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 28, 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

- OpenGov Presentation by Finance Director Callaway

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 26, 2018 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 28, 2018, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE JULY 10, 2018, CITY COUNCIL MEETING; (ADMINSTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE AUGUST 15, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINSTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF TBID ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: City Council consider the request submitted by Tourism Business Improvement District (TBID) Advisory Board Member, Maggie Juren, to excuse her absence from the September 20, 2018 Regular TBID Advisory Board Meeting and allow her to continue serving through the scheduled term ending January 31, 2019.

A-6 ADOPTION OF RESOLUTION NO. 67-18 APPROVING FISCAL YEAR 2018/19 COMBINED SALARY SCHEDULE; (FINANCE)

RECOMMENDATION: Council adopt Resolution No. 67-18.

A-7 ADOPTION OF RESOLUTION NO. 65-18 AUTHORIZATION FOR THE CITY OF MORRO BAY'S PROJECT LIST FOR FY 18/19 FOR THE CALIFORNIA STATE OF GOOD REPAIR PROGRAM; (PUBLIC WORKS)

RECOMMENDATION: City Council adopt Resolution No. 65-18.

A-8 APPROVAL OF RESOLUTION NO. 66-18 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A $25,584 2018/2019 BOATING SAFETY AND ENFORCEMENT GRANT CONTRACT WITH THE STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS FOR PURCHASE OF TWO RESCUE WATERCRAFT, RESCUE SLED AND TRAILER; (HARBOR)

RECOMMENDATION: City Council adopt Resolution No. 66-18.

A-9 APPROVAL OF AMENDMENT NO. 1 TO CITY'S CONTRACT WITH SWCA ENVIRONMENTAL CONSULTANTS FOR CEQA RELATED CONSULTING SERVICES FOR THE 3300 PANORAMA DRIVE PROJECT; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Authorize the City Manager to execute Amendment No. 1 to the agreement with SWCA Environmental Consultants, increasing the contract amount by an additional $4,260.00 for a total contract not to exceed amount of $11,094.00, for CEQA related services for the 3300 Panorama tank demolition project. This contract is reimbursable by the applicant in full.

A-10 ADOPTION OF RESOLUTION NO. 68-18 APPROVING AMENDMENT #3 TO THE NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND BOATYARD LLC FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO, AND COMMONLY KNOWN AS "THE BOATYARD," AND AMENDMENT #1 TO THE NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND BOATYARD LLC AND FAIR SKY PROPERTIES FOR LEASE SITE 90/90W, LOCATED AT 885 EMBARCADERO, AND COMMONLY KNOWN AS "OTTER ROCK CAFÉ"; (HARBOR)

RECOMMENDATION: City Council adopt Resolution No. 68-18.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 CITY COUNCIL RECONSIDERATION OF HARBOR ADVISORY BOARD COUNCIL GOAL OBJECTIVE WORK PLAN ELEMENT FOR GOAL 1, OBJECTIVE (D), WORK PROGRAM ELEMENT 6 REGARDING FEE-BASED BOAT/RV STORAGE IN THE "TRIANGLE" PARKING LOT; (HARBOR)

RECOMMENDATION: City Council approve:

1. **The trailer boat dry storage yard program for the Triangle Lot as outlined in this report; and**
2. **Authorization of an expenditure up to $15,000 from the Harbor Accumulation Fund for initial yard improvements, with the Accumulation Fund being "repaid" first for initial yard improvements before any revenues are allocated elsewhere; and**
3. **A new Master Fee Schedule item of $100/month for trailer boat dry storage in the Triangle Lot.**

C-2 APPROVAL OF ISSUANCE OF A REQUEST FOR PROPOSALS FOR MORRO BAY MARINE SERVICES FACILITY AND BOATYARD FINANCIAL FEASIBILITY STUDY, AND REAFFIRMATION OF FINANCIAL COMMITMENT TO COMPLETE IT; (HARBOR)

RECOMMENDATION: City Council approve issuance of a request for proposals for preparation of a Morro Bay Marine Services Facility and Boatyard Financial Feasibility Study, in addition to reaffirming its previous financial commitment to complete it.

C-3 DISCUSSION AND DIRECTION ON PROCESS FOR DEVELOPING FISCAL EMERGENCY/SUSTAINABILITY PLAN AND FINANCIAL POLICIES; (FINANCE)

RECOMMENDATION: Council receive the staff report regarding process for developing fiscal emergency/sustainability plan and financial policies and provide feedback and direction as appropriate.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday**, **September 11, 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.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 26, 2018
VETERANS MEMORIAL HALL - 6:00 P.M.

AGENDA NO: A-1

MEETING DATE: August 28, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
ABSENT:	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Lori Kudzma	Deputy City Clerk
	Joseph Pannone	City Attorney
	Jennifer Callaway	Finance Director
	Scot Graham	Community Development Director
	Rob Livick	Public Works Director
	Greg Allen	Police Chief
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director
	Cindy Jacinth	Senior Planner
	Jennifer Little	Tourism Manager
	Eric Casares	WRF Program Manager (Carollo Engineers)

ESTABLISH QUORUM AND CALL TO ORDER
https://youtu.be/_3omh0gBOv8?t=1m6s
The meeting was called to order at 6:04 p.m., with four members present. Council Member McPherson had an excused absence.

MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION – None
CLOSED SESSION REPORT - None

MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/_3omh0gBOv8?t=2m49s

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/_3omh0gBOv8?t=5m58s

PRESENTATIONS – None

PUBLIC COMMENT
https://youtu.be/_3omh0gBOv8?t=7m34s
Mayor Irons opened the public comment period.

Larry Schmidt, owner of Skipper's Brew located at 571 Embarcadero, provided the business spot. They have coffee drinks and smoothies. Their business hours are from 7:30 a.m. to 3:00 p.m. during the week and until 5:00 p.m. on weekends.

Carolyn Brinkman, Morro Bay Action Team, spoke in protest of the timing of the Prop 218 notice.

Cynthia Hawley, Morro Bay Action Team, believes the Prop 218 notice is premature and urged postponement of the noticing.

Meredith Bates, Morro Bay Action Team, spoke in concern of the Prop 218 scheduled to be noticed on July 10th. Ms. Bates asked that the community be informed of Blue Ribbon Commission recommendations that were not approved.

Rigmor, Morro Bay resident, spoke in support of moving the WRF project forward.

Tina Metzger, Morro Bay resident, shared concern for property owners that did not receive the most recent postcard and asked that the tax assessor rolls addresses be used.

Kerrigan Mahan spoke against the WRF project as it stands.

Erica Crawford, Chamber of Commerce, shared information about the ribbon cutting for Milanese Cuban. Ms. Crawford also shared updates to the Chamber's Facebook page.

Steve Stevens spoke in concern about premature Prop 218 noticing.

Mayor Irons closed the public comment period.

A. CONSENT AGENDA
https://youtu.be/_3omh0gBOv8?t=34m39s

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

A-1 APPROVAL OF MINUTES FOR THE JUNE 4, 2018 CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF CORRECTED MINUTES FOR THE MAY 23, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF A NEW LICENSE AGREEMENT WITH MORRO BAY HARBOR FESTIVAL, INC FOR USE OF HARBOR DEPARTMENT'S STORAGE YARD IN THE FRONT STREET PARKING LOT; (HARBOR)

RECOMMENDATION: City Council approve a two-year License Agreement with Morro Bay Harbor Festival, Inc. that includes an option to extend for one two-year period, for use of a portion of the Harbor Department's storage yard in the Front Street parking lot.

A-4 APPROVAL OF NEW LICENSE AGREEMENT WITH MORRO BAY HOOKERS BAITING SERVICE FOR USE OF A PORTION OF THE HARBOR DEPARTMENT STORAGE YARD LOCATED AT 1620 EMBARCADERO; (HARBOR)

RECOMMENDATION: City Council approve a two-year License Agreement with Lonnie Carter, doing business as "Morro Bay Hookers" baiting service, that includes an option to extend for one two-year period, for use of a portion of the Harbor Department's storage yard, located at 1620 Embarcadero.

A-5 APPROVAL OF FISCAL YEAR 2018-19 COMBINED SALARY SCHEDULE AND JOB DESCRIPTION FOR CONSOLIDATED MAINTENANCE WORKER I; (FINANCE)

RECOMMENDATION: City Council adopt Resolution 48-18 approving the FY 2018-19 Combined Salary Schedule and job description for the Consolidated Maintenance Worker I position.

A-6 SECOND READING AND ADOPTION OF ORDINANCE NO. 614 AMENDING SECTION 2.08.090 AND SUBDIVISION 3.22.120 B. OF THE MORRO MUNICIPAL CODE RELATING TO COUNCIL MEETING MINUTES AND TERMS OF THE CITIZENS OVERSIGHT COMMITTEE, RESPECTIVELY; (CITY ATTORNEY)

RECOMMENDATION: City Council waive reading of Ordinance 614 in its entirety and adopt Ordinance No. 614, amending Section 2.08.090 and Subdivision 3.22.120 B. of the Morro Municipal Code (MBMC) relating to Council timing for preparation of Council meeting minutes and terms of the Citizens Oversight Committee, respectively.

A-7 ADOPTION OF RESOLUTION NO. 49-18 APPROVING A NEW 32-YEAR MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND THMT, INC. FOR LEASE SITE 122-123/122W-123W, AND EXTENSION OF 122W-123W, LOCATED AT 1205 EMBARCADERO (HARBOR HUT RESTAURANT); (HARBOR)

RECOMMENDATION: Council adopt Resolution No. 49-18, approving a new 32-year Master Lease Agreement for Lease Site 122-123/122W-123W, and Extension of 122W-123W, as proposed.

A-8 ADOPTION OF RESOLUTION NO. 47-18 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR FISCAL YEAR 2018/19; (FINANCE)

RECOMMENDATION: City Council adopt Resolution No. 47-18, which sets the FY 18/19 appropriations limit at $26,960,330.

A-9 ADOPTION OF RESOLUTION NO. 50-18, APPROVING A 1-YEAR LEASE AGREEMENT WITH CIANO REAL ESTATE, INC. FOR PROPERTY LOCATED AT 781 MARKET STREET; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council adopt Resolution No. 50-18, approving a 1-year Lease Agreement for the City property located at 781 Market Street (APN: 066-321-027).

A-10 AGREEMENT WITH CHAMBER OF COMMERCE FOR IMPLEMENTATION OF THE ECONOMIC DEVELOPMENT STRATEGIC PLAN; (CITY MANAGER)

RECOMMENDATION: City Council authorize the City Manager, subject to the approval of the City Attorney, to sign an agreement with the Chamber of Commerce for economic development services as described in the 4MB Memorandum of Understanding and approve the expenditure by the City for a payment to the Chamber in the amount of $30,000 for FY 2018/19, with monthly payments of $2,500.

A-11 APPROVAL OF VISITOR CENTER SERVICES CONTRACT AND LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (CITY MANAGER)

RECOMMENDATION: City Council approve agreements with the Morro Bay Chamber of Commerce (Chamber) for Visitor Center Services and the renewal of a property lease at 695 Harbor Street.

Mayor Irons pulled Items A-2 and A-7.
Council Member Headding pulled Items A-10 and A-11.
Council Member Davis pulled Item A-3.
Council Member Makowetski pulled Item A-8.

The public comment period for the Consent Agenda was opened.
https://youtu.be/_3omh0gBOv8?t=35m20s

Carolyn Brinkman, Morro Bay resident, spoke regarding Item A-6. Ms. Brinkman requested a compromise to Ordinance No. 614 regarding minutes.

Erica Crawford, Morro Bay Chamber, spoke in support of Items A-10 and A-11.

Betty Winholtz spoke regarding Item A-10, asked for clarification on the roles for the educational group and the Quintana Champion.

Shawna Battaglia, business owner, spoke in support of the 4MB project.

Steve Stevens inquired as to the lease with Ciano real estate. Mr. Stevens suggested an ombudsman to assist with minutes and to help people understand consent items.

The public comment period for the Consent Agenda was closed.

MOTION: Council Member Headding moved approval all items on Consent with the exception of Items A-2, A-3, A-7, A-8, A-10 and A-11. The motion was seconded by Council Member Davis and carried 4-0.

A-2 APPROVAL OF CORRECTED MINUTES FOR THE MAY 23, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)
https://youtu.be/_3omh0gBOv8?t=46m10s

Mayor Irons shared an additional edit to add "and Linda Stedjee" to the end of the sentence regarding Mr. Lawson's public comment.

MOTION: Mayor Irons moved to approve as amended. The motion was seconded by Council Member Makowetski and carried 4-0.

A-3 APPROVAL OF A NEW LICENSE AGREEMENT WITH MORRO BAY HARBOR FESTIVAL, INC FOR USE OF HARBOR DEPARTMENT'S STORAGE YARD IN THE FRONT STREET PARKING LOT; (HARBOR)
https://youtu.be/_3omh0gBOv8?t=47m39s

There was discussion regarding reducing the term of the license agreement and staff working with the Harbor Festival to find a more suitable location for their storage needs.

City Attorney Pannone suggested edits to paragraphs 4 and removal of paragraph 5 of the license agreement.

MOTION: Council Member Davis moved City Council approves a one-year license agreement with the Morro Bay Harbor Festival for use of a portion of the Harbor Department's storage yard in the Font Street parking lot, and direct staff to work with Harbor Festival to find a different location starting July 1, 2019, change paragraph 4 of the license agreement to change the effective date until June 30, 2019, to strike paragraph 5 Renewal and substitute language that supports staff working with the Harbor Festival to find a different location. The motion was seconded by Council Member Makowetski and carried 4-0.

A-7 ADOPTION OF RESOLUTION NO. 49-18 APPROVING A NEW 32-YEAR MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND THMT, INC. FOR

LEASE SITE 122-123/122W-123W, AND EXTENSION OF 122W-123W, LOCATED AT 1205 EMBARCADERO (HARBOR HUT RESTAURANT); (HARBOR)
https://youtu.be/_3omh0gBOv8?t=54m24s

Mayor Irons suggested additional language to Resolution No. 49-18 after the first whereas statement:

"Whereas, Measure D was established by a vote of the people of Morro Bay on June 2, 1981 to establish and preserve a waterfront zone for commercial and recreational fishing starting at Beach Street and ending at Target Rock; and

Whereas, the Harbor Hut was a pre-established restaurant at 1205 Embarcadero when Measure D was enacted, and thus is a "grandfathered" non-conforming use in the Measure D zone; and"

Mayor Irons also suggested edits to section 3.01 Permitted Uses of the lease.

Harbor Director Endersby also noted some corrections to be made to the lease.

MOTION: Council Member Headding moved to adopt Resolution No. 49-18, approving a 32-year Master Lease Agreement between the City of Morro Bay and the Harbor Hut, with amended changes as discussed. The motion was seconded by Council Member Davis and carried 4-0.

A-8 ADOPTION OF RESOLUTION NO. 47-18 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR FISCAL YEAR 2018/19; (FINANCE)
https://youtu.be/_3omh0gBOv8?t=1h51s

Council Member Makowetski asked Finance Director Callaway to go over the item.

MOTION: Council Member Makowetski moved to accept A-8. The motion was seconded by Council Member Davis and carried 4-0.

A-10 AGREEMENT WITH CHAMBER OF COMMERCE FOR IMPLEMENTATION OF THE ECONOMIC DEVELOPMENT STRATEGIC PLAN; (CITY MANAGER)
https://youtu.be/_3omh0gBOv8?t=1h4m

Council Member Headding asked for clarification from staff on several items.

There was discussion regarding some inconsistencies. City Attorney Pannone clarified the agreement supersedes in areas where inconsistent.

There was discussion to include the section from page 219 (MOU) labeled as "Metrics to be reported to City Council will include" in section 5 on page 211 of the agreement.

MOTION: Council Member Headding moved approval with the suggested changes. The motion was seconded by Council Member Davis and carried 4-0.

A-11 APPROVAL OF VISITOR CENTER SERVICES CONTRACT AND LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (CITY MANAGER)
https://youtu.be/_3omh0gBOv8?t=1h12m29s

Council Member Headding spoke to the professionalism of Visitor's Center staff and volunteers.
There was a brief discussion about the potential to add kiosks at the Embarcadero and other business areas.

MOTION: Council Member Headding moved approval. The motion was seconded by Council Member Davis and carried 4-0

B. PUBLIC HEARINGS

B-1 DENIAL OF APPEALS OF AMENDMENT (A00-054) TO CONDITIONAL USE PERMIT (PRECISE PLAN NO. UP0-284) FOR 1001 FRONT ST TO ALLOW PERMANENT USE OF A 48SF SEASONAL KIOSK FOR VIRG'S LANDING; (COMMUNITY DEVELOPMENT)
https://youtu.be/_3omh0gBOv8?t=1h14m39s

Senior Planner Jacinth gave the report and answered Council inquiries.

Mayor Irons invited Appellant 1 to speak. Dustin Tardiff, attorney representing Wade Gavin spoke regarding the appeal, requesting denial or delay of the Conditional Use Permit.

Mayor Irons invited Appellant 2 to speak. Cathy Novak, Novak Consulting, spoke representing Virg's Landing & Giovanni's. Ms. Novak requested modification of conditions 9 and 10, regarding location of the kiosk. Ms. Novak also addressed the hours of opening and closing the gate.

Mayor Irons opened public comment for Item B-1.

Bruce Harwood spoke in support of the Virg's Landing kiosk and sees it as an asset to the waterfront area.

Denise DeCoch, Virg's Landing owner, expressed the importance of having a presence on the waterfront.

The public comment period was closed.

There was Council discussion regarding the kiosk location, gate hours, CUP and harbor walk.

City Attorney Pannone suggested adding an additional condition stating 'this CUP does not limit the City's ability to require modifications to the harbor walk as part of the new lease negotiation for the associated lease site.'

Senior Planner Jacinth summarized the changes to Resolution No. 52-18 as follows: Change PC Condition #7 "from dawn to dusk" to "7:30a.m. to dusk"; strike PC Condition #9 in its entirety; strike PC Condition #10; adding Mr. Pannone's wording.

In addition to Mr. Pannone's recommended additional condition, Mr. Pannone suggested modifying PC Condition #11 to include "…, with no need for a new application."

MOTION: Council Member Headding moved approval of Resolution No. 51-18 and 52-18 with the following changes to Resolution 52-18: PC condition #7 change "dawn" to "7:30 a.m."; remove existing condition #9; remove existing condition #10; add a new condition 9 that states this permit is to be reviewed for compliance with the conditions of approval by the Planning Commission within one year of kiosk installation with no need for filing a new application.; and adding a new condition #10 the CUP does not limit the City's ability to require modifications to the harbor walk and/or

relocation of the kiosk as part of the new lease for the associated lease site. The motion was seconded by Council Member Davis and carried 4-0.

The Council took a brief recess at 8:35 p.m. and reconvened at 8:45 p.m. with four members present.

B-2 ADOPTION OF RESOLUTION NO. 53-18 DIRECTING THE LEVY OF ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT FOR FY 2018/19; (PUBLIC WORKS)
https://youtu.be/_3omh0gBOv8?t=2h33m15s

Public Works Director Livick gave the report and answered Council inquiries.

Mayor Irons opened public comment.

Jan Everden, reading for Dawn Beattie, expressed the Cloisters homeowners are paying to maintain the public park and hopes it will be funded by the City when the assessment is not enough to cover the cost to maintain the City owned park.

Steve Stevens expressed Cloisters owners receive no special benefit and inquired as to how this was different from Bay Shore. Mr. Stevens requested an explanation of how the money is spent and also commented on the condition of the playground equipment.

Public Works Director Livick addressed the comparison to Bay Shore.

MOTION: Council Member Headding moved to adopt Resolution No. 53-18, directing the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District for FY 2018/19. The motion was seconded by Council Member Makowetski and carried 4-0.

B-3 ADOPTION OF RESOLUTION NO. 54-18 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT FOR FY 2018/19; (PUBLIC WORKS)
https://youtu.be/_3omh0gBOv8?t=2h43m44s

Public Works Director Livick gave the report.

Public Comment – None.

MOTION: Council Member Davis moved to approve the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District by adopting Resolution No. 54-18. The motion was seconded by Council Member Headding and carried 4-0.

C. BUSINESS ITEMS

C-1 ONE WATER PLAN UPDATE AND PROVIDE DIRECTION AS DEEMED APPROPRIATE; (PUBLIC WORKS)
https://youtu.be/_3omh0gBOv8?t=2h46m11s

Public Works Director Livick introduced the item and introduced Eric Casares of Carollo Engineers, who gave the update on OneWater. Mr. Livick and Mr. Casares answered inquiries from the Council.

Mayor Irons opened Public Comment.

Betty Winholtz voiced concern about using City Council and PWAB as only voice and would like to see quality as a priority. Ms. Winholtz also spoke regarding the population and usage.

Tina Metzger requested a copy of Mr. Casares's presentation and raised questions regarding the ntirates at Morro Valley, the survey, and made comments regarding water quality.

Mayor Irons closed the public comment period.

Staff addressed items mentioned during public comment.

There was discussion regarding next steps. This item will come back to Council as a document to be adopted.

Item C-1 was concluded.

C-2 AWARD OF AGENCY OF RECORD CONTRACT FOR TOURISM MARKETING AND PUBLIC RELATIONS SERVICES FOR FISCAL YEARS 2018/19-2019/20; (TOURISM)
https://youtu.be/_3omh0gBOv8?t=4h9m22s

Tourism Manager Little gave the report and introduced Mental Marketing.

Bill Stansfield, Maryann Stansfield and Mark Elterman from Mental Marketing, gave a presentation to Council.

Public Comment – None.

MOTION: Council Member Headding moved Council authorize the City Manager to enter into a two-year contract with Mental Marketing as the Agency of Record for marketing and public relations services to promote the destination, in a form approved by the City Attorney. The motion was seconded by Council Member Davis and carried 4-0.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/_3omh0gBOv8?t=4h32m

There was Council consensus to explore ways to move the storage areas away from Front Street parking lot.

ADJOURNMENT

The next Regular Meeting will be held on Tuesday, July 10, 2018, at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California. There will be a Special Meeting on Thursday, June 28, 2018 at 6:00 p.m. at the Community Center and a Closed Session on June 27, 2018 at 9:30 a.m.

The meeting adjourned at 10:47 p.m.

Recorded by:

Lori Kudzma
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – JUNE 28, 2018
COMMUNITY CENTER AUDITORIUM - 6:00 P.M.

AGENDA NO: A-2

MEETING DATE: August 28, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Lori Kudzma	Deputy City Clerk
	Joseph Pannone	City Attorney
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Eric Casares	WRF Program Manager (Carollo Engineers)
	Alex Handlers	Consultant (Bartle Wells Assoc.)

ESTABLISH QUORUM AND CALL TO ORDER
https://youtu.be/qtX19Mzn-oQ?t=20s
Mayor Irons called the meeting to order at 6:02 p.m., with all members present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA
Mayor Irons announced the public comment period would follow the presentation.

SPECIAL MEETING AGENDA ITEM:
https://youtu.be/qtX19Mzn-oQ?t=1m47s

I: **Review of Proposed Water and Sewer Rate Increases and Authorization to Submit the Water Infrastructure Financing Innovation Act (WIFIA) Loan Application**

City Manager Collins went over the Water Reclamation Facility (WRF) project background and then introduced Alex Handlers from Bartle Wells Associates. Mr. Handlers went over background and financial scenarios, WRF project funding sources, WRF Debt Estimates, CIP and Billing Alternatives.

City Manager Collins summarized the items for which staff was seeking Council direction:

1. Front-loaded vs. Phase-in
2. Property tax vs. Monthly bill
3. Authorize City Manager to serve as authorizing agent and submit the Water Infrastructure Financing Innovation Act (WIFIA) loan application accompanied by an application fee of $25,000.

Mr. Collins and Mr. Handlers answered inquiries from the Council.

Mayor Irons opened Public Comment.
https://youtu.be/qtX19Mzn-oQ?t=1h28m

Carole Truesdale spoke regarding concerns about the cost of the project.

Nancy Bast expressed appreciation for all the hard work being done to reduce costs. Ms. Bast spoke against the project.

Cynthia Hawley shared her concern the Council is proceeding in violation of Prop 218.

David Betonte spoke in support of the WRF project and proposed rates.

Jane Heath stated she is satisfied the estimated surcharges are fair and affordable. Ms. Heath is distressed that she continues to receive inaccurate information on her doorstep.

Eric Foor believes the surcharges should be proportionate based on use.

Dawn Beattie spoke in support of what the Council is doing.

Steve Stevens spoke regarding the fact sheet from 2015 and asked for acknowledgment that it exists. Mr. Stevens also asked about contingencies, delays and issues with Black & Veatch.

Betty Winholtz had follow up questions from those that had previously been submitted. Ms. Winholtz spoke to procedure and change of order of business.

The public comment period was closed.

Staff addressed items mentioned during public comment.

Council discussed the options presented.

https://youtu.be/qtX19Mzn-oQ?t=2h4m49s
A majority of the Council (Irons, Headding, McPherson) supported frontloading the rates rather than phase-in. And, a majority of the Council (Davis, Makowetski, McPherson) supported monthly billing instead of placing on property tax bill.

MOTION: Mayor Irons moved to authorize the City Manager to apply for the WIFIA loan. The motion was seconded by Council Member McPherson and carried 5-0.

The Council made additional comments.

There was Council consensus to bring back to a future meeting, the Utility Discount Program and discuss the enrollment period.

ADJOURN
The meeting adjourned at 8:30 p.m.

Recorded by:

Lori M. Kudzma
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 10, 2018
VETERAN'S MEMORIAL HALL – 6:00 P.M.

AGENDA NO: A-3

MEETING DATE: August 28, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member (*participated via teleconference)*
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Eric Casares	WRF Program Manager (Carollo Engineering)

ESTABLISH QUORUM AND CALL TO ORDER
The meeting was called to order at 6:02 p.m., with all but Council Member Headding present. Mayor Irons announced Mr. Headding will be participating via teleconference for Item C-1, as noted on the meeting agenda.

MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION - None
CLOSED SESSION REPORT – No Closed Session meeting was held.

MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/oxgTw9I52Z0?t=4m7s

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/oxgTw9I52Z0?t=10m48s

PRESENTATIONS

- Presentation by SLO County Energy Watch Partnership on the SLO Green Challenge Program
  https://youtu.be/oxgTw9I52Z0?t=15m59s

PUBLIC COMMENT
https://youtu.be/oxgTw9I52Z0?t=24m10s

Farris Zoe of Farris Zoe Design provided the business spot. Ms. Zoe provides home design services and relocated her business from Cambria to Morro Bay seven years ago. For more information visit https://www.ferriszoedesign.com.

Fred Collins, Northern Chumash Tribal Council, commented on the WRF Final EIR, expressing concerns about potential impacts to cultural resources, disagreeing with the suggested mitigation measures regarding potential burial sites.

Aaron Ochs, Save Morro Bay, agreed with comments by the previous speaker and urged the Council to review Brown Act meeting requirements.

Anne-Marie Schnetzler, Morro Bay Action Team, opposed the water reclamation facility project and urged eligible residents to cast a no vote on the Prop. 218.

Larry Truesdale, Morro Bay, attended joint meeting of CFAC / WRFCAC and found the vote to support the recommendations of the Blue-Ribbon Committee intriguing as they were based on the desire for water independence. He questioned staff qualifications and hoped the Council's standards going forward are higher.

Erica Crawford, Morro Bay Chamber of Commerce, announced a membership mixer tomorrow at Haven Realty, provided an update on the 4MB Economic Development Program, and announced an opportunity for business owners to meet with City staff to understand how the proposed rate increase might impact their businesses.

Richard Sadowski, Morro Bay, announced his church will be serving food at the Rock to Pier Run and asked those who removed Prop. 218 protest signs to return them.

Marla Jo Sadowski, Morro Bay, appreciated the SLO Green Challenge presentation and expressed disappointment in the energy use analysis provided in the WRF draft EIR.

Carolyn Brinkman, Morro Bay, requested clarification on a statement in a recent WRF flyer regarding the water supply capabilities and asked how the City would make use of that offset.

Meredith Bates, Morro Bay, suggested Council motions be read back prior to voting and be reflected as accurately as possible in the meeting minutes.

Renn Strong, Cayucos, expressed concern about chemical trails and 5G towers. For more information visit zero5g.com or primarywater.org.

Bill Martony, Morro Bay, spoke regarding the upcoming LCP update and urged the Council to carefully consider zoning and ESHA designations in the bay.

David Nelson, Morro Bay, inquired about lack of recycling stations and suggested the Council had not fully considered alternatives to the proposed sewer project.

Betty Winholtz, Morro Bay, announced CAL will be offering a presentation on sewer plant alternatives Sunday, July 15th, from 1:00 – 3:00 p.m. at the Inn at Morro Bay.

Steve Stevens, Morro Bay, spoke regarding the importance of accurate meeting minutes, compliance with the Brown Act and asked for a response to his questions regarding the vetting process for Black & Veatch.

Fran expressed concern about water rates, suggested the City sell the property on Highway 1 / San Jacinto and restaurant near the Embarcadero to help pay for the sewer project. She also suggested the recycling component of the WRF be delayed in order to reduce monthly water payments.

The following spoke to Item C-1:

Carol Swain, Morro Bay, spoke of the importance of future water security and shared her support for the proposed water reclamation facility project.

Bob Swain, Morro Bay, stated recycled water is necessary and will reduce the City's need for State water. He also urged others to consider energy savings measures suggested in the SLO Green Challenge presentation.

The Public Comment period was closed.

At Council's request, staff responded to issues raised during Public Comment.

A. CONSENT AGENDA
https://youtu.be/oxgTw9I52Z0?t=1h28m24s

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

A-1 APPROVAL OF MINUTES FOR THE JUNE 12, 2018 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 18, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE JUNE 27, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 ADOPTION OF RESOLUTION NO. 55-18 APPROVING ADDENDUM TO THE CITY OF MORRO BAY'S DRUG-FREE WORKPLACE POLICY AND RESOLUTION NO. 56-18 ACCEPTING THE DRUG AND ALCOHOL POLICY FOR ITS TRANSIT CONTRACTOR MV TRANSPORATION, INC.; (PUBLIC WORKS/ADMINISTRATION)

RECOMMENDATION: City Council adopt Resolution No. 55-18 and No. 56-18

A-5 RECEIVE AND FILE CITY RESPONSE TO LINDA STEDJEE REGARDING BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)

RECOMMENDATION: Receive and file.

A-6 ADOPTION OF RESOLUTION NO. 57-18 IMPLEMETING THE TENTATIVE AGREEMENT FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY PEACE OFFICERS' ASSOCIATION AND RELATED COMPENSATION FOR THE PERIOD JULY 1, 2018 THROUGH JUNE 30, 2020; (ADMINISTRATION/FINANCE)

RECOMMENDATION: Council adopt Resolution No. 57-18, implementing the Tentative Agreement for a Successor Memorandum of Understanding between the City of Morro Bay and the Morro Bay Peace Officers' Association. The term of the MOU is from July 1, 2018 through June 30, 2020.

A-7 APPROVAL OF FISCAL YEAR 2018-19 UPDATED COMBINED SALARY SCHEDULE AND JOB DESCRIPTIONS FOR SUPPORT SERVICES TECHNICIAN, PROPERTY AND EVIDENCE CLERK; (ADMINISTRATION/FINANCE)

RECOMMENDATION: Council formally approve the Updated FY 2018-19 Combined Salary Schedule and job descriptions for Support Services Technician and Property and Evidence Clerk.

A-8 ADOPTION OF RESOLUTION NO. 58-18 APPROVING AMENDMENT NO. 2 TO THE NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND

BOATYARD LLC FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO, AND COMMONLY KNOWN AS "THE BOATYARD"; (HARBOR/CITY ATTORNEY)

RECOMMENDATION: Council adopt Resolution No. 58-18, approving Amendment No. 2 to the new Master Lease Agreement for Lease Site 89/89W, as proposed.

The public comment period for the Consent Agenda was opened.

Marla Jo Sadowski, Morro Bay, requested the Council pull Item A-5 and disagreed with the City Attorney's opinion in the matter.

Steve Stevens, Morro Bay, expressed confusion regarding Item A-5 as he believed this item was on the agenda previously.

The public comment period for the Consent Agenda was closed.

Council Member McPherson pulled Item A-5.

MOTION: Council Member Davis moved the Council approve all items on the Consent Agenda with the exception of Item A-5. The motion was seconded by Council Member McPherson and carried unanimously, 4-0-1, with Council Member Headding absent.

A-5 RECEIVE AND FILE CITY RESPONSE TO LINDA STEDJEE REGARDING BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)
https://youtu.be/oxgTw9I52Z0?t=1h34m26s

At Council's request, Mr. Pannone reviewed the process followed by the Council to respond to Ms. Stedjee's complaint.

MOTION: Council Member McPherson moved the Council approve Item A-5. The motion was seconded by Council Member Davis and carried 4-0-1 with Council Member Headding absent.

B. PUBLIC HEARINGS - NONE

The Council took a brief recess at 7:39 p.m. The meeting reconvened at 7:47 p.m. Council Member Headding joined the meeting via teleconference at 7:48 p.m.

C. BUSINESS ITEMS

C-1 REVIEW PRELIMINARY RECOMMENDATIONS FOR WATER AND SEWER RATES, APPROVE THE PROPOSITION 218 NOTICE AND SET AUGUST 28, 2018, AS THE DATE FOR A PUBLIC HEARING AND TO ESTABLISH NEW WATER AND SEWER RATES; (PUBLIC WORKS)
https://youtu.be/u_aY9K_H4F4?t=18s

City Manager Collins presented the staff report and, along with Mr. Casares and Mr. Livick, responded to Council inquiries.

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

Kathy Quigley, Morro Bay, asked why the word "surcharge" was added in the draft notice which is different than previous documents.

Aaron Ochs, Morro Bay, suggested the proposed project was too expensive and the Prop 218 process should be delayed until the new Council is elected.

Barry Branin, Morro Bay, appreciated a protest form was provided in the Prop. 218 Notice but suggested the language regarding request for comments be placed elsewhere and not on the sample ballot.

Dan Sedley, Morro Bay, spoke regarding the need to find a more economical project.

Carole Truesdale, Morro Bay, expressed frustration residents are being asked to consider another rate increase three years after the last Prop. 218 process and concern this may not be the last.

Eric Foor, Morro Bay, asked for clarification on current plant capacity, maximum design volume of the proposed facility, rate structure and total cost of the project.

Carolyn Brinkman, Morro Bay, suggested the certification language on the protest form be changed to, "I certify that all the information I have provided on the ballot is true and correct."

Glenn Silloway, Morro Bay, provided historical background on water reclamation facility project, including Coastal Commission action in 2012-13, and stated his support for the proposed project.

Ahmed Kassem, Morro Bay, shared his support for the WRF project and suggested it's time to let the rate payers decide.

David Nelson, Morro Bay, stated the City must determine cost of construction and operation before the Prop 218 process can begin.

Betty Winholtz, Morro Bay, asked for responses to questions submitted as agenda correspondence and expressed concern about construction impacts on Quintana Avenue businesses.

Cynthia Hawley suggested the record of proceedings at the April 25, 2017, Council meeting had been changed behind closed doors to bring water reclamation back into the project.

David Betonte, Morro Bay, spoke in support of the proposed WRF at the South Bay Blvd. location and concern delaying the project to consider alternate locations and technologies would increase project costs.

Bill Martony, Morro Bay, asked for clarification on how the number of parcels would be determined and suggested the project costs can be reduced.

Kristen Headland, Morro Bay, suggested the Notice be simplified and commented the proposed rates are too high.

Kerrigan Mahan, Morro Bay, spoke in opposition to the project and suggested the Hanson and Giannini sites are the best choice.

Nancy Bast, Morro Bay, expressed concern about how the proposed rates were determined and potential noise and pollution for residents on Teresa Drive.

Bob Keller, Morro Bay, shared his support for the project and urged the Council to approve the 218 notice.

Linda Donnelly, Morro Bay, expressed concern about the process outlined for signature verification and tabulation of votes.

Tina Metzger, Morro Bay, asked what the Council will do if the Prop 218 protest vote prevails.

Steve Stevens, Morro Bay, asked for clarification on eligible parcels and rate payers.

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

Council Member Headding spoke in support of staff recommendation and desire to protect residents from future rates that will be untenable due to construction cost escalation, debt service and fines levied by the Water Board. He thanked the Blue-Ribbon Commission for their work scrutinizing every aspect of costs associated with the proposed rate increases and predicted rates will come in lower upon receipt of SRF funding.

MOTION: Council Member Headding moved staff recommendation for approval. The motion was seconded by Council Member Davis for discussion.

Mr. Pannone commented the staff recommendation does not include approval of the Proposition 218 Notice and requested Council Member Headding clarify whether it was intent to approve the Notice provided in the packet.

Council Member Davis provided comments and read the following statement into the record:

"Fact 1 - On June 27, 2018, the Regional Water Quality Control Board wrote to the City stating that, 'the existing treatment plant infrastructure cannot achieve full secondary treatment for the loading/flow rates of the service area.'

Fact 2 - A Time Schedule Order (TSO) issued by Water Board on June 27 requires, 'full compliance with final effluent limitations no later than February 28, 2023.' Between now and then, the following milestones must be met:

- *A Proposition 218 hearing – no later than Aug 30, 2018,*
- *Award of contract for water reclamation facility onsite improvements no later than Sept. 30, 2018, which is 2 ½ months from now,*
- *Award contract for lift station and offsite pipelines no later than Nov. 30, 2019, which is next year, and*
- *Completion of water reclamation facility improvements no later than Dec. 30, 2022.*

If the City fails to comply with any provision of this TSO, it would liable for mandatory minimum penalties. And here are the words of Harvey Packard, a Supervising Engineer with the Central Coast Water Board, in an email sent June 27, 2018, to Barry Branin, with a copy to the City, 'Certain violations of the NPDES permit trigger mandatory penalties of at least $3,000 per violation. It's likely that there will be several violations per month if the plant isn't upgraded by January 2023. So mandatory penalties would be about $15,000 per month. However, the Water Board has the discretion to increase the penalty on each violation up to $10,000, which could cost the City up to about $50,000 per month.' Those are mandatory penalties.

Fact 3 - On January 10, 2013, the California Coastal Commission unanimously denied the City's request to rebuild a wastewater treatment plant west of Highway 1.

Fact 4 - Dan Carl, Central Coast District Director for the Coastal Commission, wrote to the City on September 22, 2017, making the following points regarding any attempt to build or upgrade on the west side of Highway 1, and these are his words that I'm quoting: 'These sites would pose significant regulatory hurdles and challenges that would take more time and resources to address than would the inland sites; the Commission already denied the City's proposed project west of Highway 1 in 2013; the Commission has recently not given authorization for permanent infrastructure in these types of more hazardous shoreline areas; sites inland of Highway 1, including at South Bay

Boulevard, would not be subject to these types of conditions and restrictions, and thus would be able to meet the primary objective of finding a long-term home for the City's critical wastewater infrastructure in the shortest period of time with the most certainty in outcome; both any potential Local Coastal Program amendments and any Coastal Development Permit applications would have to work through the same types of coastal hazards issues that eventually led to denial of the City's 2013 proposal after two years of process.'

Fact 5 - Through a State-regulated RFP process, the City has selected the least-cost proposal that meets all the community goals for the WRF project.

Fact 6 - The City is now asking ratepayers to approve water & sewer surcharges that add up to but no more than $41 to the monthly bill for the average household that uses 125 gallons of water per day. Those surcharges could be less if we get a State Revolving Fund loan or any of the grants that the City is applying for.

Fact 7 - The City has an established Utilities Discount Program to assist low-income residents to pay their monthly bills. Only two cities in the County have programs that help low-income ratepayers.

So those are basic facts that we have to deal with. So what will happen if the rate increase is defeated? And here is what I see as the probable effects of a defeat of the rate increase.
The City will certainly lose low-cost loans from WIFIA and State Revolving Fund; the Regional Water Quality Control Board will very likely levy mandatory fines; the preferred contractor will withdraw its guaranteed maximum contract proposal to build the WRF project; and then Council will look for a way to reduce rates, with very limited options.

With beachfront sites denied by the Coastal Commission and Righetti ruled out by neighborhood protest, the only way I can think of to reduce project cost is to eliminate water recycling and re-design the project. During this time the construction cost index will continue to rise; bond interest rates will continue to go up. Eventually the City will still have to ask ratepayers to approve rate increases to build a more expensive plant that does not add recycled water to the community's drinking water portfolio.

The bottom line is, if a majority of we ratepayers vote against a rate increase now, we may well end up paying more later.

So here are some final true facts – the City is planning to build a WRF project that meets requirements of the Water Quality Control Board and the Coastal Commission. It is a project that satisfies community goals and is intended to provide a drought-proof water supply. The proposed surcharge has been reviewed by a Blue-Ribbon Commission of Morro Bay residents and business owners and they consider it reasonable. The project cost for the Los Osos water treatment plant and piping infrastructure in 1988 was $57 million. Thirty years and a community bankruptcy later, Los Osos residents are paying off $193.7 million. If we don't learn from Los Osos' history, then we will repeat their story."

Council Members Makowetski, McPherson and Mayor Irons provided comments in support of the staff recommendation, clarifying the number of parcels to be counted, stressing the importance of providing adequate notice to Spanish speaking residents, the importance of the water recycling component, and the efforts to date to reduce the cost of the project from $167M to $126M with further opportunity to reduce rates based on WIFIA and SRF funding.

Mayor Irons restated the motion on the table: "Approve the proposed Water Reclamation Facility sewer and water surcharges and set August 28, 2018, for the public hearing to consider and establish new water and sewer rates."

Mr. Pannone suggested the motion could include approval of the Proposition 218 Notice. Council Member Headding agreed to make that friendly amendment. There was no second to the amended motion.

For clarification, Mayor Irons restated the motion on the table: "Approve the proposed Water Reclamation Facility sewer and water surcharges and set August 28, 2018, for the public hearing to consider and establish new water and sewer rates." The motion carried unanimously, 5-0, by roll call vote.

Mr. Pannone commented the Council was taking a roll call vote because the law requires that when a member is participating via teleconference.

The Council discussed the Proposition 218 Notice and agreed on the following changes:

- As suggested during public comment, certification language on the protest form will state, "I certify the information I provided on this ballot is true and correct."
- The Notice will be published and sent in both English and Spanish to all residents.
- The last sentence in the first and third paragraphs on page 3 to be in bold print: **"The City may be able to reduce the surcharges if it can further reduce WRF Project costs or obtain additional grants or low-interest-rate financing."**
- Edit the last sentence on page 3 to clarify 5 units = five hundred cubic feet per month which is the equivalent of 125 gallons per day.

The proposed changes were illustrated on the projector screen for clarification.

MOTION: Council Member McPherson moved to approve the 218 notice, as amended, and produce a Spanish, along with an English version, and eliminate the box that says, "if you want it in Spanish." The motion was seconded by Council Member Headding and carried unanimously, 5-0, by roll call vote.

Council Member Headding confirmed the meeting notice was in place at his location and there was no public comment. The call was disconnected and he left the meeting at 10:18 p.m.

C-2 CONSIDERATION AND DIRECTION REGARDING INSTALLATION OF ADDITIONAL FIRE PITS IN THE NORTH MORRO BAY ROCK PARKING LOT; (CITY MANAGER)
https://youtu.be/u_aY9K_H4F4?t=2h32m9s

Mr. Collins presented the staff report and responded to Council inquiries.

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

Following discussion, there was consensus to install two fire pits that were purchased previously at or near the locations near the beach, as shown in the staff report. Mayor Irons cautioned against installing fire pits on the bay side as it is a frequent otter viewing area.

MOTION: Council Member Makowetski moved to place these additional two fire pits on the north side of the Rock parking lot, as designated, or close to the arrows provided on our picture. The motion was seconded by Council Member McPherson and carried 4-0-1 with Council Member Headding absent.

C-3 2018 CITY GOALS AND OBJECTIVES STATUS UPDATE; (CITY MANAGER)
https://youtu.be/u_aY9K_H4F4?t=2h48m21s

Mr. Collins presented the staff report and responded to Council inquiries.

The proposed completion date for Goal #4 b) related to vacation rental ordinance was corrected to Fall 2018.

MOTION: Mayor Irons moved the meeting go past 11:00 p.m. to finish this item. The motion was seconded by Council Member Makowetski and carried 3-1-1 with Council Member Davis voting no and Council Member Headding absent.

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

MOTION: Council Member Davis moved to formally adopt the goals and objectives for 2018. The motion was seconded by Council Member McPherson.

Council Member Makowetski asked for confirmation staff would provide quarterly updates to Council.

The motion carried 4-0-1 with Council Member Headding absent.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/u_aY9K_H4F4?t=3h14m7s
None

E. ADJOURNMENT

The meeting adjourned at 11:01p.m. The next Regular Meeting will be held on Tuesday, August 14, 2018, at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk

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MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
AUGUST 15, 2018 – 5:00 P.M.
CITY HALL CONFERENCE ROOM

AGENDA NO: A-4

MEETING DATE: August 28, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member (arrived at 5:06 p.m.)
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Eric Endersby	Harbor Director
	Scot Graham	Community Development Director

ESTABLISH QUORUM AND CALL TO ORDER
Mayor Irons called the meeting to order at 5:00 p.m. with four members present and announced that Council Member Makowetski would be arriving in a few minutes.

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.

Doug Redican spoke regarding Item CS-2.

Mayor Irons, Council Members McPherson, Headding and Davis all announced they had conversations with Mr. Redican.

Council Member Makowetski arrived at 5:06 p.m.

Cliff Branch spoke regarding Item CS-5.

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

CS-1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8
Property: Chevron Estero Bay (Former Marine Terminal) Property, north and East of the City: Lot 1, APN: 073-092-052, Lot 6, APN's: 073-075-016, 015, Lot 7, APN's: 073-092-053, 073-075-010, 073-075-011
Property Negotiators: Chevron & Trust for Public Lands
Agency Negotiators: Scott Collins, City Manager, Scot Graham, Community Development Director and Joseph Pannone, City Attorney
Under Negotiation: Price and Terms

CS-2 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 82-85/82W-85W (Rose's Landing)
Property Negotiators: Doug Redican
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-3 PUBLIC EMPLOYMENT
Title: City Attorney

CS-4 PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

CS-5 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 89/89W & 90/90W, Boatyard/Otter Rock, 845/885 Embarcadero
Property Negotiators: Cliff Branch
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; Joseph Pannone, City Attorney; Scot Graham, Community Development Director
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 8:26 P.M.

Recorded by:

Lori M. Kudzma
Deputy City Clerk

AGENDA NO:	**A-5**
MEETING DATE:	**August 28, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 21, 2018**

FROM: **Dana Swanson, City Clerk**

SUBJECT: **Approval of TBID Advisory Board Member's Request for an Excused Absence**

RECOMMENDATION

Staff recommends the City Council consider the request submitted by Tourism Business Improvement District (TBID) Advisory Board Member, Maggie Juren, to excuse her absence from the September 20, 2018 Regular TBID Advisory Board Meeting and allow her to continue serving through the scheduled term ending January 31, 2019.

ALTERNATIVES

The Council may choose not to excuse Ms. Juren's absence and direct staff to begin recruitment to fill the vacancy.

BACKGROUND/DISCUSSION

In November 2016, the Council adopted Resolution No. 74-16 amending the By-Laws for all standing advisory bodies to establish a policy regarding absences. The policy states:

> *"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 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."*

Staff received a request from TBID Member, Maggie Juren, for Council consideration to excuse her absence from the September 20, 2018 regular meeting so that she can remain on the board through her term which ends January 31, 2019. Ms. Juren missed the November 2017 and July 2018 regular meetings so absence from the September 2018 meeting would constitute her voluntary resignation from the board. Ms. Juren represents the hotel industry as a member-at-large so if vacated, the position would need to be filled with a representative from the hotel industry.

It's worthwhile noting TBID Member, Kenn Clark who represents hoteliers with 50 rooms or less, submitted his resignation effective August 31, 2018, and staff will begin a recruitment to fill that vacancy. Additionally, two other members currently have two absences within the 12-month rolling period and have been notified a 3rd absence, unless excused by the Council, would result in their position being declared vacant.

It can be challenging to find hoteliers willing to commit time necessary to participate on this

Prepared By: DS	Dept Review:
City Manager Review: SC	City Attorney Review:

important advisory board, given their time commitments to their businesses. In 2017-18, the City conducted three recruitments to fill vacancies for positions representing the hotel industry and received one application per vacancy each time. For this reason, staff recommends the Council approve Ms. Juren's request and allow her to continue serving on the TBID Advisory Board.

CONCLUSION

In accordance with policy established by Resolution No. 74-16, staff recommends the Council approve TBID Advisory Board Member Juren's request for an excused absence from the September 20, 2018 Regular Meeting.

ATTACHMENTS

1. Resolution No. 74-16
2. August 17, 2018 Request for Excused Absence submitted by Ms. Juren

RESOLUTION NO. 74-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING THE CITY OF MORRO BAY ADVISORY BOARDS
HANDBOOK AND BY-LAWS REGARDING ABSENCE FROM MEETINGS**

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

WHEREAS, to ensure that 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, the current By-Laws for each Advisory Body do not contain clear and consistent language regarding advisory board member absence from meetings; and

WHEREAS, the City Council desires to amend the Advisory Boards Handbook and By-Laws for the City of Morro Bay to incorporate language set forth below and in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby amend the By-Laws of all Advisory Bodies to include the following language regarding 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."*

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 15th day of November 2016 by the following vote:

AYES: Irons, Headding, Johnson, Smukler
NOES: None
ABSENT: Makowetski
ABSTAIN: None

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY

ADVISORY BOARDS

HANDBOOK

AND

BY-LAWS

Date: November 15, 2016

Approved by Resolution 74-16

Mission Statement

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

INTRODUCTION

Welcome and thank you for your interest in serving on one of the City's Advisory Boards. By serving on one of Morro Bay's Advisory Boards, you can help plan and guide the City's future. It is important that members of the Advisory Boards understand the functions and responsibilities of a board member. We hope that you find serving on the City's advisory board personally satisfying, and in the process gain invaluable knowledge and experience.

The City of Morro Bay Municipal Code empowers the City Council to form boards and commissions to assist the City Council in legislating and managing the affairs of the City. From time to time citizen advisory committees are appointed to meet a specific topic and need. Their varied roles provide significant opportunities for formulating City policy and for creating public forums for meaningful community participation.

Consistent with the City's Mission Statement, advisory boards can help the City achieve its mission and purpose, which is to preserve and enhance the citizens of Morro Bay's quality of life. This Handbook shall serve as a guide to assist you in the sometimes-complex, but often rewarding, process of serving on one of the City's Advisory Boards. These advisory bodies assist the City Council in making better-informed decisions by formulating new ideas, information gathering, receiving public testimony and comments, analyzing complex issues, and making recommendations on specific projects and broad policy.

Advisory Boards advise the City Council and the City Manager on matters within their area of responsibility and interest; help focus attention on specific issues and problems within their scope of responsibilities, and recommend action and alternatives for Council consideration; act as channels of communication among City government, the general public, and interest groups; and balance community wants with municipal responsibility and resources.

At times, your role may be challenging and complex. Public opinion can be sharply divided, questions may overlap, and sometimes the province of one body may also be the territory of another. Therefore, we have created this handbook to assist you with some of the fundamental aspects of your new responsibility.

Much of the information in this handbook comes from City policy, such as the City's Municipal Code and the City Council Policies and Procedures Manual. In addition, State Law governs certain responsibilities of advisory body members. The material presented is intended to: (1) Give interested persons an understanding of why the City's advisory bodies have been established and how they function within the overall governmental framework and, (2) Summarize the roles, relationships and responsibilities of each advisory body member.

Each Advisory Board within the City has its own By-Laws. The By-Laws are included herein for your ease of reference. The sections of the Handbook are divided as follows:

1. General Information on Advisory Boards
2. FAQs
3. Background Information of City Government
4. The Brown Act
5. Political Reform Act of 1974 (Conflict of Interest)
6. Advisory Body Summary
7. Advisory Board By-Laws

We hope this handbook will answer many of your questions, get you off to a good start, and contribute to your satisfaction in serving the citizens of the City of Morro Bay.

1. General Information on Advisory Bodies

Advisory bodies are authorized by both the Morro Bay Municipal Code and the City Council.

Advisory boards provide an opportunity for interested residents to participate in the governing of their community under guidelines and procedures established by the Council. Advisory boards can improve the quality of City government by providing the Council with resources to make better-informed decisions. Because of the nature of various advisory boards, they can serve as the "eyes and ears" of the Council for issues and matters that otherwise might not receive attention. Other benefits of advisory boards include improvement in the lines of communication between the public and the Council, greater opportunities for discussion of public issues, and more citizen involvement in City government. There is considerable variety in the purpose or responsibility of these bodies. Advisory boards have been created by the City Council to serve the City of Morro Bay's unique needs.

The authority of an advisory body will depend upon its specific purpose. Each has a specific focus and will make recommendations to the Council on issues related to that specific field. *Decisions made by an advisory body may be appealed to the Council*. The Council may not always accept the recommendation of an advisory body because of additional information available or a need to balance the recommendation with policy or community priorities.

Generally, advisory bodies are empowered only to make recommendations to the Council or to the City staff, unless specifically authorized by law or Council to do otherwise. There should be two-way communication so that commissions are aware of the long-term goals Council has adopted, and the advisory body is able to present new ideas to the Council. Advisory board members are encouraged to attend and/or watch Council meetings.

Members of the advisory boards are volunteers who are appointed by the City Council and serve at the pleasure of the City Council. There is no compensation or benefits for board members, except for Planning Commission, whose responsibilities are greater and meetings more frequent. All members are expected to attend scheduled advisory board meetings and all meetings shall be conducted in accordance with Robert's Rules of Order, City Council Policies and Procedures Manual and State Law.

As used herein references to advisory board shall include commission and committee. Currently, the City of Morro Bay has seven advisory boards:

- Harbor Advisory Board
- Public Works Advisory Board
- Recreation and Parks Commission
- Tourism Business Improvement District Board
- Planning Commission
- Citizens Oversight Committee/Finance Committee

2. Frequently Asked Questions

A. HOW ARE ADVISORY BOARD MEMBERS CHOSEN?

♦ APPLICATION AND SELECTION PROCESS

- All recruitment for advisory board members is open and published in a local newspaper. The City accepts applications from interested persons throughout the year.
- Applicants will be sought from all segments of the community, representing various interests and groups.
- Appointment is made by the City Council. Each application is carefully reviewed by the City Council.
- Members serve at the pleasure of the City Council.
- Incumbents are considered for reappointment at the conclusion of their terms.
- Terms are four years, commencing on February 1st, and the terms are staggered.

♦ HOW DO I GET AN APPLICATION?

- Applications may be obtained from the City Clerk's office at City Hall. Information on vacancies and/or specific recruitment periods may be requested by phoning the City Clerk. An official application form must be completed for each position.

♦ ARE THERE ANY TIPS TO IMPROVE MY CHANCES OF BEING APPOINTED?

- Fill out a separate form for each advisory board in which you are interested. It is to your advantage to tailor each application to the specific board or commission for which you are applying. Emphasize different aspects of your background to match those needed for a particular advisory board.
- Emphasize your talents. Clearly indicate how your particular talents, skills, training, or experience will benefit the advisory board for which you wish to be considered.
- Become familiar with the appropriate advisory board. Attend meetings, talk with advisory board members, or read documents they have developed to acquaint yourself with their work. Talk with the department head responsible for staffing the specific advisory board in which you are interested.

B. QUALIFICATIONS FOR SERVICE

Advisory board members may be required to wear "different hats" at different times. The ability to suitably perform the varied roles requires specialized skills and knowledge. Qualification for service can be divided into four general areas:

- **LONG-RANGE INTEREST IN THE COMMUNITY**

  The ability to conceive and be concerned with the impact of current decisions on future citizens is paramount. Advisory board members are required to analyze issues, to listen to public comment through formal hearings or informal discussion, to interpret and apply mandates of the General Plan, and to analyze all the pertinent data before arriving at objective decisions which will be in the best interest of the community as a whole.

- **FAIRNESS, COMMON SENSE, HONESTY AND GOOD CHARACTER**

  Keeping the public interest in mind, a board member will be called upon to use every day good sense in balancing the need of public and private groups. Controversial issues do arise, and the ability to make decisions based on merit rather than personalities is a must. Other traits include imagination, flexibility and the ability to act in a judicial vs. legislative capacity.

- **KNOWLEDGE OF THE COMMUNITY MARKETPLACE, PROCESS, OBJECTIVES, AND LAWS**

  A first-hand knowledge of economic systems, the general operation of government, and a basic understanding of the legal process is important. This knowledge will be of tremendous value when board members are required to conduct public hearings, analyze and receive testimony and make meaningful decisions.

