City Council actions, policies, references, and information regarding the City Advisory Boards; and

WHEREAS, following a complete review of the Advisory Board Handbook & By-Laws, the City Council amended and readopted those policies at its meeting of May 8, 2018; and

WHEREAS, the Council directed the term length for the Citizens Oversight Committee Acting in the Capacity of a Citizen's Finance Advisory Committee ("Committee") be reduced from six years to four years; and

WHEREAS, the Council adopted Ordinance No. 614 at its June 26, 2018 Council Meeting, amending Morro Bay Municipal Code (MBMC) Subdivision 3.22.120 B. reducing the term length set by ordinance for the Committee and brings forth this resolution for consistency between the MBMC and By-Laws; and

WHEREAS, at its June 26, 2018 Regular Meeting, the Council agreed modifying the duties and responsibilities of the Committee to include review of routine quarterly financial reports (when possible) prior to coming to Council and bring that revision back as a consent item.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, that the By-laws for the Citizens Oversight Committee Acting in the Capacity of a Citizens Finance Advisory Committee are readopted, as attached hereto as Exhibit A.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 14th day of August 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

**RESOLUTION NO. 60-18
EXHIBIT "A"**

**CITY OF MORRO BAY
CITIZENS OVERSIGHT COMMITTEE
ACTING IN THE CAPACITY OF A CITIZENS FINANCE
ADVISORY COMMITTEE**

PURPOSE AND AUTHORITY

The Citizens Oversight Committee was established in accordance with the provisions of Morro Bay Municipal Code Section 3.22.120 as a result of Measure Q. The functions of the Citizens Oversight Committee shall be to semi-annually review revenues and expenditures from the collection of tax and present its findings and conclusions to the City Council no later than the last day of the sixth month following the end of each City fiscal year.

The purpose of the Citizens Oversight Committee acting in the capacity of a Citizens Finance Advisory Committee is to provide citizen input to the City Council and staff regarding financial policy or process issues, including audits, financial budgets, contract expenditures and financial reports. In addition, the Committee's role is to help promote citizen participation with, and understanding of, governmental financial information and processes, such as the financial documents, audits, and budgets, as well as the financial condition of the City.

The Citizens Finance Advisory Committee shall perform the following duties:

1. Annual review of independent financial audit, with recommendations, as appropriate.
2. Annual review of contract expenditures, with recommendations, as appropriate.
3. Review existing budget document to determine long-term financial sustainability, and make recommendations, as appropriate.
4. Review and provide comments on the mid-year budget reports prior to presentation to City Manager.
5. Review annual budget prior to presentation to the City Council, and make recommendations, as appropriate.
- ~~5-6.~~ Review and provide comments on routine quarterly financial reports (when possible) prior to presentation to the City Council.
- ~~6-7.~~ Special financial projects, as directed by the City Council, City Manager or City Treasurer.
- ~~7-8.~~ Propose/recommend additional financial areas of study to the City Council.
- ~~8-9.~~ All recommendations are to be provided to the City Council, in writing, unless otherwise requested, on no less than a semi-annual basis.
- ~~9-10.~~ Submit an annual work program to the City Council review and approval.
- ~~10-11.~~ The Citizens Oversight Committee shall review a semi-annual expense report of the City relative to activities funded with the additional general purpose local sales tax

monies and present its findings and conclusions to the City Council for its review no later than December 31st each year.

APPOINTMENT AND TERMS OF OFFICE

The Committee shall have seven citizen-members appointed by the City Council for staggered ~~four~~^{six} year terms ~~with initially three members serving three years, and four members serving six years~~. Appointees shall be residents of the City; however, no member of the Committee shall be an elected official. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

All Committee Members must be residents and registered voters of the City during the term of appointment, unless excepted by State Law or Council approved special requirements; must be at least 18 years of age at the time of appointment; and may not be an Elected Official, Officer, or Employee of the City of Morro Bay. (Council Policies and Procedures, Section 6.6.1)

ABSENCE FROM MEETINGS

Absence from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting.

ORGANIZATION

At the first regular meeting every two years wherein newly appointed members are seated, the members shall elect a Chair and Vice-Chair who shall hold office for a period of two years. The Chair shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chair, the Vice-Chair shall perform duties of the office. If both the Chair and Vice-Chair are absent, then the remaining quorum shall appoint one member to preside at that meeting. The City of Morro Bay staff will maintain accurate minutes of the official activities of the Committee.

PROCEDURE

Regular meetings shall be held monthly on a regular schedule. The meetings shall be open to the public. The date, time and location along with the meeting agenda shall be noticed in accordance

with Government Code Sections 54970-54975. The Chair may close meetings to public comment, provided that the action is consistent with the Brown Act. Agendas, reports, meetings and any and all actions shall be governed by the requirements of the Brown Act, as amended.

All Committee meetings will be conducted in strict compliance with the policies and procedures contained in this Handbook. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Committee shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

Communication between the Committee Members, and the Council shall be in accordance with the City Council Policies and Procedures as currently adopted.

QUORUM

A majority of voting members shall constitute a quorum.

CITY STAFF

The City Finance Director/Treasurer shall be responsible for preparing agendas, reports, and minutes pertaining to Committee business and shall attend the Committee meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.



AGENDA NO: A-10

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: August 8, 2018

FROM: Scott Collins, City Manager

SUBJECT: Amendment No. 1 to the Current Agreement for Joint Construction and Financing Costs for an Animal Services Shelter

RECOMMENDATION

Council authorize the City Manager to approve Amendment No. 1 to the Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter.

ALTERNATIVES

No alternatives are recommended.

FISCAL IMPACT

Under this amendment, the County is funding the first \$1,000,000 in the joint partnership to move the Animal Shelter project forward. The additional construction costs identified in the MOU will be paid by the County in order to reduce the shared costs from the Cities. As part of the original contract, the City Council approved an annual payment of approximately \$17,000-\$40,000 annually over the next 25 years with the first year estimated between \$24,417-\$31,305. This annual payment was approved as part of the FY 2018/19 Budget.

BACKGROUND/DISCUSSION

On February 28, 2017 the City Council approved a contract with the County of San Luis Obispo, and the Cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Pismo Beach and Paso Robles to jointly finance and construct a replacement of the animal services shelter. The existing shelter was found not to conform to current industry standards and public expectations of animal shelters, as many of the shelter's original design features and characteristics are now outdated. In April 2015, the County Board of Supervisors concluded, based on the totality of factors, that remodeling the existing facility would be imprudent, therefore directed staff to pursue the development of a replacement facility.

Under this service contract, all seven cities and the County share the cost of animal services based on a formula that factors the agencies' proportionate use of field services and shelter services. The agreement provides a mechanism to:

1. Share costs based on proportionate use.
2. Clarifies service and shelter governance
3. Contains mechanisms to control construction costs and is a more efficient way to construct a shelter consistent with state law and local service preferences and standards.

Prepared By: SC

Dept Review: _____

City Manager Review: SC

City Attorney Review: _____

Since that time, the costs for animal services increased with some partners considering withdrawal from the agreement. Those partners, the cities of Paso Robles and Atascadero, have since approved the Amendment with the County to continue their partnership with the animal services shelter. Based upon additional collaboration efforts between the County and the participating cities, a contract amendment is being proposed that specifically addresses the increase in costs, adds clarity for shared governance and new service approach to the shelter operations. The County Board of Supervisors and most of the seven participating cities respective Councils have either approved, or in the process of approving the Amendment.

Contract Amendment

This amendment aims to keep the collaborative nature of the original agreement which will mutually benefit both our County and regional City partners. The proposed Amendment allows the County to move forward with the construction of the new Animal Services Shelter, adopt shared governance practices, and sets the stage for lower future costs by reducing animal intakes and overnight stays. The proposed Amendment:

1. Reduce one-time project costs to be charged to the Cities by \$1,000,000 of the project.
2. Work to achieve reductions in animal intakes and animal nights at the shelter to achieve reductions in cost averaging 5% per year for the first five years of operation, after controlling for other factors that would also increase costs.
3. Share governance of the shelter so that the cities will function as partners, not customers of the County.
4. The County will not issue kennel permits inside city limits without written approval of that city.

Capital and Financing Costs

The Project construction costs to be shared by the Parties were estimated at the time the Agreement was signed to be \$13,176,500. To combat rising costs of the project the County has committed to solely pay the first \$1,000,000 of the joint project to construct and finance an Animal Service Shelter in San Luis Obispo. The County's first one million dollars will thereby reduce the total joint city contributions to \$12,176,500. There are no additional financing costs to the Cities from the County to complete this commitment and after completion of the project there are no additional costs for the Cities joint use of the shelter.

Animal Shelter Operations

As part of the agreement, the Operations Committee and the Executive Board ensures that all shelter policies and operations equitably reflect and benefit the needs of all parties. Any conflicts that cannot be successfully resolved by the Operations Committee or the Executive Board will be addressed by a 5-person ad hoc committee, comprised of County Supervisors and City Mayors.

The County agrees to adopt goals and take action steps to reduce animal intakes and total animal nights by an average of five percent (5%) per year for the next five (5) years, in an attempt to reduce operation costs. The targeted reductions are to be accomplished primarily by reducing the need for services and the costs of those services, not by reducing or denying needed services. The County agrees to undertake a cost/benefit analysis related to services and operations of the Shelter and present the findings to the Operations Committee.

Client Services Approach

Working collaboratively with the Operations Committee and Executive Board, the County agrees to adopt a client-oriented services approach for Shelter operations.

Kennel Permits

The County will not issue kennel permits inside city limits without written approval of that city.

CONCLUSION

Staff recommends that City Council approve the recommendation to move forward with Amendment No. 1 to the agreement for joint construction and financing costs for an Animal Services Shelter.

ATTACHMENTS

1. Amendment No. 1 to the Current Agreement for Joint Construction and Financing Costs for an Animal Services Shelter
2. Staff Report from February 28, 2017 City Council Meeting

AMENDMENT NUMBER 1 TO THE
AGREEMENT FOR ALLOCATION OF CONSTRUCTION AND FINANCING COSTS FOR AN
ANIMAL SERVICES SHELTER AT 865 OKLAHOMA AVENUE IN SAN LUIS OBISPO,
CALIFORNIA, BETWEEN THE CITIES OF ATASCADERO, ARROYO GRANDE, GROVER
BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO AND THE
COUNTY OF SAN LUIS OBISPO

THIS AMENDMENT (“Amendment”), dated for reference as of June 5, 2018, to the Agreement (defined below), is entered into by and between the COUNTY OF SAN LUIS OBISPO (the “County”), and the cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO (each, a “City,” and collectively, the “Cities,” and, together with the County, the “Parties”, or individually “Party”).

RECITALS

The County and each of the Cities previously entered into an Agreement (“Agreement”) for allocation of construction and financing costs for a new Animal Service Shelter at 865 Oklahoma Avenue in San Luis Obispo, California (“Shelter” or “Project”). The Agreement was dated as of February 1, 2017.

The Parties acknowledge the benefit of collaborative and joint efforts in constructing, financing, and managing the Shelter.

The Parties enter into this Amendment to memorialize changes regarding the Parties’ participation and corresponding obligations with regard to the management and allocation of construction and financing costs for the Shelter.

This Amendment memorializes the Parties’ joint commitment to collaboratively address and resolve the issue of rising costs for animal services. The Parties recognize that the operating philosophy and operating model by which the shelter has been operated is not the model that will best serve the Parties going forward.

The model going forward views all parties as partners, and is based on the needs of all Parties, with all Parties being incentivized to find creative ways to reduce the costs of those services. The model going forward also demonstrates the County’s commitment to seeking opportunities to be more nimble, and open to change.

The Agreement and this Amendment represent the entire agreement between the Parties.

NOW, THEREFORE, the Parties agree as follows:

1. Recitals.
The above Recitals are true and correct.
2. Capital and Financing Costs
 - a) The Project construction costs to be shared by the Parties were estimated at the time the Agreement was signed to be Thirteen Million One Hundred Seventy Six Thousand Five Hundred Dollars (\$13,176,500). Pursuant to this Amendment, the County shall reduce the costs allocated to the Cities as follows:
 - i. The County will solely pay the first one million dollars (\$1,000,000) of the project, moving \$1,000,000 in shared Estimated Project Construction Costs in Exhibit D to County-Only Costs.

- ii. The shared Estimated Project Construction Costs will thereby be reduced to Twelve Million One Hundred Seventy Six Thousand Five Hundred Dollars (\$12,176,500).
 - b) The County further agrees to pass through any financing costs to the Cities with no additional points, administrative fees, or charges.
 - c) After all construction and related financing costs are retired, the Parties then participating in the Shelter program may continue their joint use of the Shelter for the life of the building, at no additional capital or financing costs.
3. Animal Shelter Operations
- a) Shared Governance. The Parties agree that further clarification of the intended shared governance model is appropriate. The intent of the Operations Committee and the Executive Board created by the Agreement is to ensure all Shelter policies and operations reflect the needs of all Parties and equitably benefit all Parties. The Operations Committee and the Executive Board are authorized to ensure the policies and operations of field services policies and operations also reflect the needs of all Parties and equitably benefit all Parties. Any conflicts that cannot be successfully resolved by the Operations Committee or the Executive Board will be addressed by a 5-person ad hoc committee, comprised of County Supervisors and City Mayors.
 - b) Targeted Reductions in Operation Costs. The County agrees to adopt goals and take action steps to reduce animal intakes and total animal nights by an average of five percent (5%) per year for the next five (5) years. The resulting cost savings will be shared by all parties in accordance with the Animal Care and Control Services contract in place at the time. The targeted reductions are to be accomplished primarily by reducing the need for services and the costs of those services, not by reducing or denying needed services. Steps undertaken may include, but are not limited to:
 - i. Targeted education campaigns
 - ii. Pro-active and targeted programs such as catch, spay/neuter, and release programs
 - iii. Pro-active licensing and licensing enforcement
 - iv. Community-based approaches that involve the community in activities and donations
 - v. Active pursuit of grants and donations
 - vi. User fees set at a strategic level to minimize subsidy from general taxes.
 - c) Cost Benefit Analysis. The County agrees to undertake a cost/benefit analysis related to services and operations of the Shelter and present the findings to the Operations Committee. The County will also propose needed actions to the Operations Committee and, as necessary, the Executive Board, and implement changes identified and agreed to by the Parties to achieve reductions in operating costs.
4. Client Services Approach
- a) Working collaboratively with the Operations Committee and Executive Board, the County agrees to adopt a client-oriented services approach for Shelter operations. Elements of this approach may include, but are not limited to:
 - i. Mobile spay/neuter programs
 - ii. Pet owner education programs
 - iii. Outreach to constituents
 - iv. Offering micro-chipping
5. Kennel Permits
- a) The County will not issue kennel permits inside city limits without written approval of that city.
6. In the event of a conflict between the terms of the Agreement and the Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, by their execution below, the Parties agree to be bound by the provisions of this Amendment, and the Board of Supervisors of the COUNTY OF SAN LUIS OBISPO has authorized and directed the Chairperson of the Board of Supervisors to execute this Agreement for and on behalf of the County, and the Cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO have caused this Agreement to be subscribed by each of their duly authorized officers and attested by their Clerks.

Dated: _____

COUNTY OF SAN LUIS OBISPO

Clerk of the Board

Dated: _____

CITY OF ATASCADERO

City Clerk

By:

Dated: _____

CITY OF ARROYO GRANDE

City Clerk

By:

Dated: _____

CITY OF GROVER BEACH

City Clerk

By:

Dated: _____

CITY OF MORRO BAY

City Clerk

By:

Dated: _____

CITY OF PASO ROBLES

City Clerk

By:

Dated: _____

CITY OF PISMO BEACH

City Clerk

By:

Dated: _____

CITY OF SAN LUIS OBISPO

City Clerk

By:

AGREEMENT FOR ALLOCATION OF CONSTRUCTION AND FINANCING COSTS FOR AN
ANIMAL SERVICES SHELTER AT 865 OKLAHOMA AVENUE IN SAN LUIS OBISPO,
CALIFORNIA, BETWEEN THE CITIES OF ATASCADERO, ARROYO GRANDE, GROVER
BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO AND THE
COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT, dated for reference as of February 1, 2017 (the "Agreement"), is entered into by and between the COUNTY OF SAN LUIS OBISPO (the "County"), and the cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO (each, a "City," and collectively, the "Cities," and, together with the County, the "Parties", or individually "Party").

RECITALS

The County and each of the Cities are parties to a separate but similar Contract for Animal Care and Control Services ("Services Contract") effective as of July 1, 2016 and expiring, unless sooner terminated, on June 30, 2019, pursuant to which the County provides animal control services throughout San Luis Obispo County, including within the jurisdictional boundaries of each of the Cities.

In conjunction with and pursuant to the Services Contract, the County operates an existing Animal Services Shelter located at 885 Oklahoma Avenue in San Luis Obispo, California. Owing to the obsolescence of the existing shelter, it is necessary to construct a new Animal Services Shelter ("Shelter" or "Project") as generally described in Exhibit A, at an address preliminarily identified as 865 Oklahoma Avenue, and as generally depicted in Exhibit B ("Shelter Property").

The Parties acknowledge the benefit of collaborative and joint efforts in constructing the Shelter.

The Parties enter into this Agreement to memorialize their participation and corresponding obligations with regards to the allocation and repayment of the construction and financing costs for the Shelter.

NOW, THEREFORE, the Parties agree as follows:

1. Recitals.

The above Recitals are true and correct.

2. Estimated Project Construction Costs.

- a) The Project construction costs, excluding the portion of the Oklahoma Ave./Utility Extension costs to be borne solely by the County, and excluding the County-only costs of the remaining depreciation value of the existing facility, demolition of the existing facility, and land costs, and excluding costs to be shared proportionally only by the Cities, for the Shelter are estimated at this time to be Thirteen Million One Hundred Seventy Six Thousand Five Hundred Dollars (\$13,176,500) as shown in Exhibit D (the "Estimated Project Construction Costs"). The Estimated Project Construction Costs include expenses for soft costs, such as architectural and engineering services; County costs for administration, project management service, environmental review, planning and building fees, and inspections; and hard costs, such as actual construction costs.
- b) The Estimated Project Construction Costs shall only include those expenses and costs generally described above, which are incurred by the County specifically for the Shelter construction project. Notwithstanding anything to the contrary below, the total Project Costs, as defined in Paragraph 5(a) below shall not exceed Fourteen Million Five Hundred Thousand Dollars (\$14,500,000) without a written amendment to this agreement signed by all Parties.

- c) The Project will be managed as a “Design / Build” project, as approved by the County of San Luis Obispo Board of Supervisors on April 12, 2016.

3. Excess Construction Costs

- a) Prior to Authorization for Construction to Begin (“Construction Contract”).
 - (i) If the County receives information in the design or bidding process indicating that the Estimated Project Construction Costs for the Shelter will exceed \$13,176,500 by less than ten percent (10%), the County shall provide written notice to each member of the Executive Board (as defined in Section 9(b) below) of the revised estimated construction costs within a reasonable period of time before such additional construction costs are incurred. The Executive Board shall either approve or disapprove the additional construction costs, if any, by written notice to the County, delivered within ninety (90) days after receipt of the County’s notice of the revised construction costs. If any Executive Board member fails to timely approve in writing, the Executive Board shall be deemed to have not approved and the County shall promptly confer with all Cities regarding the additional construction costs and any means by which such additional construction costs may be minimized.
 - (ii) If the County receives information as part of the design or bidding process indicating that the Estimated Project Construction Costs for the Shelter will exceed \$14,500,000, the County shall immediately provide written notice to each City of the revised estimated construction costs (“Excess Construction Costs”) and confer with the Cities as to whether to authorize the Construction Contract or reject all bids. Each City shall either approve or disapprove the Excess Construction Costs resulting in Estimated Project Construction Costs exceeding \$14,500,000 by written amendment delivered to the County within ninety (90) days after receipt of the County’s written amendment. If the decision is to authorize the contract, the County shall prepare and deliver to the Cities a written amendment to this Agreement amending Section 2(b) to increase the not-to-exceed amount. If any City fails to timely approve in writing, the City shall be deemed to have disapproved. Should a City(ies) disapprove the Excess Construction Costs, the County will immediately confer with all Cities in an attempt to reconcile the disagreement. Should the Parties be unable to reach agreement, the measures shall be taken to reduce the costs below \$14,500,000 and in no such event shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.
 - (iii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City’s desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
- b) Authorization for Construction to Begin
 - (i) Upon County’s authorization for Construction to begin, total costs for the Project including any incurred or future hard costs, soft costs, contingencies, and other miscellaneous costs related to Shelter construction will be added to the estimated final construction costs (“Estimated Final Construction Costs”). The Estimated Final Construction Costs will not exceed the Estimated Project Construction Costs (or Excess Construction Costs), unless agreed to in writing by all of the Parties in a written amendment to this Agreement. Should the Parties be unable to reach agreement, measures shall be taken to reduce the costs below \$14,500,000 and in no such event

shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.

- (ii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City's desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).

c) After Authorization for Construction to Begin

- (i) If the County becomes aware, after its authorization for Construction to begin, that the costs of construction will exceed the Estimated Final Construction Costs due to unforeseen or other conditions, the County shall provide written notice, to each City of the revised estimated construction costs within a reasonable period of time before such additional construction costs are incurred. Each City shall either approve or disapprove the additional construction costs, if any, by written notice to the County, delivered within ninety (90) days after receipt of the County's notice of the revised construction costs. If any City fails to timely approve in writing, the City shall be deemed to have not approved and the County shall promptly confer with all Cities regarding the additional construction costs and any means by which such additional construction costs may be minimized. No additional construction costs shall be incurred that exceed \$14,500,000 without a written amendment signed by all the Parties. Should the Parties be unable to reach agreement, measures shall be taken to reduce the costs below \$14,500,000 and in no such event shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.
- (ii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City's desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).

4. Financing

- a) County Advance of Funds. The County shall advance funds required to pay for the costs of construction of the Shelter. The County intends to finance the funds it advances, including County in house soft costs.
- i) County Sole Discretion as to Financing Terms. The County, at its sole discretion, shall determine financing terms based on market rates and terms available at the time of financing. The anticipated financing interest rate is estimated to be between 3.5%-5%, based on a 25-year term, see Exhibit D. The County may finance the Estimated Final Construction Costs (hard, soft, design, etc.) for the Shelter in addition to customary out of pocket costs to obtain financing, if any. The County may choose to provide in-house financing, provided the interest rate charged to the Cities does not exceed commercially available rates for like projects and terms of financing are equal to or more favorable to Cities than terms otherwise available to the County.
- (1) The County will provide notification to the Shelter Executive Board of its intentions regarding external or in-house financing at least 30 days prior to taking action on

financing. Said notification will include final estimates of financing costs and anticipated interest rates.

- (2) Should the Cities desire to have costs identified as “Costs Shared Proportionally by Cities Only” in Exhibit D included in any financing, the Cities shall provide written notification to the County by October 31, 2017. Should all Cities fail to provide written notice, the “Costs Shared Proportionally by Cities Only” will be proportionally allocated to each of the Cities as shown in Exhibit C and billed accordingly, with a payment due date of January 1, 2018.
 - ii) Estimated Project Financing Costs. The financing costs are estimated to range from \$7,556,392 to \$11,618,328, as shown in Exhibit D, depending on the applicable interest rate and whether there are out of pocket costs to obtain financing (collectively “Estimated Project Financing Costs”). If the actual interest rate is higher or lower than that estimated on Exhibit D, the actual financing costs will vary.
5. Total Estimated Project Costs/Total Project Costs.
 - a) The Estimated Final Construction Costs and the Estimated Project Financing Costs are jointly referred to as the Total Estimated Project Costs. Once the Shelter has been constructed and financed, the County will prepare a final cost summary of the actual construction and financing costs incurred by County in connection with the Shelter, excluding any costs that this Agreement expressly provides shall be excluded from the calculation, to establish the total project costs and annual repayment schedule based on the financing. Upon request, a City may review back up material for the summary. After review and adjustment (if any) of the final cost summary by all Parties, the approved final cost summary shall be known as the Total Project Costs. No City shall unreasonably delay or disapprove the Total Project Costs.
6. Allocation of Total Project Costs.
 - (a) Allocation Based on Percentage of Shelter Use. Each Party shall pay its share of the Total Project Costs, based on the annual repayment schedule associated with the financing. Each Party’s share shall be based upon that individual Party’s percentage of shelter use. Shelter use is defined as the number of shelter services (impounds, quarantines, animal surrenders, confiscations, euthanasia requests, etc.) originating from, or requested by, an individual Party’s jurisdiction and/or its residents. Each Party’s share shall be determined annually by the County as part of their normal record keeping processes. The individual Party’s shelter use percentage shall be calculated using the total number of shelter services allocated to an individual Party over the preceding three full fiscal year periods, divided by the total number of all shelter services provided to all Parties over the same preceding three full fiscal year periods.

$$\%Shelter\ Use = \frac{(Party\#Shelter\ Services_{Year1} + Party\#Shelter\ Services_{Year2} + Party\#Shelter\ Services_{Year3})}{(Total\#Shelter\ Services_{Year1} + Total\#Shelter\ Services_{Year2} + Total\#Shelter\ Services_{Year3})}$$

Exhibit C indicates the percentage of each Party's actual use of the existing Animal Services shelter for the Fiscal Years 2013-14, 2014-15, and 2015-16. Adjustments to each Party’s annual allocation of Total Project Costs shall be adjusted annually based on the previous 3-year trailing average of the percentages of shelter use.
 - b) Reallocation in the Event of Withdrawal or Termination. In the event that a Party withdraws or terminates under Section 8 below, the allocation of each Party’s share of Total Project Costs shall be adjusted upward for the remaining parties for the subsequent calendar year. The annual calculation and any associated adjustments shall be made by December 31st of each year and shall be due on July 1st of the next fiscal year.

7. Use of Shelter
 - a) The Shelter shall only be used as an Animal Services facility. No other County department or agency or other person or entity shall use any portion of the Shelter without the prior written consent of the Operations Committee (as defined in Section 9 (a) below). Such use shall be accompanied by the payment of an appropriate rental charge.
8. Termination and Withdrawal
 - a) Withdrawal Prior to Authorization of Construction/Payment of Allocation of Soft Costs.
 - i) Any Party may withdraw from this Agreement prior to County's authorization of the Construction to begin by giving a minimum of one (1) year's written notice to all Parties and by payment of its share, based on the allocation set forth in Section 6, above, of costs incurred by County prior to date of receipt of notice of withdrawal. Notice shall be deemed received on the date of personal delivery, or if mailed by U.S. mail, five (5) days after date of mailing. Such costs shall be reasonably determined by County and a majority of the Parties of the Executive Board, excluding any Party(ies) electing to withdraw. Any withdrawing Party shall pay its share by the effective date of its withdrawal. A withdrawing Party who withdraws prior to October 31, 2017 shall not be required to pay any portion of financing costs, regardless of whether outside financing or in-house County financing is ultimately provided. Any payment of soft or hard costs by a withdrawing Party shall be deleted from the amount to be financed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
 - b) Withdrawal After Construction Begins /Payment of Allocation.
 - i) Any Party may withdraw from this Agreement after the County's authorization of construction begin, by providing a minimum of one (1) year's written notice to all of the other Parties and prepaying its entire allocation of the Total Project Costs by the effective date of its withdrawal. If a Party withdraws from this Agreement prior to October 31, 2017, any estimated financing costs shall be deducted from the Total Project Costs before calculating the withdrawing Party's Total Project Costs share. If County provides in-house financing, any finance or interest charge accruing or payable after the withdrawal shall be deducted from the Total Project Costs before calculating the withdrawing Party's share of the Total Project Costs. Withdrawal from the Agreement shall be effective as of December 31 of the year stated in the written notice. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
 - c) The County shall not terminate a City's access to or use of the Shelter if the City is not in default of its payment obligations. For the purposes of this Agreement, a City shall be deemed to be in default if said City is sixty (60) calendar days or more in arrears on any payment required under this Agreement.
 - (i) Should the County desire to terminate a City's access or use of the Shelter for default of its payment obligations, the County shall include any non-defaulted Cities, at the non-defaulted Cities' sole discretion, in negotiations with the defaulted City, prior to their termination.
 - (ii) The County shall retain final decision authority to terminate any City's access to or use of the Shelter for default of said City's payment obligations.
9. Animal Shelter Operations
 - a) An Operations Committee comprised of the County's Health Agency Director or his/her designee and a subset of City Managers or their designees shall be formed. At their sole discretion, all Parties may be represented on the Operations Committee.

- b) An Executive Board composed of the County Administrative Officer (CAO) and a subset of the City Managers (2-3) for each of the Cities, or their designees, shall consider significant policy or budget changes and make recommendations prior to policy implementation or budget adoption for the Shelter.
- c) The Executive Board meetings shall be held as needed and in conjunction with the existing monthly City Manager/CAO meeting. At a minimum, “*Animal Services*” shall be a standing item that is considered twice in a calendar year. While any Party may request that “*Animal Services*” be added to the agenda of any City Manager/CAO monthly meeting, it will be the responsibility of the chair of the meeting to ensure *Animal Services* is placed on the agenda and satisfies the minimum number of meetings required by this Agreement.
- d) If the City Managers’ recommendation is different from that of the CAO on budget or policy matters, the County shall include the City Managers’ recommendation in any related staff report to the Board of Supervisors and provide a summary of the nature of any disagreement.
- e) Final policy and budgetary authority for Shelter operations reside with the County Board of Supervisors.
- f) Future Services Contracts shall be for 3-year terms.
- g) If a City chooses to provide its own field services, it must provide to all Parties, a one (1) year’s written notice of its intent to provide its own services and to terminate, or (if applicable) not to renew, its Services Contract with the County, except as otherwise expressly provided in its Services Contract with the County,
- h) Service Contracts shall be separate from the Parties’ obligations to finance and pay their proportional and allocated shares of Total Project Costs for the Shelter.
- i) The County’s repayment obligation of its share of the Total Project Costs shall not be included in the calculation of the Shelter’s operating costs. The County shall charge no rent for the Shelter or Shelter Property or otherwise attempt to obtain compensation from the Cities for those items identified in Appendix D as “County Only Costs”.
- j) Any City shall have the ability to provide its own separate field services. The costs for accessing the Shelter shall be reasonably determined by the County after consulting with the Executive Board and shall only be for the fair share reasonable operating costs for Shelter operations.
- k) Any City that elects to not participate in Shelter Total Project Costs shall immediately cease as a Party to this Agreement and the County shall not be required to provide any animal services to such City. Such City shall be required to provide its own animal services and shelter, in accordance with all applicable laws and statutes, effective on a date mutually agreed to by the City and the County. If the City and the County are unable to mutually agree to a date, termination will be effective upon the expiration of the City’s existing Service Contract or the date a Certificate of Occupancy is issued for the new Shelter, whichever occurs first.

10. Animal Shelter Planning

- a) The Parties agree to form an ad-hoc value engineering team consisting of up to three (3) City representatives and a minimum of two (2) County representatives. City representatives shall fully participate with the County to assist with investigating and identifying the most effective and efficient methods to construct a Shelter that meets all Parties’ existing and future animal service’s needs. The value engineering team shall meet as needed and provide input with architects, designers, construction managers, and engineers during the development of plans and specifications for the Shelter.
- b) Prior to the authorization of the Construction Contract, the Executive Board shall be presented project plans and estimated budgets, and provide a recommendation that will be included in the CAO staff report to approve the contract by the Board of Supervisors.

11. Effective Date

- a) Except as set forth above, this Agreement shall be effective for the period from January 5, 2017 until each Party has made the last payment required under Section 6 or, if applicable, Section 8, of this Agreement

12. Entire Agreement

- a) This is the entire agreement among the Parties with respect to the Project and supersedes any prior written or oral agreements with respect to the Project. In the event of a conflict between the terms of this Agreement and the Services Contract, the terms of this Agreement shall prevail.

13. Assignability

- a) Except as otherwise expressly provided for herein, no Party shall assign any of its obligations or rights hereunder without the written consent of all Parties.

14. Notices

- a) Any notices required to be given pursuant to this Agreement shall be given in writing and shall be mailed to all Parties to the Agreement, directed to the County Administrative Officer and County Counsel, and to the City Manager or City Administrative Officer and City Attorney of each City.

15. Audit

- a) The Cities may inspect and/or audit all records and other written materials used by County in preparing the Total Project Costs and annual invoices to each City.

16. Good Faith Efforts

- a) The Parties shall each act in good faith in performing their respective obligations as set forth in this Agreement and shall work diligently to maintain their longstanding cooperative relationships.

17. Amendment

- a) This Agreement may only be amended in writing, signed by all Parties.

IN WITNESS WHEREOF, by their execution below, the Parties agree to be bound to the obligations stated herein, and the Board of Supervisors of the COUNTY OF SAN LUIS OBISPO has authorized and directed the Chairperson of the Board of Supervisors to execute this Agreement for and on behalf of the County, and the Cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO have caused this Agreement to be subscribed by each of their duly authorized officers and attested by their Clerks.

Dated: _____

COUNTY OF SAN LUIS OBISPO

Clerk of the Board

Dated: _____

CITY OF ATASCADERO

City Clerk

By:

Dated: _____

City Clerk

Dated: _____

City Clerk

Dated: _____

City Clerk

Dated: _____

City Clerk

Dated: _____

City Clerk

Dated: _____

City Clerk

CITY OF ARROYO GRANDE

By:

CITY OF GROVER BEACH

By:

CITY OF MORRO BAY

By:

CITY OF PASO ROBLES

By:

CITY OF PISMO BEACH

By:

CITY OF SAN LUIS OBISPO

By:

EXHIBIT A

Animal Services Facility

The quantities listed below were derived from a review of the existing Animal Services facility, the 2010 *"Needs Assessment, Feasibility, and Building Program Study"* by Shelter Planners of America, and meetings with Animal Services Manager Eric Anderson.