- **TIME TO SERVE IN APPOINTED CAPACITY**

  The amount of time an advisory board member devotes to his/her duties varies with each advisory board. Before making a personal commitment, a prospective applicant should honestly evaluate whether he/she has adequate free time to attend the meetings, to review and be familiar with meeting materials, and to communicate with the public as well as with department staff.

C. STATEMENTS OF ECONOMIC INTERESTS / CONFLICT OF INTEREST

Members of any advisory board are required to file Statements of Economic Interest. Additionally, advisory board members are required to refrain from participation in matters where they have the potential for conflict of interest. (See Section 5 for the City's policy on Conflict of Interest)

3. Background Information on City Government

The City of Morro Bay is a general law city and became incorporated in 1964 and operates under the laws of the State of California.

The City Council, City Manager, City Clerk and City Attorney are integral to the day-to-day operations of the City. As such, we have included a summary of the City government's main function for your information and reference.

a. City Council:

The City Council is elected by a majority vote by the citizens of Morro Bay. The City Council is the governing body of the City and is made up of the Mayor and four council members. The City Council is accountable to the citizens of Morro Bay. The decisions of the City Council are reached by a majority vote.

The City Council formulates policy, approves programs, appropriates funds and establishes local taxes and assessments. The City Council enacts local laws (ordinances) and regulations for governing of the City. The local ordinances adopted by the City Council are compiled in the City's Municipal Code.

b. City Manager:

The City Manager is the administrative head of the government of the City. The City Manager is appointed by the City Council, and serves at its pleasure. The City Manager's duties include implementation of policies and procedures initiated by the City Council. The City Manager also is responsible for all City personnel, except as to the City Attorney, and serves as a liaison to each board, unless otherwise noted in the Board By-Laws.

c. City Clerk:

The City Clerk's duties include, but are not limited to: recording, writing and maintaining Council proceedings, conducting municipal elections, publishing ordinances and resolutions and other official City documents, storing and indexing official documents and City records for retrieval, administering Conflict of Interest disclosures, and serving as the custodian of the seal of the City.

d. City Attorney:

The City Attorney is appointed by the City Council. The City Attorney advises the City Council and City Officers (in their official capacity) in legal matters, attends all Council meetings and some board meetings, represents the City in legal actions and proceedings, and retains, supervises and monitors outside legal counsel. The City Attorney also approves all bonds and contracts made by the City, prepares ordinances and resolutions as required by the Council and prosecutes violations of the City's Municipal Codes and Ordinances.

4. The Brown Act

This is a mere glimpse of the Brown Act. A more detailed Brown Act and Political Reform Act Booklet is available to the advisory board through the City Attorney's office.

a. The Brown Act.

The general purpose of the Brown Act is to aid in the conduct of the people's business. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not for the people to know. Therefore, it is the intent of this Act that the actions and deliberations of all local agencies be taken openly, including deliberations and collective discussion involving the examination, weighing and reflection on the reasons for or against a choice. It also includes the exchange of facts preliminary to the ultimate decision.

Generally all meetings of City boards, commissions, committees and groups are to be open and public and all persons are to be permitted to attend any meeting. Under certain *strict* circumstances, closed session meetings are permitted.

Brown Act Compliance is absolutely required. We encourage you to carefully review the Brown Act Booklet which is available through the City Attorney's Office which describes in detail the Brown Act.

5. Political Reform Act (Conflicts of Interest)

A. Background

The Political Reform Act (Government Code sections 81000, et seq.) was approved by the voters of the State of California and is intended to prevent conflicts of interest by requiring public officials to disclose certain personal financial interests which could foreseeably cause conflicts. In addition, a public official may be required to disqualify himself/herself from making, participating in, or attempting to influence any government decision which will affect any of his/her financial interests, not just those that are required to be disclosed. The City's Brown Act and Political Reform Act Booklet explains in more detail what a conflict of interest is, and when the law requires disqualification. In addition, the Fair Political Practices Commission is available for advice.

Under the Political Reform Act, no public official may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision if he or she knows or has reason to know that he or she has a financial interest. (Government Code Section 87100). A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of his or her economic interests. (Government Code Section 87103; 2 Cal. Code of Regs. Section 18700 (a)).

The term "financial interest" denotes a conclusion that a public official has a financial interest in a decision if it is concluded that it is reasonably foreseeable that the decision will have a material financial effect on his or her economic stake greater than that of other citizens. The term "economic interest" is a label applied to the particular types of stakes recognized by the Act as potential sources of a conflict of interest. There are specific types of economic interest recognized by the Act, as such, we direct you to carefully review the Brown Act and Political Reform Act Booklet which is available from the City Attorney's Office and/or visit the Fair Political Practices Commission Web page for more detailed information.

B. City Policy Regarding Conflicts of Interests

Because the City of Morro Bay is a small, closely knit community it is imperative that the citizens have trust and confidence in City government. Therefore, the City has adopted this public policy to prevent any possibility of conflict that may arise.

Generally stated, any elected or appointed official has a conflict of interest if he or she has a financial interest in a project before the City and/or when compensation is received from anyone seeking approvals from the City. There are some exceptions but, generally, elected or appointed officials are prohibited from voting on projects where a conflict exists. A conflict of interest also occurs when officials live within a certain distance from a project (usually 500 feet). Even if a legal conflict does not exist, it may be inappropriate to participate in a decision for personal reasons to avoid even the appearance of a conflict of interest. As an example, there

could be a conflict if your good friend has a matter before your board, and you do not feel that it would be appropriate for you to voice an opinion in your "City" capacity. While the latter case is not defined by the Fair Political Practices Commission as a conflict, it could be perceived as a conflict, and then stepping down is appropriate.

It is the policy of the City, in addition to strictly adhering to the FPPC rules, all elected and appointed officials conduct themselves in a manner that does not raise a reasonable perception or belief that there is a conflict of interest or an abuse of your position. All board and commission members should avoid the appearance of conflict at all costs.

If you step down from the dais and refrain from voting on an issue, then you are not precluded from speaking as an individual. Your presentation, however, must be made from the floor, at the microphone with the rest of the public. You should state for the record that you are speaking as an *individual*. Many times in the past, Council Members and advisory board members have stepped down from their official position at the dais when projects are presented in which there may be the potential for conflict of interest. That provides the opportunity to present your views as an *individual* on any matter before any City body.

6. ADVISORY BOARD BY-LAWS

The City Council has approved the rules and regulations (referred to herein as By-Laws) to set forth their purpose, procedures, and specific issues such as their functions, meeting dates, officers, vacancies and budgets.

All advisory board meetings will be conducted in strict compliance with Robert's Rules of Order, the City Council Policy and Procedures and State Law. For more detailed information, we suggest you review the City Council's Policies and Procedures Manual.

Attached hereto are the applicable By-Laws for all of the City of Morro Bay's Advisory Boards.

CITY OF MORRO BAY
HARBOR ADVISORY BOARD
BY-LAWS

PURPOSE AND AUTHORITY

The Harbor Advisory Board is established to review, advise and recommend to the City Council on items pertaining to the City Harbor. These include, but are not limited to:

A. Use, control, promotion and operation of vessels and watercraft within the harbor, docks, piers, slips, utilities and publicly-owned facilities as a part of the City's Harbor, and water commerce, navigation, or fishery in the Harbor.

B. Review and recommend rules and regulations pertaining to any of the matters listed in subsection A of this section.

C. Review and recommend rates, tolls, fees, rents, charges or other payments to be made for use or operation of the Harbor.

D. The Board shall make reports and recommendations to the various city boards, commissions or the City Council on matters relating to activities within the harbor. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

APPOINTMENT

The Harbor Advisory Board shall be comprised of seven voting members, four of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Harbor Advisory Board members shall serve at the pleasure of the City Council. The City Council will attempt to select members from the following categories:

Morro Bay Commercial Fishermen's Association
Waterfront Leaseholders
Marine Oriented Business
Recreational Boating
Representative of South Bay/Los Osos
Two Members at Large

However, the City Council and Harbor Advisory Board recognize the importance of the Morro Bay Commercial Fisherman's Association (MBCFO) seat, and acknowledge that it is often difficult for commercial fishermen serving on the HAB to meet the attendance requirements due to the nature of their business. As such, up to two (2) Alternate MBCFO members to the Primary member may be appointed by the City Council in the same manner and fashion as regular appointments in order to stand-in for the Primary member in the event of the Primary member's absence.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four (4) years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

Four of the seven members must be a resident and registered voter 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 in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, 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 Harbor Advisory Board.

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 comments, 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.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Harbor Advisory Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Harbor Advisory Board Member". In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Harbor Advisory Board 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 Harbor Advisory Board 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 Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Harbor Advisory Board business and shall attend the Harbor Advisory Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY
PUBLIC WORKS ADVISORY BOARD
BY-LAWS

PURPOSE AND AUTHORITY

The Public Works Advisory Board is established to review, advise and recommend to the City Council on items pertaining to Water, Waste-water, Streets, Recycling, and Solid Waste, Cable Television, Telecommunications, Trees, Transportation and other issues related to Public Services Department responsibilities.

The Board shall make reports and recommendations to the various city boards, commissions or the City Council on the above matters. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

APPOINTMENT

The Public Works Advisory Board shall be comprised of seven voting members, all of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. The Public Works Advisory Board members shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

A member must be a resident and registered voter 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 in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, 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 Advisory Board.

PROCEDURE

Regular meetings shall be held every month 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 comments, 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.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Public Works Advisory Board Member". In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Public Works Advisory Board 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 Public Works Advisory Board 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 Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Public Works Advisory Board business and shall attend the Public Works Advisory Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY
RECREATION AND PARKS COMMISSION
BY-LAWS

PURPOSE AND AUTHORITY

The Recreation and Parks Commission is established to provide the following:

A. Act in an advisory capacity to the City Council in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and civic groups in the advancement of sound recreation and parks planning and programming. The Board shall make reports and recommendations to the various city boards, commissions or the City Council on the above matters. When requested to do so, will review items referred by other city boards, commissions or the City Council. Resulting reports and recommendations will be included in presentations before the City Council.

B. Formulate policies on recreation services, parks and open space for approval by the City Council.

C. Recommend to the City Council the development of recreational areas, parks, facilities, open spaces, programs, and improved recreation services.

D. Recommend to the City Council the adoption of rules, regulations and standards concerning recreation and parks in respect to organization, personnel, areas and facilities, program and financial support.

E. Advise the Recreation and Parks Director in the preparation of the annual parks maintenance, park improvement and recreation budgets and long-range recreation and parks facilities improvements.

F. Hold public hearings and meetings to conduct investigations and surveys for the purpose of securing facts and data concerning parks and public recreation.

APPOINTMENT

The Recreation and Parks Commission shall be comprised of seven voting members, five of which must be qualified electors of the City of Morro Bay. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members shall serve, without compensation, for a period of four (4) years commencing February 1st in the year specified when members are appointed. Appointments shall be made in such a manner so as no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only.

QUALIFICATIONS

Five of the seven members must be a resident and registered voter 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 in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. If both the Chair and Vice-Chair are absent, 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 Commission.

PROCEDURE

Regular meetings shall be held every month, except the months of February, June, October and December, 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 comments, 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 Commission meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Commission", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Commissioner". In all matters and things not otherwise provided for in the by-laws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission 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 Commission 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 Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY
TOURISM BUSINESS IMPROVEMENT DISTRICT
ADVISORY BOARD BY-LAWS

PURPOSE AND AUTHORITY

The Morro Bay Tourism Business Improvement District (MBTBID) Advisory Board (the "Board") advises the City Council on the administration and use of the MBTBID assessment funds. The Board recommends projects to the City of Morro Bay to promote tourism to directly benefit the City's lodging industry.

The primary purpose of the MBTBID is to increase occupancy and room nights across all lodging types (motel, hotels, bed and breakfast) that pay the business improvement assessment, along with transient occupancy tax (TOT) within the City while placing particular emphasis on marketing that positively impacts the lodging.

APPOINTMENT

The Board shall be comprised of seven voting members. Appointments and the filling of vacancies shall be made by the City Council. The Board members shall serve at the pleasure of the City Council. Because of the diversity among assessment district members represented by the Board including local, regional and national lodging industry interests, it is neither practical nor advisable to limit Board membership to City residents. Accordingly, membership on the Board shall be exempt from residency requirements otherwise applicable to other City advisory boards. In addition, a member of the Board may not sit on any other City advisory board.

TERMS OF OFFICE

Members of the Board shall serve, without compensation, for a period of four years. Appointments shall be made in such a manner such that no more than three members' terms expire concurrently. Unanticipated vacancies shall be filled for the duration of the unexpired term only. If a vacancy is within the last 6 months of a term, then it will be held over to the normal interview process.

QUALIFICATIONS

The Board shall consist of five members from the Morro Bay lodging industry and two members from the community at large.

The five members from the lodging industry shall consist of three members representing hotels "at large" (no specific number of rooms), and two other positions shall give preference to a

member representing lodging rooms of less than 22 rooms and one member representing 50 or less rooms (single hotel or cumulative representation), respectively. If no preferential applicant from a small or large hotel – as defined above – apply, then the seat shall be made available to applicants at an "at large" hotelier representative basis.

The community "at large" members shall be residents and registered voters of the City during the term of appointment.

Each member 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)

FUNCTIONS AND DUTIES

The functions and duties of the Board shall include, but not be limited to, the following:

1. Plan a comprehensive program to promote tourism to the City of Morro Bay and prepare an annual marketing program consistent with industry goals and objectives.
2. Develop advertising and promotional programs and projects to benefit the lodging industry in Morro Bay
3. Present an annual assessment report to the City Council regarding the implemented promotional programs and projects.
4. Perform any other lawful tasks as directed by the Council.

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 in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chair and Vice-Chair of the Board as well as any presiding officers shall be hoteliers. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall perform duties of the office. If both the Chair and Vice-Chair are absent, 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 Board.

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.

These advisory board meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Board", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Board Member". In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the advisory board 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 Board 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 Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to the Board business and shall attend the Board meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY
PLANNING COMMISSION
BY-LAWS

PURPOSE AND AUTHORITY

The Planning Commission is established in accordance with the provisions of Government Code Sections 65100, *et seq*. The functions of the Planning Commission shall be as follows:

A. To develop and periodically review, a general plan and recommend its adoption or any revisions to the city council;
B. To maintain and implement the general plan after its adoption by the city council;
C. To develop specific plans as may be necessary to implement the general plan;
D. To periodically review the capital improvement program of the city for its consistency with the general plan, and forward recommendations to the city council;
E. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.
F. Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it;
G. To perform such other functions as the city council may direct.

The Planning Commission shall:

A. In addition to the duties and responsibilities set forth by state laws and local ordinances, the planning commission shall act in the public interest and serve in an advisory capacity to the city council on all matters pertaining to the planning function;
B. Cooperate with other city boards and commissions, governmental agencies and civic groups in the advancement of sound planning, both within and without the city;
C. Formulate policies on planning services for recommendation to the city council;
D. Upon the request of the City Council, hold a joint meeting with the city council twice annually to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The city clerk shall in January of each year bring forth an agenda item to the city council to schedule the two joint meetings;
E. Recommend to the city council the adoption of standards with respect to organization, personnel, facilities, programs and financial support of the planning commission;
F. Disseminate to the public information concerning the policies and functions of the planning commission.

APPOINTMENT

The Planning Commission shall consist of five voting members and they shall be qualified electors and residents of the City. Appointments and the filling of vacancies shall be made by the City Council. Commissioners shall serve at the pleasure of the City Council.

TERMS OF OFFICE

Members of the Planning Commission shall be appointed by and serve at the pleasure of the City Council. Terms shall be for a period of four years; vacancies shall be filled for the unexpired term only. Two-year short terms may be established to stagger terms. Expiration dates of specific terms shall be established by resolution of the City Council.

QUALIFICATIONS

A member must be a resident and registered voter 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 in each year wherein newly appointed Members are seated, the Members shall elect a Chairperson and Vice-Chairperson who shall hold office for a period of one year. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, duties of the office shall be performed by the Vice-Chairperson. 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 Commission.

PROCEDURE

Regular meetings shall be held twice a 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 Commission meetings will be conducted in strict compliance with the City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Commission", the term "Mayor" shall mean "Chairperson" and the term "Councilmember" shall mean "Commissioner." In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. However, no ordinance, resolution, proceeding or other action of the City Council pertaining to the Commission 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 Commission 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 Manager or the designee of the City Manager shall be responsible for preparing agendas, reports, and minutes pertaining to Commission business and shall attend the Commission meetings.

BY-LAW AMENDMENTS

All amendments to the By-Laws shall be approved by the City Council.

CITY OF MORRO BAY
CITIZENS OVERSIGHT COMMITTEE
ACTING IN THE CAPACITY OF A CITIZENS FINANCE 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 functions of the Citizens Oversight Committee acting in the capacity of a Citizens Finance Committee shall be an advisory body to the City Council. (Hereinafter when this policy refers to "the Committee" it shall be a reference to the Citizens Oversight Committee acting in the capacity of the Citizens Finance Committee. The Committee will review financial documents, and make recommendations, in general, regarding the review of financial information provided to them, concerning the annual budget and mid-year budget review.

MISSION STATEMENT

The role of the 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.

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.
6. Special financial projects, as directed by the City Council, City Manager or City Treasurer.

7. Propose/recommend additional financial areas of study to the City Council.
8. All recommendations are to be provided to the City Council, in writing, unless otherwise requested, on no less than a semi-annual basis.
9. Submit an annual work program to the City Council review and approval.
10. 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 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 Chairperson and Vice-Chairperson who shall hold office for a period of two years. The Chairperson shall preside over meetings, appoint appropriate sub-committees, and direct the affairs of the Committee. In the absence of the Chairperson, the Vice-Chairperson 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 City Council Policies and Procedures Manual. Where used in the City Council Policies and Procedure Manual, the term "City Council" shall mean the "Committee", the term "Mayor" shall mean "Chairperson" and the term "Council Member" shall mean "Committee Member". In all matters and things not otherwise provided for in the Bylaws or the Policies and Procedures of the City Council, proceedings shall be governed by "Robert's Rules of Order," revised edition. 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 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.

RECEIVED
City of Morro Bay
AUG 17 2018
City Clerk

August 16th, 2018

To the Morro Bay City Council,

I currently serve as a member on the Tourism Business Improvement District board. I was informed by Lori Kudzma that if I have 3 absences in a rolling 12-month period, my position will be declared as vacant. I did not realize it was a rolling 12-month period but since it is, I will meet that threshold with my next absence that will occur with the September meeting. I am requesting that this absence be designated as "excused" so that I can maintain my seat on the TBID.

Here are my circumstances that caused the 3 absences:

- Nov, 2017 – On vacation that was booked months in advance based on availability of accommodations and flights that did not interfere with our busy times at work.
- July, 2018 – at a family reunion out of state that took the coordination of over 30 family members' schedules.
- September, 2018 – scheduled vacation out of state to meet up with my in-laws who had already booked their travels before consulting with my husband and me.

We have had quite a bit of turnover and additions to the TBID board over the last year and I feel that it takes a while for a new member to understand and embrace the scope of the assignment as well as budgetary workings and constraints so, just like an employee, it is much easier to allow some flexibility with an existing board member than it is to find and train a new one! Based on this and the fact that I have strived to be an active participant on the board by volunteering for sub-committee assignments, attending and supporting tourism sponsored events and (hopefully) being additive to the many topics discussed and recommendations made during our monthly meetings, I ask that you classify my absence in September as an "excused" absence.

Thank you in advance for your consideration of my request.

Maggie Juren

TBID Board Member

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AGENDA NO:	**A-6**
MEETING DATE:	**August 28, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 22, 2018**

FROM: **Jennifer Callaway, Finance Director**
Valerie Webb, Senior Accounting Technician

SUBJECT: **Adopt Resolution No. 67-18 approving Fiscal Year 2018-19 Combined Salary Schedule**

RECOMMENDATION
Council adopt Resolution No. 67-18 approving the FY 2018-19 Combined Salary Schedule.

ALTERNATIVES
No alternatives are being recommended at this time.

FISCAL IMPACT
There is no fiscal impact associated with the requested action.

BACKGROUND/DISCUSSION
On June 26, 2018 the City Council adopted Resolution 48-18 approving the FY 2018-19 Combined Salary Schedule. On July 10, 2018 the salary schedule was modified to include results of the tentative agreement reached with the Morro Bay Police Officer's Association. At that time, Resolution No. 48-18 was not rescinded nor was a new resolution adopted to approve the updated combined salary schedule. The California Public Employees' Retirement System (CalPERS) under the Pension Reform Act requires the Council adopt the combined salary schedule; and to do so staff recommends the Council adopt Resolution No. 67-18 to rescind Resolution No. 48-18 and approve the FY 2018-19 Combined Salary Schedule.

One minor change was made to the salary schedule presented and that is to remove the Recreation Coordinator classification, which is inactive and not expected to be brought back in the near future and, if used, would not be at this salary range.

CONCLUSION
Staff recommends the Council adopt Resolution No. 67-18 to rescind Resolution No. 48-18 and approve the FY 2018-19 Combined Salary Schedule.

ATTACHMENT
1. Resolution No. 67-18 Approving the FY 2018/19 Combined Salary Schedule

Prepared By: __JC_____	**Dept Review:_____**
City Manager Review: ____SC____	**City Attorney Review: __JWP___**

RESOLUTION NO. 67-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING THE FISCAL YEAR 2018-2019 SALARY SCHEDULE; AND
RESCINDING RESOLUTION NO. 48-18**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

WHEREAS, The California Public Employees' Retirement System (CalPERS), has requested all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with Title 2, California code of Regulations (CCR), section 570.5, and meeting all of the following requirements thereof:

1. Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;

2. Identifies the position title for every employee position;

3. Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;

4. Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;

5. Is posted as the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;

6. Indicates an effective date and date of any revisions;

7. Is retained by the employer and available for public inspection for not less than five years; and

8. Does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, Council adopted Resolution 48-18 on June 26, 2018 to approve the Fiscal Year 2018-19 Salary Schedule; and

WHEREAS, the Combined Salary Schedule was updated on July 10, 2018 to incorporate results from the City's tentative agreement with the Morro Bay Police Officers Association; and

WHEREAS, the formal approval of the pay schedules requires that they are duly approved and adopted by the City Council, such as 2 CCR 570.5 regulation requires the adoption of the Salary Schedule for Fiscal Year 2018-19, incorporated in Exhibit A attached hereto; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay as follows:

1. Resolution No. 48-18 is hereby rescinded; and
2. The Combined Salary Schedules, attached hereto as Exhibit A, are hereby approved and adopted.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of August 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

CITY OF MORRO BAY
COMBINED SALARY SCHEDULE
FISCAL YEAR 2018-19

TITLE	GROUP	STEP 1 Annual	STEP 2 Annual	STEP 3 Annual	STEP 4 Annual	STEP 5 Annual	STEP 6 Annual
ACCOUNT CLERK IN-TRAINING	S	31,824	33,415	35,086	36,840	38,682	
ACCOUNT CLERK I	S	38,474	40,398	42,418	44,538	46,765	
CONSOLIDATED MAINTENANCE WRK I	S	38,474	40,398	42,418	44,538	46,765	
OFFICE ASST. III	S	38,474	40,398	42,418	44,538	46,765	
OFFICE ASST. IV	S	41,596	43,676	45,860	48,153	50,560	
ACCOUNT CLERK II	S	43,215	45,376	47,645	50,027	52,528	
COLLECTION SYS OPERATOR II	S	43,215	45,376	47,645	50,027	52,528	
CONSOLIDATED MAINTENANCE WRK II	S	43,215	45,376	47,645	50,027	52,528	
WATER SYSTEM OPERATOR I	S	43,215	45,376	47,645	50,027	52,528	
WASTEWATER SYSTEMS OIT	S	43,215	45,376	47,645	50,027	52,528	
PERMIT TECHNICIAN	S	44,258	46,470	48,794	51,234	53,795	
ACCOUNT CLERK III	S	46,284	48,598	51,028	53,580	56,259	
COLLECTION SYS OPERATOR III	S	46,284	48,598	51,028	53,580	56,259	
CONSOLIDATED MAINTENANCE WRK III	S	46,284	48,598	51,028	53,580	56,259	
WASTEWATER SYSTEM OP I	S	46,284	48,598	51,028	53,580	56,259	
ADMINISTRATIVE TECHNICIAN	S	47,102	49,457	51,930	54,526	57,253	
PERMIT TECHNICIAN - CERTIFIED	S	47,102	49,457	51,930	54,526	57,253	
SUPPORT SERVICES TECHNICIAN	S	47,102	49,457	51,930	54,526	57,253	
PROPERTY EVIDENCE CLERK	S	47,102	49,457	51,930	54,526	57,253	
MECHANIC	S	48,609	51,039	53,591	56,270	59,084	
LEGAL ASSISTANT/DEPUTY CITY CLERK	C	51,062	53,615	56,296	59,110	62,066	
WATER SYSTEM OPERATOR II	S	51,487	54,062	56,765	59,603	62,583	
WASTEWATER SYSTEMS OP II	S	51,487	54,062	56,765	59,603	62,583	
WWTP OPERATOR II	S	51,487	54,062	56,765	59,603	62,583	
SUPPORT SERVICES COORDINATOR	C	53,618	56,299	59,114	62,070	65,173	
HARBOR PATROL OFFICER	S	53,703	56,389	59,208	62,168	65,277	

CONSOLIDATED MAINT LW	S	53,858	56,551	59,379	62,348	65,465	
ENGINEERING TECHNICIAN III	S	53,858	56,551	59,379	62,348	65,465	
WATER SYSTEM OPERATOR III	S	54,061	56,764	59,603	62,583	65,712	
WASTEWATER SYSTEMS OP III	S	54,061	56,764	59,603	62,583	65,712	
WWTP OPERATOR II/LAB ANALYST	S	54,061	56,764	59,603	62,583	65,712	
RECREATION SUPERVISOR	S	55,057	57,810	60,700	63,735	66,922	
ASSISTANT PLANNER	S	55,400	58,170	61,079	64,133	67,339	
ASSISTANT CIVIL ENGINEER	S	57,613	60,494	63,519	66,694	70,029	
BUILDING INSPECTOR	S	57,613	60,494	63,519	66,694	70,029	
ENGINEERING TECHNICIAN IV	S	57,613	60,494	63,519	66,694	70,029	
WASTEWATER SYSTEMS LEADWORKER	S	57,613	60,494	63,519	66,694	70,029	
FIREFIGHTER	F	57,907	60,802	63,842	67,034	70,386	
HUMAN RESOURCES ANALYST	C	59,890	62,884	66,028	69,330	72,796	
SENIOR ACCOUNTING TECHNICIAN	C	59,890	62,884	66,028	69,330	72,796	
POLICE SUPPORT SERVICES MANAGER	M	59,890	62,884	66,028	69,330	72,796	
HARBOR BUSINESS COORD	S	59,970	62,968	66,117	69,422	72,894	
POLICE OFFICER	P	62,616	65,746	69,034	72,485	76,110	79,915
HARBOR PATROL SUPERVISOR	S	63,257	66,420	69,741	73,228	76,890	
FIRE ENGINEER	F	63,307	66,473	69,796	73,286	76,950	
ASSOCIATE CIVIL ENGINEER	S	64,476	67,699	71,084	74,639	78,371	
ASSOCIATE PLANNER	S	64,476	67,699	71,084	74,639	78,371	
BUILDING INSPECTOR/PLANS EXAMINER	S	64,476	67,699	71,084	74,639	78,371	
COLLECTION SYSTEM SUPERVISOR	S	64,476	67,699	71,084	74,639	78,371	
CONSOLIDATED MAINT FIELD SUPV	S	64,476	67,699	71,084	74,639	78,371	
WATER SYSTEM SUPERVISOR	S	64,476	67,699	71,084	74,639	78,371	
MANAGEMENT ANALYST	M	65,831	69,123	72,579	76,208	80,018	
POLICE DETECTIVE	P	65,747	69,034	72,486	76,111	79,916	83,912
POLICE SCHOOL RESOURCE OFFICER	P	65,747	69,034	72,486	76,111	79,916	83,912
POLICE SENIOR OFFICER	P	65,747	69,034	72,486	76,111	79,916	83,912
POLICE CORPORAL	P	66,357	69,675	73,159	76,817	80,658	84,691
FIRE CAPTAIN	F	72,772	76,410	80,231	84,242	88,455	
WASTEWATER SYSTEMS SUPV	S	74,146	77,853	81,746	85,833	90,125	
BUDGET/ACCOUNTING MANAGER	M	76,992	80,841	84,883	89,127	93,584	

SENIOR CIVIL ENGINEER	M	76,992	80,841	84,883	89,127	93,584	
CONSOLIDATED MAINTENANCE SUPT	M	76,992	80,841	84,883	89,127	93,584	
ENVIRONMENTAL PROGRAMS MANAGER	M	76,992	80,841	84,883	89,127	93,584	
INFORMATION SERVICES TECHNICIAN	M	76,992	80,841	84,883	89,127	93,584	
RECREATION SERVICES MANAGER	M	76,992	80,841	84,883	89,127	93,584	
SENIOR PLANNER	M	76,992	80,841	84,883	89,127	93,584	
TOURISM MANAGER	M	76,992	80,841	84,883	89,127	93,584	
POLICE SERGEANT	P	78,089	81,993	86,093	90,398	94,918	99,664
PLANNING MANAGER	M	84,693	88,927	93,374	98,042	102,945	
CITY CLERK / RISK MANAGER	M	85,105	89,360	93,828	98,519	103,445	
FIRE MARSHAL	F	86,386	90,706	95,241	100,003	105,003	
COMMUNITY DEVELOPMENT MANAGER	M	99,812	104,802	110,043	115,545	121,322	
UTILITY DIVISION MANAGER	M	99,812	104,802	110,043	115,545	121,322	
WASTEWATER DIVISION MANAGER	M	99,812	104,802	110,043	115,545	121,322	
POLICE COMMANDER	M	112,058	117,661	123,544	129,722	136,208	
DEPUTY CITY MANAGER	E	122,339	128,455	134,878	141,622	148,703	
COMMUNITY DEVELOPMENT DIRECTOR	E	122,339	128,455	134,878	141,622	148,703	
FINANCE DIRECTOR	E	122,339	128,455	134,878	141,622	148,703	
PUBLIC WORKS DIRECTOR	E	126,901	133,246	139,908	146,903	154,249	
ADMINISTRATIVE SERVICES DIRECTOR	E	126,901	133,246	139,908	146,903	154,249	
HARBOR DIRECTOR	E	129,268	135,731	142,518	149,643	157,126	sworn
FIRE CHIEF	E	129,268	135,731	142,518	149,643	157,126	sworn
POLICE CHIEF	E	129,268	135,731	142,518	149,643	157,126	sworn
ASSISTANT CITY MANAGER	E	131,912	138,508	145,433	152,705	160,340	
CITY MANAGER	E	171,044	175,320	179,703	184,195	188,800	

Updated 8/22/18

Effective FY 06/30/2018

AGENDA NO: A-7

MEETING DATE: August 28, 2018

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 13, 2018

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Adoption of Resolution No. 65-18 Authorization for the City of Morro Bay's Project List for FY 18/19 for the California State of Good Repair Program

RECOMMENDATION
Staff recommends the City Council adopt Resolution No. 65-18.

FISCAL IMPACT
There is no fiscal impact to the City's General Fund. The City's Transit Enterprise Fund revenue would increase by $540. The SGR funds would be allocated to the Morro Bay Trolley replacement project that was approved in the FY18/19 Transit budget.

SUMMARY
The Road Repair and Accountability Act of 2017, includes a program, State of Good Repair (SGR), that will provide additional revenues for transit infrastructure repair and service improvements. The SGR Program will provide approximately $105 Million annually to transit operators in California for eligible transit maintenance, rehabilitation and capital projects.

The SGR Program is funded from a portion of a new Transportation Improvement Fee (TIF) on vehicles registrations due on or after January 1, 2018. A portion of that fee would be transferred to the State Controller's Office (SCO) for the SGR Program. In collaboration with the SCO, the California Department of Transportation is tasked with the management and administration of the SGR Program. That funding will be allocated under the State Transit Assistance (STA) Program formula to eligible agencies pursuant to Public Utilities Code (PUC) section 99312.1. Half is allocated according to population and half according to transit operator revenues.

The City would receive a direct allocation and would be eligible to submit project applications to compete for a portion of the regional discretionary fund allocation, a pass through that is administered by the San Luis Obispo Council of Governments.

DISCUSSION
For the FY 18/19 cycle, the City would receive $478 and staff recommends using that revenue for the Morro Bay Trolley replacement vehicle project that has been adopted in the FY18/19 Transit budget. Prior to receiving funds from the FY 2018/19 SGR Program, the City is required to submit an authorized FY 18/19 SGR Project List by September 1, 2018.

CONCLUSION
Staff recommends the City Council adopt Resolution No. XX-18.

ATTACHMENT
- Resolution No. 65-18 - SCG FY 18/19 Project List

Prepared By: J Burlingame **Dept Review:**_____

City Manager Review: ___SC_____ **City Attorney Review:** __JWP____

RESOLUTION NO. 65-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZATION FOR THE CITY OF MORRO BAY PROJECT LIST FOR THE FY 2018/19
CALIFORNIA STATE OF GOOD REPAIR (SGR) PROGRAM**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

WHEREAS, the City of Morro Bay is an eligible project sponsor and may receive State Transit Assistance funding from the SGR Account now or sometime in the future for transit projects; and

WHEREAS, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

WHEREAS, Senate Bill 1 (2017) named the Department of Transportation (Department), as the administrative agency for the SGR Program; and

WHEREAS, the Department has developed guidelines for the purpose of administering and distributing SGR funds to eligible project sponsors; and

WHEREAS, the Department requires eligible SGR Program recipient agencies to submit an annual list of proposed SGR projects.

NOW, THEREFORE, BE IT RESOLVED the City of Morro Bay does hereby authorize the FY 2018/19 City of Morro Bay SGR Project List to include the Morro Bay Trolley Replacement Vehicle.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of August 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Jamie L. Irons, Mayor

ATTEST:

_____
Dana Swanson, City Clerk

AGENDA NO:	**A-8**
MEETING DATE:	**August 28, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 10, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Approval of Resolution No. 66-18 Authorizing the City of Morro Bay to Enter Into a $25,584 2018/2019 Boating Safety and Enforcement Grant Contract with the State of California Department of Parks and Recreation, Division of Boating and Waterways for Purchase of Two Rescue Watercraft, Rescue Sled and Trailer**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 66-18 authorizing the Harbor Director to execute and act as the City's agent for the attached Boating Safety and Enforcement (BS&E) grant agreement #C18L0614 with the State of California Department of Parks and Recreation, Division of Boating and Waterways for purchase of two rescue watercraft, rescue sled & single trailer in the amount of $25,584.00.

ALTERNATIVES

No alternatives are being proposed.

FISCAL IMPACT

While staff applied for $26,675.00 for the complete purchase of two new rescue watercraft (RWC), rescue sled and trailer, only $25,584.00 was granted, leaving a remaining $1,091.00 cost to the City for purchase of proposed equipment. While staff will attempt to bring the overall cost down as much as possible to minimize expense to the City, any additional cost will be borne by the Harbor Operating Fund in line item 5504 Machinery/Equipment/Supplies ($18,000 budgeted).

In addition, staff also applied to the Division of Boating and Waterways (DBW) this spring for a $25,000 derelict vessel demolition ("SAVE") grant in the amount of $25,000, but was denied. That SAVE grant is in the 2018/2019 Harbor Operating budget. If this BS&E grant is approved by the Council, then that approval will be considered a 2018/2019 budget amendment to replace the SAVE grant with this BS&E grant in the operating budget, which are in nearly identical dollar amounts. That formal amendment will be made during a quarterly budget review.

BACKGROUND

Over the years the Harbor Department has obtained many BS&E grants from DBW for patrol vessel purchases, engine repowers, and miscellaneous equipment. In April this year the Harbor Department applied for and was approved for a grant to replace the two current RWC purchased in 2012 with DBW funding.

The department's current RWC have reached their useful lives as surf rescue craft, and are in need

Prepared By: ___EE_____	**Dept Review: ___EE___**
City Manager Review: ___SC_____	**City Attorney Review: ___JWP___**

of replacement. RWC have proven themselves time and again in surf and rough water rescue situations, bridging the gap between traditional rescue vessels (including the Coast Guard) and beach-borne personnel where neither can effectively or quickly operate.

DISCUSSION & CONCLUSION

This grant will be used to replace the department's two aging RWC, purchase a new rescue sled (the large boogie board-like platform attached to the stern of the RWC for patient recovery) and provide for a new single-axel trailer for RWC transportation. Per the requirements of the grant, DBW's regional equipment inspector with the Office of Fleet and Asset Management recently inspected the Department's two existing RWC and recommended they be replaced at the earliest possible opportunity due to their age, condition and nature of operation (public safety).

The City's retired RWC with be sent to the State's surplus equipment auction process.

ATTACHMENTS

1. DBW Grant Agreement #C18L0614
2. Resolution No. 66-18

State of California – Natural Resources Agency

DEPARTMENT OF PARKS AND RECREATION

DIVISION OF BOATING AND WATERWAYS

GRANT AGREEMENT

GRANTEE: City of Morro Bay Harbor Department

GRANT TITLE: LAW ENFORCEMENT EQUIPMENT GRANT PROGRAM

GRANT NUMBER: C18L0614

FAIN: 3317FAS170106

TERM OF THIS AGREEMENT IS EFFECTIVE: Date Fully Executed* through September 30, 2033

The Grantee agrees to the terms and conditions of this contract, hereinafter referred to as Agreement, and the State of California, acting through its Director of the Department of Parks and Recreation, and pursuant to the State of California agrees to fund the total state grant amount indicated below. The GRANTEE agrees to complete the SCOPE OF WORK as defined in the Agreement.

The General and Special Provisions attached are made a part of and incorporated into the Agreement.

Grantee: City of Morro Bay Harbor Department	Agency: Department of Parks and Recreation Division of Boating and Waterways
	ATTN: Joanna Andrade
Address: 1275 Embarcadero, Morro Bay, CA 93422	Address: One Capitol Mall, Suite 500 Sacramento, CA 95814
Authorized Signature:	Authorized Signature:
Printed Name:	Printed Name: Ramona Fernandez
Title of Authorized Representative:	Title: Chief of Operations
Date:	Date:

CERTIFICATE OF FUNDING

(FOR STATE USE ONLY)

GRANTEE: City of Morro Bay Harbor Department

THE TERM OF THIS AGREEMENT IS: Date Fully Executed* through September 30, 2033

GRANT TITLE: LAW ENFORCEMENT EQUIPMENT GRANT PROGRAM

GRANT NUMBER: C18L0614

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29</td><td>STATUTE
18</td><td>FISCAL YEAR
2018/19</td></tr>
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<tr><td>B.R.NO</td><td colspan="2">ACCOUNTING OFFICER’S SIGNATURE</td><td colspan="2">DATE</td></tr>
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BOATING SAFETY AND ENFORCEMENT
GRANT AGREEMENT

City of Morro Bay Harbor Department
EQUIPMENT GRANT # C18L0614

State of California
Department of Parks and Recreation
Division of Boating and Waterways

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BOATING SAFETY AND ENFORCEMENT GRANT

EQUIPMENT AND OPERATION CONTRACT

SCOPE OF WORK

This GRANT AGREEMENT C18L0614 is entered into on date fully executed letter between the State of California, Department of Parks and Recreation, Division of Boating and Waterways (DEPARTMENT) and the City of Morro Bay Harbor Department (GRANTEE). The DEPARTMENT and the GRANTEE agree as follows:

1. CONTRACT

This Contract includes

EXHIBIT A, Standard Terms and Conditions

EXHIBIT B, General Terms and Conditions

EXHIBIT C, 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and

EXHIBIT D, Circular No. A-128, Audits of State and Local Government,

EXHIBIT E, Suggested Language for Recycling Certification, Contractor Certification Clauses, DVBE, and Darfur Act,

EXHIBIT F, Darfur Contracting Act.

EXHIBIT G BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANT APPLICATION

2. GRANT

The DEPARTMENT will make a grant to the GRANTEE of up to $ 25,584.00 (Twenty Five Thousand Five Hundred Eighty Four and 00/100). This GRANT shall not exceed this amount, shall be made using Federal funds, and shall be used to purchase MISCELLANEOUS EQUIPMENT (Personal Watercraft, Safety Equipment, Adjustment based on approved amount, Jet Ski Assembly & Prep, Rescue/Personal Watercraft Trailer) in accordance with **EXHIBIT A.**

3. PURCHASE COMPLETION DATE

The EQUIPMENT purchase shall be completed no later than August 31, 2019. The DEPARTMENT will make payment under this GRANT upon receipt of a written request by the GRANTEE as specified in Article III and XIII of EXHIBIT A attached hereto. Reimbursement is due no later than September 30, 2019. Follow instructions and guidelines outlined in your fully executed letter.

4. SPECIAL PROVISIONS

(a) GRANTEE hereby certifies that the obligations created by this GRANT do not violate the provisions of Sections 1090 to 1096 of the Government Code.

(b) This GRANT AGREEMENT is not fully executed until signed by the DEPARTMENT, GRANTEE, and approved by the Department of General Services, if required. Grantee may not go out to bid until GRANT AGREEMENT is fully executed and equipment specifications have been approved by the DEPARTMENT.

(c) GRANTEE hereby certifies that during the performance of this GRANT AGREEMENT, GRANTEE and any sub-grantees shall fully comply with State regulations regarding the implementation of Disabled Veteran business participation goals as set forth in ARTICLE XVI, Disabled Veteran Business Enterprise

Participation Requirements, ARTICLE XVII, Recycling Certification and ARTICLE XVIII, CONTRACTORS CERTIFICATION CLAUSES.

(d) GRANTEE shall continue with the responsibilities of this GRANT AGREEMENT during any dispute.

(e) Notices required between the DEPARTMENT and the GRANTEE shall be deemed to have been given when mailed to the respective addresses below, first-class postage fully prepaid thereon.

(f) Unspent grant funds:

Agencies that unexpended their previous years grant by more than 5 percent, and failed to notify the program administrator, may be deducted points on the grant application scoring criteria or declined a grant in the following fiscal grant cycle.

Scoring scale for prior year grantees:

85%-95% spent deduct 5 points

74%-84% spent deduct 10 points

63%-73% spent receive 0 points

(g) Subvention agencies:

An agency that participates in the subvention financial aid program and does not fully spend their financial aid for the prior fiscal year and applies for a grant may be deducted points on the grant application scoring criteria or declined a grant in the following fiscal grant cycle.

Scoring scale for subvention agencies:

$1-$5,000 unspent deduct 5 points

$5,001- $10,000 unspent deduct 10 points

$10,001 and above unspent receive 0 points

(h) Annual Reports:

2 CFR 200 §200.328 The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Annual Reports are due by August 31, 2019 and each year thereafter. Pursuant to the term of the contract (15 years). Follow instructions and guidelines outlined in your fully executed letter.

EXHIBIT A

STANDARD TERMS AND CONDITIONS FOR

BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANT AGREEMENT

ARTICLE I — DEFINITIONS

A. **GRANT AGREEMENT** means the contract to which these standard terms and conditions are appended.

B. **EQUIPMENT** means boating–specific equipment or the other support equipment used to implement or conduct boating safety and boating law enforcement activities.

C. **PURCHASE COSTS** means those costs incurred by the GRANTEE in purchasing the EQUIPMENT; such PURCHASE COSTS shall not include any operation and maintenance costs, nor any costs incurred prior to the effective date of this GRANT, nor any indirect or overhead costs claimed by the GRANTEE.

D. **GRANTEE FUNDS** mean any funds provided by the GRANTEE for the purchase of operation and maintenance of the EQUIPMENT.

E. **GRANT** means a grant, using FEDERAL FUNDS, made by the DEPARTMENT to the GRANTEE to finance all or part of the PURCHASE COSTS.

ARTICLE II — TERM OF CONTRACT

A. The term of this GRANT AGREEMENT shall begin on the effective date of the GRANT and shall continue for FIFTEEN [15] YEARS from such date unless terminated earlier in accordance with the terms and conditions of this GRANT AGREEMENT.

B. No amendment or variation of the terms of this GRANT AGREEMENT shall be valid unless made in writing, signed by the DEPARTMENT, GRANTEE, AND approved as required. No oral understanding or GRANT AGREEMENT not incorporated in the GRANT AGREEMENT is binding on any of the parties.

ARTICLE III — DISBURSEMENT OF GRANT

A. The DEPARTMENT shall have no obligation to disburse the GRANT unless and until the GRANTEE obtains the prior written approval of the DEPARTMENT of the type and cost of the EQUIPMENT and attendant equipment.

B. The DEPARTMENT will reimburse the GRANTEE through the GRANT for the PURCHASE COSTS of the EQUIPMENT.

C. The DEPARTMENT may make payment under this GRANT AGREEMENT upon receipt of a written payment request by the GRANTEE, such request shall be substantiated by invoices or other such evidence of PURCHASE COSTS and a signed certification that the GRANTEE complied with procurement procedures as outlined in ARTICLE XIII.

ARTICLE IV — EQUIPMENT OWNERSHIP

The DEPARTMENT shall be the legal owner of the EQUIPMENT and the GRANTEE shall not assign, mortgage, hypothecate or transfer its interest in the EQUIPMENT without the prior written approval of the DEPARTMENT.

ARTICLE V — OPERATION AND MAINTENANCE OF EQUIPMENT

A. The GRANTEE shall use the EQUIPMENT for the purposes of promoting boating safety and law enforcement and shall keep the EQUIPMENT available for search and rescue operations.

B. The GRANTEE shall be responsible for the costs of operating and maintaining the EQUIPMENT; the DEPARTMENT shall not be liable for such costs.

C The GRANTEE shall maintain the EQUIPMENT in good repair.

D. The GRANTEE, at its own expense, agrees to replace the EQUIPMENT if it is destroyed or rendered useless prior to the expiration of this GRANT.

E. Representatives, agents or employees of the GRANTEE in the performance of this GRANT shall act in independent capacity and not as officers, employees or agents of the DEPARTMENT.

F. The GRANTEE shall keep complete and accurate records of all expenditures pertaining to the purchase of additional equipment and the operation and maintenance of the EQUIPMENT; such records shall be available and open to the DEPARTMENT at all reasonable times for inspection and audit by any authorized representative of the DEPARTMENT.

G. Each GRANTEE shall report to the DEPARTMENT loss or damage to any equipment purchased with grant funds within 30 days of occurrence.

ARTICLE VI — TERMINATION OF GRANT AGREEMENT

A. Either DEPARTMENT or GRANTEE may unilaterally terminate this GRANT if a material breach of the GRANT is made by the other; such termination shall become effective NINETY [90] DAYS following the date of receipt by either the DEPARTMENT or the GRANTEE of a written notice of termination from the party initiating the termination.

B. The GRANTEE may terminate this GRANT if the GRANTEE becomes financially or legally unable to comply with the terms and conditions of this GRANT AGREEMENT; such termination shall become effective NINETY [90] DAYS following receipt by the DEPARTMENT of a written notice of termination from the GRANTEE.

C. The DEPARTMENT may terminate this GRANT immediately and be relieved of any payments should the legislative body of the GRANTEE fail to appropriate GRANTEE FUNDS or if the GRANTEE fails to perform the requirements of this Agreement at the time and in the manner herein provided; such termination to become effective upon receipt by the GRANTEE of a written termination notice from the DEPARTMENT.

D. This GRANT shall terminate three years after the effective date specified on page 1 of the GRANT AGREEMENT if the GRANTEE has not received all of the GRANT prior to such date.

ARTICLE VII — REVERSION OF EQUIPMENT TO DEPARTMENT

If, for any reason whatsoever, this GRANT is terminated prior to the expiration of the term of the GRANT, then the GRANTEE shall deliver the EQUIPMENT to the DEPARTMENT and shall execute any document necessary to effect appropriate changes in pertinent public records; the reversion of registered title is hereby declared to be in addition to, and not in lieu of, any other remedies for breach of this GRANT which may be available to the DEPARTMENT.

ARTICLE VIII — LIABILITY

A. The GRANTEE waives all claims and recourse against the DEPARTMENT, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this GRANT.

B. Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by GRANTEE in the performance of this Agreement. GRANTEE warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable State contracting laws, codes, rules and regulations in the performance of this agreement.

C. If the DEPARTMENT is named as a co-defendant, the GRANTEE shall notify the DEPARTMENT and represent it unless the DEPARTMENT elects to represent itself. If the DEPARTMENT undertakes its own defense, it shall bear its own litigation costs, expenses and attorney's fees.

ARTICLE IX — WAIVER OF RIGHTS

It is the intention of the parties hereto that from time to time either party may waive certain of its rights under this GRANT. Any waiver at this time by either party hereto of its rights with respect to a default or any other matter arising in connection with this GRANT shall not be deemed to be a waiver with respect to any other default or matter.

ARTICLE X — REMEDIES NOT EXCLUSIVE

The use by either the DEPARTMENT or GRANTEE of any remedy specified in this GRANT for the enforcement of this GRANT AGREEMENT is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

ARTICLE XI — OPINIONS AND DETERMINATIONS

Where the terms of GRANT provide for action to be based upon the opinion, judgment, approval, review, or determination of either the DEPARTMENT or GRANTEE, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE XII — ASSIGNMENT OR TRANSFER OF EQUIPMENT

No assignment or transfer of this GRANT or any part hereof, rights hereunder, or interest herein by GRANTEE shall be valid unless and until it is approved by the DEPARTMENT and made subject to such reasonable terms and conditions as the DEPARTMENT may impose.

ARTICLE XIII — PROCUREMENT PROCEDURES

A. The GRANTEE may use its own procurement procedures which reflect applicable State and Local laws and regulations, provided that the procedures conform to applicable Federal law, the standards identified in EXHIBIT C, 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and the specifications prepared by the GRANTEE and approved by the DEPARTMENT. There shall be no changes, corrections,

modifications or exceptions to DEPARTMENT¬- approved specifications without advance approval by the DEPARTMENT.

B. Procurement procedures for boats must be invitation for Bids. Please pay special attention to the specific procurement standards regarding advertising by your department, adequate purchase descriptions, sealed bids, and public openings.

C. Procurement procedures used by the GRANTEE must conform to State law and regulations regarding Disabled Veteran Business Enterprise Participation Requirements, ARTICLE XVI, Recycling Certification, ARTICLE XVII, AND CONTRACTORS CERTIFICATION CLAUSES, ARTICLE XVIII. The GRANTEE is responsible, in its sole discretion, for the review of all bids for compliance.

D. **EQUIPMENT AND ELECTRONICS PROCCEDUREMENT PROCEDURES:**

Grantee must obtain at least three (3) bids or rate quotations from qualified sources for each item that has a unit cost of $5,000 or more. The bids may be obtained over the phone, but must be verified with a fax or original copy from the vendor, and must include the make, model, size, name of vendor, date, and cost of item.

E. **AWARDING AGENCY REVIEW**

(1) Grantees and sub-grantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or services specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or sub-grantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and sub-grantees must on request make available for Awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(A) A grantee's or sub-grantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(B) The procurement is expected to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(C) The proposed award is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(D) A proposed GRANT modification changes the scope of a contract.

(3) A grantee or sub-grantee will be exempt from the pre-award review in paragraph (D)(2) of this section if the awarding agency determines that its procurement systems comply with
the standards of this section.

(A) A grantee or sub-grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, a third-party contracts are awarded on a regular basis.

(B) A grantee or sub-grantee may self-certify its Procurement system. Such self-certification shall not Limit the warding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to reply on written assurances from the grantee or sub-grantee that it is complying with these standards. A grantee or sub-grantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

ARTICLE XIV — SUBJECT TO AUDIT

GRANTEE agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the Performance of this Agreement. GRANTEE agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. GRANTEE agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, GRANTEE agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement (GC 8546.7, PCC 10115 et seq., and CCR Title 2, Section 1896).

ARTICLE XV — NON-DISCRIMINATION CLAUSE

A. During the performance of this GRANT, GRANTEE and its sub¬-grantees shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. GRANTEES and sub-grantees shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. GRANTEES and sub-grantees shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285.0 et seq.).

The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), are set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations and are incorporated into this GRANT by reference and made a part hereof as if set forth in full. GRANTEE and sub-grantees shall give written notice of their obligations under this clause to labor organization with which they have a collective bargaining or other agreement.

B. GRANTEE shall include the non-discrimination and compliance provisions of this clause in all sub-grants to perform work under this GRANT.

ARTICLE XVI — DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION REQUIREMENT

A. State law requires that State contracts have participation goals of 3% for Disabled Veteran Business Enterprises (DVBEs). Local governmental agency contracts where the State retains a proprietary interest must comply with this requirement.

B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all invitations for Bids and Requests for proposals.

C. The GRANTEE is responsible for reviewing all bids for compliance with the DVBE participation requirement.

ARTICLE XVII — RECYCLING CERTIFICATION

A. State law requires that state contracts shall have Recycling Certification in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of

whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all Invitations for Bids and Requests for Proposals. Suggested language and forms which may be used are attached to this exhibit.

C. The GRANTEE is responsible for reviewing all bids for compliance with Recycling Certification requirement.

ARTICLE XVIII — CONTRACTOR CERTIFICATION CLAUSES

A. The CONTRACTOR CERTIFICATION CLAUSES contained in document CCC307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

B. GRANTEE is responsible for advising all prospective bidders of responsibilities and requirements by including specific language in any and all Invitations for Bids and Requests for Proposals. Suggested language and forms which may be used are attached to this exhibit.

C. The GRANTEE is responsible for reviewing all bids for compliance with Recycling Certification requirement.

ARTICLE XIX — DISPOSITION OF PROCEEDS FROM SALE OF EQUIPMENT

If the GRANTEE has contributed money other than GRANT funds to cover the payment of PURCHASE COSTS, and in the event of a sale of the EQUIPMENT after the expiration or termination of this GRANT or the reversion of the EQUIPMENT to the DEPARTMENT, then the proceeds of the EQUIPMENT sale shall be distributed between the DEPARTMENT and the GRANTEE in proportion to their respective contributions in paying the PURCHASE COSTS, e.g.: if the PURCHASE COSTS totaled $100,000 and the GRANT contribution amounts to $60,000, then the DEPARTMENT would receive 60% of the EQUIPMENT sale proceeds and the GRANTEE would receive 40%.

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. APPROVAL:

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT:

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT:

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT:

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION:

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

6. DISPUTES:

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE:

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR:

Contractor, and the agents and employees of Contractor, in the performance of this

Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE:

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

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

11. CERTIFICATION CLAUSES:

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. COMPENSATION:

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

14. GOVERNING LAW:

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS:

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

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

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

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

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

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

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

16. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

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

b. The contractor, to the best of its knowledge is fully complying with the earnings

assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION:

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

18. PRIORITY HIRING CONSIDERATIONS:

If this GRANT AGREEMENT includes services in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the GRANT AGREEMENT to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this GRANT AGREEMENT Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT C

[Code of Federal Regulations]

[Title 49, Volume 1, Parts 1 to 99]

From the U.S. Government Printing Office via GPO Access

TITLE 49—TRANSPORTATION

PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Subpart A—General

Sec

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18.2 Scope of subpart.

18.3 Definitions.

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18.5 Effect on other issuances.

18.6 Additions and exceptions.

Subpart B—-Pre-Award Requirements

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Changes, Property, and Sub awards

18.30 Changes.

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18.40 Monitoring and reporting program performance.

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Subpart E—Entitlements [Reserved]

Authority: 49 U.S.C. 322(a).

Source: 53 FR 8086 and 8087, Mar. 11, 1988, unless otherwise noted. Editorial Note: For additional information, see related documents published at 49 FR 24958, June 18, 1984, 52 FR 20198, May 29, 1987, and 53 FR 8028, March 11, 1988.

A - General

Sec. 18.1 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and sub-awards to State, local and Indian tribal governments.

Sec. 18.2 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

Sec. 18.3 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) services performed by employees, contractors, sub grantees, subcontractors, and other payees; and

(3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of:

(1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and

(2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from “programmatic” requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means:

(1) with respect to a grant, the Federal agency, and

(2) with respect to a subgrant, the party that awarded the subgrant.

Cash contributions means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals.

When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for “grant” and “subgrant” in this section and except where qualified by “Federal”)a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Expenditure report means:

(1) For non-construction grants, the SF-269

“Financial Status Report” (or other equivalent report);

(2) for construction grants, the SF-271 “Outlay Report and Request for Reimbursement” (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is

accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of inkind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of “grant” in this part.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than “equipment” as defined in this part. Suspension means depending on the context, either:

(1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or

(2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. “Termination” does not include:

(1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period;

(2) Withdrawal of the unobligated balance as of the expiration of a grant;

(3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or

(4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grant or subgrant mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Sec. 18.4 Applicability.

(a) General. Subparts A through D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of Sec.

18.6, or:

(1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

(2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, Section 583—the Secretary's discretionary grant program) and titles I-III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (Section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and part C of title V, Mental Health Service for the Homeless Block Grant).

(3) Entitlement grants to carry out the following programs of the Social Security Act.

(i) Aid to Needy Families with Dependent Children (title IV-A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)19(G); HHS grants for WIN are subject to this part);

(ii) Child Support Enforcement and Establishment of Paternity (title IV-D of the Act);

(iii) Foster Care and Adoption Assistance (title IV-E of the Act);

(iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI-AABD of the Act); and

(v) Medical Assistance (Medicaid) (title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).

(4) Entitlement grants under the following programs of The National School Lunch Act:

(i) School Lunch (section 4 of the Act),

(ii) Commodity Assistance (section 6 of the Act),

(iii) Special Meal Assistance (section 11 of the Act),

(iv) Summer Food Service for Children (section 13 of the Act), and

(v) Child Care Food Program (section 17 of the Act).

(5) Entitlement grants under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk (section 3 of the Act), and

(ii) School Breakfast (section 4 of the Act).

(6) Entitlement grants for State Administrative expenses under The Food Stamp Act of 1977 (section 16 of the Act).

(7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;

(8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L.96-422, 94 Stat. 1809), for cash

assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits;

(9) Grants to local education agencies under 20 U.S.C. 236 through 241-1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children); and

(10) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).

(b) Entitlement programs. Entitlement programs enumerated above in Sec. 18.4(a) (3) through (8) are subject to subpart E.

Sec. 18.5 Effect on other issuance's.

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in Sec. 18.6.

Sec. 18.6 Additions and exceptions.

(a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the Federal Register.

(b) Exceptions for classes of grants or grantees may be authorized only by OMB.

(1) All Departmental requests for exceptions shall be processed through the Assistant Secretary of Administration.

(2) [Reserved]

(c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.

(1) All case-by-case exceptions may be authorized by the affected operating administrations or departmental offices, with the concurrence of the Assistant Secretary for Administration.

(2) [Reserved]

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 60 FR 19646, Apr. 19, 1995] Subpart B - Pre-Award Requirements

Sec. 18.10 Forms for applying for grants.

(a) Scope

(1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.

(2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.

(3) Forms and procedures for Federal Highway Administration (FHWA)

projects are contained in 23 CFR part 630, subpart B, 23 CFR part 420, subpart A, and 49 CFR part 450.

(b) Authorized forms and instructions for governmental organizations.

(1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.

(2) Applicants are not required to submit more than the original and two copies of pre-applications or applications.

(3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 face sheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.

(4) When a grantee applies for additional funding (such as a continuation supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]Sec. 18.11 State plans.

(a) **Scope.** The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, “Intergovernmental Review of Federal Programs,” States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive order.

(b) **Requirements.** A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.

(c) **Assurances.** In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:

(1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,

(2) Repeat the assurance language in the statutes or regulations, or

(3) Develop its own language to the extent permitted by law.

(d) **Amendments.** A State will amend a plan whenever necessary to reflect:

(1) New or revised Federal statutes or regulations or (2) a material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

Sec. 18.12 Special grant or subgrant conditions for "high-risk" grantees.

(a) A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or

(3)) Has a management system which does not meet the management standards set forth in this part, or

(4) Has not conformed to terms and conditions of previous awards;

(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

(b) Special conditions or restrictions may include:

(1) Payment on a reimbursement basis;

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;

(3) Requiring additional, more detailed financial reports;

(4) Additional project monitoring;

(5) Requiring the grantee or subgrantee to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:

(1) The nature of the special conditions/restrictions;

(2) The reason(s) for imposing them;

(3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions; and

(4) The method of requesting reconsideration of the conditions/ restrictions imposed.

Subpart C—Post-Award Requirements Financial Administration

Sec. 18.20 Standards for financial management systems.

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the

financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) **Accounting records.** Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) **Internal control.** Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) **Budget control.** Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) **Allowable cost.** Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allow ability, of costs.

(6) **Source documentation.** Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) **Cash management.** Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-¬credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

(d) Certain Urban Mass Transportation Administration (UMTA) grantees shall comply with the requirements of section 15 of the Urban Mass Transportation (UMT) Act of 1964, as amended, as implemented by 49 CFR part 630, regarding a uniform system of accounts and records and a uniform reporting system for certain grantees.[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.21 Payment.

(a) **Scope.** This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) **Basic standard.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) **Advances.** Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) **Reimbursement.** Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) Working capital advances. If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis.

Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the sub subgrantee's actual cash disbursements.

(f) Effect of program income, refunds, and audit recoveries on payment.

(1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.

(2) Except as provided in paragraph (f) (1) of this section, grantees and

subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) Withholding payments

(1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless;

(i) The grantee or subgrantee has failed to comply with grant award conditions or

(ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with Sec. 18.43(c).

(3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) Cash depositories.

(1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.

(i) Interest earned on advances. Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self¬ Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to $100 per year for administrative expenses.

(j) 23 U.S.C. 121 limits payments to States for highway construction projects to the Federal share of the costs of construction incurred to date, plus the Federal share of the value of stockpiled materials.

(k) Section 404 of the Surface Transportation Assistance Act of 1982 directs the Secretary to reimburse States for the Federal share of costs incurred. [53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.22 Allowable costs.

(a) **Limitation on use of funds.** Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-

price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) Applicable cost principles. For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

(c) The overhead cost principles of OMB Circular A-87 shall not apply to State highway agencies for FHWA funded grants.

(d) Sections 3(1) and 9(p) of the UMT Act of 1964, as amended, authorize the Secretary to include in the net project cost eligible for Federal assistance, the amount of interest earned and payable on bonds issued by the State or local public body to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion thereof. Limitations are established in sections 3 and 9 of the UMT Act of 1964, as amended.

(e) Section 9 of the UMT Act of 1964, as amended, authorizes grants to finance the leasing of facilities and equipment for use in mass transportation services provided leasing is more cost effective than acquisition or construction.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

Sec. 18.23 Period of availability of funds.

(a) **General.** Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) Liquidation of obligations. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

Sec. 18.24 Matching or cost sharing.

(a) **Basic rule:** Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) **Qualifications and exceptions¬.**

(1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be

met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) Cost or contributions counted towards other Federal costs¬-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4)) Costs financed by program income. Costs financed by program income, as defined in Sec. 18.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in Sec. 18.25(g).)

(5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) Special standards for third party in-kind contributions.

(i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A)) An increase in the services or property provided under the contract

(without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(8) 23 U.S.C. 121(a) permits reimbursement for actual construction cost incurred by States for highway construction projects. Except for private donations of right-of-way, contributions and donations shall not be considered State costs, and shall not be allowable for matching purposes for highway construction contracts. 23 U.S.C. 323 permits private donations of right-of-way to be used for a State's matching share, and establishes procedures for determining the fair market value of such donated right-of-way.

(9) Section 4(a) of the UMT Act of 1964, as amended, provides that the Federal grant for any project to be assisted under section 3 of the UMT Act of 1964, as amended, shall be in an amount equal to 75 percent of the net project costs. Net project cost is defined as that portion of the cost of the project which cannot be reasonably financed from revenues.

(10) Section 18(e) of the UMT Act of 1964, as amended, limits the Federal share to 80 percent of the net cost of construction, as determined by the Secretary of Transportation. The Federal share for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 percent of the net cost of such operating expense projects.

(c) **Valuation of donated services¬.**

(1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation. Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(3) Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) limits in-kind service contributions under the local Rail Service Assistance Program to “the cash equivalent of State salaries for State public employees working in the State rail assistance program, but not including overhead and general administrative costs.”

(d) Valuation of third party donated supplies and loaned equipment or space.(1)

If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2)) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) Valuation of third party donated equipment, buildings, and land.

If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,

(2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost¬sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in Sec. 18.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

(f) Valuation of grantee or subgrantee donated real property for construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) Appraisal of real property. In some cases under paragraphs (d),(e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by

the grantee. This requirement will also be imposed by the grantee on subgrantees.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]
Sec. 18.25 Program income.

(a) **General.** Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) **Definition of program income.** Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. “During the grant period” is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) **Cost of generating program income.** If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) **Governmental revenues.** Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) **Royalties.** Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See Sec. 18.34.)

(f) **Property.** Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of Secs. 18.31 and 18.32.

(g) **Use of program income.** Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the

time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) Addition. When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee.

The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) Cost sharing or matching. When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(4)) Section 3(a)(1)(D) of the UMT Act of 1964, as amended, provides that the Secretary shall establish requirements for the use of income derived from appreciated land values for certain UMTA grants. Specific requirements shall be contained in grant agreements.

(5) UMTA grantees may retain program income for allowable capital or operating expenses.

(6) For grants awarded under section 9 of the UMT Act of 1964, as amended, any revenues received from the sale of advertising and concessions in excess of fiscal year 1985 levels shall be excluded from program income.

(7) 23 U.S.C. 156 requires that States shall charge fair market value for the sale, lease, or use of right-of-way airspace for non¬-transportation purposes and that such income shall be used for projects eligible under 23 U.S.C.

(h)) Income after the award period. There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]
Sec. 18.26 Non-Federal audits.

(a) **Basic rule.** Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.” The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) **Subgrantees.** State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends $300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, “Uniform Administrative Requirements for Grants and

Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, Sec. 18.36 shall be followed.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 61 FR 21387, May 10, 1996; 62 FR 45939, 45947, Aug. 29, 1997]

Changes, Property, and Sub-awards

Sec. 18.30 Changes.

(a) **General.** Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) **Relation to cost principles.** The applicable cost principles (see Sec. 18.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) **Budget changes.**

(1) Nonconstruction projects. Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget,

whenever the awarding agency's share exceeds $100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) Construction projects. Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) Combined construction and non-construction projects. When a grant or subgrant provides funding for both construction and non-construction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from non-construction to construction or vice versa.

(d) Programmatic changes. Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under non-construction projects, contracting out, sub-granting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of Sec. 18.36 but does not apply to the procurement of equipment, supplies, and general support services.

(e) **Additional prior approval requirements.** The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) **Requesting prior approval.**

(1) A request for prior approval of any budget revision will be in the same budget formal the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see Sec. 18.22) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

Sec. 18.31 Real property.

(a) **Title.** Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) **Use.** Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(c) **Disposition.** When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or sub-grantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer of title. Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

(d)) If the conditions in 23 U.S.C. 103(e) (5), (6), or (7), as appropriate, are met and approval is given by the Secretary, States shall not be required to repay the Highway Trust Fund for the cost of right-of-way and other items when certain segments of the Interstate System are withdrawn.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.32 Equipment.

(a) **Title.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) **States.** A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) **Use.**

(1)) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 18.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute. (4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) **Management requirements.** Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) **Disposition.** When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3)) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) **Federal equipment.** In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) **Right to transfer title.** The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 18.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

Sec. 18.33 Supplies.

(a) **Title.** Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) **Disposition.** If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

Sec. 18.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

Sec. 18.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

Sec. 18.36 Procurement.

(a) **States.** When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.

The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) **Procurement standards.**

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-

agreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only:

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not

relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) **Competition.**

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 18.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition.

The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all pre-qualified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) **Methods of procurement to be followed**

(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 18.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be

solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following

circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) **Contracting with small and minority firms, women's business enterprise and labor surplus area firms.**

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) **Contract cost and price.**

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness

can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 18.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) **Awarding agency review.**

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition

threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self¬-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) **Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(h) **Bonding requirements**

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such

sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which

are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94¬163, 89 Stat. 871).

(j) 23 U.S.C. 112(a) directs the Secretary to require recipients of highway construction grants to use bidding methods that are "effective in securing competition."

Detailed construction contracting procedures are contained in 23 CFR part 635, subpart A.

(k) Section 3(a)(2)(C) of the UMT Act of 1964, as amended, prohibits the use of grant or loan funds to support procurements utilizing exclusionary or discriminatory specifications.

(l) 46 U.S.C. 1241(b)(1) and 46 CFR part 381 impose cargo preference requirements on the shipment of foreign made goods.

(m) Section 165 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1601, section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR parts 660 and 661 impose Buy America provisions on the procurement of foreign products and materials.

(n) Section 105(f) of the Surface Transportation Assistance Act of 1982, section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR part 23 impose requirements for the participation of disadvantaged business enterprises.

(o) Section 308 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1068(b)(2), authorizes the use of competitive negotiation for the purchase of rolling stock as appropriate.

(p) 23 U.S.C. 112(b) provides for an exemption to competitive bidding requirements for highway construction contracts in emergency situations.

(q) 23 U.S.C. 112 requires concurrence by the Secretary before highway construction contracts can be awarded, except for projects authorized under the provisions of 23 U.S.C. 171.

(r) 23 U.S.C. 112(e) requires standardized contract clauses concerning site conditions, suspension or work, and material changes in the scope of the work for highway construction contracts.

(s) 23 U.S.C. 140(b) authorizes the preferential employment of Indians on Indian Reservation road projects and contracts.

(t) FHWA, UMTA, and Federal Aviation Administration (FAA) grantees and subgrantees shall extend the use of qualifications-based (e.g., architectural and engineering services) contract selection procedures to certain other related areas and shall award such contracts in the same manner as Federal contracts for architectural and engineering services are negotiated under Title IX of the Federal Property and Administrative Services Act of 1949, or equivalent State (or airport sponsor for FAA) qualifications-based requirements. For FHWA and UMTA programs, this provision applies except to the extent that a State adopts or has adopted by statute a formal procedure for the procurement of such services.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988; 60 FR 19639, 19647, Apr. 19, 1995]

Sec. 18.37 Subgrants.

(a) **States.** States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

(3) Ensure that a provision for compliance with Sec. 18.42 is placed in every cost reimbursement subgrant; and

(4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

(b) **All other grantees.** All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:

(1) Ensure that every subgrant includes a provision for compliance with this part;

(2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and

(3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

(c) Exceptions. By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:

(1) Section 18.10;

(2) Section 18.11;

(3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in Sec. 18.21; and

(4) Section 18.50.

Reports, Records, Retention, and Enforcement

Sec. 18.40 Monitoring and reporting program performance.

(a) **Monitoring by grantees.** Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) **Nonconstruction performance reports.** The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) **Construction performance reports.** For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(1) Section 12(h) of the UMT Act of 1964, as amended, requires pre¬-award testing of new buses models.

(2) [Reserved]

(d) **Significant developments.** Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) **Federal agencies may make site visits as warranted by program needs.**

(f) **Waivers, extensions.**

(1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.41 Financial Reporting.

(a) **General.**

(1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decision making purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7)) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) **Financial Status Report.**

(1) Form. Grantees will use Standard

Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with Sec. 18.41(e)(2)(iii).

(2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the

accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) **Federal Cash Transactions Report**

(1) Form.

(i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the “Remarks” section of the report.

(3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) **Request for advance or reimbursement¬.**

(1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under non-construction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in Sec.18.41 (b)(3).

(e) **Outlay report and request for reimbursement for construction programs.**

(1) Grants that support construction activities paid by reimbursement method.

(i) Requests for reimbursement under construction grants will. be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in Sec. 18.41(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in Sec. 18.41(b)(3).

(e) **Outlay report and request for reimbursement for construction programs.**

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.

(i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by Sec. 18.41(b) (3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in Sec. 18.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in Sec. 18.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by Sec. 18.41(b)(2).

(f) **Notwithstanding the provisions of paragraphs (a)(1) of this section, recipients of FHWA and National Highway Traffic Safety Administration (NHTSA) grants shall use FHWA, NHTSA or State financial reports.**

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

Sec. 18.42 Retention and access requirements for records.

(a) **Applicability.**

(1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 18.36(i)(10).

(b) **Length of retention period.**

(1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee

(c) **Starting date of retention period¬**

(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year.

In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation

plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) **Substitution of microfilm.** Copies made by microfilming, photocopying, or similar methods may be substituted for original the records.

(e) **Access to records**

(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) **Restrictions on public access.** The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

Sec. 18.43 Enforcement

(a) **Remedies for noncompliance.** If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) **Hearings, appeals.** In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) **Effects of suspension and termination.** Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are non-cancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) **Relationship to debarment and suspension.** The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see Sec. 18.35).

Sec. 18.44 Termination for convenience.

Except as provided in Sec. 18.43 awards may be terminated in whole or in part only as follows:

(a) **General.** The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.

(b) **Reports.** Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:

(1) Final performance or progress report.

(2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).

(3) Final request for payment (SF-270) (if applicable).

(4) Invention disclosure (if applicable).

(5) Federally-owned property report:In accordance with Sec. 18.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) **Cost adjustment.** The Federal agency will, within 90 days after receipt of

reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) **Cash adjustments.**

(1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

Subpart D--After-the-Grant Requirements

Sec. 18.51 Later disallowances and adjustments.

The closeout of a grant does not affect:

(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in Sec. 18.42;

(d) Property management requirements in Secs. 18.31 and 18.32; and Audit requirements in Sec. 18.26.

Sec. 18.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlements [Reserved]

EXHIBIT D

Appendix A to Part 96—Office of Management and Budget

Circular No. A-128—Uniform Audit Requirements for State and Local Governments

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

CIRCULAR NO. A-128

April 12, 1985

To the Heads of Executive Departments and Establishments.

Subject: Audits of State and Local Governments.

1. Purpose.

This Circular is issued pursuant to the Single Audit Act of 1984, Pub. L. 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

2. Super-session.

The Circular supersedes Attachment P, "Audit Requirements," of Circular A-102, "Uniform requirements for grants to State and local governments."

3. Background.

The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive $100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. It specifies that the Director shall designate "cognizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.
4. Policy. The Single Audit Act requires the following:

4. Policy.

The Single Audit Act requires the following:

a. State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.

b. State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.

c. State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A-102, "Uniform requirements for grants to State or local governments."¬

5. Definitions.

For the purposes of this Circular the following definitions from the Single Audit Act apply:

a. Cognizant agency means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.

b. Federal financial assistance means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

c. Federal agency has the same meaning as the term agency in section 551(1) of title 5, U.S.C.

d. Generally accepted accounting principles has the meaning specified in the generally accepted government auditing standards.

e. Generally accepted government auditing standards means the Standards For Audit of Government Organizations, Programs, Activities, and Functions, developed by the Controller General, dated February 27, 1981.

f. Independent auditor means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

g. Internal controls means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data is obtained, maintained, and fairly disclosed in reports.

h. Indian tribe means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. Local government means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. Major Federal Assistance Program, as defined by Pub. L. 98-502, is described in the Attachment to this Circular.

k. Public accountants means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

l. State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has governmental functions and any Indian tribe.

m. Sub-recipient means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a

program. A sub-recipient may also be a direct recipient of Federal financial assistance.

6. Scope of Audit.

The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular.

However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

d. The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. Frequency of Audit.

Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

8. Internal Control and Compliance Reviews.

The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

a. Internal control review. In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring sub-recipients and obtaining and acting on sub-recipient audit reports.

b. Compliance review. The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through sub-recipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

• The amounts reported as expenditures were for allowable services, and

• The records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

•Matching requirements, levels of effort and earmarking limitations were met,

•Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

•Amounts claimed or used for matching were determined in accordance with OMB Circular A-87, “Cost principles for State and local governments, “and Attachment F of Circular A-102, “Uniform requirements for grants to State and local governments.”

(c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the Compliance Supplement for Single Audits of State and Local Governments, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements

governing individual programs.

(2) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

9. Sub-recipients.

State or local governments that receive Federal financial assistance and provide $25,000 or more of it in a fiscal year to a sub-recipient shall:

a. Determine whether State or local sub-recipients have met the audit requirements of this Circular and whether sub-recipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

b. Determine whether the sub-recipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the sub-recipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the sub-recipient has not yet had such an audit;

c. Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. Consider whether sub-recipient audits necessitate adjustment of the recipient's own records; and

e. Require each sub-recipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

10. Relation to Other Audit Requirements.

The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisions of this Circular do not authorize any State or local government or sub-recipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. Cognizant Agency Responsibilities.

The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits
upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. Illegal Acts or Irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 13(a)(3) below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. Audit Reports.

Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal

assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the Catalog of Federal Domestic Assistance. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption “other Federal assistance.”

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

• A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

• Negative assurance on those items not tested;

• A summary of all instances of noncompliance; and

• An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

b. The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide including a plan for corrective action taken or planned and comments on the status of corrective action taken. IF prior corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Sub-recipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

g. Recipients of more than $100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

14. Audit Resolution.

As provided in paragraph 11, the cognizant agency shall be responsible for monitory the

resolution of audit findings that affect the programs of more than one Federal agency.

Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. Audit work papers and Reports.

Work papers and reports shall be retained for a -minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit work papers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

16. Audit Costs.

The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, “Cost principles for State and local governments.”

b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost:

17. Sanctions.

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

• Withholding a percentage of assistance payments until the audit is completed satisfactorily,

• Withholding or disallowing overhead costs, and

• Suspending the Federal assistance agreement until the audit is made.

18. Auditor Selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment 0 of Circular A-102, “Uniform requirements for grants to State and local governments.” The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. Small and Minority Audit Firms.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange time frames for

the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

20. Reporting.

Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

21. Regulations.

Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. Effective Date.

This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A-102 shall continue to be observed.

23. Inquiries.

Attachment P to Circular A-102 shall continue to be observed.

23. inquiries. All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395-3993.

24. Sunset Review Date.

This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman, Director.

Attachment - Circular A-128

Definition of Major Program as Provided in Pub. L. 98-502

Major Federal Assistance Program, for State and local governments having Federal assistance expenditures between $100,000 and $100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of $300,000, or 3 percent of such total expenditures. Where total expenditures of Federal assistance exceed $100,000,000, the following criteria apply:

EXHIBIT E

SUGGESTED LANGUAGE FOR RECYLING CERTIFICATION

State law requires that state contracts shall have Recycling Certification in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

RECYCLED CONTENT CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Name and Title of Person Signing	Date Executed
Authorized Signature	Executed in the County of San Luis Obispo
Title	Telephone Number
Legal Business Name City of Morro Bay Harbor Department	Federal ID Number 95-2308629

The Contractor hereby certifies under penalty of perjury, that

percent of the materials, goods, supplies offered, or products used in the performance of this contract meets the or exceeds the minimum percentage of recycled material as defined in Sections 12161 and 12200 of the Public Contract Code. The Contractor may certify that the product contains zero recycled content.

EXHIBIT E (Cont.)

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed) City of Morro Bay Harbor Department	Federal ID Number 95-2308629
By (Authorized Signature)	
Printed Name and Title of Person Signing ,	
Date Executed	Executed in the County of San Luis Obispo

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE:

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

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

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;

2) the person's or organization's policy of maintaining a drug-free workplace;

3) any available counseling, rehabilitation and employee assistance programs; and,

4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES $50,000 OR MORE- PRO BONO REQUIREMENT:

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

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

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

5. EXPATRIATE CORPORATIONS:

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

6. SWEATFREE CODE OF CONDUCT:

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

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

7. DOMESTIC PARTNERS:

For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

1. CONFLICT OF INTEREST:

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

Current State Employees (Pub. Contract Code §10410):

1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

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

1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

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

2. LABOR CODE/WORKERS' COMPENSATION:

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

3. AMERICANS WITH DISABILITIES ACT:

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

4. CONTRACTOR NAME CHANGE:

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION:

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

7. AIR OR WATER POLLUTION VIOLATION:

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all contractors that are not another state agency or other governmental entity.

Sample Bid/Proposal Attachment regarding the Darfur Contracting Act of 2008

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, et seq.; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. (See # 1 on the sample Attachment).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on the sample Attachment).

The following sample Attachment may be included in an IFB or RFP to satisfy the Act's certification requirements of bidders and proposers.

Exhibit F

DARFUR CONTRACTING ACT

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

1. _____ We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed) City of Morro Bay Harbor Department	Federal ID Number 95-2308629
By (Authorized Signature)	
Printed Name and Title of Person Signing ,	
Date Executed	Executed in the County of San Luis Obispo

YOUR BID OR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR BID OR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH #1 OR #2 INITIALED OR PARAGRAPH #3 INITIALED AND CERTIFIED

General

1. Applicant Information

a.	Applicant Name	City of Morro Bay Harbor Department		
b.	Organizational Unit			
c.	Address	1275 Embarcadero		
d.	Address 2			
e.	City	Morro Bay	State CA	Zip 93422
f.	Federal ID Number	95-2308629	Reference No.	
g.	Agency Type			

(●) City ( ) County

( ) State Agency ( ) District

2. Project Information

a.	Project Name	Two Rescue Watercraft Kawasaki Ultra Jet Skis with Trailer and Rescue Sled		
b.	Is implementing agency same as Applicant		(●) Yes	( ) No
c.	Implementing Agency Name			
d.	Project Start Date	Oct-01-2018	End Date	Sep-30-2019
e.	Amount of Funds Requested	$25,584.00	Project Cost	$25,584.00

3. Contacts

a. Project Administrator

Name	Lori Stilts				
Title	Grants Administrator				
Mailing Address	1275 Embarcadero				
City	Morro Bay	State	CA	Zip	93442
Telephone	(805) 772-6254 - 256			Fax	(805) 772-6258 - 256
E-mail Address	lstilts@morrobayca.gov				

b. Authorized Representative

Name	Eric Endersby				
Title	Director				
Mailing Address	1275 Embarcadero				
City	Morro Bay	State	CA	Zip	93442
Telephone	(805) 772-6254			Fax	(805) 772-6258
E-mail Address	eendersby@morro-bay.ca.us				

1. Statement of Need

The City of Morro Bay Harbor Department is proposing a Boating Safety and Enforcement Equipment (BS&E) grant application to purchase two new Kawasaki rescue watercrafts (RWCs) with a single trailer, and rescue sled.

The Morro Bay Harbor Patrol is a service-oriented public safety organization with first responder responsibilities operating principally on bay and ocean waters in Morro and Estero Bays. We respond to hundreds of calls for service every year from vessel emergencies and search and rescues, to enforcement actions, medical aids and hazardous materials and other spills, day and night, in fair weather and foul.

For the past 16 years, The Morro Bay Harbor Department has pioneered the use of RWC on the Central Coast. The department's ten-certified rescue RWC operators respond to and assist the public in surf rescues, distressed swimmer, low water/mud rescues where a traditional boat cannot access, supervision of water event safety and interagency assistance. The clear majority of these events and incidents occur where motorized access is restricted to RWCs alone. Although there are other RWCs maintained by nearby emergency response agencies, these crafts are stored away from the water, thus decreasing significantly their response time. The two new Morro Bay RWCS would replace two purchased in 2012 with funding from a Division of Boating and Watersways BS&E Grant that have reached the end of their serviceable lives for rescue work. We have reached out to DBW's regional equimpement inspector with the Office of Fleet and Asset Managment to have the required inpection before funds can be granted. The inspection report should be available by the middle of May 2018.

Along with the RWCs and trailer, we are seeking funds for the purchase of one new rescue sled. Such sleds provide an unbeatable platform for the efficient extrication of those struggling against the hazards of the ocean environment, and are a proven tool world-wide.

It is with great honor that the City of Morro Bay was named "Rescue Water Craft Training Capital of the World" by the Rescue Water Craft Association due to the location, conditions and support provided in Morro Bay for RWC training and operations. This award was included in the weekend "RESCUECON 2018" conference attended by more than 10 countires around the world on March 10, 2018, here in Morro Bay.

Please join the maritime rescue division of the MBHD in ensuring those in distress recieve the most effcient response possible.

Thank you for considering our proposal, and feel free to contact me if you have any questions or need further information.

Faithfully,
Eric Endersby
Harbor Director

1. California State Senate Districts

Select one or more of the California State Senate Districts where the proposed project activities will occur. Copy and Paste the URL (http://www.legislature.ca.gov/legislators_and_districts/districts/districts.html) in your browser to determine the State Senate district(s).

☐ State Senate 01	☐ State Senate 02	☐ State Senate 03	☐ State Senate 04	☐ State Senate 05
☐ State Senate 06	☐ State Senate 07	☐ State Senate 08	☐ State Senate 09	☐ State Senate 10
☐ State Senate 11	☐ State Senate 12	☐ State Senate 13	☐ State Senate 14	☐ State Senate 15
☐ State Senate 16	☑ State Senate 17	☐ State Senate 18	☐ State Senate 19	☐ State Senate 20
☐ State Senate 21	☐ State Senate 22	☐ State Senate 23	☐ State Senate 24	☐ State Senate 25
☐ State Senate 26	☐ State Senate 27	☐ State Senate 28	☐ State Senate 29	☐ State Senate 30
☐ State Senate 31	☐ State Senate 32	☐ State Senate 33	☐ State Senate 34	☐ State Senate 35
☐ State Senate 36	☐ State Senate 37	☐ State Senate 38	☐ State Senate 39	☐ State Senate 40

2. California State Assembly Districts

Select one or more of the California State Assembly Districts where the proposed project activities will occur. Copy and Paste the URL (http://www.legislature.ca.gov/legislators_and_districts/districts/districts.html) in your browser to determine the State Assembly district(s).

☐ State Assembly 01	☐ State Assembly 02	☐ State Assembly 03	☐ State Assembly 04	☐ State Assembly 05
☐ State Assembly 06	☐ State Assembly 07	☐ State Assembly 08	☐ State Assembly 09	☐ State Assembly 10
☐ State Assembly 11	☐ State Assembly 12	☐ State Assembly 13	☐ State Assembly 14	☐ State Assembly 15
☐ State Assembly 16	☐ State Assembly 17	☐ State Assembly 18	☐ State Assembly 19	☐ State Assembly 20
☐ State Assembly 21	☐ State Assembly 22	☐ State Assembly 23	☐ State Assembly 24	☐ State Assembly 25
☐ State Assembly 26	☐ State Assembly 27	☐ State Assembly 28	☐ State Assembly 29	☐ State Assembly 30
☐ State Assembly 31	☐ State Assembly 32	☐ State Assembly 33	☐ State Assembly 34	☑ State Assembly 35
☐ State Assembly 36	☐ State Assembly 37	☐ State Assembly 38	☐ State Assembly 39	☐ State Assembly 40
☐ State Assembly 41	☐ State Assembly 42	☐ State Assembly 43	☐ State Assembly 44	☐ State Assembly 45
☐ State Assembly 46	☐ State Assembly 47	☐ State Assembly 48	☐ State Assembly 49	☐ State Assembly 50
☐ State Assembly 51	☐ State Assembly 52	☐ State Assembly 53	☐ State Assembly 54	☐ State Assembly 55
☐ State Assembly 56	☐ State Assembly 57	☐ State Assembly 58	☐ State Assembly 59	☐ State Assembly 60
☐ State Assembly 61	☐ State Assembly 62	☐ State Assembly 63	☐ State Assembly 64	☐ State Assembly 65
☐ State Assembly 66	☐ State Assembly 67	☐ State Assembly 68	☐ State Assembly 69	☐ State Assembly 70
☐ State Assembly 71	☐ State Assembly 72	☐ State Assembly 73	☐ State Assembly 74	☐ State Assembly 75
☐ State Assembly 76	☐ State Assembly 77	☐ State Assembly 78	☐ State Assembly 79	☐ State Assembly 80

3. California Congressional Districts

Select one or more of the California Congressional Districts where the proposed project activities will occur. Copy and Paste the URL (https://www.govtrack.us/congress/members/CA) in your browser to determine the Congressional district(s).

- ☐ Congressional District 1
- ☐ Congressional District 2
- ☐ Congressional District 3
- ☐ Congressional District 4
- ☐ Congressional District 5
- ☐ Congressional District 6
- ☐ Congressional District 7
- ☐ Congressional District 8
- ☐ Congressional District 9
- ☐ Congressional District 10
- ☐ Congressional District 11
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- ☐ Congressional District 46
- ☐ Congressional District 47
- ☐ Congressional District 48
- ☐ Congressional District 49
- ☐ Congressional District 50
- ☐ Congressional District 51
- ☐ Congressional District 52
- ☐ Congressional District 53

4. County

Select one or more of the California Counties where the proposed project activities will occur.

- ☐ Alameda
- ☐ Alpine
- ☐ Amador
- ☐ Butte
- ☐ Calaveras
- ☐ Colusa
- ☐ Contra Costa
- ☐ Del Norte
- ☐ El Dorado
- ☐ Fresno
- ☐ Glenn
- ☐ Humboldt
- ☐ Imperial
- ☐ Inyo
- ☐ Kern
- ☐ Kings
- ☐ Lake
- ☐ Lassen
- ☐ Los Angeles
- ☐ Madera
- ☐ Marin
- ☐ Mariposa
- ☐ Mendocino
- ☐ Merced
- ☐ Modoc
- ☐ Mono
- ☐ Monterey
- ☐ Napa
- ☐ Nevada
- ☐ Orange
- ☐ Placer
- ☐ Plumas
- ☐ Riverside
- ☐ Sacramento
- ☐ San Benito
- ☐ San Bernardino
- ☐ San Diego
- ☐ San Francisco
- ☐ San Joaquin
- ☑ San Luis Obispo
- ☐ San Mateo
- ☐ Santa Barbara
- ☐ Santa Clara
- ☐ Santa Cruz
- ☐ Shasta
- ☐ Sierra
- ☐ Siskiyou
- ☐ Solano
- ☐ Sonoma
- ☐ Stanislaus
- ☐ Sutter
- ☐ Tehama
- ☐ Trinity
- ☐ Tulare
- ☐ Tuolumne
- ☐ Ventura
- ☐ Yolo
- ☐ Yuba

1. Citation Authority

Does your boating safety and enforcement unit have citation authority?	(•) Yes ( ) No
If YES, Code #	PC 836.5
Does your boating safety and enforcement unit have arrest authority?	(•) Yes ( ) No
If YES, Code #	PC 836.5
Do you have an active marine patrol program?	(•) Yes ( ) No

Number of marine patrol officers:

a.	Full Time	5
b.	Part Time	6

2. Boating Safety and Enforcement Income

Tax Revenue:

Market Value of all registered boats	68,531,277
Multiplied by Tax Rate	0.010
	685,312.77
Multiplied by County's General Tax Allocation Factor(%)	0.7750
Boat Tax Revenue	5,311.17

Other Revenue:

a.	other local revenue sources	352,800.00
b.	Any state funding sources, including DBW	0.00

TOTAL ANNUAL INCOME 358,111.17

Expenditures for boating safety and enforcement as defined in Section 663.7 (a) of the Harbors and Navigation Code:	981,133
If you received an equipment grant in the previous closed year, did you expend at least 95% of the grant?	( ) Yes ( ) No (•) N A
If NO, the agency left a balance of $	
If you participate in the subvention program, were all allocated funds expended in the previous closed year?	( ) Yes ( ) No (•) N A
If NO, the agency left a balance of $	

3. Describe your agency's boating safety and enforcement activities

24-hour a day, the Morro Bay Harbor Department is responsible for coordination of all boating and safety and enforcement activities within its jurisdiction, and often responds out of its jurisdiction on mutual aid calls assisting the US Coast Guard, fire, police and sheriff's departments and other agencies. Daily activities include, but not limited to:

Boating safety and enforcement of State and local law for regulation of boating activities

Surf and Estero Bay low water rescues
Vessel assistance and tow
Emergency response to vessels in distress
Search and rescue
Medical aid
Firefighting - dock, piers and vessel
Beach lifeguarding
Animal and pollution response
Supervision of organized water events

As the local force on the water 365 days a year, the Morro Bay Harbor Patrol is the first line of defense on Morro and Estero Bays, and the first to notice and report suspicious waterborne activities to the proper authorities.

4. Describe your agency's needs for this grant

a. Is the grant request for:

○ New Patrol Boat ◉ Equipment / Repairs

** All items purchased with funding provided by the Division of Boating and Waterways are for the exclusive use of the Boating Safety and Enforcement Unit.*

b. Your BS&E unit will use this patrol boat for hours per week.

c. Describe patrol boat in a two-foot window (ex. 19' - 21')

d. Please upload boat specifications for review

e. Describe type of engine and propulsion

f. Describe trailer

g. Give estimated cost of above

h. Attach at least two quotes

Name	Attachment
Rescue Ski and Trailer Quote	19898_0_Rescue and Trailer quote.pdf
Sled Quote	19898_1_Sled Quote.pdf

5. Describe the recreational boating activity on your waterways:

Recreational power and sail, sport fishing, and commercial fishing vessels all ply the waters of Morro Bay. The harbor has approximately 250 vessels in permanent slips, 125 vessels on permanent moorings, and two commercial piers berth an average of 25 to 30 vessels each day. Small watercraft (canoes, kayaks, skiffs, windsurfers, personal watercraft) usage is heavy. There is a paved 3-lane launch ramp that averages 15,000-18,000 boat launches per year. This is the only year-round all-weather vehicle trailer launching facility between Monterey and Santa Barbara Counties. There are two sport fish landings that operate six charter vessels combined, two large passenger for hire dinner/cruise vessels, and one commercial landing that operates various large heavy work vessels engaged in many marine construction projects throughout the state. The Morro Bay Yacht Club host hundreds of transient vessels each year that pass through Morro Bay along with the club's sailing activities and regattas. In addition, the Morro Bay Harbor is designated a Harbor of Safe Refuge for transient boaters during hazardous conditions.

6. Describe patrol boat/trailer/outboard motor being replaced

a. **Vessel**

Year	Make	Length	CF#	HIN #

b. **Trailer**

Year	Make	Length	Axles	License	VIN#

c. **Outboard Motor(s)**

Year	Make	Horsepower	Serial #

d. If requesting to replace/modify a vessel, your agency must provide the completed Office of Fleet Administration #6 form (OFA6).

7. List your boating inventory (County and State owned)

Year	Make	CF #
1984	Radon	2190 XC
1995	Davis - Radon Craft	3290 XC
2013	Radon	5532 XC
2012	Kawasaki - Rescue Ski	5377 XC
2012	Kawasaki - Rescue Ski	5376 XC

Budget Detail for Boating Safety and Enforcement Equipment Grant - FY 2018 / 19
Agency: City of Morro Bay Harbor Department
Application: Two Rescue Watercraft Kawasaki Ultra Jet Skis

	Line Item	Qty	Rate	UOM	Req Amount	Total
1	**Equipment**					
	Personal Watercraft	2.0000	11199.000	EA	22,398.00	22,398.00
	Rescue/Personal Watercraft Trailer	1.0000	1947.000	EA	1,947.00	1,947.00
	Jet Ski Assembly & Prep	2.0000	340.000	EA	680.00	680.00
	Safety Equipment	1.0000	1650.000	EA	1,650.00	1,650.00
Total for Equipment					26,675.00	26,675.00
2	**Adjustment**					
	Adjustment Notes : Requested Amount = 26,675.00; Approved Amount = 25,584.00; Budget Adjustment = -1,091.00	0.0000	0.000		-1,091.00	-1,091.00
TOTAL EXPENDITURES					**25,584.00**	**25,584.00**

Budget Summary for Boating Safety and Enforcement Equipment Grant - FY 2018 / 19
Agency: City of Morro Bay Harbor Department
Application: Two Rescue Watercraft Kawasaki Ultra Jet Skis

	Category	Req Amount	Total	Narrative
1	Equipment	26,675.00	26,675.00	
2	Adjustment	-1,091.00	-1,091.00	Requested Amount = 26,675.00; Approved Amount = 25,584.00; Budget Adjustment = -1,091.00
TOTAL EXPENDITURES		**25,584.00**	**25,584.00**	

Applicant Certification

a. ☑ Under penalty of perjury, I certify that I have examined this application and the document(s), proposal(s), and statement(s) submitted in conjunction herewith, and that to the best of my information and belief, the information contained herein is true, accurate, correct, and complete.

b. ☑ I certify that I am the person authorized to submit this application on behalf of the applicant.

Name: Lori Stilts

Title: Harbor Busiess Coordinator

Date Signed: 05/01/201
8

RESOLUTION NO. 66-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A 2018/2019 BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANT CONTRACT WITH STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS**

T H E C I T Y C O U N C I L
City of Morro Bay, California

WHEREAS, the City of Morro Bay applied for a 2018/2019 Boating Safety and Enforcement Equipment (BS&E) Grant from the State of California Department of Parks and Recreation, Division of Boating and Waterways (DBW) in the amount of $26,675.00; and

WHEREAS, DBW awarded the City of Morro Bay a BS&E grant in the amount of $25,584.00, which will allow the City the ability to utilize the funds to purchase two new rescue watercraft, rescue sled and single-axel trailer.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, as follows:

1. The City is hereby authorized to enter into the BS&E grant agreement #C18L0614 in the amount of $25,584.00 for the purchase of two rescue watercraft, rescue sled and single-axel trailer.

2. Harbor Director Eric Endersby is hereby authorized to act as the City's agent in regard to all aspects of the grant agreement, including signing the agreement and any other necessary documents.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of August 2018 on the following vote:

AYES:
NOES:
ABSENT:

_____
Jamie L. Irons, Mayor

ATTEST:

_____
Dana Swanson, City Clerk

AGENDA NO: A-9
MEETING DATE: August 28, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 20, 2018**

FROM: **Scot Graham, Community Development Director**
Nancy Hubbard, Contract Planner

SUBJECT: **Approval of Amendment No. 1 to City's Contract with SWCA Environmental Consultants for CEQA related consulting services for the 3300 Panorama Drive Project.**

RECOMMENDATION

Authorize the City Manager to execute Amendment No. 1 to the agreement with SWCA Environmental Consultants, increasing the contract amount by an additional $4,260.00 for a total contract not to exceed amount of $11,094.00, for CEQA related services for the 3300 Panorama tank demolition project. This contract is reimbursable by the applicant in full.

ALTERNATIVES

1. Deny the Amendment request and return reimbursed funding to the applicant.

FISCAL IMPACT

The project applicant has provided the City a check in the full amount of the contract amendment, plus the standard 25% contract administration fee.

BACKGROUND/DISCUSSION

The City contracted with SWCA Environmental Consulting, in November of 2017 for the update of the July 2016 Mitigated Negative Declaration for the project at 3300 Panorama, and related CEQA supporting services.

The initial IS/MND was prepared in July 2016 and circulated for public comment. Since that time, the project description was revised to include removal of the concrete foundations beneath the two large tanks, as well as the shotcrete on the berms surrounding the containment basins for each tank. The IS/MND was revised and updated to reflect changes in project scope and updates to technical reports resulting in recirculation of the document through the State Clearinghouse in February of 2018.

The City entered into the original contract for a not to exceed amount of $6,834.00 with the ability to approve additional work not to exceed 25% of the initial Agreement amount or an additional amount of $1,709.00 (see Contract Agreement provided as Attachment 1). The environmental aspects of this project were complex and involved more work by SWCA to support the City related to the details of the CEQA findings, process and mitigation and monitoring conclusions presented to the Planning Commission in June 2018.

CONCLUSION

Prepared By: _SG & NH_____	**Dept Review: _____SG & NH___**
City Manager Review: ___SC_____	**City Attorney Review: __JWP____**

CEQA and related environmental services are an integral part of the City's process as Lead Agency for CEQA review and findings. The City frequently contracts for those services as necessary to provide adequate environmental data for the applicant and interested parties. This contract and the proposed additional cost represented by Amendment No 1 will be reimbursed in full by the project applicant.

ATTACHMENTS

1. SWCA Environmental Consulting Agreement
2. SWCA Draft Contract Amendment 1

CITY OF MORRO BAY

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, is made and effective as of November 2, 2017, between the City of Morro Bay, a municipal corporation ("City") and SWCA Incorporated, an Arizona corporation, dba SWCA Environmental Consultants("Consultant"). In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

1. TERM

This Agreement shall commence on November 2, 2017, and shall remain and continue in effect until tasks described herein are completed, but in no event later than May 31, ~~2018~~ 2019, 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 his/her 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) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Six Thousand Eight Hundred Thirty Four dollars ($6,834.00)

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 percent (25%) of the amount of the Agreement, but in no even shall such sum exceed ten-thousand dollars ($10,000.00). 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 of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 3.

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that 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 of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance for work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be

served upon the Consultant a written notice of the default. The 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 the Consultant fails to cure its default within such period of time, the 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, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the 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 attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (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 attorney's 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 sub-consultants 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 sub-consultant 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 C attached to and part of this agreement.

11. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the 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 the 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

The 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. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the 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 the City of Morro Bay 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 the City of Morro Bay 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 the 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 sub-consultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to

provide 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: Community Development Director
To Consultant:	SWCA Environmental Consultants 1422 Monterey Street, B-C 200 San Luis Obispo, CA 93401

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the 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

The 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 the City of Morro Bay.

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 that he/she has the authority to execute this Agreement on behalf of the 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 R. Lomeli, Interim City Manager)

CONSULTANT:

By: _____
Bill Henry, Director

By: _____
Cara Corsetti, Principal

Attest:

_____
Dana Swanson, City Clerk

Approved as to Form:

_____
Joseph W. Pannone, City Attorney

EXHIBIT A

SWCA
ENVIRONMENTAL CONSULTANTS
Sound Science. Creative Solutions.®

San Luis Obispo Office
1422 Monterey Street, C200
San Luis Obispo, California 93401
Tel 805.543.7095 Fax 805.543.2367

September 11, 2017

Whitney McIlvaine, Contract Planner
City of Morro Bay
955 Shasta Ave
Morro Bay, CA 93442

Submitted via email: wmcilvaine@morro-bay.ca.us

Re: Proposal to Prepare Revisions to the July 2016 Panorama Drive Tank Demolition Project Mitigated Negative Declaration and Provide Related CEQA Services / SWCA No. P44797

Dear Ms. McIlvaine:

SWCA Environmental Consultants (SWCA) appreciates the opportunity to provide the City of Morro Bay (City) with our scope of work and cost estimate to prepare revisions to the July 2016 Mitigated Negative Declaration (MND) and provide related California Environmental Quality Act (CEQA) Services for the proposed Panorama Drive Tank Demolition Project (project). The following proposed scope of work was developed based on our experience providing CEQA document preparation services for the previously proposed version of the Panorama Drive Tank Demolition Project, conversations with you, review of the project file, review of information submitted by the applicant and agencies subsequent to July 2016, and past documentation. It is our understanding that the project applicant, Rhine LP, proposes to demolish two fuel tanks, one water tank, associated piping, and other structures on the project site.

Based on our understanding of the project and meetings with the City, it appears the current MND needs to be revised to reflect changes made to the project description and additional information provided by responsible agencies. Preparation of the revised MND will include finalization of the project description, review of all agency and City Planning Commission comment letters, preparation of noticing, responding to comments, and attending City Planning Commission hearings. Our proposed scope of work, cost estimate, and schedule are attached.

The cost to complete the proposed tasks, as described in the attached scope of work, is a time-and-materials budget not to exceed **$6,834.00**. Thank you for providing us with the opportunity to work with you. Should you have any questions regarding our scope of work or cost estimate, please contact me at (805) 543-7095, extension 6804, or via email at bhenry@swca.com.

Sincerely,

Bill Henry, AICP
Director

SCOPE OF WORK

SWCA Environmental Consultants (SWCA) has prepared the following scope of work and cost estimate to prepare revisions to the July 2016 Mitigated Negative Declaration (MND) and provide related California Environmental Quality Act (CEQA) Services for the proposed Panorama Drive Tank Demolition Project (project). The scope of work outlined below includes the following six generalized tasks:

1. Update and finalize a revised project description;
2. Prepare a comparison between the previous and current projects;
3. Review all subsequently prepared documents;
4. Prepare a revised MND;
5. Provide noticing assistance and respond to comments on revised MND; and,
6. Attend two Planning Commission Hearings.

TASK 1: UPDATE AND FINALIZE REVISED PROJECT DESCRIPTION

SWCA will work closely with the applicant and the City of Morro Bay (City) to develop and finalize the revised project description. The revised project description will incorporate changes made since initial submittal of the application and will include any details pertinent to CEQA analysis (e.g., revised site plans, revised demolition plan, etc.). If any additional information is needed to complete the project description and proceed with the environmental analysis, we will notify the City immediately in writing with specific requests for information. The revised project description will be submitted to the City and project applicant to ensure completeness. Upon receipt of comments on the draft submittal of the revised project description, SWCA will finalize the project description for inclusion into the revised MND.

TASK 2: PREPARE A COMPARISON BETWEEN PREVIOUS AND CURRENTLY PROPOSED PROJECTS

Upon completion of a finalized project description, SWCA will prepare a detailed comparison between the previously proposed and the currently proposed projects. This task will help identify and inform areas to focus on in the revised MND. If conducive, a table may be prepared for inclusion as an attachment to the revised MND, which will provide decision makers with a comprehensive summary comparing changes to the proposed project.

TASK 3: REVIEW ALL SUBSEQUENTLY PREPARED DOCUMENTS

Prior to the preparation of the revised MND, SWCA will review all City Planning Commission and other agency comment letters received throughout the public hearing process regarding the proposed project. SWCA will also review all technical reports submitted by the project applicant since the time of preparation of the previous MND. Where applicable CEQA issues exist, these comments and technical reports will be addressed in the final revised MND.

TASK 4: PREPARE A REVISED MITIGATED NEGATIVE DECLARATION

SWCA will prepare a revised MND pursuant to guidelines established by CEQA. At this time, no changes are anticipated for the following sections: Agricultural Resources, Cultural Resources, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, and Utilities and Service Systems.

EXHIBIT A

SWCA
ENVIRONMENTAL CONSULTANTS
Sound Science. Creative Solutions.®

San Luis Obispo Office
1422 Monterey Street, C200
San Luis Obispo, California 93401
Tel 805.543.7095 Fax 805.543.2367

September 11, 2017

Whitney McIlvaine, Contract Planner
City of Morro Bay
955 Shasta Ave
Morro Bay, CA 93442

Submitted via email: wmcilvaine@morro-bay.ca.us

Re: Proposal to Prepare Revisions to the July 2016 Panorama Drive Tank Demolition Project Mitigated Negative Declaration and Provide Related CEQA Services / SWCA No. P44797

Dear Ms. McIlvaine:

SWCA Environmental Consultants (SWCA) appreciates the opportunity to provide the City of Morro Bay (City) with our scope of work and cost estimate to prepare revisions to the July 2016 Mitigated Negative Declaration (MND) and provide related California Environmental Quality Act (CEQA) Services for the proposed Panorama Drive Tank Demolition Project (project). The following proposed scope of work was developed based on our experience providing CEQA document preparation services for the previously proposed version of the Panorama Drive Tank Demolition Project, conversations with you, review of the project file, review of information submitted by the applicant and agencies subsequent to July 2016, and past documentation. It is our understanding that the project applicant, Rhine LP, proposes to demolish two fuel tanks, one water tank, associated piping, and other structures on the project site.

Based on our understanding of the project and meetings with the City, it appears the current MND needs to be revised to reflect changes made to the project description and additional information provided by responsible agencies. Preparation of the revised MND will include finalization of the project description, review of all agency and City Planning Commission comment letters, preparation of noticing, responding to comments, and attending City Planning Commission hearings. Our proposed scope of work, cost estimate, and schedule are attached.

The cost to complete the proposed tasks, as described in the attached scope of work, is a time-and-materials budget not to exceed **$6,834.00**. Thank you for providing us with the opportunity to work with you. Should you have any questions regarding our scope of work or cost estimate, please contact me at (805) 543-7095, extension 6804, or via email at bhenry@swca.com.

Sincerely,

Bill Henry, AICP
Director

SCOPE OF WORK

SWCA Environmental Consultants (SWCA) has prepared the following scope of work and cost estimate to prepare revisions to the July 2016 Mitigated Negative Declaration (MND) and provide related California Environmental Quality Act (CEQA) Services for the proposed Panorama Drive Tank Demolition Project (project). The scope of work outlined below includes the following six generalized tasks:

1. Update and finalize a revised project description;
2. Prepare a comparison between the previous and current projects;
3. Review all subsequently prepared documents;
4. Prepare a revised MND;
5. Provide noticing assistance and respond to comments on revised MND; and,
6. Attend two Planning Commission Hearings.

TASK 1: UPDATE AND FINALIZE REVISED PROJECT DESCRIPTION

SWCA will work closely with the applicant and the City of Morro Bay (City) to develop and finalize the revised project description. The revised project description will incorporate changes made since initial submittal of the application and will include any details pertinent to CEQA analysis (e.g., revised site plans, revised demolition plan, etc.). If any additional information is needed to complete the project description and proceed with the environmental analysis, we will notify the City immediately in writing with specific requests for information. The revised project description will be submitted to the City and project applicant to ensure completeness. Upon receipt of comments on the draft submittal of the revised project description, SWCA will finalize the project description for inclusion into the revised MND.

TASK 2: PREPARE A COMPARISON BETWEEN PREVIOUS AND CURRENTLY PROPOSED PROJECTS

Upon completion of a finalized project description, SWCA will prepare a detailed comparison between the previously proposed and the currently proposed projects. This task will help identify and inform areas to focus on in the revised MND. If conducive, a table may be prepared for inclusion as an attachment to the revised MND, which will provide decision makers with a comprehensive summary comparing changes to the proposed project.

TASK 3: REVIEW ALL SUBSEQUENTLY PREPARED DOCUMENTS

Prior to the preparation of the revised MND, SWCA will review all City Planning Commission and other agency comment letters received throughout the public hearing process regarding the proposed project. SWCA will also review all technical reports submitted by the project applicant since the time of preparation of the previous MND. Where applicable CEQA issues exist, these comments and technical reports will be addressed in the final revised MND.

TASK 4: PREPARE A REVISED MITIGATED NEGATIVE DECLARATION

SWCA will prepare a revised MND pursuant to guidelines established by CEQA. At this time, no changes are anticipated for the following sections: Agricultural Resources, Cultural Resources, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, and Utilities and Service Systems.

SWCA anticipates the following sections require revisions: Aesthetics, Air Quality, Biological Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Noise, and Transportation and Circulation.

Upon receipt of comments from City staff on the draft submittal, SWCA will finalize the revised MND.

TASK 5: PROVIDE NOTICING ASSISTANCE AND RESPOND TO COMMENTS ON THE REVISED MND

Upon receipt of City comments on the Draft submittal, SWCA will finalize the Notice of Determination (NOD), Notice of Availability (NOA), and revised MND for public review and circulation. This task includes the preparation of the Notice of Completion (NOC) and Notice of Intent to Adopt an MND (NOI). We assume the City will submit the NOC and 15 copies of the revised MND to the State Clearinghouse, and will file the NOI with the County Clerk. We assume that the City will be responsible for all public noticing, such as onsite posting, newspaper advertisement listing, and mailing public hearing notices.

SWCA will provide written responses to comments received during and following the circulation of the revised MND. SWCA has prepared numerous MND and Environmental Impact Report Response to Comments chapters and has developed a thorough and cost-effective methodology to prepare responses in an efficient manner.

TASK 6: ATTEND TWO PLANNING COMMISSION HEARINGS

SWCA will prepare for and attend up to two City Planning Commission hearings and will be prepared to assist City staff by answering questions related to the revised MND.

SCHEDULE

SWCA is prepared to initiate this scope of work after receiving a signed contract. The proposed schedule and deliverable submittals are summarized in the table below:

Table 1. Scope of Work Schedule

TASK	ESTIMATED COMPLETION PERIOD	DELIVERABLES
Draft Revised Project Description	Within 5 working days of authorization to proceed and receipt of requested information	1 electronic copy
Finalized Project Description	Within 2 working days upon receipt of comments on draft revised project description	1 electronic copy
Comparison Document between previous MND and Revised MND	Within 5 working days of approval of finalized project description and receipt of all required technical reports and information from the applicant	1 electronic copy
Draft Revised MND, NOC, NOI, and NOD	Within 20 working days upon completion of comparison document	1 electronic copy
Final Revised MND, NOC, NOI, and NOD	Within 5 working days upon receipt of comments from the City	1 electronic copy
Public Circulation of MND, NOC, NOI, and NOD	30-day review period	1 electronic copy
Draft Response to Comments	Within 10 days following end of review period	1 electronic copy
Final Response to Comments	Within 5 working days following receipt of comments from City	1 electronic copy
Planning Commission Presentation	Within 5 working days of project being scheduled for public hearing	1 electronic copy

COST ESTIMATE

We propose a time-and-materials, not to exceed (NTE) budget of **$6,834.00** to complete the scope of work described above (refer to Table 1). We have attempted to be conservative in preparation of the budget with regard to the level of effort so that the overall cost estimates are reasonable for your planning purposes. SWCA will not proceed with any work in excess of the NTE budget without prior authorization from the City.