Building Floor Area:	16,000 square feet
Outdoor Runs:	3,000
Incinerator, Cold Storage:	2,000
Sally Port, Truck Wash, Truck Parking (8 trucks):	4,200
Disaster Response Equipment:	1,200
Visitor Parking (15 spaces):	5,300
Staff Parking (20 spaces):	7,000
Large Animal Pens:	27,000
Subtotal:	65,700
Additional 20% for Circulation, Landscaping:	13,140

TOTAL: 78,840 square feet

EXHIBIT B



LEGEND
SITE BOUNDARY

SAN LUIS OBISPO COUNTY OPERATIONS CENTER
PHASE 1 MASTER PLAN

EXHIBIT C

Cities	City Name	(Number of Shelter Service Provided)						Total	Percent
		2013-14		2014-15		2015-16			
		Full Yr.		Full Yr.		Full Yr.			
1	Arroyo Grande	286	7%	427	11%	291	8%	1,004	8.39%
2	Atascadero	476	12%	600	15%	643	17%	1,719	14.37%
3	Grover Beach	167	4%	142	4%	135	4%	444	3.71%
4	Morro Bay	126	3%	143	4%	118	3%	387	3.23%
5	Paso Robles	724	18%	734	18%	792	21%	2,250	18.81%
6	Pismo Beach	57	1%	61	2%	54	1%	172	1.44%
	San Luis								
7	Obispo	482	12%	486	12%	479	12%	1,447	12.09%
99	Unincorporated	1,745	43%	1,464	36%	1,332	35%	4,541	37.96%
		4,063		4,057		3,844		11,964	100.00%

EXHIBIT D

	Initial Estimate (a)	County-Only Costs (b)	Estimated Costs after County-Only costs (a-b)	Costs Shared Proportionally by Cities Only (c)	"Estimated Project Construction Costs" (a-b-c)
BUILDING & SITE HARD COSTS					
Construction (Building & Site Improvements)	\$ 7,840,000		\$ 7,840,000		\$ 7,840,000
Construction Contingency	836,500		836,500		836,500
Oklahoma Ave./ Utility Extension	525,000	348,967	176,033	176,033	
BLDG & SITE HARD COSTS SUBTOTAL:	9,201,500	348,967	8,852,533	176,033	8,676,500
INTERIOR HARD COSTS					
Fixtures, Furniture & Equipment	400,000		400,000		400,000
Telephone/Data/Security	160,000		160,000		160,000
INTERIOR HARD COSTS SUBTOTAL:	560,000		560,000		560,000
HARD COSTS SUBTOTAL:	9,761,500	348,967	9,412,533	176,033	9,236,500
SOFT COSTS					
ADMINISTRATION					
County Administration & Project Management	500,000		500,000		500,000
PROFESSIONAL SERVICES					
Architectural/Engineering Design Consultants	920,000		920,000		920,000
Construction Management	450,000		450,000		450,000
Testing & Inspection	310,000		310,000		310,000
Surveys, Geotech., Env. Mitigation	250,000		250,000		250,000
Permits & Fees	105,000		105,000		105,000
Storm Water Pollution Prevention Plan	170,000		170,000		170,000
MISCELLANEOUS					
Project Development Contingency	650,000		650,000		650,000
Escalation	585,000		585,000		585,000
SOFT COSTS SUBTOTAL:	3,940,000		3,940,000		3,940,000
OTHER COSTS					
Remaining depreciation value of existing facility	168,800	168,800			
Demolition of existing facility	200,000	200,000			
Land Cost (2 acres)	737,500	737,500			
OTHER COSTS SUBTOTAL:	1,106,300	1,106,300			
	\$ 14,807,800	\$ 1,455,267	\$ 13,352,533	\$ 176,033	\$ 13,176,500
Financing Costs- Low end estimate					
Estimated Project Construction Costs					\$ 13,176,500
Estimated Project Financing Costs @ 3.5%					\$ 7,556,392
Annual Debt Service					\$ 829,316
Financing Costs- High end estimate					
Estimated Project Construction Costs plus 10%					\$ 14,494,150
Estimated Project Financing Costs @ 5.0%					\$ 11,618,328
Annual Debt Service					\$ 1,044,499



AGENDA NO: A-13

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council

DATE: February 21, 2017

FROM: Dave Buckingham, City Manager
Jody Cox, Acting Police Chief

SUBJECT: Authorization to Enter into an Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter

RECOMMENDATION

Council authorize the City Manager to execute an Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter at 865 Oklahoma Avenue in San Luis Obispo, California, between the Cities of Atascadero, Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, San Luis Obispo, and the County of San Luis Obispo.

ALTERNATIVES

The City Council could opt not to approve the contract with San Luis Obispo County and build a City owned/operated Animal Services Shelter to provide its own sheltering and field services, as required by State law and at its sole expense. That project would need to be completed before the expiration of current contract. That is not likely and those costs are estimated to be significantly higher than partnering with the six other cities and County, and would mean the City would not benefit from the economies of scale of sharing both capital and service costs. Staff has determined the City cannot provide its own animal field services or shelter costs for less than the County's proposal and in a timely manner.

FISCAL IMPACT

The proposed agreement apportions the estimated contracting agency costs of between \$13.176 Million and \$14.494 Million based on the average use of the shelter for a rolling three-year period. Participation in the Animal Services Shelter Agreement is estimated to cost the City of Morro Bay approximately \$27-\$34K per year in addition to the \$50,074 as noted below. That is currently estimated at 3.23% of the estimated total costs based on average use of shelter for July 2013 – June 2016, but would adjust upward or downward based on Morro Bay shelter usage over the financing period. With financing costs variables, coupled with a range for construction costs, total estimated payments are anticipated to be approximately \$17,000-\$40,000 per year over the next 25 years (in addition to the annual contract fees currently in place). That amount would adjust upward or downward based on Morro Bay shelter usage over the financing period.

Additionally, the agreement contains cost containment provisions with respect to actual costs and provides a mechanism to reduce costs or allow a participating City to terminate the agreement if costs exceed the estimated capital budget of \$14.5 Million. If the Agreement is approved, then the annual payments to the County will be incorporated into the FY 17/18 budget and budget forecast.

BACKGROUND/DISCUSSION

Prepared By: JC/DS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

Under State law, each incorporated City has the option of contracting with the County or providing their own animal services consistent with State standards. The City of Morro Bay approved a three-year contract for field and shelter services in September 2016. Services provided under that contract include: 1) Emergency and non-emergency response of Animal Services Officers for injured or stray animals, 2) Investigative services for animal bites, abuse, and neglect, 3) Sheltering and Quarantine services, 4) Dog licensing and 5) Animal adoption and other services required by State law or City Municipal Code. Capital costs for the replacement of the shelter are not included in the costs charged to cities for field services or shelter services.

The County Animal Services Division (Division) provides animal field services/ care and shelter services throughout the unincorporated regions of the County, as well as within each of the seven incorporated communities. Each city contracting with the Division is assessed an annual service fee based upon their proportionate use of both field services and animal sheltering together with the operational costs associated with each of these functions. The City's current contract for those services expires on June 30, 2019. Current contract costs charged to the City are \$45,425 for the first year of the agreement, July 1 2016-June 30 2017. However, we have recently been informed administrative overhead was not taken into account with that amount, so for next fiscal year's fees (FY 2017-18), the annual contract costs are anticipated to rise to \$50,074.

The Division operates a single animal shelter to house and care for stray and owner relinquished animals. That shelter, located at 885 Oklahoma Avenue in San Luis Obispo, is the County's only open intake animal shelter and receives approximately 4,500 animals annually. Dogs and cats account for roughly 92% of the animals handled at the shelter with the remainder comprised of a wide variety of animals ranging from rabbits, alligators, and emus to guinea pigs, monkeys, and snakes.

Existing Shelter

The Animal Services shelter was constructed in approximately 1975 on a site which had formerly been a landfill utilized in the 1940's by the US Army and Camp San Luis Obispo. As initially designed, the structure totaled 6,600 square feet and was intended primarily for the kenneling of dogs, with less than 38 square feet dedicated to the care and housing of cats; no accommodations were made for other types of animals. Since then, additional building modifications were constructed to accommodate dog runs adjacent to the kennels, corrals for ranch animals, a small structure for cats, night drop-off kennels, an expansion for staff administration, and renovation for the public lobby.

Current industry standards and public expectations of animal shelters have shifted substantially and many of the shelter's original design features and characteristics are now outdated or inconsistent with the current understanding of humane animal sheltering. The consequences of those design issues relative to their impact on humane animal care are further compounded by the effects of deferred maintenance. Over time, roofing leaks have developed, walls and door frames have begun to deteriorate, and the capacity of electrical and drainage systems have been overloaded. A report released by the County cites the lack of heating, poor ventilation, and the general facility as promoting stress, illness, and behavioral problems in sheltered animals.

In 2010, the County contracted with Ravatt Albrecht & Associates to develop design plans for Phase I of the remodel. Quickly, it became apparent the scope of that project exceeded the available funding and the dog kennel remodel component of the remodel was dropped. The ability to design a remodel, which could be constructed within budget, was further complicated by soil stability and potential methane off-gassing issues resulting from the shelter's location on an abandoned landfill. During the environmental permitting process, it was determined a permit was required through CalRecycle 1, adding additional time and cost to the development process. Since then, the project received a post

1 CalRecycle oversees the permitting of land use or other activities on active or abandoned land fill sites.

landfill closure permit through CalRecycle, and a permit from the Air and Water Quality Control Boards.

Proposed Shelter and Agreement

In April 2015, after exploring alternatives such as rehabilitating the current animal shelter facility and the possibility of partnering with Woods Humane Society, the County Board of Supervisors directed staff to pursue the construction of a new facility. At approximately 15,000 square feet, that building will be able to fully address the facility needs, as well as implement many of the recommendations contained in the Humane Society of the United States (“HSUS”) and Shelter Planners of America Needs Assessment (Attachment 2).

The proposed animal service shelter facility will serve the County and each of the seven cities. Shortly after the County’s decision to build a new facility, the County reached out to the cities and advised the County would require contracting cities to pay a proportionate share of the costs associated with the County Animal Shelter Project (“Project”). Preliminary budget estimates for the Project were \$12 - \$14 Million.

After some starts and stops in 2016, the County and cities began negotiations regarding scope, cost, governance and construction cost containment for the Project. Staff representatives from three of the contracting cities worked with the County on behalf of all the contracting cities to incorporate some protections and sureties to the Project for the contracting cities. The result of those negotiations is the attached agreement, which will be brought to the governing boards of each of the participating jurisdictions.

The proposed agreement provides for the following:

- The total budgeted cost of the Project (\$14.5 Million) and the portion that the County will exclusively pay (\$1.45 Million). The County will be paying 100% of the land costs, the demolition costs for the existing facility and the remaining depreciation value of the existing facility. The County will also pay for a larger portion of the utility extension along Oklahoma Avenue (see Exhibit D of the Agreement for project budget details).
- A procedure for authorization of excess construction costs. Any projected costs that would bring the Project in 10% or more above the budget must be approved by all cities.
- The County to provide competitive long-term financing for the Project.
- Allocation of costs based on a rolling three-year proportionate use calculation. As shown in Exhibit C of the agreement, the City of Morro Bay has averaged 3.23% of total shelter use over the last three years. That percentage will change each year based on the average of the previous three years.
- Governance of animal shelter operations. An operations committee comprised of a County representative and 2-3 contracting city representatives will review significant policy and budget decisions for the shelter.
- A city may opt out of service contracts; however, each City is still responsible for their proportionate share of the Project costs.
- A committee comprised of three contracting city representatives and two County representatives shall participate in an ad-hoc value engineering team tasked with investigating and identifying the most effective and efficient methods to construct a shelter.
- Exhibit A to the agreement outlines the general scope of the Project. After the initial direction of the County Board of Supervisors, additional programming was required to define the proper size for the facility. The scope of the Project was derived from a review of the existing needs of the facility and a needs assessment study.

CONCLUSION

Staff is recommending the approval of the proposed agreement, as it provides a mechanism to:1)

share costs based on proportionate use, 2) clarifies service and shelter governance, 3) contains mechanisms to control construction costs and is a most efficient way to construct a shelter consistent with State law and local service preferences and standards, and 4) is the most cost effective way of providing required animal shelter services.

The agreement must be approved by each of the seven City Councils in the County along with the Board of Supervisors.

It is expected the final approved agreement will be in conformance with the draft agreement attached to this report (Attachment 1). Due to the compressed time frame for approval, there may be minor clarifications and small changes made to the final agreement prior to execution. Those changes would be subject to approval as to form by the City Attorney. Any financial or substantive changes to the Agreement would be brought back to Council for approval prior to execution.

ATTACHMENTS

1. County of San Luis Obispo agreement for Allocation of Construction and Financing Costs
2. Shelter Planners of America Needs Assessment, Feasibility & Building Program Study for the County of San Luis Obispo Animal Services Division

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AGENDA NO: A-11

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: July 16, 2018

FROM: Scot Graham, Community Development Director

SUBJECT: Approval of Amendment No. 3 to City's Contract with Mike Brannagan (Terra Solutions) for consulting services for ArcGIS server maintenance and for overall GIS data management

RECOMMENDATION

Council authorize the City Manager to execute Amendment No. 3 to the agreement with Mike Brannagan (Terra Solutions), in the amount of \$60,000, for maintenance of the City's ArcGIS server and management of City Geographic Information System (GIS) data.

ALTERNATIVES

1. Review the report and provide direction to staff for revision, amendment or alteration to the Amendment and continue item to a future meeting.
2. Deny the Amendment request, discontinuing contracted GIS services.

FISCAL IMPACT

Cost of the GIS contract services is shared between Public Works (2/3rds) and Community Development (1/3rd). Funds for the additional \$60,000 will be sourced from the Consultant Services accounts for each Department (6105). The City has developed a Technology Fee, implemented through the recent adoption of the FY 18/19 Master Fee Schedule, to help pay for GIS services.

BACKGROUND/DISCUSSION

The City contracted with Mike Brannagan, of Terra Solutions, in August of 2017 for assistance in setting up the City's ArcGIS server and to help manage the City's GIS data. The contract was precipitated by the implementation process for Cityworks, the City's new Permitting, Asset Management and Work Order application. Cityworks is a GIS based application; and it is, therefore, vital the City's GIS data is up to date and accurate. The City does not have in-house expertise in GIS, hence the need to contract for outside services.

The City entered into a contract with Mike Brannagan, of Terra Solutions, on August 22, 2017, for a six-month period ending February 22, 2018. The original contract amount was \$24,960.00 with the ability to approve additional work not to exceed 25% of the initial Agreement amount or \$6,240.00 (see Contract Agreement provided as Attachment 1). Staff executed Amendment No. 1 to the contract, extending the agreement through April of 2018.

On April 10, 2018, Council approved Amendment No. 2 for \$15,000 extending the contract through June of 2018 (See Amendment 2 provided as Attachment 2).

Prepared By: SG & RL

Dept Review: SG & RL

City Manager Review: SC

City Attorney Review: JWP

The City continues to require GIS services in support of the day to day operations of both the Community Development and Public Works Departments. Staff developed a Technology Fee as part of the FY 18/19 Master Fee Schedule, the intent of which is to pay for the needed GIS services, the ArcGIS server and to pay for Cityworks.

Mr. Brannagan currently works on site five days a week, for approximately four hours a day, at a rate of \$60.00 an hour. Amendment 3 to the Brannagan contract is intended to provide GIS services to the City for the entirety of FY 18/19, at a total cost of \$60,000.00. The cost will be split between the Public Works Department (2/3rds) and Community Development Department (1/3rd).

CONCLUSION

GIS services are an integral part of the City's new Project Tracking, Asset Management and Work Order application and it is therefore crucial to the success of this system that the GIS component function properly. The City does not have inhouse GIS expertise, dictating the need to contract for these services. The City has developed a Technology Fee that was implemented through Council adoption of the FY 18/19 Master Fee Schedule and it is anticipated that new fee will cover the cost of GIS services. The cost to extend the Brannagan contract for one year is \$60,000.00.

ATTACHMENTS

1. Brannagan (Terra Solutions) Agreement
2. Brannagan Contract Amendment No. 1
3. Brannagan Contract Amendment No. 2
4. Brannagan Draft Contract Amendment No. 3

ATTACHMENT 1 CITY OF MORRO BAY

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made, by and between, the City of Morro Bay, a municipal corporation (“City”) and Mike Brannagan, dba Terra Solutions (“Consultant”). In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

1. TERM

This Agreement shall commence on August 22, 2017, and shall remain and continue in effect until tasks described herein are completed, but in no event later than February 22, 2018, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

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

4. CITY MANAGEMENT

City’s Community Development Director shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to Consultant. City’s City Manager shall be authorized to act on City’s behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant’s compensation, subject to Section 5 hereof.

5. PAYMENT

(a) City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full, and based upon actual time spent on the above tasks. That amount shall not exceed Twenty-Four Thousand, Nine Hundred Sixty Dollars and No

Cents (\$24,960.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed twenty five (25%) of the amount of the Agreement, but in no event shall such sum exceed Six Thousand, Two Hundred Forty Dollars and Zero cents (\$6,240.00). Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days after receipt of each invoice as to all non-disputed fees. If City disputes any of Consultant's fees, then it shall give written notice to Consultant within fifteen (15) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon Consultant at least ten-days' (10-days') prior written notice. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, then such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, City shall pay to Consultant the actual value of the work performed up to the time of termination. Upon termination of the Agreement pursuant to this Section, Consultant will submit an invoice to City pursuant to Section 3.

7. DEFAULT OF CONSULTANT

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

(b) If the City Manager or his/her delegate determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, then he/she shall cause to be

served upon Consultant a written notice of the default. Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, and full payment by City for services performed pursuant to, this Agreement, all final work product such as documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused, or otherwise disposed of by City without the permission of Consultant. With respect to computer files, Consultant shall make available to City, as a service in addition to those set forth herein, at Consultant's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including reasonable attorney's fees and costs to the extent same are caused by any negligent act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement. City agrees to hold harmless and indemnify Consultant from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse or reuse by others of the computer files or any other document provided by Consultant under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

10. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and part of this agreement.

11. INDEPENDENT CONSULTANT

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

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

12. LEGAL RESPONSIBILITIES

Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant shall at all times observe and comply with applicable legal requirements in effect at the time the drawings and specifications are prepared. City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

(b) Consultant shall promptly notify City if Consultant, or any of its officers, employees, agents, or subconsultants are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within City. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate with City by providing the

opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

16. NOTICES

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

To City:	City of Morro Bay 595 Harbor Street Morro Bay, CA 93442 Attention: City Clerk

To Consultant:	Terra Solutions Mike Brannagan 777 Mutsuhito Ave. San Luis Obispo, CA 93401

17. ASSIGNMENT

Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over City.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements,

understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. CONTENTS OF PROPOSAL

Consultant is bound by the contents of the proposal submitted by Consultant, Exhibit A hereto.

22. AUTHORITY TO EXECUTE THIS AGREEMENT

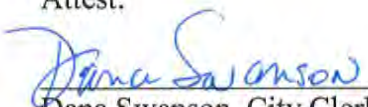
The person or persons executing this Agreement on behalf of Consultant warrants and represents he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

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

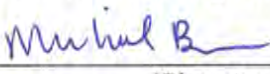
CITY OF MORRO-BAY

By: 
Martin Lomeli, Interim City Manager

Attest:

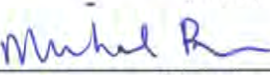

Dana Swanson, City Clerk

CONSULTANT (2 signatures required)

By: 
(Signature)

Michael Brannagan
(Typed Name)

Its: Owner / GIS Analyst
(Title)

By: 
(Signature)

Michael Brannagan
(Typed Name)

Its: Owner / GIS Analyst
(Title)

Approved As To Form:

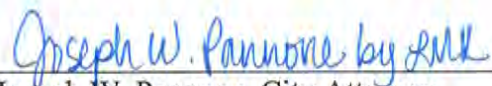

Joseph W. Pannone, City Attorney

EXHIBIT "A"

SCOPE OF WORK

1. ArcGIS Server Management/Cityworks Implementation

Continue working on ArcGIS Server Management as needed to support Cityworks program and staff requirements. As Cityworks program becomes more integrated review possible additional ArcGIS Server possibilities (public maps for example). Assist with implementation and testing of Cityworks program.

2. GIS Data Management/Geodatabase Management

Work towards having all GIS data in one File Geodatabase. I will confirm this with the Cityworks people but my understanding is that Cityworks needs its data in a Geodatabase but that does not mean that other data can not also be in that same Geodatabase. There would be great benefit to data management to move all existing GIS data into a single Geodatabase. Work with ArcGIS Collector data and incorporate into Geodatabase.

3. GIS Mapping and Map Production

Provide GIS support for day-to-day department functions. Create maps and figures as needed. Incorporate changes to GIS data from updated as-built drawings, staff edits, field collection, etc...

Cost

Terra Solutions proposes to perform the scope of work described herein on a Not to Exceed without Your Approval basis. The proposed cost to perform the work defined is **\$24,960.00** for the 26-week period beginning Monday, August 7th, 2017. I calculated this total by multiplying 26 weeks by 16 hours per week (2 8-hour work days per week) multiplied by \$60 per hour (my normal billing rate). I then broke down that total by an estimate per each task.

Task	Time (Hours)	Rate/Hour	Total
1. ArcGIS Server Management/ Cityworks Implementation	100	\$60	\$6,000
2. GIS Data Management/Geodatabase Management	200	\$60	\$12,000
3. GIS Mapping and Map Production	100	\$60	\$6,000
4. Miscellaneous Tasks/Meetings	16	\$60	\$960
TOTAL			\$24,960

EXHIBIT "B"
INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Agreement, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy from CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way to perform the Scope of Services, then Consultant shall provide evidence of personal auto liability coverage for each such person.

Property Damage Insurance in an amount of not less than \$1,000,000 for damage to the property of each person on account of any one occurrence.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$2,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Best's rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City of Morro Bay, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all Consultants, and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.
3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City's option.
8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self-insurance available to City.
9. Consultant agrees to ensure that subcontractors, and any other party involved with the Scope of Services who is brought onto or involved in the Scope of Services by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Scope of Services will be submitted to City for review.
10. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, Subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of the Scope of Services to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to City. At the time City shall review options with Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
11. City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to Consultant, the City will negotiate additional compensation proportional to the increase benefit to City.
12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
13. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

14. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
15. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
16. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
18. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
19. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
20. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the Scope of Services reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
21. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

ATTACHMENT 2
AMENDMENT NO. 1 TO THE
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY AND MIKE BRANNAGAN

This Amendment No. 1 is entered into by and between the City of Morro Bay, a municipal corporation ("City") and Mike Brannagan, dba Terra Solutions ("Consultant").

RECITALS

WHEREAS, City and Consultant entered into an agreement as of August 22, 2017, for consulting services related to setup of ArcGIS server, GIS data management and assistance with Cityworks implementation (the "Project"), which was approved by City for a not to exceed amount of \$24,960.00 (the "Agreement"); and

WHEREAS, due to the need for additional services the Parties agree to amend the Agreement, extending Consultant GIS services through June 30, 2018, for an additional Six Thousand Two Hundred Forty Dollars and No Cents (\$6,240.00); and

WHEREAS, the Agreement's term may be extended by City's City Manager, pursuant to Section 4. of the Agreement; and

WHEREAS, Consultant continues to have specific knowledge and experience to provide GIS support services to City, consistent with the Scope of Work identified in the Exhibit A of the Agreement.

NOW THEREFORE, City and Consultant mutually agree to amend the Agreement as follows:

1. The term of the Agreement shall be extended through April 11, 2018, unless terminated earlier.
2. The compensation to be paid for the extend term shall not exceed \$6,240.00 for a total not to exceed amount of \$31,200.00.
3. Except as expressly stated herein, all terms and conditions in the Agreement shall remain in full force and effect.
3. The effective date of this Amendment No. 1 shall be deemed to be February 22, 2018.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to be executed by their duly authorized representatives.

City

By: 
Scott Collins, City Manager

Consultant

By: 
Michael Brannagan Owner/GIS Analyst
Printed Name and Title

Attest:



Dana Swanson, City Clerk

APPROVED AS TO FORM


Joseph W. Pannone, City Attorney

**AMENDMENT NO. 2 TO THE
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY AND MIKE BRANNAGAN**

This Amendment No. 2 is entered into by and between the City of Morro Bay, a municipal corporation ("City") and Mike Brannagan, dba Terra Solutions ("Consultant").

RECITALS

WHEREAS, City and Consultant entered into an agreement as of August 22, 2017, for consulting services related to setup of ArcGIS server, GIS data management and assistance with Cityworks implementation (the "Project"), which was approved by City for a not to exceed amount of \$24,960.00 (the "Agreement"); and

WHEREAS, City and Consultant executed Amendment No. 1 to the Agreement ("Amendment No. 1"), extending Consultant GIS services through April 11, 2018, for an additional Six Thousand Two Hundred Forty Dollars and No Cents (\$6,240.00); and

WHEREAS, the Agreement and Amendment No. 1 are hereafter referred to as the Amended Agreement; and

WHEREAS, due to the need for additional services the Parties agree to amend the Agreement, extending Consultant GIS services through June 30, 2018, for Fifteen Thousand Dollars and No Cents (\$15,000.00); and

WHEREAS, Consultant continues to have specific knowledge and experience to provide GIS support services to City, consistent with the Scope of Work identified in the Exhibit A of the Amended Agreement.

NOW THEREFORE, City and Consultant mutually agree to amend the Amended Agreement as follows:

1. The term of the Amended Agreement shall be extended through June 30, 2018, unless terminated earlier.
2. The compensation to be paid for the extended term of the Amended Agreement shall not exceed \$15,000.00 for a total not to exceed amount of \$46,200.00 for the total term of the Amended Agreement.
3. Except as expressly stated herein, all terms and conditions in the Amended Agreement shall remain in full force and effect.
3. The effective date of this Amendment No. 2 shall be deemed to be April 12, 2018.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 2 to be executed by their duly authorized representatives.

City

By: _____


Scott Collins, City Manager

Consultant

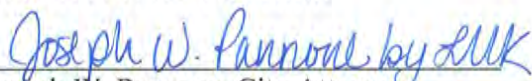


Mike Brannagan

Attest:


Dana Swanson, City Clerk

APPROVED AS TO FORM


Joseph W. Pannone, City Attorney

**AMENDMENT NO. 3 TO THE
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY AND MIKE BRANNAGAN**

This Amendment No. 3 is entered into by and between the City of Morro Bay, a municipal corporation ("City") and Mike Brannagan, dba Terra Solutions ("Consultant").

RECITALS

WHEREAS, City and Consultant entered into an agreement as of August 22, 2017, for consulting services related to setup of ArcGIS server, GIS data management and assistance with Cityworks implementation (the "Project"), which was approved by City for a not to exceed amount of \$24,960.00 (the "Agreement"); and

WHEREAS, City and Consultant executed Amendment 1 to the Agreement, extending Consultant GIS services through April 11, 2018, for an additional Six Thousand Two Hundred Forty Dollars and No Cents (\$6,240.00); and

WHEREAS, on April 10, 2018, the City Council approved and City and Consultant executed Amendment 2 to the Agreement, extending Consultant GIS services through June 30, 2018, for an additional Fifteen Thousand Dollars and No Cents (\$15,000.00);

WHEREAS, the Agreement, Amendment 1 and Amendment 2 are hereafter referred to as the "Amended Agreement;" and

WHEREAS, due to the City's continued need for GIS services the Parties agree to amend the Amended Agreement, again, extending Consultant GIS services through June 30, 2019, for Sixty Thousand Dollars and No Cents (\$60,000.00); and

WHEREAS, Consultant continues to have specific knowledge and experience to provide GIS support services to City, consistent with the Scope of Work identified in the Exhibit A of the Amended Agreement.

NOW THEREFORE, City and Consultant mutually agree to amend the Amended Agreement as follows:

1. The term of the Agreement shall be extended through June 30, 2019, unless terminated earlier.
2. The compensation to be paid for the extended term shall not exceed \$60,000.00 for a total not to exceed amount of \$106,200.00.
3. Except as expressly stated herein, all terms and conditions in the Amended Agreement shall remain in full force and effect.
3. The effective date of this Amendment No. 3 shall be deemed to be July 1, 2018.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 3 to be executed by their duly authorized representatives.

City

Consultant

By: _____
Scott Collins, City Manager

Mike Brannagan

Attest:

Dana Swanson, City Clerk

APPROVED AS TO FORM

Joseph W. Pannone, City Attorney



AGENDA NO: B-1

MEETING DATE: August 14, 2018

Revised Staff Report

TO: Honorable Mayor and City Council **DATE:** August 10, 2018

FROM: Scot Graham, Community Development Director
Rob Livick, PE/PLS - Public Works Director/City Engineer

SUBJECT: Certification of the Final Environmental Impact Report (FEIR) Project Approval of the Morro Bay Water Reclamation Facility (WRF); Adoption of Resolution No. 61-18; and Provide Other Direction as Deemed Appropriate.

RECOMMENDATION

1. Review the Final EIR, including comments received regarding the Draft EIR and responses to those comments; and
2. Take public comment; and
3. Adopt Resolution No. 61-18,
 - a. Certifying the Final EIR,
 - b. Adopting Findings of Fact, a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations,
 - c. Approving the WRF Project, and
 - d. Directing staff to pursue obtaining all necessary governmental permits, real property interests, financing, design, construction activities, and other related actions for the Project, and
4. Direct the Public Works Director to sign and have filed a Notice of Determination with the San Luis Obispo County Clerk

PROJECT DESCRIPTION:

The item before the City Council is the FEIR for the Water Reclamation Facility (FEIR). The FEIR is available online at the following link: <http://www.morrobayca.gov/DocumentCenter/Index/659>

The paragraphs below provide an outline of the overall CEQA process and a brief description of the proposed WRF Project; for a more detailed project description see Chapter 2 of the DEIR.

CEQA Requirements

The FEIR was prepared in accordance with the California Environmental Quality Act (California Public Resources Code, section 21000 *et seq.* and State CEQA Guidelines 14 California Code Regulations, section 15000 *et seq.*) (collectively CEQA). The FEIR incorporates, by reference, the Draft EIR for the proposed WRF Project, as it was originally published. The FEIR consists of the following:

1. The Draft EIR and all revisions to the draft
2. Comments and recommendations received on the Draft EIR
3. A list of persons, organizations, and public agencies commenting on the Draft EIR
4. The responses of the Lead Agency (City of Morro Bay) to significant environmental points raised in the review and consultation process
5. Any other information added by the Lead Agency

Prepared By: SG/rl

Dept Review: RL

City Manager Review: SC

City Attorney Review: JWP

Before the City can approve the proposed WRF Project, if at all, it must first certify the FEIR:

- a) Has been completed in compliance with CEQA
- b) Was presented to the City Council who received and considered it prior to approving the project
- c) Reflects the City's independent judgement and analysis

Section 15004 of the CEQA Guidelines state, before approval of any project subject to CEQA, the Lead Agency must consider an approved or certified final environmental document. The next steps that will take place after the City approves the project include, but are not limited to, property acquisition, execution of the design build contract and discretionary permitting, *i.e.*, Coastal Development Permit and any Use Permits. The City is currently working with San Luis Obispo County and Coastal Commission staff to determine the ultimate permitting agency. The Coastal Commission has authority, on multijurisdictional coastal permits with a component in its original jurisdiction, to take permitting authority over the entire coastal development permitting process if requested. Additionally, the Coastal Commission is required to review all wastewater projects that either are located in the Coastal Zone or serve any portion of the coastal zone. City staff opines having the Coastal Commission take authority over the entire coastal development permit process may be the most expeditious and cost effective permitting scenario. None of the aforementioned permitting may take place without a certified environmental document and a City-approved project.

The FEIR for the proposed WRF Project incorporates the following chapters as a continuation of those included in the Draft EIR:

- Chapter 9: Introduction
- Chapter 10: Comment Letters and Responses
- Chapter 11: Clarifications and Modifications – Summary of changes made to the Draft EIR in response to comments received or initiated by the Lead Agency.

CEQA Process

Notice of Preparation and Public Scoping

A Notice of Preparation (NOP) for the Draft EIR was prepared and circulated for review by applicable local, state and federal agencies and the public for a 30-day period, running from August 8, 2016 to September 7, 2016. The City also held a public scoping meeting on August 8, 2016 at the Veterans Memorial Building to provide the public and public agencies opportunity to review and provide comment on the scope and content of the environmental review.

Notice of Availability

The Notice of Availability (NOA) for the Draft EIR was posted on April 3, 2018 with the County Clerk-Recorder of San Luis Obispo County. The Draft EIR was circulated to federal, state, and local agencies and interested parties. Public copies of the Draft EIR were made available at the following locations:

- City website
- Morro Bay Public Library
- Cayucos Public Library
- Morro Bay City Offices
- Wastewater Treatment Office

The Draft EIR was made available for public review from March 30, 2018 through May 18, 2018. During the review period, the City held one public meeting to provide opportunity for interested persons to provide both written and oral comment on the DEIR and the proposed WRF Project. The Draft EIR was also reviewed by the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) on May 1, 2018, where input was received from both the public and WRFCAC members.

CEQA Guidelines Section 15088 requires the City, as Lead Agency, to evaluate comments on significant environmental issues received on the Draft EIR and to provide written responses. The

City has incorporated written responses into Chapter 10 of the FEIR.

The City has prepared the FEIR and made it available to commenters and the public in general at the following locations:

- City of Morro Bay WRF website: <http://morrobaywrf.com>
- Morro Bay Public Library
- Cayucos Public Library
- Morro Bay City Offices
- Wastewater Treatment office

On July 3, 2018, the City's Planning Commission and WRFCAC reviewed the FEIR and recommended the City Council certify it as being in compliance with the CEQA.

Prior to considering approval of the proposed WRF Project, the City, as Lead Agency, and more specifically the City Council, must review and certify the FEIR. Once the Final EIR is certified, the City Council may consider project approval.

The Project

The WRF facility is proposed to be located approximately ¼ mile Northerly of the South Bay Blvd exit from State Highway 1 within the unincorporated portion of the County, with the remaining proposed infrastructure of the project located within the City. The proposed project would provide wastewater treatment services for the City of Morro Bay. The existing wastewater treatment facility would be replaced by the proposed WRF Project together with a new treatment facility planned by the Cayucos Sanitary District (CSD), located adjacent to Toro Creek Road. The FEIR addresses all components of the proposed WRF Project, including the on-site facility and all associated pumping and conveyance off-site facilities, as well as production and beneficial reuse of advanced treated recycled water that will meet or exceed all treatment requirements of the California State Water Resources Control Board (SWRCB). The FEIR also analyzes environmental impacts the could result from decommissioning and demolition of the current wastewater treatment plant. The potential beneficial end use for the advanced treated recycled water is indirect potable reuse (IPR) through groundwater replenishment.

Recent Developments

City staff recently met with Mr. Fred Collins, Chairman of the Northern Chumash Tribal Council, to discuss concerns about potential Chumash Nation's Sacred Sites near Lila Keiser Park. The City's preferred alignment for the conveyance pipelines outlined in the FEIR shows the area of potential effects near several potential or known archeologically sensitive sites. An alternative pipeline alignment that may avoid some of those potentially sensitive areas and was discussed during that meeting, but would require a longitudinal encroachment for a portion of the pipeline route within the State's right-of-way, ie the Southbound Highway 1. This alternative alignment would require coordination and approval from Caltrans. The City is planning to meet with Mr. Collins and Caltrans representatives in the near-term to discuss the feasibility of that alternative alignment. After that meeting, the City will determine if additional evaluation is needed. It is important to note consideration of that new alternative would not change the nature of identified impacts and programmatic mitigation measures discussed in the FEIR. Certification of the FEIR, at this time, would not preclude the City from pursuing the alternative alignment in Caltrans' right-of-way, but could affect the timing of project implementation. Also, due to the concentration of potential archeological sites near any potential pipeline alignment, selection of the alternative alignment would not eliminate any significant adverse and unavoidable impacts to historic and archeological resources identified in the FEIR. Depending on the outcome of the evaluation and design process,

additional CEQA evaluation that relies on the FEIR may be required. If the alternative does not result in any new information or significant environmental impacts already discussed in the FEIR, then the additional CEQA review may be provided through an addendum to the FEIR. Otherwise, a supplement to the FEIR may be required.

CONCLUSION

The FEIR acknowledges, despite all feasible mitigation measures, approval of the proposed WRF Project may result in significant adverse and unavoidable impacts to historic and archaeological resources and human remains. However, for all the foregoing reasons and based on the FEIR, the Findings of Fact, Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations and the entire administrative record, it is recommended the City Council determine when the impacts are balanced against the proposed WRF Project's specific benefits, overall the benefits of the proposed WRF Project outweigh the impacts and warrant approval of the WRF Project.

The City recognizes the importance of providing wastewater treatment services that meet State water quality requirements and augmenting potable water supply reliability with advanced treated recycled water. The WRF Project would make the best use of recycled water by recharging it and storing it in the Morro Valley Groundwater Basin for subsequent extraction by the City. The WRF Project would involve a suite of mitigation measures to reduce impacts resulting from construction and possibly some operations of the WRF Project to historic and archaeological resources and human remains. First and foremost would be, measures to avoid those impacts to the extent feasible. While those WRF Project potential impacts to historic and archaeological resources and human remains resulting from construction activities may not be reduced to a level of less than significant, the WRF Project specifically balances the needs for the City to meet the State's requirements to meet wastewater treatment standards, remove essential wastewater infrastructure away from coastal flood hazard zones consistent with State Policy, and provide water supply to meet consumptive water demands of its ratepayers with the need to protect the environment of California to the greatest extent feasible.

The City further finds each of the overriding considerations set forth in the Statement of Overriding Considerations constitutes a separate and independent basis for finding the benefits of the WRF Project outweigh the unavoidable adverse environmental effects and warrants approval of the WRF Project.

Staff recommends the City Council approve all the recommended actions stated at the beginning of this report. In addition, staff will provide regular updates to City Council with regard to the alternative alignment concept being discussed with Chumash and Caltrans representatives that seeks to reduce impacts to cultural resources.