Table 1. Scope of Work Cost Estimate

TASK	FEE
Task 1: Update and Finalize Revised Project Description	$ 766.00
Task 2: Prepare a Comparison between Previous and Currently Proposed Projects	$ 586.00
Task 3: Review All Subsequently Prepared Documents	$ 288.00
Task 4: Prepare a Revised Mitigated Negative Declaration	$ 2,164.00
Task 5: Provide Noticing Assistance and Respond to Comments on the Revised MND	$ 1,602.00
Task 6: Attend Two Planning Commission Hearings	$ 1,428.00
PROJECT TOTAL	**$ 6,834.00**

ASSUMPTIONS

For budgeting purposes, we are making the following assumptions because some of these items are beyond SWCA's control and because these factors could significantly affect project schedule and cost:

- It is our understanding that the applicant will be providing an updated arborist report and finalized noise study prior to the start of Task 4, prepare a Revised Mitigated Negative Declaration.
- If it arises that other technical studies may need to be prepared or revised, SWCA will notify the City and, if authorized, issue a change order.
- One round of revisions will be required for each technical document, including the project description, comparison document, revised MND, public notices, and response to comments.

SWCA
ENVIRONMENTAL CONSULTANTS
Sound Science. Creative Solutions.®

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1422 Monterey Street, C200
San Luis Obispo, California 93401
Tel 805.543.7095 Fax 805.543.2367
www.swca.com

EXHIBIT B

SWCA SAN LUIS OBISPO 2017 HOURLY BILLING RATES

TEAM MEMBER	TITLE	LABOR CATEGORY	HOURLY RATE
Bill Henry	Office Director	Environmental Subject Matter Expert	$ 190
Emily Creel	Planning Team Leader	Environmental Specialist 07	$ 142
Jacqueline McCrory	Environmental Planner / Project Manager	Environmental Specialist 07	$ 131
Nicole Catalano	Environmental Planner	Environmental Specialist 04	$ 96
Jon Claxton	Natural Resources Team Leader	Environmental Specialist 09	$ 153
Lauren Brown	Biological Field Technician	Environmental Specialist 09	$ 153
Ben Ruiz	Senior Biologist / Project Manager	Environmental Specialist 09	$ 153
Travis Bell	Senior Biologist / Wetlands Specialist / PM	Environmental Specialist 08	$ 142
Geoff Hoetker	Senior Biologist	Environmental Specialist 07	$ 142
Gary Ruggerone	NEPA Specialist	Environmental Specialist 07	$ 131
John Moule	Biologist	Environmental Specialist 05	$ 108
Jackie Hancock	Biologist	Environmental Specialist 04	$ 96
Barrett Holland	Biologist	Environmental Specialist 04	$ 108
Kimberly Guilliam	Biologist	Environmental Specialist 03	$ 85
Benjamin Wagner	Biologist	Environmental Specialist 03	$ 85
Paula Carr	Senior Architectural Historian	Cultural Specialist 09	$ 153
Leroy Laurie	Archaeologist / Project Manager	Cultural Specialist 07	$ 131
Mark Kile	Archaeologist	Cultural Specialist 05	$ 108
Chad Jackson	Biologist / Archaeologist	Cultural Specialist 03	$ 96
Kevin Howen	GIS/CADD Specialist	GIS Specialist 05	$ 108
Jaimie Jones	Proposal Coordinator/Technical Editor	Planning Specialist 05	$ 108
Judi Young	Administrative Support	Admin Tech 05	$ 85

DIRECT COST	RATE*
Lodging	at cost
Per Diem	$51/per day
Mileage	$0.535/mile
Rental Car and Fuel	at cost
Black and White Copies, each	$0.10
Color Copies, each	$1
Subcontractors	20% markup

A 15% mark-up is added to expenses.

EXHIBIT C
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.

AMENDMENT NO. 1 TO THE
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY AND SWCA ENVIRONMENTAL CONSULTANTS

This Amendment No. 1 is entered by and between the City of Morro Bay, a municipal corporation ("City") and SWCA Incorporated, an Arizona corporation, dba SWCA Environmental Consultants ("Consultant").

RECITALS

WHEREAS, City and Consultant entered into an agreement as of November 2, 2017, for consulting services related to revisions to the July 2016 Panorama Drive Tank Demo Project Mitigated Negative Declaration and provide related CEQA services (the "Project"), which was approved by City for a not to exceed amount of $6,834.00 (the "Agreement"); and

WHEREAS, due to the City's continued need for CEQA supporting services for the additional services needed due the change in the Project description (removal of the concrete foundations beneath the two large tanks, as well as the shotcrete on the berms surrounding the containment basins for each tank) (Additional Services), the Parties agree to amend the Agreement, increasing the contract amount for Consultant CEQA support services an additional $4,260.00 for a total contract amount not to exceed Eleven Thousand Ninety-four dollars and No Cents ($11,094.00); and

WHEREAS, Consultant continues to have specific knowledge and experience related to CEQA issues related to this proposed project, 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 compensation to be paid for the Additional Services shall not exceed $4,260.00 for a total not to exceed amount of $11,094.00 for all services provided pursuant to the Agreement.

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 April 1, 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

Attest:

_____
Dana Swanson, City Clerk

APPROVED AS TO FORM

_____
Joseph W. Pannone, City Attorney

Consultant

By:_____
_____
Printed Name and Title

By: _____
_____
Printed Name and Title

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AGENDA NO: A-10

MEETING DATE: August 28, 2018

Staff Report

TO: Honorable Mayor and City Council **DATE: August 14, 2018**

FROM: Eric Endersby, Harbor Director

SUBJECT: **Adoption of Resolution No. 68-18 Approving Amendment #3 to the New Master Lease Agreement Between the City of Morro Bay and Boatyard LLC for Lease Site 89/89W, Located at 845 Embarcadero, and Commonly Known as "The Boatyard," and Amendment #1 to the New Master Lease Agreement Between the City of Morro Bay and Boatyard LLC and Fair Sky Properties for Lease Site 90/90W, Located at 885 Embarcadero, and Commonly Known as "Otter Rock Café"**

RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 68-18, approving Amendment #3 to the new Master Lease Agreement for Lease Site 89/89W, and Amendment #1 to the new Master Lease Agreement for Lease Site 90/90W, as proposed.

ALTERNATIVES

Council may elect not to approve Resolution No. 68-18 for the Master Lease Agreements (MLAs) as-proposed, and direct staff accordingly.

FISCAL IMPACT

Under this proposal, the Harbor Fund will incur one additional year of rent credits in the amount of $49,300 ($24,650 semi-annually), whereinafter the rent will revert to rent levels as stipulated in the lease.

The City will also incur survey fees of several hundred dollars to resurvey the lease sites for the additional water lease extension area being added, and lease area of Lease Site 90W being added to Lease Site 89W, in addition to some potential lost revenue from having to accommodate vessels displaced from the sites during construction and placed in City slips and/or piers; space that likely could otherwise have generated revenue. In sum total, however, the cost for these two items is estimated at approximately $3,000.

BACKGROUND

In 2015, a large portion of the seawall at the Boatyard site suffered a major failure, the cause of and legal responsibility for which is of significant dispute. After over two years of discussions with the Boatyard tenant, staff negotiated a cooperative and beneficial "package" to deal with the seawall failure and provide a global resolution of all legal claims resultant of that failure and other disputed lease management issues, with the end result being on October 11, 2016 the City Council approved a new MLA.

01181.0024/500023.1
Prepared By: ___EE_____ **Dept Review:** ___EE___

City Manager Review: ___SC_____ **City Attorney Review:** ___JWP___

In addition, the City negotiated a new MLA on the adjacent lease site, 90/90W (Otter Rock Café) with Boatyard LLC for Boatyard LLC's contingent and pending purchase of that site and significant repair and redevelopment proposal for the site to cure a backlog of deferred maintenance and other issues with that site's structures and other elements. A contingency of the new MLA on 89/89W is the successful purchase by Boatyard LLC of 90/90W.

On July 10, 2018, the City Council approved Amendment #2 to the MLA for Lease Site 89/89W to provide for additional rent concessions ($9,700 per year over a ten-year period) for the additional cost of the walkway expansion requirement by the Coastal Commission. In addition, Amendment #2 contained the requirement for the City to remove or cause to be removed the deck that encroaches the Boatyard lease site by 24" from the Off the Hook lease site to the south.

DISCUSSION

After approval of Amendment #2 on July 10, several other issues arose that require one additional amendment to both the Boatyard and Otter Rock site leases to resolve. Staff and the Council's subcommittee dedicated to this lease issue have again negotiated new amendments to the two new leases to accommodate the final outstanding issues, and keep the resolution of the seawall failure and global settlement intact.

The proposed Amendment #3 to the new MLA for the Boatyard lease site (89/89W), included with this staff report as Attachment #1 contains the following significant lease section element highlights:

1. Lease site boundaries: the site rehabilitation projects on both lease sites, as currently permitted or under permit review/approval, require extension of the water leases approximately 46 feet westward. In addition, the Boatyard lease site 89/89W will take over a portion of the Otter Rock lease site's water lease (90W), to be incorporated into 89W. While exhibits will be in the two lease amendments to memorialize the amended lease lines in the MLAs, a new property survey with the amended lease lines will ultimately have to be completed and recorded. This new survey will also eliminate an obsolete "ten-foot lease exclusion" area denoted on the City's current recorded lease survey maps that was part of the lease agreement on the Otter Rock site some 30-plus years ago. The City shall be responsible for this survey and recording.

2. Rehabilitation project exhibit: incorporation of the latest project drawing plans to denote the new 10-foot wide Harborwalk as required by the Coastal Commission.

3. Off the Hook Deck Encroachment: in addition to the City's previous agreement in Amendment #2 to remove or have removed the portion of the semi-enclosed outdoor deck on the Off the Hook site that encroaches on the southwest corner of the Boatyard site by January 1, 2020, the City agree to replace, or have replaced the removed deck area on the Boatyard site with ground treatment/finish, as necessary, to match existing.

4. Permit fees: the City agrees the permit fees for the rehabilitation project will not exceed $35,778.00, a maximum figure calculated by the Community Development Department.

5. Otter Rock escrow closing contingency: Boatyard LLC is waiving its contingency to terminate the Boatyard lease if the Otter Rock lease site and business purchase escrows don't close.

6. Rent concession: Boatyard LLC is requesting one additional year of rent credit (on top of

the ten years already granted), which amounts to $49,300. That amount has an approximate net present value of $35,000.

Although a rent concession over a ten-year period in the amount of $97,000 was granted in Amendment #2 for the additional ten-foot Harborwalk requirement, that additional one-year rent concession is in further recognition of the Tenant expending considerable additional sums on the new requirement from the Coastal Commission to expand the width of the HarborWalk adjacent to the site's southern building from eight feet to ten feet. In addition to recent and unforeseen developments with significant steel and aluminum pricing increases due to the Federal government's actions on tariffs on those commodities, that change raised site redesign challenges, which have revealed additional unforeseen costs (of widening the pathway to the gangway below the Harborwalk, relocating the gangway on the new pathway and additional seawall work) that cascade through the Tenant's current site rehabilitation plans, as currently designed in the agreement to settle the failed seawall issue.

7. Doorway allowances: several years ago as part of an approved and permitted project, the Otter Rock site added a door on the southwest portion of that building that opens directly onto the Boatyard lease site. A term was added to the Boatyard lease that required the Boatyard tenant to allow that door's use and encroachment. In the new Boatyard MLA, that allowance was mistakenly left out, and is not being added back in.

   In addition, a similar situation occurred when a new door was permitted on the Boatyard's southern building on the southeast portion that opens directly onto the Off the Hook lease site. Therefore, a similar lease term will need to be added to the new Off the Hook lease when it is put in place to ensure the Boatyard's door remains useable. This Amendment #3 affirms the City's commitment to ensure Boatyard's use of that door remains available, and a provision be included in the new Off the Hook lease to accommodate that.

8. Displaced vessel accommodation: the City will provide, without charge, storage accommodation to the Boatyard's five electric rental vessels and Otter Rock's one bay tour boat for up to 90 days during construction of the rehabilitation projects, as they will be displaced since all slips will be removed during construction. Those vessels will reportedly be ceasing operations for the duration.

In addition to the above lease section changes, the new amendment contains several other relatively non-substantive statements and procedural clarification sections.

The proposed Amendment #1 to the new MLA for the Otter Rock lease site (90/90W), included with this staff report as Attachment #2 contains the following significant lease section element highlights:

1. Lease assignment and assumption: Boatyard LLC, for accounting purposes, wishes to transfer its lesseeship of Lease Site 90/90W to Fair Sky Properties, a partnership of the same controlling ownership makeup of Boatyard LLC. This amendment acknowledges that assignment and assumption.

2. Lease site boundaries: as previously outlined above, the new lease site boundaries will have to be surveyed and recorded, which the City shall be responsible for.

3. Existing permit land use approvals: acknowledgement that the existing land/water use approvals on the Otter Rock lease site with respect to the water lease shall also pertain to

the amended water lease area being transferred to the Boatyard lease, as previously outlined.

4. Permit fees: the City agrees the permit fees for the rehabilitation project will not exceed $11,882.00, a maximum figure calculated by the Community Development Department.

5. ABC liquor license transfer: City will cooperate with and assist transfer of the ABC liquor license currently held by the Otter Rock Café business to the new subtenant, Willow Market LLC, proposed to take over, and likely purchase, the Otter Rock lease site and lease.

In addition to the above lease section changes, the new amendment contains several other relatively non-substantive statements and procedural clarification sections.

CONCLUSION

Approval of Amendment #3 to the new Boatyard MLA and Amendment #1 to the new Otter Rock MLA will ensure the continued global resolution and settlement of numerous issues and potential litigation resulting from the failure of a significant portion of a seawall and other matters related to the adjoining sites, including integration of the two individual site rehabilitation projects into one cohesive project. When completed, the adjoining sites will be significantly improved, and in the long run should generate significantly more revenues than are currently produced.

Thus, granting one further lease rent concession continues to represent a pragmatic and cost-effective method to ensuring the City and tenant continue to agree to release each other from any and all potential liability that could have likely resulted from the seawall failure and associated legal and other costs, and to get the seawall repaired now with no upfront costs to the City.

As such, staff recommend the City Council approve Resolution No. 68-18, included with this staff report as Attachment #3.

ATTACHMENTS

1. Amendment #3 to the new Master Lease Agreement for Boatyard lease site 89/89W
2. Amendment #1 to the new Master Lease Agreement for Otter Rock lease site 90/90W
3. Resolution No. 68-18

AMENDMENT #3 TO THE LEASE AGREEMENT FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO

This Amendment #3 (this "Amendment #3") is made and entered into as of this ___ day of _____, 2018, by and between the City of Morro Bay, a municipal corporation of the State of California, hereinafter called "City," and Boatyard, LLC, a California limited liability company, hereinafter called "Tenant." (Collectively, City and Tenant are sometimes referred to herein as the "Parties".)

WHEREAS, effective October 11, 2016, the Parties entered into that certain lease for Lease Sites 89/89W ("Master Lease");

WHEREAS, the Parties amended the Master Lease by executing Amendment #1, effective December 12, 2017 ("Amendment #1"), and Amendment #2, effective July 10, 2018 ("Amendment #2");

WHEREAS, the Master Lease, Amendment #1 and Amendment #2 are hereinafter collectively referred to as the "Amended Master Lease";

WHEREAS, the Parties again desire to amend the Amended Master Lease to make certain modifications thereto;

NOW THEREFORE, Tenant and City agree, as follows:

1. Unless expressly stated herein, words used in this Amendment #3 shall have the same meaning as stated in the Amended Master Lease, except to the extent the context requires otherwise.

2. The foregoing recitals are incorporated into this Amendment #3 as true and correct.

3. The Parties acknowledge and agree the Master Lease and all of the terms and conditions of the Master Lease are in full force and effect, including but not limited to, the tolling period to bring any claim or action until the Commencement Date of the Amended Master Lease.

4. City and Tenant agree that a portion of the current City of Morro Bay Lease Site 90W shall be added to and included in Lease Site 89W, as generally depicted in Exhibit "A," attached hereto. As of the effective date of the Amended Master Lease, the definition of the "Premises" shall include all of the area generally depicted in Exhibit "A." On or before April 1, 2019, the City, at its sole expense, shall provide and record a survey map for the Premises reflecting the portion of former Lease Site 90W that has been added to Lease Site 89W of the Premises, and City shall additionally prepare and provide a City resolution adopted by the City Council of the City of Morro Bay approving the boundaries and legal description of the new increased size of the Premises and new reduced size of Lease Site 90W. For example purposes only, attached as Exhibit "B," is

Resolution No. 54-13 and a survey map the City approved for a similar change for Lease Sites 93-95/93W-95W. Additionally, on or before April 1, 2019, the City agrees, at City's sole expense, to take all actions necessary to remove from title and terminate the following encumbrances recorded against the Premises:

A: The ten (10) foot lease area per 1526 O.R. 153 and shown on City of Morro Bay Lease Sites Map Sheet 1 of 13 and as shown on the attached Record of Survey attached hereto as Exhibit "C", which may be accomplished by recordation of a new survey map; and

B: The Deed Restriction recorded in the official records of the County of San Luis Obispo on or about April 14, 2015, as Instrument No. 2015-17121, if that Deed Restriction remains an exception to the title policy issued by First American Title Company (FATCO) for Lease Site 90/90W.

5. The Parties acknowledge and agree the Rehabilitation Project includes a notation on the plans, which is attached to Amendment #2, as shown on the modified Sheet 3, as Schedule "1," and part of Exhibit B to the Amended Master Lease. The plan notation on page 3 calls out a ten (10) foot dimension to reflect a two (2) foot expansion of the Harbor Walk, as required by the California Coastal Commission. The Parties agree that the ten (10) foot wide dimension for the new Harbor Walk will be measured from the base of the exterior wall of the existing building, to the outside edge of the walk.

6. The Parties agree and acknowledge, on the Effective Date of the Amended Master Lease, all of the City's governmental land use approvals relating to the portion of former Lease Site 90W that was added to the Premises, including, but not limited to, the right to operate tour boats from the original Lease Site 90W as set forth in CUP# A00-52 to CUP 16-92 and/or the City approved set of plans for Rehabilitation Project for Lease Site 90/90W and Lease Site 89/89W shall create a vested right once a substantial amount of hard construction costs have been expended on the Rehabilitation Project improvements.

7. The Parties hereby agree to allow an existing rear door at the southwesterly side of the current building on Lease Site 90/90W to be used for access to and from Lease Site 90/90W over the Premises. The City shall also approve an amendment to Lease Site 90/90W to allow that same access.

8. Section 8 of Amendment #2 is hereby replaced in its entirety with the following:

> On or before January 1, 2020, City agrees to remove or cause to be removed from the Premises the portion of the deck encroaching on and across the lot line between the Premises and Lease Site 87-88/87W-88W ("Deck") with concrete and matching bricks, as necessary, so the structural and aesthetic integrity of the existing brick walkway located on the Premises, is maintained. City agrees that concrete and matching brick work shall be completed within thirty (30) days after the removal of the Deck.

9. City and Tenant agree that all City-required building, planning, engineering and inspection fees, costs, and expenses to be paid by Tenant to City for the Rehabilitation Project shall not exceed Thirty-five Thousand Seven Hundred Seventy-eight Dollars ($35,778.00).

10. Upon the mutual execution of this Amendment #3, item (iii) of the first paragraph of Section 5 of the Amended Master Lease, which establishes the closing-date-deadline contingency for the closing of the Otter Rock Café asset escrow and leasehold interest in Lease site 90/90W escrow both with Steinmann and J. Parker, shall be deemed deleted and of no further force and effect.

11. Tenant has provided the City a copy the executed contract with Associated Pacific Constructors, Inc. ("APC Contract") and, on or before the mutual execution of this Amendment #3, shall additionally provide proof of the initial minimum payment of $131,000 to Associated Pacific Constructors, Inc. in order to begin the repairs on or about January 2, 2019, as outlined in the APC Contract. Tenant's failure to provide that copy and proof shall not relieve Tenant or any of its successors or assigns from any other obligations pursuant to this Amendment #3 and the Amended Master Lease.

12. On or before the mutual execution of Amendment #3, Tenant shall deliver to City proof of a deposit of $150,000 from Willow Market LLC into the escrow with FATCO for the purchase and sale of the Otter Rock Cafe liquor license and assets, and shall also provide proof of an additional $50,000 deposit by Willow Market LLC into the escrow with FATCO for the purchase and sale of the leasehold interest in Lease Site 90/90W. Tenant's failure to provide that copy and proof shall not relieve Tenant or any of its successors or assigns from any other obligations pursuant to this Amendment #3 and the Amended Master Lease

13. The Parties agree the Amended Master Lease is amended so the number of semi-annual rent credits granted to Tenant are increased from 20 to 22 semi-annual rent credits. The dollar amount of each individual semi-annual rent credit shall remain unchanged at $24,650 per rent credit.

14. The City, at the City's sole expense, shall provide, at its option and for the entire term of the Amended Master Lease, as amended, either (i) an easement allowing for the pubic ingress and egress for the door/awning located on the southeasterly side of the current building located on the south side of Lease Site 89/89W or (ii) a binding written commitment stating that any new project design for Lease Site 87-88/87W-88W shall not prevent public ingress and egress to the same door/awning, and, until the new project on Lease Site 87-88/87W-88W is complete, the door/awning shall remain available for public ingress and egress at all times.

15. During the course of construction of the Rehabilitation Project, the City shall provide suitable accommodation for boat storage for the existing 5 electric boats and Lost Isle tour boat currently located on the Premises for a period of ninety (90) days beginning January 2, 2019 and ending on April 15, 2019.

16. Except as expressly stated herein, all provisions of the Amended Master Lease shall remain in full force and effect.

17. The effective date of this Amendment #3 is the date first written above.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 as of the date written above.

CITY OF MORRO BAY

By:_____
Jamie L. Irons, Mayor

APPROVED AS TO FORM:

_____
Joseph W. Pannone,
City Attorney

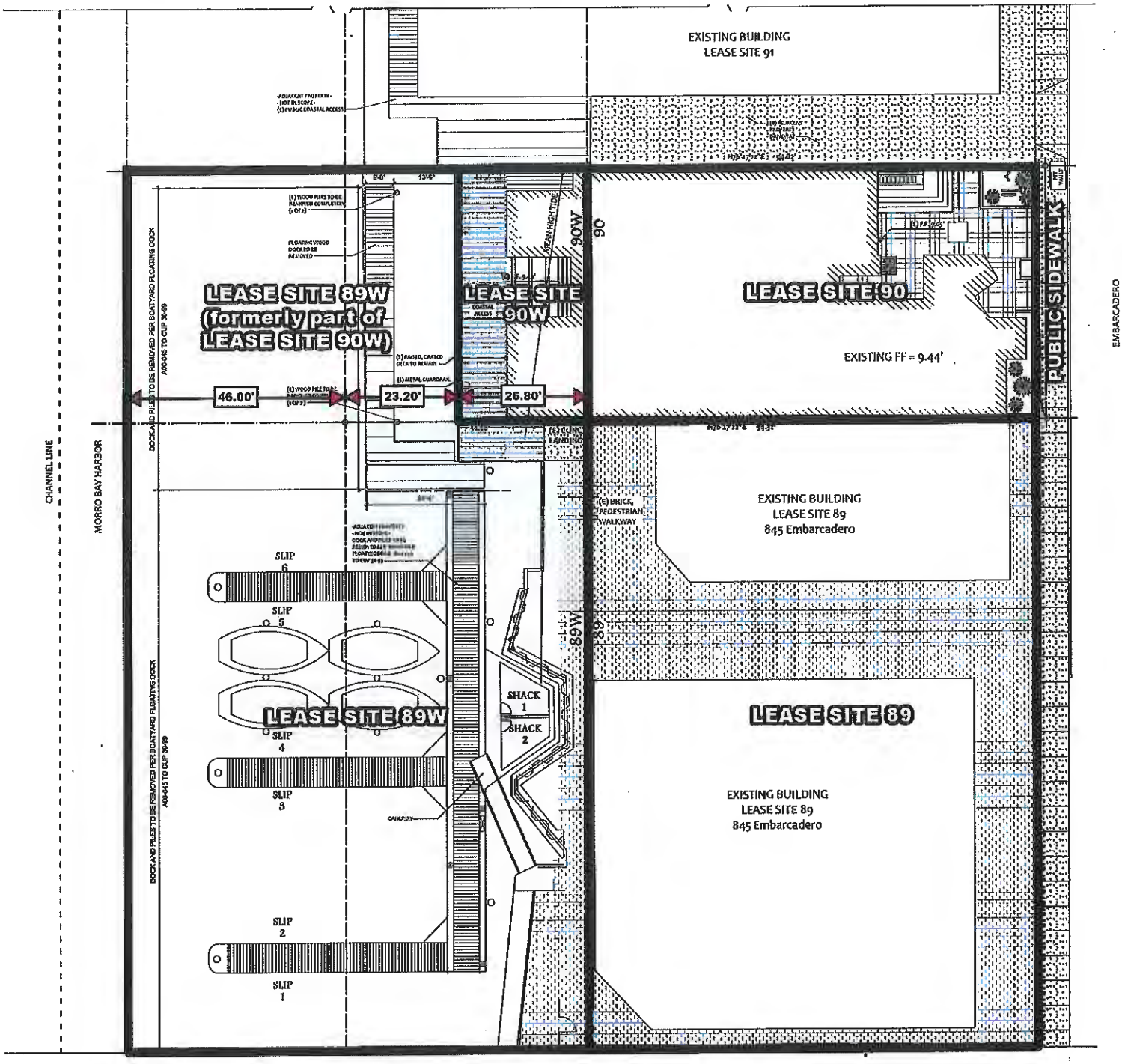
ATTEST:

_____
Dana Swanson, City Clerk

BOATYARD, LLC

By: _____
Cliff Branch, Manager

Exhibit "A"
to
Amendment #3 to the Lease Agreement for Lease Site 89/89W



EXISTING ARCHITECTURAL SITE PLAN

Initials: X_____ X_____

Exhibit "B"
to
Amendment #3 to the Lease Agreement for Lease Site 89/89W

RESOLUTION NO. 54-13

FOR EXAMPLE PURPOSES ONLY

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING ADJUSTMENTS TO LEASE SITE MAPS, LEASE SITES 93W-95W and 96W

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, on December 9, 1974, the City Council approved the "Lease Site Maps" dated November 1974; and

WHEREAS, the "Lease Site Maps" have been revised at various times by the City Council of Morro Bay to reflect new lease sites and adjustments in lease site boundaries; and

WHEREAS, the Boundary Adjustments to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party is exempt from the "Subdivision Map Act" requirements under California Government Code Section 66412(e); and

WHEREAS, City desires to adjust the boundaries to accommodate uses authorized by the modification to UPO-342 on November 12, 2013 for existing and future leases; and

WHEREAS, the said map, labeled as Exhibit A, clearly identifies each lease site and its boundaries for easy reference and access; and

WHEREAS, an area of 640 square feet, more or less, is removed from Lease Site 96W and added to the area of Lease Sites 93W-95W, along with an additional 1,764 square feet, more or less, of new lease area as shown on attached "Exhibit A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California does hereby adjust the boundaries of lease sites: 93W-95W and 96W, and herby designates the attached "Exhibit A-Revision to Lease Site Maps" as the official reference document for said lease sites.

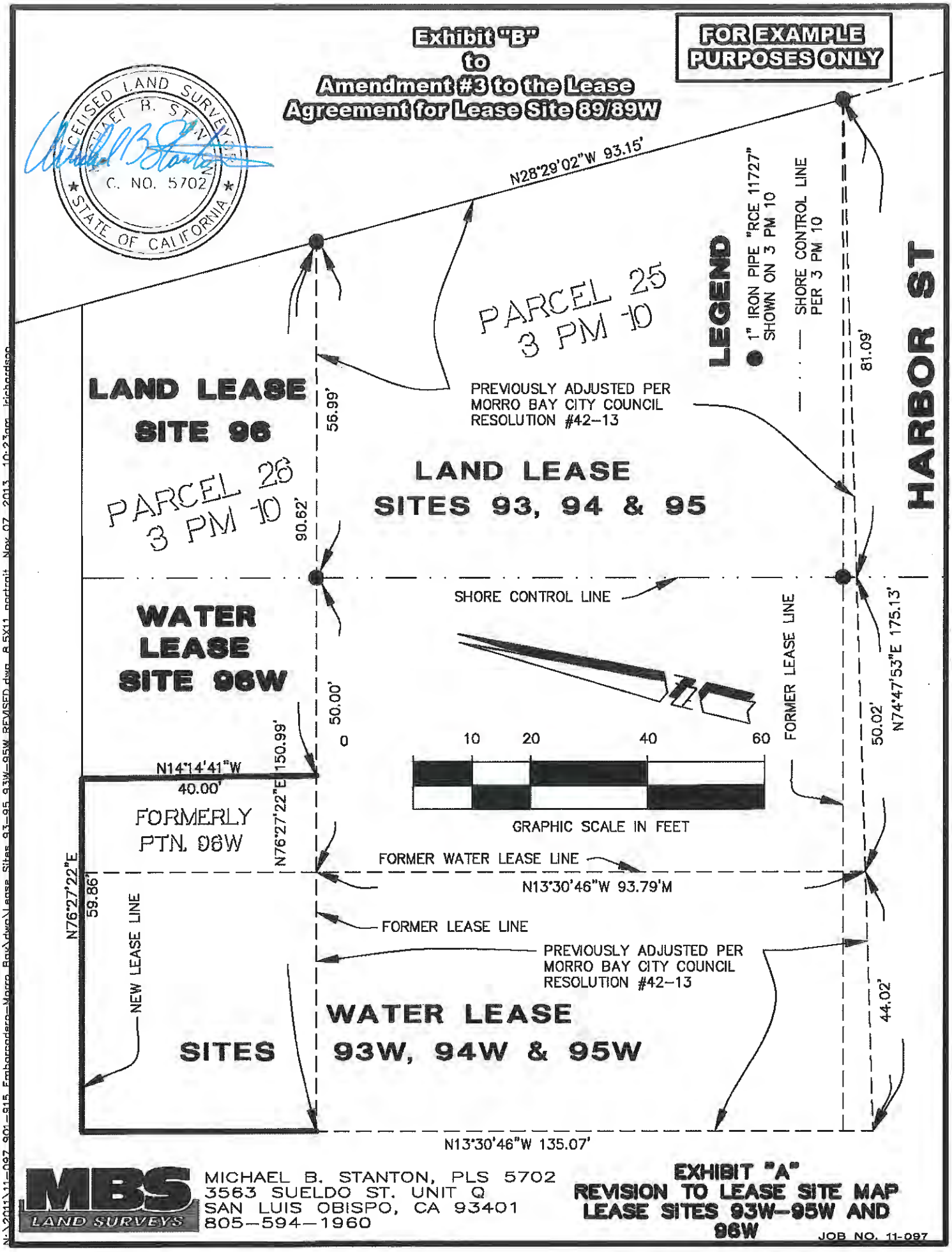
PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of November, 2013 by the following vote:

AYES: Irons, C. Johnson, N. Johnson, Smukler
NOES: None
ABSENT: Leage

Jamie L. Irons, Mayor

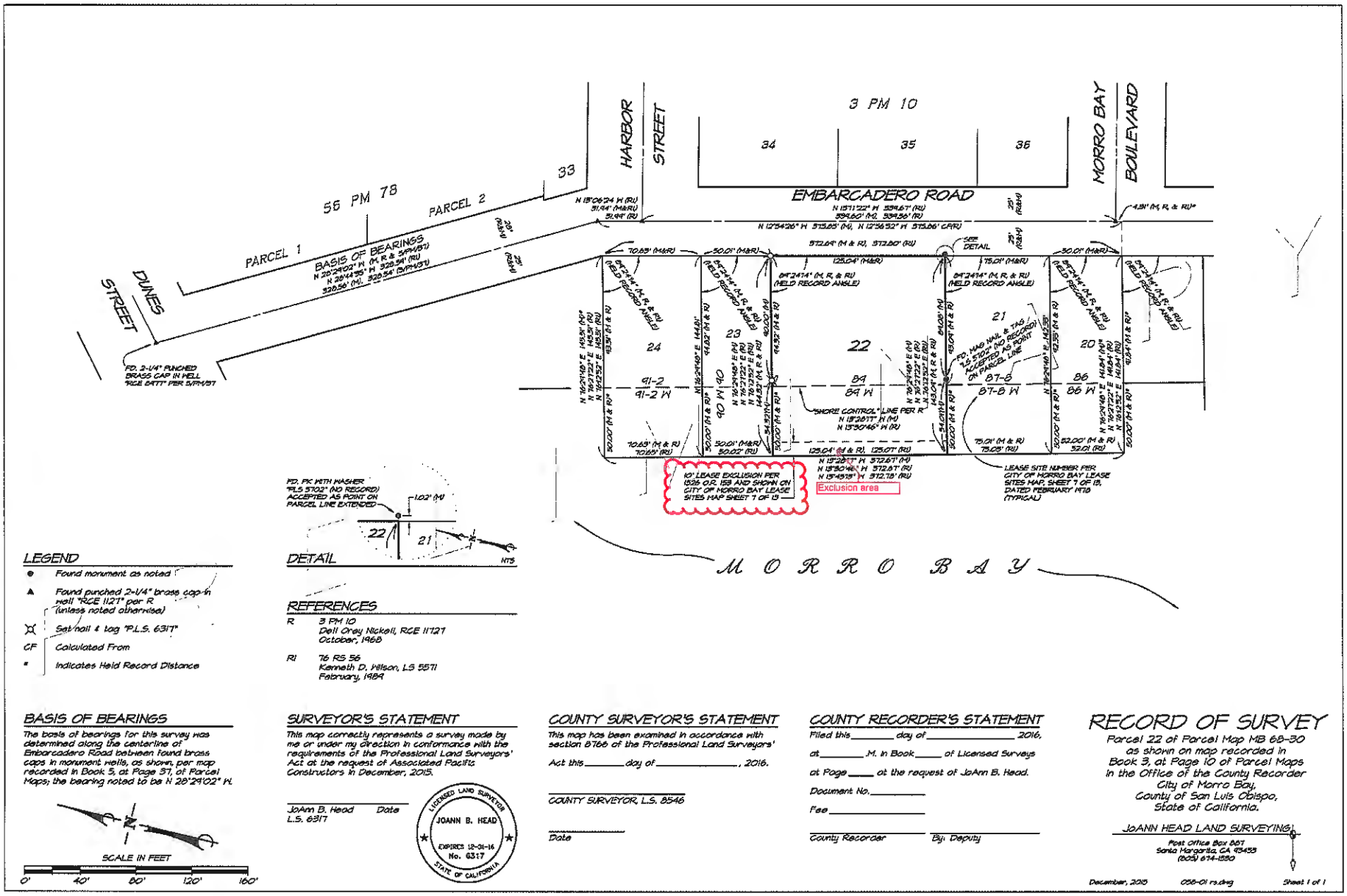
ATTEST:

Jamie Boucher, City Clerk



N:\2011\11-097_901-915_Embarcadero-Morro_Bay\dwg\Lease_Sites_93-95_93W-95W_REVISED.dwg, 8.5X11_portrait, Nov 07, 2013 - 10:23am, jrichardson

Exhibit "C"
to
Amendment #3 to the Lease Agreement for Lease Site 89/89W



DETAIL

LEGEND

- ● Found monument as noted
- ▲ Found punched 2-1/4" brass cap in well "RCE 11127" per R (unless noted otherwise)
- ⊠ Set nail & tag "P.L.S. 6317"
- CF Calculated From
- * Indicates Held Record Distance

REFERENCES

R 3 PM 10
Dell Orey Nickell, RCE 11727
October, 1968

RI 76 RS 56
Kenneth D. Hillson, LS 5571
February, 1984

BASIS OF BEARINGS

The basis of bearings for this survey was determined along the centerline of Embarcadero Road between found brass caps in monument wells, as shown, per map recorded in Book 5, at Page 57, of Parcel Maps; the bearing noted to be N 26°24'02" W.

SCALE IN FEET
0' 40' 80' 120' 160'

SURVEYOR'S STATEMENT

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Professional Land Surveyors' Act at the request of Associated Pacific Constructors in December, 2015.

JoAnn B. Head Date
L.S. 6317

LICENSED LAND SURVEYOR
JOANN B. HEAD
EXPIRES 12-31-16
No. 6317
STATE OF CALIFORNIA

COUNTY SURVEYOR'S STATEMENT

This map has been examined in accordance with section 8766 of the Professional Land Surveyors' Act this _____ day of _____, 2016.

COUNTY SURVEYOR, L.S. 8546

Date

COUNTY RECORDER'S STATEMENT

Filed this _____ day of _____, 2016,
at _____ M. in Book ____ of Licensed Surveys
at Page ____ at the request of JoAnn B. Head.
Document No. _____
Fee _____

County Recorder By: Deputy

RECORD OF SURVEY

Parcel 22 of Parcel Map MB 68-30
as shown on map recorded in
Book 3, at Page 10 of Parcel Maps
in the Office of the County Recorder
City of Morro Bay,
County of San Luis Obispo,
State of California.

JoANN HEAD LAND SURVEYING
Post Office Box 867
Santa Margarita, CA 93453
(805) 674-1550

December, 2015 056-01 rs.dwg Sheet 1 of 1

AMENDMENT #1 TO AND ASSIGNMENT AND ASSUMPTION OF THE LEASE AGREEMENT FOR LEASE SITE 90/90W, LOCATED AT 885 EMBARCADERO

This Amendment (this "Amendment #1") is made and entered into as of this _____ day of _____, 2018, by and among the City of Morro Bay, a municipal corporation of the State of California, hereinafter called "City," Boatyard, LLC, a California limited liability company, hereinafter called "Boatyard" and Fair Sky Properties, a California general partnership, hereinafter called "FSP." (Collectively, City, Boatyard and FSP are sometimes referred to herein as the "Parties.")

WHEREAS, the current tenant of Lease Site 90/90W (commonly the "Otter Rock") (the "Premises") is Joseph Steinmann ("Steinmann") and Boatyard is the current tenant of the adjacent leasehold interest Lease Site 89/89W (commonly the "Boat Yard");

WHEREAS, with Steinmann's permission and acknowledgment, City and Boatyard executed and entered into that certain Master Lease Agreement effective as of December 13, 2017 (the "Master Lease") for the Premises;

WHEREAS, for accounting purposes, Boatyard desires to assign its rights and obligations pursuant to the Master Lease to FSP and FSP desires to assume all of Boatyard's rights and obligations pursuant to the Master Lease; and

WHEREAS, City and FSP also desire to make certain modifications to the Master Lease.

NOW THEREFORE, Boatyard and City agree as follows:

1. Unless expressly stated herein, words used in this Amendment #1 shall have the same meaning as stated in the Master Lease, except to the extent the context requires otherwise.

2. The foregoing recitals are incorporated into this Amendment #1 as true and correct.

3. FSP acknowledges any assignment of the Master Lease is subject to prior approval by the City's City Council and is also subject to prior execution of this Amendment #1 by FSP and Boatyard.

4. On the Effective Date (defined below), FSP agrees (i) to comply with all the terms and conditions of the Master Lease and this Amendment #1, (ii) to assume all liabilities required under the Master Lease, this Amendment #1, and (iii) to maintain liability insurance in the manner, form and amount required by Master Lease and any future amendments thereto with the City, its officers, employees

and representatives, included as an additional insureds without offset against the City's insurance.

5. Boatyard hereby assigns to FSP all rights, title and interest Boatyard has in the Master Lease, effective on the Effective Date.

6. Boatyard confirms to City that Boatyard has no actual knowledge or reasonable cause to believe any release of hazardous substance has come to be located on/or beneath the real property during the term of Assignors' occupation of the leased premises that has not been reported pursuant to Health & Safety Code Section 253597.

7. Upon the Effective Date, Boatyard is released from any and all obligations created pursuant only to the Master Lease and this Amendment #1.

8. City and FSP agree that after the Effective Date, Boatyard is no longer a necessary party to any future amendment to the Master Lease.

9. City and FSP agree the Premises (as described in Exhibit "A" of the Master Lease) is hereby redefined to include Lease Site 90 and a portion of what is now described as Lease Site 90W (as described in Exhibit "A", attached hereto and incorporated herein by this reference) and to exclude the remaining portion of Lease Site 90W, the latter of which will be added to the description of Lease Site 89/89W and pursuant to an amendment to the current master lease between City and Boatyard for Lease Site 89/89W . On or before April 1, 2019, the City, at its sole expense, shall provide and record a survey map for the Premises reflecting the portion of former Lease Site 90W that has been added to Lease Site 89W, and City shall additionally prepare and provide a City resolution adopted by the City Council of the City of Morro Bay approving the boundaries and legal description of the new decreased size of the Premises and the new increased size of Lease Site 89W. For example purposes only, attached as Exhibit "B," is Resolution 54-13 and a survey map the City approved for a similar change for Lease Sites 93-95/93W-95W.

10. The Parties hereby agree to allow an existing rear door at the southwesterly side of the current building on the Premises to be used for access to and from the Premises over Lease Site 89/89W. The City, at no additional cost or expense to Boatyard and/or FSP, shall also approve an amendment to Lease Site 89/89W to allow that same access.

11. City and FSP agree and acknowledge, on the Effective Date, all of the City's governmental land use approvals relating to the Premises that were granted when Boatyard was the tenant of the Premises, including, but not limited to, the right to operate tour boats from the original Lease Site 90W as set forth in CUP#

A00-52 to CUP 16-92 and/or the City approved set of plans for Rehabilitation Project for Lease Site 90/90W and Lease Site 89/89W create a vested right that run with the Premises once a substantial amount of hard construction costs have been expended on the Rehabilitation Project improvements.

12. The City consents to FSP amending Exhibit B to that certain Sub-Lease Agreement dated June 28, 2018, originally entered into by and between Boatyard and Willow Market LLC, and previously approved by the City, to be consistent with Exhibit "A" attached to this Amendment #1 depicting the revised portion of the Premises for Lease Site 90.

13. City will cooperate with the California Department of Alcoholic Beverage Control with regards to the transfer of the existing Otter Rock liquor license to Willow Market LLC. The parties acknowledge that there is a requirement that an assignee/transferee use the liquor license for at least one day within a certain period of time after the assignment/transfer. City agrees that Tenant and/or Willow Market LLC shall have the right to be open for business for a soft opening at some time within 15 days after the assignment/transfer of the liquor license for a period not to exceed eight hours. Tenant and/or Willow Market LLC shall comply with all insurance requirements set forth in the Master Lease and Sub-Lease Agreement, respectively.

14. The Parties agree that all City-required building, planning, engineering and inspection fees, costs, and expenses to be paid by Tenant to City for the Rehabilitation Project shall not exceed Eleven Thousand Eight Hundred Eighty Two Dollars ($11,882.00).

15. On or before the mutual execution of Amendment #3, Tenant shall deliver to City proof of a deposit of $150,000 from Willow Market LLC into the escrow with First American Title Company ("FATCO") for the purchase and sale of the Otter Rock Cafe liquor license and assets, and shall also provide proof of an additional $50,000 deposit by Willow Market LLC into the escrow with FATCO for the purchase and sale of the leasehold interest in Lease Site 90. Tenant's failure to provide that copy and proof shall not relieve Tenant or any of its successors or assigns from any other obligations pursuant to this Amendment #3 and the Master Lease.

16. Except as expressly stated herein, all provisions of the Master Lease shall remain in full force and effect.

17. The effective date of this Amendment #1 is the date first written above (Effective Date).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 as of the date written above.

CITY OF MORRO BAY

By: _____
Jaime Irons, Mayor

APPROVED AS TO FORM:

_____
Joseph W. Pannone, City Attorney

ATTEST:

_____
Dana Swanson, City Clerk

BOATYARD, LLC

By: _____
Clifford Brach, Managing Member

FAIR SKY PROPERTIES

Smith Family Trust, dated September 13, 2004, General Partner

By: _____
James Edmund Smith, Trustee

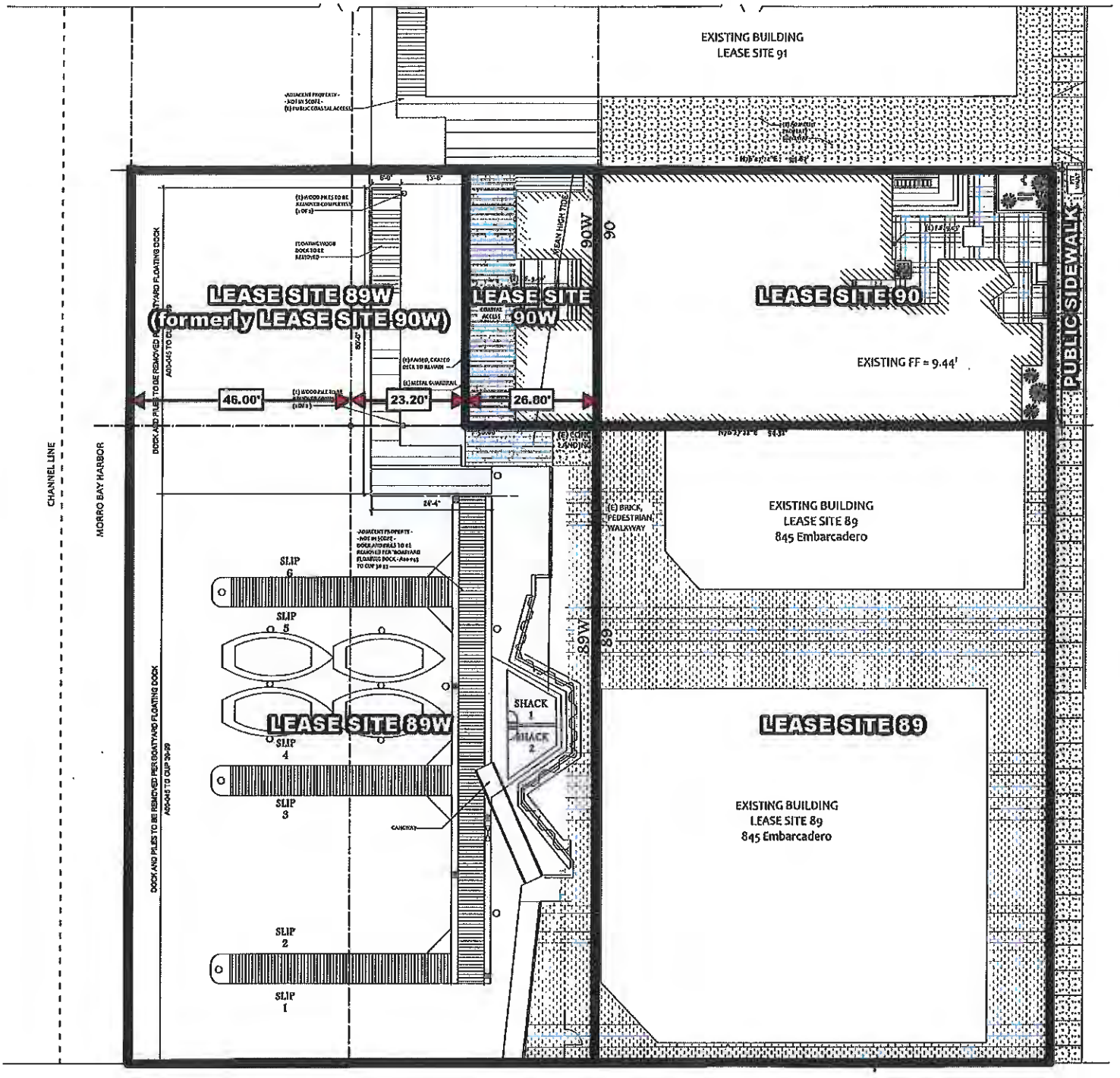
By: _____
Beverly Elder Smith, Trustee

Clifford Branch Trust dated January 11, 2006, General Partner

By: _____
Clifford Branch, Trustee

DRAFT

Exhibit "A"
to
Amendment #1 to the Lease Agreement for Lease Site 90/90W



EXISTING ARCHITECTURAL SITE PLAN

Initials: X_____ X_____

Exhibit "B"
to
Amendment #1 to the Lease Agreement for Lease Site 90/90W

RESOLUTION NO. 54-13

FOR EXAMPLE PURPOSES ONLY

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING ADJUSTMENTS TO LEASE SITE MAPS,
LEASE SITES 93W-95W and 96W

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, on December 9, 1974, the City Council approved the "Lease Site Maps" dated November 1974; and

WHEREAS, the "Lease Site Maps" have been revised at various times by the City Council of Morro Bay to reflect new lease sites and adjustments in lease site boundaries; and

WHEREAS, the Boundary Adjustments to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party is exempt from the "Subdivision Map Act" requirements under California Government Code Section 66412(e); and

WHEREAS, City desires to adjust the boundaries to accommodate uses authorized by the modification to UPO-342 on November 12, 2013 for existing and future leases; and

WHEREAS, the said map, labeled as Exhibit A, clearly identifies each lease site and its boundaries for easy reference and access; and

WHEREAS, an area of 640 square feet, more or less, is removed from Lease Site 96W and added to the area of Lease Sites 93W-95W, along with an additional 1,764 square feet, more or less, of new lease area as shown on attached "Exhibit A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California does hereby adjust the boundaries of lease sites: 93W-95W and 96W, and herby designates the attached "Exhibit A-Revision to Lease Site Maps" as the official reference document for said lease sites.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of November, 2013 by the following vote:

AYES: Irons, C. Johnson, N. Johnson, Smukler
NOES: None
ABSENT: Leage

Jamie L. Irons, Mayor

ATTEST:

Jamie Boucher, City Clerk

Exhibit "B"
to
Amendment #1 to the Lease Agreement for Lease Site 90/90W

FOR EXAMPLE PURPOSES ONLY

LICENSED LAND SURVEYOR
MICHAEL B. STANTON
C. NO. 5702
STATE OF CALIFORNIA

N28°29'02"W 93.15'

PARCEL 25
3 PM 10

PREVIOUSLY ADJUSTED PER MORRO BAY CITY COUNCIL RESOLUTION #42-13

LEGEND
- ● 1" IRON PIPE "RCE 11727" SHOWN ON 3 PM 10
- — . . — SHORE CONTROL LINE PER 3 PM 10

81.09'

HARBOR ST

LAND LEASE SITE 96

PARCEL 26
3 PM 10

56.99'

90.62'

LAND LEASE SITES 93, 94 & 95

WATER LEASE SITE 96W

SHORE CONTROL LINE

FORMER LEASE LINE

50.00'

0 10 20 40 60

GRAPHIC SCALE IN FEET

50.02'
N74°47'53"E 175.13'

N14°14'41"W
40.00'

150.99'

FORMERLY PTN. 96W

N76°27'22"E

FORMER WATER LEASE LINE

N13°30'46"W 93.79'M

N76°27'22"E
59.86'

NEW LEASE LINE

FORMER LEASE LINE

PREVIOUSLY ADJUSTED PER MORRO BAY CITY COUNCIL RESOLUTION #42-13

44.02'

WATER LEASE SITES 93W, 94W & 95W

N13°30'46"W 135.07'

MBS LAND SURVEYS
MICHAEL B. STANTON, PLS 5702
3563 SUELDO ST. UNIT Q
SAN LUIS OBISPO, CA 93401
805-594-1960

EXHIBIT "A"
REVISION TO LEASE SITE MAP
LEASE SITES 93W-95W AND 96W

JOB NO. 11-097

N:\2011\11-097 901-915 Embarcadero-Morro Bay\dwg\Lease Sites 93-95 93W-95W REVISED.dwg, A 5X11 portrait, Nov 07, 2013, 10:23am, jrichardson

RESOLUTION NO. 68-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING AMENDMENT #3 TO THE NEW MASTER LEASE AGREEMENT
FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO,
AND APPROVING AMENDMENT #1 TO THE NEW MASTER LEASE AGREEMENT
FOR LEASE SITE 90/90W, LOCATED AT 885 EMBARCADERO**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

WHEREAS, the City of Morro Bay ("City") is the lessor of certain properties on the Morro Bay Waterfront described as City Tidelands leases and properties; and

WHEREAS, Boatyard LLC ("Tenant") has been the lessee of Lease Site 89/89W since 2006 and is a tenant in good standing; and

WHEREAS, on October 11, 2016, Tenant and City entered into that certain new master lease agreement for Lease Site 89/89W (the "New Master Lease Agreement for Lease Site 89/89W"); and

WHEREAS, Tenant is in escrow to purchase Lease Site 90/90W, where after Tenant intends to undertake significant renovation project on the Lease Site; and

WHEREAS, on December 13, 2017, Tenant and City entered into that certain new master lease agreement for Lease Site 90/90W (the "New Master Lease Agreement for Lease Site 90/90W") contingent upon close of said site purchase escrow; and

WHEREAS, City and Tenant wish to resolve issues over a failing portion of the seawall on Lease Site 89/89W, cure certain site deficiencies on Lease Site 90/90W, and modify various provisions of the two New Master Lease Agreements, including the contingency provisions, by approving Amendment #3 of the New Master Lease Agreement for the Lease Site 89/89W and Amendment #1 of the New Master Lease Agreement for Lease Site 90/90W.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, as follows:

1. The attached Amendment #3 to the New Master Lease Agreement for Lease Site 89/89W is hereby approved.

2. The attached Amendment #1 to the New Master Lease Agreement for Lease Site 90/90W is hereby approved.

3. The Mayor is hereby authorized to execute said Amendments #3 and #1.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of August, 2018 on the following vote:

AYES:
NOES:
ABSENT:

_____
Jamie L. Irons, Mayor

ATTEST:

_____
Dana Swanson, City Clerk

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AGENDA NO:	**C-1**
MEETING DATE:	**August 28, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 14, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **City Council Reconsideration of Harbor Advisory Board Council Goal Objective Work Plan Element for Goal 1, Objective (d), Work Program Element 6 Regarding Fee-Based Boat/RV Storage in the "Triangle" Parking Lot**

RECOMMENDATION

Staff recommend the City Council approve:

1. The trailer boat dry storage yard program for the Triangle Lot as outlined in this report; and
2. Authorization of an expenditure up to $15,000 from the Harbor Accumulation Fund for initial yard improvements, with the Accumulation Fund being "repaid" first for initial yard improvements before any revenues are allocated elsewhere; and
3. A new Master Fee Schedule item of $100/month for trailer boat dry storage in the Triangle Lot.

ALTERNATIVES

The City Council can direct staff other than is being recommended.

FISCAL IMPACTS

If a 50-space paid trailer vessel storage lot were established in a portion of the Triangle Lot property the City acquired from the power plant as-proposed, initial cost to establish is estimated at approximately $12,000-$15,000, while at 75% occupancy and $100/month, revenues would be $45,000 annually.

If the model outlined and recommended by staff in this report is adopted, $22,500 annually would go into the Harbor Operating Fund. A line item of $24,000 is in the adopted FY 18/19 Harbor Operating Fund in anticipation of this revenue.

BACKGROUND

One "research and bring to Council for consideration" Harbor Advisory Board (HAB) work plan element in the FY17/18 Council-approved goal objectives was a fee-based vessel/RV storage facility in the City's Triangle Lot property of the power plant. This item was researched and brought to the HAB for input and recommendation, then brought to the City Council for consideration on February 13, 2018. The goal item is: Goal 1, Objective (d), Work Program Element (WPE) 6; fee-based RV and/or boat/trailer storage parking in a portion of the Triangle Lot until some permanent use is allocated to the location.

Prepared By: EE	**Dept Review: EE**
City Manager Review: SC	**City Attorney Review:**

On February 13, staff brought this item to the Council for consideration of approval. Although supportive in concept, the Council wanted the item brought back in the future with more direction and/or analysis on the following:

A. No RV storage at this time.
B. Reexamine the proposed 80/20 Harbor/General Fund revenue split structure, with consideration funds to maintain the program go into the Harbor Fund, and anything above that set-aside for future Triangle Lot improvements.
C. No subletting of spaces allowed.
D. Bring back more detail on security, lighting and fencing.
E. Explore alternatives to relocate the GAFCO, Harbor Hut and Frankie & Lola's trash enclosure areas currently in the Front Street Parking Lot to the Triangle Lot.
F. The staff-proposed rate of $91.50/month was too low, and should be increased to $100 or above.

In addition, other recent Council direction was to work with the Harbor Festival on a potential location to relocate their equipment and gear storage needs, currently in the Harbor Department's Front Street storage yard.

DISCUSSION

Attached for Council consideration are proposed draft Triangle Lot Dry Storage Facility Rules and Regulations (Attachment #1), proposed draft Triangle Lot Dry Storage Facility Agreement, Terms and Conditions (Attachment #2) and proposed draft Triangle Lot Dry Storage Facility Policies and Procedures (Attachment #3).

Regarding the items identified by the Council on February 13 for further work:

A. No RV Storage: Paragraph #16 of the Rules and Regulations prohibits storage of anything but trailered vessels, and Paragraph #17 of the Agreement, Terms and Conditions stipulates acknowledgement of receiving, understanding and abiding by the Rules and Regulations.