ATTACHMENTS

1. Resolution No. 61-18
2. [WRF FEIR, which includes the DEIR](#)
3. [WRF Findings of Fact and Statement of Overriding Considerations](#)
4. [WRF Mitigation Monitoring and Reporting Program](#)

RESOLUTION NO. 61-18

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, CERTIFYING THE MORRO BAY WATER RECLAMATION FACILITY (WRF) FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING ENVIRONMENTAL FINDINGS OF FACT, A MITIGATION MONITORING AND REPORTING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS, APPROVING THE WRF PROJECT AND DIRECTING STAFF TO PROCEED WITH OBTAINING ALL NECESSARY GOVERNMENTAL PERMITS, REAL PROPERTY INTERESTS AND FINANCING FOR THE WRF PROJECT

THE CITY COUNCIL City of Morro Bay, California

WHEREAS, on August 8, 2016, the City issued a Notice of Preparation of an Environmental Impact Report (EIR) for a water reclamation facility to be constructed for the City of Morro Bay (Project), which provided for a 30-day project scoping period, from August 8, 2016, through September 7, 2016;

WHEREAS, a public scoping meeting was held on August 8, 2016 at the Veterans Memorial Building at 209 Surf Street in Morro Bay;

WHEREAS, on April 3, 2018, a Notice of Availability of the Draft EIR (SCH# 2016081027) for the Morro Bay Water Reclamation Facility (DEIR) was posted with the Clerk-Recorder for the County of San Luis Obispo. It was also circulated to federal, state and local agencies and interested parties requesting a copy. Copies of the Draft EIR were also made available to the public at the following locations:

- City of Morro Bay WRF Web Site (<http://morrobaywrf.com>)
- Morro Bay Public Library (625 Harbor Street, Morro Bay)
- Cayucos Public Library (310 B Street, Cayucos)
- Morro Bay Public Services Department (955 Shasta Avenue, Morro Bay)
- Wastewater Treatment office (160 Atascadero Road, Morro Bay);

WHEREAS, from April 3, 2018 through May 18, 2018, the DEIR, which analyzed the significant adverse environmental impacts that may result from the proposed Water Reclamation Facility (WRF);

WHEREAS, during that period, the City held one CEQA public meeting to provide interested persons with an opportunity to comment orally or in writing on the Draft EIR and the proposed project. That public meeting was an item on the agenda at the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) meeting held at the Veterans Memorial Hall in Morro Bay on May 1, 2018;

WHEREAS, on June 25, 2018, (i) the responses to public agencies', private organizations' and individuals' comments on the Draft EIR were provided to those who filed written comments on the DEIR with the City and (ii) a Final EIR for the Morro Bay Water Reclamation Facility (SCH# 2016081027) (FEIR), which incorporates the DEIR and responses to written comments on the DEIR, was completed and released for public review;

WHEREAS, on July 3, 2018, the City's Planning Commission and WRFCAC reviewed the FEIR and recommended the City Council certify it as being in compliance with the California Environmental Quality Act (California Public Resources Code, section 21000 *et seq.* and State CEQA Guidelines (14 California Code Regulations, section 15000 *et seq.*) (collectively, CEQA);

WHEREAS, on August 14, 2018, the City Council held a duly noticed public meeting to consider the written and oral staff report, public testimony on the FEIR and the Project, and whether the FEIR should be certified and whether the Project should be approved;

WHEREAS, the written staff report regarding the FEIR and the Project are found to be true and accurate in all respects and is incorporated herein by this reference;

WHEREAS, prior to the final consideration and any possible approval of any and all physical aspects of the proposed Project, as analyzed by the FEIR, the City Council and all City legislative bodies involved with the proposed Project will consider the FEIR and the City Council recommends all other governmental agencies and legislative bodies that must review or approve, if at all, the proposed Project do the same; and

WHEREAS, the City Council has completed review of the FEIR and related materials.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, as follows:

SECTION 1: The foregoing recitals are true and correct and incorporated herein.

SECTION 2: Based on substantial evidence, both written and oral, from the public meeting and in the record of proceedings, and the City Council's independent judgment, the City Council makes the following findings and takes the following actions with respect to the FEIR:

- A. The City Council has independently reviewed and considered the FEIR, including the comments received on the FEIR during the public review, and the responses to those comments.
- B. The FEIR reflects the City's and the City Council's independent judgment and is found and determined to have been completed in compliance with CEQA, and is adequate for the proposed Project.
- C. The FEIR is found and determined to have demonstrated, with implementation of the mitigation measures described in the FEIR, the proposed Project, if approved by the City Council and all other required governmental agencies and legislative bodies, will have no significant effect on the environment, except as discussed in Section 2. F., below.

- D. The FEIR is found and determined to have satisfied the requirements of CEQA and a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure effective implementation and enforcement of all adopted mitigation measures for the proposed Project.
- E. The MMRP for the proposed Project is hereby adopted, in order to mitigate or avoid significant effects on the environment, and further, the City Council:
 - 1. commits the MMRP will be included, as conditions of approval, expressly or by reference, for all approvals, if any, of the proposed Project by the Morro Bay City Council, Planning Commission and other City legislative bodies and staff and
 - 2. recommends all other governmental agencies and legislative bodies that must review, approve, or issue permits for, the proposed Project do so as well.
- F. As analyzed and determined in the FEIR, construction of conveyance pipelines and indirect potable reuse injection and monitoring wells, which are part of the proposed Project, would result in significant and unavoidable impacts to historic and archaeological resources and human remains that would not be reduced to less than significant levels even with mitigation. Based on that analysis, as required by CEQA section 15093, a statement of overriding considerations (SOC) has been prepared.

SECTION 3: The documents and other materials that constitute the record of proceedings upon which adoption of this Resolution is based, are in the custody of the City of Morro Bay, Community Development Department, Planning Division, 955 Shasta Avenue, Morro Bay, CA 93442. The custodian of those documents is Scot Graham, Community Development Director.

SECTION 4: Based upon all the foregoing, pursuant to CEQA, the City Council adopts

- A. the CEQA Findings of Fact, attached hereto as Exhibit A and incorporated herein by this reference,
- B. the MMRP, attached hereto as Exhibit B and incorporated herein by this reference, and
- C. the SOC, attached hereto as Exhibit C and incorporated herein by this reference.

SECTION 5: Based upon all the foregoing, the City Council hereby certifies the FEIR.

SECTION 6: Based upon all the foregoing, the City Council hereby approves the Project and directs staff to pursue obtaining all necessary governmental permits, real property interests, financing, design, construction activities, and other related actions for the Project.

SECTION 7: This resolution will become effective immediately upon adoption.

RESOLUTION NO. 61-18

Page 4 of 4

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 14th day of August, 2018 on the following vote:

AYES:

NOES:

ABSENT:

Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk

Attachments: Exhibit A – Findings of Fact
Exhibit B – Mitigation Monitoring and Reporting Program
Exhibit C – Statement of Overriding Considerations

Findings of Fact

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Acronyms

ADI	Area of Direct Impact
AFY	acre-feet per year
ARB	Air Resources Board
ARMR	Archaeological Resource Management Reports
AWTF	advanced water treatment facility
BACT	best available control technology
BOD	biological oxygen demand
CBC	California Building Code
CCC	California Coastal Commission
CCR	California Code of Regulations
CCRWQCB	Central Coast Regional Water Quality Control Board
CDFW	California Department of Fish and Wildlife
CDP	Coastal Development Permit
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CLUP	Coastal Land Use Plan
CMC	California Men's Colony
CNG	compressed natural gas
CRLF	California red-legged frog
CRMMP	Cultural Resources Monitoring and Mitigation Program
CRPR	California Rare Plant Register
CSD	Cayucos Sanitary District
DEIR	Draft Environmental Impact Report
DPM	diesel particulate matter
EIR	Environmental Impact Report
ESHA	environmentally sensitive habitat area
FGC	California Fish and Game Code
FMP	Facility Master Plan
GHG	Greenhouse Gas Emissions
HDD	horizontal directional drilling
IPR	indirect potable reuse
LACM	Natural History Museum of Los Angeles County
LCP	Local Coastal Plan
LESA	Land Evaluation & Site Assessment Model
LNG	liquefied natural gas
MBMC	Morro Bay Municipal Code
MBR	membrane bioreactor
MBTA	Migratory Bird Treaty Act
MGD	million gallons per day

MMRP	Mitigation Monitoring and Reporting Program
MSS	Morro shoulderband snail
MWRP	Master Water Reclamation Plan
NOA	Notice of Availability
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
PM ₁₀	respirable particulate matter
PRC	Public Resources Code
ROG	reactive organic gases
ROW	public right-of-way
SBR	sequencing batch reactor
SF	square feet
SLOAPCD	San Luis Obispo County Air Pollution Control District
SOI	Sphere of Influence
SVP	Society of Vertebrate Paleontology
SWP	State Water Project
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TSS	total suspended solids
USEPA	United States Environmental Protection Agency
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Survey
UV	ultraviolet
UWMP	Urban Water Management Plan
VOC	volatile organic compounds
WDR	Waste Discharge Requirements
WRF	Water Reclamation Facility
WRFCAC	Water Reclamation Facility Citizen Advisory Committee
WWTP	Wastewater Treatment Plant

The California Environmental Quality Act (CEQA) requires that public agencies shall not approve or carry out a project for which an Environmental Impact Report (EIR) has been certified that identifies one or more significant adverse environmental effects of a project unless the public agency makes one or more written Findings for each of those significant effects, accompanied by a brief explanation of the rationale for each Finding (CEQA Guidelines, section 15091). This document presents the Findings made by the City of Morro Bay (the City), in its capacity as the CEQA lead agency, regarding the Morro Bay Water Reclamation Facility (WRF) Project, evaluated in the Final Environmental Impact Report (Final EIR) for the Project.

This Exhibit A is organized into the following sections:

Section 1.0 is an introduction.

Section 2.0 describes the record of proceedings for the Project.

Section 3.0 includes a summary and description of the Project.

Section 4.0 provides an overview of the CEQA environmental review process.

Section 5.0 contains the City of Morro Bay's Findings of Fact regarding impacts for the Project.

Section 6.0 contains the City of Morro Bay's Findings regarding alternatives to the Project.

1.0 CEQA Requirements for Findings of Fact

CEQA requires public agencies to consider and identify the reasonably foreseeable and potentially significant adverse effects of their discretionary approvals of projects on the environment and, when feasible, to adopt and implement mitigation measures or alternatives that avoid or substantially lessen the significant effects of those projects. Specifically, Public Resources Code (PRC) section 21002 provides "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects," and states the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of Projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." PRC, section 21002 goes on to state "that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

Pursuant to the policy stated in PRC, sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public approving agency makes one or more of the following findings with respect to each significant effect:

-
- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.
- (b) With respect to significant effects that were subject to Findings under paragraph (3) above, the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

PRC, section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines, section 15364 adds another factor in determining feasibility: “legal” considerations. (See, also, *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 (“*Goleta II*”).)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*).); see, also, *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 [court upholds CEQA findings rejecting alternatives in reliance on applicant’s project objectives]; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1001 [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”]; *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 [“feasibility is strongly linked to achievement of each of the primary [project] objectives”]).

Moreover, “feasibility” under CEQA encompasses “desirability” to the extent desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*City of Del Mar, supra*, 133 Cal.App.3d at p. 417; see also *Sequoiah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715; *California Native Plant Society v. City of Santa Cruz, supra*, 177 Cal.App.4th at p. 1001 [after weighing “‘economic, environmental, social, and technological factors’ ... ‘an agency may conclude that a mitigation measure or alternative is impracticable or undesirable from a policy standpoint and reject it as infeasible on that ground’”].)

With respect to a project for which significant impacts cannot be avoided or substantially lessened through feasible mitigation measures or alternatives, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, section 15093 and subdivision 15043 (b); see, also, PRC, subdivision 21081 (b).) The California Supreme Court has stated, “[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of

the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at page 576.)

Because the Final EIR identified significant effects that may occur as a result of the Project, and in accordance with the provisions of CEQA and the CEQA Guidelines described above, the City of Morro Bay hereby adopts these Findings as part of the approval of the Project. In making these Findings and in adopting the Statement of Overriding Considerations, the City of Morro Bay has independently reviewed the Draft Environmental Impact Report (Draft EIR), and the Final EIR for the Project, as well as all other information in the record of proceedings (Record) on this matter. These Findings constitute the City of Morro Bay’s best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. These Findings and the Statement of Overriding Considerations, in other words, are not merely informational, but rather constitute a binding set of obligations that come into effect with the City of Morro Bay’s approval of the Project.

2.0 Record of Proceedings

The record of proceedings for the City of Morro Bay’s decision on the Project, including the substantial evidence supporting adoption of these Findings and the Statement of Overriding Considerations include, but are not limited to, the following documents:

- The Notice of Preparation (NOP) and all other public notices issued by the City of Morro Bay in conjunction with the Project;
- City of Morro Bay Draft EIR prepared for the City of Morro Bay through Environmental Science Associates (ESA), March 2018, and all appendices and supporting documents cited therein;
- All comments submitted by agencies, NGOs, Tribes, or members of the public during the comment period on the Draft EIR;
- The Mitigation Monitoring and Reporting Program (MMRP) for the Project and documents related thereto;
- All Findings and resolutions adopted by the City of Morro Bay in connection with the Project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City of Morro Bay, consultants to the City of Morro Bay, or responsible or trustee agencies with respect to the City of Morro Bay’s compliance with the requirements of CEQA and with respect to the Project;
- All documents submitted to the City of Morro Bay by other public agencies or members of the public in connection with the Project, up through the approval of the Project;
- Any documentary or other evidence submitted to City of Morro Bay, at such information sessions, public meetings, and public hearings;

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- Matters of common knowledge to the City of Morro Bay, including, but not limited to, federal, state, and local laws and regulations;
 - Any documents expressly cited in these Findings or the Statement of Overriding, in addition to those cited above; and
 - Any other materials required for the Record by Public Resources Code subdivision 21167.6 (e).

These Findings, the Statement of Overriding Considerations and the MMRP are based upon substantial evidence in the entire Record before the City of Morro Bay. The references to the Draft and Final EIR set forth herein are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings, the Statement of Overriding Considerations and the MMRP.

Pursuant to CEQA Guidelines, subdivision 15091 (e), City of Morro Bay is the official custodian of the documents and other materials that constitute the Record upon which the decisions related to the Project are based, and such documents and other materials are located at the offices of the City of Morro Bay, which are located at 595 Harbor Street, Morro Bay, CA 93442. Copies of the Draft and Final EIR are available at the Morro Bay Public Library (625 Harbor Street, Morro Bay), Cayucos Public Library (310 B Street, Cayucos), Morro Bay Public Services Department (955 Shasta Avenue, Morro Bay), Morro Bay's Wastewater Treatment office (160 Atascadero Road, Morro Bay), and online at the City of Morro Bay WRF website (<http://morrobaywrf.com>).

3.0 Description of the Project

The following information is intended to provide a summary of the key components of the WRF Project. Additional detailed information concerning each component of the Project is set forth in Chapter 2, "Project Description," of the Final EIR.

3.1 Background and Need for Project

The United States Environmental Protection Agency (USEPA) or the State Water Resources Control Board (SWRCB) regulate municipal wastewater discharges into the Pacific Ocean through National Pollutant Discharge Elimination System (NPDES) Permits in accordance with Section 402 of the federal Clean Water Act. USEPA or the California Regional Water Quality Control Boards issue (or reissue) NPDES permits to wastewater dischargers every five years. The existing wastewater treatment plant (WWTP) serves the City and the community of Cayucos, and is owned and operated jointly by the City and the Cayucos Sanitary District (CSD). Prior to the current 2017 NPDES Permit No. CA0047881 and Waste Discharge Requirements (WDR) Order No R3-2017-0050, the WWTP discharged to the Pacific Ocean under NPDES Permit No. CA0047881 and WDR Order No. R3-2008-0065, which was a Clean Water Act Section 301(h) modified NPDES permit that waived full secondary treatment requirements for biological oxygen demand (BOD) and total suspended solids (TSS). The existing WWTP has operated under that modified permit since its last upgrade in 1984. On July 7, 2003, the City submitted an application for renewal of the NPDES permit to USEPA and Central Coast Regional Water Quality Control Board (CCRWQCB), which expired in March 2014. The final renewed discharge permit was

adopted by the CCRWQCB on December 7, 2017. The 301(h) modifications were no longer included in the 2017 renewal. A time schedule order will be provided by CCRWQCB for compliance with full secondary treatment requirements.

Based on an agreement with the CCRWQCB, the City and CSD had previously pursued bringing the existing facility to full secondary treatment in place of continued requests for a 301(h) modified discharge permit. The agreement allowed the City and CSD to pursue secondary treatment on a schedule that was mutually agreed upon by both agencies and the CCRWQCB. In February 2015, the CCRWQCB stated the new facility was expected to be fully operational by 2021 in order to meet its goals.

The existing WWTP is located in the Coastal Zone; as such, in order to upgrade the existing WWTP at its existing location, a Coastal Development Permit (CDP) would be required from the California Coastal Commission (CCC). However, in January 2013, the CCC denied the City and CSD's application for the CDP to demolish the existing WWTP and construct a new treatment facility on the same site. The basis for that denial included the CCC's assessment the new facilities would be inconsistent with the City's Local Coastal Plan (LCP) zoning provisions, failed to avoid coastal hazards, failed to include a sizeable reclaimed water component, and the project location was within an LCP-designated sensitive view area.

Following that denial, the City began planning a new WRF and pursuing alternative locations for a new upgraded wastewater treatment plant. The City determined the denial presented an opportunity to design and construct a WRF to enhance the City's water supply portfolio through the production of recycled water. From 2013 to the beginning of 2014, the community defined goals to guide the planning and design process for the new WRF. Public outreach was conducted through stakeholder meetings, stakeholder interviews, and public workshops, which gathered input related to cost, environmental concerns, engineering and design issues, site-related issues, and logistics and process issues. Through that public outreach program, criteria were determined for the siting process, and various studies were conducted to examine the suitability of each site. Some of the criteria included, but were not limited to, compliance with NPDES Permit requirements, distance to the City sewer collection system, avoidance of coastal hazards, minimal visual impacts, and sustainable use of public resources. In order to ensure public involvement during this process, a Citizens Advisory Committee (WRFCAC) was created in July 2014 to help oversee and evaluate the siting process.

Five comparative siting studies were performed between 2013 and 2017. Starting with the results of the Rough Screening Evaluation, 17 study sites were first examined for the potential location of the WRF. By December 2013, it was narrowed down to seven study sites (Chevron, Morro Valley, Chorro Valley, California Men's Colony (CMC) Wastewater Treatment Plant site, Morro Bay Power Plant – southern portion, Panorama, and Giannini), which ranged in size and number of properties included in each. Finally, the City Council narrowed the sites down to focus on the Morro Valley, Chorro Valley, and Giannini Property in May 2014. Within those three general areas, there were four specific locations: Rancho Colina and Righetti (both in Morro Valley), Tri-W (now called the "South Bay Boulevard" site, in Chorro Valley) and Giannini. It should be noted there was also a feasibility analysis performed for a regional facility at the CMC site that

could serve the needs of the City and partner agencies; however, that concluded not to be feasible. In April 2016, after direction to investigate other potential sites, the list of potential sites was revised to include Rancho Colina, Righetti, South Bay Boulevard, Chevron/Toro Creek, and Madonna. After the 2016 comparative study was completed, the South Bay Boulevard site, was found to be the final site preference, and preliminary planning efforts began at that location based on City Council direction at that time. The CCC supports the proposed new treatment plant location and has been supportive of working with the City and, as needed, San Luis Obispo County (County), on a CDP for a WRF at that location.

In April 2015, the CSD decided to pursue an independent path from the City to build its own new wastewater facility, and unilaterally adopted a resolution to that effect on April 30, 2015. From that point forward, the City's efforts have been focused on finding a suitable site to build a WRF to serve only its customers, exclusive of CSD customers. Thus, current plans are for the City and CSD to build separate treatment facilities and, once operational, decommission the jointly-owned WWTP. The City has welcomed CSD to continue to participate in a joint venture since that time. CSD has consistently indicated it has no further interest in that approach, and, in fact, has found a site and made plans for a facility at a different location that would address its long-range wastewater disposal needs.

3.2 Project Objectives

The Morro Bay City Council refined and adopted the project objectives for the Project on October 24, 2017. The primary goals of the Project have not changed. The following refined objectives reflect the input of the community and stakeholders since issuance of the NOP in 2016, demonstrating the purpose and value of the CEQA scoping process:

- All aspects of the WRF project shall be completed ensuring economic value with a special emphasis on minimizing rate payer and City expense
- Communicate WRF project progress including general project status, milestones, and budget/cost information to our community members regularly
- Produce tertiary disinfected wastewater in accordance with the California Code of Regulations (CCR) Title 22 requirements for unrestricted urban irrigation
- Design to produce reclaimed wastewater to augment the City's water supply, by either direct or indirect means, as described in a master water reclamation plan and to maximize funding opportunities
- Include features in the WRF Project to maximize the City's opportunities to secure funding and maximize efficiencies, including energy generation and recovery.
- Design to minimize the impacts from contaminants of emerging concern in the future
- Ensure compatibility with neighboring land uses

3.3 Project Location

The Project is located within the City of Morro Bay and in unincorporated area of the County of San Luis Obispo adjacent to the City boundaries. The WRF operations and maintenance buildings would be constructed on a 10- to 15-acre area within a 27.6-acre site to be purchased by the City. The 27.6-acre site would ultimately be annexed to the City. The WRF site is part of a greater 396-acre parcel that is located along Highway 1, north of the northern terminus of South Bay Boulevard. The City will pursue a modification to its Sphere of Influence (SOI) to include that 396-acre parcel.

The existing WWTP that will be decommissioned is located at 160 Atascadero Road in the City of Morro Bay. The collection system would include a lift station adjacent to the existing WWTP and multiple pipelines running along a common alignment between the lift station and WRF site. The alignment would include: (1) a force main pipeline to convey raw wastewater from the lift station to the WRF site, (2) a waste discharge pipeline to convey brine or extreme wet weather flows to the ocean outfall and (3) a recycled water pipeline to injection wells, if the wells are constructed on the west side of Highway 1. The proposed lift station would be located within the City's existing Corporation Yard on Atascadero Road or adjacent to Atascadero Road along a public right-of-way.

The WRF would produce recycled water for reuse. A recycled water pipeline would run from the WRF, either along the same alignment described above or along a parallel alignment running east and north of Highway 1. The pipelines would lead to new groundwater injection wells at one of two locations.

3.4 Project Components

The Project would include new wastewater treatment facilities at the WRF site that would produce advanced treated recycled water that meets or exceeds 22 CCR 60001 *et seq.* (Title 22) requirements for indirect potable reuse. The Project would allow the City to meet the SWRCB timeline requirements to upgrade the City's wastewater system to at least full secondary treatment, and would exceed that minimal requirement through development of an advanced water treatment facility (AWTF). Implementation of the Project would allow for the decommissioning of the existing WWTP, once CSD's new and independent wastewater facility is completed and operational. During operation, advanced treated recycled water produced at the WRF would be used for groundwater recharge. Brine produced by the treatment process will be discharged through the existing ocean outfall.

The Project facilities are described in detail in the draft Water Reclamation Facility Master Plan (Black & Veatch, November 2016) and Master Water Reclamation Plan (MKN & Associates, March 2017). The pertinent details about the Project as they pertain to the analysis of environmental impacts are presented below.

3.4.1 WRF

Treatment Facility

The WRF would provide tertiary treatment to wastewater generated within the City's service area. The WRF would treat a maximum peak daily flow of 2.75 million gallons per day (MGD) and maximum average annual daily flow rate of 0.97 MGD. The resulting tertiary-treated recycled water would be in compliance with 22 CCR 60001 *et seq.* recycled water quality requirements for unrestricted use, and the majority of that water would be further treated and injected for indirect potable reuse. The facility design includes primary treatment; biological and tertiary treatment via or membrane bioreactor (MBR) or process that produces a similar level of water quality; advanced water treatment, including membrane filtration (if needed), reverse osmosis, ultraviolet (UV) radiation disinfection, and reverse osmosis; and solids dewatering with off-site solids disposal or on-site reuse. The City is proceeding with a design-build procurement process for the WRF that could allow construction of an alternative treatment technology that would meet the same water quality requirements as an MBR system. Regardless of the secondary and treatment process selected, advanced water treatment consistent with groundwater recharge requirements will be provided. All treatment processes would be covered or housed in one of the proposed WRF buildings

Advanced Treatment Facility

Implementation of the Project would include construction and operation of an AWTF at the WRF and associated infrastructure to convey advanced-treated recycled water to the ultimate end uses. Such facilities are described in the Master Reclamation Plan (MKN & Associates, April, 2017). That includes recycled water pipelines to deliver advanced treated water to new groundwater injection wells for groundwater replenishment then utilizing existing City wells to extract groundwater for treatment at the City's water treatment plant.

Operations and Maintenance of Buildings

Implementation would include construction of an approximately 7,000 SF single-story operations building, a 5,600 SF maintenance building, 17,610 SF of various vehicle storage facilities, and either a fixed track solar farm or a roof-mounted solar panel arrangement setup to offset energy usage and greenhouse gases produced by the WRF.

3.4.2 Collection System

The Project would not require modification of the existing sewer collection system. All wastewater would continue to flow to a collection point near the existing WWTP site, where new offsite conveyance facilities would be built to connect the existing wastewater infrastructure to the proposed WRF site. As part of the Project, a new lift station and new conveyance pipelines would be installed.

Lift Station

A new lift station designed to convey up to 7.05 MGD would be constructed near the existing WWTP site to convey raw wastewater uphill through the proposed force main to the new WRF site. There are two potential sites for the proposed lift station.

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- Option 1A: The site is located directly adjacent to Atascadero Road, on the south side, partially within public right of way. It is located adjacent to the City's existing water treatment plant.
 - Option 5A: The site is located directly adjacent to Atascadero Road, on the north side, partially within public right of way. It is located across from the City's existing water treatment plant.

Conveyance Pipelines

The offsite conveyance pipelines are comprised of a new force main to convey raw wastewater from the existing collection system and proposed lift station to the WRF site, a recycled water pipeline to convey treated water from the WRF to injection wells, and a waste discharge pipeline to convey brine or treated wet weather flows (compliant with California Ocean Plan discharge requirements) to the ocean outfall.

3.4.3 Recycled Water Distribution System and Injection Wells

One of the ultimate goals of the Project is to enhance the City's water supply portfolio. The proposed end use for recycled water produced at the WRF is indirect potable reuse (IPR), which would involve groundwater replenishment in the Morro Valley using subsurface application like injection wells. A recycled water distribution system would be built to convey water to one of two injection well areas. Project facilities may include, but not be limited to, the AWTF, recycled water conveyance pipeline, a pump station, injection wells and monitoring wells.

3.4.4 Decommissioning of Current WWTP

The existing WWTP would continue in operation until the new WRF is in full operation and the system is no longer delivering flow to the existing WWTP. The timing of decommissioning would also depend on when CSD's new wastewater facility is online and operational, since that agency also uses the current WWTP to treat wastewater. The decommissioning of the current WWTP would include the shutdown, demolition, and complete removal of all WWTP facilities and infrastructure such as the piping located four to five feet below grade. All materials would either be discarded and hauled to a nearby landfill or salvaged.

4.0 CEQA Environmental Review

The basic purposes of CEQA are to (1) inform decision makers and the public about the potential, significant adverse environmental effects of proposed governmental decisions and activities, (2) identify the ways those environmental effects can be avoided or significantly reduced, (3) prevent significant, avoidable and adverse environmental effects by requiring changes in projects through the use of alternatives or mitigation measures when feasible, and (4) disclose to the public the reasons why an implementing agency may approve a project even if significant unavoidable environmental effects are involved.

An EIR uses a multidisciplinary approach, applying social and natural sciences to make a qualitative and quantitative analysis of all the foreseeable environmental impacts that a Project would exert on the surrounding area. As stated in *CEQA Guidelines* section 15151:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a Project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.

This Final Environmental Impact Report (Final EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (PRC section 21000 *et seq.*) and *CEQA Guidelines* (California Code of Regulations, section 15000 *et seq.*). The Final EIR incorporates, by reference, the Draft EIR (State Clearinghouse No. 2016081027) prepared by City of Morro Bay (City) for the WRF (Project) as it was originally published. In accordance with Section 15132 of the *CEQA Guidelines*, the Final EIR shall consist of the following:

- (a) The Draft EIR or a revision of the draft.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

Before the City may approve the Project, it must certify the Final EIR: a) has been completed in compliance with CEQA; b) was presented to the City Council who reviewed and considered it prior to approving the project; and c) reflects the City's independent judgment and analysis (*CEQA Guidelines* section 15090).

Section 15004 of the *CEQA Guidelines* states before the approval¹ of any project subject to CEQA, the Lead Agency must consider the final environmental document, which in this case is the Final EIR.

4.1 Environmental Review Process

4.1.1 Notice of Preparation and Public Scoping

In accordance with Section 15082 of the *CEQA Guidelines*, a Notice of Preparation (NOP) of an EIR was prepared and circulated for review by applicable local, state and federal agencies and the public. The 30-day project scoping period, which began with the distribution of the NOP on August 8, 2016, remained open through September 7, 2016. A public scoping meeting was held on August 8, 2016 at the Veterans Memorial Building at 209 Surf Street in Morro Bay. The NOP provided the public and interested public agencies with the opportunity to review the Project and to provide comments or concerns on the scope and content of the environmental review document

¹ The word "approval" is defined by Section 15352 of the *CEQA Guidelines* to mean "the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person..."

including: the range of actions; alternatives; mitigation measures, and significant effects to be analyzed in depth in the EIR.

4.1.2 Notice of Availability of the Draft EIR

The Notice of Availability (NOA) of the Draft EIR was posted on April 3, 2018 with the County Clerk-Recorder in San Luis Obispo County. The Draft EIR was circulated to federal, state, and local agencies and interested parties requesting a copy of the Draft EIR. Copies of the Draft EIR were made available to the public at the following locations:

- City of Morro Bay WRF Web Site (<http://morrobaywrf.com>)
- Morro Bay Public Library (625 Harbor Street, Morro Bay)
- Cayucos Public Library (310 B Street, Cayucos)
- Morro Bay Public Services Department (955 Shasta Avenue, Morro Bay)
- Wastewater Treatment office (160 Atascadero Road, Morro Bay)

The Draft EIR was circulated for public review from April 3, 2018 through May 18, 2018. During that period, the City held one CEQA public meeting to provide interested persons with an opportunity to comment orally or in writing on the Draft EIR. The CEQA public meeting was an item on the agenda at the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) meeting held at the Veterans Memorial Hall in Morro Bay on May 1, 2018. There was one comment offered from the audience in addition to multiple comments offered from the WRFCAC members at the public meeting.

4.1.3 Responses to Comments and Final EIR

CEQA Guidelines, section 15088 requires the City, as the Lead Agency, to evaluate comments on significant environmental issues received from parties that have reviewed the Draft EIR and to prepare a written response. As stated in CEQA Guidelines, sections 15132 and 15362, the Final EIR must contain the comments received on the Draft EIR, either verbatim or in summary, a list of persons commenting, and the response of the Lead Agency to the comments received.

Thirty-five letters or emails were received by the City commenting on the Draft EIR. The Final EIR includes responses to all those comments, as well as comments made during the Draft EIR public meeting. The responses do not significantly alter the Project, change the Draft EIR's significance conclusions, or provide new information regarding substantial adverse environmental effects not already analyzed in the Draft EIR. Instead, the information presented in the responses to comments "merely clarifies or amplifies or makes insignificant modifications" in the Draft EIR, as is permitted by CEQA Guidelines, subdivision 15088.5(b).

In the course of responding to comments, certain portions of the Draft EIR have been modified slightly for further clarification. The comments and modifications have not identified the existence of: (1) a significant new environmental impact that would result from the Project or an adopted mitigation measure; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure not adopted that is considerably different

from others analyzed in the Draft EIR that would clearly lessen the significant environmental impacts of the Project; or (4) information that indicates the public was deprived of a meaningful opportunity to review and comment on the Draft EIR (CEQA Guidelines, subdivision 15088.5(a)). Consequently, the City finds the clarifications made to the Draft EIR in the Final EIR do not collectively or individually constitute significant new information within the meaning of PRC, section 21092.1 and CEQA Guidelines, section 15088.5. Recirculation of the DEIR or any portion thereof, is, therefore, not required.

The written responses to commenting public agencies shall be provided at least ten (10) days prior to the certification of the Draft EIR (CEQA Guidelines §15088(b)). The City provided the Final EIR to commenters on June 26, 2018, and made it available for review at the following locations:

- City of Morro Bay WRF Web Site (<http://morrobaywrf.com>)
- Morro Bay Public Library (625 Harbor Street, Morro Bay)
- Cayucos Public Library (310 B Street, Cayucos)
- Morro Bay Public Services Department (955 Shasta Avenue, Morro Bay)
- Wastewater Treatment office (160 Atascadero Road, Morro Bay)

5.0 Findings of Fact Regarding Project Impacts

5.1 Findings Regarding No Impacts

The Final EIR concludes the Project will result in no impacts to the following resource areas. The City finds, based on the Final EIR and the entire record, the Final EIR's conclusions regarding the Project's impacts to these resource areas are correct.

- Agriculture (Impact 3.2-3, Forest Land and Timberland) – The Project is not located within forest land or timberland. Thus, the Project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland or timberland zoned Timberland Production. There would be no impact. No mitigation is required.
- Agriculture (Impact 3.2-4, Conversion of Forest Land) – The Project is not located within forest land so it would not result in the loss of forest land or conversion of forest land to non-forest use. There would be no impact. No mitigation is required.
- Biological Resources (Impact 3.4-6, Habitat Conservation Plan) – The Project is not located within the boundaries of a habitat conservation plan or natural community conservation plan. There would be no impact. No mitigation is required.
- Geology (Impact 3.6-5, Wastewater Disposal Systems) – The Project would not include septic tanks and would not result in impacts regarding soils incapable of supporting those alternative systems. There would be no impact. No mitigation is required.

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- Hazards (Impact 3.8-4, Airport Land Use Plan) – The Project area is not within the boundaries of an airport land use plan. Construction and operation of the Project would not result in a safety hazard at a public airport. There would be no impact. No mitigation is required.
 - Hazards (Impact 3.8-5, Private Airstrip) – The City does not include a private airstrip within its boundaries. Construction and operation of the Project would not affect a private airstrip or create a safety hazard. There would be no impact. No mitigation is required.
 - Land Use and Planning (Impact 3.10-1, Divide an Established Community) – The Project would not physically divide an established community. The Project's components are located in areas that are not established residential communities and would not disconnect any established communities. There would be no impact. No mitigation is required.
 - Land Use and Planning (Impact 3.10-2, Land Use Plans and Policies) – The Project would not conflict with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, including the City or County General Plan, Local Coastal Plan, Coastal Zone Land Use Ordinance, or Zoning Ordinance. There would be no impact. No mitigation is required.
 - Land Use and Planning (Impact 3.10-3, Habitat Conservation Plan) – The Project would not be located in or adjacent to a habitat conservation plan or a natural community conservation plan and therefore would not conflict with a habitat conservation plan or natural community conservation plan. There would be no impact. No mitigation is required.
 - Noise and Vibration (Impact 3.11-6, Airport Noise Levels) – The Project would not be located within an airport land use plan area or in the vicinity of a private airport. There would be no impact associated with noise levels at airports or airstrips.
 - Public Services (Impact 3.13-1b, Schools) – The Project would not induce population growth and would not require the construction of new schools. There would be no impact. No mitigation is required.
 - Public Services (Impact 3.13-1c, Parks and Public Facilities) – The Project would not induce population growth and would not require the construction of new parks or other public facilities. There would be no impact. No mitigation is required.
 - Traffic (Impact 3.14-2, Air Traffic Patterns) – Since there are no public or private airports within the City limits, implementation of the Project would not result in a change in air traffic patterns, including either an increase in air traffic levels or a change in location that results in substantial safety risks. There would be no impact. No mitigation is required.
 - Tribal Cultural (Impact 3.15-1, Historical Resources) – The Project would not cause a substantial adverse change in the significance of a tribal cultural resource listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources. There would be no impact. No mitigation is required.