B. Reexamine the Revenue Split: an 80%/20% revenue split for $45,000 would be $36,000/$9,000. Significant discussion ensued on February 13 for the revenue-sharing aspect of this storage project. The lot was acquired from an agreement with the power plant owners essentially at no cost to the City, and is currently little-used. Although the proposed 80/20 Harbor Fund/General Fund revenue split was met with some questioning the General Fund should receive more, this situation could also be viewed as akin to the City's waterfront lease sites, where the City "owns" the underlying ground, and leases it out to the private sector to develop. In these leases, the tenant is required to pay an annual minimum rent equal to 8% of the appraised value of the property, and any percent gross rents that exceed the minimum rent.

   If such an approach is considered, using the Triangle lot's appraised value from several years ago, 8% of that value of roughly one-half of the lot is approximately $4,100. The percent attributed to slips on the City's waterfront leases, essentially "wet" vessel storage, is 10%. If that same 10% is applied to the Triangle Lot dry storage, at the estimated annual revenue of $45,000, $4,500 would be the percent revenue generated.

   Finally, California State Parks typically receives 20% of revenues from their concession operators on Park properties.

Thus, staff's original 80/20 revenue split proposal, in consideration of the above, would seem a very fair and equitable one for the General Fund given the General Fund's level of investment ($0) and involvement in operation and maintenance (none).

As to revenues available after administrative and General Fund payment costs going back into future lot improvements, the State Park Marina concessionaire is required to set-aside 30% of revenues to go toward major maintenance and repair annually. Staff believe this is a good model to follow, and if combined with the 20% proposed to go to the General Fund, would allow for the remaining 50% of revenues to go to the Harbor Fund to cover administrative costs, with the remainder as excess revenue to support the department.

With this model and $45,000 of annual revenue, $9,000 goes to the General Fund, $13,500 to the maintenance/repair fund, with $22,500 remaining for the Harbor Fund. The administrative costs incurred by the Harbor Fund to manage the facility are roughly estimated at $8,000 annually, leaving roughly $14,500 as excess revenues for the Harbor Fund.

C. No Subletting: Paragraph #12 of the Rules and Regulations prohibits subletting.

D. Security, Lighting and Fencing: staff propose a standard-height chain-link fence with barb or razor wire topping, and a combination padlock initially for the gate entries. The fencing would have either plastic or wood screening slats installed.

As tenants vacate (or are evicted), the gate combination would be changed to prevent unauthorized access. Over time as the 30% of revenues accumulate, a wireless key card entry system could be employed. As to lighting, although the Harbor Advisory Board recommended any added lighting be directional to avoid impacts on neighbors, as before staff are not proposing any additional lighting beyond ambient from the power plant and nearby street lights at this time due to cost and complexity.

Staff have further analyzed potential layouts, given the restrictions of the lot's geometry and existing features, and now anticipate use of approximately 1/2 of the Triangle Lot's eastern portion for this facility, as indicated in Attachment #4.

E. Relocation of Front Street Trash Enclosure Alternatives: in the Triangle Lot, the only potentially viable location for these enclosures is in the southeast corner of the lot, which is really not much different from the existing location in terms of its proximity to the near-future Maritime Museum improvements slated to extend to that area.

Another alternative could be further into the existing Harbor oil recycling and lift station yard that also accommodates the storage needs of the Harbor Festival, either into the yard as currently configured (and thus more out of sight), or yet further into that yard if/when the Harbor Festival's storage is relocated as recently directed by the City Council for investigation.

Other than requiring the three businesses in question to relocate their trash, used fry oil and ash storage needs back onto their own respective properties, staff have been unable to identify any other location more "out of the way" and less visible at this time that is still useable from a logistical standpoint for those businesses.

When the Maritime Museum develops to its full planned build-out, and/or a full-service boatyard is built in the Triangle Lot, those could open other alternatives in the Triangle Lot when new curb cuts, driveways and other hardscape improvements are made for either of

those projects. Those, however, are at best several years in the future, assuming they happen at all.

Finally, staff have begun discussions with Harbor Festival personnel on options for relocation of their storage needs, however, no definitive location has of yet been identified. Staff and Harbor Festival are first identifying exactly what their storage needs are in terms of space and accommodation, then plan to work on identifying possible options.

F. Monthly Rental Rate: staff propose $100/month, which is significantly higher than what's available in the private sector or Port San Luis, and gauge the rate partially on actual participation. Should the lot be relatively quickly filled (and a waiting list develop), this could be indicative of a rate that is too low, and could be adjusted up at the next Master Fee Schedule setting. Conversely, a low occupancy rate may indicate a rate that is too high.

   Until the demand is known after some period of time and experience, however, staff are cautious of setting the rate too high and unwittingly driving that demand down.

CONCLUSION

Staff recommend Council authorize staff to pursue establishment of a fenced, controlled access ~50 space paid trailer boat dry storage area in the easternmost half of the Triangle Lot, including approval of the initial expense to set the yard up and a new Master Fee Schedule item for charging customers as outlined is this staff report.

ATTACHMENTS

1. Proposed draft Triangle Lot dry storage Rules and Regulations.
2. Proposed draft Triangle Lot dry storage Agreement, Terms and Conditions.
3. Proposed draft Triangle Lot Dry Storage Facility Policies and Procedures.
4. Overhead view of the Triangle Lot and proposed general boat storage area being proposed.

City of Morro Bay
Dry Boat Storage Facility
Rules and Regulations

1. Boat and trailer shall not be stored unless a current Dry Boat Storage Facility Agreement is in effect between the Owner and the City of Morro Bay.

2. Boats must have current state registration or Federal documentation, trailers must be currently registered, and both must be in compliance with all Federal, State and local laws. State registered boats must display current year sticker on the hull, and trailers must have license plates with current year or "PTI" tags.

3. Boat and trailer must be registered to the person renting the storage space.

4. Harbor Department staff will assign or reassign spaces based on the overall length and width of boats/trailers, space available and other factors as deemed appropriate by Harbor Department staff.

5. No boat and/or trailer shall exceed the maximum length or allowable width of the assigned space.

6. A boat/trailer may be moved to an alternate storage space if deemed appropriate by Harbor Department staff to ensure proper utilization and/or safety of the facility.

7. Access to the storage facility is prohibited to all persons other than the owner on record and owner's authorized guests.

8. "For Sale" signs are prohibited on stored boats/trailers.

9. A 30-day written cancellation notice to vacate a storage space must be given by owner in advance of vacating.

10. Tenancy in a storage space **does not** transfer with the sale of a boat and/or trailer. When a boat and/or trailer is sold and the new owner wishes to retain the space, the new owner must first check availability of space and register with the Harbor Department.

11. Subletting of storage space is prohibited.

12. Security gates must be closed and locked at all times unless entering or leaving the facility. Owners are responsible for the actions of any persons they allow into the storage area.

13. Current contact information shall be provided to Harbor Department in order to facilitate contact with the owner.

14. Owner covenants and agrees storage of any hazardous materials or substances, wastes, waste by-products, pollutants, contaminants, or environmental hazards is **strictly prohibited,** and storage of said materials will result in the immediate termination of this agreement.

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15. No repair, maintenance, washing of boat and/or trailer or work of any kind shall be performed in the facility, unless said repair is necessary to make a trailer road-worthy due to unforeseen circumstances.

16. Storage space is for the storage of boats and/or trailers only. No other items may be stored on the space without the prior written permission of the Harbor Department.

17. Trailer tires are to be kept properly inflated, and boats kept free and clear of accumulated water both on the exterior and on the interior.

18. Drip pans must be used by Owner whenever there is a possibility of oil or water leakage onto the ground. Oil or fuel spills are to be immediately reported to Harbor Department personnel and must be cleaned up immediately.

19. All boat equipment must be in or on the boat and/or trailer and must be well secured. No equipment is to be stored under or alongside the boat and/or trailer.

20. Storage of portable fuel containers is prohibited.

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CITY OF MORRO BAY
DRY BOAT STORAGE FACILITY
AGREEMENT

CITY OF MORRO BAY (hereafter "City") agrees to provide storage, as applied for herein, when available to applicant (hereafter "Owner") after executing this dry boat storage agreement (hereafter "Agreement"), subject to the following terms and conditions:

1. **This Agreement** is between _____ (Owner) and the City.

   Authorized guest(s) of Owner are as follows: _____
   _____
   _____
   _____

2. **Term**. The term of the Agreement shall be month-to-month and may be canceled by either party with 30-days written notice for any reason.

3. **Fees**. All fees are due and payable in advance on the first of every month and become delinquent if not paid by the tenth of every month. A $35.00 late fee will be applied monthly to any unpaid past due balance. Returned checks are subject to a $25.00 non-sufficient fund (NSF) fee.

4. **Non-Payment, Impoundment and Liens**. Non-payment of fees, as herein provided, may subject the boat and/or trailer to impoundment and lien in accordance with applicable laws.

5. **Rules and Regulations**. Owner acknowledges they have read and fully understand this Agreement, as well as the rules, regulations, policies, terms and conditions as currently written or as may be amended with regard to the storage, use or occupancy of the facility. Owner agrees to comply with said rules, regulations, policies, terms and conditions as currently written or as may be amended during this Agreement's term. Failure to so comply may result in cancellation of this Agreement, and excuse City from further performance under this Agreement, but without waiver of any than existing liens or other rights.

6. **Proof of Ownership**. Owner must show proof of ownership of boat and trailer to be stored.

7. **Termination**. The Agreement shall become effective on the date signed by all parties and remain in force unless terminated by written notice by either party.

8. **Space Changes and Moving Boats**. City reserves the right to change space assignments as necessary for the efficient operation of the facility, or for other reasonable causes. Owner grants City, its agents and employees, permission to move the stored boat and/or trailer as may be determined necessary by Harbor Department.

_____ _____
Initial Date

9. **Assignment**. Owner acknowledges rental of storage space is non-transferable. A person purchasing Owner's boat and/or trailer will not thereby acquire rights under this Agreement or acquire rights of use of storage space designated in this Agreement.

10. **Security**. Owner, and Owner's guests shall utilize the combination lock to enter gates of the dry boat storage facility, and Owner, and Owner's guests must close and lock storage facility gates after use, and report to CITY violations of security, or fire and safety issues.

11. **Hazardous Materials Prohibition**. Owner covenants and agrees storage of any hazardous materials or substances, wastes, waste by-products, pollutants, contaminants, or environmental hazards is **strictly prohibited,** and storage of said materials may result in the termination of this agreement.

12. **Notice**. City may give notice to Owner, at the address set forth in this Agreement. Notice shall be deemed given when deposited in the U.S. Mail, postage paid.

13. **Attorney's Fees and Expenses**. Owner shall pay CITY's reasonable attorney's fees and expenses incurred in any dispute or legal proceeding arising out of this Agreement or the presence of the boat and/or trailer on City of Morro Bay premises now or in the future.

14. **Limitation of Liability**. **THE AGREEMENT DOES NOT CREATE OR CONSTITUTE A BAILMENT.** THE DRY BOAT STORAGE FACILITY IS TO BE USED AT OWNERS SOLE RISK AND CITY SHALL NOT BE LIABLE FOR THE CARE OR THE PROTECTION OF THE PERSONAL PROPERTY, AND ALL APPURTENANCES THERETO, OR FOR ANY LOSS OR DAMAGE OF WHATEVER KIND FOR ANY REASON WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, STORAGE PROVIDER'S NEGLIGENCE. STORAGE USER HAS EXAMINED THE STORAGE AREA AND ACCEPTS IT AS BEING ADEQUATE AND SAFE FOR THE STORAGE OF THE PERSONAL PROPERTY.

    OWNER IS RESPONSIBLE FOR ANY DAMAGE TO OTHER PEOPLE'S PROPERTY, OR THE FACILITY AREA CAUSED BY THE OWNER'S PROPERTY OR THE APPURTENANCES THERETO, OWNER, OWNER'S GUESTS, EMPLOYEES, INVITEES OR AGENTS, OR CITY, OR ITS EMPLOYEES, OFFICERS AND AGENTS, WHEN ACTING ON BEHALF OF THE PROPERTY OWNER.

    OWNER RECONGNIZES OVERHEAD POWER LINES AT THE FACILITY ARE LIVE LINES. CAUTION WILL BE TAKEN TO NOT COME IN CONTACT WITH THESE POWER LINES.

15. **Indemnity**. OWNER, FOR ITSELF AND ITS GUESTS, INVITEES, EMPLOYEES, AGENTS, HEIRS, SUCCESSORS AND ASSIGNS, HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM ANY AND ALL JUDGMENTS, LOSSES, DAMAGES, LIABILITIES, LEGAL ACTIONS, CLAIMS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND COURT COSTS OF ANY NATURE, ARISING, DIRECTLY OR INDIRECTLY FROM THE AGREEMENT.

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_____ _____

Initial Date

16. **Entire Agreement**. This document, including all terms and conditions on all pages thereof, constitutes the entire Agreement between the parties and supersedes all prior agreements. No modifications or amendments hereto shall be valid unless evidenced in writing and signed by both parties.

Owner hereby certifies he/she has read and agrees to the above terms.

_____ Date: _____
Owner's Signature

Address:_____ Phone: _____

Email:_____ Cell: _____

Emergency Contact:_____ Phone: _____

Boat CF/Doc #:_____ Trailer License #:_____

_____ Date: _____
Harbor Director

Assigned Space Number: _____

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_____ _____
Initial Date

City of Morro Bay
Dry Boat Storage Facility
Policies and Procedures

Purpose: To establish policy, procedure and guidelines for the parking and storage of privately owned recreational/commercial boats on trailers in the City's "Triangle Parking Lot."

Policy: The City of Morro Bay Harbor Department will administer the facility as-follows:

A. Agreement to park and/or store boats on trailers may be granted to owners of currently State registered or Federally documented vessels/trailers only.

B. Spaces will be issued on a first-come/first-served basis until the lot is full. Should the lot fill, a waiting list will be established.

C. The first priority on the waiting list will be to Morro Bay resident commercial fishermen, followed by general Morro Bay residents, followed by the general public.

D. Access to the storage lot is available 24-hours per day. Boats/trailers located outside the storage lot will be considered abandoned or illegally-stored property after a period of 72 hours and subject to towing in accordance applicable laws.

E. Gate access will be by combination lock. As deemed necessary, the combination will be changed by direction of the Harbor Department. The combination may be obtained only by appearing in person, presenting proper identification and storage lot space number. Only those listed on the storage agreement will be authorized access.

F. Tenants of the storage lot are to keep their boats, trailers and outboard motors in a good state of repair. Tires are to be kept properly inflated and boats free of accumulated water. Tenants must keep their assigned space free of trash, debris or other items. No storage of anything on the ground is allowed.

G. Drip pans must be used whenever there is a possibility of oil or fuel leakage onto the ground. Fuel or oil spills are to be reported and must be cleaned up immediately.

H. Storage lot fees are due in advance. Payment is due the first (1st) of each month. Fees not paid before the 10th of the month will be charged a $35.00 late fee. Fees are not pro-rated. A minimum of 1 month's fee is due upon start of agreement.

I. Accounts delinquent in excess of 60 days will result in the stored boat being impounded and subject to lien until such time all outstanding fees are paid. Accounts will be billed each month and fees are to be paid by mail, online with a credit card, or at the Harbor Office. If payment is by check, assigned storage lot space number should be noted on check.

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J. Repair and/or maintenance of boats or trailers in the storage lot is prohibited, unless necessary to make a trailer road-worthy due to unforeseen circumstances.

K. Access to storage lot will be limited to owners and those persons with valid ID who have been authorized by the owner. Those persons authorized by owner shall be listed on owners storage agreement.

L. Storage of non-maritime equipment internally in boats is not authorized.

M. Portable-type fuel containers cannot be stored in boats or on trailers.

Procedure: Registration shall be in-person at the Harbor office. The following requirements must be met before a storage lot space can be assigned:

A. Storage lot space is available.

B. Presentation of valid identification, proof of ownership, current boat registration or Federal documentation and current trailer registration.

C. Completion of Dry Boat Storage Facility Agreement (Exhibit A).

D. Payment of first month's fees for the storage lot space being assigned.

E. Review of the Dry Boat Storage Facility Rules & Regulations (Exhibit B).

F. Persons with current or past history of failure to pay City fees, or history of failure to follow Harbor Department Rules and Regulations may denied use of storage facility.

Any complaints regarding the operation of the facility will be directed to the Harbor Department.

Owners and/or their guests will exercise extreme care when moving their boats and/or trailers within the storage facility. Any damage incurred must be timely reported to the Harbor Department.

Cancellation and Termination:

A 30-day written cancellation notice to vacate a storage space must be given by boat owners in advance of vacating.

Grounds for termination of the dry boat storage agreement by the City include, but are not limited to, any of the following with 30-days written notice:

A. Failure to comply with the City of Morro Bay Dry Boat Storage Facility Rules and Regulations.

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B. Failure to maintain current registration/federal documentation of boat and/or trailer stored.

C. Failure to pay fees in a timely manner.

D. Failure to report incidents of damage to other boats/trailers while in the facility.

E. City ceasing to use the area for dry boat storage. In such event, 60-day written notice shall be given.

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AGENDA NO: C-2
MEETING DATE: August 28, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 10, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Approval of Issuance of a Request for Proposals for Morro Bay Marine Services Facility and Boatyard Financial Feasibility Study, and Reaffirmation of Financial Commitment to Complete It**

RECOMMENDATION

Staff recommend the City Council approve issuance of a request for proposals for preparation of a Morro Bay Marine Services Facility and Boatyard Financial Feasibility Study, in addition to reaffirming its previous financial commitment to complete it.

ALTERNATIVES

The City Council could elect to not approve issuance of the financial feasibility study request for proposals (RFP) as outlined in this staff report, and direct staff accordingly. That could entail directing staff to pursue other steps, or to cease work on this project altogether.

FISCAL IMPACT

The cost of the study is estimated at $40,000-$50,000, to come from the Harbor Accumulation Fund. $50,000 for that study was previously approved by the City Council on March 8, 2016, and $40,576 currently remains in the approved FY 18/19 capital project budget Boat Repair/Storage yard line item. If this RFP is approved, issued and subsequent proposals exceed the currently budgeted amount, then staff would return to the Council with an additional appropriation request for consideration along with consideration of the award of contract to conduct the study.

BACKGROUND

Since the City acquired the Triangle Lot property in ~2014, renewed interest in a marine services facility/boatyard, particularly with the Harbor Advisory Board (HAB) and an ad-hoc committee created to assist the process, has been demonstrated. Since that time, much research, work and activity has occurred, summarized here:

1. In April, 2015, Lisa Wise Consulting completed a *Morro Bay Boatyard and Haulout Facility Market Demand Analysis*, which indicated strong local support for the facility and a potential local customer base of approximately 269 vessels/owners with gross revenues estimated between $1.1 Million to $2.3 Million per year.

2. In December, 2015, under contract with the City, RRM Design Group completed two possible concept design options to see how a boatyard, maritime museum and public parking might fit into the Triangle lot and immediate environs. “Option A,” endorsed by the Harbor Advisory Board, concluded a ~10 space boatyard and associated facilities, ~3,200

Prepared By: ___EE_____	Dept Review: ___EE___
City Manager Review: ___SC_____	City Attorney Review: _JWP__

square-foot maritime museum and associated outdoor vessel display space, and net gain of ~37 public parking spaces could occur.

3. On March 8, 2016, the Council authorized staff to seek and engage a consultant to conduct a financial feasibility study, including authorization of an expenditure up to $50,000.

4. Throughout much of 2016, staff, the HAB and HAB Marine Services Facility/Boatyard Ad-Hoc Committee attempted to work with a private development interest that was proposing to build the envisioned facility, including the museum element. Those efforts did not come to fruition.

5. In late 2016, staff identified and the HAB endorsed using a response to qualifications (RFQ) approach, prior to expenditure of time and funds on a feasibility study, to gauge the level of developer/operator interest in the project, and to develop a "short list" of interested parties.

6. On February 14, 2017 the Council authorized issuance of the RFQ, and it was issued on March 16, 2017, with a July 14, 2017 closing date. While there was interest from several existing boatyard operators and engineering firms in the project, none formally submitted a response to the RFQ.

In conducting interviews with some of the interested RFQ parties afterward, the general consensus from them was uncertainty in City's commitment to the site and project (*i.e.*, just an empty piece of property and no infrastructure built or permitting underway) as the primary reason they and likely others were unwilling to commit the substantial time, energy and funds necessary to research, create and submit a proposal.

Because of the negative response results from the RFQ, the HAB ad-hoc committee began working with staff on next steps, including consideration of contracting for a financial feasibility study. At the August 3, 2017, HAB meeting, the HAB considered next steps in the possible establishment of a boatyard in Morro Bay in the Triangle Lot area. In that meeting, there was HAB consensus a financial feasibility study is the logical next step.

After the August 3 HAB meeting, staff began working on the content of the RFP document, and at the February 1, 2018, HAB meeting, the HAB considered and endorsed staff's draft recommended marine services facility/boatyard financial feasibility study RFP scope and deliverables. Staff then began compiling the RFP document.

DISCUSSION

In order to definitively continue moving forward with this project or not, a full financial feasibility study is the logical and necessary next step to determine if a full-service boatyard and marine services facility is viable in Morro Bay.

Included with this staff report as Attachment 1 is a draft RFP for financial feasibility study services, incorporating input from the HAB Marine Services Facility/Boatyard Ad-Hoc Committee, and the HAB itself. The RFP format was taken from the recent RFP issued by the Finance Department for user fee and cost allocation study services.

Highlights of the boatyard financial feasibility RFP are as follows:

1. Objective: receive proposals for a consultant study of a full-service boatyard/marine services facility in Morro Bay in the Triangle Lot area, in order to determine if such a facility,

that includes self-service capability and dry-trailer boat storage, is financially feasible under different development scenarios.

2. Schedule: RFP issued August 28, 2018; proposals due November 30, 2018; contract awarded by City Council anticipated December 11, 2018; estimated study completion June 30, 2019. The study would then be reviewed by HAB and its ad-hoc committee at meetings in late summer/early autumn of 2019, with recommendations to be brought to the City Council in late 2019.

3. Scope of Services: perform work necessary to produce comprehensive financial feasibility study.

4. Project Scope: tasks to include meeting and working with City staff and HAB ad-hoc committee, conduct necessary interviews, utilize available past studies and other data, prepare likely revenue and expense projections based on market and territory analysis, evaluate financial feasibility based on three possible models (private sector design, construction and operation; public-private design, construction and operation; public design, construction and operation), prepare feasibility study and present completed study to the HAB.
5. Consultant Selection: Evaluation Committee to review proposals and selection based on consultant qualifications (weighted 35%), consultant reputation and demonstration of integrity and competence (weighted 20%), proposed fees and charges (weighted 35%) and ability to provide services in a timely manner in accordance with the City's standard consultant contract and insurance requirements (weighted 10%). Interviews of responding consultants may be conducted. Winning consultant recommendation to City Council will be based on "best value" evaluation.

CONCLUSION

Significant data collection and concept layout work was previously accomplished with Lisa Wise Consulting's June 2015 Morro Bay Boatyard and Haulout Facility Market Demand Analysis, and RRM Design's December 2015 Triangle Lot boatyard concept design options, in addition to facility site criteria as developed by the HAB ad-hoc committee. Those work products should aid the successful proposer's work, and should be reflected in each proposer's submittal.

Staff believe a full financial feasibility study will definitively determine if a new, full-service boatyard/marine services facility, located in the Triangle Lot and using the area of the City's Beach Street slips for vessel haul-out, is financially viable and worth further cost and staff time to pursue as a capital project. Staff, therefore, recommend the City Council approve the issuance of this RFP, in addition to reaffirming the $50,000 financial commitment to complete it, with the funding caveat as outlined in the Fiscal Impact section of this report.

If the Council approves those actions, once the study is completed it would be staff's intent to bring the study results to the HAB ad-hoc committee for evaluation and recommendation to the HAB, which in turn would make a recommendation for next steps, if any, to the City Council, with the City Council ultimately deciding whether or not any further actions or activities take place with regard to the City pursuing a new boatyard/marine services facility in Morro Bay. Those study evaluation and recommendation actions would be anticipated to occur during summer/autumn, 2019.

ATTACHMENT

1. Draft RFP for Morro Bay Boatyard and Marine Services Facility Financial Feasibility Study.

CITY OF MORRO BAY

REQUEST FOR PROPOSALS (RFP)

for

Morro Bay Boatyard and Marine Services Facility Financial Feasibility Study

PROPOSALS MAY BE
MAILED OR DELIVERED IN
PERSON TO THE
CITY OF MORRO BAY
Attn: Dana Swanson, City Clerk
at 595 Harbor Street, Morro Bay, CA 93442

RFP RELEASE DATE: August 29, 2018

PROPOSALS MUST BE RECEIVED BY
4:00 P.M. ("Verizon" phone time)
on **November 30, 2018**

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INTRODUCTION

The City of Morro Bay (City) is requesting sealed proposals from qualified Consultants for a Financial Feasibility Study on a proposed boatyard/marine services facility ("Boatyard") in Morro Bay, with defined location and yard concept parameters. All proposals must be received by the City, no later than 4:00 p.m. on Friday, November 30, 2018. Late proposals will not be considered. The original signed proposal and three (3) duplicates are to be submitted in sealed packages with the name of the Consultant and "Proposal for Morro Bay Boatyard Financial Feasibility Study" clearly marked on the outside of the package.

Proposals must be responsive to the City's request. The City shall determine the most responsive and qualified Consultant providing the best service at the most reasonable cost. Cost alone shall not be the determinative factor.

The request for proposals does not obligate the City to award a contract or complete the project and the City reserves the right to cancel the solicitation if deemed in its best interest. There is no expressed or implied obligation for the City to reimburse responding Consultants for any expenses incurred in preparing proposals in response to this Request for Proposals ("RFP"), including any expenses incurred due to participation in this RFP process.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that firm is ultimately selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the subsequent contract between the City and the firm selected.

The City wishes to negotiate a fixed price contract with a "not to exceed" dollar total based on a clearly defined scope of work.

BACKGROUND

The City of Morro Bay, population 10,762, is nestled on the Central Coast of California and is a prime hub City at the crossroads of Highway 1 and Highway 41, just 12 miles west of San Luis Obispo.

The City is a general-law City that operates under a Council-Manager form of government, with a five-member City Council comprised of four Council Members elected at large with overlapping terms of four years and a Mayor elected At-Large for a term of two years. The City Council appoints the City Manager and City Attorney. The City is divided into departments that provide a full range of municipal services, including Police, Fire, Public Works, Community Development, Administration& Finance, Harbor, Water, Sewer/Wastewater. In addition, the City Council appoints a seven-member Harbor Advisory Board ("HAB") to advise the Council on matters relating to the harbor, boating and the waterfront. Information regarding the City and its

organization, governmental structure, services provided, the Current Operating and Capital Budgets and Annual Financial Reports is available on the City website at www.morrobayca.gov

Morro Bay has a vibrant working waterfront with a long history of commercial fishing, fish landing and processing, oyster farms, recreational boating and associated facilities and infrastructure, and including significant visitor-serving businesses and amenities.

Historically, two small-scale boatyards operated on the Morro Bay waterfront, meeting the needs of most local vessels up to approximately 45-feet in length. In the 1990's, the larger of those two yards, located in the central tourist/business core of the waterfront, closed and the site succumbed to its location and the economic pressures of redevelopment to more lucrative commercial uses. The remaining yard, at the southern end of the developed bay, is located in a residential neighborhood, and can now service only one approximately 30-foot vessel at a time, does not meet modern boatyard best-management practices and advanced environmental compliance standards, and is likely slated for closure by its owners in 2018.

A full-service vessel haulout and boatyard was identified as a priority need as far back as 1997 when the City appointed a Boating Access Facilities Committee to review existing vessel launch, storage and repair facilities and determine if additional facilities were needed. Since that time, several design, engineering and economic studies have been completed to determine if a full-service boatyard and marine services facility were financially feasible, where it would best be located, and how it would be configured. For a variety of reasons, primarily land ownership/acquisition and environmentally sensitive habitat issues associated with the location identified for the facility at that time, and in addition to a financial feasibility study that did not indicate profitability under the existing parameters of the time, those efforts arrested further project progress in the early 2000's.

With the City's 2012 acquisition from the Morro Bay power plant of the approximately two-acre "Triangle Lot" property, efforts to site a full-service boatyard in Morro Bay were renewed, focusing on this property. The City's HAB re-engaged the effort and appointed an Ad-Hoc committee to assist City staff. In 2014, pursuit of a full-service boatyard was made a City Council goal objective.

Work products to-date include:

1. June 2015 - Morro Bay Boatyard and Haulout Facility Market Demand Analysis by Lisa Wise Consulting to assess the potential demand for a full-service boatyard in Morro Bay (Attachment 4).
2. May 2015 - Boatyard and Haulout Facility Site Criteria developed by the Ad-Hoc committee (Attachment 5).
3. December 2015 - Design options in the Triangle Lot developed by RRM Design Group, incorporating a boatyard, dry storage, a maritime museum and reconfigured public parking in the area (Attachment 6), to determine how competing uses for the Triangle Lot and adjoining areas may be accommodated.

In 2018 the Morro Bay City Council affirmed the City's goals for the upcoming year. City Goal #3, Public Infrastructure and Facility Maintenance Improvement, Item (b) is, "Complete the approved RFQ process for a marine services facility (boatyard) and bring to Council for consideration of next steps prior to any decision on feasibility study." On August 28, 2018, this RFP for financial feasibility was approved by the City Council as the next step.

OBJECTIVE

The objective of the RFP is to receive proposals for a Financial Feasibility Study for a full-service boatyard and marine services facility in Morro Bay. Keeping the City's Goal of Public Infrastructure in mind, the purpose of the requested study is to determine, under different development scenarios outlined later in this RFP, if a full-service boatyard and marine services facility, including self-service capability and dry trailer boat storage, is financially feasible under the parameters outlined.

PROJECT SCHEDULE

Below is the desired schedule for initiation of this project; however, dates may be subject to change and adjusted as necessary.

RFP Issued	August 29, 2018
Request for Clarifications Due	September 17, 2018
Clarification Responses Provided	September 24, 2018
Proposal Submittal Deadline	November 30, 2018
Oral Interviews (conducted at City discretion)	Early December, 2018 (TBD)
Contract awarded by City Council (anticipated)	December 11, 2018

SCOPE OF SERVICES

Consultants responding to this RFP shall be prepared to deliver services and perform the work necessary to provide the services, and published final work product, within six months after initiation of the project. The project services consist of furnishing all labor, materials, supervision, miscellaneous expenses and travel necessary to complete the tasks outlined in the Project Scope.

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PROJECT SCOPE

Project scope shall include, but not necessarily be limited to, those items described below. If proposing Consultants feel that additional tasks or scope are warranted, they must be clearly identified in their proposals both in terms of description and cost.

The primary task is to prepare a comprehensive Morro Bay Boatyard and Marine Services Facility Financial Feasibility Study, to include the following:

1. Work and meet with City staff and HAB Ad-Hoc committee to refine the project scope, purpose and goals of the City's Boatyard Financial Feasibility Study, to ensure that the study will be both accurate and appropriate to the City's needs. Review project schedules and answer any questions pertaining to the successful development of the study.

2. Meet with staff and conduct interviews as needed to gain an understanding of the City's processes, operations and needs.

3. Using the Lisa Wise market demand analysis for reference of the geographically local and regional boatyard market, determine the demand for a boatyard, repair and storage facility in Morro Bay in the "Triangle Lot" area.

4. Prepare Morro Bay boatyard and storage facility revenue and expense projections based on appropriate and applicable market and territory analysis, service model as developed by the HAB, yard conceptual layout as developed by the Ad-Hoc committee and RRM and using industry-norm revenue, cost and expense expectations regionally adjusted to Morro Bay.

5. Evaluate financial feasibility based on three different project concept models, all to include full-service and self-service (do-it-yourself) options:

    A. Complete private-sector design, development, construction and operation by way of a long-term ground lease to a private sector operator.
    B. Public-Private Partnership ("P3") for public design, development and construction, and operation by way of a long-term ground lease to a private sector operator.
    C. Complete public-sector design, development, construction and operation, with certain elements (such as engineering services, and construction) being contracted-out.

6. Report on other matters that come to the Consultant's attention in the course of the evaluation that, in the Consultant's professional opinion, the City should consider.

7. Prepare a final Feasibility Study and provide three (3) bound copies, and a PDF file of the study that can be made available to City Staff, Council, HAB and Ad-Hoc Committee members.

8. Present the study to the City's Harbor Advisory Board in a regular or special public meeting to answer any questions and facilitate the City's understanding of it.

GENERAL

The Consultant may recommend other tasks that it deems appropriate to achieve the objectives set forth in this RFP, either before or during the study.

The successful Consultant shall be required to retain all working papers and related supporting documents, including records of professional time spent, for a period of five years after delivery of the study, unless notified in writing by the City of the need to extend the retention period. The Consultant further agrees to allow City staff and City designees to review such documents upon written request at any time during the retention period.

City Requirements

The Consultant must comply with all relevant City requirements, such as a Morro Bay Business Tax, providing proof of insurance for at least the minimum required amounts, and executing a City contract for consulting services. Information about Morro Bay business tax is available on the City's website at http://morrobayca.gov/DocumentCenter/View/8253

Attachment 1 to this RFP sets forth the Special Conditions applicable to this project.

Attachment 2 to this RFP is the City's Standard Consulting Services Contract Template.

Attachment 3 to this RFP is the City's current insurance requirements, to be included as part of the City's Standard Consulting Services Contract Template, and further described in the Special Conditions.

PROPOSAL FORMAT AND CONTENT

The Consultant shall be responsible for preparing an effective, clear, and concise proposal. The City is requesting three (3) bound paper copies of the proposal, which must contain at a minimum the following information:

1. Letter of Interest: Please include a letter expressing the Consultant's interest in being considered for the project. Include a statement regarding the consultant's availability to dedicate time, personnel, and resources to this effort within the described calendar time frame. The letter of interest must include a commitment to the availability of

the Consultants and all key project staff during the planning period, as well as a proposed schedule designed to meet the City's needs for the project.

2. Project Understanding and Approach: Please include a statement demonstrating Consultant's understanding of the proposed project. Describe the approach to completing the project successfully; describe the methodologies and technologies to be employed; and describe the key milestones and processes to be utilized. Describe information expected of the City to supply.

3. Relevant Experience: Please include information describing the Consultant's experience with financial feasibility studies and market analyses as they pertain to boatyards and marine service facilities, or related projects. Please provide a minimum of five (5) specific examples of Consultant's relevant experience on financial feasibility studies. At a minimum, the Consultant should provide a list of the most recent projects for which the Consultant has performed services of similar size, scope, and complexity. Include the name, contact person, address, phone number and/or e-mail of each party for whom the service was provided, as well as a description of the service performed, the dollar amount of the contract, and the date of performance.

4. Project Manager/Key Staff: Please include information about the specific relevant experience and billing rates for the proposed Project Manager and all other applicable staff. A Project Manager must be designated and must be the principal contact for the City. Information on the experience of the Project Manager on similar projects and at least two references for the Project Manager should be provided.

5. Proposed Scope of Services: Please provide a Proposed Scope of Services, which is based on the Scope of Services and Project Scope contained in this RFP; and discuss any ideas for modifying, clarifying, or improving the City's proposed scope of work. Provide a realistic working schedule with key tasks, milestones and deliverables.

6. Conflict of Interest Statement: The proposers shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract. Particular attention should be paid to compliance with Government Code section 1090.

7. Comments on or Requested Changes to Contract: The City's standard professional services contract is included as Attachment 2 to this RFP. The proposer shall identify any objections to and/or request changes to the standard contract language.

8. Total All-Inclusive Not to Exceed Maximum Price: The proposal should contain all cost and pricing information relative to performing the scope of work as described in this

RFP. The total all-inclusive maximum not to exceed price is to contain all direct and indirect costs, including all out-of-pocket expenses. Provide a budget for each major milestone for the entire scope of services. The proposed budget should be inclusive of all meetings, conference calls, site visits and deliverables. The budget should include a list of anticipated reimbursable expenses with rates charged for each.

a. Component Costs: Include schedules of all fees and expenses for each of the major work tasks and deliverables under this RFP. These schedules should include hourly rates and number of hours anticipated for each staff level; as well as out-of-pocket expenses such as transportation, meals, communications, and duplication costs. The total of the schedules should have a direct relationship to the total all-inclusive maximum price.

b. Rates for Additional Professional Services: If it should become necessary for the City to request the successful Consultant to render any additional services supplemental to this RFP, or to perform any additional work as a result of the specific recommendations resulting from this engagement, then such additional work shall be performed only if set forth in an agreed addendum to the contract between the City and the Consultant. Any such additional work would be performed at the same rates submitted in the dollar cost bid unless otherwise noted in the proposal.

c. Manner of Payment: Progress payments will be made on the basis of hours of work completed during the course of the engagement, and out-of-pocket expenses incurred in accordance with the Consultant's proposal. Interim billings shall cover a period of not less than one calendar month.

CRITERIA FOR SELECTION

An Evaluation Committee will evaluate each responding Consultant's relevant experience and expertise. Proposals will be evaluated based on the information presented in the RFP, and garnered in any follow-up oral interviews, if conducted.

A two-step analysis will be employed. First, staff will review all submittals to ensure that the minimum requirements of the RFP are met.

Secondly, the Evaluation Committee will review proposals for the following:

- Qualifications as they relate to this project in the order shown below (35%):
  - Demonstrated thoroughness and understanding of the tasks to be completed
  - Background and experience in relevant financial feasibility evaluation, including market analysis
  - Staff expertise and overall relevant experience of personnel assigned to the work
  - Qualifications of proposed key personnel

    - Demonstrated communication Skills
- Reputation for and demonstration of integrity and competence (20%):
    - Positive reference checks
    - Examples of relevant and/or related work

- Proposed Fees and Charges for Service (35%)

- Ability to provide the required services in a timely manner within the City's standard professional service agreement (10%)

The City reserves the right to interview any or all responding Consultants and/or to award a contract without conducting interviews.

A recommendation for Consultant selection will be made to the City Council based on the "best value" evaluation of the proposals/qualifications, which will take into account the Consultant team's qualifications, reference checks, comparable experience and cost, as well as Consultant's availability to undertake the project, complete the tasks timely, deliver a high-quality work product, and ability to comply with the City's standard professional service agreement.

All interested Consultants are encouraged to submit proposals to this RFP, as the award is not based solely on the lowest cost proposal submitted. Total cost will be taken into consideration, but the Consultant's capabilities, competence and capacity will be considered as well. The City reserves the right to choose the overall best proposer according the to the City's criteria and needs. The City, and its designated representatives, shall be the sole judge of its own best interest, the proposal, and the resulting negotiated agreement. The City's decisions will be final.

The above factors, along with other factors that the City may deem appropriate, will be used to identify the proposal that represents the best value, which will be the basis for the contract award. The decision of whether to award a contract and selection of a Consultant will be at the ultimate sole discretion of the Morro Bay City Council.

PROPOSAL REQUIREMENTS

General Requirements

The City will not give verbal answers to clarifications regarding information in this RFP, or verbal instructions prior to the submission deadline. All clarifications shall be submitted in writing. A verbal statement regarding same by any person shall be non-binding. The City is not liable for any increased costs resulting from the Consultant accepting verbal directions. Consultant's desires for any explanation relative to this Request for Proposals must be requested of the City representative in writing no later than Monday, September 17, 2018 at 4:00 p.m. ("Verizon" phone time).

Inquiries concerning the RFP must be made to:

Eric Endersby
Harbor Director
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
(805) 772-6254
eendersby@morrobayca.gov

Submission of Proposal

Proposals submitted by facsimile or emails are not acceptable and will not be considered. The original signed proposal and three (3) duplicates are to be submitted in a sealed package with the name of the Consultant and RFP title clearly marked on the outside of the package. The proposal must be received by the City Clerk of the City of Morro Bay by 4:00 p.m. ("Verizon" phone time) on Friday, November 30, 2018 for a proposal to be considered. Proposals should address the items listed below and be addressed to the following:

City of Morro Bay
Dana Swanson
City Clerk
595 Harbor Street
Morro Bay, CA 93442

Format for Proposal

To facilitate review, all proposals are required to adhere to the following requirements. The City strongly encourages Consultants to ensure their RFP submissions are succinct and clearly organized. If a proposal is not in this format or does not include all of the listed items, it may be deemed non-responsive. For ease of handling, all proposals are to be provided in a standard 8 ½" x 11" portrait format with binding on the left-hand edge, as follows:

1. Title Page showing the request for proposals subject; the Consultant's name; the name, address and telephone number of the contact person; and the date of the proposal.

2. Table of Contents identifying the materials submitted by section and page number.

3. Detailed proposal following the order set forth in the Table of Contents.

4. Timeline for the completion of the Feasibility Study, indicating dates for completion of the final work products.

THANK YOU FOR YOUR INTEREST IN THIS PROJECT

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ATTACHMENT 1

SPECIAL CONDITIONS

Contract and Insurance Requirements

The selected consultant shall be required to enter into a city-prepared Professional Services Agreement approved by the City Attorney. Consultants shall be prepared to accept the terms and conditions of the City's Standard Professional Services Agreement including all Insurance Requirements. The successful Consultants bid and the terms and conditions stated in this RFP will be made part of the contract between the City of Morro Bay and the Consultant. This RFP outlines the specifications and requirements, but not necessarily all of the terms and conditions that will be incorporated into the final agreement between the City of Morro Bay and the successful Consultant.

- 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.

Reservations

This RFP does not commit the City to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. No payment of any kind will be provided to the Consultant responding to this RFP, or parties they represent, for obtaining any of the information solicited.

Public Records

All proposals submitted in response to this RFP become the property of the City. Information in the proposal, unless specified as trade protected, may be subject to public review. Any information contained in the proposal that is proprietary must be clearly designated. Marking the entire proposal as proprietary will be neither accepted nor honored. Proprietary information submitted in response to this RFP will be handled in accordance with the California Public Records Act.

Right to Cancel and Amend

The City reserves the right to cancel, for any or no reason, in part or in its entirety, this RFP, including but not limited to: selection schedule, submittal date, and submittal requirements. If the City cancels or revises the RFP, all Consultants will be notified in writing.

Additional Information

The City reserves the right to request additional information and/or clarification from any or all Consultants.

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Conflicts of Interest

Consultant covenants that the company, its officers, employees and/or agents presently have no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services requested herein by the City. Consultant further covenants that, in the performance of any contract or agreement resulting from this RFP, no subcontractor or person having such an interest shall be employed. Consultant certifies that to the best of Consultant's knowledge, no one who has or will have any financial interest under any contract or agreement resulting from this RFP is an officer or employee of the City.

Release of Public Information

Consultants who respond to this RFP who wish to release information to the public regarding selection, contract award or data provided by the City must receive prior written approval from the City before disclosing such information to the public.

Non-Assignment

If a contract is awarded, the selected Consultant shall neither assign, nor delegate, in part or in whole, any duties without the prior written consent of the City which shall not be unreasonably withheld.

Collusion

Each Consultant certifies that the company, its officers, employees and/or agents are not a party to any collusive action, fraud, or any action that may be in violation of the Sherman Antitrust Act. The Consultant certifies that the company, its officers, employees and/or agents have not offered or received any kickbacks or inducements from any other bidding Consultant, supplier, manufacturer, or subcontractor in connection with the proposal and that the company, its officers, employees and/or agents have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. Any or all bids shall be rejected if there is any reason to believe collusion exists among the bidding Consultants. More than one bid from an individual firm, partnership, corporation, or association under the same or different names may be rejected.

Reasonable grounds for believing that a proposing Consultant has interest in more than one proposal for the work being proposed may result in rejection of all bids in which the bidding Consultant is believed to have interest.

Debarment

By submitting a proposal, the Consultant certifies that the company is not currently debarred from submitting proposals and/or bids for contracts issued by any City or political subdivision or agency of the State of California, and that it is not an agent of a person or entity that is

currently debarred from submitting proposals and/or bids for contracts issued by any City or political subdivision or agency of the State of California.

Equal Employment Opportunity Compliance

The selected Consultant shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Consultant shall take affirmative action to ensure that all employees and applicants for employment shall be treated with equality in all aspects of employment processes including, but not limited to, hiring, transfer, promotion, training, compensation and termination, regardless of their race, creed, color, sex, national origin, age, or physical handicap.

Right to Audit

The selected Consultant shall maintain such financial records and other records as may be prescribed by the City or by applicable federal and state laws, rules, and regulations. The selected Consultant shall retain these records for a period of three years after final payment, or until they are audited by the City, whichever event occurs first. These records shall be made available during the term of the contract or service agreement and the subsequent three-year period for examination, transcription, and audit by the City or its designees.

Drug-Free Workplace Requirements

Consultant will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

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

b. Establish a Drug-Free Awareness Program to inform employees about:
    i. The dangers of drug abuse in the workplace;
    ii. The person's or organizations policy of maintaining a drug-free workplace;
    iii. Any available counseling, rehabilitation and employee assistance programs; and
    iv. Penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:
    i. Receive a copy of the company's drug-free workplace statement; and
    ii. Agree to abide by the terms of the company's statement as a condition of employment on the agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both if the City determines that any of the following has occurred: the Consultant has made false certification, or violated the

certification by failing to carry out the requirements noted above. (Gov. Code section 8350 et seq.)

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ATTACHMENT 2

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 _____, a California corporation, *and/or [insert individual's name]* dba *[insert business name if not a corporation]* ("Consultant"). In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

1. TERM

This Agreement shall commence on _____, 201__, and shall remain and continue in effect until tasks described herein are completed, but in no event later than _____, 201__, 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 Harbor 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.

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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 B, 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 *{INSERT AMOUNT}* 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 *{INSERT AMOUNT}*. 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 of 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 C 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:

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 and tax certificates required of it by law for the performance of the services described in this Agreement.

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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: _____
Scott Collins, City Manager

CONSULTANT (2 signatures required)

By: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

DRAFT

By: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

Attest: _____
Dana Swanson, City Clerk

Approved as to Form:

_____
Joseph W. Pannone, City Attorney

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ATTACHMENT 3

CITY OF MORRO BAY

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.

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ATTACHMENT 4

MORRO BAY BOATYARD AND HAULOUT FACILITY

MARKET DEMAND ANALYSIS

By LISA WISE CONSULTING

(immediately following this page)

DRAFT

MORRO BAY BOATYARD AND HAULOUT FACILITY MARKET DEMAND ANALYSIS

Morro Bay Commercial Fishermen's Organization, and The City of Morro Bay

JUNE, 2015

Lisa Wise Consulting, Inc.

LWC

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1 Introduction

From its beginning Morro Bay has been synonymous with a vibrant commercial and recreational waterfront. Throughout the town's history, many families have owned and operated commercial and recreational vessels, held jobs in the fish processing plants, oyster farms, on the docks or in related industries, with vessel ownership and employment often passing from one generation to the next.

The Port has much of the physical infrastructure necessary to support local and visiting commercial and recreational fishing operations, aquaculture, the Coast Guard fleet, and sail and motor recreational vessels. This coastal dependent activity is supported by a well dredged harbor, well maintained channel markers (buoys), sufficient vehicle access and parking, a boat launch, electrical power and fresh water, a fuel dock, state-of-the-art ice machine, offloading facilities, slips, moorings, as well as the North & South T-Piers for transient vessels and an anchorage area. The State Park Marina is operated by the California Department of Parks and Recreation, and has slips for approximately 120 boats between 25 and 40 feet in length. In addition to commercial and recreational fishing activities, the mile-long Embarcadero hosts restaurants, bars, retail shops, day use areas, boat rentals, guided tours and hotels all aimed at supporting tourism, serving locals and strengthening the economic and social vibrancy of the waterfont and the City.

Service industries in Morro Bay and San Luis Obispo County that support local marine dependent uses include: diesel and refrigeration mechanics, electronics and electrical technicians, bait and hook baiting, marine supplies, small-scale dredging, and experienced deckhands, fish cutters, and dock workers..

Morro Bay does not have a sufficiently capable boatyard and haulout facility. Such a facility was identified as a priority need as far back as 1997 when the City appointed a four member Boating Access Facilities Committee (BAFC) to review existing launch, boat storage and repair facilities to determine if additional facilities were needed. The existing boatyard in Morro Bay at 261 Main Street is limited by its capacity, accommodating approximately one 30-foot boat at a time. The boatyard's water lease expires in 2016. Renegotiation of the lease would optimally include advancing environmental compliance and best management practices. Constraints in physical size of this boatyard are likely render alterations to meet environmental compliance upgrades infeasible.

Over the last 17 years, several design, engineering and economics studies have been conducted to determine if a full-service boatyard and haulout facility were feasible, where it might be situated, and what it might look like. In 2006, the City made substantive moves toward acquiring property for a facility but has not yet been able to secure an appropriate site. As part of the on-going effort, in 2013, the Morro Bay Harbor Advisory Board formed a Boatyard/Haulout Ad-Hoc Committee and with urging from the boating and environmental community, led by the MBCFO, has engaged in a multi-phase project (Project) that begins with an assessment of potential demand for a boatyard and haulout facility

Phase II of the project, if undertaken, includes:

- Alternative sites analysis
- Financial Feasibility Analysis
- Conceptual site plans
- Technical investigations including CEQA
- Ownership structure alternatives analysis and
- Coastal Development Permit and Regulatory agency approval

("Phase I"). The project was made possible through funding and leadership provided by the City of Morro Bay and the MBCFO, with a generous grant from the Central Coast Joint Cable Fisheries Liaison Committee.

For this project, a Boatyard and Haulout Facility in Morro Bay is defined as a place where a vessel can be taken from the water, transported to a yard where repairs and upgrades can be conducted in compliance with environmental regulations and may include a storage area, a ship's supply store, museum or other service that enhances a vessel owner or harbor visitors' experience.

1.1 Project Approach

A key objective of the Project is to engage local commercial and recreational fishing vessel owners as well as local sail and pleasure boat owners to ensure that their input/perspective guides the research and is evident in the findings and final recommendations. Local vessel owners are seen as experts and best suited to advise on local boatyard and haulout needs in Morro Bay. As such, a key component of the project is a survey of local vessel owners aimed at understanding what type and size vessels are in the harbor, how often they haul their boats out of the water for maintenance, how much they spend, what type of work "typical" and "major" haulouts entail, what work they do themselves, which tasks they hire out, which facility they patronize, and why. The survey also sought to understand the amount of demand for a dry (terrestrial) storage facility and how much a vessel owner might spend on dry storage. A summary of the surveys is included in Section 2.1 below.

Boatyard and Haulout facility operators in the case studies indicated that 5 percent to 10 percent of their business was generated from visiting or non-local vessels.

The Project also aims to illustrate the regional boatyard haulout industry and competitive climate through assessment of four boatyards and haulout facilities: Ventura, Santa Barbara, Port San Luis and Moss Landing. Project Managers at the City and the MBCFO worked with the Consultant Team to choose four boatyard and haulout businesses that reflect a wide range of user profiles and the capacity and types of services offered. The facilities were also chosen due to the local commercial fishing and recreational boating community's relationships and familiarity. The research conducted on these case studies is ultimately intended to guide Morro Bay in its decision making on the best approaches for target market, financing and ownership structure, hoist capacity and type(s) and service protocol. An analysis of those facilities can be found in Section 4.2 of this report.

Input for the boatyard case studies was collected through site visits, telephone interviews with facility owners and key staff members, and internet research as well as input from local vessel owners.

The report also incorporates information found in industry reports, and State and Federal databases, and culminates in Key Findings and Recommendations that synthesize the data presented in Chapters 2, 3 and 4 and are intended to guide the City and the MBCFO in the next steps in the consideration of a boatyard and haulout facility.

1.2 Summary of Findings

The following concepts were identified as the most significant and ultimately inform the recommendation of pursuing the next steps in the process, alternative site(s) analysis and financial feasibility analysis.

Timing is Everything, the decommissioning of the Dynegy power plant and sustained and diverse community support make this the time to advance to the next steps.

Broad Support from commercial and recreation operators and the environmental community is an indicator of a community need that is not being met and the City should consider.

Competitive Climate shows that the boatyards in the study area are not meeting the needs of local vessel owners

Reputation of quality workmanship and service is critical to a successful boatyard and haulout operation.

Innovation could make the facility more profitable and competitive

Public versus Private, a boatyard and haulout facility serves the public good and enhances and protects waterfront assets which calls for a more of a "public service" than "private enterprise" approach.

Client Diversity within the harbor is robust

Do-it-Yourself or Boatyard Staff are operational approaches decision makers should weigh, DIY appealing to the majority of respondents to the project survey.

Storage for Sailboats could enhance the income and the customer base of a boatyard and haulout facility and should be part of the on-going analysis.

Local Demand, based on responses to a written survey, 110 vessel owners in Morro Bay indicated that they spend between $1.1 million and $2.3 million annually to haul their boat out of the water and conduct typical or major haulouts. Based on the surveys, a boatyard and haulout facility could expect 269 vessels to use the facility per year (see Appendix E for more details).

2 Market Demand Profile

In order to gather as much input as possible on potential market demand from the boating community in Morro Bay, a written survey was developed and distributed to key groups and individuals via email, hard copy as well as an on-line option on SurveyMonkey. Approximately 110 completed responses were received in an eight week period.

The presence of local commercial and recreational fishing, marine tourism, marine construction, and recreational boaters is an important part of the demand profile and potential feasibility of a boatyard and haulout facility in Morro Bay.

2.1 Survey Approach

The survey was reviewed and "tested" by representatives of the local commercial fishing and recreational boating communities as well as reviewed and approved by a Boatyard Ad-Hoc committee appointed by the Harbor Advisory Board. Surveys were distributed to the boating community via hard copy and email to the Morro Bay Yacht Club, Morro Bay Commercial Fishermen's Organization, Morro Bay National Estuary Program and to slip and mooring holders on the waterfront and the Morro Bay State Park Marina. The surveys were available in the Harbor Patrol Office and posted on the City of Morro Bay website. Completed surveys were collected between August 10 and October 10.

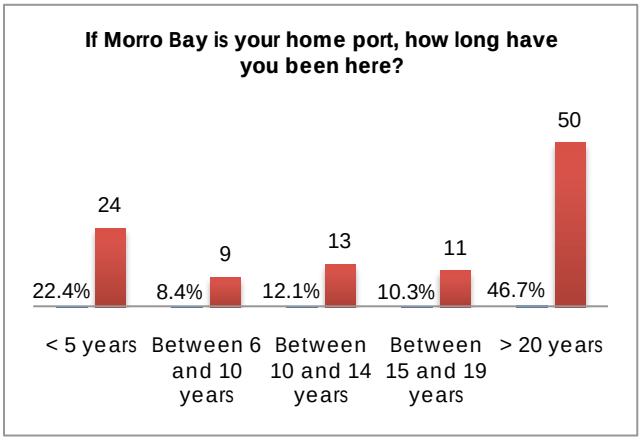
All surveys were reviewed and evaluated for completeness and, to assure there were no redundancies.

Survey Response Summary

The survey consisted of 17 questions that addressed home port designation and tenure, vessel characteristics, haulout patterns, and future dry storage. Vessel characteristics were defined in terms of type, length, and weight. Haulout patterns were assessed through frequency, type, cost, work profile, and selection criteria. Demand for future dry storage facilities was tested for use and cost.

Approximately 40% of the MBCFO membership completed the Morro Bay Boatyard Haulout survey.

Considering there are approximately 450[1] vessels in the harbor, 110 completed surveys yield over a 20% response rate. While 13 of the 110 respondents were non-local vessel owners, such a robust response rate enables assumptions to be made on the boatyard and haulout use patterns of the local community and the potential demand for a facility in Morro Bay.



Home Port Designation and Tenure

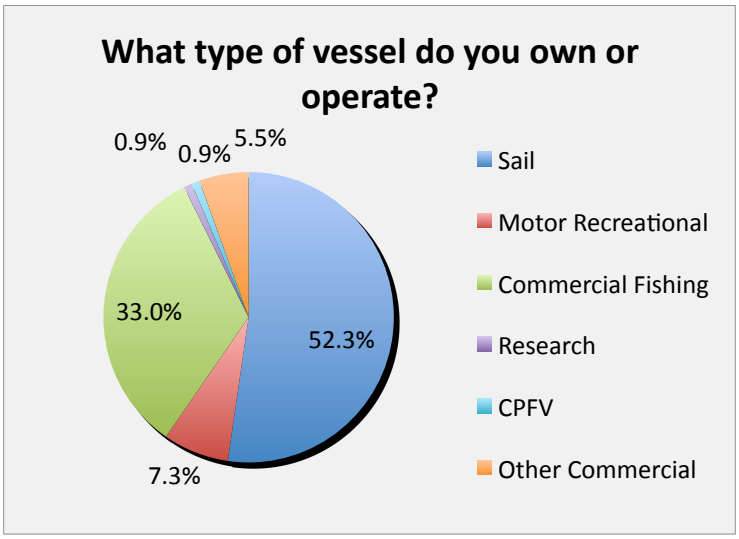
The majority of survey respondents are vessel owners or operators who consider their homeport Morro Bay. Of the 110 respondents, 97 declared Morro Bay as their home port. Other responses included San Diego, San Francisco, Ventura, Port San Luis, and the U.K., or gave no

[1] The number of vessels in Morro Bay was determined through field inventory conducted by the City of Morro Bay Harbor Department in February of 2015.

response. 78.4% of respondents (83) have been in Morro Bay for 6 years or more, and 47.2% (50) for over 20 years. This pool of Morro Bay vessel owners and operators represent likely Morro Bay boatyard and haulout facility customers.

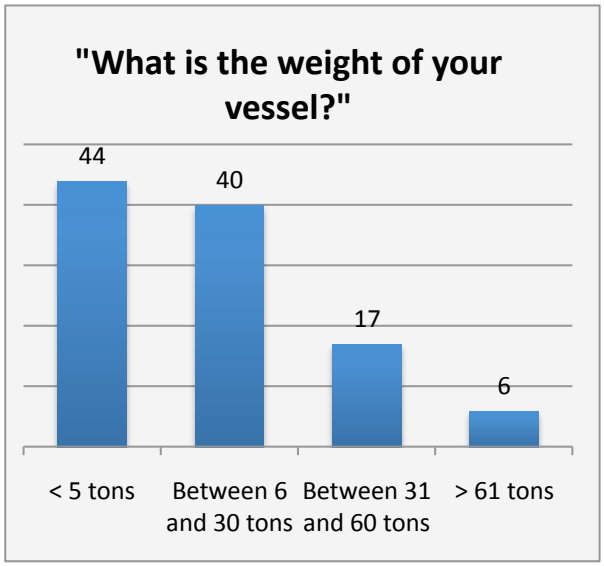
Vessel Characteristics

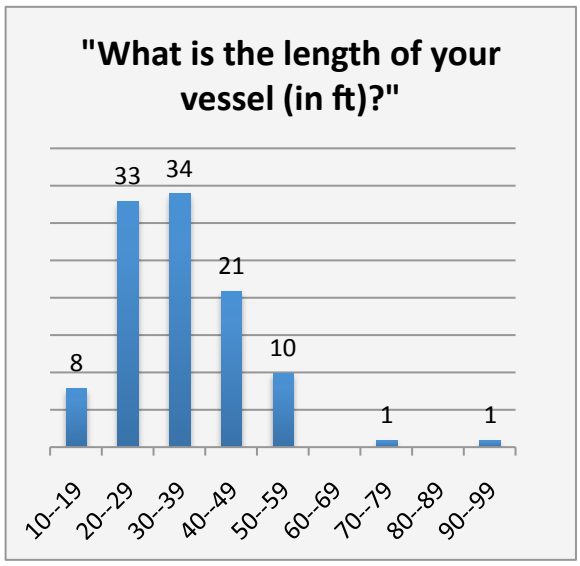
Vessel characteristics provide guidance on boatyard haulout location and design considerations and insight into the potential customer base.



Vessel Class: The survey classified vessel types into six categories: sail, motor recreational, commercial fishing, research, commercial passenger fishing vessels, and other commercial. Of the 110 responses, 53% (93) own or operate sailboats and over 33% commercial fishing vessels. A Morro Bay boatyard and haulout facility would, by extension, primarily serve vessel owners or operators of these classes.

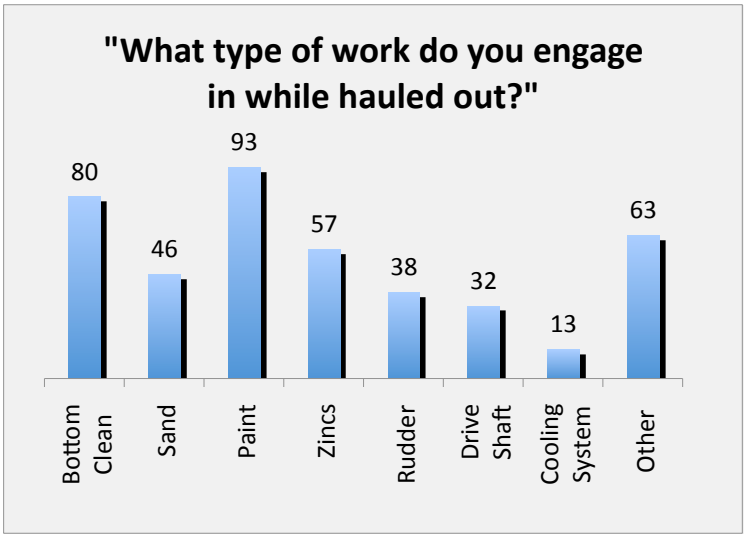
Vessel Length & Weight: The median vessel length of survey respondents is 34 feet. The majority of vessels fall between 20 and 50 feet in length. 11.1 % of the respondents own and operate vessels greater than 50 feet.





Approximately 41% of respondents identified a vessel weight of less than 5 tons, and approximately 37% identified a vessel weight of between 6 and 30 tons. Nearly 16% of respondents own/operate vessels of 31 to 60 tons and 6% of 60 tons or greater. The largest vessel in the survey was 78 tons.

Haulout Patterns



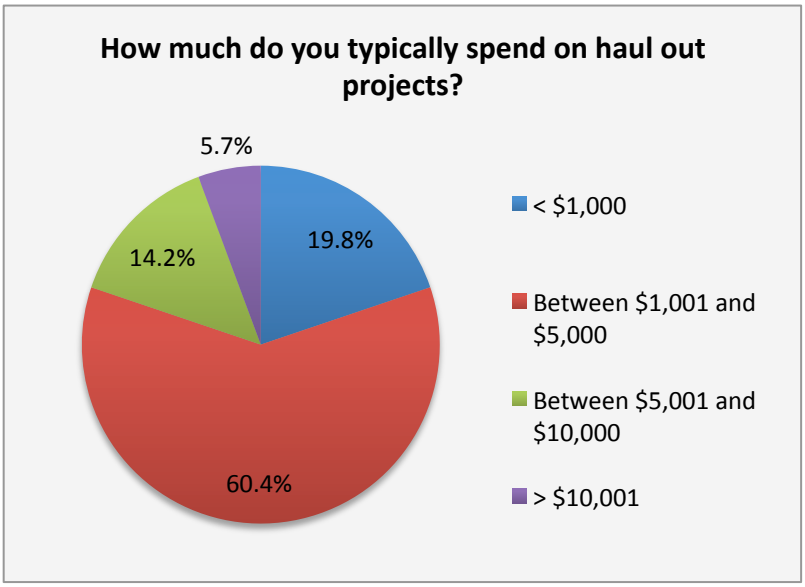
Vessel owners indicated that they engage in two types of haulouts, major and routine. The associated work profiles (work performed during haulouts) identify the type of services that would be of demand in a boatyard haulout facility in Morro Bay, and the predictable frequency and spending patterns will inform demand estimates and revenue projections for feasibility studies.

Type & Work Profile: The survey classifies haulouts into "typical" and "major" events and queries respondents on eight (8) work types they may undertake while hauled out: bottom clean, sand, paint, zincs, rudder, drive shaft, cooling system, and other. 80 respondents undertake bottom cleaning during major haulouts and 93 undertake painting. 63 respondents undertake work in the Other category, and associated comments make reference to engine work and rigging as common Other work types.

The survey also asks respondents to identify if they perform some or all work on their vessels themselves. Approximately 55.7% of respondents said they typically do their own work. Many of those who do their own work hire contractors for technical projects such as electrical, fabrication, carpentry, or rigging. The type of work most commonly contracted out is 'welding and fabrication' (38.7% of respondents answered that they do their own work except for welding and fabrication). Multiple respondents noted the need for skilled workers at the Morro Bay facility who could undertake specialized tasks such as welding, carpentry, electrical, diesel mechanics and rigging.

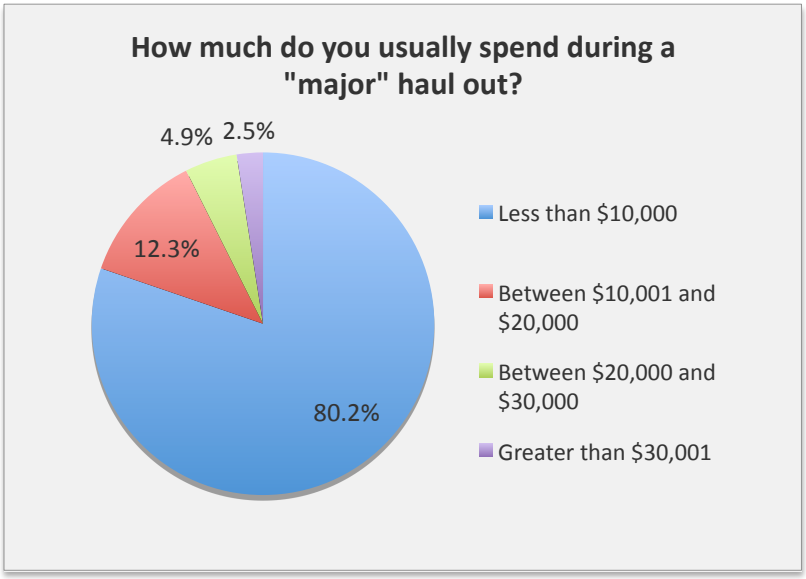
A boatyard haulout facility in Morro Bay would need to accommodate bottom cleaning and painting as the two most common work types. Based on these responses, facility managers might consider a Do It Yourself approach while providing services of skilled staff or outside contractors to undertake specialized work such as welding and fabrication, carpentry, electrical, rigging, and diesel mechanics.

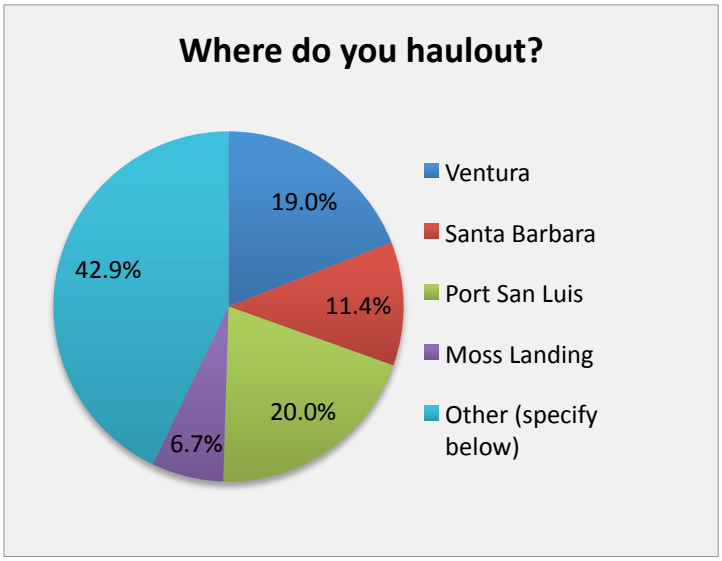
Frequency & Cost: Approximately 92.6% (100) of respondents undertake typical haulouts every three (3) years or more, and approximately 77.8% (84) of respondents undertake typical haulouts every 2 years or more. Approximately 57.2% (48) of respondents undertake a major haul out every four years or more. Open-ended survey responses indicate that vessel owners and operators would haul out more frequently were there a facility in Morro Bay. One respondent noted he has often put off necessary boat maintenance because of the inconvenience and cost of fuel, car rental, and dining out. These figures, however, do not reflect those out-of-town vessel operators and owners traveling along the coast who might use a Morro Bay facility for emergency repairs, as well as those who may seek out Morro Bay because of breadth and quality of services, lift capacity and nearby amenities.

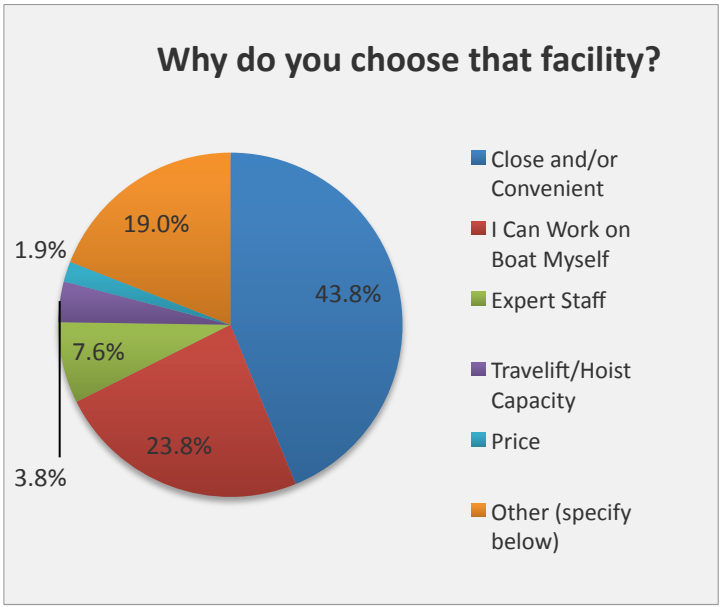


Most respondents (approximately 60.7% or 65 individuals) spend between $1,000 and $5,000 on a typical haulout, 14% spend between $5,000 and $10,000 and 5.6% spend over $10,000. A little over 19% spend less than $1,000.

Approximately 80.2% (65) of respondents spend less than $10,000 on a "major" haul out, 12.3% spend between $10,000 and $20,000 and over 7% spend more than $20,000. Spending on haulouts and associated work will contribute directly to the facility's revenues, as well as to local businesses that support vessel maintenance and repair such as hardware and part suppliers, mechanics, technicians, hotels, restaurants and other visitor-serving establishments.







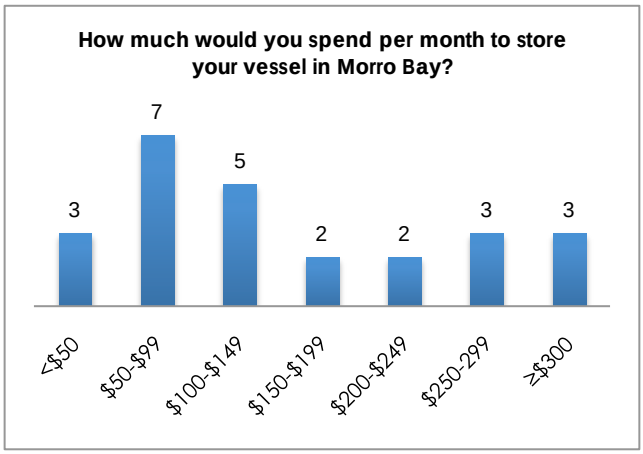
Selection Criteria: To better understand vessel owners' and operators' decision in selecting a haulout facility, respondents were asked to select from six factors that influence their haulout choice: Close and/or Convenient, I Can Work on Boat Myself, Expert Staff, Travelift/Hoist Capacity, Price, Other. Close and/or Convenient is overwhelmingly the most prevalent reason vessel owners and operators choose their haul out location, with approximately 43.8% (46) selecting this category. The second most prevalent reason for selecting a haulout location is I Can Work on Boat Myself, with approximately 24% (25) of respondents. Staff expertise and the facility being able to accommodate trailer-based vessels rounded out key influences. Of the 105 respondents to this question, 20 haul out in Ventura, 21 haul out in Port San Luis, 12 use Santa Barbara and 7 cited Moss Landing/Gravelle's as their preferred haulout facility. The remaining 45 respondents haul out at other facilities.

Open-ended survey responses suggest that a majority of respondents would likely use a Morro Bay haulout facility.

Dry Storage

Survey respondents provided direct input on whether or not they would use a dry storage facility if there were one in Morro Bay. The respondents also indicated how much they would be willing to spend to store a vessel in Morro Bay. The responses provide a measure of demand for such a facility and provide input for demand projections and a financial feasibility analysis.

Use: The survey asked explicitly whether or not the respondent would store their vessels in Morro Bay if a dry storage facility were developed. Approximately 40% or 31 respondents indicated they would. Of the 40% positive response, 32% were sailboat/recreational motor vessel/yacht owner/operators and 7.7% were commercial fishing vessel owner/operators.



Cost: Survey respondents were also asked to estimate how much they would spend on a monthly basis to store a vessel in Morro Bay. Responses were evenly distributed across dollar amounts that ranged from $35 to $350 per month.

Additional Comments

The survey concluded with a question that offered the opportunity to provide additional information or comments. Of the 69 individuals who responded to this question, the vast majority were supportive of the establishment of a boatyard and haulout facility in Morro Bay. Responses are grouped into key categories as follows:

Boatyard/Haulout All-Inclusive Customer Pool:
"I just sold my boat that was moored in MB because it was too difficult to get work done. I now own a boat on a trailer and I still have to haul it away to get work done. Having a boat yard would be great for MB boaters! We need a place where we can get work done AND work on our boats ourselves."

"It is really unbelievable that Morro Bay, the only natural harbor within 100+ miles, does not have a haul out facility that can accommodate its fleet of larger vessels. Years ago it did have a facility on the Embarcadero which was redeveloped into gift shops and a restaurant!"

Emergency Repairs:
"Nice to have local facility for emergency or unplanned work which happens frequently."

"A boat yard in Morro Bay is needed. If we need to haul out for an emergency our closest real option is about 100 miles away through some treacherous patches of ocean."

Boatyard Financial Matters:
" It seems that most boats who haul out, go to Ventura, so Morro Bay is missing sales and tax

revenue as a result."

"A local boatyard would save the local fleet from having to travel and burn a lot of expensive fuel. Also we would be spending our money in the local area and supporting the local economy."

"I would rather be home, save the traveling fuel, spend the money here. Out of town vessels may spend their maintenance money in this area too."

General Need/Desire for a MB Boatyard Haulout:
"I have owned five different offshore cruising boats in Morro Bay over the past 35 years. All of them except my current vessel have been too heavy...to haul out locally. I have taken them down to Ventura for the annual haul outs.

"There hasn't been a place to accommodate me locally for years."

"local haul out would be great and I would haul out more often."

"Morro Bay is a prime location for a boat yard facility. Moss Landing is only taking a few boats and only on a limited number of days... Monterey Bay has strong surges that can damage the boat and Santa Barbra is usually full and pretty expensive."

"I would haul out annually if there was a local option. It's 30 hours to Ventura. If you have a problem with the boat, it is dangerous to go around Point Conception. We need a Haul Out Facility here. It would also add to the Visitors experience by showing a real working harbor."

Commercial fishing industry has played a significant role in the development of Morro Bay since its founding. The industry continues to provide jobs and income in the community as well as serving as an important tourist attraction. In 2013, it was estimated that commercial fishing generated approximately 194 jobs in San Luis Obispo County (Morro Bay Community Sustainability Plan, 2013).

The California Coastal Act of 1976 requires Morro Bay to protect and, where feasible, upgrade commercial and recreational fishing facilities. This is in keeping with the community's policy of giving priority to commercial fishery in new harbor development.

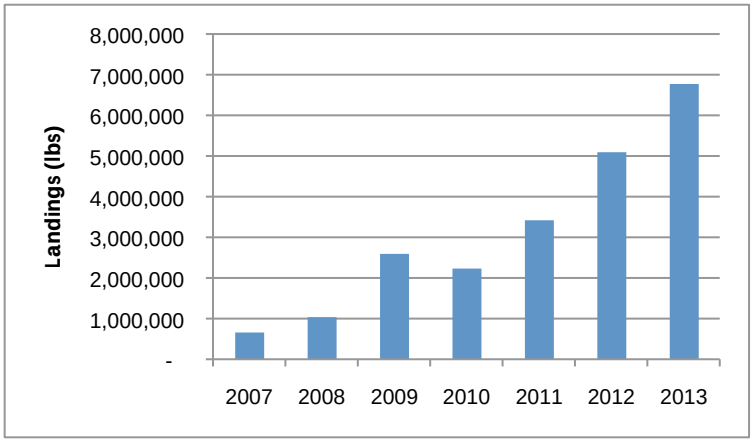
2.2 Local Demand Profile

This section provides an overview of the key categories or user profiles of future potential customers for a Morro Bay boatyard haulout facility. There are approximately 450 vessels at City and private operated slips and moorings in the harbor that represent the potential local client base. The makeup of harbor users and potential clients includes commercial and recreational fishing vessels, sailboats and motor vessels, Coast Guard, Harbor Patrol, research and commercial/construction vessels. All of these harbor users represent, in some capacity, clients for the boatyard and haulout facility in Morro Bay.

2.2.1 Commercial Fishing Industry

In 2013, 156 commercial fishing vessels operated in San Luis Obispo County, generating almost 5,000 fishing trips which translated to nearly 7 million pounds in landings and over $7 million in earnings at the dock in Morro Bay. Landings, earnings, trips and the number of commercial fishing vessels operating in Morro Bay have been on a powerful increasing trend since 2007.

Landings at the dock (pounds) in Morro Bay, 2007 - 2013 (CDFW)



2.2.2 Commercial Passenger Fishing Vessels and Recreational Fishing

Morro Bay has long been known as a recreational fishing destination. There are currently three active "for hire" fishing operations that double as marine wildlife tour providers. Morro Bay is also a launch and landing site for a significant fleet of smaller recreational fishing vessels or skiffs, mostly between 16 and 28 feet. These vessels are typically launched by trailer at the municipal boat ramp at the south end of the Embarcadero. While these vessels may not engage in large scale boatyard projects, they require repairs and upgrades and the purchase of equipment and supplies that represent potential income for a boatyard facility. The 1984 Morro Bay Coastal Land Use Plan (CLUP) states "a basic element to tourism, sport fishing has been a most important feature in Morro Bay". The CLUP goes on to say: "the sport fishermen support local businesses, including purchasing of tackle, bait, wearing apparel and supporting restaurants and motels."

2.2.3 U.S. Coast Guard

The U.S. Coast Guard (USCG) established a facility in Morro Bay as early as the 1950s and currently maintains a 27-person National Security Base and Search and Rescue Station. In addition to search and rescue, this station provides Coast Guard services for the entire Central California Coast, including port safety coverage for the Diablo Canyon Nuclear Power Plant and Vandenberg Air Force Base. The Coast Guard keeps two 47 foot motor life boats in Morro Bay.

2.2.4 Morro Bay Yacht Club

The Morro Bay Yacht Club (MBYC) was established in 1956 and is home to over 250 members, 65% who are boat owners (primarily sailboats). Club activities center around sailing, with small boat races held inside the bay or at local lakes, and big boat races held in Estero Bay. The MBYC is the northernmost member/location of the Southern California Yachting Association (SCYA) and plays host to about 300 visiting vessels per year.

According to representatives of the MBYC, there are about 300 recreational boaters that pass through Morro Bay every year, mostly sailboats with a smaller percentage of motor vessels. The majority of these vessels range from 30 feet to 50 feet in length. This activity peaks in April/May and then again in September/October/November. These visiting vessels spend between one day and one week in port, with the majority staying between one to

three days. They are accommodated, in part, at the MBYC's six (6) guest moorings, the MBYC dock, which has a capacity of approximately nine (9) vessels as well as five to seven (5-7) spots in the City's designated open anchorage area. Representatives from the MBYC attest that many of these skippers/vessel owners ask if there is a boatyard in Morro Bay and believe that many of these vessels would stay longer, and patronize a boatyard and haulout facility if there were one. The majority of those seeking to haul their boats out, particularly in the fall, head to the facilities in Ventura and Santa Barbara. The MBYC representatives also believe that Morro Bay could become a "destination" boat yard (like Ventura and Santa Barbara) for recreational boaters.

Representatives of the MBYC added that boat storage, particularly where a sailboat owner does not have to un-step (remove) the mast and de rig the vessel, is an attractive service for recreational boaters, one for which vessel owners would pay a premium and as such, could generate additional demand for a Morro Bay boatyard haulout facility.

2.2.5 Harbor Department

The City of Morro Bay Harbor Patrol maintains a fleet of three vessels that range from 22 to 29 feet in length. The boats are hauled out of the water, on trailers, for bottom cleaning approximately monthly and the bottoms are painted approximately every 18 months. Major repair work is conducted approximately every 5 years.

2.2.6 Other Recreational Vessels

In addition to the potential boatyard facility users described above, Morro Bay is home to approximately 275 vessels not directly affiliated with the commercial or recreational fishing industries, Coast Guard, Harbor Department or Yacht Club. These vessels represent significant potential demand for boatyard and haulout services.

2.3 Outside the Area

Facilities in the case studies (see Section 4.2) indicated that between 5% and 10% of their business comes from outside of their immediate communities. Morro Bay should expect to attract a similar percentage of visiting vessels. This potential demand is included in the demand projections (see Appendix D). Morro Bay may be able to secure stronger patronage from outside the area by:

- Establishing a reputation of superior quality and diversity of services
- Making supplies easily available through an extensive ship's store
- Clustering; partnership with Port San Luis that expands accessibility to services, expertise and supplies
- Promoting the proximity to the MBYC, affordable hotels, and restaurants
- Providing a high lift capacity

3 Market Opportunities

Boasting over 1,000 miles of coastline, California is home to a bustling marine dependent economic sector. The thousands of recreational and commercial vessels that travel and work in California coastal waters are supported by a vast network of related businesses and physical infrastructure. According to the U.S. Bureau of Labor Statistics (BLS, NOAA Coastal Services Center) there were currently 126 ship and boat building and repair establishments located in California coastal counties in 2011. These businesses were estimated to be responsible for 7,800 jobs and over $413 million in wages. A boatyard in Morro Bay would be entering a market sector that was valued at nearly $670 million.

In the 2013 Morro Bay Fishing Community Sustainability Plan (Plan), which provided a comprehensive analysis of the commercial fishing industry and working waterfront in Morro Bay, a boatyard and haulout facility was identified as the highest priority need in the community and is the first in a list of 11 final Recommendations. The Plan was funded by the National Fish and Wildlife Foundation, managed by the City and unanimously accepted by the Morro Bay City Council in April of 2014. A boatyard and haulout facility is seen as fulfilling community needs and addressing sustainability indicators in three key categories:

- **Economic**: potential revenue source for the City and direct and indirect employment opportunities, as well as faster turnarounds for local boats, which would translate to more fishing days for Morro Bay commercial and CPFV fishing operations and working days for tour boat operators, the Harbor Patrol and the Coast Guard.

- **Environmental**: greater capability of the community to act to protect the sensitive Bay and estuary in the case of a spill from a derelict or incapacitated vessel as well as reducing "vehicle and vessel miles traveled" for Morro Bay residents to regional boatyards, as well as providing an environmentally state-of-the-art facility.

- **Social**: greater control of outcomes for the community and the creation of a service that addresses needs across a broad spectrum or maritime stakeholders; commercial and recreational fishermen, pleasure boaters, Coast Guard, visiting vessels and directly addressing the collective environmental concerns of the community.

A boatyard and haulout facility is also seen by some members of the community as an approach to reduce the amount of repair and maintenance work conducted by vessels owners while there boats are in the water.

3.1 Market Potential

An overview of trends in activity in industry sectors related to the boatyard and haulout industry follows and is intended to inform decision makers on economic performance trends in marine industries. Those industries are Boat Building and Repair, Commercial Fishing, Recreational Fishing, and Recreational and Pleasure Boat Activity.

The National Bureau of Economic Research (NBER) dates the beginning of the recession as December 2007. The bottom, or trough, was reached in the second quarter of 2009.

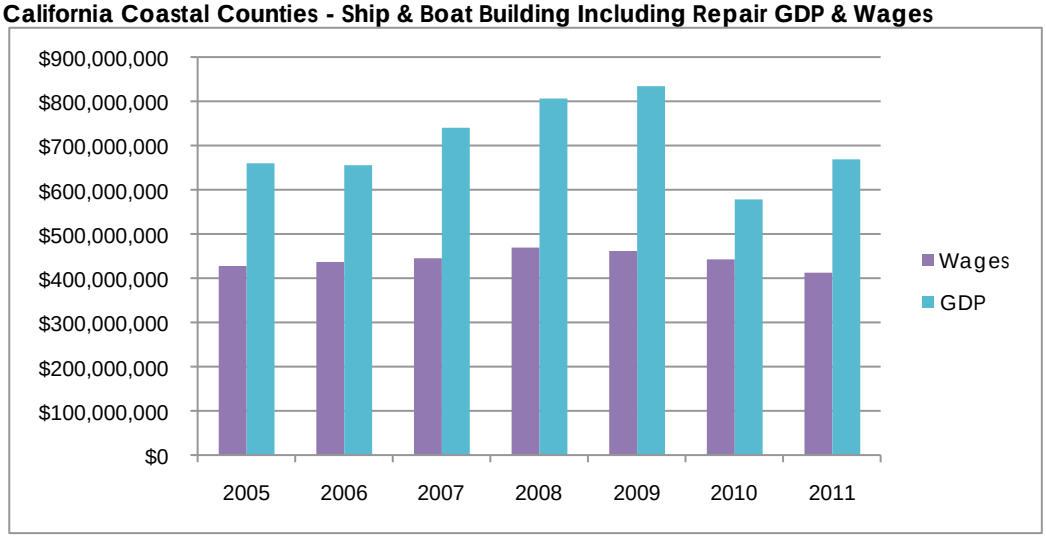
Trends in Boat Building and Repair

Ship and boat building and repair are unique and valuable industries that generate employment and spending and play a foundational role in the California maritime economy. Data from NOAA's Economics: National Ocean Watch database in the 19 coastal counties in

California is included in this section to provide decision makers in Morro Bay with a high-level overview of trends in the industry which they are considering. Factors such as a downturn in the economy during that period that affected vessel ownership and the performance of the shore-side boat building and repair sector should be taken into account when assessing this data.

In general, between 2005 and 2011 (the most recent data available) the amount of goods and services rendered from ship/boat building and repair in California coastal counties has remained relatively stable while trending slightly downward, as have wages. In 2011, the ship and boat building and repair industry in California was valued at approximately $670 million and generated over $400 million in wages.

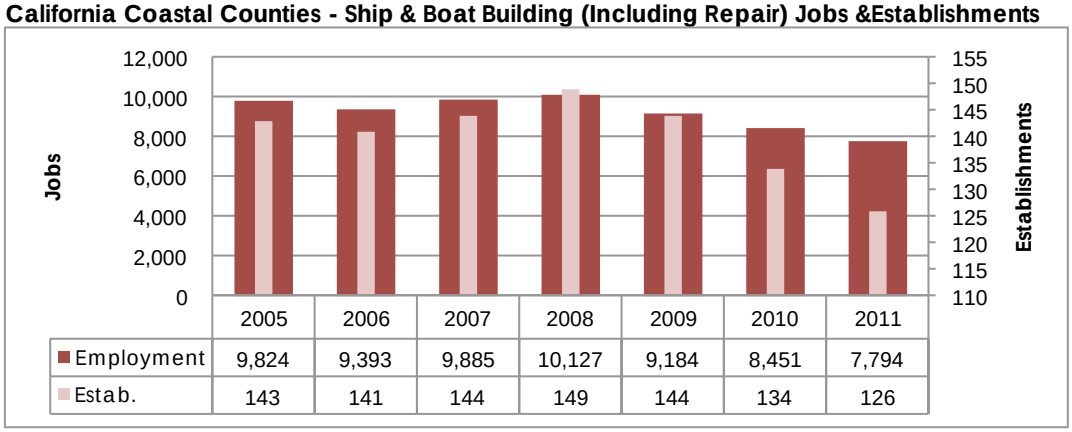
California Coastal Counties - Ship & Boat Building Including Repair GDP & Wages



Bureau of Labor Statistics Data, accessed from ENOW (NOAA Coastal Services Center)

Between 2005 and 2011, employment at ship and boat building and repair establishments in California dropped by approximately 25% from just under 10,000 jobs to fewer than 8,000. During that time, the number of establishments also dropped from approximately 145 to 126, a 14.5% decrease. In conclusion, while there have been drops in GDP, wages in the Ship & Boatbuilding and Repair industries have been relatively stable as has employment. The number of facilities has trended downward and based on input from vessel owners, demand is strong in Morro Bay and other small coastal communities. This could signal an opportunity for Morro Bay.

California Coastal Counties - Ship & Boat Building (Including Repair) Jobs &Establishments



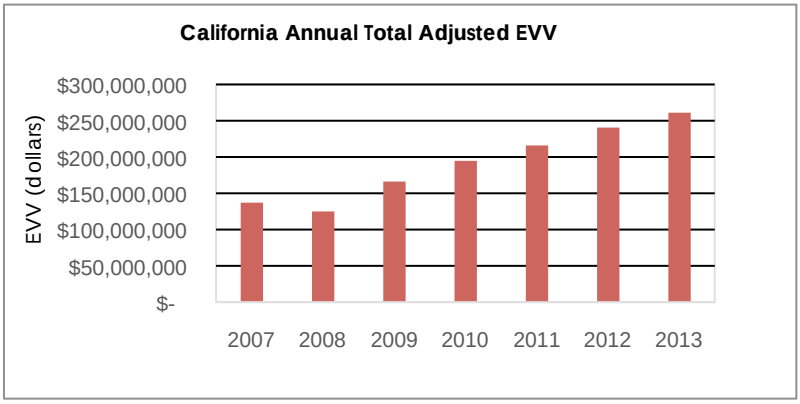
	2005	2006	2007	2008	2009	2010	2011
Employment	9,824	9,393	9,885	10,127	9,184	8,451	7,794
Estab.	143	141	144	149	144	134	126

Bureau of Labor Statistics Data, accessed from ENOW (NOAA Coastal Services Center)

Trends in Commercial Fishing Activity

An important market for a boatyard and haulout facility in Morro Bay is the commercial fishing industry. From a State-wide perspective, earnings at the dock, a key indicator of performance, have almost doubled from $130 million in 2007 to $260 million in 2013.

In 2013, 156 commercial fishing vessels conducted over 4,900 trips in San Luis Obispo County which translated to over $7.0 million in earnings at the dock in Morro Bay. Commercial



fishing trips in San Luis Obispo County have been steadily increasing since 2005, almost doubling in the last seven years and earnings for Morro Bay fishermen have increased fivefold between 2007 and 2013. The commercial fishing industry in California and Morro Bay is on a powerful upward trend and will generate demand for a boatyard and haulout facility.

Morro Bay is an important and long-standing destination for recreational fishermen seeking access to the ocean. In 1952 there were 9 CPFV operations in Morro Bay (Scofield, 1954). Today there are 3 such operations that conduct thousands of trips per year as well as double as whale and sea life watching tour operators, taking advantage of Morro Bay's rich ocean resources. There are also hundreds of smaller recreational fishing vessels (skiffs), typically launched from trailers, that operate out of Morro Bay. These skiff owners may consider a boatyard and haulout facility a convenient place to address repairs and upgrades or purchase supplies.

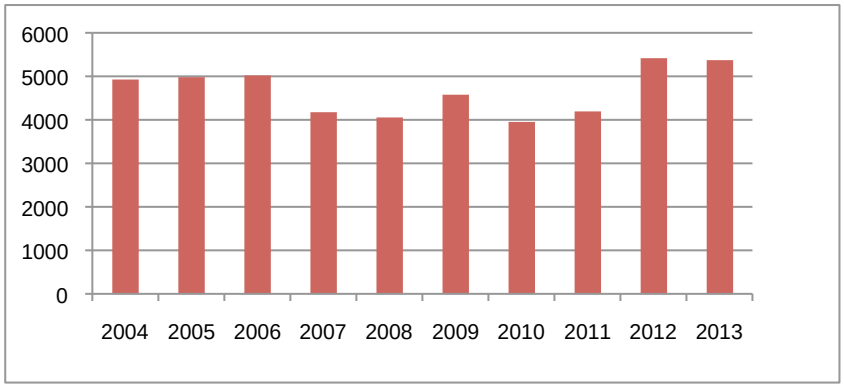
Trends in Recreation Fishing Activity

Recreational fishing and the Commercial Passenger Fishing Vessel (CPFV) industry are generators of jobs and income, and represent potential users of a boatyard and haulout facility and as such, data on the industry is included. There are three for-hire or CPFV operations in Morro Bay and hundreds of small vessels that conduct thousands of recreational fishing trips each year out of Morro Bay.

Recreational fishing, including for hire and private vessels, is a valuable marine-dependent industry in California. The State's recreational angler fishing trips topped 3.8 million in 2011 and for-hire fishing trip expenditures totaled $122 million. Private recreational fishing boat trip expenditures totaled $78 million. Trip expenditures generated approximately 4.1 thousand jobs and durable expenses generated 6 thousand jobs (Lovell, S., S. Steinback, and J. Hilger. 2013. Economic contribution of angler expenditures in the United States, 2011. NOAA Tech. Memo. NMFS-F/SPO-134).

Fishing trips are an indicator of the vibrancy of activity in the industry, and trips numbers remained relatively stable at approximately 4-5 million per year.

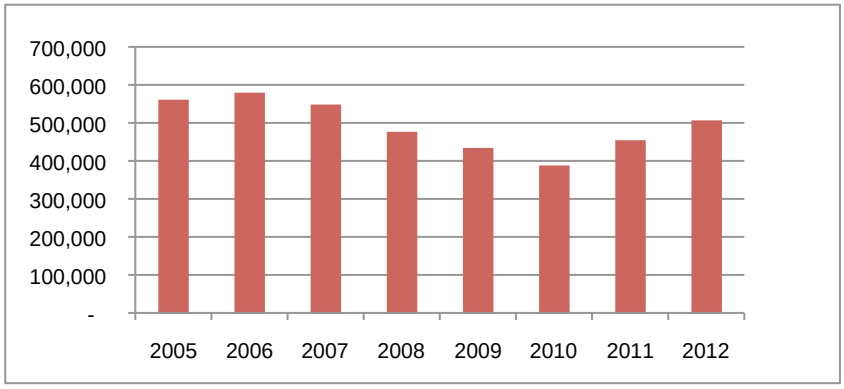
California Recreational Fishing Trips, in Thousands, 2004-2013



California Department of Fish and Wildlife

The number of participants who conduct recreational fishing on a "for hire" fishing vessel has dropped since 2005, but has seen some gains in 2011 and 2012. Recreational fishing is a vibrant industry in California and Morro Bay and has seen relative stability in the last 10 years. As such, for hire and private recreational fishing vessel owners represent potential demand for a boatyard and haulout facility in Morro Bay.

California CPFV Registered CPFV Anglers 2005-2012



California Department of Fish and Wildlife

4 Competitive Climate

Boatyard haulout facilities along the California coast and more specifically between San Francisco Bay and Ventura comprise the competitive climate or context in which the assessment of demand for a facility in Morro Bay should be considered. This section of the report identifies key boatyard haulout facilities between San Francisco Bay and Ventura County and their characteristics. The section also includes a comprehensive analysis of four relevant case studies aimed at providing examples of the type and quantity of demand for a boatyard and haulout facility in Morro Bay. Appendix A provides a comprehensive list of boatyard facilities in California.

4.1 Central California Coast Boatyards

Based upon survey results outlined in Section 2.1, potential Morro Bay boatyard haulout customers make use of facilities primarily south of San Francisco Bay and north of Ventura County. This area is therefore considered the competitive market area that warrants consideration when assessing demand potential for a Morro Bay boatyard haulout facility.

Table 1 below outlines 30 boatyard facilities that are located along the 375 mile coastal stretch between San Francisco Bay and Ventura County. Twenty five of these facilities perform haulouts, the majority of which do so with a travelift. Most lifts along this stretch of coast feature lifts with capacities of 30 and 40 tons.

The two largest lifts are Sausalito's Bayside Boatworks, and Ventura Harbor Boat Yard. Bayside Boatworks, 250 miles north of Morro Bay, can accommodate all sizes of private boats[2]. Ventura Harbor Boat Yard, 150 miles south of Morro Bay features a 150-ton travel lift, and is used by 19% of survey respondents[3] for haulouts. The next largest lift is an 88-ton capacity lift located at Bay Marine Boat Works in Richmond.

With only two large lifts along the key stretch of coast between San Francisco Bay and Ventura County decision makers in Morro Bay should consider the costs and benefits of a larger capacity (100 ton) Travelift.

The following page contains an analysis of boatyard haulout facilities between San Francisco Bay and Ventura County.

[2] The Sausalito Bayside Boatworks operator provided no weight capacity limit in one-on-one interviews with LWC staff.

[3] See Section 2.1 above for added detail.

Table 1. Boatyard Haulout Facilities between San Francisco Bay and Ventura County

Boatyard Name	Type of Lift (If Any)	Haul out (Y/N)
San Francisco Bay Area Boatyards		
Sausalito Shipyard and Marina	250 ton haulouts on marine rails	Y
Bay Marine Boatworks	23 ft beam, 88 ton travelift	Y
Bay Ship and Yacht	Does not perform haulouts	N
Bayside Boatworks	5 rails, 250-ton capacity	Y
Berkeley Maine Center	35 ton and 25 ton travelift haul outs	Y
British Marine	30 ton haul outs	Y
Drake Marine	Trailor haul outs depending on vessel size	Y
KKMI Richmond	88 ton travelift	Y
KKMI Sausalito	Small travelift for haul outs	Y
Napa Valley Marina	Performs haul outs using hydraulic trailor	Y
North Bay Boatworks	No information	-
Pier 66 Boatworks	No information	-
Richardson Bay Boatworks	40 ton travelift	Y
San Francisco Boat Works	35 ton travelift	Y
Spaulding Wooden Boat Center	Crane haulouts, up to 12 ton vessels	Y
Svedson's Boat Works	35 ton travelift and 60 ton elevator	Y
The Boatyard at Grand Marina	60 ton travelift	Y
Vallejo Boatworks	Travelift haulouts, no capacity information	Y
Monterey Bay Boatyards		
Breakwater Cove Marina	22 ft vessels, 80 ton travelift	Y
Capitola Boat and Bait Marina	Hauls vessels up to 17 ft with a crane	Y
Monterey Bay Boat Works Company	80 ton travelift	Y
Monterey Harbor and Marina	Does not perform haulouts	N
Moss Landing (Gravelle's Boatyard)	70 ft vessels, 75 ton travelift	Y
Santa Cruz Harbor	50 ton travelift	Y
Woodward Marine	Does not perform haulouts	N

Ventura County		
Bell Port Anacapa Marine Services, Oxnard	38 ton travelift	Y
Ventura Harbor Boatyard, Ventura	35 ton travelift; 150 ton travelift	Y
San Luis Obispo County		
Morro Bay Boatyard, Morro Bay	One 30-foot boat at a time	Y
Port San Luis Boatyard, Avila Beach	Travelift 75 tons	Y
Santa Barbara County		
Harbor Marineworks, Santa Barbara	40 ton travelift	Y

4.2 Case Studies

To better understand the potential demand for a boatyard and haulout facility in Morro Bay, four case studies within the competitive market area were chosen by project managers to serve as examples that reflect a wide range of user profiles, management and ownership structures, capacity and types of services. The case studies include: Gravelle's Boatyard (Moss Landing, CA), Santa Barbara Harbor Marine Works (Santa Barbara, CA), Ventura Harbor Boatyard (Ventura, CA), and Port San Luis Boatyard (Avila Beach, CA). Data on the case study facilities was gathered through site visits, phone interviews, and on-going conversations with commercial fishermen and MBYC representatives. Data was also collected from archival review (internet, industry publications, and academic papers) and discussions with a representative from Marine Travellift. Each case study was developed with a focus on eight (8) key components that affect the demand profile:

The case studies are aimed at informing decision makers in Morro Bay on how services; that range from a do it yourself approach to a more rigid one where vessel owners are obliged to hire boatyard employees, lift capacity, presence of a chandlery and nearby amenities might influence the amount and type of demand for a boatyard and haulout facility in Morro Bay.

1. Location and Background information reveals motivation for the facility to be included as a case study, distance (terrestrial) from Morro Bay and to provide insight on factors that may inform the Morro Bay community such as ownership profile and service protocol (do it yourself or employee-based).

2. Customer Base data provides insight into the motivation of vessel owners on their choices in selecting a particular boatyard and haulout facility. Customers range from recreational boaters to commercial fishermen, oil rig supply, government agency and marine research vessel operators.

3. Services and Capacity are aimed at providing an understanding on the services and amenities offered, including types and size of haulout equipment (travel lift, crane, etc.), fee structures and how services that range from a do-it-yourself (DIY) approach to a more rigid one where vessel owners are obliged to hire boatyard employees might influence the amount and type of demand for a facility in Morro Bay.

4. Financial Structure profiles highlight funding strategies for boatyard haulout facility operations and the purchase of equipment. Some boatyards operate solely through use of private funding, while others rely on public-private partnerships.

5. Infrastructure elements illustrate cost-benefit trade-offs each facility might consider. A large capacity boatlift, for example, requires a higher initial investment but may generate higher fees and attract more customers. Tenting and hull cleaning filtration systems will also increase the initial investment that will better ensure environmental compliance and will have to be passed on with little or no immediate benefit to the customer. Other infrastructure elements such as shoreline armoring, do not attract additional business, but ensure continued facility operations.

6. Nearby Amenities are addressed as they may influence a customer's selection of a boatyard haulout facility. A lack of necessary amenities may negatively impacts vessel owners' patronage decisions.

7. Competitive Profile provides a snapshot of perspectives from web-based sources such as Yelp.com, Latitude 38's online message board as well as an assessment conducted by the Santa Barbara Harbor District. This information is intended to provide insight to decision makers in Morro Bay and augment the archival research and personal interview data.

Aquarius Boatworks in Santa Cruz, a privately owned facility, handed over the management and ownership of the boatyard to the Santa Cruz Harbor District in September of 2014. Former owner, Dave Dawson, stated that as the economy slowed beginning in 2009 and his large cruising (sail and motor) customers reduced the extent of work and were reduced in numbers, he found it increasingly difficult to keep the doors open. He claims that without the large vessels and big-ticket jobs it is extremely difficult to run a boatyard. Aquarius, as they were located in Santa Cruz Harbor, also worked on commercial fishing vessels, mostly local and some visiting. Santa Cruz Harbor Boatyard currently operates as a "Do It Yourself", open daily from 9 am to 6 pm. Boat owners, or independent contractors who have registered with the Port District are permitted to perform vessel repairs and maintenance in the yard. Tools, such as vacuum sanders are available for rent, and a general stock of boatyard cleaning and painting supplies are available for purchase at the ship's store on site, although vessel owners can provide their own supplies.

In circumstances where the availability of hotels may influence decision making on the choice of a boatyard and haulout facility, the City of Morro Bay offers 41 hotels, many moderately priced and in walking distance from the Embarcadero. Occupancy rates are higher during the summer months but trail off significantly between September and May (Piedras Blancas Hotel Feasibility Study and Redevelopment Alternatives, Lisa Wise Consulting, Inc., 2011).

8. Take-Aways for Morro Bay provides a list of the issues that have most affected each facility and how they may inform decision making in Morro Bay. They draw from the breadth of the work in the case studies and include the topics of ownership structure, the use of grants and loans, considerations on full service versus do-it-yourself approaches, types and capacity of equipment, including enclosed/tented facilities and physical site considerations.

4.2.1 Port San Luis Boatyard, Avila Beach, California

Location and Background

Located in Avila Beach, California, Port San Luis Boatyard (PSLBY) is approximately 25 miles south of Morro Bay and the closest facility among the four case studies. PSLBY is partially managed by the Port San Luis Harbor District, with a lease to private operators. The Harbor District oversees administration and some financial responsibilities, while the operators oversee day-to-day operations and maintenance of the leasehold.

Customer Base

Based on personal communication with a Harbor District official, the boatyard is currently servicing a mix of about half commercial fishing vessels and half recreational vessels, mostly sailboats.

Services and Capacity

PSLBY operates under both full-service and DIY models. The boatyard provides two options for haulout services: A 15,000 pound (7.5 ton) capacity fixed ACME Hoist and a 60-ton Travelift. The boatyard also offers dry boat storage, blocking services, rental of spaces where work can be performed, fresh-water facilities for cleaning, and a wastewater discharge facility. The storage facility can accommodate trailers and vessels up to 10 feet wide and 30 feet in length with a capacity of 30 boats. Live-aboards are prohibited.

Finance Structure

PSLBY operations are funded through revenues generated by the boatyard.
The PSLBY pays a fixed monthly operating fee, with high season and off-season rates.
The boatyard operators are also responsible for the utility costs such as garbage and debris removal, electrical or other power, water, sewer and any other utilities.

Findings from a 2007 feasibility study determined that the 60 foot mobile hoist pier (on which the Travelift moves) needed to be extended an additional 60 feet seaward to better avoid constraints of wave action and sanding in of the haul/launch area. The extension is estimated at $700,000. The Port San Luis Harbor District has successfully partnered with the Central California Joint Cable/Fisheries Liaison Committee (CCJCFLC) and the San Luis Obispo Council of Governments (SLOCOG) to attract grant funding for “Plans and Specs” and then funding for implementation. The project was awarded $215,000 in grants by the CCJCFLC across two grant cycles, while SLOCOG has contributed $25,000 to the extension project. The District also hopes to secure an additional $150,000 from the California Division of Boating and Waterways.

Infrastructure

Port San Luis has a Travelift for larger vessels, a crane for smaller vessels, ample parking, a boatyard with sufficient space for up to 30 vessels of varying lengths as well as sufficient electrical power and fresh water. There are public restrooms on site. However, weather-induced wave and surge action and sanding-in of the launch area has historically constrained the facility and hampers the boatyard's ability haul and launch vessels at their or their customer's time of choosing. While the extension of the hoist pier will likely mitigate some of these concerns, because the boatyard is not located in a sheltered area, PSLBY's ability to haul and launch vessels will likely continue to be constrained to some degree.

Nearby Amenities

Nearby amenities include restaurants, convenience stores, retail outlets, two hotels and a small chandlery. Port San Luis is approximately four miles from Highway 101 and 10.5 miles from San Luis Obispo.

Competitive Profile

Port San Luis has gained a reputation for being a difficult place to haulout due to wave and surge and sanding in of the haulout site. The facility has also gained a reputation for a years-long waiting list. The District understands this and has addressed the issues with a feasibility study and the pursuit of grant funding to extend the pier and hopes that the new ownership will bring a better perception and professionalism. A 50% share of the boatyard recently changed hands and District staff claims to have already seen an improvement in the facility's operation and maintenance.

Takeaways for Morro Bay

The following are key takeaways for Morro Bay from the case study of the Port San Luis Boatyard:

- A crane or hoist for smaller vessels and a Travelift for larger ones may increase the facility's competitiveness and client diversity.
- Allowing some live-aboards may make the facility more attractive to a greater number of users. Clear guidelines on live-aboards should be established and enforced.
- A close and communicative relationship between the Harbor District and the facility operator is important.
- Careful selection of the haulout site, avoiding a site that is easily "sanded in" or adversely affected by waves and surge, and an understanding that a vessel owner's decision to haul or not at a given location may be influenced by weather or other uncontrollable forces.
- Options for dry boat storage may give the facility additional income.
- Grant funding should be considered from SLOCOG, DB&W, and CCJCFLC

4.2.2 Santa Barbara Harbor Marine Works, Santa Barbara, California

Location and Background

Santa Barbara Harbor Marine Works (HMW) is located approximately 105 miles south of Morro Bay. The harbor in Santa Barbara is home to active recreational, commercial fishing, sport fishing and agency fleets, as well as many coastwide cruising and transient vessels. HMW has performed considerable infrastructure upgrades on the property and continues to operate under limited DIY and full-service models. While HMW has a diverse client base, their business model serves primarily recreational vessel owners.

Customer Base

According to personal correspondence with co-owner, Damon Hulst, the HMW relies on a diverse mix of clients. Smaller vessels from the commercial fishing fleet in Santa Barbara use this boatyard, as do some boats from nearby ports, e.g., Morro Bay. The business mix includes recreational sail boats and competitive motor and sail boats; a large part of HMW business is generated from the various boat races and competitive sailing events held in and around the Santa Barbara Harbor. Mr. Hulst estimates his business (activity not income) is comprised of 75% recreational vessels and 25% commercial fishing vessels. HMW clients are almost entirely local vessels, with only about 5% being transients. The HMW also relies heavily on doing work for boat owners who keep their vessels in Santa Barbara but live outside the area. Mr. Hulst describes these owners as coming from places as far away as Colorado. These owners are typically less concerned with saving money by doing work themselves or sourcing their own supplies. The HMW negotiates with these owners to haul out their boats, perform maintenance and repairs, and have the boats in the water for the owners when they arrive for vacation or visits. This "big ticket" business is a significant source of income for the HMW facility.

Services and Capacity

HMW is both a full-service and limited do-it-yourself facility. HMW generally does not allow customers to work on their own boats, but in some cases they will allow a qualified individual to perform certain repairs to his or her vessel (personal communication, Damon Hulst 7.29.14). HMW offers service repairs and labor, and rental of tools and equipment. The facility operates a late model 38 ton Travelift, with the ability to haul, block, launch, and truckload. HMW does a high volume of business with vessels that are loaded on commercial haulers for transport to Northern Ports and destinations around the country (primarily fiberglass sailboats). HMW also offers 24-hour emergency haul outs available through the Santa Barbara Harbor Patrol. HMW attributed a closed/tented area as a critical to being able to sand and soda/water blast and contain dust and airborne particulate matter.

In addition to launching and retrieval of boats, rafts, barges and other watercraft, HMW offers sales of marine supplies, hardware and equipment, and boat sales and rentals.

HMW does not have dry boat storage. In a site visit on September 16, Mr. Hulst, explained that he has considered a "stack and store" storage service but has met with opposition from local residents concerned with height restrictions and the obstructions of the view shed. The Santa Barbara Yacht Club and the Santa Barbara Sailing club offer dry storage for sailboats nearby.

Finance Structure

HMW's operations are largely privately funded.

The boatyard operates on a ground lease from the City of Santa Barbara, last renewed by the City Council on January 24, 2013. The lease is for a 5-year term charging a monthly base rent of the greater between $4,157 and a specified percentage of gross sales.[4]

Infrastructure

The owners of HMW invested in significant improvements to the boatyard's facility and environmental infrastructure. Facility infrastructure improvements include an upgraded Travelift as well as upgraded water and electrical service. To improve its environmental infrastructure, the owners recently invested in a filtration system that ultimately filters and diverts yard runoff from a storm drain to the City sewer system.

Nearby Amenities

Nearby amenities are primarily marine-dependent, and visitor-serving, and target tourists, vessel owners and water sports enthusiasts (e.g., a maritime museum, fish market, water taxi, boat kayak and stand-up paddle and surfboard rentals and lessons, charter vessels, hotels, and restaurants). A nearby fuel dock, dry storage and a West Marine retail chandlery outlet in the harbor round out the amenities available to boaters. Santa Barbara also offers a vibrant downtown with a wide diversity of commercial and retail options, within a reasonably close proximity to the boatyard.

Competitive Profile

As part of an evaluation for lease requirement recommendations to the City Council, the Santa Barbara Harbormaster assessed user concerns for HMW. The Commission found that performance issues were limited to two unsolicited customer complaints over a period of six years (2007 and 2009). One customer noted that the boatyard's owners were great to work and

[4] The percentages of gross receipts are specified as follows:

- 10% on all labor, service repairs and fees
- 5% on all crane services, yard rental fees ("lay days"), tool and equipment rentals and for the launching and retrieval of boats, rafts, barges and other watercraft
- 4% on all marine supplies, hardware and equipment
- 1% on new and used boat sales, warranty sales and service, off-site contractual labor, catalogue and mail order sales, sales of marine electronics, electric motors and electric motor driven equipment, internal combustion engines, drives generators, and related equipment
- 10% from other transactions not specifically defined above

staff performed quality service, but the rates were on the expensive side.[5]

Takeaways for Morro Bay

The following are key takeaways for Morro Bay from the case study of HMW:

- Proximity to the 1,100 slip Santa Barbara Harbor and a highly populated, affluent community may influence the feasibility of HMW.
- A ground lease with some flexibility as in the percentage of gross sales option benefits the landlord with higher income in strong periods and enables the lessee to revert to a consistent "base" amount when sales and service are lighter.
- Tenting and/or providing enclosed work areas enables the boatyard to contain airborne material, comply with air quality and disposal requirements/regulation and to offer a greater range of services to their clients. These systems come with a higher cost and increase costs to the client/user.
- Filtration systems that divert yard material to sewer systems enable compliance with water quality regulations and offer a greater range of services to their clients. These systems come with a higher cost and increase costs to the user.
- The DIY option may reduce costs and help to attract more and diverse clients. However, spaces used by clients only paying lay days and not paying staff, or buying/renting supplies could affect feasibility and increase liability.
- Boat and other watercraft rental, sales, retrieval may offer additional revenue options and provide a competitive advantage whether owned and operated by the boatyard subleased to another business.
- 24-hour haulout service may provide additional revenue opportunities and a competitive advantage.