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- Tribal Cultural (Impact 3.15-2, Tribal Cultural Resources) – The Project would not cause a substantial adverse change to a tribal cultural resource. There would be no impact. No mitigation is required.
 - Tribal Cultural (Cumulative Impact 4-15, Tribal Cultural Resources)– The Project would not affect a Tribal Cultural Resource and when considered together with related projects, would not result in a cumulatively considerable impact to Tribal Cultural Resources. There would be no impact.

5.2 Findings Regarding Class IV Impacts, Beneficial

The Final EIR identifies the following environmental impacts as beneficial. The City finds, based on the Final EIR and the entire record, that the Final EIR's conclusions regarding the Project's impacts to these resource areas are correct.

- Hydrology (Impact 3.9-6, Flood Hazard Areas) – The proposed lift station and IPR wells would be located within a 100-year flood hazard area; however, the relatively small footprint would be negligible and would not impede or redirect flood flows. This would be a Class III impact, Less than Significant. In addition, decommissioning of the WWTP would remove treatment facilities from the same 100-year flood hazard area, which is beneficial because it would remove a substantial impediment within the flood plain. Overall, the introduction of IPR wells combined with the removal of the existing WWTP would result less impervious surface than the current condition, which is a net beneficial impact (Class IV).
- Utilities (Impact 3.16-1, Wastewater Treatment Requirements) – Once operational, the proposed WRF would provide tertiary treatment and advanced treatment of wastewater, thereby exceeding the secondary treatment requirements mandated by the Central Coast Regional Water Quality Control Board. This would be a Class IV beneficial impact.
- Utilities (Impact 3.16-4, Water Supply Entitlements) – Operation of the Project would allow for the development of 650 to 825 AFY of advanced treated recycled water for indirect potable reuse, thereby enhancing water supplies in the project area and providing water supply reliability with a new local renewable water supply. This would be a Class IV beneficial impact.
- Utilities (Impact 3.16-5, Wastewater Treatment Capacity) – The proposed WRF will be designed to accommodate the City's projected wastewater treatment capacity needs in the future based on buildout projections under the General Plan Update. The proposed WRF infrastructure would be more reliable than the existing WWTP, thereby reducing potential service interruptions. This would be a Class IV beneficial impact.

5.3 Findings Regarding Class III Impacts, Not Significant

The Final EIR identifies the following environmental impacts as less than significant; no mitigation measures are required. The City finds, based on the Final EIR and the entire record,

that the Final EIR's conclusions regarding the Project's impacts to these resource areas are correct.

- Aesthetics (Impact 3.1-1 Scenic Vistas) – The Project would not have an adverse effect on scenic vistas. The Project would not have sufficient scale or height to significantly affect scenic vistas. The WRF would be briefly visible from Highway 1, but would resemble rural agricultural buildings similar to others along the Highway 1 corridor. That impact would be Class III, Less than Significant. No mitigation is required.
- Aesthetics (Impact 3.1-2, State Scenic Highways) – The Project would be visible from Highway 1 and State Route 41 corridors, a State Scenic Highway and Eligible Scenic Highway, respectively. However, implementation of specific design criteria for development would ensure that scenic resources would not be adversely effected by implementation of proposed facilities. This impact would be Class III, Less than Significant. No mitigation is required.
- Aesthetics (Impact 3.1-3, Visual Character) – The proposed WRF would not degrade the visual character of the site due to implementation of specific design criteria for architectural treatments that blend with the surrounding rural and agricultural area. The remaining project components would also be similar in size and scale as surrounding development and would not degrade visual character. This impact would be Class III, Less than Significant. No mitigation is required.
- Agriculture (Impact 3.2-1, Prime Farmland Conversion) – The proposed IPR East groundwater wells could potentially convert Prime Farmland to non-agricultural use. However, based on the results of the LESA model, the conversion of farmland to non-agricultural use would be considered less than significant. This impact would be Class III, Less than Significant. No mitigation is required.
- Agriculture (Impact 3.2-2, Williamson Act Contract) – The Project would not conflict with a Williamson Act contract. Project components located on lands zoned for agricultural use would be consistent with applicable Land Use and zoning requirements through implementation of City and County policies and permit procedures. This impact would be Class III, Less than Significant. No mitigation is required.
- Agriculture (Impact 3.2-5, Conversion to Non-Agricultural Use) – The proposed WRF would be located on a parcel that is currently rangeland and used for grazing. The majority of the parcel would continue to be used for grazing after implementation of the Project. The proposed WRF would implement City and County policies related to public services with agricultural lands, and would not substantially reduce the area available for grazing and rangeland, so impacts to this area are less than significant. In addition, agricultural impacts related to the location of IPR wells are considered Class III, Less than Significant. No mitigation is required.
- Air Quality (Impact 3.3-1, Air Quality Standards) – The project would not conflict with the population and vehicle travel projections for the project area nor would it conflict with the

transportation control measures contained in the applicable air quality plan. This impact would be Class III, Less than Significant. No mitigation is required.

- Air Quality (Impact 3.3-3, Air Quality Standards) – Proposed project operation would generate air pollutant emissions of ROG, NO_x and PM, but the increase would be less than the applicable SLOAPCD significance thresholds for operation and would therefore not lead to a violation of an air quality standard or contribute substantially to an existing or projected air quality violation. This impact would be Class III, Less than Significant. No mitigation is required.
- Air Quality (Impact 3.3-4, Sensitive Receptors) – The Project would not expose sensitive receptors to substantial pollutant concentrations that would lead to adverse health risks. This impact would be Class III, Less than Significant. No mitigation is required.
- Air Quality (Impact 3.3-5, Objectionable Odors) – Operation of the proposed WRF would generate odor, but the Project design includes odor control facilities to capture and treat air produced during the wastewater treatment process. A substantial number of people would not be affected by objectionable odor. This impact would be Class III, Less than Significant. No mitigation is required.
- GHG and Energy (Impact 3.7-1, GHG Emissions) – The Project would generate GHG emissions, either directly or indirectly, that would not have a significant impact on the environment. This impact would be Class III, Less than Significant. No mitigation is required.
- GHG and Energy (Impact 3.7-2, GHG Plans and Policies) – The Project would not conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. This impact would be Class III, Less than Significant. No mitigation is required.
- GHG and Energy (Impact 3.7-3, Energy) – The Project would not lead to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation, which would conflict with applicable energy efficiency policies or standards. This impact would be Class III, Less than Significant. No mitigation is required.
- Hazards (Impact 3.8-1, Routine Use of Hazardous Materials) – Construction and operation of the Project would include the routine transport, use, and disposal of hazardous materials. However, the Project would be required to comply with all applicable federal, state, and local regulations regarding the use and disposal of hazardous materials and wastes which would reduce the potential for impacts to human health, public safety, and the environment. This impact would be Class III, Less than Significant. No mitigation is required.
- Hazards (Impact 3.8-2, Proximity to Schools) – Although portions of the Project are located adjacent to Morro Bay High School, adherence to the applicable hazardous materials regulations would reduce potential impacts regarding hazardous materials emissions within

0.25 mile of a school. This impact would be Class III, Less than Significant. No mitigation is required.

- Hazards (Impact 3.8-3, Cortese List) – The Project components would not be located on sites that are included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment. This impact would be Class III, Less than Significant. No mitigation is required.
- Hazards (Impact 3.8-7, Wildfire) – The Project would not be located in a very high fire hazard severity zone and as such, the potential for wildfires is considered low. All project components would be designed to comply with all applicable fire codes and fire protection requirements established by the CCR and the City’s building codes, would not be constructed of highly flammable materials, and would contain water thereby reducing flammability. This impact would be Class III, Less than Significant. No mitigation is required.
- Hydrology (Impact 3.9-1, Water Quality Standards and Waste Discharge Requirements) – As a Groundwater Recharge Reuse Project, the Project would inject advanced treated recycled water into the Morro Valley Groundwater Basin for subsequent withdrawal as potable water supply. The Project would not result in violating water quality standards or waste discharge requirements or otherwise substantially degrade water quality. This would be a Class III impact, Less than Significant. No mitigation is required.
- Hydrology (Impact 3.9-2) The Project could degrade surface water or groundwater quality in the event of pipeline rupture or accidental spill. Implementation of regulatory requirements, including a leak detection system and preventative maintenance program for new Project pipelines would ensure water quality in the project area is not adversely affected. This is a Class III impact, Less than Significant. No mitigation is required.
- Hydrology (Impact 3.9-3, Groundwater Supplies) – As a Groundwater Recharge Reuse Project, the Project would inject advanced treated recycled water into the Morro Valley Groundwater Basin for subsequent withdrawal as potable water supply. The project would not result in a net deficit in aquifer volume or lowering of the local groundwater table. This would be a Class III impact, Less than Significant. No mitigation is required.
- Hydrology (Impact 3.9-5, Stormwater Runoff and Drainage Systems) – Installation of the Project components would add impervious surfaces that could increase stormwater runoff from Project sites. Compliance with the City’s Storm Water Management Plan, Stormwater Ordinance, and other NPDES regulatory requirements would require drainage control features and LID features to be incorporated into Project design to control and prevent increases in stormwater runoff and minimize impacts to the existing capacity of the storm drain system. This is a Class III impact, Less than Significant. No mitigation is required.
- Hydrology (Impact 3.9-7, Tsunami Hazard Zone) – The Project would remove the existing WWTP from the tsunami hazard zone, but construct a new lift station within the tsunami hazard zone. Floodproof design features and compliance with the City’s Tsunami Emergency

Response Plan would minimize service disruptions to the wastewater system due to the potential effects of tsunami inundation of the lift station. This is a Class III impact, Less than Significant. No mitigation is required.

- Noise and Vibration (Impact 3.11-3, Groundborne Vibration) – The Project would not expose people to excessive groundborne vibration either during construction or operation. This would be a Class III impact, Less than Significant. No mitigation is required.
- Environmental Justice (Impact 3.12-1) – The aboveground facilities of the Project would not be located near communities that are disproportionately comprised of low income or minority populations. This impact would be Class III, Less than Significant. No mitigation is required.
- Public Services (Impact 3.13-1a: Fire and Police Protection) – The number of workers required to construct and operate the Project would not be large enough to significantly affect the demand for housing. Thus, the Project would not affect service ratios or other performance objectives for fire and police protection. This impact would be Class III, Less than Significant. No mitigation is required.
- Utilities (Impact 3.16-2, Construction of Treatment Facilities) – The Project includes the construction of a new wastewater treatment facility, which has been evaluated throughout the Draft EIR. No additional water or wastewater treatment facilities would be required to operate the Project. This would be a Class III impact, Less than Significant. No mitigation is required.
- Utilities (Impact 3.16-3, Stormwater Facilities) – Proposed project construction and operation would not generate excessive stormwater runoff such that new or expanded stormwater drainage facilities are required. This impact would be Class III, Less Than Significant. No mitigation is required.
- Utilities (Impact 3.16-6, Landfill Capacity and Solid Waste Regulation) – The Project would generate solid waste that could require disposal at a landfill, including construction debris and biosolids during WRF operation. Existing landfills have sufficient remaining capacity to accommodate construction-related solid waste; biosolids would be reused by a biosolids management firm rather than disposed at a landfill. The Project would comply with all federal, state, and local statutes and regulations related to solid waste. This impact would be Class III, Less Than Significant. No mitigation is required.

5.3.1 Cumulative Impacts

All cumulative impacts are Class III, Less Than Significant with the exception of significant and unavoidable impacts to cultural resources, which are presented in Section 5.5 below. In addition, there would be no impact to tribal cultural resources, as described in Section 5.1 above.

5.3.2 Growth Inducing Impacts

CEQA requires an EIR discuss ways in which the project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding

area (CEQA Guidelines, Section 15126.2[d]). Induced growth is any growth that exceeds planned growth and results from new development that would not have taken place in the absence of a project. A project can be determined to have a growth-inducing impact if it directly or indirectly causes economic or population expansion through the removal of obstacles to growth or encourages or facilitates other activities that could significantly affect the environment; actions that are sometimes referred to as “growth accommodating.”

Direct Growth Inducement Potential

Implementation of the Project would not directly induce growth, as it does not propose development of new housing that would attract additional population to the City. Further, implementation of the Project would not result in substantial permanent employment that could indirectly induce population growth. Construction activities would create some short-term construction employment opportunities over three years from 2019 to 2022; approximately 120 construction workers would be required for construction of the entire project, where each component would require approximately 12 to 20 construction workers depending on the facility. Construction workers would be drawn from the local and regional work force. The City’s existing seasonal and occasional housing stocks would be sufficient to house temporary construction workers, if needed, in addition to local hotel establishments. On a long-term basis, a maximum of four new employees would be required to operate the WRF, while existing City staff would operate the remaining O&M facilities. Thus, operation of the Project would be accommodated by the existing work force within the City and surrounding unincorporated areas of the County.

Indirect Growth Inducement Potential

Water Supply

The local jurisdictions that govern land use and development within the Project area include the City and County (for unincorporated areas). Those jurisdictions’ adopted General Plan documents guide the type, location, and level of land use and development within each respective jurisdiction. Those jurisdictions have assessed the growth-related impacts associated with planned land use and growth allowed under their General Plans and the CEQA EIRs they have prepared for those plans. Specifically, the City has already accounted for the development of the Project within the 2015 Urban Water Management Plan (UWMP), which used the same growth projections as the City’s 2014-2019 Housing Element Update, as well as within the draft Facilities Master Plan (FMP) and Master Water Reclamation Plan (MWRP), which took into account the population projections of the General Plan Update. Thus, the City has taken into account the potential for indirect growth associated with implementation of the Project and has assessed and mitigated, as necessary, any growth-related impacts associated with the Project in the 2014-2019 Housing Element Update and its CEQA EIR as well as the General Plan Update and its CEQA EIR.

In addition, San Luis Obispo Council of Governments (SLOCOG), the regional authority charged with providing a framework for coordination of orderly regional growth and development, has prepared the 2014 Regional Transportation Plan/Sustainable Communities Strategy (2014 RTP/SCS), which serves as a long-term planning and management plan for the regional transportation system, providing mitigation measures to off-set the impacts of growth projected in

the region. The 2014 RTP/SCS was prepared in coordination with the City and has also accounted for any indirect growth associated with the development of the Project. Therefore, the Project would provide future water system infrastructure within the City, which would support planned population growth that has been identified for the service area.

As stated above, the City has already accounted for the Project's additional recycled water supply within the 2015 UWMP, and is required in the City's General Plan, and, therefore, does not represent an additional unanticipated source of supply. The Project would allow the City to increase the amount of groundwater used for potable water distribution and decrease its dependency on water supplied from the State Water Project (SWP). The addition of potable water resulting from the Project's indirect potable reuse component would reallocate the percentages of the water sources used by the City, but would not exceed the total amount of water supply the City has planned for in the 2015 UWMP. Thus, implementation of the Project would not create a new or expanded water supply that could create an indirect growth inducement potential.

Wastewater Treatment

In regards to wastewater treatment, the WRF would treat a maximum average annual daily flow rate of 0.97 MGD, which is a slight decrease in treatment capacity from the existing WWTP, which has average daily wastewater collection flow of 1.089 MGD. The draft FMP and MWRP for the Project took into consideration the planned population projections in the 2015 UWMP and General Plan Update and sized the plant to accommodate wastewater flows associated with the expected population of 12,000 in 2040 (see Final EIR Table 5-2). In addition, Measure F provides a cap on the City's population at 12,200 residents until increased by the voters. Thus, implementation of the Project would not result in additional growth greater than the City has already planned for within its land use planning documents. For those reasons, the Project would not remove any obstacles to growth and would not indirectly have a significant impact on growth inducement. As a result, impacts to growth inducement would be less than significant.

5.4 Findings Regarding Class II Impacts, Significant but Mitigable

The City makes the Findings below in accordance with CEQA Guidelines, subdivision 15091 (a)(1): Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant effects on the environment.

In the event there is any inconsistency between the descriptions of mitigation measures in these Findings or the MMRP and the Final EIR, the City will implement the measures as they are described in the Final EIR. In the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from these Findings or from the MMRP, such a mitigation measure is hereby adopted and incorporated in the Findings and/or MMRP as applicable.

5.4.1 Aesthetics

Light or Glare

- *Impact 3.1-4: Construction of the proposed injection wells would require nighttime lighting during 24-hour drilling activities. Measures that require lighting to be shielded and directed*

away from neighboring light sensitive land uses would reduce impacts associated with light and glare. This impact would be Class II, Less than Significant with Mitigation.

Facts in Support of the Finding: Construction of the proposed injection wells would require daily 24-hour drilling for up to approximately one month. As such, temporary overhead nighttime lighting would be installed during the well drilling period. The IPR West wellfield area is largely surrounded by existing trees and vegetation surrounding the creek; therefore, the use of nighttime lighting would not substantially impact nearby uses. However, the IPR East wellfield area is located adjacent to light sensitive uses including the mobile home park. Therefore, implementation of overnight lighting within the IPR East wellfield area could result in potentially significant impacts. **Mitigation Measure AES-1** would ensure that lighting would be shielded and pointed away from surrounding light-sensitive land uses during nighttime construction. By doing so, light would not spill over to light-sensitive land uses. As a result, impacts associated with light and glare during construction activities would be reduced to a less than significant level with implementation of mitigation measures.

Construction/operation of other project components would have less than significant or no impact associated with light and glare.

Finding: The City has adopted and will implement the following mitigation measure that will reduce potentially significant Impact 3.1-4 to a less than significant level:

AES-1: Nighttime Construction Lighting. Lighting used during nighttime construction, including any associated 24-hour well drilling, shall be shielded and pointed away from surrounding light-sensitive land uses.

5.4.2 Air Quality

Air Quality Standards

- *Impact 3.3-2: Project construction would cause temporary increases in localized air pollutant emissions of ROG, NOx and DPM in excess of SLOAPCD construction thresholds which could lead to a violation of an air quality standard. Implementation of fugitive dust control measures and other standard control measures for construction equipment would reduce emissions. This impact would be Class II, Less Than Significant with Mitigation.*

Facts in Support of the Finding: The maximum daily construction emissions of reactive organic gases (ROG) and nitrogen oxides NOx generated by the Project would exceed San Luis Obispo County Air Pollution Control District's (SLOAPCD) Tier 1 significance thresholds in all three construction years of the Project. Quarterly diesel particulate matter (DPM) emissions would also exceed the Tier 1 thresholds in 2019 while fugitive respirable particulate matter (PM₁₀) emissions would be below the respective significance threshold for all three years. SLOAPCD requires construction projects that last more than one quarter and exceed the Tier 1 thresholds to implement Standard Mitigation Measures and best available control technology (BACT) for construction equipment. Those measures are detailed in **Mitigation Measure AQ-1b** and **Mitigation Measure AQ-1c**. BACT requires all off-road construction equipment that exceeds 50 horsepower to be either certified as EPA Tier 4 where available to reduce the

pollutant emissions from the Project's construction equipment. Implementation of **Mitigation Measures AQ-1b, AQ-1c and AQ-1d** would reduce all pollutant emissions associated with the Project's construction activities to below the Tier 1 significance thresholds. Therefore, with mitigation, air quality impacts associated with the project construction would be less than significant.

Although the Project's fugitive dust emissions would not exceed Tier 1 or 2 thresholds, SLOAPCD requires any project with grading areas greater than 4.0 acres or that are within 1,000 feet of any sensitive receptor to implement standard fugitive dust mitigation measures. Therefore, **Mitigation Measure AQ-1a** is also required.

Finding: The City has adopted and will implement the following mitigation measures that will reduce potentially significant Impact 3.3-2 to a less than significant level:

AQ-1a: Fugitive Dust Control Measures. Construction projects shall implement the following dust control measures so as to reduce PM10 emissions in accordance with SLOAPCD requirements.

- Reduce the amount of the disturbed area where possible;
- Water trucks or sprinkler systems shall be used during construction in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water shall be used whenever possible;
- All dirt stock pile areas shall be sprayed daily as needed;
- Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of any soil disturbing activities;
- Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
- All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by SLOAPCD;
- All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible after grading unless seeding or soil binders are used;
- Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code section 23114;

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- Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;
 - Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where feasible;
 - All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
 - The construction contractor shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to SLOAPCD Compliance Division prior to the start of any grading, earthwork or demolition.

AQ-1b: Standard Control Measures for Construction Equipment. Standard mitigation measures for reducing NO_x, ROG, and DPM emissions from construction equipment are listed below:

- Maintain all construction equipment in proper tune according to manufacturer's specifications;
- Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;
- Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NO_x exempt area fleets) may be eligible by proving alternative compliance;
- All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit;
- Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- Electrify equipment when feasible;
- Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,

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- Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

AQ-1c: BACT for Construction Equipment. The following BACT for diesel-fueled construction equipment shall be implemented during construction activities at the project site, where feasible:

- Further reducing emissions by expanding use of Tier 3 and Tier 4 off-road and 2010 on-road compliant engines where feasible;
- Repowering equipment with the cleanest engines available; and
- Installing California Verified Diesel Emission Control Strategies, such as level 2 diesel particulate filters. These strategies are listed at:
<http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

AQ-1d: Architectural Coatings. To reduce ROG and NOx emissions during the architectural coating phase, low or no VOC emission paints and finishes shall be used with levels of 50 g/L or less.

5.4.3 Biological Resources

Special Status Species

- *Impact 3.4-1: Ground disturbing activities during construction of the Project could have impacts to special status plant and wildlife species, including Morro shoulderband snail, American badger, and nesting birds, as well as indirect impacts to special status plant species such as San Luis Obispo owl's clover. Pre-construction surveys will be conducted to determine presence or absence of species prior to initiation of construction activities. If species are present, measures to avoid or relocate individuals or avoid nests would be implemented to mitigate potential adverse impacts. This is a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding:

Special Status Plants. The study area contains two occurrences of the San Luis Obispo owl's clover, a CRPR List 1B species, that are outside the proposed development footprint. Native bunchgrass grasslands observed on portions of the preferred WRF site are also outside the development footprint, and would not be impacted by the Project. The Cambria morning glory is present in annual grasslands throughout the eastern pipeline alignment as well as at the preferred WRF site. That is a watch list (CRPR 4) species and typically does not meet the CEQA thresholds used to define rarity (please refer to Section 15380 of CEQA). Although no direct impacts are expected, indirect impacts to special-status plants during construction of the WRF could result in potentially significant impacts. In order to minimize potential indirect impacts to special-status plant species, implementation of construction worker environmental awareness training and best management practices as described in **Mitigation Measure BIO-1 and BIO-2** would ensure potential impacts to special status plants are less than significant.

Special Status Wildlife. Aquatic species, such as California red-legged frog (CRLF), southern steelhead, tidewater goby, and western pond turtle, may be present on a seasonal basis at the

pipeline crossings of Morro Creek. Trenchless construction methods would be used to install the conveyance pipelines across sensitive features, including Morro Creek. Implementation of trenchless construction methods would avoid direct impacts to Morro Creek and to these aquatic species. As such, direct impacts to those special status wildlife species and their associated habitat are not expected. However, indirect impacts to special-status wildlife species could result due to construction activities in and around Morro Creek, which could result in potentially significant impacts. In order to minimize potential indirect impacts to special-status wildlife and associated habitat, implementation of construction worker environmental awareness training and best management practices as described in **Mitigation Measure BIO-1 and BIO-2** would ensure potential impacts to special status wildlife are less than significant.

Morro Shoulderband Snail. As currently designed, portions of the western and eastern proposed pipeline alignments, and the northwest corner of the proposed IPR West wellfields, contain Baywood fine sand soils or dunes, and areas of non-native plants along road shoulders that could provide habitat for the federally-protected Morro shoulderband snail (MSS). Suitable sandy soil conditions for the species are present along portions of Quintana Road and adjacent to the southeast corner of the WWTP in the proposed western pipeline alignment, small portions of the eastern pipeline alignment at Bolton Drive and Radcliffe Avenue a portion of the proposed eastern pipeline alignment at Drainage 1A and the northwest corner of the proposed IPR West wellfield (see Final EIR Figure 3.4.7). Those areas are mostly developed and disturbed by urban development; however, areas with low growing vegetation growing on sandy soils could provide low quality habitat for the species such that MSS could potentially occur in these areas. Construction-related ground disturbance could result in take of MSS and would be a potentially significant impact.

In addition, MSS have been previously identified in an undeveloped parcel near the existing WWTP, between Atascadero Road and the Morro Bay High School. That property is adjacent to, but outside, the Project impact area; however, an adjacent dirt parking area on Atascadero Road is likely to be used during project construction and is the location for the proposed lift station Option 5A. Construction on, or use of, the dirt parking area opposite the existing WWTP during wet weather could impact MSS if individuals enter the work area, and would be a potentially significant impact.

To avoid take of MSS during project construction, **Mitigation Measure BIO-3** outlines all steps to be taken to ensure impacts to MSS are avoided. During design of the project components, surveys would be conducted in areas with potential habitat. The survey information will be used to locate facilities to avoid MSS habitat. If avoidance of MSS habitat is not feasible, then protocol surveys would be conducted to determine if MSS are present. If MSS are present, then consultation with the USFWS would be conducted as appropriate and MSS individuals would be relocated from project areas as necessary. Once project facilities are built, there would be no long-term impacts to MSS due to project operation. With implementation of Mitigation Measure BIO-3, impacts would be less than significant.

American Badger. The American badger was determined to have potential to occur on the preferred WRF site and in portions of the proposed eastern pipeline alignment, due to presence of

grassland habitats, water, and a prey base of California ground squirrels and pocket gophers in the general region. The American badger is a California Species of Special Concern. During initial ground disturbance, construction activities could result in direct harm to badger or destruction of badger dens due to the operation of heavy equipment for purposes of clearing and grading of the preferred WRF site and proposed pipeline alignments, which would be a potentially significant impact.

To avoid impacts to the American badger during project construction, Mitigation Measure BIO-4 outlines all steps to be taken to ensure impacts to American badgers are avoided during project construction, including preconstruction surveys and avoidance of active dens if found. Once project facilities are built, there would be no long-term impacts to American badgers due to project operation. With implementation of **Mitigation Measure BIO-4**, impacts would be less than significant.

Nesting Birds. The removal of vegetation during Project construction could result in direct impacts to nesting birds if any are present. In addition, indirect impacts to birds nesting in the vicinity of the proposed disturbance could result from construction activities. Nesting activity typically occurs from February 1 to August 31 for songbirds and from January 15 to August 31 for raptors. Disturbing or destroying active nests is a violation of the Migratory Bird Treaty Act. In addition, nests and eggs are protected under California Fish and Game Code (FGC) sections 3503 and 3503.5. As such, direct impacts (removal of active nests) and indirect impacts (e.g. by noise causing abandonment of the nest) to nesting birds would be considered a potentially significant impact.

To avoid impacts to nesting birds, **Mitigation Measure BIO-5** outlines all steps to be taken to ensure impacts to nesting birds are avoided during project construction. The initiation of construction activities within annual grassland habitat and the removal of any trees would occur outside of the nesting season if feasible. If not feasible, then preconstruction surveys for active nests would be required. If active nests are found, measures would be taken to establish a buffer around nests where no project construction activities would occur until nesting activities have ceased, as determined by a qualified biologist. Once Project facilities are built, there would be no long-term impacts to nesting birds due to project operation. With implementation of Mitigation Measure BIO-5, impacts would be less than significant.

Finding: The City has adopted and will implement the following mitigation measures that will reduce potentially significant Impact 3.4-1 to a less than significant level:

BIO-1: Construction Worker Environmental Awareness Training and Education Program. Prior to the commencement, and for the duration of proposed construction activities, all construction workers shall attend an Environmental Awareness Training and Education Program, developed and presented by the Lead Biologist. The Training and Education shall include:

1. The program shall include information on San Luis Obispo owl's clover and the life history of steelhead, CRLF, MSS, and other raptors; nesting birds; as well as other wildlife and plant species that may be encountered during construction activities. The program will also include descriptions of sensitive habitats (drainages, riparian

habitat, and wetlands) and The program shall also discuss the legal protection status of each species and sensitive habitat, the definition of “take” under the Federal Endangered Species Act and California Endangered Species Act, measures the project proponent is implementing to protect each species and sensitive habitat, reporting requirements, specific measures that each worker shall employ to avoid take of wildlife species and sensitive habitats, and penalties for violation of the Federal Endangered Species Act or California Endangered Species Act.

2. An acknowledgement form signed by each worker indicating that Environmental Awareness Training and Education Program has been completed would be kept on record;
3. A sticker shall be placed on hard hats indicating that the worker has completed the Environmental Awareness Training and Education Program. Construction workers shall not be permitted to operate equipment within the construction areas unless they have attended the Environmental Awareness Training and Education Program and are wearing hard hats with the required sticker;
4. A copy of the training transcript, training video or informational binder for specific procedures shall be kept available for all personnel to review and be familiar with as necessary.
5. The construction crews and contractor(s) shall be responsible for unauthorized impacts from construction activities to sensitive biological resources that are outside the areas defined as subject to impacts by project permits.

BIO-2: Avoidance and Protection of Biological Resources. During proposed construction, operations and maintenance, and decommissioning the City and/or contractor shall implement the following general avoidance and protective measures:

1. All proposed impact areas, including staging areas, access routes, and disposal or temporary placement of spoils, shall be delineated with stakes and/or flagging prior to construction to avoid natural resources where possible. Construction-related activities outside of the impact zone shall be avoided.
2. The project proponent shall limit the areas of disturbance to the maximum extent that is practicable. Parking areas, new roads, staging, storage, excavation, and disposal site locations shall be confined to the smallest areas possible. These areas shall be flagged and disturbance activities, vehicles, and equipment shall be confined to these flagged areas.
3. Riparian habitat, drainages, and wetlands will be flagged and signed to restrict project access into these areas.
4. Spoils shall be stockpiled in disturbed areas that lack native vegetation. Best Management Practices shall be employed to prevent erosion in accordance with the project’s approved Stormwater Pollution Prevention Plan (SWPPP; as described in Chapter 3.9).

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5. To prevent inadvertent entrapment of American badgers or other wildlife during construction, all excavated, steep-walled holes or trenches shall be covered with plywood or similar materials at the close of each working day, or provided with one or more escape ramps constructed of earth fill or wooden planks. If trapped animals are observed, the appropriate agency shall be consulted and escape ramps or structures shall be installed immediately to allow escape. If a listed species is trapped, the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife shall be contacted immediately.
 6. Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated work areas shall be prohibited.
 7. Workers shall be prohibited from bringing pets and firearms to the project site and from feeding wildlife.
 8. Intentional killing or collection of any plant or wildlife species shall be prohibited.

BIO-3: Morro Shoulderband Snail. The following mitigation measures shall be implemented to avoid or minimize impacts to Morro shoulderband snail (MSS):

1. During project design, if project components would be located in areas determined to have soils and vegetation that could support MSS (e.g., see Final EIR Figure 3.4-7), then a qualified biologist shall conduct a survey to delineate the extent of potential habitat. The survey information shall be incorporated into the project design such that facilities are located to avoid potential MSS habitat. The following project components have either been mapped as Baywood fine sands or dunes, or are in areas adjacent to known populations (see Final EIR Figure 3.4.7):
 - o Option 5A lift station adjacent to Atascadero Road;
 - o the western pipeline alignment adjacent to the southeast corner of the WWTP;
 - o a portion of the eastern pipeline alignment at Drainage 1A; and
 - o the northwest corner of the IPR-West wellfield.
2. For pipeline alignments or other project components that are sited in areas adjacent to vegetated areas that have capacity to support MSS, silt fencing shall be installed, under the direction of a qualified biologist, to restrict project activities into these areas and to deter MSS movement into the project area.
3. If avoidance of MSS habitat is not feasible, then protocol levels surveys for MSS shall be conducted to determine presence/absence and distribution of MSS. Surveys shall be conducted by a biologist in possession of a valid recovery permit for the species. If the survey results are negative, the City shall request a concurrence determination for the project based on absence of the species. Coordination with USFWS during project design may facilitate receipt of a concurrence determination.
4. If survey results are negative and a concurrence authorization is granted, then vegetation shall be removed under supervision of the permitted biologist, and the

site(s) shall be graded/grubbed down to bare mineral soil, and bordered with silt fence to preclude MSS from subsequently entering the area(s).

5. If live MSS are found within areas proposed for impact, then consultation with USFWS will be necessary and the issuance of a Biological Opinion (B.O.) may be required to allow individuals to be moved out of project areas prior to construction. A permitted biologist must be retained to move MSS per the B.O. requirements, and to monitor vegetation clearing activities occurring within the MSS habitat area(s).
6. If equipment use, materials stockpiling, lift station construction, or any other uses are proposed on the north side of Atascadero Road opposite the existing WWTP, then all such areas shall be delineated by installation of silt fencing to create a barrier between potential MSS habitat and project activities. If fenced areas are utilized during or immediately following rain events or dense fog conditions, then a permitted biologist will survey and clear the work areas each morning prior to start of work to ensure that no MSS have entered the site.
7. Work crews will undergo an environmental training session conducted by a qualified biologist prior to start of construction activities in or adjacent to MSS habitat areas. Environmental training would inform project personnel of the constraints associated with working within and adjacent to MSS habitat, and the appropriate protocol should MSS be encountered during construction activities.

BIO-4: American Badger. A pre-construction survey for active badger dens will be conducted within the proposed construction impact footprint and surrounding accessible areas of the mapped annual grassland portions of the eastern pipeline alignment (between the WRF and Downing Street on the west; see Figures 3.4-3 through 3.4-5 in the Final EIR) and the WRF site at least two weeks prior to any ground disturbing activities. The survey will be conducted by a qualified biologist. In order to avoid potential direct impacts to adults and nursing young, no grading should occur within 50 feet of an active badger den as determined by the project biologist. Construction activities between July 1 and February 28 shall comply with the following measures to avoid direct take of adult and weaned juvenile badgers through the forced abandonment of dens:

1. A qualified biologist will conduct a focused survey at least two (2) weeks prior to the start of construction;
2. If a potential den is located that is too long to see the end, then a fiber optic scope (or other acceptable method such as using tracking medium for a three-night period) will be used to determine if the den is being actively used by a badger;
3. Inactive dens will be excavated by hand with a shovel or using a small excavator to prevent badgers from re-using them during construction.
4. Badgers will be discouraged from using currently active dens prior to the grading of the site by partially blocking the entrance of the den with sticks, debris and soil for three to five days. Access to the den shall be incrementally blocked to a greater

degree over this period. This should cause the badger to abandon the den and move elsewhere. After badgers have stopped using any den(s) within the project boundary, the den(s) will be hand- excavated with a shovel or carefully excavated with the use of an excavator to prevent re- use.

5. The qualified biologist will be present during the initial clearing and grading activity. If additional badger dens are found, all work within the area will cease until the biologist can complete measures described above for inactive and active dens. Once the badger dens have been excavated, work in the area may resume.

BIO-5: Nesting Birds. The following mitigation measures are recommended to avoid or minimize impacts to nesting bird species, including special-status species and species protected by the Migratory Bird Treaty Act.

1. Any removal of trees and disturbance of annual grassland habitat will be limited to the time period between September 1 and February 14 if feasible. If tree removal and grassland impacts cannot be conducted during this time period, a qualified biologist shall conduct pre- construction surveys for active bird nests within the limits of the project.
2. If active nest sites of bird species protected under the Migratory Bird Treaty Act and/or FGC section 3503 are observed within or adjacent to the study area, then the project shall be modified and/or delayed as necessary to avoid direct take of the identified nests, eggs, and/or young. Potential project modifications may include establishing appropriate “no activity” buffers around the nest site. The buffer will be 500 feet for raptors and 250 feet for other bird species, or as otherwise determined and documented by a qualified biologist. Construction activities shall not occur in the buffer until the project biologist has determined that the nesting activity has ceased.
3. Active nests shall be documented and monitored by the project biologist, and a letter report will be submitted to the USFWS and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.

Sensitive Natural Communities

- *Impact 3.4-2: Construction of proposed conveyance pipelines could result in direct and indirect impacts to riparian habitat. Construction of proposed wells could impact riparian habitat associated with Morro Creek and Little Morro Creek. The Project would use trenchless construction methods to install pipelines across Morro Creek to avoid direct impacts, and wells would be sited in upland areas to avoid riparian habitat. Implementation of best management practices during construction would minimize indirect impacts to adjacent riparian areas. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The riparian habitat south of Lila Keiser Park and north of Morro Creek could be indirectly impacted due to installation of the raw wastewater pipeline along the creek, including an area of restored riparian habitat consisting of planted willows, elderberry, and coast live oaks. Installation of the proposed pipeline across the creek could have direct impacts to the riparian habitat as well. In addition, the proposed IPR West and IPR East wellfield

areas may contain areas of riparian habitat associated with Morro Creek (see Final EIR Figure 3.4-2). Installation of proposed injection and monitoring wells and associated pipelines could directly and/or indirectly affect riparian habitat. These impacts would be considered potentially significant.

Construction of the proposed pipeline south of Lila Keiser Park would be sited to avoid riparian habitat adjacent to Morro Creek, as required by **Mitigation Measure BIO-6**. That would avoid direct impacts to riparian habitat. Prior to initiation of ground disturbance, measures would be implemented to identify the limits of construction adjacent to the creek and to delineate riparian areas to be avoided to prevent indirect impacts to riparian habitat. Mitigation Measure BIO-6 identifies the measures to be implemented by a qualified biologist to avoid direct and indirect construction-related impacts to riparian habitat. With implementation of Mitigation Measure BIO-6, impacts would be mitigated to less than significant levels.

Trenchless construction methods would be used to cross sensitive surface features such as Morro Creek; or pipelines could be installed across the creek suspended on existing bridges. **Mitigation Measure BIO-7** includes requirements for trenching to stop at least 50 feet away from jurisdictional features, such as riparian habitat, and for the remaining distance to be installed using trenchless methods such as horizontal directional drilling (HDD), to ensure impacts to riparian habitat are avoided. That measure would also ensure a buffer around riparian habitat during construction that complies with the City's Coastal Land Use Plan. With implementation of Mitigation Measure BIO-6 and BIO-7, impacts to riparian areas at the Morro Creek crossing would be less than significant.

The proposed IPR West and IPR East wellfield areas contain Morro Creek and Little Morro Creek that support riparian habitat; however, the proposed injection and monitoring wells would be located on vacant, disturbed lands owned by the City and would be sited to avoid sensitive habitat areas like riparian habitat. With implementation of **Mitigation Measures BIO-1, BIO-2, BIO-6 and BIO-7**, impacts to riparian areas within the proposed IPR-West and IPR-East wellfields would be less than significant.

Construction/operation of other project components would have less than significant or no impact associated with sensitive natural communities.

Facts in Support of Finding: The City has adopted and will implement the following mitigation measures that will reduce potentially significant Impact 3.4-2 to a less than significant level:

BIO-6: Riparian Habitat Avoidance. During Project design, a qualified biologist shall identify the project boundaries adjacent to Morro Creek and the allowable limits of construction activities to avoid direct and indirect impacts to riparian habitat. Those limits shall be used during Project design to identify a pipeline alignment that avoids impacts to riparian habitat as well as areas to be avoided for siting injection and monitoring wells. During construction, the riparian boundaries and limits shall be clearly flagged or fenced so that contractors are aware of the limits of allowable site access and disturbance. Areas to be preserved should be clearly flagged as off-limits to avoid unnecessary damage and potential erosion.

BIO-7: Trenching Buffer for Jurisdictional Features. During construction of Project pipelines, trenching shall stop at least 50 feet away from jurisdictional features, such as the top of stream banks, riparian habitat and wetlands, and the remaining distance shall be installed using trenchless construction methods, such as horizontal directional drilling.

Wetlands

- *Impact 3.4-3: Construction of proposed conveyance pipelines could result in temporary impacts to wetlands associated with ephemeral drainages; construction of the proposed wells could impact adjacent wetlands associated with Morro Creek and Little Morro Creek. The Project would use trenchless construction methods to install pipelines across wetlands and avoid direct impacts. Siting of the wells in upland areas would avoid direct impacts to wetlands. Implementation of best management practices during construction would minimize indirect impacts to adjacent wetland areas. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Findings: Wetland habitat consistent with the Coastal and Valley Freshwater Marsh and Freshwater Seep described by Holland (1986) was mapped at the terminus of Drainage 1 adjacent to the western pipeline alignment as it travels along the bike path next to Quintana Road (refer to Final EIR Figure 3.4-2) and where Drainage 2A crosses the eastern pipeline alignment (refer to Final EIR Figure 3.4-4). Additionally, the proposed IPR West and IPR East wellfield areas contain Morro Creek and Little Morro Creek and could have adjacent wetlands that have not been identified. Trenching for pipeline installation and well construction could cause direct or indirect temporary impacts to a wetland area, which would be a potentially significant impact.

Impacts would be avoided through construction best management practices (BMPs) that would ensure indirect impacts would not occur. The City would be required to prepare a stormwater pollution prevention plan (SWPPP) for the Project in compliance with the NPDES General Construction Permit. The SWPPP would include BMPs to control erosion, sedimentation, and hazardous materials release. In addition, construction of the Project is also subject to the BMPs included in the City's Storm Water Management Plan to control runoff and protect water quality during the construction period. **Mitigation Measure BIO-8** includes specific BMPs to be incorporated into the SWPPP to minimize impacts to jurisdictional features. With implementation of Mitigation Measures BIO-1, BIO-2, BIO-7, and BIO-8, indirect impacts to wetlands associated with Drainage 1 would be less than significant.

Trenchless construction methods would be used to cross sensitive surface features such as wetlands. With implementation of such methods, impacts to wetlands at Drainage 2A would be avoided. Mitigation Measure BIO-7 includes requirements for trenching to stop at least 50 feet away from jurisdictional features, such as stream banks and wetlands, and for the remaining distance to be installed using trenchless methods such as HDD, to ensure impacts to wetlands are avoided. **Mitigation Measure BIO-9** includes the preparation of a frac-out contingency plan to deal with any inadvertent return of drilling lubricant during HDD beneath wetlands and waterways. With implementation of **Mitigation Measure BIO-1, BIO-2, BIO-7, BIO-8 and BIO-9**, impacts to wetlands at Drainage 2A would be less than significant.

The proposed IPR West and IPR East wellfield areas contain Morro Creek and Little Morro Creek that support riparian habitat and potential wetland areas; however, the proposed injection and monitoring wells would be located on vacant, disturbed lands owned by the City and would be sited to avoid sensitive habitat areas like riparian habitat and wetlands. With implementation of **Mitigation Measures BIO-1, BIO-2, BIO-7, and BIO-8**, avoidance of these features would be ensured and indirect impacts would be minimized. Impacts to wetlands within the proposed IPR West and IPR East wellfields would be less than significant.

Construction/operation of other project components would have less than significant or no impact associated with wetlands.

Finding: The City has adopted and will implement the following mitigation measures that will reduce potentially significant Impact 3.4-3 to a less than significant level:

BIO-8: Construction BMPs to Protect Jurisdictional Features and Aquatic Habitat. The following mitigation measures should be implemented prior to and during construction near Morro Creek and Little Morro Creek, as well as Drainages 1, 1A, 1B, 2, 2A, 2B, 3, 3A, and 3B, and wetlands:

1. Prior to start of construction activities, the applicant should retain a qualified biological monitor to ensure compliance with all permit requirements and avoidance and minimization measures (i.e.: pre-construction surveys, worker environmental training, and construction monitoring) during work within and adjacent to drainage features.
2. The qualified biological monitor will conduct pre-construction surveys to identify any new wetland areas and the expansion of existing wetland to determine their limits. The results will be used in the implementation of Mitigation Measure BIO-7.
3. Prior to issuance of construction permits, an Erosion Control Plan incorporating up to date Best Management Practices should be prepared by the project engineer to minimize impacts to jurisdictional features and aquatic habitats. The plan should address installation and maintenance of both temporary and permanent measures to control erosion and dust, contain spills, protect stockpiles, and generally maintain good housekeeping practices within the worksite. All project plans should show that erosion, sediment, and dust control measures must be installed prior to start of any ground disturbing work.
4. All applicable plans should clearly show project stockpile and materials staging areas. These areas would be at least 50 feet from drainage features, wetlands, and active storm drain inlets, and must conform to BMPs applicable for storm drain protection.
5. Prior to start of work, the contractor should prepare and implement a Spill Prevention Plan to ensure prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur. All project- related hazardous materials spills

within the project site should be cleaned up immediately. Spill prevention and cleanup materials should be on-site at all times during the course of the project.

6. All refueling, maintenance, and washing of equipment and vehicles should occur on paved areas in a location where a spill would not travel onto bare ground or to a storm drain inlet. This fueling/staging area will conform to BMPs applicable to attaining zero discharge of stormwater runoff. At a minimum, all equipment and vehicles must be checked and maintained on a daily basis to ensure proper operation and avoid potential leaks or spills. Washing of equipment should occur only in a location where polluted water and materials can be contained for subsequent removal from the site.
7. A designated concrete washout location should be established onsite, in an area at least 50 feet from any drainage or storm drain inlet. The washout should be maintained and inspected weekly, and will be covered prior to and during any rain event. Concrete debris should be removed whenever the washout container reaches the 1/2 full mark.
8. BMP's for dust abatement shall be a component of the project's construction documents. Dust control requirements should be carefully implemented to prevent water used for dust abatement from transporting pollutants to storm drains leading to the creek channel.
9. During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.

BIO-9: Preparation of a Frac-Out Contingency Plan. A Frac-Out Contingency Plan shall be prepared prior to initiation of construction activities that involve horizontal direction drilling activities. The Frac-Out Plan shall be implemented during HDD construction activities. At a minimum, the Frac-Out Plan will include the following:

1. Minimize the potential for a frac-out associated with horizontal directional drilling activities
2. Provide for the timely detection of frac-outs
3. Protect areas that are considered environmentally sensitive (streams, wetlands, other biological resources, cultural resources)
4. Ensure an organized, timely, and "minimum-impact" response in the event a frac-out and release of drilling mud occurs
5. Ensure that all appropriate notifications are made to the appropriate environmental specialists immediately (e.g., qualified biological monitor), and to appropriate regulatory agencies in 24 hours and that documentation is completed.

Migratory Species and Wildlife Corridors

- *Impact 3.4-4: Construction of the Project could affect southern steelhead, a migratory fish species, in Morro Creek and its critical habitat, as well as native wildlife nursery sites in*

Morro Bay. Implementation of trenchless construction methods to install conveyance pipelines across Morro Creek would avoid direct impacts to steelhead and its habitat. Implementation of a Storm Water Pollution Prevent Plan and best management practices to protect water quality in ephemeral drainages that flow to Morro Creek, Chorro Creek, and Morro Bay would minimize indirect impacts to steelhead and its habitat. This is a Class II impact, Less than Significant with Mitigation.

Facts in Support of the Findings: Seasonal habitat is present in Morro Creek and Chorro Creek for southern steelhead, a migratory species, and Morro Creek is identified by USFWS as critical habitat for the species. As described above under Impacts 3.4-1 and 3.4-2, the Project would not have direct impacts to Morro Creek or aquatic species in Morro Creek because trenchless construction methods would be used to install the conveyance pipelines across the creek. Implementation of Mitigation Measures BIO-7 would also ensure no indirect impacts to Morro Creek would occur during construction of the pipeline crossing by requiring trenching to stop at least 50 feet prior to the top of the stream bank.

Southern steelhead is not expected to occur in the small ephemeral drainages within the study area, but impacts to those features could have detrimental effects downstream in Morro Creek and potentially Chorro Creek and Morro Bay. Proposed project construction may temporarily affect these drainages, but no permanent alteration is expected post-construction. Construction-related impacts to ephemeral drainages could result in potentially significant impacts to aquatic habitat for southern steelhead downstream in Morro Creek or aquatic habitat for native wildlife in Morro Bay.

Ensuring sediment-laden runoff does not leave the preferred and Project sites during construction, and that post-construction runoff is consistent with pre-construction conditions is essential to reduce impacts to water quality. The City would be required to prepare a SWPPP for the Project in compliance with the NPDES General Construction Permit. The SWPPP would include BMPs to control erosion, sedimentation, and hazardous materials release. In addition, construction of the Project is also subject to the BMPs included in the City's Storm Water Management Plan to control runoff and protect water quality during the construction period. Mitigation Measure BIO-8 includes specific BMPs to be incorporated into the SWPPP to minimize impacts to water quality and ensure there are no significant impacts to aquatic habitat downstream of the ephemeral drainages within the project area. With implementation of **Mitigation Measures BIO-1, BIO-2, BIO-7, BIO-8, and BIO-9**, impacts to migratory wildlife or native wildlife nursery sites would be less than significant.

Finding: The City has adopted and will implement **Mitigation Measures BIO-1, BIO-2, BIO-7, BIO-8, and BIO-9** to reduce potentially significant Impact 3.4-4 to a less than significant level. These Mitigation Measures are included above for Impacts 3.4-1 (BIO-1 and BIO-2), 3.4-2 (BIO-7), and 3.4-3 (BIO-8 and BIO-9) above.

Local Policies and Ordinances

- *Impact 3.4-5: Construction of the Project could affect streams, which are designated as Environmentally Sensitive Habitat Areas. The Project would use trenchless construction methods to install pipelines across streams and avoid direct impacts. Implementation of best*

management practices during construction would minimize indirect impacts to streams. While no trees are expected to be removed, construction of the Project could impact protected trees within the City limits. Protection measures would be put in place to avoid impacts from construction activities. This would be a Class II impact, Less than Significant with Mitigation.

Facts in Support of the Findings:

ESHA. The City Coastal Land Use Plan (CLUP) Chapter XII provides definitions of ESHA within the City limits, and identifies coastal streams and riparian areas as follows: "*A Stream or a River is a natural watercourse as designated by a solid line or dash and three dots symbol as shown on the USGS Survey map most recently published, or any well- defined channel with distinguishable bed and bank that shows evidence of having contained flowing water as indicated by scour or deposit of rock, sand, gravel, soil, or debris.*" The County also includes coastal streams and wetlands in its description of ESHA. As such, Morro Creek and the ephemeral drainages would be considered coastal stream ESHA. Construction of the proposed WRF and conveyance pipelines have the potential to result in temporary direct and indirect significant impacts to Morro Creek, ephemeral drainages, and wetlands as described above under Impact 3.4-2 and Impact 3.4-3. Implementation of **Mitigation Measures BIO-1, BIO-2, BIO-6, BIO-7, BIO-8, and BIO-9** would ensure there are no significant impacts to Morro Creek or ephemeral drainages, and as such, impacts to ESHA would be less than significant.

While the County LCP does identify rare or unusual native plant communities as ESHA, it does not specifically state native perennial grasslands shall be protected. While native grasslands dominated by purple needlegrass are relatively common in the general area (KMA personal observation), the small occurrences of native bunchgrass grassland in the WRF site study area site were intermixed with San Luis Obispo owl's clover, a special-status plant, and therefore should be considered ESHA. However, the proposed WRF facility would be developed outside of the areas that support San Luis Obispo owl's clover and purple needlegrass, and as such its construction would not impact the ESHA. And no mitigation is required.

Public Trees. Ornamental trees such as blue gum eucalyptus and Monterey cypress are present along the proposed western and eastern pipeline alignments within the City's limits. Depending on the location of the pipeline to the proposed WRF, trees may or may not be impacted. It is anticipated all trees would be avoided by the Project, and those within 25 feet of the limits of disturbance would have protective measures put in place to ensure they remain uninjured during the course of construction. No direct removal of protected trees is expected from the operation of the Project. To minimize impacts during construction, **Mitigation Measure BIO-10** will be implemented to protect any adjacent trees from construction activities. With implementation of Mitigation Measure BIO-10, impacts to protected trees would be less than significant.

Finding: The City has adopted and will implement **Mitigation Measures BIO-1, BIO-2, BIO-6, BIO-7, BIO-8, BIO-9, and BIO-10** reduce Impact 3.4-5 to a less than significant level. These Mitigation Measures are included above for Impacts 3.4-1 (BIO-1 and BIO-2), 3.4-2 (BIO-6 and BIO-7), and 3.4-3 (BIO-8 and BIO-9) above. **Mitigation Measure BIO-10** is described below:

BIO-10: Tree Protection. For public trees, protection will be established at a minimum distance of 1.5 times the dripline (*i.e.*, the distance from the trunk to the outermost limits of leaves and branches). During development, orange construction fencing or sufficient staking to identify the protection area will surround each tree or clusters of trees.

5.4.4 Cultural Resources

Paleontological Resources

- *Impact 3.5-2: Construction-related excavation for the Project could affect a unique paleontological resource. Implementation of worker training and monitoring during construction would reduce the potential for adverse effects to paleontological resources. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The proposed and preferred project sites are underlain by a variety of geologic units, all of which have low to no paleontological sensitivity (refer to Final EIR Table 3.5-1). However, the portions of those sites underlain by alluvial gravel (Qa) and beach and dune sands (Qs) increase sensitivity at depth since higher sensitivity older sediments may underlie them. The LACM did not identify any fossil localities within the project site, but two fossil localities (LACM 5903 and 5790) were identified within older Quaternary deposits located approximately 2 miles and 22 miles from the project site, respectively. Fossil locality LACM 5903 produced a fossil specimen of mastodon (*Mammutidae*) in stream gravels at a depth of 6 feet below the ground surface. Fossil locality LACM 5790 produced a fossil specimen of mammoth (*Mammuthus*) at shallow but unstated depth (Draft EIR, page 3.5-30).

WRF. The preferred WRF site is underlain by alluvial gravel (Qa), Franciscan rocks, mélange (fm), and serpentine (sp), which have low or no paleontological sensitivity. The portions of the proposed WRF located on alluvial gravel (Qa) increase sensitivity at depth since higher sensitivity older sediments may underlie the younger deposits. If construction-related excavation for the proposed WRF extends into older deposits, then it could impact unique paleontological resources. Implementation of **Mitigation Measures CUL-10 through CUL-13** would reduce impacts to less than significant.

Lift Station. The proposed lift station is underlain by alluvial gravel (Qa), which has low paleontological sensitivity. However, sensitivity increases at depth since higher sensitivity older sediments may underlie the younger deposits. If construction-related excavation for the proposed lift station extends into older deposits, then it could impact unique paleontological resources. Implementation of **Mitigation Measures CUL-10 through CUL-13** would reduce impacts to less than significant.

Conveyance Pipelines. The proposed conveyance pipelines are underlain by alluvial gravel (Qa), beach and dune sands (Qs), and Franciscan rocks, mélange (fm), which have low or no paleontological sensitivity. The portions of the proposed conveyance pipelines located on alluvial gravel (Qa) and beach and dune sands (Qs) increase sensitivity at depth since higher sensitivity older sediments may underlie the younger deposits. If construction-related excavation for the conveyance pipelines extends into older deposits, then it could impact unique paleontological

resources. Implementation of **Mitigation Measures CUL-10 through CUL-13** would reduce impacts to less than significant.

Injection and Monitoring Wells. The proposed IPR East and IPR West wellfield areas are underlain by alluvial gravel (Qa), Franciscan rocks, greenstone (fg) and Franciscan rocks, graywacke sandstone (fs), which have low or no paleontological sensitivity. The portions of the proposed IPR East and IPR West wellfield areas located on alluvial gravel (Qa) increase sensitivity at depth since higher sensitivity older sediments may underlie the younger deposits. If construction-related excavation for the proposed injection and monitoring wells extends into older deposits, then it could impact unique paleontological resources. Implementation of **Mitigation Measures CUL-10 through CUL-13** would reduce impacts to less than significant.

Decommissioning of Current WWTP. The WWTP is underlain by alluvial gravel (Qa) and beach and dune sands (Qs), which have low paleontological sensitivity. Those sediments increase sensitivity at depth since higher sensitivity older sediments may underlie the younger deposits. Ground-disturbance associated with decommissioning of the current WWTP includes removal of pipelines from at least 4-5 feet below ground surface. If construction-related excavation for the decommissioning of the WWTP extends into older deposits, then it could impact unique paleontological resources. Implementation of **Mitigation Measures CUL-10 through CUL-13** would reduce impacts to less than significant.

Operation – All Facilities. Although there is unlikely to be ground disturbance associated with the operation of the Project facilities, there is potential ground disturbance could occur during maintenance or repair of these facilities. If ground disturbance occurred within areas that have not been previously disturbed extend into paleontologically sensitive sediments, then there is the potential to impact unique paleontological resources. Implementation of **Mitigation Measures CUL-13** would reduce impacts to less than significant.

Finding: The City has adopted and will implement **Mitigation Measures CUL-10 through CUL-13** to reduce potentially significant Impact 3.5-2 to a less than significant level. These include:

CUL-10: Retention of a Qualified Paleontologist. Within 60 days prior to the start of any ground-disturbing activity (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the City shall retain a paleontologist who meets the SVP Standards (SVP, 2010) (Qualified Paleontologist) to carry out all mitigation measures related to paleontological resources.

CUL-11: Paleontological Resources Sensitivity Training. The Qualified Paleontologist, or his/her designee, shall conduct construction worker paleontological resources sensitivity training prior to the start of ground disturbing activities. In the event construction crews are phased, additional trainings shall be conducted for new construction personnel. The training session shall focus on the recognition of the types of paleontological resources that could be encountered within the project site and the procedures to be followed if they are found. The City shall ensure construction personnel are made available for and attend the training and retain documentation demonstrating attendance. That training may be conducted in

coordination with construction worker cultural resources sensitivity training required by CUL-6.

CUL-12: Paleontological Resources Monitoring. All ground disturbance in excess of 5 feet within areas that are mapped as younger alluvial gravel (Qa) and beach and dune sands (Qs) shall be monitored on a full-time basis during initial ground disturbance. The Qualified Paleontologist shall spot check the excavation on an intermittent basis and recommend whether the depth of required monitoring should be revised based on his/her observations. If the Qualified Paleontologist determines full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, then the Qualified Paleontologist may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Paleontological resources monitoring shall be performed by a qualified paleontological monitor (meeting the standards of the SVP, 2010) under the direction of the Qualified Paleontologist. Monitors shall have the authority to temporarily halt or divert work away from exposed fossils in order to recover the fossil specimens. Any significant fossils collected during project-related excavations shall be prepared to the point of identification and curated into an accredited repository with retrievable storage. Monitors shall prepare daily logs detailing the types of activities and soils observed, and any discoveries. The Qualified Paleontologist shall prepare a Paleontological Resources Monitoring Report detailing the locations of monitoring and any discoveries. The report shall be submitted to the City within 60 days after completion of the monitoring program, or treatment for significant discoveries should treatment extend beyond the cessation of monitoring.

CUL-13: Inadvertent Discovery of Fossils. If construction or other Project personnel discover any potential fossils during construction, regardless of the depth of work or location, then work at the discovery location shall cease in a 50-foot radius of the discovery until the Qualified Paleontologist has assessed the discovery and made recommendations as to the appropriate treatment. If the find is deemed significant, it shall be salvaged following the standards of the SVP (2010) and curated with a certified repository.

5.4.5 Geology

Earthquakes

- *Impact 3.6-1: The geologic conditions at the Project sites include potential for seismic-induced ground shaking, liquefaction, and landslides that could damage structures or cause injury to employees at manned facilities. However, implementation of engineering design criteria as specified by required geotechnical investigations would reduce the risk of loss, injury, or death. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding:

Fault Rupture and Seismic Ground Shaking. None of the Project facilities would be located within an Alquist-Priolo Fault Zone and thus not located adjacent to an active fault that would be susceptible to fault rupture. However, the entire Project area lies within a region that is seismically active. Multiple “potentially active” faults are located near the Project area, such as the Cambria Fault; the closest “active fault” to the Project area is the Los Osos fault, approximately 8 miles southwest. Ground shaking could result in structural damage to new facilities, which in turn could affect operation of related systems. Most of the Project’s facilities are non-habitable; however, full time employees would be on-site at the proposed WRF and may

need to access the various facilities for maintenance or manual control purposes. Therefore, structural and mechanical failure of Project facilities onset by seismic ground shaking could occur and would potentially threaten the safety of on-site workers. This would be a potentially significant impact.

The City has prepared a Preliminary Geotechnical Investigation for the proposed WRF site (see Appendix E). During the design process for the proposed WRF and all other facilities, site-specific geotechnical investigations would be implemented to determine the geologic conditions and associated design requirements needed to ensure the new facilities would withstand ground shaking. With implementation of **Mitigation Measure GEO-1**, which requires the preparation of site-specific geotechnical investigations and incorporation of structural recommendations into facility designs, potential impacts associated with ground shaking would be reduced to less than significant levels.

Liquefaction. All project facilities except the WRF site would be located within a Seismic Hazard Zone for liquefaction and are areas designated as having moderate to high liquefaction potential (Draft EIR, page 3.6-15). Thus, in the event of a large earthquake with a high acceleration of seismic shaking, the potential for liquefaction exists. As a result, structural damage could occur to the lift station, conveyance pipelines, and injection and monitoring wells. This would be a potentially significant impact. There would be no impact to the WWTP once it is deconstructed and decommissioned.

Mitigation Measure GEO-1 would require project components to undergo a design level geotechnical investigation and be designed to resist damage from seismic shaking. All geotechnical recommendations provided by the Project geotechnical engineer would be incorporated into Project designs in areas where liquefiable soils are identified, if applicable. Implementation of Mitigation Measures GEO-1 would reduce potential impacts related to liquefaction to less than significant levels.

Landslides. According to the Project's Preliminary Geotechnical and Geologic Hazards Report, there is no evidence of landslides in the area to be developed for the proposed WRF. However, small superficial landslides have occurred just northwest of the proposed WRF site, and the proposed WRF site is located within a State-designated Seismic Hazard Zone for Earthquake Induced-Landslides (Draft EIR, page 3.6-16). Therefore, there is potential for seismically-induced landslides to occur within and around the proposed WRF site. As a result, structural damage could occur to the proposed WRF. This would be a potentially significant impact.

Implementation of **Mitigation Measure GEO-1** would require Project components undergo a final geotechnical investigation and be designed to resist damage from seismic shaking including seismically-induced landslides. All geotechnical recommendations provided by the Project geotechnical engineer would be incorporated into Project designs in areas where high landslide susceptibility is identified. Implementation of Mitigation Measure GEO-1 would control the design and location of buildings and structures in order to safeguard the public and reduce potential impacts related to landslides to less than significant.

Construction/operation of all other project components would have less than significant or no impact associated with earthquakes.

Finding: The City has adopted and will implement the following mitigation measures to reduce potentially significant Impact 3.6-1 to a less than significant level:

GEO-1: Geotechnical Investigation. A geotechnical investigation shall be prepared by a certified engineer for all facilities involving substantial ground disturbance or excavation. The investigation shall assess geologic and seismic hazards, including but not limited to, subsidence, liquefaction, landslide, expansive soil potential and collapsible soil potential of each facility site. Structural mitigation recommendations provided in the geotechnical investigation shall be incorporated into the design of the facility prior to construction. The contents of the geotechnical investigation shall vary depending on the jurisdiction and risks associated with each facility's location.

Soil Erosion or Topsoil Loss

- *Impact 3.6-2: Construction of Project facilities would result in ground disturbance and exposure of soils to erosion. Implementation of best management practices during construction and site restoration post- construction would minimize the potential for soil erosion or loss of top soil. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: For the conveyance pipelines, after construction is complete, the trenches would be backfilled with soils that could be subject to erosion at the surface. This would be a potentially significant impact. To prevent erosion from occurring after the construction of pipelines is complete, the area of disturbance would be restored to pre-construction conditions. Such restoration would minimize potential impacts associated with erosion. In addition, post-construction best management practices would be implemented as necessary in accordance with the NPDES General Construction Permit, to ensure erosion is controlled during project operation. Implementation of **Mitigation Measure GEO-2** would require post-construction restoration. Impacts would be considered less than significant after implementation of Mitigation Measure GEO-2.

Construction/operation of all other project components would have less than significant or no impact associated with soil erosion or topsoil loss.

Finding: The City has adopted and will implement the following mitigation measures to reduce potentially significant Impact 3.6-2 to a less than significant level:

GEO-2: Post-Construction Site Restoration. After construction of project pipelines, disturbed areas shall be managed to control erosion, including without limitation: repaving areas within roadways, restoring vegetated areas, and regrading surfaces to minimize changes in drainage patterns.

Geologic Instability

- *Impact 3.6-3: The geologic conditions at various Project sites include potential for liquefaction, landslides, lateral spreading, and collapsible soils. However, implementation of engineering design criteria as specified by required geotechnical investigations would reduce the potential for the Project to result in unstable soils. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding:

WRF. There is potential for landslides at the WRF site. The Preliminary Geotechnical Report explained that the upper several feet of soils at the site are not considered suitable for supporting proposed improvements without modification (Draft EIR, page 3.6-16). Therefore, impacts related to landslides are potentially significant. Implementation of Mitigation Measure GEO-1 would require Project components to undergo a final geotechnical investigation and be designed to resist damage from landslides. All geotechnical recommendations provided by the Project geotechnical engineer would be incorporated into Project designs in areas where high landslide susceptibility is identified. Implementation of Mitigation Measure GEO-1 would control the design and location of buildings and structures in order to safeguard the public and reduce potential impacts related to landslides to less than significant.

Lift Station, Conveyance Pipelines, Injection and Monitoring Wells, and Decommissioning of Current WWTP. The lift station, conveyance pipelines, injection and monitoring wells, and current WWTP site are subject to liquefaction as discussed under Impact 3.6-1, and could result in collapsible soils. Because these areas are subject to liquefaction, there is also a potential for lateral spreading. No on- or off-site landslides would occur within these areas because the sites are relatively flat. Due to the characteristics of the soils and geology, the Project could be exposed to liquefaction, collapsible soils and lateral spreading and result in damage from unstable soils if not designed appropriately. This is a potentially significant impact.

Implementation of **Mitigation Measure GEO-1** would require that project components undergo a final geotechnical investigation and be designed to resist damage from geologic hazards, such as liquefaction, collapsible soils, and lateral spreading. All geotechnical recommendations provided by the Project geotechnical engineer would be incorporated into Project designs. Implementation of Mitigation Measure GEO-1 would control the design and location of buildings and structures in order to safeguard the public and reduce potential impacts related to liquefaction, collapsible soils, and lateral spreading to less than significant.

Finding: The City has adopted and will implement **Mitigation Measure GEO-1**, which is included above for Impact 3.6-1; Mitigation Measure GEO-1 will reduce potentially significant Impact 3.6-3 to a less than significant level.

Expansive Soils

- *Impact 3.6-4: The Project facilities could be located on expansive soils, which could create risks to life or structures. However, implementation of engineering design criteria as specified by required geotechnical investigations would reduce the risk of loss or injury. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding:

WRF. When expansive soils swell, the change in volume can exert significant pressures on loads that are placed on them, such as loads resulting from structure foundations or underground utilities, and can result in structural distress and/or damage. Near-surface samples of soil from the proposed WRF site consists of sandy lean clay, sandy fat clay, decomposed greywacke, and clayey sand. The soils are characterized as having moderate shrink-swell potential (moderately expansive) (Draft EIR, page 3.6-8). The presence of expansive soils could decrease the structural stability of the proposed WRF facilities, which could result in structural or operational failure of proposed facilities and/or threaten the health and safety of on-site workers. This is a potentially significant impact.

Impacts associated with geologic site conditions are mitigated through engineering design criteria that ensure structures are built to withstand hazards such as expansive soils. Preparation of a site-specific geotechnical investigation would provide the appropriate geotechnical requirements to include in facility design criteria. Implementation of **Mitigation Measure GEO-1** would require preparation of site-specific geotechnical investigations that would include corrective actions for potential expansive soils. In addition, the Project would be subject to the CBC which controls the design and location of facilities in order to safeguard the public. With implementation of Mitigation Measure GEO-1, impacts related to expansive soils would be less than significant.

Lift Station, Conveyance Pipelines, Injection and Monitoring Wells, and Decommissioning of Current WWTP. The soils within the areas where the proposed lift station, conveyance pipelines, wells, and existing WWTP sites would be located consist of unconsolidated sands, clays and fill materials from prior development. Sandy soils and fill are not typically expansive; however, clay soils exhibit expansive properties and may also underlay areas of fill materials. If project components are located on expansive soils, the structural stability of proposed facilities could decrease, resulting in structural or operational failure. This is a potentially significant impact.

As described above, impacts associated with geologic site conditions are mitigated through engineering design criteria that ensure structures are built to withstand hazards such as expansive soils. Preparation of a site-specific geotechnical investigation would provide the appropriate geotechnical requirements to include in facility design criteria. Implementation of Mitigation Measure GEO-1 would require preparation of site-specific geotechnical investigations that would include corrective actions for potential expansive soils. In addition, the Project would be subject to the CBC which controls the design and location of facilities in order to safeguard the public. With implementation of Mitigation Measure GEO-1, impacts related to expansive soils would be less than significant.

Finding: The City has adopted and will implement **Mitigation Measure GEO-1**, which can be found above for Impact 3.6-1; Mitigation Measure GEO-1 will reduce Impact 3.6-4 to a less than significant level.

5.4.6 Hazards

Emergency Response

- *Impact 3.8-6: Construction of Project components within public rights-of-way could result in partial or full lane closures and/or blocked access to roadways, which could physically interfere with an emergency response or evacuation plan. However, implementation of a Traffic Control Plan would require construction contractors to notify emergency responders including the City's Fire Department, Police Department and ambulances of planned road closures and roadway blockages. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: Construction of the collection and distribution systems would occur within public right-of-way (ROW), adjacent to roadways, and on City-owned property. Construction activities within the roadway ROW would require either partial or full lane closures and/or blocked access to roadways, which could physically interfere with an emergency response or evacuation plan. **Mitigation Measure TRAF-1** would require construction contractors to notify emergency responders including the City's Fire Departments, Police Department and ambulances of planned road closures and roadway blockages as part of the Traffic Control Plan. With incorporation of Mitigation Measure TRAF-1, impacts related to interfering with emergency response or evacuation plans would be reduced to a less than significant level.

Construction/operation of all other project components would have less than significant or no impact associated with emergency response.

Finding: The City has adopted and will implement **Mitigation Measure TRAF-1** to reduce potentially significant Impact 3.8-6 to a less than significant level.

TRAF-1: Traffic Control Plan. Prior to the start of construction of project components that would occur within a roadway right-of-way, the City shall require the construction contractor to prepare a Traffic Control Plan. The Traffic Control Plan will show all signage, striping, delineated detours, flagging operations and any other devices that will be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate access and circulation to the satisfaction of the City's Public Works Director and Fire and Police Chiefs. When construction activities disrupt travel on major collectors or arterials, electronic signing shall be used to provide the public, on all transportation modes, with current construction information and the availability of alternate travel routes.

The Traffic Control Plan will be prepared in accordance with the City's traffic control guidelines and will be prepared to ensure that access will be maintained to individual properties, and that emergency access will not be restricted. Additionally, the Traffic Control Plan shall also include a scheduling plan showing the hours of operation to minimize congestion during the peak hours and special events. The scheduling plan will ensure that congestion and traffic delay are not substantially increased as a result of the construction activities. Further, the Traffic Control Plan will include detours or alternative routes for bicyclists using on-street bicycle lanes as well as for pedestrians using adjacent sidewalks.