4.2.3 Ventura Harbor Boatyard, Ventura, California

Location and Background

The Ventura Harbor Boatyard (VHBY) is located 130 miles south of Morro Bay and is a preferred facility for many Morro Bay commercial fishing vessel owners. Ventura Habor boasts five marinas and a total 1,500 slips, two fuel docks, two dry storage facilities and two yacht clubs. Like HMW in Santa Barbra, VHBY undertook considerable infrastructure upgrades in recent years. Unlike HMW, whose infrastructure improvements were largely privately funded, a portion of VHBY's financing was generated from its successful public-private partnership with the Ventura Port District.

[5] In a June 4, 2014 post on Yelp.com, a customer identified as B.C. from Santa Barbara awarded four out of five stars to HMW and named the owner, Damon Hulst, as someone "great to work with." The customer admits that this boatyard is generally more expensive than in Southern California, but the quality of work and guarantee is worth the extra expense. The customer recommends that users trying to save money inquire about weekend haul out and do-it-yourself maintenance specials.

Customer Base

VHBY primarily services commercial and recreational fishing vessels, cruisers, oil rig service and research vessels and yachts. The current service manager claimed that traditionally, the big vessels (fishing trawlers) provided big jobs and income but that their numbers had fallen considerably. Today the boatyard relies on oil rig supply (crew) vessels, commercial tug fleets from surrounding ports, big sail boats, seiners (local), and large sail boats (personal communication 7/16/14).

Photo: an Alaskan trawler of approximately 90 feet, purchased by a California fishing operation to be outfitted as a seiner, at Ventura Harbor Boatyard.

Services and Capacity

The facilities at the VHBY allow for full-service and DIY maintenance. The boatyard owns and operates a 35-ton and a 150-ton Travelift. VHBY's Travelift capacity affords the business a competitive advantage. Only the Sausalito Boatyard at 250 tons, and KKMI in Point Richmond at 100 metric tons, offer similar capacity service between Ventura and Marin County.[6] The boatyard also maintains a 4.5 acre facility with the capacity to service of up to 30 boats. Boatyard staff of about 50 is made up of professional tradesmen and technicians. There are two dry storage yards in the Harbor but no dedicated dry storage at this facility.

Finance Structure

VHBY financed infrastructure upgrades through a public-private partnership with the Ventura Port District (VPD). This partnership enabled the acquisition of the boatyard's 150 ton Travelift as well as the two parcels of land where VHBY is located. The Travelift was funded by a $641,000 grant through the California Sport-fishing and Boating Safety Act that was awarded in 1999.

[6] The Sausalito Shipyard can service boats up to 250 tons via marine rails that were constructed during WWII to launch the Liberty Ships.

Matching funds were split between the Harbor District and VHBY.

The VHBY operates on a ground lease as the property is owned by the VPD. Annual lease fees are $3716 per month for the first five years and adjusted every five years thereafter. Rent is due at the rate of $10,000 per month and a lump sum payment of the balance of $103,000 due and payable on or before the end of each calendar year. The lease agreement also includes a revenue sharing obligation on a percentage of fees and rents. VHBY can support this level of lease and rent expense due to the scale and scope of their projects and ability to attract and service large commercial fishing, oil rig supply, commercial construction and research vessels.

Photo: the 65 foot *Ocean Defender* oil spill response vessel at Ventura Boatyard

Infrastructure

As previously discussed, VHBY purchased a 150-ton Travelift as a facility infrastructure improvement. As for environmental infrastructure, reliable funding for dredging is a priority for VHBY. Steve James, General Manager and part owner of the VHBY, stated that their business depends on attracting larger, deeper draft commercial vessels for service. Maintenance for these larger vessels requires regular dredging, which can be costly. However, VHBY's public-private partnership with the Port District generates funding for these projects and the federally navigable channel makes the Harbor eligible for federal funding.

Nearby Amenities

Ventura Harbor is home to a balance of marine-dependent, marine-dependent/visitor-serving, and visitor-serving amenities. Notably, there are several marinas and a number of marine-related activities such as charter sailing, kayaking, cruises, boat rentals, paddle boarding, sport fishing and diving. Marine-dependent amenities include a marine bio-lab, fuel docks, and dry storage. Visitor-serving amenities include hotels, restaurants, shops, and the Channel Islands National Park Visitors Center. Commercial fishing infrastructure in Ventura harbor includes a wetfish pump that attracts a large seiner fleet[7].

[7] Squid seiners are some of the largest boats in the CA commercial fishing fleet and Ventura is homeport for many of these boats. According to the CDFW in 2012 market squid landings accounted for 71% of all Ex-vessel value of landed fish in Ventura, a total value of over $8 million.

Competitive Profile

VHBY hosts a crew of welders, carpenters, electricians; the yard has two travel lifts and proximity to oil rig supply and tug fleets as well as a 1,500 berth capacity. These factors play the largest role in the facility's competitive advantage. Further, online reviews of VHBY have been largely positive. Customers praised the business's thoroughness[8] and workmanship[9] in maintenance and service. A personal blog titled "Vagabonding Under Sail"—authored by a couple who sold their Iowa home and purchased a sailboat in Ventura—includes a review of VHBY. The couple chose Ventura in part because of their positive and educational experience with VHBY's staff and equipment.

Takeaways for Morro Bay

The following are key takeaways for Morro Bay from the case study of VHBY:

- Public-private partnerships should be considered as a potential vehicle for infrastructure financing and land acquisition.
- Dredging of the channel(s) leading up to the haulout facility should be considered as the cost of dredging around the haulout area.
- Diversity of clientele could mean a more feasible business.
- High lift capacity offers a competitive advantage but a higher acquisition cost.
- Qualified staff offers a competitive advantage but higher acquisition and ongoing costs.
- Offering do-it-yourself and full-service may bring additional revenue and costs but provide a competitive advantage.
- Grant opportunities through the Sport-fishing and Boating Safety Act (and others) should be considered.
- Proximity to the seiner, oil rig and tug fleets and a full time staff of 50 mechanics and technicians fuel VHBY's ability to attract large boats and support large scale projects.

Potential Competitive Advantage: Between Los Angeles and San Francisco, only two facilities offer lift capacity of 100 tons or over; Ventura Harbor Boatyard and KKMI in Point Richmond. Sausalito Boatworks can handle vessels up to 250 tons but can only work on five boats at a time (one at each of the marine rails).

[8] In August 2012 on Yelp.com, a customer using the name Mark from San Simeon, California posted that he was pleased with the professional level of work that had been performed on his kelp-cutter as an emergency haulout. Mark regarded the work as being complete and thorough.

[9] In June 2011 on Yelp.com, Jim from Ventura wrote that he would highly recommend the VHBY because of their excellent workmanship and communication with him as the vessel owner. Jim states that the price was fair and work was completed in a reasonable amount of time.

4.2.4 Gravelle's Boatyard, Moss Landing, California

Location and Background

Gravelle's Boatyard is located in Moss Landing, approximately 135 miles north of Morro Bay and is one of four boatyards that performs haulouts in Monterey Bay. Moss Landing is an active working port and home to a commercial fleet that generates approximately $7 million in earnings at the dock in 2013. The harbor is also home to a 600-slip marina with a mix of commercial, recreational, motor, and sail vessels as well as research vessels owned by the Monterey Bay Aquarium Research Institute (MBARI) and Moss Landing Marine Lab (MLML). The boatyard was established in 1987 and owned and managed by three generations of the Gravelle family. But, as discussed further below, the family is currently negotiating to sell the facility (to Gregg Marine) citing a drop in demand and costs from environmental compliance, dredging, erosion control, insurance and the challenges of attracting and keeping qualified staff. The Gravelle's case study highlights the financial and infrastructure challenges that privately-owned boatyard and haulout operations face. According to the owners, as a private business, they are not eligible for certain environmental exemptions that a State or City-owned business might be.

Customer Base

According to California Coastal Commission (CCC) Gravelle's Boatyard is essential to maintaining commercial, recreation and scientific boating in the Moss Landing Harbor (CCC Staff Report 23 May 2013).

Boatyard owners report that fifteen to twenty years ago Gravelle's had a client base of approximately 60% fishing boats and 40% recreational sailboats. Today, that percentage is flipped, with only 40% of their clients' active commercial fishing vessels. Owners claim that they have not worked on a commercial fishing trawler for five of six years and due to closures in the salmon fishery, have seen steep drops in those clients as well.

Services and Capacity

In the past, Gravelle's Boatyard appealed to Morro Bay Fishermen because it had operated under the full-service and DIY models. In 2014, however, the Gravelle's limited its offering to full-service only.

A diverse client base of recreational boaters, commercial fishing, marine research and government agency (NOAA, Coast Guard) business has enabled the facility to be less reliant on any one industry and operate with greater resilience.

From 2010 to 2013, Gravelle's upgraded its haulout capacity from 60 tons to 75 tons with a $300,000 purchase of a previously owned 75-ton Travelift. The facility handles approximately 600 boats a year, half of which are serviced at some level at the boatyard. The remaining 300 are simply hauled out or returned

Both Gravelle's and Santa Barbara claimed to use the mobile soda wash and bead blasting services as a more cost efficient way to address customer needs and avoid expensive filtration and disposal requirements and staff to operate the equipment.

The cost of a new Marine Travelift ranges from approximately:

- 50 metric tons - $250,000
- 75 metric tons - $300,000
- 100 metric tons - $450,000-$500,000
- 150 metric tons - $750,000

These are "base model" costs and include delivery, on site assembly and training (personal communication with Marine Travelift, October, 2014).

to the water for storage or transport. The absence of a staging

dock presents a challenge for some boaters as it requires a greater level of operating skill to steer boats into the facility's narrow quay, it also limits the facilities ability to calibrate or test certain equipment (electronic instruments, cooling systems, etc.) before the vessel heads to sea.[10]

In the past, the facility was staffed with three to four employees, each with some level of expertise in woodworking, rigging, painting and operation of onsite equipment. As demand for the facilities services declined through the 2000s due to a loss of larger fishing vessels, closures in the salmon fishery, a soft economy and the difficulties of attracting and maintaining qualified tradesmen, Gravelle's decreased its staff to one part-time employee. Chad Gravelle remains on-hand at the facility and is considered an accomplished welder and metal fabricator and well-versed in operation of the Travelift and other equipment.

The facility has an on-site chandlery with an extensive stock of paints and painting supplies,, zincs, maintenance and repair consumables, fiberglass, resin and epoxies, lights, switches, wiring, deck hardware, stainless fasteners, and fuel systems—all but that what might be needed by very large vessels or specialized fishing gear. The boatyard includes dry dock space for rent and repair of up to 12 boats. There are no long-term storage facilities for sailboats or small craft at Gravelle's. The facility occasionally relies on mobile soda wash and bead blast contractors.

Finance Structure

While the Moss Landing Harbor District provides nearby amenities of value to Gravelle's customers, Gravelle's is entirely privately owned and operated. As such, Gravelle's has borne the burden of marine-related infrastructure costs without public partnership or funding support. The Gravelles are currently negotiating with Gregg Marine for sale of the boatyard. Gravelle's owners claim that the primary reasons forcing the sale are the environmental regulations associated with Proposition 65, the Clean Water Act. The regulations required purchase of costly new filtrations systems for collecting liquids used in cleaning boat bottoms, modification of a seawall, and have caused a reduction of the number of services the boatyard can offer, such as sand blasting and bead blasting which require cumbersome permits that significantly increase costs.

Lease Information

The property at the boatyard is owned by the Gravelle's. The owners pay no rent or fees to the Harbor District, and instead have been paying down a mortgage for the property. The current land value less the outstanding balance on the mortgage (if any) may serve as a potential capital source that could support boatyard / haulout operations. The sale of the property includes the boatyard and haulout business and the property. The Gravelle's have stated that this is partially based on environmental liability concerns.

[10] A staging dock is an area reserved for the final launch or temporary inbound hold of a vessel where visual and electronic inspection may be performed to ensure accuracy.

Infrastructure

Maintenance of physical infrastructure in shoreline erosion and environmental requirements associated with Proposition 65[11] have posed tough challenges for the boatyard.

Since the late 1990s, erosion of the sandbars adjacent to the harbor entrance channel and Gravelle's boatyard had begun to negatively affect efficient operation of the boatyard. A large storm in January of 2001 required temporary placement of approximately 150 cubic yards of quarter-ton rock along the edge of the boatyard and storage area. In 2013 Gravelles installed a 161-foot long riprap revetment[12] to prevent further erosion of the area, all at the owner's sole cost and expense.

Nearby Amenities

The area surrounding Gravelle's offers a balance of marine-dependent, marine-dependent/visitor-serving, and visitor-serving amenities. Marine-dependent amenities include a fuel dock, dry storage, pump-out facilities, and a four-lane public boat launch ramp[13]. Marine-dependent/visitor-serving amenities include a public wharf[14], fishing supplies, a maritime museum, off-the-boat fish sales, restroom and shower facilities, and laundry.

Competitive Profile

The Gravelle family has a reputation of being fair and honest, and Gravelle's staff is repeatedly mentioned as a key reason customers use and return to the facility. Reviews from Yachtsman Magazine, Latitude 38 Magazine and Yelp.com offer some insight into the user perception of Gravelle's Boatyard facilities.

A customer from Lewiston, California traveled over 300 miles to Gravelle's because her charter boat was too large for other facilities.[15] However, another customer noted Gravelle's lack of staging dock presented some challenges.[16] While the boatyard's staff received generally

[11] According to California Office of Environmental Health Hazard Assessment, "Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, was enacted as a ballot initiative in November 1986. The Proposition was intended by its authors to protect California citizens and the State's drinking water sources from chemicals known to cause cancer, birth defects or other reproductive harm, and to inform citizens about exposures to such chemicals." (http://oehha.ca.gov/Prop65/p65faq.html)

[12] A riprap revetment is a structure used in coastal engineering to prevent erosion of an existing coastline. It consists of rock or concrete rubble piled in a sloped configuration against the shoreline. The debris is meant to dissipate the force of wave action against the shoreline and lessen the effects of coastal erosion.

[13] The new launch ramp is located at the Moss Landing North Harbor adjacent to Highway 1, and was built in 2007 with grant funding from the California Department of Boating and Waterways

[14] The 900-foot long public wharf is located at North Harbor off of Highway 1, and was completed in 2007 with a loan from the California Infrastructure and Economic Development Bank.

[15] In 2011, a customer using the name Heidi T. from Lewiston, California claimed on Yelp.com to travel over 300 miles to Gravelle's with her charter boat because it is too large for other facilities. "The people are honest and helpful, with a high quality of work, a good stock of supplies in the store and decent prices".

[16] In 2012, a large vessel owner detailed on Yachtsman Magazine website how he was forced into a snug fit into the Gravelle's Travelift facility space. Despite the challenges, including having no staging dock and the tight fit of the vessel, the review was positive. Specifically the review stated that there were "tools for rent and a well-stocked chandlery with a very helpful staff". Customer service was discussed in a high

positive reviews, one customer noted that he no longer considers Gravelle's an option after its switch to a solely full-service facility.[17]

Takeaways for Morro Bay

The following are key takeaways for Morro Bay from the case study of Gravelle's Boatyard:

- Carefully consider an optimal Travelift capacity for Morro Bay users. Also, consider previously used equipment where possible.
- Carefully consider erosion, water treatment, permit entitlements and other environmental concerns at the haul out site.
- Assess the cost and benefits of full-service and/or DIY operations, including the costs associated with attracting and maintaining qualified staff and liability and insurance to cover vessel owners and crew working on their own boats.
- Consider the costs and benefits of the inclusion of a ship's store that could service vessel owners and boatyard staff. A partnership with the existing chandlery in Morro Bay may be worth investigation.
- A diverse client base of recreational, commercial, and marine research enables the facility to be less reliant on any one industry and operate with greater resilience.
- Showers, laundry facilities, dry storage, parks, restaurants and other visitor serving amenities may serve to attract more clients.
- Consider the costs and benefits to users of a staging dock
- Consider advantages and disadvantages of owning the property upon which the boatyard / haulout land is located.
- Consider that advantages of a City-owned facility and or property as opposed to a private ownership.
- Consider the costs and benefits of long or short-run use of mobile bead blast and soda wash contractors.

regard and Gravelle's was referred to as one of the more positive experiences within a haul out facility this user had encountered.

[17] In 2014, a customer posted on Latitude 38 Magazine that he was informed over the phone that Gravelle's no longer allows boat owners and their crew conduct repairs and maintenance and anything done to the outside of your boat has to be performed by a Gravelle's employee at the rate of $80/hour." The caller was informed that the reason for the change was too many "sloppy" boat owners allowed too much contamination to run into the waters of Moss Landing. As such, for this reviewer, Gravelle's is no longer an option.

5 Key Findings and Recommendations

5.1 Key Findings

The ultimate goal of establishing a boatyard and hauout facility in Morro Bay is to ensure the community has the physical resources and services to support resilient, independent and economically productive commercial, recreational, research and safety/security marine-dependent activities.

The Boatyard and Haulout Facility Market Demand Analysis was conceived and implemented to advise decision makers on the potential demand if a boatyard and haulout facility were established in Morro Bay. The findings of this first phase will advise decision makers if subsequent steps ("Phase II") in the investigation should be taken; such as:

- Alternative sites analysis
- Conceptual site plans
- Technical investigations including CEQA
- Potential ownership structure assessment and
- Coastal Development Permit and Regulatory agency approval

The following is a summary of the highest priority and most pertinent information that was generated from the extensive input gathered from the City, commercial and recreational fishing communities, representatives from the Morro Bay Yacht Club, and a written survey that was distributed to the entire boating community. Information was also gathered from a review of pertinent State, Federal and industry databases and site visits to Ventura Harbor Boatyard, Santa Barbara Boatyard, and Gravelle's Boatyard as well as email and phone communication with representatives from these facilities. The report aslo includes information provided by representatives from the marine travelift industry.

Timing is Everything

The Morro Bay City Council has acknowledged the community's desire for a boatyard and haulout facility and has been assessing options since 1997. If property becomes available to the City as a result of the decommissioning of the Dynegy power plant, the timing may be right to engage in next steps of the boatyard haulout assessment process.

Broad Support

There is strong interest and support from a diversity of local stakeholders, led by the commercial fishing industry (MBCFO), recreational boaters (MBYC), the environmental community (MBNEP) and others. Vessel owners and operators have a keen interest in a local facility. As direct patrons, it would reduce the distance they must travel to haul their boats out and perform maintenance. The MBNEP, as a representative of the environmental community, supports a potential boatyard and haulout project to enable Morro Bay to quickly address leaking or

Of those who responded to the survey, 20% travel to Ventura for haulout and maintenance, 11% to Santa Barbara, 20% to Port San Luis, 7% to Moss Landing and 45% to "other" facilities.

derelict vessels, protecting the estuary and fulfilling a key tenet of their mission. A project of this scope and scale will require close collaboration with and support from as many marine-dependent users and stakeholders as possible.

Local Demand

Of the 450 vessels in Morro Bay, 110 responded to a written survey. From those responses, Morro Bay could expect approximately 269 customers/vessels per year to spend between $1.1 million and $2.3 million at the haulout and boatyard facility. This assumes the facility would allow some work to be conducted by vessel owners and would provide the basic services such as bottom cleaning and sanding, painting, replacement of zincs, drive shaft and rudder repair and maintenance (see Appendix D for details).

Industry Trends

Approximately 450 recreational and commercial vessels are in Morro Bay; many owners of which have confirmed their interest in and intent to patronize a local boatyard and haulout facility. In addition, approximately 300 recreational vessels and dozens of commercial fishing vessels visit Morro Bay each year and represent additional potential demand. Highlights of trends in these "demand" industries include:

- **Commercial fishing** activity in Morro Bay, measured in earnings at the dock, has increased by over 370% in the last 5 years and mirrors trends in the State (CDFW).
- **Recreational boat registration**, California is number 4 in the nation at over 800,000 (Recreational Boating Statistical Abstract, 2011, NMMA)
- **Ship, Boat Building and Repair** industry is valued at approximately $670 million in California (NOAA, ENOW).
- **Recreational fishing** trips and the number of CPFV anglers rose in 2012 and 2013, back to 2004 and 2005 levels (CDFW).

Competitive Climate

Small coastal communities like Morro Bay are relatively isolated from services such as a boatyard and haulout services. As these services are a universal requirement of boat owners large and small, recreational and commercial, there exists a fairly high percentage of latent local demand. As indicated in the survey responses, the majority of vessel owners in the harbor would likely patronize a boatyard and haulout facility in Morro Bay.

Decision makers in Morro Bay should also consider that between Point Richmond in San Francisco Bay and Ventura (approximately 375 miles), there are no boatyard and haulout facilities with over 80-ton travelift capacity. While there are only two or three vessels currently in the harbor that require this capacity, decision makers should weigh the costs (capital, maintenance) and benefits (more revenue) of a larger capacity Travelift. Decision makers must also consider increased boat traffic in the harbor that a larger capacity lift might attract, although it would like not be more than one or two boats per month.

> **"I am surprised there are no facilities in that stretch of coast with more than 100 metric ton capacity. Even from Ventura south, there are few, if any, facilities with high capacity lifts"**
> (Jason Johnson, North American Sales Manager, Marine Travelift, personal communication, October, 2014)

Reputation

Through spoken interviews and the formal survey conducted for this project, the reputation of the staff and their ability to address technical projects such as aluminum and stainless steel fabrication and the quality of workmanship are top criteria for vessel owners on where they haul their boats out. The capacity of the travelift also becomes a "calling card" and defines the facility and the target clientele.

Soda blasting is a high-pressure, air-driven method of cleaning and stripping paint from steel, fiberglass and aluminum substrates in

Innovation

Innovative approaches to funding for capital equipment, management and the use of new technology are important influences to the performance and tenability of a boatyard and haulout business.

Over 75% of survey respondents claimed that they engage in bottom cleaning in a typical haulout.

Three of the project case studies use, at some capacity, mobile soda and bead blast services. This gives those facilities the capability to address an important task without investing in and maintaining expensive equipment and personnel. Mobile blasting services also provide a solution for compliance with environmental requirements, as all the liquid and solid material used in the process is taken off site.

The Ventura Harbor Boatyard took a non-conventional approach to funding for the purchase of their travelift through a public-private collaboration with the Harbor District. The Port San Luis boatyard and haulout is partially managed by the Port San Luis Harbor District, with a lease to private individuals

Public versus Private

Based on our research, without consistent demand from large vessels undertaking extensive work, it is difficult to maintain a private boatyard and haulout facility, particularly considering land acquisition costs. A publicly owned facility is able to assume the perspective of addressing the public good, protecting harbor assets as well as addressing the tenets of the Coastal Act, by supporting commercial and recreation fishing and marine-dependent activities. A publicly owned facility will also have access to grant sources not available to a private business. Grant sources that were identified by other facilities include: Central Coast Joint Cable Fisheries Liaison Committee, San Luis Obispo Council of Governments, and the California Division of Boating and Waterways. A more extensive list of potential funding sources for planning and development of a boatyard and haulout facility can be found in Appendix B.

Of those that responded to the project survey, 43% claimed that they chose a haul out facility because of its "closeness and convenience", 24% claimed to make that decision because they could work on their boat themselves.

Client Diversity

A diverse customer base of commercial fishermen, recreational boaters, research vessels and local and visiting boats will translate to greater feasibility and resiliency. Ventura has benefited greatly from clients in the marine oil and gas industry and Gravelle's from the nearby research institutions such as MBARI and Moss Landing Marine

Labs. Morro Bay does not have the proximity to oil rigs or research institutions and may consider attracting such clientele, with, for example a large capacity travelift and/or access to technicians with experience on larger and more complex engagements (shipwright, welders, fabricators).

Do-it-Yourself or Boatyard Staff

Evidenced by survey responses, whether a vessel owner is allowed to work on his boat or not is a strong influencing factor on boatyard and haulout facility choice, particularly for commercial fishermen. Being able to work on your own boat only followed proximity as the strongest influence on boatyard choice. Many respondents also claimed to be influenced by qualified and experienced staff. Even those vessel-owner who undertake most of their own hauout and boatyard work, seek the expertise of welders, electrician, carpenters, rigging experts and diesel mechanics.

Storage for Sailboats

The present sailboat storage facility in Morro Bay is considered inadequate and representatives from the MBYC and sailing community expressed strong sentiment that there is demand for storage and an economic opportunity is being missed in Morro Bay. While many of the survey respondents keep their boats in the water or have trailerable vessels (and don't need storage), over 30 respondents stated that they would patronize a storage facility in Morro Bay. The majority of these respondents were sailboat owners but commercial and recreational motor craft owners have expressed their interest and support as well and make up the potential market for dry storage.

Photo: Boat storage on the South Embarcadero, Morro Bay

This report is an excellent example of the community's capacity to identify priorities, procure funding and execute projects.

The survey sought specific information on local vessel owners' influences and preferences on boatyard and haulout facility patronage and the frequency and type of work in which they engaged.

The case studies were intended to shed light on various approaches as they may affect demand: lift capacity, service protocol, financing, customer base and related infrastructure.

5.2 Recommendations

The recommendations herein are aimed at advising leaders and decision makers in Morro Bay on the next steps in the possible planning of a boatyard and haulout facility, including the possibility the project is simply not feasible or tenable.

Recommendations that follow are based on the profile of potential demand and market conditions drawn from: 1) on-going discussions with and a formal survey of the local commercial and recreational fishing community, the recreational boating community and the City of Morro

Bay, 2) case studies of four regional boatyard and haulout facilities and 3) a review of data from local, state, federal and industry archives.

Research included a review reports generated from Morro Bay's 17-year pursuit of a boatyard and haulout facility and trends in the California ship and boat building industry, and local user groups such as commercial and recreational fishing and recreational vessel ownership.

Based on the findings of this project and understanding of the potential local demand of approximately 269 customers/vessels and $1.74 million per year and the additional potential demand from visiting vessels, **it is recommended that the community proceed with follow-on steps to test feasibility of and possibly pursue entitlements for a boatyard haulout facility in Morro Bay.** Based on the findings, it is unlikely an entirely privately owned and managed boatyard and haulout facility would be successful in Morro Bay, one that would carry the burden associated with all land and infrastructure costs (mortgage, taxes, etc). As such, it is recommended that the community work closely with Dynegy, the City, and other proven funding sources to acquire land and approach the project from a public private partnership model that has proven effective as illustrated in the case study section of this report. Still, it is possible that the project is found to be untenable if appropriate physical sites cannot be identified or procured, or there are regulatory hurdles that cannot be mitigated. The recommendations are as follows:

The MBCFO, MBYC and the MBNEP were strong proponents of a boatyard and haulout facility in Morro Bay and the Market and Demand Analysis.

1) Proceed with the next steps in the investigation based on:
   a. Very strong support in the community from a diverse stakeholder base that consists of commercial, recreational and environmental interest groups and individuals.
   b. The potential of approximately 269 local vessel/customers that generate $1.74 million per year, plus additional potential demand and earnings from visiting vessels (see Appendix D for details).
   c. The fact that such a facility could serve the public good, protect harbor assets and strengthen marine dependent infrastructure and services in Morro Bay a community with a vibrant working waterfront heritage.
   d. Those steps include: potential sites analysis, conceptual and preferred site plan alternatives, technical investigations and CEQA, regulatory approval and permit acquisition and assessment of management and acquisition strategies.

A boatyard and haulout facility is consistent with the community's commitment to marine dependent uses. Measure D, passed by voters in 1985 is intended to protect and support the commercial and recreational fishing industries by reserving Harbor lease sites north of Beach Street for their use.

2) Work closely with Dynegy as they divest from the power plant. Identify appropriate sites for the boatyard facility which may be made available to the City as a result of that divestiture.

3) Consider a public-private partnership structure where the City owns the property and either provides a ground lease to a private operator, or assumes operation of the facility for the

A high capacity hoist could complement the facility in Port San Luis by attracting larger boats into the area that will not compete but bring demand for "shared" goods and services.

public good to protect and support marine dependent uses while contracting or subleasing certain aspects of the operation.

4) Work closely with the Port San Luis Harbor District in developing a boatyard, haulout and marine services cluster in San Luis Obispo County. Clusters harness geographic proximity and complementary business profiles where human and technical resources can be shared making the "cluster" more efficient and attractive than if the facilities operated independently.

5) Consider the costs and benefits of high capacity hoist, possibly 100-ton, to give Morro Bay a competitive advantage and the ability to attract larger boats with larger maintenance projects. Also, understand clearly if significant impacts in the form of increased vessel traffic would occur in the harbor.

6) Consider a gantry crane to augment the services provided by the Travelift and increase the customer base by catering to the smaller vessel recreational and sailing community as well as the small recreational and commercial fishing vessels.

7) Consider working closely with a private chandlery, and including a ship's store, with extensive inventory as part of the facility.

8) Consider including dry storage for sailboats and other trailerable vessels and a service where the boats can be easily hauled out and put in, serving on the recreational sailing fleet.

   Survey respondents indicated that 40% would store their vessels if there were an appropriate facility in Morro Bay, the majority of those respondents went on to indicate that they would spend between $50 and $150 per month for storage.

Survey respondents indicated that 40% would store their vessels if there were an appropriate facility in Morro Bay, the majority of those respondents went on to indicate that they would spend between $50 and $150 per month for storage.

9) Consider engaging experts who have owned and managed boatyards and haulout facilities for participation on an Advisory Committee as the project progresses or ultimatlely as a facility manager. Chad Gravelle is moving to San Luis Obispo County as Gravelle's Boatyard is being sold, he and Damon Hulst owner of Santa Barbara Botyard have expressed interest in contributing to or participating in a potential Morro Bay project.

10) Consider grants or low-interest loans for the next steps in the investigation process, including revenue-sharing options with another public agency to fund all or a portion of the boatyard haulout entitlements (consider as an example the Port San Luis Harbor Terrace project for which the State Coastal Conservancy is funding the Coastal Development Permit in exchange for a revenue sharing agreement with the Port San Luis Harbor District). See Appendix B for a list of potential funding sources that could support further steps towards and development of a potential Morro Bay boatyard haulout facility.

The City of Morro Bay and the Central California Joint Cable Fisheries Liaison Committee have contributed generously to the Demand and Market Analysis and should be considered to assist with next steps.

Appendix A: SURVEY INSTRUMENT

Appendix A contains the survey as it was distributed to the boating community in Morro Bay, through primary contacts at the Morro Bay Commercial Fisherman's Organization, Morro Bay Yacht Club, Harbor Patrol.

Morro Bay Boatyard-Haul Out Facility Survey

Name: _____ **Contact Information (Optional):**_____

Date: _____ _____

Lisa Wise Consulting, Inc. has been hired by the Morro Bay Commercial Fisherman's Organization (MBCFO) and the City of Morro Bay to assess the potential market demand for a vessel haul out and boatyard service facility in Morro Bay. An important aim of our research is to understand what are the types and quantity of services required by local vessel owners. Please complete the survey to the best of your ability and return by Friday October 10th to Lisa Wise Consulting, Inc. via email to brian@lisawiseconsulting.com; facsimile to (805) 595-1978; or post to:

Lisa Wise Consulting, Inc.
Attn: MB Boatyard/Haul Out Project Manager
983 Osos Street,
San Luis Obispo, 93401

Any information that you provide will be handled with confidentiality; personal names and vessel information will not be released to the public or used in the report.

Also available online at: https://www.surveymonkey.com/s/RGFGHYK

Thank you on behalf of the City of Morro Bay and the MBCFO.

1. Where is your homeport? _____

2. If Morro Bay is your homeport, how long have you been here?

- ☐ < 5 years
- ☐ Between 6 and 10 years
- ☐ Between 10 and 14 years
- ☐ Between 15 and 19 years

☐ > 20 years

3. What type of vessel do you own or operate?

☐ Sail
☐ Motor Recreational
☐ Commercial Fishing
☐ Research
☐ CPFV
☐ Other Commercial, please specify _____

4. What is the length of your vessel? _____

5. What is the weight of your vessel?

☐ < 5 tons
☐ Between 6 and 30 tons
☐ Between 31 and 60 tons
☐ > 61 tons

6. How often do you haul your vessel out of the water?

☐ Every year
☐ Every 2 years
☐ Every 3 years
☐ Less than once every 3 years

7. How much do you usually spend on a typical haulout?

☐ Less than $1,000
☐ Between $1,001 and $5,000
☐ Between $5,001 and $10,000
☐ Greater than $10,001

8. What type of work does your typical haulouts include?

_____

_____

9. How often do you engage in a "major" haulout?

☐ More than every 4 years

☐ Every 4 years

☐ Every 5 years

☐ Less than once every 5 years

10. How much do you usually spend during a "major" haulout?

- ☐ Less than $10,000
- ☐ Between $10,001 and $20,000
- ☐ Between $20,001 and $30,000
- ☐ Greater than $30,001

11. What type of work do your major haulouts include?

_____

_____

12. Do you typically perform work on your boat yourself?

- ☐ Yes
- ☐ No
- ☐ Yes, except for tech work such as: Electrical
- ☐ Yes, except for tech work such as: Electronics
- ☐ Yes, except for tech work such as: Welding and Fabrication
- ☐ Yes, except for tech work such as: Carpentry
- ☐ Yes, except for tech work such as: Rigging
- ☐ Yes, expect for tech work such as: Other (please specify) _____

13. Where do you typically haul out? _____

14. What are the primary reasons for your choosing that facility?

- ☐ Close and/or Convenient
- ☐ I Can Work on Boat Myself
- ☐ Availability of Expert Technical Trades
- ☐ Travelift/Hoist Capacity
- ☐ Price

15. Would you store your boat in Morro Bay if there was a dry storage facility?

☐ Yes ☐ No

16. If Yes, approximately, how much would you spend per month to store your vessel in Morro Bay?

$_____per month

17. Is there any additional information you would like to provide regarding a boatyard in Morro Bay?

_____

_____

Thank you for participating in this survey

Appendix B: CALIFORNIA BOATYARDS

As indicated in Chapter4, boatyard haulout facilities located along the California Coast comprise the competitive climate to be considered in assessing demand for a potential facility in Morro Bay. Appendix B identifies boatyard and haulout facilities by County, as follows.

ALAMEDA COUNTY
Bay Ship and Yacht Company, Alameda
Berkeley Marine Center, Alameda
British Marine, Oakland
Svendsen's Boat Works, Alameda
The Boat Yard at Grand Marina, Alameda

CONTRA COSTA COUNTY
Bay Marine Boatworks, Point Richmond
Bethel Harbor, Bethel Island
Bridgehead Marine Services, Antioch
Delta Boat Works, Isleton
Diablo Boat Works, Bethel Island
KKMI, Point Richmond
Marine Emporium, Bethel Island

LOS ANGELES COUNTY
Al Larson Boat Shop, Terminal Island
Colonial Yacht Anchorage, Wilmington
Gambol Industries, Long Beach
King Harbor Marine Center, Redondo Beach
Marina Shipyard, Long Beach
Seamark Marine, Marina del Rey
The Boatyard, Marina del Rey
Wilmington Marine Service Boatyard, Wilmington
Windward Yacht & Repair Center, Marina del Rey

MARIN COUNTY
Sausalito Shipyard & Marina, Sausalito
Bayside Boatworks, Sausalito
KKMI, Sausalito
North Bay Boatworks, Sausalito
Richardson Bay Boatworks, Sausalito
Spaulding Wooden Boat Center, Sausalito

NAPA COUNTY
Napa Valley Marina, Napa

ORANGE COUNTY
Balboa Boat Yard of California, Newport Beach Basin Marine, Newport Beach
BellPort Newport Harbor Shipyard, Newport Beach

Cabrillo Boat Shop, Newport Beach
Dana Point Shipyard, Dana Point
Larson's Shipyard, Newport Beach
South Coast Shipyard, Newport Beach,
Sunset Aquatic Shipyard, Huntington Beach

SACRAMENTO COUNTY
Ament Marine Services, Isleton

SAN BERNARDINO COUNTY
Dependable Performance Marine, Fontana

SAN DIEGO COUNTY
Driscoll Boat Works, San Diego
Driscoll Mission Bay Boat Yard & Marina San Diego
Fonteneau Yacht Repair, San Diego
Knight & Carver Yacht Center, National City
Koehler Kraft, San Diego
Marine Group Boat Works, Chula Vista
Nielsen Beaumont Marine, San Diego
Oceanside Marine Centre, Oceanside
Shelter Island Boatyard Yachtways, San Diego

SAN FRANCISCO COUNTY
Drake Marine, South San Francisco
San Francisco Boat Works, San Francisco

SAN LUIS OBISPO COUNTY
Morro Bay Boatyard, Morro Bay
Port San Luis Boatyard, Avila Beach

SAN JOAQUIN COUNTY
Delta Marine Services, Stockton

SANTA BARBARA COUNTY
Harbor Marineworks, Santa Barbara

VENTURA COUNTY
Chris Russell's Marine Services, Oxnard
Bell Port Anacapa Marine Services, Oxnard
Ventura Harbor Boatyard, Ventura

SOLANO COUNTY
Walton's Marine Repair, Rio Vista
Vallejo Boatworks, Vallejo

Appendix C: POTENTIAL FUNDING SOURCES

The Potential Funding Options section is intended to provide guidance on funding mechanisms that may be applicable to support on-going planning and implementation of a boatyard and haulout facility in Morro Bay. The inventory of potential funding options is meant as a "living document" and to be augmented as new opportunities arise.

Morro Bay has been very successful in identifying, pursuing and attaining funding sources to achieve community priorities on the waterfront. Examples include the City being awarded the National Fish and Wildlife Fisheries Innovation Fund grant (2013) to create the first Community Sustainability Plan in California, and support from the California Coastal Conservancy to fund a Business Plan (2008) and establish a state-of-the art ice machine (2006). The Morro Bay Commercial Fishermen's Organization has also worked very successfully with the Central Coast Joint Cable Fisheries Liaison Committee (CCJCFLC) to fund four years of Economic Impact reports, and the CCJCFLC and the City are funding this Market Demand Analysis.

The CCJCFLC was formed to work directly with the fishing community to mitigate for loss and disruption of fishing grounds due to the installation and presence of communication cable(s) on the seafloor in local waters. The Committee is made up of representatives from the communication companies and the local fishing industry. While focused on fisheries in the Morro Bay and Port San Luis area, has funded projects that benefit regional fishermen, particularly the trawl industry as they were impacted the most heavily.

The following grant and debt sources may be applicable to fund parts of the on-going planning, entitlement and development of a boatyard and haulout facility in Morro Bay.

Grant Funding

CCJCFLC Community Grants[18] have provided funding for a range of projects in Morro Bay and should be considered for on-going planning and implementation.

The CCJCFLC was formed to work directly with the fishing community to mitigate for loss and disruption of fishing grounds due to the installation and presence of communication cable(s) on the seafloor in local waters. The Committee is made up of representatives from the communication companies and the local fishing industry. While focused on fisheries in the Morro Bay and Port San Luis area, has funded projects that benefit regional fishermen, particularly the trawl industry as they were impacted the most heavily.

[18] http://www.slofiberfish.org/index.html

CDBG Planning and Technical Assistance Grant, Operated by the California Department of Housing and Community Development, the purpose of the CDBG program[19] is to create or retain jobs for low-income workers. This program provides funding for economic development projects, public infrastructure improvements, as well as housing and community related projects and activities.

SLO County Council of Governments (SLOCOG) Plans and Specs, SLOCOG provides funding to support specifications and plans for development projects aimed at community benefit. Port San Luis Harbor District has harnessed these funds for planning to extend the mobile hoist pier and improve the performance of their boatyard and haulout facility.

California Coastal Conservancy[20] may consider funding the entitlement or components of the development of the boatyard and haulout facility as it is aimed at the public good, serves a diversity of marine users groups and has a strong environmental stewardship component and strong support from the environmental community. The Coastal Conservancy's Urban Waterfronts Program funds a wide range of projects that promote public access to the coast, natural resource management, and restoration of urban waterfronts. These grants can include funding construction of infrastructure.

California State Coastal Conservancy's, Climate Ready Grant, while round 3 of this grant application was due on November 17, 2014, the community should consider future rounds as the boatyard and haulout facility is established. This grant is aimed at the following types of projects: Control and abate air pollution, specifically by reducing greenhouse gases; acquire, preserve, or restore natural areas or ecological reserves at risk due to climate change; protect nongame species and threatened and endangered plants and animals from the impacts of climate change; protect, enhance, and restore fish and wildlife habitat and related water quality where impacted by climate change; and acquire real property containing sensitive natural areas for parks to reduce the impacts of climate change.

California Sport-fishing and Boating Safety Act, grant funding that was used in 1999 to purchase a Travelift in the Ventura Boatyard, with matching funds from the Harbor District and the VHBY. If this bill is re enacted in 2014, funds will be available through 2021.

National Fish and Wildlife Foundation, The National Fish and Wildlife Federation's Fisheries Innovation Fund Grant[21] provides funding for improving capacity in fishing communities, including promoting participation in community-supported fishing associations; reducing bycatch; and improving fishery-related data collection and quantity for use in science, management and business purposes. NFWF is interested in subsequent rounds of funding to support implementation oriented projects.

[19] www.hcd.ca.gov/fa

[20] http://scc.ca.gov/category/grants/

[21] http://www.nfwf.org/Pages/fisheriesfund/2012-fisheriesfund-rfp.aspx#.UR6cEEpVSrU

California Sea Grant, California Sea Grant[22] programs are structured around healthy marine ecosystems, sustainable resource use, coastal community development, new technology, and education, training and public information. Strategic goals include working with stakeholders to resolve conflicts over resource-use, creating social and economic incentives to encourage the preservation and sustainable use of marine resources, and promoting vibrant coastal economies.

Economic Development Administration (EDA), The EDA is part of the U.S. Department of Commerce. EDA investment programs[23] include: Global Climate Change Mitigation Incentive Fund, Public Works and Economic Development Program, Economic Adjustment Assistance Program, Research and National Technical Assistance, Local Technical Assistance, Planning Program, University Center Economic Development, and Trade Adjustment Assistance for Firms. Applications for EDA programs are evaluated based on the following guidelines: (1) market-based and results driven, (2) strong organizational leadership, (3) advance productivity, innovation, and entrepreneurship, (3) looking beyond the immediate economic horizon, anticipating economic changes, and diversifying the local and regional economy, and (4) high degree of commitment through local government matching funds, support by local officials, cooperation between business sector and local government.

Debt Funding

California Maritime Infrastructure Bank and Authority, The California Maritime Infrastructure Bank and Authority[24] services financing for ports and harbors, and provides lease financing for infrastructure used by ports and port tenants. The Bank and Authority is not a commercial bank, and only member authorities may participate in financing programs. Thus to seek funding from the Bank and Authority, the City of Morro Bay must become a member of the organization.

New Resources Bank (NRB), New Resources Bank[25] funds businesses and organizations that contribute to environmental and social sustainability. NRB is working with Ilwaco Fish Company and Wild Planet to facilitate their growth and capacity.

Community Lending, Under the federal Community Reinvestment Act (1977), depository institutions are required to help meet the credits needs of the community in which they operate. Many banks have community-lending programs. For example, Wells Fargo has a Community Lending division that provides interim construction financing for community development commercial real estate projects. Wells Fargo offers construction loans, permanent loans, bond financing, and letters of credit to developers and public agencies.

[22] www-csgc.ucsd.edu/FUNDING/IndxFunding.html

[23] www.eda.gov/InvestmentsGrants/Investments.xml

[24] http://www.californiamaritimeinfrastructureauthority.org

[25] https://www.newresourcebank.com/

General Obligation Bonds, General Obligation Bonds may be sold by a public entity that has the authority to impose ad valorem taxes. Ad valorem taxes are based on an assessed value of real property and must be approved by a two-thirds majority vote of the people. Primary use of this tax is to acquire and improve public property.

NOAA Fisheries Finance Program, The NOAA Fisheries Finance Program is a direct government loan program[26] funded by Congress to provide long-term loans to aquaculture, mariculture, and commercial fisheries industries. There is no minimum or maximum loan amount, but it cannot exceed 80 percent of the eligible project's cost. The loan interest rate is fixed at two percent over the U.S. Treasury's cost of funds with loan maturities up to 25 years and no early pay-off penalties. A one-time filing/commitment fee equal to half of one percent of the proposed loan amount is required at the time the application is filed.

Community Facilities District (CFD), A CFD or Mello-Roos District is an area where a special property tax on real estate, in addition to the normal property tax, is imposed on those real property owners within a Community Facilities District. These districts seek public financing through the sale of bonds for the purpose of financing public improvements and services. The property tax paid is used to make the payments of principal and interest on the bonds. The services and improvements that CFDs can finance include streets, sewer systems and other basic infrastructure, police protection, fire protection, ambulance services, schools, parks, libraries, museums and other cultural facilities. By law, the CFD is also entitled to recover expenses needed to form the CFD and administer the annual special taxes and bonded debt.

U.S. Small Business Administration (SBA) Loan Programs, The 7(a) Loan Program includes financial help for businesses with special requirements. For example, funds are available for loans to businesses that handle exports to foreign countries, and for other very specific purposes. Qualifying businesses may use proceeds to purchase land or buildings, and/or to cover new construction as well as expansion or conversion of existing facilities. Commercial fishing vessels are eligible to receive loans under this program

The 504 Loan Program provides approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for expansion or modernization. 504 Loans are typically structured with SBA providing 40% of the total project costs, a participating lender covering up to 50% of the total project costs, and the borrower contributing 10% of the project costs. Under certain circumstances, a borrower may be required to contribute up to 20% of the total project costs. To be eligible for a 504 Loan, businesses must be operated for profit and fall within the size standards set by the SBA. Under the 504 Program, a business qualifies if it has a tangible net worth not more than $15 million, and an average net income of $5 million or less after federal income taxes for the preceding two years prior to application.

[26] www.nmfs.noaa.gov/mb/financial_services/ffp.htm

Appendix D: DEMAND AND REVENUE MODEL

Morro Bay Boatyard and Haul Out Local Revenue Projections

Annual Haulout Projections (# of Vessels per Year)			
	Typcial	Major	Total
High End	26.7	39.6	66.2
Low End	46.8	18.5	65.3
Average	36.7	29.0	65.8
Scaled to Universe (1)	150.3	118.8	**269.1**

Annual Haulout Revenue Projections ($)									
Typical				**Major**				**Total**	
Revenue Categories	# of Vessels	Low	High	Revenue Categories	# of Vessels	Low	High	Low	High
Less than $1,000 (2)	7.3	$728	$7,272	Less than $10,000 (6)	23.3	$116,508	$232,994		
Between $1,001 and $5,000 (3)	22.2	$22,229	$110,899	Between $10,001 and $20,000 (7)	3.6	$35,856	$71,694		
Between $5,001 and $10,000 (4)	5.2	$26,007	$51,989	Between $20,000 and $30,000 (8)	1.4	$28,682	$43,017		
Greater than $10,001 (5)	2.1	$20,802	$31,194	Greater than $30,001 (9)	0.7	$21,511	$28,678		
	36.7	$69,766	$201,354	Total	29.0	$202,557	$376,383	$272,323	$577,737
Scaled to Universe (1)								$1,114,047	**$2,363,469**
Average of Low and High									**$1,738,758**

Notes:

(1) Universe Scale Factor: 450 vessels (universe) / 110 (survey respondents) = 4.09
(2) Assume $100 for low scenario and $999 for high scenario.
(3) Assume $1,002 for low scenario and $4,999 for high scenario.
(4) Assume $5,002 for low scenario and $9,999 for high scenario.
(5) Assume $10,002 for low scenario and $14,999 for high scenario.
(6) Based on response to Question 8A (60.4% spend between $1,000 and $5,000 on typical haulout), assume $5,000 for low scenari, and $9,999 for high scenario.
(7) Assume $10,002 for low scenario and $19,999 for high scenario.
(8) Assume $20,002 for low scenario and $29,999 for high scenario.
(9) Assume $30,002 for low end scenario and $39,999 for high scenario.

Appendix E: FINANCIAL CALCULATIONS

The revenue projection calculations in Appendix D are drawn directly from the 110 completed surveys and the range of responses in the questions. As there are a total of 450 possible vessel-owner respondents in Morro Bay, 110 completed surveys yields a confidence interval of 8.25 and confidence level of 95% that those completed surveys represent the behavior of the total possible (450) respondents. Final calculations (from the surveys) are increased by a factor of 4.09 (110 x 4.09 = 450).

For example, the average number of respondents who indicated that they engage in typical haulouts every year is 36.7. Those 36.7 represent the behavior of all 450 vessels with a confidence level of 95% and confidence interval of 8.25. As such, approximately 150.3 vessel owners would engage in a typical haulout annually. Similarly, 29 respondents claimed they engage in major haulouts every year (factored over 6 years). This 29 would translate to approximately 118.8 major haulouts per year in Morro Bay. The total number of haulouts, typical and major is the sum of 151 and 118 or 269.

Another example is Question 7, which asks: How much do you spend on a typical haulout? The four possible responses include less than $1,000, between $1,001 and $5,000, between $5,001 and $10,000 and greater than $10,001. Question 10 poses a similar opportunity for major haulouts. Lows and highs of possible responses were averaged and the subtotal was increased by a factor of 4.09 to arrive at the number of potential users (with a confidence interval of 8.25 and confidence level of 95%), 269.

All of these calculations assume that the boatyard and haulout facility in Morro Bay captures all of the money spent by vessel owner customers on typical and major haulouts and that the facility offers the services identified by respondents as the most important, such as (DIY) allowing vessel owners to work on their vessels and basic services: water blast, sanding, painting, zinc replacement, rudder and drive shaft maintenance and repair.

ATTACHMENT 5

BOATYARD AND HAULOUT FACILITY SITE CRITERIA

DEVELOPED BY THE HARBOR ADVISORY BOARD

AD-HOC COMMITTEE

(immediately following this page)

DRAFT

Morro Bay Boatyard and Haulout Facility Site Criteria
Harbor Advisory Board Marine Facilities Ad Hoc Committee
May 6, 2015
Two Pages

- City owned or controlled property, or alternatively property for which there is a realistic opportunity for acquisition by the City.
- Necessary consideration of Measure D requirements and restrictions.
- The upland portion of the facility, as well as the haulout site or sites, able to obtain site approval from City, County, State (to include the California Coastal Commission) and Federal regulatory agencies.
- The upland portion of the facility large enough to accommodate at least ten 50' vessels blocked at one time for repair and/or maintenance, with adequate space for a Travelift of 75 metric ton (MT) capacity to maneuver (which requires a turning radius of 35'). Additionally, sufficient upland site size to accommodate a 60' by 30' (60' long by 30' wide, by 40' tall) fabric shelter builder (assuming pad size of 70' by 40' - equals 2,800 square feet or .064 acre), and a reasonably sized office/shop building (assuming 20' by 60' - equals 1,200 square feet or .028 acre). See Note A below. "Travelift" is trademarked brand name (the full name is Marine Travelift), and there are numerous other mobile boat hoist brands.
- The upland portion of the facility to have no vertical restrictions.
- The upland facility able to accommodate parking for twenty vehicles.
- The upland portion of the facility to feature soil conditions able to support the movement of a loaded 75 MT Travelift. Total weight of a 75 MT Travelift, when combined with its maximum rated load capacity, is 211,000 pounds.
- The upland portion of the facility to feature soil conditions able to support the blocking of a vessel weighing the same as the maximum capacity of a 75 MT Travelift, which is 165,000 pounds.
- The upland portion of the facility large enough to accommodate an as yet unspecified number, type and size of vessels in dry storage (up to one hundred trailerable boats and/or dry stack storage structure for up to one hundred boats). See Note B below.
- The upland facility well drained, to avoid standing water and a soft surface due to wetting (requiring minimal modification for run-off containment, and standing water management).
- The upland facility provided with adequate electrical service for light industrial uses (440 Volt service for fixed air compressor; 220 Volt service for lighting; 110 Volt service for power tool operation).
- The upland facility provided with adequate sunlight and prevailing wind exposure to support solar power and wind power applications.
- The upland facility provided with adequate fresh water supply, sufficient to supply fire main and occupational requirements.
- The upland facility able to feature restroom and shower facilities.
- The upland facility provided with adequate access to sewer main for discharge of treated wash-down water and run-off water.

- The upland facility provided with adequate lighting, to include security lighting.
- The upland facility able to accommodate a suitable vessel bottom cleaning containment system (hardscape area approximately 25' by 65', with water collection system involving storage/settling tank(s) and sump pump equipment).
- The upland facility able to include perimeter features to mitigate wind driven sand and debris from entering from the outside, and able to mitigate dust from inside the facility migrating outside.
- The upland facility able to be secure around its perimeter for security and safety requirements.
- The upland facility located as close as possible to the haulout site.
- The haulout site able to accommodate the piers and ramp for (up to) a 75 MT Travelift (mobile boat hoist).
- Means (a fixed hoist) to launch and haul out small boats of up to approximately 9,000 pounds, to accommodate trailerable boats and dry stored boats.
- The access route between the haulout site and the uplands facility able to physically support a loaded 75 MT Travelift (to include the weight of the hoist itself, and with vertical clearance up to 130'). Total weight of a 75 MT Travelift, when combined with its maximum rated load capacity, is 211,000 pounds.
- Reasonable pedestrian and vehicle traffic control possible relative to the access route between the haulout site and the uplands facility.

Note A: The 1998 Marshall study calculated an area of 530' by 150' (or 1.83 acre) as being necessary to "accommodate 20 vessels in a combination of lengths up to 80 feet and 22 feet beam".

Note B: The 1998 Marshall study calculated an area of 455' by 150' (or 1.57 acre) as being necessary to "provide long term storage for up to 120 trailerable boats in lengths to 25 feet". It should be noted that this size configuration does not include the use of dry-stack storage.

Note C: Endorsed by the Harbor Advisory Board by unanimous vote May 7, 2015.