In addition, the City shall provide written notice at least two weeks prior to the start of construction to owners/occupants along streets to be affected during construction. During construction, the City will maintain continuous vehicular and pedestrian access to any affected residential driveways from the public street to the private property line, except where necessary construction precludes such continuous access for reasonable periods of time. Access will be reestablished at the end of the workday. If a driveway needs to be closed or interfered with as described above, the City shall notify the owner or occupant of the closure of the driveway at least five working days prior to the closure.

The Traffic Control Plan shall include provisions to ensure that the construction of the lift station, conveyance pipelines, and the IPR injection and monitoring wells do not interfere unnecessarily with the work of other agencies such as mail delivery, school buses, and municipal waste services.

The City shall also notify local emergency responders of any planned partial or full lane closures or blocked access to roadways or driveways required for construction of the Project facilities. Emergency responders include fire departments, police departments, and ambulances that have jurisdiction within the Project area. Written notification and disclosure of lane closure location must be provided at least 30 days prior to the planned closure to allow for emergency response providers adequate time to prepare for lane closures.

5.4.7 Hydrology

Alteration of Drainage Patterns

- *Impact 3.9-4: Installation of the Project components would alter topography and drainage patterns at each site; however, compliance with the City's Storm Water Management Plan and other NPDES regulatory requirements would minimize erosion, siltation, and flooding onsite and offsite. Implementation of mitigation requiring post-construction restoration of conveyance pipeline alignments would also ensure long-term impacts associated with erosion, siltation or flooding during storm events would be minimized. This is a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: Once constructed, Project pipelines would be underground. The trenches or tunnels that would be created to install the pipelines would be backfilled and the residual post-construction disturbance at the ground surface could alter the local topography and drainage, resulting in onsite and offsite erosion, siltation, or flooding during storm events. That is a potentially significant impact.

To mitigate that potential impact, after construction is complete, the area of disturbance for conveyance pipelines would be restored in accordance with **Mitigation Measure GEO-2** such that there would be negligible change to drainage patterns. The result would be a less than significant impact with mitigation related to erosion, siltation or flooding.

Construction/operation of all other project components would have less than significant or no impact associated with alteration of drainage patterns.

Finding: The City has adopted and will implement **Mitigation Measure GEO-2** to reduce potentially significant Impact 3.9-4 to a less than significant level.

GEO-2: Post-Construction Site Restoration. After construction of project pipelines, disturbed areas shall be managed to control erosion, including without limitation: repaving areas within roadways, restoring vegetated areas, and regrading surfaces to minimize changes in drainage patterns.

5.4.8 Noise

Compliance with Noise Standards

- *Impact 3.11-1: Construction of the proposed injection and monitoring wells would require continuous drilling for 24-hour periods, at noise levels in excess of standards established in the Morro Bay Municipal Code. Implementation of a Construction Noise Reduction Plan approved by the City's building official would reduce noise levels to acceptable levels. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The construction activities associated with the proposed injection/monitoring wells would occur within the jurisdiction of the City. The City's noise ordinance exempts activities associated with construction provided they occur from 7:00 a.m. to 7:00 p.m. Monday through Friday or from 8:00 a.m. to 7:00 p.m. Saturday or Sunday. Construction activities that occur outside of these construction exempt hours must submit an application to the City's building official requesting permission to work outside the allowed construction hours. Construction of injection wells would include site preparation, mobilization of equipment to the well site, well drilling, water quality testing, installation of the well casing, gravel packing and finishing with a cement seal. For approximately one month, daily 24-hour drilling would be required. To drill the well, the drill rig must run 24 hours-a-day. The nearest sensitive receptors to the wells sites could be exposed to construction-related noise levels outside of the allowed construction hours provided in the City's noise ordinance. This would be a potentially significant impact.

To address potential impacts, the City would prepare and implement a Construction Noise Reduction Plan, that would be submitted and approved by the City's building official in accordance with Subdivision 9.28.030. I. of the Morro Bay Municipal Code (MBMC). The Construction Noise Reduction Plan would demonstrate that no loss or inconvenience would result to any party of interest as a result of project construction. Implementation of the Plan as required by **Mitigation Measure NOISE-1** would ensure well drill activities would not result in a violation of the MBMC. Therefore, this impact would result in a less than significant impact after mitigation.

Construction/operation of all other project components would have less than significant or no impact associated with noise standard compliance.

Finding: The City of Morro Bay has adopted and will implement **Mitigation Measure NOISE-1** to reduce potentially significant Impact 3.11-1 to a less than significant level.

NOISE-1: Construction Noise Reduction Measures. The City shall develop and submit a Construction Noise Reduction Plan to the building official prior to initiating construction activities during hours that are not included in the exemption under the MBMC. The City or its contractor shall implement the Construction Noise Reduction Plan. A disturbance coordinator shall be designated for the project to implement the provisions of the Plan. At a minimum, the Construction Noise Reduction Plan shall implement the following measures:

- Distribute to the potentially affected residences and other sensitive receptors within 150 feet of project construction boundary a “hotline” telephone number, which shall be attended during active construction working hours, for use by the public to register complaints. The distribution shall identify a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints and institute feasible actions warranted to correct the problem. All complaints shall be logged noting date, time, complainant’s name, nature of complaint, and any corrective action taken. The distribution shall also notify residents adjacent to the project site of the construction schedule.
- All construction equipment shall have intake and exhaust mufflers recommended by the manufacturers thereof, to meet relevant noise limitations.
- Maintain maximum physical separation, as far as practicable, between noise sources (construction equipment) and sensitive noise receptors. Separation may be achieved by locating stationary equipment to minimize noise impacts on the community.
- Impact tools (e.g., jack hammers, pavement breakers) used during construction activities will be hydraulically or electrically powered where feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used.
- Use construction noise barriers such as paneled noise shields, blankets, or enclosures adjacent to noisy stationary equipment. Noise control shields, blankets or enclosures shall be made featuring a solid panel and a weather-protected, sound-absorptive material on the construction-activity side of the noise shield.

Compliance with Noise Standards

- *Impact 3.11-2: Operation of the proposed injection wells in close proximity to sensitive receptors could generate noise in excess of standards established in the Morro Bay Municipal Code. A qualified noise consultant will determine the noise reduction measures to be incorporated into project design to ensure noise levels would not exceed the City’s daytime and nighttime noise standards. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The stationary noise sources associated with the proposed injection wells in either the IPR West or IPR East areas would include the pump motors and emergency backup generators. Assuming both the pump motors and emergency backup generator are operating at the same time and are fully enclosed, the nearest sensitive receptor to one of the proposed injection wells could be exposed to a noise level of 63 dBA L_{eq} during operation, which would exceed the City's daytime and nighttime noise standards. There would be a potentially significant impact with respect to exposure of persons to, or generation of, noise levels in excess of standards found in the General Plan.

Prior to final design of the proposed injection wells, the City would prepare an Operational Noise Reduction Plan demonstrating the proposed wells would not expose the nearest sensitive receptor to noise levels that would exceed the City's daytime and nighttime noise standards (see Final EIR Table 3.11-4). The Operational Noise Reduction Plan would be prepared by a qualified noise consultant. Once all noise reduction measures outlined in the Operational Noise Reduction Plan are implemented, the City would measure noise at the nearest sensitive receptor property line to validate the effectiveness of the measures and to demonstrate that operational noise levels are below the City's noise standards. Implementation of the Operational Noise Reduction Plan, as required by **Mitigation Measure NOISE-2**, would reduce the Project's impact to a less than significant level.

Construction/operation of all other project components would have less than significant or no impact associated with noise standard compliance.

Finding: The City has adopted and will implement **Mitigation Measure NOISE-2** to reduce potentially significant Impact 3.11-2 to a less than significant level.

NOISE-2: Operational Noise Reduction Measures. Prior to final design of the proposed injection wells, the City shall prepare an Operational Noise Reduction Plan demonstrating that the proposed injection wells will not expose the nearest sensitive receptor to noise levels that would exceed the City's daytime and nighttime noise standards (see Final EIR Table 3.11-4). The operational noise reduction plan shall be prepared by a qualified noise consultant. Once all noise reduction measures outlined in the Operational Noise Reduction Plan are implemented, the City shall measure noise at the nearest sensitive receptor property line to validate the effectiveness of the measures and to demonstrate that operational noise levels are below the City's noise standards.

Ambient Noise Levels

- *Impact 3.11-4: Operation of the proposed injection wells in close proximity to sensitive receptors could result in a substantial permanent increase in ambient noise levels. A qualified noise consultant will determine the noise reduction measures to be incorporated into project design to ensure operational noise levels do not exceed the City's daytime and nighttime noise standards. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The stationary noise sources associated with the proposed injection wells in either the IPR West or IPR East wellfield areas would include the pump motors and emergency backup generators. Assuming that both the pump motors and emergency backup generator are operating at the same time and are fully enclosed, the nearest sensitive receptor to the proposed injection/monitoring wells would be exposed to operational noise that would exceed the applied 5-dB substantial increase threshold. There would be a potentially significant impact with respect to substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

As described for Impact 3.11-2, prior to final design of the proposed injection wells, the City would prepare an Operational Noise Reduction Plan demonstrating that the proposed wells would not expose the nearest sensitive receptor to noise levels that would exceed the City's daytime and nighttime noise standards. The Operational Noise Reduction Plan would be prepared by a qualified noise consultant. Once all noise reduction measures outlined in the Operational Noise Reduction Plan are implemented, the City would measure noise at the nearest sensitive receptor property line to validate the effectiveness of the measures and to demonstrate that operational noise levels are below the City's noise standards, which would mitigate any increases in ambient noise. Implementation of the Operational Noise Reduction Plan, as required by **Mitigation Measure NOISE-2**, would reduce the Project's impact to a less than significant level.

Construction/operation of all other project components would have less than significant or no impact associated with ambient noise levels.

Finding: The City has adopted and will implement **Mitigation Measure Noise-2**, included above for Impact 3.11-2, which will reduce potentially significant Impact 3.11-4 to a less than significant level.

Permanent Increases in Ambient Noise Levels

- *Impact 3.11-5: Construction of the proposed injection and monitoring wells would require continuous drilling for 24-hour periods, which would result in temporary increases in ambient noise levels. Implementation of a Construction Noise Reduction Plan approved by the City's building official would reduce noise levels to acceptable levels. This would be a Class II impact, Less than Significant with Mitigation.*

Facts in Support of the Finding: The sensitive receptors located within 50 feet of the proposed injections/monitoring wells would be exposed to noise levels of 80 dBA L_{eq} during construction. Although construction noise levels would not exceed the applied 90 dBA L_{eq} temporary substantial noise increase threshold, nighttime drilling at the proposed well sites could expose nearby sensitive receptors to levels that would interfere with sleep or result in human annoyance. There would be a potentially significant impact with respect to temporary substantial increase in ambient noise levels in the Project vicinity above levels existing without the Project.

To reduce noise levels during drilling of the proposed injection and monitoring wells, the City would prepare and implement a Construction Noise Reduction Plan, that would be submitted and approved by the City's building official in accordance with Subdivision 9.28.030 I. of the

MBMC. The Construction Noise Reduction Plan would demonstrate that no loss or inconvenience would result to any party of interest, such as neighboring sensitive receptors. Measures to be implemented would include a noise disturbance coordinator responsible for fielding noise complaints and instituting feasible corrections; locating construction equipment as far away from sensitive receptors as possible; and using noise barriers such as acoustic shields, blankets or enclosures. Implementation of the Plan as required by **Mitigation Measure NOISE-1** would reduce temporary construction noise and minimize disturbance to sensitive receptors. Therefore, this impact would result in a less than significant impact after mitigation.

Construction/operation of all other project components would have less than significant or no impact associated with ambient noise levels.

Finding: The City has adopted and will implement **Mitigation Measure NOISE-1**, included above for Impact 3.11-1, which will reduce potentially significant Impact 3.11-5 to a less than significant level.

5.4.9 Traffic

Circulation System and Congestion Management

- *Impact 3.14-1: Construction of the Project would result in partial lane closures, which could significantly impact the operations of the local and regional circulation systems. However, implementation of a Traffic Control Plan would reduce impacts to a less than significant level. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: The Project would construct a new lift station near the existing WWTP, a raw wastewater and brine/wet weather discharge pipeline from the proposed lift station to the proposed WRF site, and IPR injection and monitoring wells with a proposed recycled water pipeline to the preferred WRF site. Construction of these project components may require partial closure of traffic lanes, which could significantly impact the performance of applicable roadways. This would be a potentially significant impact.

In order to reduce impacts to roadway performance during construction of the lift station, conveyance facilities, and the IPR injection and monitoring wells, the City would be required to prepare and implement a Traffic Control Plan. The Traffic Control Plan would include, but not be limited to, signage, striping, delineated detours, flagging operations, changeable message signs, delineators, arrow boards, and K-Rails that will be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate access and circulation to the satisfaction of the City Traffic Engineer. With implementation of the Traffic Control Plan, as required by **Mitigation Measure TRAF-1**, impacts to the local and regional circulation systems during construction would be reduced to less-than-significant levels.

Construction/operation of all other project components would have less than significant or no impact associated with Morro Bay's circulation system and traffic congestion.

Finding: The City has adopted and will implement **Mitigation Measure TRAF-1**, included above for Impact 3.8-6, which will reduce potentially significant Impact 3.14-1 to a less than significant level.

Hazardous Design Features

- *Impact 3.14-3: Construction of the Project would result in partial lane closures, which could significantly impact the operations of the local and regional circulation systems. However, implementation of a Traffic Control Plan would reduce impacts to a less than significant level. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: Construction of the lift station, conveyance facilities, and IPR injection and monitoring wells could require partial lane closures, which could introduce roadway hazards to passing motorists. This would be a potentially significant impact.

Implementation of a Traffic Control Plan as mitigation for roadways which require partial closures during construction would minimize the effects on roadway safety. The Traffic Control Plan would include signage, striping, delineated detours, flagging operations and other devices to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate access and circulation to the satisfaction of the City of Morro Bay Traffic Engineer. With implementation of the Traffic Control Plan, as required by **Mitigation Measure TRAF-1**, construction of the Project would not result in a hazardous design feature. Impacts during construction would be less than significant with mitigation.

Construction/operation of all other project components would have less than significant or no impact associated with hazardous design features.

Finding: The City has adopted and will implement **Mitigation Measure TRAF-1**, included above for Impact 3.8-6, which will reduce potentially significant Impact 3.14-3 to a less than significant level.

Emergency Access

- *Impact 3.14-4: Construction of the Project would include temporary partial lane closures, which could significantly impact emergency access in proximity to the project components. However, implementation of the Traffic Control Plan would require coordination with emergency responders, which include the fire department, police department, and ambulances to ensure adequate emergency access is provided. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: Construction of the collection system and IPR injection and monitoring wells wouldn't significantly increase the amount of trucks and vehicles on the local and regional circulation systems; however, construction activities within roadways would require partially closure of traffic lanes, which could interfere with emergency access and result in potentially significant impacts.

In order to reduce impacts to emergency access, the City would be required to implement Mitigation Measure TRAF-1, which would require the preparation and implementation of a Traffic Control Plan. The Traffic Control Plan would include, but not limited to, signage, striping, delineated detours, flagging operations, changeable message signs, delineators, arrow boards, and K-Rails that will be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate access. The Traffic Control Plan would be coordinated with emergency responders, which include the fire department, police department, and ambulances that have jurisdiction within the Project area. Therefore, with implementation of Mitigation Measure TRAF-1, impacts to emergency access during construction of the collection system and IPR injection and monitoring wells would be reduced to less than significant.

Construction/operation of all other project components would have less than significant or no impact associated with emergency access.

Finding: The City has adopted and will implement **Mitigation Measure TRAF-1**, included above for Impact 3.8-6, which will reduce potentially significant Impact 3.14-4 to a less than significant level.

Public Transportation and Pedestrian Facilities

- *Impact 3.14-5: Construction of the Project would include temporary partial lane closures, which could significantly impact alternative transportation routes around the project components. However, implementation of the Traffic Control Plan would require include detours or alternative routes for transit, bicyclists using on-street bicycle lanes, and for pedestrians using adjacent sidewalks. This impact would be Class II, Less than Significant with Mitigation.*

Facts in Support of the Finding: Figure 3.14-2 in the Final EIR shows the bicycle and pedestrian facilities in proximity to the lift station, conveyance pipelines, and IPR injection and monitoring wells. Class II bike lanes are provided along the entire lengths of South Bay Boulevard, Quintana Road, and Main Street to Highway 41; a recreational bike route is provided along Atascadero Road and Embarcadero; a Class I bike path is located west of Highway 1 adjacent to the Power Plant and across Morro Creek to Atascadero Road. The Pacific Coast Bike Route is located along SR 1. In addition to the bicycle facilities near the project components, there are also sidewalks along Atascadero Road, near the proposed lift station and IPR injection and monitoring well areas. Further, there are numerous bus stops in the vicinity of these Project components primarily along Quintana Road, between Morro Bay Boulevard and Main Street, and Atascadero Road, between SR 1 and Embarcadero.

While construction of the lift station, conveyance pipelines, and IPR injection and monitoring wells wouldn't significantly increase the amount of trucks and vehicles on the local and regional circulation systems, construction activities within roadways would require partial closure of traffic lanes, which would significantly impact bicycle lanes within the ROW, sidewalks, and transit routes and bus stops. Construction of the raw wastewater/brine pipeline and IPR West pipeline would directly impact the Class I bike path that runs between Main Street and Morro Creek to the west of SR 1. Pipelines would be installed at an average rate of 150 feet per day; so

the length of time particular bike paths and pedestrian facilities would be affected would be short in duration. However, this would be a potentially significant impact.

In order to reduce impacts to alternative transportation facilities during construction of the conveyance facilities, the City would be required to implement a Traffic Control Plan, which includes measures specifically for alternative transportation facilities. The Traffic Control Plan would include, but not limited to, signage, striping, delineated detours, flagging operations, changeable message signs, delineators, arrow boards, and K-Rails that will be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate. In addition, the Traffic Control Plan would include detours or alternative routes for bicyclists using on-street and off-street bicycle lanes as well as for pedestrians using adjacent sidewalks. Therefore, with implementation of the Traffic Control Plan, as required by **Mitigation Measure TRAF-1**, impacts to alternative transportation facilities during construction of the lift station, conveyance pipelines, and IPR injection and monitoring wells would be reduced to less than significant.

Construction/operation of all other project components have less than significant or no impact associated with public transportation and pedestrian facilities.

Finding: The City has adopted and will implement **Mitigation Measure TRAF-1**, included above for Impact 3.8-6, which will reduce potentially significant Impact 3.14-5 to a less than significant level.

5.5 Findings Regarding Class I Impacts, Significant and Unavoidable

5.5.1 Cultural Resources

Historic and Archaeological Resources

- *Impact 3.5-1: The Project could cause a substantial adverse change in the significance of a historical or archaeological resource, as defined in CEQA Guidelines Section 15064.5. This would be a Class I impact, Significant and Unavoidable.*

Facts in Support of the Finding:

WRF. No historic architectural resources or known archaeological resources are located within the preferred WRF location. The preferred WRF location was identified as having a Lowest to Low sensitivity for the presence of buried archaeological deposits. Nevertheless, ground disturbance related to construction of the proposed WRF has the potential to impact unknown archaeological resources that could qualify as historical or unique archaeological resources under CEQA. Implementation of **Mitigation Measures CUL-1 and CUL-5 through CUL-9** would reduce impacts to less than significant.

Lift Station. No historic architectural resources or known archaeological resources are located within the proposed lift station options. Those lift station options were identified as having a High sensitivity for the presence of buried archaeological deposits. Ground disturbance related to construction of the lift station has the potential to impact unknown archaeological resources that could qualify as historical or unique archaeological resources under CEQA. Implementation of

Mitigation Measures CUL-1 and CUL-5 through CUL-9 would reduce impacts to less than significant.

Conveyance Pipelines. A total of five resources are located within or immediately adjacent to the proposed conveyance pipelines, including CA-SLO-16, -239, -2222, -2845, and WRF-2. One resource, WRF-2, was recommended not eligible and is not considered a historical resource under CEQA. The remaining four resources have been discretionarily determined to be eligible by the City for the purposes of this Draft EIR pursuant to CEQA subdivision 15064.5(a)(3), and are considered historical resources. Ground disturbance related to construction of the conveyance pipelines has the potential to directly impact all of those resources, which would constitute a significant and unavoidable impact under CEQA.

Additionally, some portions of the conveyance pipeline alignments were identified as having a High to Highest sensitivity for the presence of buried archaeological deposits. Ground disturbance related to construction of the conveyance pipelines has the potential to impact unknown archaeological resources that could qualify as historical or unique archaeological resources under CEQA.

Implementation of **Mitigation Measures CUL-1 through CUL-9** would reduce impacts to the degree feasible; however, since CA-SLO-16, -239, -2222, and -2845 are historical resources, pursuant to CEQA, and ground disturbance related to construction of the conveyance pipelines would directly impact those resources, even after mitigation, the impact would remain significant and unavoidable.

Injection and Monitoring Wells. A total of three resources are located within the proposed IPR East and IPR West wellfield areas, including CA-SLO-16, CA-SLO-43, and CA-SLO-165. CA-SLO-165 is listed in the California Register and is a historical resource. CA-SLO-16 and CA-SLO-43 have been discretionarily determined to be eligible by the City for the purposes of the FEIR, pursuant to CEQA subdivision 15064.5(a)(3), and they are considered historical resources. Since the exact locations of the wells within the wellfield areas have not been identified yet, ground disturbance related to construction of the injection and monitoring wells has the potential to directly impact all of these resources, which would constitute a significant and unavoidable impact under CEQA, even after feasible mitigation.

Additionally, the IPR East and IPR West wellfield areas were identified as having a High to Highest sensitivity for the presence of buried archaeological deposits. Ground disturbance related to construction of the injection and monitoring wells has the potential to impact unknown archaeological resources that could qualify as historical or unique archaeological resources under CEQA.

Implementation of **Mitigation Measures CUL-1 through and CUL-9** would reduce impacts to the degree feasible; however, since CA-SLO-16, CA-SLO-43, and CA-SLO-165 are historical resources pursuant to CEQA and ground disturbance related to construction of the injection and monitoring wells would potentially directly impact these resources, even after mitigation, the impact would remain significant and unavoidable.

Decommissioning of Current WWTP. The decommissioning of the current WWTP would include the shutdown, demolition, and complete removal of all WWTP facilities and infrastructure such as the piping located four to five feet below grade. Since the existing WWTP is more than 45 years old (the California OHP's threshold for consideration as a historical resource) it was evaluated for listing in the National Register and California Register and was found not eligible. As such, it does not qualify as a historical resource and its shutdown, demolition, and removal would not constitute a significant impact. No known archaeological sites are located within the WWTP. The WWTP location was identified as having a High to Highest sensitivity for the presence of buried archaeological deposits. Ground disturbance related to the shutdown, demolition, and removal of all WWTP facilities and infrastructure such as the piping located four to five feet below grade, has the potential to impact archaeological resources that could qualify as historical or unique archaeological resources under CEQA. Implementation of **Mitigation Measures CUL-1 and CUL-5 through CUL-9** would reduce impacts to less than significant.

Operation. Although there is unlikely to be ground disturbance associated with the operation of the proposed project facilities, there is potential ground disturbance could occur during maintenance or repair of those facilities. If ground disturbance occurred within areas that have not been previously disturbed, then there is the potential to impact archaeological resources that qualify as, or could qualify as, historical or unique archaeological resources under CEQA. Implementation of **Mitigation Measures CUL-1 and CUL-6 through CUL-9** would reduce impacts to less than significant.

Facts in Support of Finding: The City has adopted and will implement the following mitigation measures; however, they will not reduce potentially significant Impact 3.5-1 to a less than significant level. Potential impacts on historic and archaeological resources for the conveyance pipelines and injection and monitoring wells remain significant and unavoidable after implementation of mitigation measures:

CUL-1: Retention of a Qualified Archaeologist. Within 30 days after the City's approval of the final design plans and prior to start of any ground-disturbing activities (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the City shall retain a Qualified Archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (U.S. Department of the Interior, 1983) to carry out all mitigation related to archaeological resources.

CUL-2: Pre-Construction Phase I Cultural Resources Survey. Within 30 days after the City's approval of the final design plans and prior to the start of any ground-disturbing activity (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist shall conduct pre-construction Phase I Cultural Resources Survey of all areas that have not been previously surveyed within the last 5 years.

The survey shall document resources potentially qualifying as historical resources or unique archaeological under CEQA. The Qualified Archaeologist shall document the results of the survey in a Phase I Cultural Resources Survey Report that follows *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (OHP, 1990). The Qualified Archaeologist shall also prepare Department of Parks and Recreation 523 forms for resources encountered during the survey, which shall be appended to the report. If historic architectural resources are encountered that could potentially be impacted by the project, the Qualified Archaeologist shall consult with a Qualified Architectural Historian meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history (U.S. Department of the Interior, 1983). The Qualified Archaeologist shall submit the draft Phase I Cultural Resources Survey Report to the City within 30 days after completion of the survey. The final Phase I Cultural Resources Survey Report shall be submitted to the City within 10 days after receipt of City's comments. The Qualified Archaeologist shall also submit the final Phase I Cultural Resources Survey Report to the Central Coast Information Center.

In the event resources potentially qualifying as historical resources or unique archaeological resources under CEQA are identified during the survey, avoidance and preservation in place shall be the preferred manner of mitigating impacts to the resources in accordance with **Mitigation Measure CUL-3**. If avoidance of the identified resources is determined by the City to be infeasible in light of factors such as the nature of the find, Project design, costs, and other considerations, then the portion of the resource within the Area of Direct Impact (ADI) shall be subject to presence/absence testing and if potentially significant deposits are identified, the resource shall be evaluated for significance under all four National Register/California Register Criteria (A/1-D/4). If a resource is found to be significant (i.e., meets the definition for historical resource in *CEQA Guidelines* subdivision 15064.5(a) or unique archaeological resource in PRC subdivision 21083.2(g)), then it shall be incorporated into the Archaeological Resources Data Recovery and Treatment Plan outlined in **Mitigation Measure CUL-4**.

CUL-3: Avoidance and Preservation in Place of Archaeological Resources. The City shall avoid and preserve in place resources CA-SLO-16, -43, -165, -239, -2222, and -2845, and any other resources that are identified as potentially qualifying as historical resources or unique archaeological resources under CEQA, through Project re-design. Avoidance and preservation in place is the preferred manner of mitigating impacts to archaeological resources. Preservation in place maintains the important relationship between artifacts and their archaeological context and also serves to avoid conflict with traditional and religious values of groups who may ascribe meaning to the resource. Preservation in place may be accomplished by, but is not limited to, avoidance, incorporating the resource into open space, capping, or deeding the site into a permanent conservation easement. In the event that avoidance and preservation in place of a resource is determined by the City to be infeasible in light of factors such as project design, costs, and other considerations, then **Mitigation Measure CUL-4** shall be implemented for that resource. If avoidance and preservation in place of a resource is determined by the City to be feasible, then **Mitigation Measures CUL-5** shall be implemented for that resource.

CUL-4: Development of an Archaeological Resources Data Recovery and Treatment Plan.

The Qualified Archaeologist shall prepare an Archaeological Resources Data Recovery and Treatment Plan for all significant resources that will be impacted by the Project. The plan shall be submitted to the City for review and approval prior to the start of field work for data recovery efforts for resources that are eligible under Criterion D/4 (data potential). Data recovery field work shall be completed prior to the start of any project-related ground-disturbing activity. Treatment for resources that are eligible under Criteria A/1 (events), B/2 (persons), and/or C/3 (design/workmanship) shall be completed within 3 years of completion of the project. The Archaeological Resources Data Recovery and Treatment Plan shall include:

- *Research Design.* The plan shall outline the applicable cultural context(s) for the region, identify research goals and questions that are applicable to each resource or class of resources, and list the data needs (types, quantities, quality) required to answer each research question. The research design shall address all four National Register/California Register Criteria (A/1-D/4) and identify the methods that will be required to inform treatment, such as subsurface investigation, documentary/archival research, and/or oral history, depending on the nature of the resource.
- *Data Recovery for Resources Eligible under Criterion D/4.* The plan shall outline the field and laboratory methods to be employed, and any specialized studies that will be conducted, as part of the data recovery effort for resources that are eligible under National Register/California Register Criterion D/4 (data potential). If a resource is eligible under additional criteria, treatment beyond data recovery shall be implemented (see CUL-4c).
- *Treatment for Resources Eligible under Criteria A/1, B/2, and/or C/3.* In the event a resource is eligible under National Register/California Register Criteria A/1 (events), B/2 (persons), or C/3 (design/workmanship), then resource-specific treatment shall be developed to mitigate project-related impacts to the degree feasible. That could include forms of documentation, interpretation, public outreach, ethnographic and language studies, publications, and educational programs, depending on the nature of the resource, and may require the retention of additional technical specialists. Treatment measures shall be generally outlined in the plan based on existing information on the resource. Once data recovery is completed and the results are available to better inform resource-specific treatment, the treatment measures shall be formalized and implemented. Treatment shall be developed by the Qualified Archaeologist in consultation with the City and Native American Tribal representatives for resources that are Native American in origin.
- *Security Measures.* The plan shall include recommended security measures to protect archaeological resources from vandalism, looting, and non-intentionally damaging activities during field work.
- *Procedures for Discovery of Human Remains and Associated Funerary Objects.* The plan shall outline the protocols and procedures to be followed in the event that human remains and associated funerary objects are encountered during field work. These shall include stop-work

and protective measures, notification protocols, and compliance with California Health and Safety Code section 7050.5 and PRC section 5097.98. See also CUL-14.

- *Reporting Requirements.* Upon completion of data recovery for resources eligible under Criterion D/4, the Qualified Archaeologist shall document the findings in an Archaeological Data Recovery Report. The draft Archaeological Data Recovery Report shall be submitted to the City within 360 days after completion of data recovery, and the final Archaeological Data Recovery Report shall be submitted to the City within 60 days after the receipt of City comments. The Qualified Archaeologist shall also submit the final Archaeological Data Recovery Report to the Central Coast Information Center.

Upon completion of all other treatment for resources eligible under Criteria A/1, B/2, and C/3, the Qualified Archaeologist shall document the resource-specific treatment that was implemented for each resource and verification that treatment has been completed in a technical document (report or memorandum). The document shall be provided to the City within 30 days after completion of treatment.

- *Curation Requirements.* Disposition of Native American archaeological materials shall be determined through consultation between Native American representatives, the Qualified Archaeologist, and the City. Disposition of human remains and associated funerary objects shall be determined by the landowner in consultation with the City and Most Likely Descendant (see **Mitigation Measure CUL-14**).

Any historic-period archaeological materials that are not Native American in origin shall be curated at a repository accredited by the American Association of Museums that meets the standards outlined in 36 Code of Federal Regulations (CFR) 79.9. If no accredited repository accepts the collection, then it may be curated at a non-accredited repository as long as it meets the minimum standards set forth by 36 CFR 79.9. If neither an accredited nor a non-accredited repository accepts the collection, then it may be offered to a public, non-profit institution with a research interest in the materials, or donated to a local school or historical society in the area for educational purposes, to be determined by the Qualified Archaeologist in consultation with the City.

- *Protocols for Native American Monitoring and Input.* The plan shall outline the role and responsibilities of Native American Tribal representatives. It shall include communication protocols and an opportunity and timelines for review of cultural resources documents. The plan shall include provisions for full-time Native American monitoring during field work (see **Mitigation Measure CUL-8**).

CUL-5: Development of a Cultural Resources Monitoring and Mitigation Program (CRMMP). Within 60 days of the award of the contractor's bid and prior to the start of any ground-disturbing activity (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist

shall prepare a Cultural Resources Mitigation and Monitoring Program (CRMMP) based on the final City-approved project design plans. The CRMMP shall include:

- *Establishment of Environmentally Sensitive Areas.* The CRMMP shall outline areas that will be designated Environmentally Sensitive Areas (including maps). Significant or unevaluated cultural resources that are being avoided and are within 50 feet of the construction zone shall be delineated with exclusion markers to ensure avoidance. These areas will not be marked as archaeological resources, but will be designated as “exclusion zones” on project plans and protective fencing in order to discourage unauthorized disturbance or collection of artifacts.
- *Provisions for Archaeological Monitoring.* Full-time archaeological monitoring shall be required for all ground disturbance. The CRMMP shall outline the archaeological monitor(s) responsibilities and requirements (see **Mitigation Measure CUL-7**).
- *Procedures for Discovery of Archaeological Resources.* Procedures to be implemented in the event of an archaeological discovery shall be fully defined in the CRMMP, and shall include stop-work and protective measures, notification protocols, procedures for significance assessments, and appropriate treatment measures. The CRMMP shall state avoidance or preservation in place is the preferred manner of mitigating impacts to historical resources and unique archaeological resources, but shall provide procedures to follow should avoidance be infeasible in light of factors such as the nature of the find, project design, costs, and other considerations. See also **Mitigation Measure CUL-9**.

If, based on the recommendation of the Qualified Archaeologist, it is determined a discovered archaeological resource constitutes a historical resource or unique archaeological resource pursuant to CEQA, then avoidance and preservation in place shall be the preferred manner of mitigating impacts to such a resource in accordance with **Mitigation Measure CUL-3**. In the event that preservation in place is determined to be infeasible and data recovery through excavation is the only feasible mitigation available, an Archaeological Resources Data Recovery and Treatment Plan shall be prepared and implemented following the procedures outlined in **Mitigation Measure CUL-4**. The City shall consult with appropriate Native American representatives in determining treatment of resources that are Native American in origin to ensure cultural values ascribed to the resource, beyond those that are scientifically important, are considered.

- *Procedures for Discovery of Human Remains and Associated Funerary Objects.* The CRMMP shall outline the protocols and procedures to be followed in the event that human remains and associated funerary objects are encountered during construction. These shall include stop-work and protective measures, notification protocols, and compliance with California Health and Safety Code section 7050.5 and PRC section 5097.98 (see **Mitigation Measure CUL-14**).
- *Reporting Requirements.* The CRMMP shall outline provisions for weekly, monthly, and final reporting. The Qualified Archaeologist shall prepare weekly status reports detailing activities and locations observed (including maps) and summarizing any discoveries for the

duration of monitoring to be submitted to the City via email for each week in which monitoring activities occur. Monthly progress reports summarizing monitoring efforts shall be prepared and submitted to the City for the duration of ground disturbance. The Qualified Archaeologist shall prepare a draft Archaeological Resources Monitoring Report and submit it to the City within 180 days after completion of the monitoring program or treatment for significant discoveries should treatment extend beyond the cessation of monitoring. The final Archaeological Resources Monitoring Report shall be submitted to the City within 60 days after receipt of City comments. The Qualified Archaeologist shall also submit the final Archaeological Resources Monitoring Report to the Central Coast Information Center. If human remains are encountered, a confidential report documenting all activities shall be submitted to the California Native American Heritage Commission within 90 days after completion of any treatment (see **Mitigation Measure CUL-14**).

- *Curation Requirements.* Disposition of Native American archaeological materials shall be determined through consultation between Native American representatives, the Qualified Archaeologist, and the City. Disposition of human remains and associated funerary objects shall be determined by the landowner in consultation with the City and Most Likely Descendant (see **Mitigation Measure CUL-14**).

Any historic-period archaeological materials that are not Native American in origin shall be curated at a repository accredited by the American Association of Museums that meets the standards outlined in 36 CFR 79.9. If no accredited repository accepts the collection, then it may be curated at a non-accredited repository as long as it meets the minimum standards set forth by 36 CFR 79.9. If neither an accredited nor a non-accredited repository accepts the collection, then it may be offered to a public, non-profit institution with a research interest in the materials, or donated to a local school or historical society in the area for educational purposes, to be determined by the Qualified Archaeologist in consultation with the City.

- *Protocols for Native American Monitoring and Input.* The CRMMP shall outline the role and responsibilities of Native American Tribal representatives. It shall include communication protocols, an opportunity and timelines for review of cultural resources documents related to discoveries that are Native American in origin, and provisions for Native American monitoring. The CRMMP shall include provisions for full-time Native American monitoring of all project-related ground disturbance, as well as during any subsurface investigation and data recovery for discovered resources that are Native American in origin (see **Mitigation Measures CUL-8**).

CUL-6: Construction Worker Cultural Resources Sensitivity Training. Prior to start of any ground-disturbing activities (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist, or his/her designee, and a Native American representative shall conduct cultural resources sensitivity training for all construction personnel. In the event construction crews are phased, additional trainings shall be conducted for new construction personnel.

Construction personnel shall be informed of the types of archaeological resources that may be encountered, the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains, confidentiality of discoveries, and safety precautions to be taken when working with cultural resources monitors. The City shall ensure construction personnel are made available for and attend the training and retain documentation demonstrating attendance. That training may be conducted in coordination with paleontological sensitivity training required by **Mitigation Measure CUL-11**.

CUL-7: Archaeological Resources Monitoring. All project-related ground disturbance (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil) shall be monitored by an archaeological monitor(s) familiar with the types of resources that could be encountered and shall work under the direct supervisor of the Qualified Archaeologist. The number of archaeological monitors required to be on-site during ground disturbing activities is dependent on the construction scenario, specifically the number of pieces of equipment operating at the same time, the distance between these pieces of equipment, and the pace at which equipment is working, with the goal of monitors being able to effectively observe soils as they are exposed. Generally, work areas more than 500 feet from one another will require additional monitors. The archaeological monitor(s) shall keep daily logs detailing the types of activities and soils observed, and any discoveries. Archaeological monitor(s) shall have the authority to halt and re-direct ground disturbing activities in the event of a discovery until it has been assessed for significance and treatment implemented, if necessary, based on the recommendations of the Qualified Archaeologist in coordination with the City, and the Native American representatives in the event the resource is Native American in origin, and in accordance with the protocols and procedures outlined in the CRMMP (see **Mitigation Measure CUL-5**).

CUL-8: Native American Monitoring. The City shall retain a Native American monitor(s) from a Tribe that is culturally and geographically affiliated with the project site (according to the California Native American Heritage Commission). The Native American monitor shall monitor all project-related ground disturbance (*i.e.*, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil) and all ground disturbance related to subsurface investigation and data recovery efforts for discovered resources that are Native American in origin. The number of Native American monitors required to be on-site during ground disturbing activities is dependent on the construction scenario, specifically the number of pieces of equipment operating at the same time, the distance between these pieces of equipment, and the pace at which equipment is working, with the goal of monitors being able to effectively observe soils as they are exposed. Generally, work areas more than 500 feet from one another require additional monitors. Native American monitors shall have the authority to halt and re-direct ground disturbing activities in the event of a discovery until it has been assessed for significance.

CUL-9: Inadvertent Discovery. In the event archaeological resources are encountered during construction of the Project, all activity in the vicinity of the find shall cease (within 100 feet),

and the protocols and procedures for discoveries outlined in the CRMMP (see **Mitigation Measure CUL-5**) shall be implemented. The discovery shall be evaluated for potential significance by the Qualified Archaeologist. If the Qualified Archaeologist determines that the resource may be significant (i.e., meets the definition for historical resource in *CEQA Guidelines* subdivision 15064.5(a) or unique archaeological resource in PRC subdivision 21083.2(g)), the Qualified Archaeologist shall develop an Archaeological Resources Data Recovery and Treatment Plan for the resource in accordance with the CRMMP (see **Mitigation Measure CUL-5**) and following the procedures outlined in **Mitigation Measure CUL-4**. When assessing significance and developing treatment for resources that are Native American in origin, the Qualified Archaeologist and the City shall consult with the appropriate Native American representatives. The Qualified Archaeologist shall also determine if work may proceed in other parts of the project site while data recovery and treatment is being carried out.

Human Remains

- *Impact 3.5-3: The Project could disturb human remains during construction, including those interred outside of formal cemeteries. This would be a Class I impact, Significant and Unavoidable.*

Facts in Support of the Finding: The proposed and preferred project sites and vicinity overlap with known locations of human remains. Ground disturbance associated with the Project has the potential to disturb human remains, including those interred outside of formal cemeteries. That would be a potentially significant impact. Implementation of **Mitigation Measures CUL-1 through CUL-9 and CUL-14** would reduce impacts to the degree feasible, however, even after mitigation the impact would remain significant and unavoidable. Implementation of **Mitigation Measure CUL-14** would ensure operation of all the Project's components will have less than significant impacts associated with human remains.

Finding: The City has adopted and will implement Mitigation Measures CUL-1 through CUL-9 as described above for Impact 3.5-1; the City also will implement Mitigation Measure CUL-14 as described below. However, they will not reduce potentially significant Impact 3.5-3 to a less than significant level. Impacts on human remains associated with construction of project components may remain significant and unavoidable.

CUL-14: Inadvertent Discovery of Human Remains: If human remains are encountered, then the City shall halt work in the vicinity (within 100 feet) of the discovery and contact the County Coroner in accordance with PRC section 5097.98 and Health and Safety Code section 7050.5. If the County Coroner determines the remains are Native American, then the Coroner will notify the California Native American Heritage Commission in accordance with Health and Safety Code subdivision 7050.5(c), and PRC section 5097.98. The California Native American Heritage Commission will designate a Most Likely Descendent for the remains per PRC section 5097.98. Until the landowner has conferred with the Most Likely Descendent, the contractor shall ensure the immediate vicinity where the discovery occurred is not disturbed by further activity, is adequately protected according to generally accepted cultural or archaeological standards or practices, and that further activities take into account the

possibility of multiple burials. If human remains are encountered, the Qualified Archaeologist, in consultation with the Most Likely Descendant shall prepare a confidential report documenting all activities and it shall be submitted to the California Native American Heritage Commission within 90 days after completion of any treatment.

5.5.2 Cumulative Impacts

Only cumulative impacts to cultural resources would be Class I, Significant and Unavoidable. All other cumulative impacts have less than significant or, in the case of cumulative impacts to tribal cultural resources, no impact, as presented above in Sections 5.3 and 5.1, respectively.

6.0 Findings Regarding Alternatives to the Project

6.1 Alternative 1: No Project Alternative

Pursuant to Section 15126.6(e) of the *CEQA Guidelines*, the No Project Alternative shall be evaluated to allow decision makers to compare the impacts of approving the Project with the impacts of not approving the Project. The No Project Alternative shall:

discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time the environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

The No Project Alternative would result in the continued operation and maintenance of the existing WWTP and associated wastewater treatment infrastructure. Given the CSD is moving forward with its own treatment project, under the No Project Alternative the WWTP would provide treatment for influent wastewater only from the City's service area. However, operating the WWTP in accordance with the status quo would not comply with the effluent water quality criteria and the SWRCB/CCRWQCB order to upgrade the plant to meet discharge water quality criteria, resulting in increased costs associated with fines. As required to be considered by CEQA, what would be reasonably expected to occur in the foreseeable future if the project were not approved would be upgrades to the existing plant to provide full secondary treatment to meet the State's minimum water quality criteria for all discharges through the existing outfall.

Upgrade of the WWTP was considered in the September 2007 WWTP Facility Master Plan Report. The Report recommended new headworks, oxidation ditch and secondary clarifiers, biosolids handling facilities, disinfection, and electrical and control facilities. Construction of those facilities would occur within the existing WWTP footprint and would provide full secondary treatment for influent at a capacity that meets the projections of the City's future wastewater generation without participation of the CSD. To mitigate for potential inundation during a 100-year flood event, the new facilities would be elevated at least one foot above the flood depth, which could be as great as six feet.

Under the No Project Alternative, the Project would not be constructed, nor would the lift station, associated conveyance pipelines, or injection and monitoring wells. As a result, the significant

impacts to historic and archaeological resources, as well as human remains, would not occur. The No Project Alternative would avoid those significant and unavoidable impacts associated with the Project. However, the No Project Alternative also would not achieve the benefits of the Project, including removing critical community infrastructure from a coastal hazard area subject to flooding and sea level rise. In addition, the No Project Alternative would not meet any of the project objectives, including the ability to provide reclaimed wastewater to augment the City's water supply or to meet wastewater effluent conditions that reduce impacts from contaminants of emerging concern.

The No Project Alternative is not feasible because it would require a CDP from the CCC, which previously denied the same permit for an upgrade to the WWTP. The basis for that denial included the CCC's assessment such upgraded facilities would be inconsistent with the City's Local Coastal Plan's zoning provisions, would fail to avoid coastal hazards and would fail to include a sizeable reclaimed water component; and the project location would be within an LCP-designated sensitive view area. It is likely the CCC would similarly deny a CDP for the proposed No Project Alternative.

6.2 Alternative 2: Pipeline Alignment Alternative

Alternative 2 would result in construction of all the same facilities as the Project, except for a segment of the raw wastewater pipeline that would have a different alignment and result in the construction of approximately 2,500 linear feet of additional pipeline (see Final EIR Figure 6-2). The additional pipeline construction would be along Embarcadero Road to the west of the existing WWTP and proposed lift station, traveling south and then east along Pacific Street, and meeting with the currently proposed raw wastewater pipeline at Butte Street. The segment under Alternative 2 would result in construction near two different and known cultural resources sites, may result in geotechnical challenges along the waterfront, and would result in a significant increase of construction impacts related to traffic, air quality and noise due to the location of construction within higher traffic corridors (residential and commercial), and the location of construction equipment relative to sensitive receptors (residences). Further, this segment of pipeline under Alternative 2 would require additional rights of way through residential property. While there would be an increase in the severity of impacts related to the additional linear feet of construction, all impacts would be reduced to less than significant using the same mitigation measures presented for the Project. However, impacts to cultural resources, while reduced in number of impacted sites, would remain significant and unavoidable under Alternative 2, even with mitigation. Additionally, Alternative 2 would result in higher cost due to the additional length of construction and rights of way compensation.

6.3 Alternative 3: WRF Design Alternative

During preparation of the draft FMP and MWRP, alternative treatment technologies and associated site plan configurations were considered. Under Alternative 3, the proposed level of treatment would be changed to either remove advanced treatment or implement full secondary treatment only. Removing advanced treatment would reduce the proposed WRF footprint by approximately 7,000 square feet (0.16 acres). Implementing full secondary treatment would be

achieved by either proceeding with the sequencing batch reactor (SBR) treatment train, but removing the filters or changing to the treatment process to a more traditional secondary treatment process, such as an activated sludge or oxidation ditch process. Proceeding with the SBR treatment train and removing the filters would have a small incremental reduction to the proposed WRF footprint in addition to removing advanced treatment. The footprint associated with a traditional secondary treatment process would be greater than that currently planned for the proposed WRF.

The current preliminary design at the preferred South Bay Boulevard WRF site is intended to minimize the proposed WRF footprint, while still providing the facilities required to provide the level of treatment that would meet the Project goals. As documented in this FEIR, the preliminary design for the Project would not have significant effects to:

- **scenic resources** due to architectural treatments to be included in the design and the restricted line of sight from Highway 1 and public vantage points to the low-lying WRF site which is partially screened by the hillside topography.
- **agriculture** due to the small percentage of rangeland within the 396-acre parcel that would be occupied by the facilities.
- **neighboring land use** due to the small percentage of rangeland within the 396-acre parcel that would be occupied by the facilities allowing the majority of the site to continue to be used for grazing.
- **riparian habitat** due to the distance of the proposed WRF from jurisdictional features.
- **water quality** in downstream drainages due to compliance with the requirements of the City's Storm Water Management Plan and NPDES General Construction Permit that require retention and control of storm water onsite during both construction and operation

As documented in this Draft EIR, the preferred WRF site would have benefits to:

- **coastal hazards** and flooding due to the removal of the WWTP from the flood hazard zone and location of the WRF in an area that is not a flood hazard zone.

Implementation of alternative treatment technologies at the preferred WRF site would have similar impacts and benefits as the Project. For example, removing advanced treatment would lessen the WRF footprint by 7,000 square feet or 0.16 acres, which is roughly 1% of the 10- to 15-acre area of disturbance for the Project. Although a smaller footprint would have relative fewer impacts to agricultural lands, scenic resources, neighboring land use, and water quality, no impacts would be eliminated or avoided and the same mitigation measures and regulatory requirements would apply. Implementation of a traditional full secondary treatment process at the preferred WRF site may require a larger footprint; as such, relatively greater impacts to agricultural lands, scenic resources, neighboring land use, and water quality would occur. A greater footprint would have potential to encroach on riparian habitat, and could result in potentially significant impacts that would be greater than the Project. Otherwise, however, with application of the same mitigation measures and regulatory requirements as the Project, there would likely be no other significant impacts.

With regard to energy use, removing advanced treatment and the filters would lessen the amount of energy required during the treatment process; standard full secondary treatment also would use less energy relative to the Project. However, the Project would not result in significant impacts to energy or GHGs as a result of operational energy use.

Alternative 3 would preclude the City from meeting key project objectives, including production of tertiary treated recycled water and augmenting the City's water supply. Removing advanced treatment would still produce recycled water that could be used for municipal and agricultural irrigation; however, the MWRP found that such urban and agricultural demands are not great enough to substantially offset potable water supply end uses, which limits the benefits of Alternative 3.

6.4 Alternatives Rejected from Further Consideration

CEQA requires an EIR briefly describe the rationale for selection and rejection of alternatives. The City may make an initial determination as to which alternatives are potentially feasible and, therefore, merit in-depth consideration, and which are clearly infeasible. Alternatives that are remote and speculative, or the effects of which cannot be reasonably predicted, need not be considered (*CEQA Guidelines*, section 15126.6(f)(3)).

In Chapter 6, Alternatives Analysis, the Final EIR describes the various and extensive alternative screening processes that have been conducted for the WRF location and the lift station location, including criteria upon which the preferred locations were based and alternative locations rejected. In addition, the reasons for rejection of joint ventures with the CSD and Los Osos are described. The City Council's decision to remove the Corporation Yard from the proposed WRF site is explained, and an explanation of the assessment for recycled water reuse alternatives is also provided, including criteria upon which the decision to implement IPR was based and other beneficial uses (e.g., agricultural irrigation) were rejected.

6.5 Summary of Alternative Analysis

The analysis of alternatives taken together with the analysis of the proposed project provide a basis to identify the environmentally superior alternative under CEQA (*CEQA Guidelines* section 15126.6). The environmentally superior alternative is the alternative identified as meeting most of the basic project objectives and resulting in the fewest or least severe combination of significant environmental impacts. *CEQA Guidelines* section 15126.6 provides, if the No Project Alternative is the environmentally superior alternative, then the EIR shall also identify an environmentally superior alternative among the other alternatives. Here, the No Project Alternative may in some respects qualify as the environmentally superior alternative because it would avoid the significant and unavoidable impacts to historic and archaeological resources, and human remains. However, it would not meet any of the basic project objectives; it would have considerable economic and regulatory consequences in the future (e.g., mounting number of fines from the SWRCB/CCRWQCB or infeasibility due to CDP denial), and could result in different or more severe impacts than the proposed project or other possible alternatives given the failure of the No Project Alternative to meet water quality discharge criteria, to produce recycled water to augment

the City's supply, and to move critical public infrastructure out of the coastal hazard zone. For that reason, the discussion below focuses on selecting another environmentally superior alternative from among Alternative 2, Alternative 3 and the Project.

It is important to recognize the selection of the environmentally superior alternative is not always a straightforward and formulaic exercise. In some cases, including here, no alternative can eliminate all significant and unavoidable, long-term environmental effects. There are environmental tradeoffs among the alternatives and even within resource issue areas or topics, making it difficult to summarize the net effect of the alternatives. As such, considerable weighing among the severity of impacts of the alternatives and professional judgment as to the relative importance of topical impact areas is necessary. Such judgment, while based on reasoning grounded in the scientific study that comprises this Draft EIR, can be subjective. Comparison of Alternative 2 impacts to the proposed project impacts, above, indicate Alternative 2 would meet the proposed project's objectives, and would result in a reduction in impacts on number of cultural resources sites. However, Alternative 2 would increase the costs to the City related to construction and would result in more severe impacts on air quality, noise, and traffic. Alternative 3 overall would result in similar impacts to the proposed project, and would not avoid any potentially significant impacts. Depending on the alternate treatment process chosen, the relative impacts would be incrementally smaller or greater, and require similar mitigation measures. Under Alternative 3, many of the City's key project objectives would not be met. Therefore, the Final EIR identifies the Project as the environmentally superior alternative.

MITIGATION MONITORING AND REPORTING PROGRAM

In accordance with Section 15091(d) and Section 15097 of the CEQA Guidelines, which require a public agency to adopt a program for reporting on or monitoring required changes or conditions of approval to substantially lessen significant environmental effects, the Mitigation Monitoring and Reporting Program (MMRP) is hereby adopted for this project.

This MMRP summarizes the mitigation commitments identified in the Morro Bay WRF Final EIR (State Clearinghouse No. 2016081027). Mitigation measures are presented in the same order as they occur in the Final EIR. The columns in the MMRP table provide the following information:

- **Mitigation Measure(s):** The action(s) that will be taken to reduce the impact to a less-than-significant level.
- **Implementation, Monitoring, and Reporting Action:** The appropriate steps to implement and document compliance with the mitigation measures.
- **Responsibility:** The agency or private entity responsible for ensuring implementation of the mitigation measure. However, until the mitigation measures are completed, the City of Morro Bay, as the CEQA Lead Agency, remains responsible for ensuring implementation of the mitigation measures occur in accordance with the program (CEQA Guidelines, Section 15097(a)).
- **Monitoring Schedule:** The general schedule for conducting each monitoring task, either prior to construction, during construction, and/or after construction.

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Aesthetics					
AES-1: Nighttime Construction Lighting. Lighting used during nighttime construction, including any associated 24-hour well drilling, shall be shielded and pointed away from surrounding light-sensitive land uses	• Include mitigation measure in project design specifications. • Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. • Maintain written inspection records in the project file to verify compliance • All monitoring records shall be retained in the project file.	City; contractors	X	X	
Air Quality					
AQ-1a: Fugitive Dust Control Measures. Construction projects shall implement the following dust control measures so as to reduce PM10 emissions in accordance with SLOAPCD requirements. • Reduce the amount of the disturbed area where possible; • Use of water trucks or sprinklers in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the APCD's limit of 20 percent opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water shall be used whenever possible and in order to conserve water used for dust control, the contractor or builder shall consider the use of an APCD-approved dust suppressant where feasible. Potential dust	• Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. • Maintain written inspection records in the project file to verify compliance • All monitoring records shall be retained in the project file.	City; contractors	X	X	

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MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
suppressants to select from to mitigate dust emissions can be found at the link below: http://www.valleyair.org/busind/comply/PM10/Products%20Available%20for%20Controlling%20PM10%20Emissions.htm - All dirt stock pile areas shall be sprayed daily and covered with tarps or other dust barriers as needed; "Track-Out" is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in the California Vehicle Code Section 23113 and California Water Code. To prevent 'track out', designate access points and require all employees, subcontractors, and others to use them. The Project shall install and operate a 'track-out prevention device' where vehicles enter and exit unpaved roads onto paved streets. The 'track out prevention device' can be a device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roads accumulate track out soils, the track out prevention device may need to be modified' - Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of any soil disturbing activities; - Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast germinating, non-invasive grass seed and watered until					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
vegetation is established; - All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by SLOAPCD; - All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible after grading unless seeding or soil binders are used; - Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site; - All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code section 23114; - Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site; - Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where feasible; - All of these fugitive dust mitigation measures shall be shown on grading and building plans; and - The construction contractor shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity for greater than 3 minutes in any 60-minute period, and to prevent transport of dust					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to SLOAPCD Compliance Division prior to the start of any grading, earthwork or demolition.					
AQ-1b: Standard Control Measures for Construction Equipment. Standard mitigation measures for reducing NOx, ROG, and DPM emissions from construction equipment are listed below: • Maintain all construction equipment in proper tune according to manufacturer's specifications; • Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road); • Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation; • Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation; • Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance; • All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit;	• Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. • Maintain written inspection records in the project file to verify compliance • All monitoring records shall be retained in the project file.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
- Diesel idling within 1,000 feet of sensitive receptors is not permitted; - Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; - Electrify equipment when feasible; - Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and, - Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.					
AQ-1c: BACT for Construction Equipment. The following BACT for diesel-fueled construction equipment shall be implemented during construction activities at the project site, where feasible: - Further reducing emissions by expanding use of Tier 3 and Tier 4 off-road and 2010 on-road compliant engines where feasible; - Prior to commencement of construction activities, the applicant shall submit a list of equipment to be used on the project to the APCD. The list would include details of each piece of equipment, including: equipment serial number, engine model year, engine emission tier, and emission family for each. If the list contains other than Tier 4 equipment, a revised CalEEMod run for annual mitigated construction emissions, using the list of specific equipment proposed for the project and demonstrating quarterly emissions below the APCD thresholds of significance shall then be submitted. - Repowering equipment with the cleanest engines available; and	- Include mitigation measure in construction contractor specifications. - Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. - Maintain written inspection records in the project file to verify compliance - All monitoring records shall be retained in the project file.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Installing California Verified Diesel Emission Control Strategies, such as level 2 diesel particulate filters. These strategies are listed at: http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm					
AQ-1d: Architectural Coatings. To reduce ROG and NOx emissions during the architectural coating phase, low or no VOC emission paints and finishes shall be used with levels of 50 g/L or less.	- Include mitigation measure in design specifications - Include measure in construction contractor specifications	City	X		
Biological Resources					
BIO-1: Construction Worker Environmental Awareness Training and Education Program. Prior to the commencement, and for the duration of proposed construction activities, all construction workers shall attend an Environmental Awareness Training and Education Program, developed and presented by the Lead Biologist. The Training and Education shall include: The program shall include information on San Luis Obispo owl's clover and the life history of steelhead, CRLF, MSS, and other raptors; nesting birds; as well as other wildlife and plant species that may be encountered during construction activities. The program will also include descriptions of sensitive habitats (drainages, riparian habitat, and wetlands) and The program shall also discuss the legal protection status of each species and sensitive habitat, the definition of "take" under the Federal Endangered Species Act and California Endangered Species Act, measures the project proponent is implementing to protect each species and sensitive habitat, reporting requirements, specific measures that each worker shall employ to avoid take of wildlife species and sensitive habitats, and penalties for violation of the	- Include mitigation measure in construction contractor specifications. - Retain a qualified biologist to develop and implement an Environmental Awareness, Training and Education Program. - Maintain copies of acknowledgment forms signed by each worker in the project file.	City; contractors	X		

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Federal Endangered Species Act or California Endangered Species Act. - An acknowledgement form signed by each worker indicating that Environmental Awareness Training and Education Program has been completed would be kept on record; - A sticker shall be placed on hard hats indicating that the worker has completed the Environmental Awareness Training and Education Program. Construction workers shall not be permitted to operate equipment within the construction areas unless they have attended the Environmental Awareness Training and Education Program and are wearing hard hats with the required sticker; - A copy of the training transcript, training video or informational binder for specific procedures shall be kept available for all personnel to review and be familiar with as necessary. - The construction crews and contractor(s) shall be responsible for unauthorized impacts from construction activities to sensitive biological resources that are outside the areas defined as subject to impacts by project permits.					
BIO-2: Avoidance and Protection of Biological Resources. During proposed construction, operations and maintenance, and decommissioning the City and/or contractor shall implement the following general avoidance and protective measures: All proposed impact areas, including staging areas, access routes, and disposal or temporary placement of spoils, shall be delineated with stakes and/or flagging prior to construction to avoid natural resources where possible. Construction-related activities outside of the impact zone shall be	- Include mitigation measure in construction contractor specifications. - Retain a qualified biologist to delineate limits to areas of disturbance during construction as described. - Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. - Maintain written inspection records in the project file to verify compliance	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
avoided. - The project proponent shall limit the areas of disturbance to the maximum extent that is practicable. Parking areas, new roads, staging, storage, excavation, and disposal site locations shall be confined to the smallest areas possible. These areas shall be flagged and disturbance activities, vehicles, and equipment shall be confined to these flagged areas. - Riparian habitat, drainages, and wetlands will be flagged and signed to restrict project access into these areas. - Spoils shall be stockpiled in disturbed areas that lack native vegetation. Best Management Practices shall be employed to prevent erosion in accordance with the project's approved Stormwater Pollution Prevention Plan (SWPPP; as described in Chapter 3.9). - To prevent inadvertent entrapment of American badgers or other wildlife during construction, all excavated, steep-walled holes or trenches shall be covered with plywood or similar materials at the close of each working day, or provided with one or more escape ramps constructed of earth fill or wooden planks. If trapped animals are observed, the appropriate agency shall be consulted and escape ramps or structures shall be installed immediately to allow escape. If a listed species is trapped, the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife shall be contacted immediately. - Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated work areas shall be prohibited.	All monitoring records shall be retained in the project file.				

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
- Workers shall be prohibited from bringing pets and firearms to the project site and from feeding wildlife. - Intentional killing or collection of any plant or wildlife species shall be prohibited.					
BIO-3: Morro Shoulderband Snail. The following mitigation measures shall be implemented to avoid or minimize impacts to Morro shoulderband snail (MSS): - During project design, if project components would be located in areas determined to have soils and vegetation that could support MSS (e.g., see Final EIR Figure 3.4-7), then a qualified biologist shall conduct a survey to delineate the extent of potential habitat. The survey information shall be incorporated into the project design such that facilities are located to avoid potential MSS habitat. The following project components have either been mapped as Baywood fine sands or dunes, or are in areas adjacent to known populations (see Figure 3.4.7): - Option 5A lift station adjacent to Atascadero Road; - the western pipeline alignment adjacent to the southeast corner of the WWTP; - a portion of the eastern pipeline alignment at Drainage 1A; and - the northwest corner of the IPR-West wellfield. - For pipeline alignments or other project components that are sited in areas adjacent to vegetated areas that have capacity to support MSS, silt fencing shall be installed, under the direction of a qualified biologist, to restrict project activities into these areas and to deter MSS movement into the project area.	- Include mitigation measure in design contract specifications - Include mitigation measure in construction contractor specifications. - Retain a qualified biologist to conduct surveys to delineate the extent of potential MSS habitat and MSS presence/absence, as applicable; delineate potential MSS habitat to avoid during construction, as applicable; and to conduct environmental training for construction crews, as applicable. - Maintain copies of environmental training acknowledgment forms signed by each worker in the project file. - Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. - Maintain written inspection records in the project file to verify compliance - All monitoring records shall be retained in the project file.	City	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
- If avoidance of MSS habitat is not feasible, then protocol levels surveys for MSS shall be conducted to determine presence/absence and distribution of MSS. Surveys shall be conducted by a biologist in possession of a valid recovery permit for the species. If the survey results are negative, the City shall request a concurrence determination for the project based on absence of the species. Coordination with USFWS during project design may facilitate receipt of a concurrence determination. - If survey results are negative and a concurrence authorization is granted, then vegetation shall be removed under supervision of the permitted biologist, and the site(s) shall be graded/grubbed down to bare mineral soil, and bordered with silt fence to preclude MSS from subsequently entering the area(s). - If live MSS are found within areas proposed for impact, then consultation with USFWS will be necessary and the issuance of a Biological Opinion (B.O.) may be required to allow individuals to be moved out of project areas prior to construction. A permitted biologist must be retained to move MSS per the B.O. requirements, and to monitor vegetation clearing activities occurring within the MSS habitat area(s). - If equipment use, materials stockpiling, lift station construction, or any other uses are proposed on the north side of Atascadero Road opposite the existing WWTP, then all such areas shall be delineated by installation of silt fencing to create a barrier between potential MSS habitat and project activities. If fenced areas are utilized during or immediately following rain events or dense fog conditions, then a permitted biologist will survey					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
and clear the work areas each morning prior to start of work to ensure that no MSS have entered the site. Work crews will undergo an environmental training session conducted by a qualified biologist prior to start of construction activities in or adjacent to MSS habitat areas. Environmental training would inform project personnel of the constraints associated with working within and adjacent to MSS habitat, and the appropriate protocol should MSS be encountered during construction activities.					
BIO-4: American Badger. A pre-construction survey for active badger dens will be conducted within the proposed construction impact footprint and surrounding accessible areas of the mapped annual grassland portions of the eastern pipeline alignment (between the WRF and Downing Street on the west; see Figures 3.4-3 through 3.4-5) and the WRF site at least two weeks prior to any ground disturbing activities. The survey will be conducted by a qualified biologist. In order to avoid potential direct impacts to adults and nursing young, no grading should occur within 50 feet of an active badger den as determined by the project biologist. Construction activities between July 1 and February 28 shall comply with the following measures to avoid direct take of adult and weaned juvenile badgers through the forced abandonment of dens: - A qualified biologist will conduct a focused survey at least two (2) weeks prior to the start of construction; - If a potential den is located that is too long to see the end, then a fiber optic scope (or other acceptable method such as using tracking medium for a three-night period) will be used to determine if the den is being actively used by a badger;	- Include mitigation measure in construction contractor specifications. - Retain a qualified biologist to conduct surveys for American Badger dens near the Project, and to be present during initial clearing and grading activity. - Maintain copies of survey report and inspection notes during construction in the project file.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
- Inactive dens will be excavated by hand with a shovel or using a small excavator to prevent badgers from re-using them during construction. - Badgers will be discouraged from using currently active dens prior to the grading of the site by partially blocking the entrance of the den with sticks, debris and soil for three to five days. Access to the den shall be incrementally blocked to a greater degree over this period. This should cause the badger to abandon the den and move elsewhere. After badgers have stopped using any den(s) within the project boundary, the den(s) will be hand-excavated with a shovel or carefully excavated with the use of an excavator to prevent re-use. - The qualified biologist will be present during the initial clearing and grading activity. If additional badger dens are found, all work within the area will cease until the biologist can complete measures described above for inactive and active dens. Once the badger dens have been excavated, work in the area may resume.					
BIO-5: Nesting Birds. The following mitigation measures are recommended to avoid or minimize impacts to nesting bird species, including special-status species and species protected by the Migratory Bird Treaty Act. - Any removal of trees and disturbance of annual grassland habitat will be limited to the time period between September 1 and February 14 if feasible. If tree removal and grassland impacts cannot be conducted during this time period, a qualified biologist shall conduct pre-construction surveys for active bird nests within the limits of the project. - If active nest sites of bird species protected under	- Include mitigation measure in construction contracting specification - Retain a qualified biologist to conduct preconstruction survey if necessary, and to establish buffer if necessary. - Conduct periodic monitoring of mitigation commitments during construction. - Retain copies of survey report, construction monitoring report, and any letter reports submitted to	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
the Migratory Bird Treaty Act and/or FGC section 3503 are observed within or adjacent to the study area, then the project shall be modified and/or delayed as necessary to avoid direct take of the identified nests, eggs, and/or young. Potential project modifications may include establishing appropriate "no activity" buffers around the nest site. The buffer will be 500 feet for raptors and 250 feet for other bird species, or as otherwise determined and documented by a qualified biologist. Construction activities shall not occur in the buffer until the project biologist has determined that the nesting activity has ceased. Active nests shall be documented and monitored by the project biologist, and a letter report will be submitted to the USFWS and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.	USFWS or CDFW in project file.				
BIO-6: Riparian Habitat Avoidance. During proposed project design, a qualified biologist shall identify the project boundaries adjacent to Morro Creek and the allowable limits of construction activities to avoid direct and indirect impacts to riparian habitat. Those limits shall be used during proposed project design to identify a pipeline alignment that avoids impacts to riparian habitat as well as areas to be avoided for siting injection and monitoring wells. During construction, the riparian boundaries and limits shall be clearly flagged or fenced so that contractors are aware of the limits of allowable site access and disturbance. Areas to be preserved should be clearly flagged as off-limits to avoid unnecessary damage and potential erosion.	• Include mitigation measure in design contract specifications • Include mitigation measure in construction contractor specifications. • Retain a qualified biologist to identify allowable limits of construction as indicated in the measure • Include limits of construction in project design specifications. • Include limits of construction in construction contractor specifications. • Retain copies of design and contractor specifications in project files. • Perform site inspections to verify contractor compliance.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
	Retain inspection records in the project file.				
BIO-7: Trenching Buffer for Jurisdictional Features. During construction of proposed project pipelines, trenching shall stop at least 50 feet away from jurisdictional features, such as the top of stream banks, riparian habitat and wetlands, and the remaining distance shall be installed using trenchless construction methods, such as horizontal directional drilling.	- Include mitigation measure in construction contractor specifications. - Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. - Retain copies of contractor specifications in project files. - Perform construction site inspections to ensure any measures decided upon are implemented properly. - Retain copies of construction site inspection logs in the project file.	City; contractors		X	
BIO-8: Construction BMPs to Protect Jurisdictional Features and Aquatic Habitat. The following mitigation measures should be implemented prior to and during construction near Morro Creek and Little Morro Creek, as well as Drainages 1, 1A, 1B, 2, 2A, 2B, 3, 3A, and 3B, and wetlands: 1. Prior to start of construction activities, the applicant should retain a qualified biological monitor to ensure compliance with all permit requirements and avoidance and minimization measures (i.e.: pre-construction surveys, worker environmental training, and construction monitoring) during work within and adjacent to drainage features. 2. The qualified biological monitor will conduct pre-construction surveys to identify any new wetland areas and the expansion of existing wetland to determine their limits. The results will be used in the implementation of Mitigation Measure BIO-7.	- Include mitigation measure in construction contractor specifications. - Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. - Perform construction site inspections to ensure any measures decided upon are implemented properly. - Retain construction monitoring reports in project file. - Retain copies of Erosion Control Plan and Spill Prevention Plan in the project file.	City; contractors	X	X	

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
3. Prior to issuance of construction permits, an Erosion Control Plan incorporating up to date Best Management Practices should be prepared by the project engineer to minimize impacts to jurisdictional features and aquatic habitats. The plan should address installation and maintenance of both temporary and permanent measures to control erosion and dust, contain spills, protect stockpiles, and generally maintain good housekeeping practices within the worksite. All project plans should show that erosion, sediment, and dust control measures must be installed prior to start of any ground disturbing work. 4. All applicable plans should clearly show project stockpile and materials staging areas. These areas would be at least 50 feet from drainage features, wetlands, and active storm drain inlets, and must conform to BMPs applicable for storm drain protection. 5. Prior to start of work, the contractor should prepare and implement a Spill Prevention Plan to ensure prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur. All project-related hazardous materials spills within the project site should be cleaned up immediately. Spill prevention and cleanup materials should be on-site at all times during the course of the project. 6. All refueling, maintenance, and washing of equipment and vehicles should occur on paved areas in a location where a spill would not travel onto bare ground or to a storm drain inlet. This fueling/staging area will conform to BMPs applicable to attaining zero discharge of stormwater runoff. At a minimum, all equipment and vehicles					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
must be checked and maintained on a daily basis to ensure proper operation and avoid potential leaks or spills. Washing of equipment should occur only in a location where polluted water and materials can be contained for subsequent removal from the site. 7. A designated concrete washout location should be established onsite, in an area at least 50 feet from any drainage or storm drain inlet. The washout should be maintained and inspected weekly, and will be covered prior to and during any rain event. Concrete debris should be removed whenever the washout container reaches the 1/2 full mark. 8. BMP's for dust abatement shall be a component of the project's construction documents. Dust control requirements should be carefully implemented to prevent water used for dust abatement from transporting pollutants to storm drains leading to the creek channel. 9. During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.					
BIO-9: Preparation of a Frac-Out Contingency Plan. A Frac-Out Contingency Plan shall be prepared prior to initiation of construction activities that involve horizontal direction drilling activities. The Frac-Out Plan shall be implemented during HDD construction activities. At a minimum, the Frac-Out Plan will include the following: 1. Minimize the potential for a frac-out associated with horizontal directional drilling activities 2. Provide for the timely detection of frac-outs 3. Protect areas that are considered environmentally	• Include mitigation measure in construction contractor specifications. • Retain copy of the Frac-Out Plan in project files. • Perform construction site inspections to verify contractor compliance with requirements of Frac-Out Plan as applicable • Retain copies of inspection records in the project file.	City; contractors	X	X	

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
sensitive (streams, wetlands, other biological resources, cultural resources) 4. Ensure an organized, timely, and "minimum-impact" response in the event a frac-out and release of drilling mud occurs 14. Ensure that all appropriate notifications are made to the appropriate environmental specialists immediately (e.g., qualified biological monitor), and to appropriate regulatory agencies in 24 hours and that documentation is completed.					
BIO-10: Tree Protection. For public trees, protection will be established at a minimum distance of 1.5 times the dripline (<i>i.e.</i>, the distance from the trunk to the outermost limits of leaves and branches). During development, orange construction fencing or sufficient staking to identify the protection area will surround each tree or clusters of trees.	• Include mitigation measure in design specification • Include mitigation measure in construction contractor specifications • Establish protection areas around public trees as necessary prior to initiation of construction activities • Perform construction site inspections to verify contractor compliance with protection areas • Retain copies of inspection records in the project file.	City; contractors	X	X	
Cultural Resources					
CUL-1: Retention of a Qualified Archaeologist. Within 30 days after the City's approval of the final design plans and prior to start of any ground-disturbing activities (<i>i.e.</i>, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the City shall retain a Qualified Archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology	• City to retain a Qualified Archaeologist to carry out all mitigation related to archaeological resources.	City	X		

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
(U.S. Department of the Interior, 1983) to carry out all mitigation related to archaeological resources.					
CUL-2: Pre-Construction Phase I Cultural Resources Survey. Within 30 days after the City's approval of the final design plans and prior to the start of any ground-disturbing activity (i.e., demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist shall conduct pre-construction Phase I Cultural Resources Survey of all areas that have not been previously surveyed within the last 5 years. The survey shall document resources potentially qualifying as historical resources or unique archaeological under CEQA. The Qualified Archaeologist shall document the results of the survey in a Phase I Cultural Resources Survey Report that follows <i>Archaeological Resource Management Reports (ARMR): Recommended Contents and Format</i> (OHP, 1990). The Qualified Archaeologist shall also prepare Department of Parks and Recreation 523 forms for resources encountered during the survey, which shall be appended to the report. If historic architectural resources are encountered that could potentially be impacted by the project, the Qualified Archaeologist shall consult with a Qualified Architectural Historian meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history (U.S. Department of the Interior, 1983). The Qualified Archaeologist shall submit the draft Phase I Cultural Resources Survey Report to the City within 30 days after completion of the survey. The final Phase I Cultural Resources Survey Report shall be submitted to the City within 10 days after receipt of City's comments. The Qualified Archaeologist shall also submit the final Phase I Cultural Resources Survey Report to the Central Coast Information Center.	- Retain a Qualified Archaeologist to prepare the required reports and City forms as required by the mitigation measure. - Retain copies of the required reports and forms in the project file.	City	X		

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
In the event resources potentially qualifying as historical resources or unique archaeological resources under CEQA are identified during the survey, avoidance and preservation in place shall be the preferred manner of mitigating impacts to the resources in accordance with CUL-3 . If avoidance of the identified resources is determined by the City to be infeasible in light of factors such as the nature of the find, proposed project design, costs, and other considerations, then the portion of the resource within the Area of Direct Impact (ADI) shall be subject to presence/absence testing and if potentially significant deposits are identified, the resource shall be evaluated for significance under all four National Register/California Register Criteria (A/1-D/4). If a resource is found to be significant (i.e., meets the definition for historical resource in <i>CEQA Guidelines</i> subdivision 15064.5(a) or unique archaeological resource in PRC subdivision 21083.2(g)), then it shall be incorporated into the Archaeological Resources Data Recovery and Treatment Plan outlined in CUL-4 .					
CUL-3: Avoidance and Preservation in Place of Archaeological Resources. The City shall avoid and preserve in place resources CA-SLO-16, -43, -165, -239, -2222, and -2845, and any other resources that are identified as potentially qualifying as historical resources or unique archaeological resources under CEQA, through proposed project re-design. Avoidance and preservation in place is the preferred manner of mitigating impacts to archaeological resources. Preservation in place maintains the important relationship between artifacts and their archaeological context and also serves to avoid conflict with traditional and religious values of groups who may ascribe meaning to the resource. Preservation in place may be accomplished by, but is not limited to, avoidance, incorporating the resource into open space, capping, or deeding the site into a permanent conservation easement. In the event that avoidance and preservation	• Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of mitigation implementation during project construction. • Prepare weekly construction monitoring reports. • Retain construction monitoring reports in project file.	City; contractors	X	X	

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
in place of a resource is determined by the City to be infeasible in light of factors such as project design, costs, and other considerations, then CUL-4 shall be implemented for that resource. If avoidance and preservation in place of a resource is determined by the City to be feasible, then CUL-5 shall be implemented for that resource.					
CUL-4: Development of an Archaeological Resources Data Recovery and Treatment Plan. The Qualified Archaeologist shall prepare an Archaeological Resources Data Recovery and Treatment Plan for all significant resources that will be impacted by the proposed project. The plan shall be submitted to the City for review and approval prior to the start of field work for data recovery efforts for resources that are eligible under Criterion D/4 (data potential). Data recovery field work shall be completed prior to the start of any project-related ground-disturbing activity. Treatment for resources that are eligible under Criteria A/1 (events), B/2 (persons), and/or C/3 design/workmanship) shall be completed within 3 years of completion of the project. The Archaeological Resources Data Recovery and Treatment Plan shall include: <i>Research Design.</i> The plan shall outline the applicable cultural context(s) for the region, identify research goals and questions that are applicable to each resource or class of resources, and list the data needs (types, quantities, quality) required to answer each research question. The research design shall address all four National Register/California Register Criteria (A/1-D/4) and identify the methods that will be required to inform treatment, such as subsurface investigation, documentary/archival research, and/or oral history, depending on the nature of the resource. <i>Data Recovery for Resources Eligible under Criterion D/4.</i> The plan shall outline the field and	Retain a Qualified Archaeologist to prepare the required Plans as required by the mitigation measure.	City	X		

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
laboratory methods to be employed, and any specialized studies that will be conducted, as part of the data recovery effort for resources that are eligible under National Register/California Register Criterion D/4 (data potential). If a resource is eligible under additional criteria, treatment beyond data recovery shall be implemented (see CUL-4c). • <i>Treatment for Resources Eligible under Criteria A/1, B/2, and/or C/3.</i> In the event a resource is eligible under National Register/California Register Criteria A/1 (events), B/2 (persons), or C/3 (design/workmanship), then resource-specific treatment shall be developed to mitigate project-related impacts to the degree feasible. That could include forms of documentation, interpretation, public outreach, ethnographic and language studies, publications, and educational programs, depending on the nature of the resource, and may require the retention of additional technical specialists. Treatment measures shall be generally outlined in the plan based on existing information on the resource. Once data recovery is completed and the results are available to better inform resource-specific treatment, the treatment measures shall be formalized and implemented. Treatment shall be developed by the Qualified Archaeologist in consultation with the City and Native American Tribal representatives for resources that are Native American in origin. • <i>Security Measures.</i> The plan shall include recommended security measures to protect archaeological resources from vandalism, looting, and non-intentionally damaging activities during field work. • <i>Procedures for Discovery of Human Remains and Associated Funerary Objects.</i> The plan shall outline the protocols and procedures to be followed in the					

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
event that human remains and associated funerary objects are encountered during field work. These shall include stop-work and protective measures, notification protocols, and compliance with California Health and Safety Code section 7050.5 and PRC section 5097.98. See also CUL-14. Reporting Requirements. Upon completion of data recovery for resources eligible under Criterion D/4, the Qualified Archaeologist shall document the findings in an Archaeological Data Recovery Report. The draft Archaeological Data Recovery Report shall be submitted to the City within 360 days after completion of data recovery, and the final Archaeological Data Recovery Report shall be submitted to the City within 60 days after the receipt of City comments. The Qualified Archaeologist shall also submit the final Archaeological Data Recovery Report to the Central Coast Information Center. Upon completion of all other treatment for resources eligible under Criteria A/1, B/2, and C/3, the Qualified Archaeologist shall document the resource-specific treatment that was implemented for each resource and verification that treatment has been completed in a technical document (report or memorandum). The document shall be provided to the City within 30 days after completion of treatment. Curation Requirements. Disposition of Native American archaeological materials shall be determined through consultation between Native American representatives, the Qualified Archaeologist, and the City. Disposition of human remains and associated funerary objects shall be determined by the landowner in consultation with the City and Most Likely Descendant (see CUL-14).					

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Any historic-period archaeological materials that are not Native American in origin shall be curated at a repository accredited by the American Association of Museums that meets the standards outlined in 36 Code of Federal Regulations (CFR) 79.9. If no accredited repository accepts the collection, then it may be curated at a non-accredited repository as long as it meets the minimum standards set forth by 36 CFR 79.9. If neither an accredited nor a non-accredited repository accepts the collection, then it may be offered to a public, non-profit institution with a research interest in the materials, or donated to a local school or historical society in the area for educational purposes, to be determined by the Qualified Archaeologist in consultation with the City. <i>Protocols for Native American Monitoring and Input.</i> The plan shall outline the role and responsibilities of Native American Tribal representatives. It shall include communication protocols and an opportunity and timelines for review of cultural resources documents. The plan shall include provisions for full-time Native American monitoring during field work (see CUL-8).					
CUL-5: Development of a Cultural Resources Monitoring and Mitigation Program (CRMMP). Within 60 days of the award of the contractor's bid and prior to the start of any ground-disturbing activity (<i>i.e.</i>, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist shall prepare a Cultural Resources Mitigation and Monitoring Program (CRMMP) based on the final City-approved project design plans. The CRMMP shall include:	- Include mitigation measure in construction contractor specification - Retain a qualified archaeologist to prepare a CRMMP including all components described in the mitigation measure. - Retain copies of the CRMMP in project file. - Retain a qualified construction monitor to periodically verify	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
<i>Establishment of Environmentally Sensitive Areas.</i> The CRMMP shall outline areas that will be designated Environmentally Sensitive Areas (including maps). Significant or unevaluated cultural resources that are being avoided and are within 50 feet of the construction zone shall be delineated with exclusion markers to ensure avoidance. These areas will not be marked as archaeological resources, but will be designated as "exclusion zones" on project plans and protective fencing in order to discourage unauthorized disturbance or collection of artifacts. <i>Provisions for Archaeological Monitoring.</i> Full-time archaeological monitoring shall be required for all ground disturbance. The CRMMP shall outline the archaeological monitor(s) responsibilities and requirements (see CUL-7). <i>Procedures for Discovery of Archaeological Resources.</i> Procedures to be implemented in the event of an archaeological discovery shall be fully defined in the CRMMP, and shall include stop-work and protective measures, notification protocols, procedures for significance assessments, and appropriate treatment measures. The CRMMP shall state avoidance or preservation in place is the preferred manner of mitigating impacts to historical resources and unique archaeological resources, but shall provide procedures to follow should avoidance be infeasible in light of factors such as the nature of the find, project design, costs, and other considerations. See also CUL-9. If, based on the recommendation of the Qualified Archaeologist, it is determined a discovered archaeological resource constitutes a historical resource or unique archaeological resource pursuant to CEQA, then avoidance and	conditions of the CRMMP are being met. Retain copies of reports that document implementation of CRMMP in the project file.				

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
preservation in place shall be the preferred manner of mitigating impacts to such a resource in accordance with CUL-3. In the event that preservation in place is determined to be infeasible and data recovery through excavation is the only feasible mitigation available, an Archaeological Resources Data Recovery and Treatment Plan shall be prepared and implemented following the procedures outlined in CUL-4. The City shall consult with appropriate Native American representatives in determining treatment of resources that are Native American in origin to ensure cultural values ascribed to the resource, beyond those that are scientifically important, are considered. • <i>Procedures for Discovery of Human Remains and Associated Funerary Objects.</i> The CRMMP shall outline the protocols and procedures to be followed in the event that human remains and associated funerary objects are encountered during construction. These shall include stop-work and protective measures, notification protocols, and compliance with California Health and Safety Code section 7050.5 and PRC section 5097.98 (see CUL-14). • <i>Reporting Requirements.</i> The CRMMP shall outline provisions for weekly, monthly, and final reporting. The Qualified Archaeologist shall prepare weekly status reports detailing activities and locations observed (including maps) and summarizing any discoveries for the duration of monitoring to be submitted to the City via email for each week in which monitoring activities occur. Monthly progress reports summarizing monitoring efforts shall be prepared and submitted to the City for the duration of ground disturbance. The Qualified Archaeologist shall prepare a draft Archaeological Resources					

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
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Monitoring Report and submit it to the City within 180 days after completion of the monitoring program or treatment for significant discoveries should treatment extend beyond the cessation of monitoring. The final Archaeological Resources Monitoring Report shall be submitted to the City within 60 days after receipt of City comments. The Qualified Archaeologist shall also submit the final Archaeological Resources Monitoring Report to the Central Coast Information Center. If human remains are encountered, a confidential report documenting all activities shall be submitted to the California Native American Heritage Commission within 90 days after completion of any treatment (see CUL-14). <i>Curation Requirements.</i> Disposition of Native American archaeological materials shall be determined through consultation between Native American representatives, the Qualified Archaeologist, and the City. Disposition of human remains and associated funerary objects shall be determined by the landowner in consultation with the City and Most Likely Descendant (see CUL-14). Any historic-period archaeological materials that are not Native American in origin shall be curated at a repository accredited by the American Association of Museums that meets the standards outlined in 36 CFR 79.9. If no accredited repository accepts the collection, then it may be curated at a non-accredited repository as long as it meets the minimum standards set forth by 36 CFR 79.9. If neither an accredited nor a non-accredited repository accepts the collection, then it may be offered to a public, non-profit institution with a research interest in the materials, or donated to a local school or historical society in the area for educational purposes, to be determined by the					

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
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Qualified Archaeologist in consultation with the City. <i>Protocols for Native American Monitoring and Input.</i> The CRMMP shall outline the role and responsibilities of Native American Tribal representatives. It shall include communication protocols, an opportunity and timelines for review of cultural resources documents related to discoveries that are Native American in origin, and provisions for Native American monitoring. The CRMMP shall include provisions for full-time Native American monitoring of all project-related ground disturbance, as well as during any subsurface investigation and data recovery for discovered resources that are Native American in origin (see CUL-8).					
CUL-6: Construction Worker Cultural Resources Sensitivity Training. Prior to start of any ground-disturbing activities (<i>i.e.</i>, demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the Qualified Archaeologist, or his/her designee, and a Native American representative shall conduct cultural resources sensitivity training for all construction personnel. In the event construction crews are phased, additional trainings shall be conducted for new construction personnel. Construction personnel shall be informed of the types of archaeological resources that may be encountered, the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains, confidentiality of discoveries, and safety precautions to be taken when working with cultural resources monitors. The City shall ensure construction personnel are made available for and attend the training and retain documentation	- Include mitigation measure in construction contractor specification - Retain a Qualified Archaeologist to coordinate with a Native American representative to conduct cultural resources sensitivity training for all construction personnel. - Retain documentation demonstrating the attendance of all personnel.	City; contractors	X		

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
demonstrating attendance. That training may be conducted in coordination with paleontological sensitivity training required by CUL-11 .					
CUL-7: Archaeological Resources Monitoring. All project-related ground disturbance (<i>i.e.</i> , demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil) shall be monitored by an archaeological monitor(s) familiar with the types of resources that could be encountered and shall work under the direct supervisor of the Qualified Archaeologist. The number of archaeological monitors required to be on-site during ground disturbing activities is dependent on the construction scenario, specifically the number of pieces of equipment operating at the same time, the distance between these pieces of equipment, and the pace at which equipment is working, with the goal of monitors being able to effectively observe soils as they are exposed. Generally, work areas more than 500 feet from one another will require additional monitors. The archaeological monitor(s) shall keep daily logs detailing the types of activities and soils observed, and any discoveries. Archaeological monitor(s) shall have the authority to halt and re-direct ground disturbing activities in the event of a discovery until it has been assessed for significance and treatment implemented, if necessary, based on the recommendations of the Qualified Archaeologist in coordination with the City, and the Native American representatives in the event the resource is Native American in origin, and in accordance with the protocols and procedures outlined in the CRMMP (see CUL-5).	• Include mitigation measure in construction contracting specification • Retain an appropriate number of qualified archaeological monitors to conduct monitoring of project-related ground disturbance as required. • Conduct periodic monitoring of mitigation commitments during construction. • Retain construction monitoring logs and reports in project file. • If a discovery is made, document disposition and resolution of the find as required by the CRMMP.	City; contractors		X	
CUL-8: Native American Monitoring. The City shall	• Include mitigation measure in	City;	X		

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
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retain a Native American monitor(s) from a Tribe that is culturally and geographically affiliated with the project site (according to the California Native American Heritage Commission). The Native American monitor shall monitor all project-related ground disturbance (<i>i.e.</i> , demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil) and all ground disturbance related to subsurface investigation and data recovery efforts for discovered resources that are Native American in origin. The number of Native American monitors required to be on-site during ground disturbing activities is dependent on the construction scenario, specifically the number of pieces of equipment operating at the same time, the distance between these pieces of equipment, and the pace at which equipment is working, with the goal of monitors being able to effectively observe soils as they are exposed. Generally, work areas more than 500 feet from one another require additional monitors. Native American monitors shall have the authority to halt and re-direct ground disturbing activities in the event of a discovery until it has been assessed for significance.	construction contracting specification - Retain an appropriate number of qualified Native American monitor(s) to conduct surveys on project-related ground disturbance. - If a discovery is made, document disposition and resolution of the find as required by the CRMMP.	contractors			
CUL-9: Inadvertent Discovery. In the event archaeological resources are encountered during construction of the proposed project, all activity in the vicinity of the find shall cease (within 100 feet), and the protocols and procedures for discoveries outlined in the CRMMP (see CUL-5) shall be implemented. The discovery shall be evaluated for potential significance by the Qualified Archaeologist. If the Qualified Archaeologist determines that the resource may be significant (<i>i.e.</i> , meets the definition for historical resource in <i>CEQA Guidelines</i> subdivision 15064.5(a) or unique archaeological resource in PRC subdivision	- Include mitigation measure in construction contracting specification - If found, document and retain records regarding discovery of archaeological resources as required by the CRRMP. - Retain construction monitoring report in project file.	City; contractors		X	

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
21083.2(g)), the Qualified Archaeologist shall develop an Archaeological Resources Data Recovery and Treatment Plan for the resource in accordance with the CRMMP (see CUL-5) and following the procedures outlined in CUL-4 . When assessing significance and developing treatment for resources that are Native American in origin, the Qualified Archaeologist and the City shall consult with the appropriate Native American representatives. The Qualified Archaeologist shall also determine if work may proceed in other parts of the project site while data recovery and treatment is being carried out.					
CUL-10: Retention of a Qualified Paleontologist. Within 60 days prior to the start of any ground-disturbing activity (i.e., demolition, pavement removal, pot-holing or auguring, boring, drilling, grubbing, vegetation removal, brush clearance, weed abatement, grading, excavation, trenching, or any other activity that has potential to disturb soil), the City shall retain a paleontologist who meets the (SVP) Standards (SVP, 2010) (Qualified Paleontologist) to carry out all mitigation measures related to paleontological resources.	• Include mitigation measure in construction contracting specification • Retain a qualified paleontologist to carry out all mitigation measures related to paleontological resources.	City; contractors	X		
CUL-11: Paleontological Resources Sensitivity Training. The Qualified Paleontologist, or his/her designee, shall conduct construction worker paleontological resources sensitivity training prior to the start of ground disturbing activities. In the event construction crews are phased, additional trainings shall be conducted for new construction personnel. The training session shall focus on the recognition of the types of paleontological resources that could be encountered within the project site and the procedures to be followed if they are found. The City shall ensure construction personnel are made available for and attend the training and retain documentation demonstrating attendance. That training may be	• Include mitigation measure in construction contracting specification • Retain a qualified paleontologist to conduct paleontological resources sensitivity training prior to the start of ground disturbing activities. • Retain documentation demonstrating paleontological resources sensitivity training and attendance.	City; contractors	X		

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
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conducted in coordination with construction worker cultural resources sensitivity training required by CUL-6.					
CUL-12: Paleontological Resources Monitoring. All ground disturbance in excess of 5 feet within areas that are mapped as younger alluvial gravel (Qa) and beach and dune sands (Qs) shall be monitored on a full-time basis during initial ground disturbance. The Qualified Paleontologist shall spot check the excavation on an intermittent basis and recommend whether the depth of required monitoring should be revised based on his/her observations. If the Qualified Paleontologist determines full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, then the Qualified Paleontologist may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Paleontological resources monitoring shall be performed by a qualified paleontological monitor (meeting the standards of the SVP, 2010) under the direction of the Qualified Paleontologist. Monitors shall have the authority to temporarily halt or divert work away from exposed fossils in order to recover the fossil specimens. Any significant fossils collected during project-related excavations shall be prepared to the point of identification and curated into an accredited repository with retrievable storage. Monitors shall prepare daily logs detailing the types of activities and soils observed, and any discoveries. The Qualified Paleontologist shall prepare a Paleontological Resources Monitoring Report detailing the locations of monitoring and any discoveries. The report shall be submitted to the City within 60 days after completion of the monitoring program, or treatment for significant discoveries should treatment extend beyond the cessation of monitoring.	• Include mitigation measure in construction contracting specification • Retain a qualified paleontologist to monitor excavation in excess of five feet. • Conduct periodic monitoring of mitigation commitments during construction. • Retain copies of all surveys and reports in the project file.	City; contractors		X	

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			Before Construction	During Construction	After Construction
CUL-13: Inadvertent Discovery of Fossils. If construction or other proposed project personnel discover any potential fossils during construction, regardless of the depth of work or location, then work at the discovery location shall cease in a 50-foot radius of the discovery until the Qualified Paleontologist has assessed the discovery and made recommendations as to the appropriate treatment. If the find is deemed significant, it shall be salvaged following the standards of the SVP (2010) and curated with a certified repository.	• Include mitigation measure in construction contractor specification • If found, document and retain records regarding discovery of paleontological resources as required	City; contractors		X	
CUL-14. Inadvertent Discovery of Human Remains: If human remains are encountered, then the City shall halt work in the vicinity (within 100 feet) of the discovery and contact the County Coroner in accordance with PRC section 5097.98 and Health and Safety Code section 7050.5. If the County Coroner determines the remains are Native American, then the Coroner will notify the California Native American Heritage Commission in accordance with Health and Safety Code subdivision 7050.5(c), and PRC section 5097.98. The California Native American Heritage Commission will designate a Most Likely Descendent for the remains per PRC section 5097.98. Until the landowner has conferred with the Most Likely Descendent, the contractor shall ensure the immediate vicinity where the discovery occurred is not disturbed by further activity, is adequately protected according to generally accepted cultural or archaeological standards or practices, and that further activities take into account the possibility of multiple burials. If human remains are encountered, the Qualified Archaeologist, in consultation with the Most Likely Descendant shall prepare a confidential report documenting all activities and it shall be submitted to the California Native American Heritage Commission within 90 days after completion of any treatment.	• Include mitigation measure in construction contractor specification • If found, document and retain records regarding discovery of human remains as required	City; contractors		X	X

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Geology, Soils, and Seismicity					
GEO-1 Geotechnical Investigation: A geotechnical investigation shall be prepared by a certified engineer for all facilities involving substantial ground disturbance or excavation. The investigation shall assess geologic and seismic hazards, including but not limited to, subsidence, liquefaction, landslide, expansive soil potential and collapsible soil potential of each facility site. Structural mitigation recommendations provided in the geotechnical investigation shall be incorporated into the design of the facility prior to construction. The contents of the geotechnical investigation shall vary depending on the jurisdiction and risks associated with each facility's location.	• Include mitigation measure in design contractor specifications • Retain qualified consultant to prepare Geotechnical Investigation • Retain a copy of Geotechnical Investigation report, recommendations, and design specifications in project file	City; contractors	X	X	
GEO-2: Post-Construction Site Restoration. After construction of project pipelines, disturbed areas shall be managed to control erosion, including without limitation: repaving areas within roadways, restoring vegetated areas (with native plants if applicable), and regrading surfaces to minimize changes in drainage patterns.	• Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of mitigation implementation at completion of project construction. • Retain construction monitoring reports in project file.	City; contractors	X		X
Noise					
NOISE-1: Construction Noise Reduction Measures. The City shall develop and submit a Construction Noise Reduction Plan to the building official prior to initiating construction activities during hours that are not included in the exemption under the Morro Bay Municipal Code. The City or its contractor shall implement the Construction Noise Reduction Plan. A disturbance coordinator shall be designated for the project to implement the provisions of the Plan. At a minimum, the Construction Noise Reduction Plan shall implement the following measures:	• Include mitigation measure in construction contractor specifications. • Retain a qualified construction monitor to conduct routine inspections of noise reduction measures during project construction. • Maintain written inspection records in the project file to verify compliance. • Maintain written documentation of all noise complaints and the resolution of complaints in the project file.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
- Distribute to the potentially affected residences and other sensitive receptors within 150 feet of project construction boundary a "hotline" telephone number, which shall be attended during active construction working hours, for use by the public to register complaints. The distribution shall identify a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints and institute feasible actions warranted to correct the problem. All complaints shall be logged noting date, time, complainant's name, nature of complaint, and any corrective action taken. The distribution shall also notify residents adjacent to the project site of the construction schedule. - All construction equipment shall have intake and exhaust mufflers recommended by the manufacturers thereof, to meet relevant noise limitations. - Maintain maximum physical separation, as far as practicable, between noise sources (construction equipment) and sensitive noise receptors. Separation may be achieved by locating stationary equipment to minimize noise impacts on the community. - Impact tools (e.g., jack hammers, pavement breakers) used during construction activities will be hydraulically or electrically powered where feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used.					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
Use construction noise barriers such as paneled noise shields, blankets, or enclosures adjacent to noisy stationary equipment. Noise control shields, blankets or enclosures shall be made featuring a solid panel and a weather-protected, sound-absorptive material on the construction-activity side of the noise shield.					
NOISE-2: Operational Noise Reduction Measures. Prior to final design of the proposed injection wells, the City shall prepare an Operational Noise Reduction Plan demonstrating that the proposed injection wells will not expose the nearest sensitive receptor to noise levels that would exceed the City's daytime and nighttime noise standards (see Table 3.11-4). The operational noise reduction plan shall be prepared by a qualified noise consultant. Once all noise reduction measures outlined in the Operational Noise Reduction Plan are implemented, the City shall measure noise at the nearest sensitive receptor property line to validate the effectiveness of the measures and to demonstrate that operational noise levels are below the City's noise standards.	- Include mitigation measure in design specifications. - Retain qualified noise consultant to prepare Operational Noise Reduction Plan. - Conduct noise measurements once project components are constructed. - Retain copies of the Operational Noise Reduction Plan and results of noise measurements in the project file.	City	X		X
Transportation and Traffic					
TRAF-1: Traffic Control Plan. Prior to the start of construction of project components that would occur within a roadway right-of-way, the City shall require the construction contractor to prepare a Traffic Control Plan. The Traffic Control Plan will show all signage, striping, delineated detours, flagging operations and any other devices that will be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate access and circulation to the satisfaction of the City's Public Works Director and Fire and Police Chiefs. When construction activities disrupt travel on major collectors or arterials, electronic signing shall be used to provide the public, on	- Include mitigation measure in construction contractor specifications. - Retain a qualified mitigation monitor to implement mitigation monitoring activities during project construction. - Conduct routine inspections of construction equipment to ensure compliance. - Maintain written inspection records in the project file to verify compliance - All monitoring records shall be retained in the project file.	City; contractors	X	X	

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
all transportation modes, with current construction information and the availability of alternate travel routes. The Traffic Control Plan will be prepared in accordance with the City's traffic control guidelines and will be prepared to ensure that access will be maintained to individual properties, and that emergency access will not be restricted. Additionally, the Traffic Control Plan shall also include a scheduling plan showing the hours of operation to minimize congestion during the peak hours and special events. The scheduling plan will ensure that congestion and traffic delay are not substantially increased as a result of the construction activities. Further, the Traffic Control Plan will include detours or alternative routes for bicyclists using on-street bicycle lanes as well as for pedestrians using adjacent sidewalks. In addition, the City shall provide written notice at least two weeks prior to the start of construction to owners/occupants along streets to be affected during construction. During construction, the City will maintain continuous vehicular and pedestrian access to any affected residential driveways from the public street to the private property line, except where necessary construction precludes such continuous access for reasonable periods of time. Access will be reestablished at the end of the workday. If a driveway needs to be closed or interfered with as described above, the City shall notify the owner or occupant of the closure of the driveway at least five working days prior to the closure. The Traffic Control Plan shall include provisions to ensure that the construction of the lift station, conveyance pipelines, and the IPR injection and monitoring wells do not interfere unnecessarily with the work of other agencies such as mail delivery, school buses, and municipal waste services. The City shall also notify local emergency responders of					

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule		
			Before Construction	During Construction	After Construction
any planned partial or full lane closures or blocked access to roadways or driveways required for construction of the proposed project facilities. Emergency responders include fire departments, police departments, and ambulances that have jurisdiction within the proposed project area. Written notification and disclosure of lane closure location must be provided at least 30 days prior to the planned closure to allow for emergency response providers adequate time to prepare for lane closures.					

EXHIBIT C
to
Resolution No. 61-18

Statement of Overriding Considerations

CEQA requires a public agency balances the benefits of a project against its unavoidable environmental effects in determining whether to approve the project, and authorizes a public agency to approve a project with significant and unavoidable environmental impacts if it concludes that such impacts are acceptable because they are outweighed by the benefits of the project. In making this determination, the City of Morro Bay is guided by CEQA Guidelines Section 15093 which provides as follows:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a Project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, then the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Impacts of the Project

Consistent with the CEQA Guidelines and the California Public Resources Code subdivision 21081(b), the City has made a good-faith effort to eliminate, minimize, and render less than significant all potentially significant adverse impacts that may result from implementation of the Project through the adoption of feasible mitigation measures. Despite that effort, the City concludes the Project is likely to result in significant and unavoidable impacts to historic and archaeological resources and human remains during construction. However, after considering the Project and the entire administrative record and weighing the Project’s benefits against its potential environmental impacts, the City concludes the benefits of the Project outweigh its potential significant and unavoidable adverse environmental impacts.

Benefits of the Project

CEQA requires the lead agency to balance the benefits of a project against its unavoidable environmental risks in determining whether to approve a project. The City finds each of the following benefits of the WRF Project supports the overriding of the significant impacts identified above.

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- Flood Hazard Areas – Decommissioning of the WWTP would remove treatment facilities from the 100-year flood hazard area, which is beneficial because it would remove a substantial impediment within the flood plain, which is a net beneficial impact.
 - Water Supply Entitlements – Operation of the Project would allow for the development of 650 to 825 AFY of advanced treated recycled water for indirect potable reuse, thereby enhancing water supplies in the project area and providing water supply reliability with a new local renewable water supply.
 - Wastewater Treatment Capacity – The WRF will be designed to accommodate the City’s projected wastewater treatment capacity needs in the future based on limited buildout projections allowed pursuant to the General Plan.
 - Improved Reliability and Public Safety – By relocating the WWTP farther from the coast, the WRF would be less subject to coastal hazards that could impair the operations of the facility, thus minimizing the potential for a shutdown in service that could adversely impact public health and safety. In addition, the WRF infrastructure would be more reliable than the existing WWTP, thereby reducing potential service interruptions.
 - Improved Opportunity for Appropriate Coastal Uses – relocation of the existing WWTP would free up valuable coastal lands, which could ultimately be used more beneficially and be more consistent with the intent of the Coastal Act. Depending on the nature of the future use, the land could also result in improved economic benefits for the City and, thus, improve its ability to provide public services.
 - Beneficial Funding – The City has no option but to replace the existing WWTP and must provide a system to handle the community’s wastewater. Replacing the WWTP with a facility that includes water recycling operations will provide opportunities for low interest loans or grants to fund this needed project at a lower cost.

Conclusion

The City acknowledges, despite all feasible mitigation measures, approval of the Project may result in significant adverse and unavoidable impacts to historic and archaeological resources and human remains. However, for the foregoing reasons and based on the FEIR and the entire administrative record, the City hereby determines when the impacts are balanced against the Project’s specific benefits, on the whole the benefits of the Project outweigh the limited impacts and warrant approval of the Project.

The City recognizes the importance of providing wastewater treatment services that meet State water quality requirements and augmenting potable water supply reliability with advanced treated recycled water. The Project would make the best use of recycled water by recharging it and storing it in the Morro Valley Groundwater Basin for subsequent extraction by the City. The Project would involve a suite of mitigation measures to reduce impacts during construction to historic and archaeological resources and human remains, including, first and foremost, measures to avoid those impacts to the extent feasible. While the Project impacts may not be reduced to a level of less than significant, the Project specifically balances the needs for the City to meet the

State's requirements to meet wastewater treatment standards, remove essential wastewater infrastructure away from coastal flood hazard zones, and provide water supply to meet consumptive water demands of its ratepayers with the need to protect the environment of California to the greatest extent feasible.

The City further finds each of the overriding considerations set forth above constitutes a separate and independent basis for finding that the benefits of the Project outweigh the unavoidable adverse environmental effects, and warrants approval of the Project.

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AGENDA NO: C-1

MEETING DATE: August 14, 2018

Staff Report

TO: Honorable Mayor and City Council

DATE: July 31, 2018

FROM: Scott Collins, City Manager
Joseph W. Pannone, City Attorney

SUBJECT: Ratification of the Administrative Action Taken to Extend the Proposition 218 Public Hearing Date for the Proposed Water Reclamation Facility (WRF) Surcharge to September 11, 2018, or Later Date as Deemed Appropriate by the Council

RECOMMENDATION

Staff recommends the City Council ratify the extension of the public hearing for the WRF surcharge, pursuant to Proposition 218, to September 11, 2018.

FISCAL IMPACT

Minimal expenses were incurred as a result of the re-noticing of the Proposition 218 hearing and the preparation of this staff report.

BACKGROUND/DISCUSSION

At the July 10, 2018, Council meeting, the City Council approved the Proposition 218 notice and authorized staff to release that notice for the Water Reclamation Facility (WRF) surcharges. On July 12, staff provided Mail Stream Inc. with the approved Proposition 218 notice and a list of 6,234 addresses to receive a notice. As directed by Council through its Proposition 218 process policy (Resolution No. 44-18), the mailing list included both real property owners and utility customers.

City staff became aware late Friday afternoon (July 20, 2018), mistakenly, not all customers were provided with the Proposition 218 notices that were mailed out on July 13, 2018. Immediately upon realizing that, staff worked with the City Attorney to determine the most immediate course of corrective action. It was important for the City, as soon as possible, to advise all those affected property owners and customers of that error and a City Council meeting could not be convened until August 14, 2018. Based on that, City management, including the City Attorney, decided the best, legal approach would be for staff to send out postcard notifications of the hearing date change to those who had already received a 218 notice, provide a 218 notice to those persons who had mistakenly not been provided with the first 218 notice, reschedule the public hearing date for a date after August 28th and provide a press release and information on the City's website of the changes and reasons for the changes. That action ensured all those entitled to participate in the 218 process would be given the required 45-day period to protest and still allowed the City Council to decide either to ratify that decision or reschedule the Prop 218 public hearing for another date later than September 11, 2018.

A total of 1,282 notices were sent via mail by Friday July 27, 2018, to those individuals who mistakenly were not provided notices through the original mailing, and that notice let recipients

Prepared By: _____

Dept Review: _____

City Manager Review: SC

City Attorney Review: JWP

know the Proposition 218 public hearing date is September 11, 2018. In addition, staff sent a mailer to all individuals who received the original noticing, alerting recipients about the extension of the public hearing to September 11, 2018. The public hearing extension information was posted on the City's website and sent to local media via press release.

CONCLUSION

Staff recommends Council ratify staff's administrative action to extend the Proposition 218 Public Hearing date for the WRF surcharge to September 11, 2018.