ATTACHMENT 6

DESIGN OPTIONS IN THE TRIANGLE LOT

DEVELOPED BY RRM DESIGN GROUP

(immediately following this page)

DRAFT

Morro Bay Triangle Lot - Existing Conditions

0 15 30 60

SCALE: 1" = 30'

December 3, 2015

City of Morro Bay

rrm design group

30'x65' Stall
30'x55' Stall
30'x55' Stall
30'x50' Stall
25'x45' Stall
25'x45' Stall
25'x35' Stall
25'x35' Stall
Study Area Limits
Vessel Cleaning Location
Water containment system, and storage/settling tanks
65'x25' Pad
Sump Equipment
10'x10' 100 SF
Fabric Shelter Building
80'x45' 3600 SF
Office, shower and restroom
40'x20' 800 SF
Office/Shop Building
Machine, wood and misc workspace
65'x25' 1625 SF
Boatyard Repair Facilities
42000 SF
Boat Yard Parking
10 Stalls 9'x20'
Study Area Limits
C-Train storage (7)
10'x30'
(e) lift station
Boatyard Access Gate
Dry Dock Storage
50 Stalls 30'x10'
Lot size 25,150 SF
Boat Haul Out Path of Travel
Dynegy Site
Future Maritime Museum
40'x80'
3200 SF
Future Vessel Display
Planter Area
Planter Area
Planter Area
Public Parking Lot
Pedestrian Sidewalk
Planter Area
STOP
STOP
Study Area Limits
Study Area Limits
Parallel parking
Back-in angle parking
Back-in angle parking
Bike Lane
Back-in angle parking
Embarcadero
Parallel Parking
Bike Lane
Parallel Parking
Back-in angle parking
Bike Lane
Embarcadero
PLAZA
Beach St
STOP
Adjust parking to maximize spaces and realign drive aisle
Existing Parking to Remain
Public Restroom
24'x12' 288 SF
Study Area Limits
Lil' Hut
Harbor Hut
Virge's Landing
Morro Bay Harborwalk
Study Area Limits
Great American Fish Company
Jib Crane
Ways
Accommodates 75 MT Travelift and vessels up 65' in length
Study Area Limits
Study Area Limits

Project Quantities

Existing Parking	314
Total Proposed Parking	351
Net Gain Parking	37
Boat Repair Stalls	10
Dry Boat Storage	50

Morro Bay Triangle Lot - Option A

0 15 30 60
SCALE: 1" = 30'

Base Map
December 3, 2015

City of Morro Bay

rrm design group

Project Quantities

Existing Parking	314
Total Proposed Parking	366
Net Gain Parking	52
Boat Repair Stalls	10
Dry Boat Storage	50

Morro Bay Triangle Lot - Option B

0 15 30 60

SCALE: 1" = 30'

Base Map

December 3, 2015

City of Morro Bay

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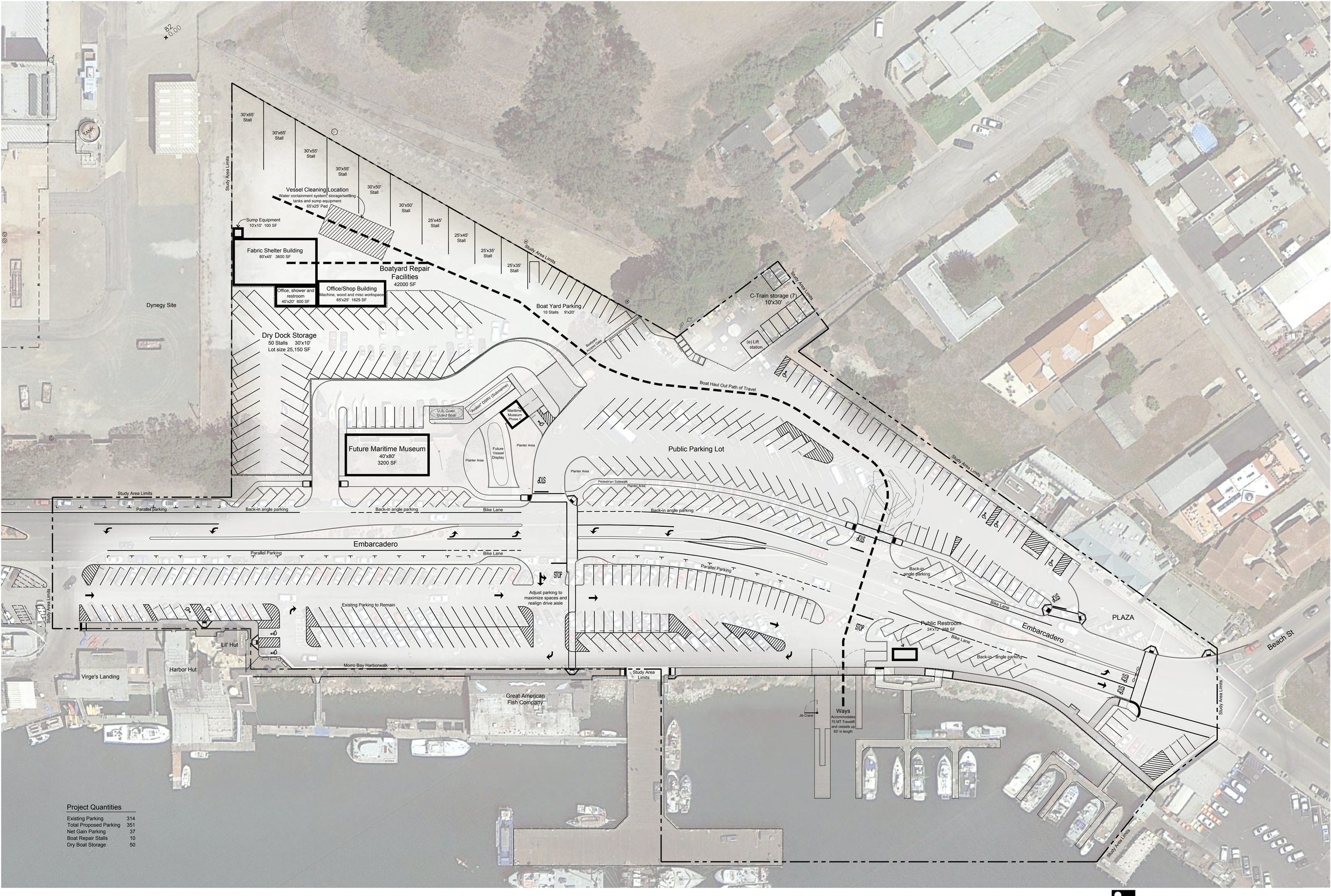


Project Quantities

Existing Parking	314
Total Proposed Parking	351
Net Gain Parking	37
Boat Repair Stalls	10
Dry Boat Storage	50

Morro Bay Triangle Lot - Option A

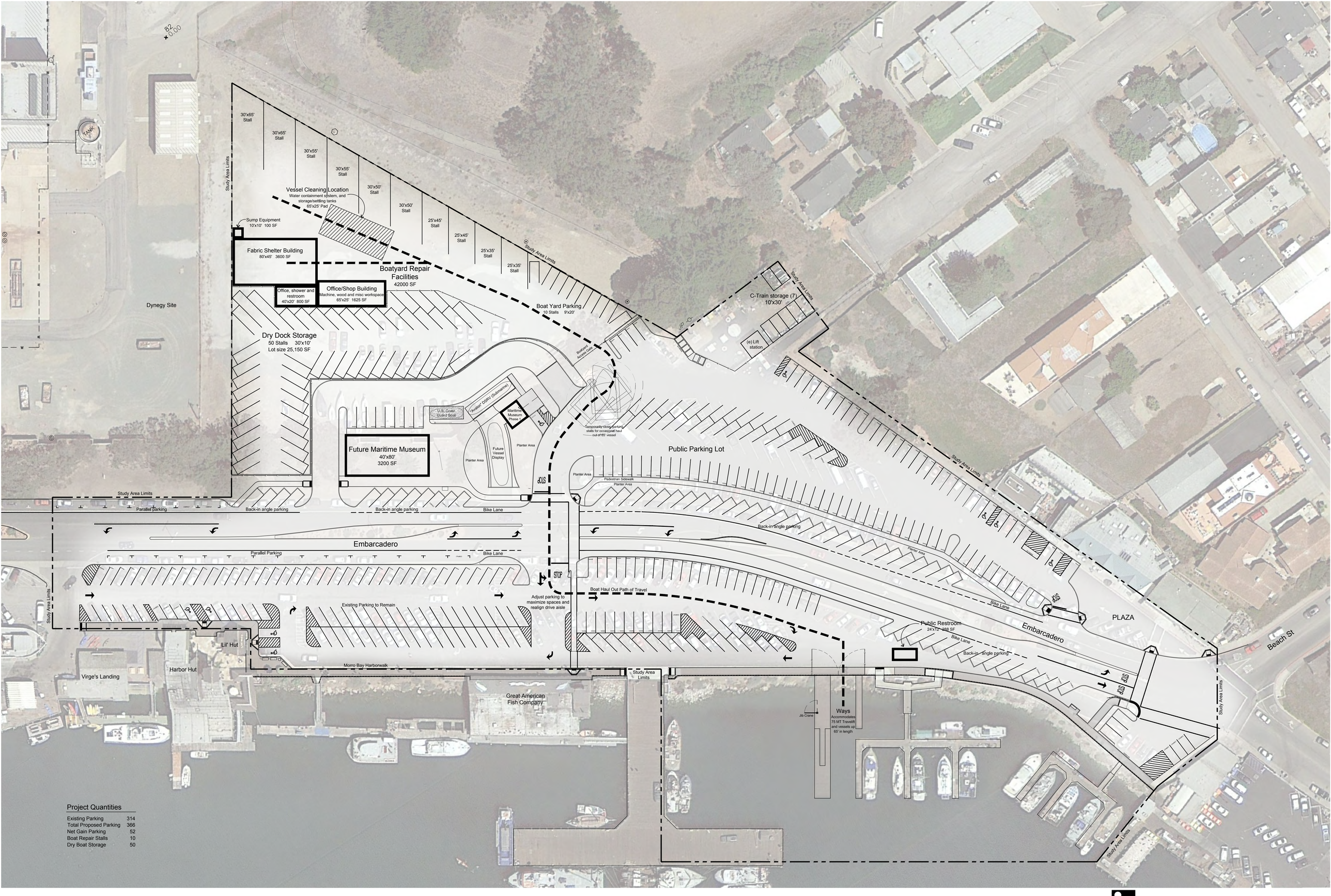
SCALE: 1" = 30'

Base Map
December 3, 2015

City of Morro Bay

rrm design group

Morro Bay Triangle Lot - Option B



Project Quantities

Existing Parking	314
Total Proposed Parking	366
Net Gain Parking	52
Boat Repair Stalls	10
Dry Boat Storage	50

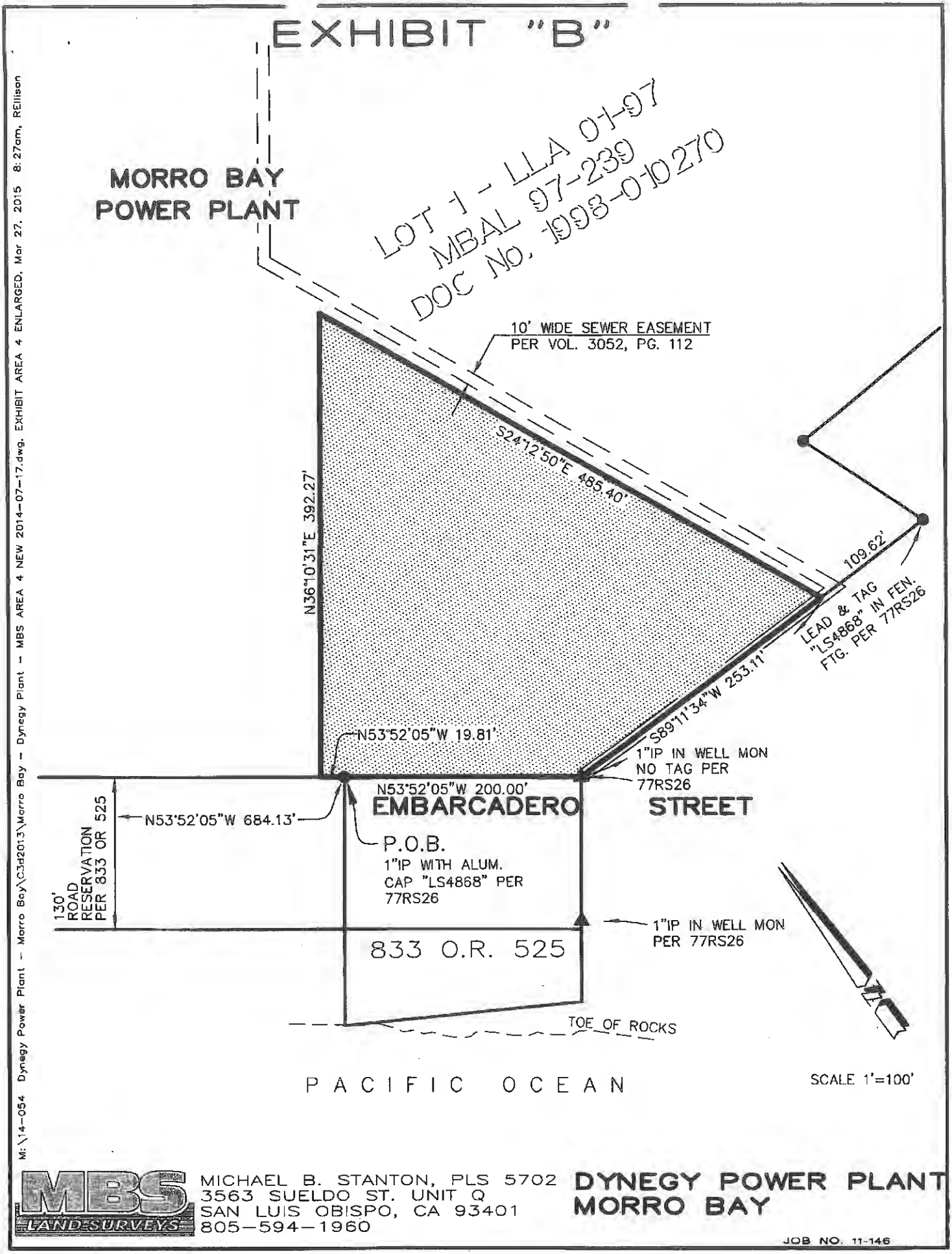
SCALE: 1" = 30'

Base Map
December 3, 2015

City of Morro Bay

rrm design group

EXHIBIT "B"



M:\14-054 Dynegy Power Plant - Morro Bay\C3d2013\Morro Bay - Dynegy Plant - MBS AREA 4 NEW 2014-07-17.dwg, EXHIBIT AREA 4 ENLARGED, Mar 27, 2015 8:27am, REllison

MBS LAND SURVEYS
MICHAEL B. STANTON, PLS 5702
3563 SUELDO ST. UNIT Q
SAN LUIS OBISPO, CA 93401
805-594-1960

DYNEGY POWER PLANT
MORRO BAY

JOB NO. 11-146

EXHIBIT A

TASKS TO BE PERFORMED

DRAFT

EXHIBIT B

PAYMENT SCHEDULE

DRAFT

AGENDA NO:	**C-3**
MEETING DATE:	**August 28, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 22, 2018**

FROM: **Jennifer Callaway, Finance Director**

SUBJECT: **Discussion and Direction on Process for Developing Fiscal Emergency/Sustainability Plan and Financial Policies**

RECOMMENDATION

Council receive the staff report regarding process for developing fiscal emergency/sustainability plan and financial policies and provide feedback and direction as appropriate.

BACKGROUND

At the July 10, 2018 City Council meeting, the Council requested that the development of a fiscal emergency plan be added to future Council items. In addition, the Council previously requested that financial policies be added to a future Council agenda for review and discussion. Both the development of a fiscal sustainability plan and adoption of financial policies aligns with the Council identified Goal of Achieving Economic and Fiscal Sustainability, specifically objective 1, action items a, b and d as follows:

Goal: Achieve Financial and Economic Sustainability

Objective 1: Secure financial sustainability through a comprehensive review of cost reductions and revenue enhancement opportunities.

> **Action a:** Develop a cost control and reduction plan to achieve cuts to maintain a structurally balanced budget, including, but not limited to a complete review of staffing levels and non-labor costs in all departments.
>
> **Action b:** Develop a staff-internal emergency cost reduction plan to inform future fiscal emergencies.
>
> **Action d:** Evaluate opportunities for new or expanded revenue sources, including but not limited to: paid parking, other tax measures and a review of city fees.

As staff prepares to begin work on development of a fiscal emergency and sustainability plan as well as update/revise and develop financial policies, we seek Council consensus on the recommended approach and process as well as the proposed timeline.

DISCUSSION

Prepared By: ___JC_____	**Dept Review: _____**
City Manager Review: ___SC_____	**City Attorney Review: _____**

Fiscal Emergency and Sustainability Plan

With the cost of employee benefits and City services increasing, public sector agencies across the state are experiencing fiscal challenges, struggling to maintain service levels within existing revenue sources. These struggles are particularly acute for local governments in California as they come to grips with the CalPERS discount rate reductions phasing in, with some agencies declaring bankruptcy or fiscal emergencies. This is especially worrisome, given that the country continues to ride through the longest sustained economic boon we experienced as a nation, leading to speculation that a recession is looming. Furthermore, as a region, San Luis Obispo County will have unique challenges in the coming years with the closure of the Diablo Nuclear Power Plant and resulting economic consequences for the area (estimated $1 Billion impact to the region and loss of thousands of jobs).

As such, the City Council has prioritized taking a proactive stance in developing a Fiscal Emergency and Sustainability Plan, identifying this as a top goal for 2018. The plan is two-fold, first being the fiscal emergency component which will identify economic triggers that would stimulate staff action to reduce expenditures accordingly. By establishing this short-term fiscal emergency plan, it would allow the City to swiftly address abrupt changes in the economy or a local emergency(ies) that necessitate action. This would also allow for transparent action that would be known from the community and staff in advance of an emergency taking place. These plans are often referred to as fiscal resiliency plans. The Government Finance Officers Association (GFOA), provides guidance on fiscal resiliency. GFOA recognizes that government's need to be resilient, having leaders in place that recognize the importance of resiliency and have outlined the following traits of a resilient organization:

1. **Accept Uncertainty and Embrace Change –** learn from past experiences, explore new ideas, and evolve.
2. **Build systems that can withstand Shocks and Stresses –** avoid single points of failure, develop back-up plans, and diversify risk.
3. **Think broadly about what influences financial health –** financial health is the responsibility of all public officials and staff, not just finance officials.
4. **Evolve to adapt to new conditions and foster collaboration between finance officials and non-finance officials –** mobilizing resources from a variety of sources.

The GFOA model for fiscal resiliency is characterized in the graphic below:

As a best practice, several cities throughout the state have developed fiscal resiliency plans in some form or another. The City of Novato spent over a year conducting work sessions to analyze various aspects and components of the City's financial health that resulted in a comprehensive summary of research, background and options compiled into a fiscal sustainability plan (provided as Attachment 1).

Similarly, the City of Thousand Oaks developed a fiscal sustainability study in 2016 which focused on the City's current challenges and/or likely future challenges. The plan was developed after engagement with the City's various committees and Council discussion. The City of Thousand Oaks plan was presented in staff report format and not as an independent guiding document. Most recently, the City of Dublin formed a fiscal sustainability task force with the goals of educating the public and fostering discussion on the City's current and projected financial status and to produce an advisory document with future budget options for the City Council to consider. The task force was assembled for one-year and met bi-monthly. The City also hired an outside consulting firm to facilitate the discussion and development of the final report which was presented to the City Council in February 2018 and provided as Attachment 2.

Locally, the City of San Luis Obispo developed a Fiscal Health Contingency Plan back in the early 2000s. The City of San Luis Obispo's plan establishes a framework and general strategy for responding to adverse fiscal circumstances in both the short and long-term, and is updated on a regular basis.

Staff suggests re-engaging the Employee Budget Advisory Committee (EBAC) as well as engaging with the community to develop a City of Morro Bay Fiscal Resiliency Plan. The plan would address both the fiscal emergency or contingency plan as a short-term action plan as well as long-term financial resiliency plans. The plan would establish a framework and general strategy for responding to adverse fiscal circumstances, both short and long-term with meaningful engagement from both the employees and community. The plan would be designed to take a policy-based approach to decision making and reflect the City's organizational values. The plan would not be a prescriptive recipe for expenditure cuts or revenue enhancements, as each measure would need to be examined on a case-

by-case basis – the plan rather would articulate principles and values upon which specific responses will be based.

The plan would identify triggers, such as adverse fiscal circumstances (such as reductions in revenues), which clearly define when fiscal first aid is needed. Staff recommends that all funds participate in the plan, including the enterprise funds because we are all part of one organization and it is important for staff to be cognizant of and limit enterprise fund rate during fiscal emergencies.

Staff recommends that the City first address the short-term emergency or contingency response plan and focus efforts on this section of the plan, defining economic triggers that would require assessment and short-term mitigating response from the City. Staff proposes the following timeline for the Emergency/Contingency Response portion of the overall plan:

September 5, 2018 – Employee Budget Advisory Committee (EBAC) discussion of Economic Triggers

September 18, 2018 – Citizen Finance Advisory Committee (CFAC) Discussion of Economic Triggers

September 25, 2018 – City Council discussion of Economic Triggers

October 4, 2018 – EBAC discussion of short-term mitigation strategies

October 11, 2018 – Community Meeting of short-term mitigation strategies

October 16, 2018 – CFAC Discussion of short-term mitigation strategies

November 13, 2018 – City Council discussion of short-term mitigation strategies

December 11, 2018 – City Council discussion and Adoption of Short-Term Emergency and Contingency Response Plan

January 15, 2019 – City Council discussion of schedule and process for long-term fiscal sustainability plan

Beginning in early 2019, staff will bring forward a new schedule and process to examine long-term financial resiliency components in which one-time, on-going and new revenue sources are discussed as well as expenditure reductions, service model change options and enhanced utilization of technology.

Financial Policies

Financial policies are a key component to achieving fiscal resiliency. According to GFOA adopting financial policies are a best practice and central to a strategic, long-term approach to financial management and GFOA outlines the following seven benefits to adopting formal financial policies:

1. **Institutionalize good financial management practices.** Formal policies usually outlive their creators, and thus promote stability and continuity. They also prevent the need to re-invent responses to recurring issues.
2. **Clarify and crystallize strategic intent for financial management.** Financial policies

define a shared understanding of how the organization will develop its financial practices and manage its resources to provide the best value to the community.

3. **Define boundaries.** Financial policies define limits on the actions staff may take. The policy framework provides boundaries within which staff can innovate in order to realize the organization's strategic intent.
4. **Support good bond ratings and thereby reduce the cost of borrowing.**
5. **Promote long-term and strategic thinking.** The strategic intent articulated by many financial policies necessarily demands a long-term perspective from the organization.
6. **Manage risks to financial condition.** A key component of governance accountability is not to incur excessive risk in pursuit of public goals. Financial policies identify important risks to financial condition.
7. **Comply with established public management best practices.** The GFOA through its officially adopted Best Practices endorsement of National Advisory Council on State and Local Budgeting (NACSLB) budget practices and the GFOA Distinguished Budget Presentation Award Program, has recognized financial policies as an essential part of public financial management.

As such, GFOA recommends that governments formally adopt financial policies. Per GFOA's recommendation, the following fifteen policy areas should be considered and formalized:

1. **General Fund Reserves:** Policies governing the amount of resources to be held in reserve and conditions under which reserves can be used.
2. **Reserves in Other Funds:** Policies for other funds (especially enterprise funds) that serve a similar purpose to general fund reserve policies.
3. **Grants:** Policies that deal with the administration and grants process.
4. **Debt:** Policies that govern the use of government debt, including permissible debt instruments, conditions under which debt maybe used, allowable levels of debt, and compliance with continuing disclosure requirements.
5. **Investment:** Policies that provide guidance on the investment of public funds, including permissible investment instruments, standards of care for invested funds, and the role of staff and professional advisors in the investment program.
6. **Economic Development:** Policies that address a local government's use of subsidies or other incentives to encourage private development.
7. **Accounting and Financial Reporting:** Polices that establish and guide the use of an audit committee, endorse key accounting principles, and that ensure external audits are properly performed.
8. **Risk Management and Internal Controls:** Policies that address traditional views of risk management and internal control, as well as more modern concepts of "enterprise risk management."
9. **Procurement:** Policies that are most essential for adoption by the governing board in order to encourage efficient, effective and fair public procurement.
10. **Long-Term Financial Planning:** A policy that commits the organization to taking a long-term approach to financial health.
11. **Structurally Balanced Budget:** Polices that offer a distinction between satisfying the statutory definition and achieving a true structurally balanced budget.
12. **Capital:** Polices that cover the lifecycle of capital assets, including capital improvement planning, capital budgeting, project management, and asset maintenance.
13. **Revenues:** Policy guidance through the designing of efficient and effective revenue systems that guarantee the generation of adequate public resources to meet expenditure obligations.
14. **Expenditures:** Policies addressing a range of issues around how the money is expended, including personnel, outsourcing, and funding long-term liabilities.

15. **Operating Budget:** Policies that describe essential features of the budget development process and form, as well as principles that guide budgetary decision making.

In the case of Morro Bay, the City has received audit findings in the last two fiscal years related to deficiencies in Accounting Policies and Procedures. Given the importance and benefits of adopting policies and the need to address audit findings, staff recommends that consideration and adoption of both the fiscal resiliency plan and formal financial policies proceed along parallel paths. Staff recommends that the policies, best practices and advisories be completed/updated in the following groupings/schedule (Council meeting dates identified with each grouping of policy area):

September 25, 2018 – General Fund Reserves and Reserves in Other Funds

- Updates/Revisions to existing General Fund Emergency Reserve Policy and Enterprise Fund Policies
- Determining Appropriate Level of Unrestricted Fund Balance in the General Fund
- Appropriate Level of Working Capital in Enterprise Funds

October 9, 2018 – Accounting and Financial Reporting and Procurement

- Documenting Accounting Policies and Procedures
- Encouraging and Facilitating the Reporting of Fraud and Questionable Accounting and Auditing Practices
- Basis of Accounting versus the Budgetary Basis
- Purchase Card Programs
- Electronic Payment and Collection Systems
- Purchase Orders

November 13, 2018 – Long-Term Financial Planning, Structurally Balanced Budget and Operating Budget

- Long-term financial planning
- Achieving a structurally balanced budget
- Managing Performance
- Making Budget Document easier to understand
- Public Participation in Planning, Budgeting and Performance Management
- Presenting Official Financial Documents on the City's website

December 11, 2018 – Risk Management and Internal Controls

- Policies to provide guidance on avoiding, limiting, or eliminating internal control deficiencies
- Business preparedness and continuity guidelines
- Comprehensive Risk Management Program

January 22, 2019 – Revenues and Expenditure policies

- Inflationary indices in budgeting
- Budgeting of Salary and Wages
- Managing Health Care Costs
- Measuring Cost of Government Services
- Government Charges and Fees
- Financial Forecasting in Budget Preparation Process
- Use of trend data and comparative data for Financial Analysis

- Revenue Diversification, use of one-time revenues and use of unpredictable revenues

February 18, 2019 – Capital and Economic Development

- Evaluating and Managing Economic Development Incentives
- Coordinating Economic Development and Capital Planning
- Monitoring Economic Development Performance
- Economic Development Incentive Policy
- Capital Planning Policies
- Capital Project Budgets
- Multi-Year Capital Planning
- Capitalization Thresholds for Capital Assets
- Estimated Useful life of Capital Assets

March 26, 2019 – Debt, Investment and Grant Policies

- Debt Management Policy – updates/revisions to existing policy
- Analyzing and Issuing Refunding Bonds
- Local Government Investment Pools
- Investment of Bond Proceeds
- Investment Policy – update/revisions to existing policy
- Grant Policy
- Administering Grants Effectively

Based upon the schedule outlined, if approved by City Council, staff will present draft policies, updates, best practices and/or advisories for the corresponding topics for the Council to review and provide further direction. The Council can request that changes be made, and items be brought back at the following Council meeting for review and adoption. Alternatively, Council could direct staff to revise the proposed schedule or process.

CONCLUSION

Having a clear strategy in place for fiscal emergencies that reflects the City of Morro Bay's values will serve as the foundation for decision-making in tough fiscal times and will aid in preserving the City's long-term fiscal health and vitality. The formalization of financial policies will play a key component in long-term financial planning and correlates nicely with the development of a fiscal resiliency plan. Staff recommends Council provide feedback on the proposed timelines and process outlined above for both development of a fiscal resiliency plan and financial policies.

ATTACHMENTS

1 – City of Novato Fiscal Sustainability Plan
2 – City of Dublin Fiscal Sustainability Task Force Report

City of Novato

Adopted Fiscal Sustainability Plan

Approved and Adopted by Novato City Council February 11, 2014

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Executive Summary

Adopted Fiscal Sustainability Strategy

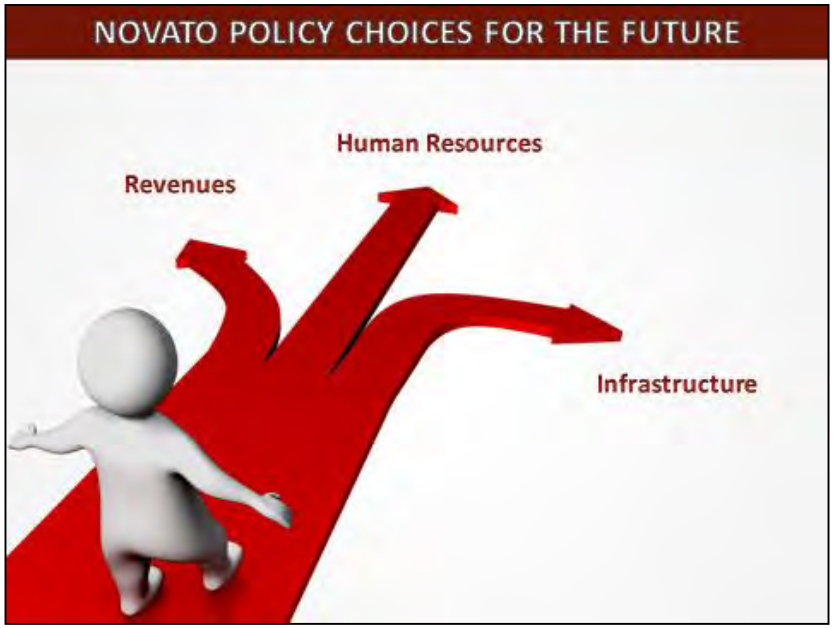
(Approved by the Novato City Council on February 11, 2014)

Fiscal Sustainability Plan

PLAN BACKGROUND

Novato's draft Fiscal Sustainability Plan was released publicly on June 19, 2013. The draft plan included an executive summary, detailed sections outlining the research and analysis that was conducted throughout 2012 and 2013, the Fiscal Sustainability Options Tool, a City Manager-recommended fiscal sustainability plan scenario, and a variety of appendices. In July 2013, City staff reviewed the draft plan with the City Council, conducted two town hall meetings with the public, and created a number of new web pages at http://www.novato.org dedicated to fiscal sustainability news and information.

Since that time, at the request of the City Council, staff conducted significant additional outreach to the community. From October 2013 through December 2013, the City Manager developed an informational presentation about fiscal sustainability and delivered it to over 30 community groups and more than 650 total residents. The goal was to find "the simplicity on the other side of complexity", and focus on the most critical, key policy issues that came out of the past year's work and analysis. As a result, taking into account Council and community feedback, as well as staff's perspective on the most important decisions facing City leadership, the presentation focused on these three significant themes:



1. The unsustainable nature of Novato's revenue structure;
2. Employee compensation and its effects on recruiting and retaining quality staff; and,
3. Importance of infrastructure investment and maintenance.

PLAN ASSUMPTIONS

The purpose of this Fiscal Sustainability Plan is to set a long range vision for the City's fiscal health and future – beyond the annual budget process. In addition, the Fiscal Sustainability Plan is also a road map with strategic financial objectives to move the City forward based on Council's vision. The Plan is both a policy document and a financial plan and as such, it is important to recognize the key assumptions and policy statements that represent the City Council's objectives for the plan. These assumptions are the result of the data, analysis, research, discussion and outreach conducted over the last two years. These assumptions are the drivers for what ultimately goes into the plan to achieve both organizational and fiscal sustainability in the long run.

At its meeting of January 28, 2014, the City Council unanimously approved the following assumptions for the Plan:

- We want a long term fiscal and organizational sustainability plan;
- We want, at a minimum, to maintain existing service levels;
- We want, at a minimum, to maintain and improve the safety of our existing infrastructure; and,
- We want employee compensation, at a minimum, to keep pace with the cost of living (inflation) in the long run.

Given the above assumptions, the City Council also agrees that significant new ongoing revenue is needed in order to fund the elements of the fiscal sustainability plan, and that the preferred scenario is to achieve that new revenue by the end of 2015.

ELEMENTS OF THE PLAN

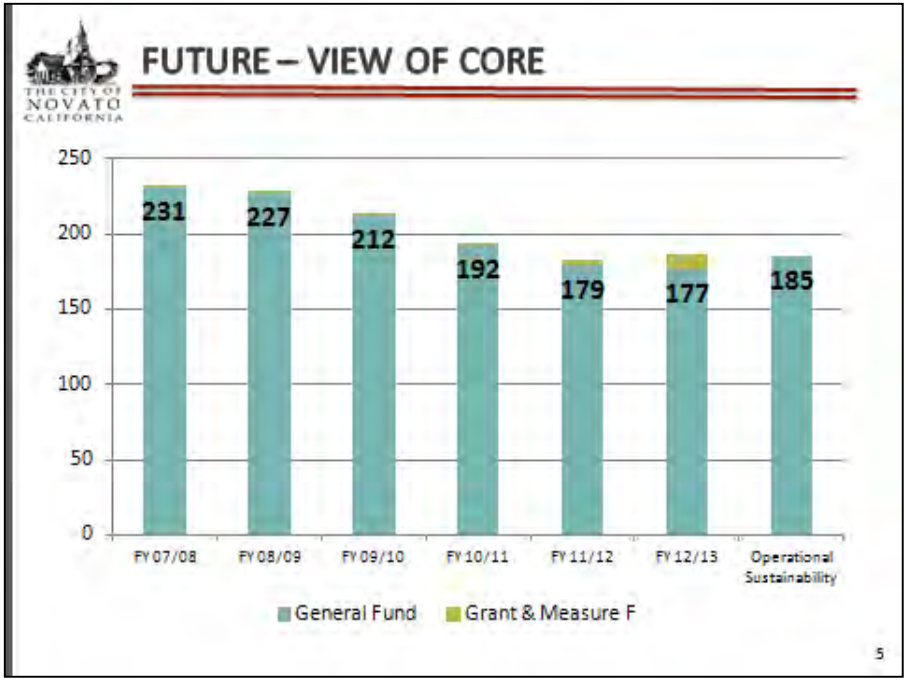
Detailed below are the elements included in the Fiscal Sustainability Plan as presented at the meeting of January 28, 2014.

1. **Status Quo Economic Development** – The Plan assumes no new revenue from economic development. This is not an assumption that no economic development will occur during the next 5-10 years. Rather, the City Council acknowledges that there is significant new retail development occurring in a variety of communities around Novato. Therefore, the plan does not assume or "count on" additional revenue from economic development, but instead assumes that our proactive economic development initiatives and achievements in Novato will preserve and maintain our existing revenue base.

2. **One-Time Investments** – The draft plan identified several investments of one-time funds that will either save ongoing expenses or generate additional ongoing revenues for Novato. These investments include installing at least one synthetic turf sports field; constructing a tournament bocce ball facility; replacing the remaining streetlights city-wide with energy saving LED bulbs; and paying off the Corp Yard lease from the Hamilton Trust Fund. The plan estimates that these investments will cost approximately $3.7 million one-time and will benefit the General Fund by about $370,000 on an ongoing basis once fully implemented.

One-time Investment Opportunity	One-Time Cost (Measure F Funding)	Ongoing Annual Savings
Installation of one synthetic turf sports field and construction of a tournament bocce ball facility	**$1.3 million**	**$130,000**
Replacing remaining city streetlights with energy saving LED bulbs	**$1.2 million**	**$140,000**
Pay off Corporation Yard lease from the Hamilton Trust	**$1.2 million**	**$100,000**
TOTAL	**$3.7 million**	**$370,000**

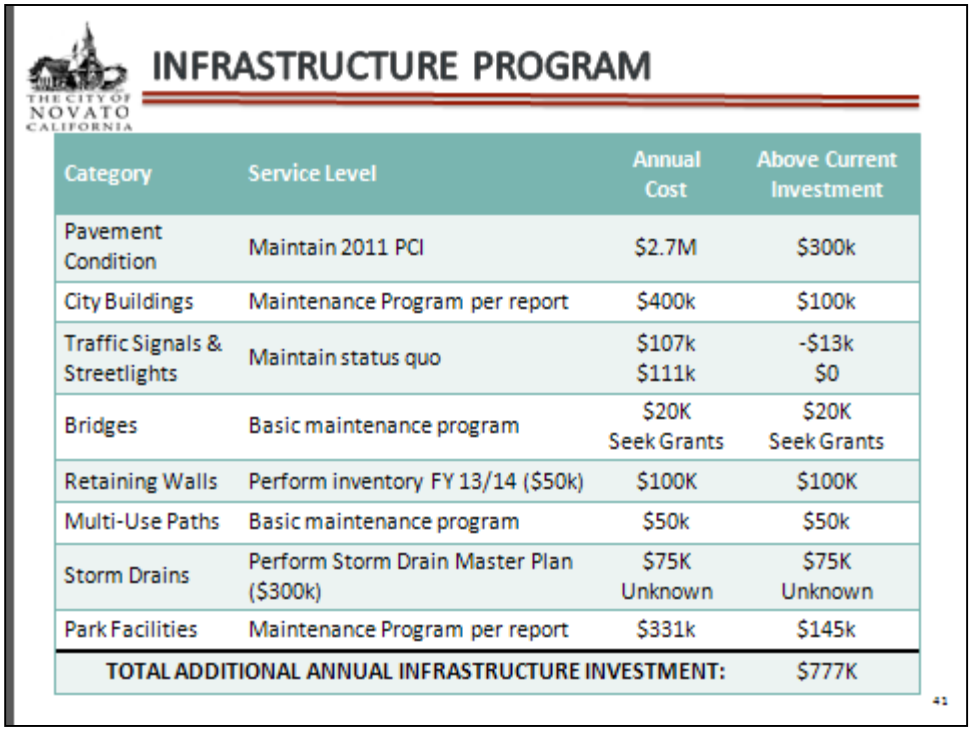
3. **Maintain Service Levels (Core Staffing) –** The City made major reductions in services and staffing over the last 5 years including a 30% reduction in every department, except Police which absorbed an 11% reduction in staff. There is agreement that Novato's staffing levels will stay lean going forward, yet there is also a recognition that some additions are necessary to have the correct "core" staffing to provide the current level of services expected by the community. The draft plan discussed the need to restore staffing levels by a net of approximately 6-8 full-time equivalent positions in the long run. There are a number of elements to the recommended staffing plan including adding back positions in areas that may have been cut too deeply; funding, on an ongoing basis, positions that are currently either grant-funded or paid via Measure F; adding positions in a few areas that have not historically been staffed correctly; and eliminating several positions where additional streamlining can occur in the organization. The details of which positions are to be added and when they would be added will ultimately be decided by the City Council during future budget deliberations. The chart "Future – View of Core" shows the historical staffing levels for Novato and the City Manager's recommended level ("Operational Sustainability") that would be achieved with the Core staffing recommendations.



4. **Set Compensation to Keep Pace with Cost of Living and Improve Market Competitiveness –** As a service organization, the issues of compensation, recruitment, and retention are key components of the Fiscal Sustainability Plan. The Plan includes an assumption that staff salaries keep pace with the cost of living (i.e. inflation) in the long run. The plan also anticipates improving the market competitiveness of the City's overall compensation package in the long run; this could include changes to or restructuring of the salary ranges of various positions, improving the City's cafeteria contribution to health related benefits, and other possible changes. It is important to note that this element of the plan is not intended to reference any specific labor negotiations cycle and is intended as a long-term goal / policy. The plan includes costs in the forecast for planning purposes as a result of some of these possible changes, but actual compensation is negotiated with each of the bargaining units as part of the collective bargaining process.

5. **Fund the Basic Infrastructure Maintenance Program –** The City is responsible for over $300 million worth of infrastructure including streets, facilities, storm drains, retaining walls, bridges, traffic signal and streetlights, multi-use paths and park facilities. It is far less expensive to maintain infrastructure, then let it deteriorate and have to replace or construct a complete overhaul.

   As part of the research and analysis phase of developing the draft Fiscal Sustainability Plan, the City along with outside experts identified the various areas of infrastructure owned and maintained by the City, as well as the required annual contribution for each of those components to maintain Novato's current infrastructure. A Storm Drain Maintenance Assessment will occur this fiscal year and provide more firm cost projections. The Fiscal Sustainability Plan anticipates that the City will begin funding these annual contributions to properly maintain its infrastructure investment. The "Infrastructure Program" slide details the components and their estimated annual cost. Overall, staff is estimating a minimum of $1 million needed annual to maintain the City's infrastructure.



THE CITY OF NOVATO CALIFORNIA

INFRASTRUCTURE PROGRAM

Category	Service Level	Annual Cost	Above Current Investment
Pavement Condition	Maintain 2011 PCI	$2.7M	$300k
City Buildings	Maintenance Program per report	$400k	$100k
Traffic Signals & Streetlights	Maintain status quo	$107k $111k	-$13k $0
Bridges	Basic maintenance program	$20K Seek Grants	$20K Seek Grants
Retaining Walls	Perform inventory FY 13/14 ($50k)	$100K	$100K
Multi-Use Paths	Basic maintenance program	$50k	$50k
Storm Drains	Perform Storm Drain Master Plan ($300k)	$75K Unknown	$75K Unknown
Park Facilities	Maintenance Program per report	$331k	$145k
TOTAL ADDITIONAL ANNUAL INFRASTRUCTURE INVESTMENT:			$777K

41

6. **New Ongoing Revenue –** Given the assumptions outlined above, as well as the five other elements of the fiscal sustainability plan, the City Council agrees that a significant source of new, ongoing revenue is needed to maintain a responsible, balanced plan in the long run. As documented, Novato's current revenue base is structurally broken and can't sustain the service levels desired by the community. (Section 3 of this Plan outlines the research and analysis of Novato's revenue structure to demonstrate the need for ongoing revenue.) While the original draft Fiscal Sustainability Plan specifically mentioned a voter-approved sales tax as the main source of ongoing additional revenue, this final plan acknowledges that approximately $4 million in new revenue is needed and anticipates significant additional research prior to deciding what precise revenue source or voter-approved measures will be pursued. The City Council also endeavors to achieve the new revenues by the end of 2015. The "Next Steps" section below contains more details about additional steps to occur in the next 2 years.

UPDATED FORECAST

When combined with a baseline 5-year forecast, incorporating the above-mentioned elements of the Fiscal Sustainability Plan generates a new 5-year forecast that models the financial implications of the Plan. The same caveats that the City always uses when discussing the Forecast apply to this updated version. The 5-Year Forecast is not a budget or a labor relations plan, nor is it trying to state what *will* happen. Rather, given a basic set of assumptions about inflation, revenue growth, salary growth, etc, it projects how the General Fund will accrue surpluses or deficits over a 5-year time period. To the extent that the City makes future decisions that differ from the assumptions in the plan, and to the extent that economic and other risk factors influence the City's revenues and expenditures over time, the City's actual financial performance will be different.

The updated Forecast table on the next page also includes some information about available Measure F monies for additional future one-time investments. The use of one-time Measure F funds is a key consideration for the City Council. A more complete discussion about uses of Measure F is part of the Next Steps outlined below.

City of Novato - Fiscal Sustainability and Measure F Scenario Planning

(All figures expressed in 000's of dollars)	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	One Time Funds Required
General Fund Surplus / (Deficit) January 2014	(56)	(221)	(14)	(107)	(303)	(424)	
13 - Future PERS Mortality Changes	0	0	0	(122)	(158)	(239)	
Assumptions from Options Tool							
5a - Status Quo Economic Development	0	0	0	0	0	0	
6 - Sythetic Turf Sports Fields / Park Improvements	0	0	130	130	130	130	(1,300)
7 - Replace all Remaining Streetlights with LED Bulbs	0	0	132	136	140	144	(1,200)
8 - Pay off Corporation Yard Debt	0	100	100	100	100	100	(1,200)
10b - Maintain Service Levels (Core Staffing)	0	(626)	(641)	(1,310)	(1,103)	(1,131)	
12a - Set Compensation to Keep Pace with Cost of Living & Improve Market Competitiveness	0	(921)	(1,216)	(1,518)	(1,834)	(2,146)	
Fund the Basic Infrastructure Maintenance Program		(777)	(796)	(816)	(837)	(858)	
SURPLUS / (DEFICIT) WITH STANDARD ASSUMPTIONS	(56)	(2,445)	(2,305)	(3,507)	(3,864)	(4,424)	
Revenue							
4c - Voter Approved Revenue Option - 2015 Ballot	0	0	0	4,600	4,738	4,880	
SURPLUS / (DEFICIT) WITH ALL ASSUMPTIONS	(56)	(2,445)	(2,305)	1,093	874	457	(4,806)

Measure F Planning	
Total Measure F Revenue to be Collected Through 2016	21,800
One-Time Options and Deficit Backfill (from above)	(8,506)
Past Measure F Expenditures and Future Budgeted Commitments	(3,118)
As-of-yet unallocated Measure F Funds	10,176

NEXT STEPS

Adoption of this Fiscal Sustainability Plan for Novato triggers a number of next steps over the next six months and the next several years. Below are some of the associated implementation actions.

By July 2014

- Budget process for fiscal year 2014/15 completed. This budget cycle may include implementation of elements of the components in the sustainability plan, including infrastructure investments, staffing changes, one-time investments, etc.
- Process to analyze and make decisions on future potential uses of Measure F. With the Fiscal Sustainability Plan in place, the City is poised to make more significant decisions about Measure F.
- Additional research about one-time options and reserves. Various Council Members have expressed interest in research on topics such as a rainy day fund / revenue stabilization fund; a pension reserve / fluctuation fund; and additional one-time investments that could save additional ongoing costs.

Fall / Winter 2014

- Conduct an initial presentation / work session regarding revenue options with an expert to explore strategies for success and options, including infrastructure bonds.

During 2015

- Budget process for fiscal year 2015/16
- Additional work and research with revenue / revenue consultant
- Final decision on what type of new revenues to implement
- If a voter-approved revenue option is selected, prepare and conduct a public information program
- General election – November 2015

SECTION 2

Background and Context

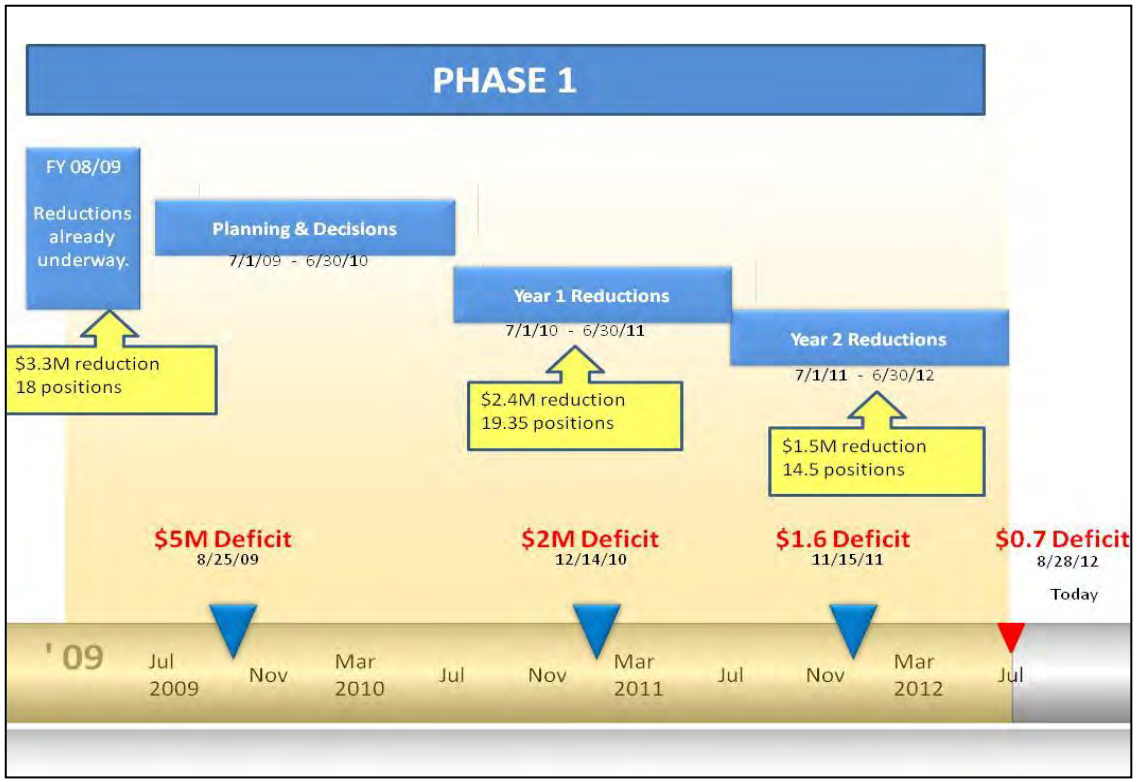
Fiscal Sustainability Plan

BACKGROUND AND HISTORY

The City's budget strategies and focus have evolved through the recession. Novato was hit hard and the City faced a fiscal crisis despite historically conservative fiscal decisions.

First Address the Fiscal Crisis – Phase 1; Then Plan for Long Term Sustainability – Phase 2

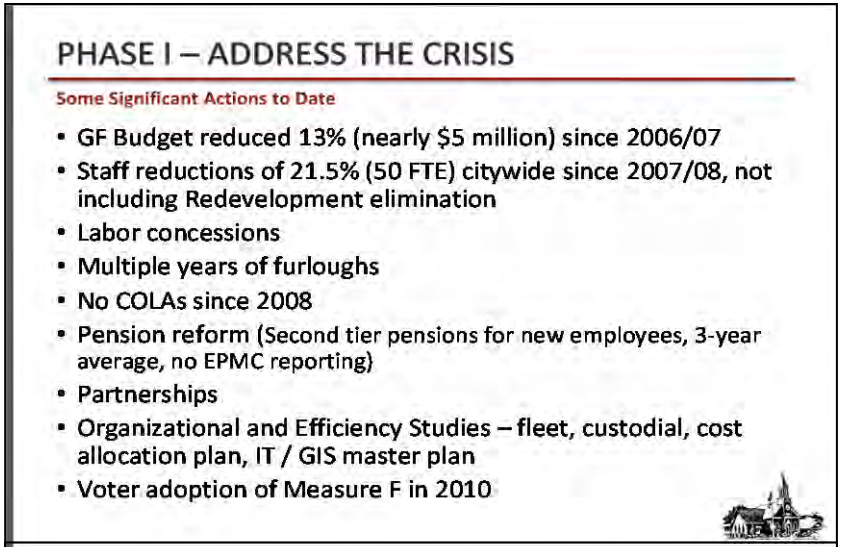
As the national, state and local economies weakened, development activity and associated revenue declined. The collapse of the financial sector froze credit markets, causing the bottom of the already declining housing market to drop out and new housing and business development to effectively halt. The slowing business cycle of the recession, economic uncertainty, depressed consumer confidence, and increased unemployment resulted in decreased consumption, reducing the City's income from taxes. Sales taxes plummeted. Housing values declined dramatically, forcing county assessors to revalue entire neighborhoods downward. Property tax revenues first leveled and then fell for the first time in the City's history. Continuing a pattern for over a decade, the State of California looked to solve its budget by raiding local revenues. The most devastating and many would say cynical, power grab was the elimination of Novato's redevelopment agency; the City's tool for promoting economic development. That State action shot an additional $800,000 hole in the City's budget. Lastly, increased retirement costs primarily associated with the California Public Employees Retirement System (CalPERS) investment losses and actuarial assumptions added to Novato's problems.

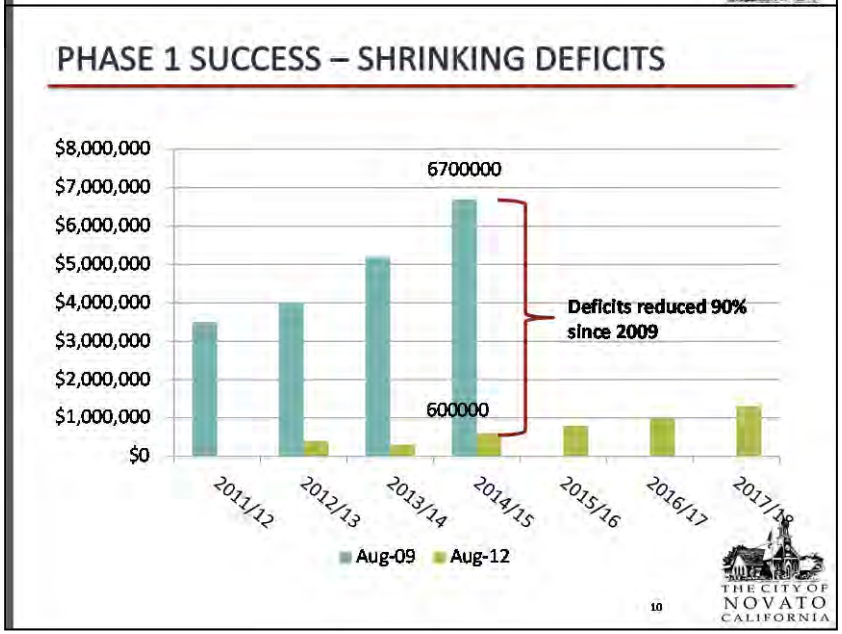


With this back drop, beginning in FY 08/09, the City began implementing a series of General Fund budget reductions in recognition of the impact of the factors listed above. The *Phase I* slide shows how the City reduced the deficit over four fiscal years and was focused on addressing the crisis. Departments reduced operating expenditures and eliminated five vacant positions. Reserve funds were used to fill the remaining gap in the budget. During FY 08/09, the Council was able to address the emerging revenue shortfall of $1,000,000 by taking a number of actions including: reducing operating expenses across all departments, eliminating vacant positions, deferring part of the annual set-aside for vehicle replacement, using accrued funds to offset Worker's Compensation expense and approving user fee increases where possible. Most of

the reductions for FY 08/09 were temporary or one-time reductions. The adopted FY 09/10 budget addressed a $3,000,000 anticipated deficit through elimination of 15 positions, reductions in operating expenses from all departments ranging from 5% to 10%, employee concessions of 3% to 5% of salary and use of reserve funds.

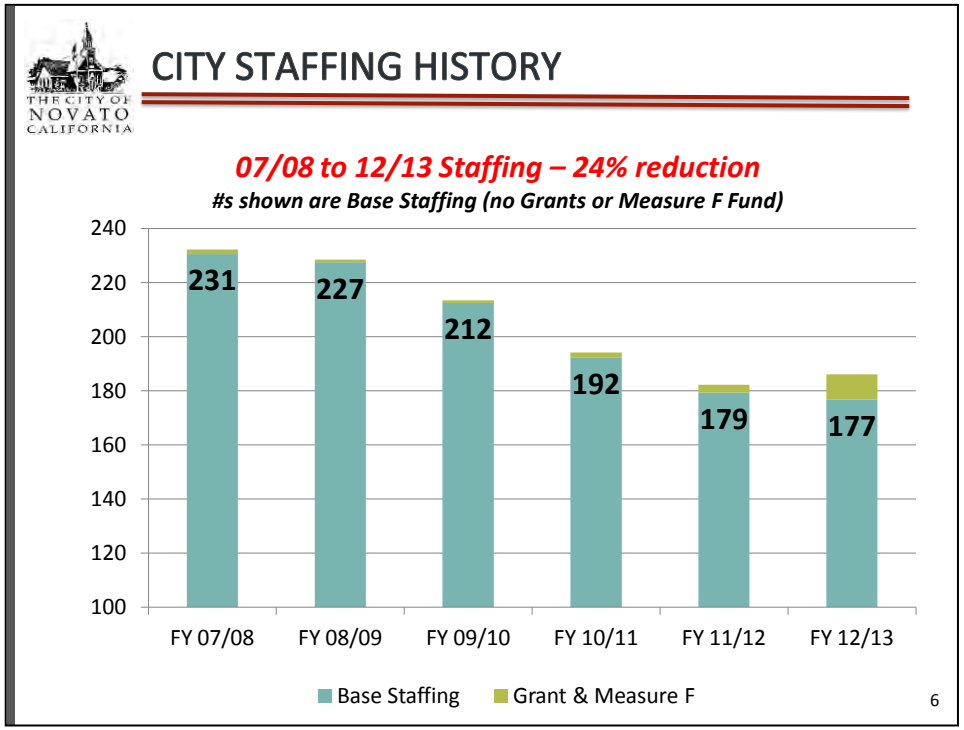
In August 2009, the City faced a $6,700,000 structural deficit. While reductions had been made in the prior two years, the continuing economic freefall with no end in sight required a complete reassessment, realignment and reduction strategy to be developed. During FY 09/10, the City Manager outlined his recommendation to create a comprehensive two-year deficit reduction plan. The Council held a series of public meetings from January – March 2010 to address the crisis, understand alternatives and review the City Manager's recommended reduction package. In March, the City Council approved a two-year deficit reduction package (FY 10/11 and FY 11/12) that removed more than $4,100,000 from the General Fund and resulted in the loss of over 33 positions and 7,400 part-time hours. Those original reductions and concomitant service level impacts affected the City's capacity to provide excellent municipal services to the community. As shown in the *Phase 1 Success – Shrinking Deficit* chart, with this two year reduction package, the structural deficit had been reduced by 90%, but not eliminated.





The impacts of the approved and implemented cuts are broad and varied and included eliminating the Police Officers assigned to schools and a reduction in management staff in the Police Department, ending the Neighborhood Crime Prevention Program, eliminating the City's funding for school crossing guards, closing or transferring responsibility for various parks, ending teen and youth center drop-in hours, closing the Hamilton Community Center, and ending most youth programs that were free and low cost targeting our most vulnerable populations. The impacts to the Police Department and public safety were real; yet core Police patrol staffing was protected from cuts. Recreation services were transitioned to "Pay-to-Play" and free community events that were sponsored by the City were eliminated. Maintenance staffing reductions affected street quality, island and park maintenance, and continued the deferred maintenance and decline of City facilities including the City's historical buildings. Many clerical and analytical positions were eliminated.

These two tables show the City positions eliminated since FY 07/08.



FY 08/09	FY 09/10	FY 10/11	FY 11/12
Management Analyst	Administrative Clerk II (2)	Reprographics Assistant	Assistant to the City Manager
Senior Engineer (2)	Information Technology Assistant	Account Clerk	Police Lieutenant
Principal Engineering Technician	Emergency Services Manager	Administrative Assistant	Police Sergeant
Deputy Director, Parks & Recreation	Community Service Officer	Community Service Officer (2)	School Resource Officer
	Planner I	Principal Planner	Police Records Specialist
	Building Inspector I	Planner I	Principal Civil Engineer
	Engineer II (2)	Sr. Administrative Clerk	Engineer I
	Public Works Inspector	Engineer I	Engineering Technician
	Maintenance Worker (2)	Equipment Technician	Maintenance Worker
	Gymnastics Instructor	Maintenance Worker (4)	Recreation Supervisor
	Management Analyst II	Recreation Division Manager	Recreation Coordinator (1.5)
	Reprographics Assistant (0.5)	Recreation Supervisor	Gymnastics Instructor
	Technical Services Manager	Recreation Coordinator (2)	
		Gymnastics Instructor	
		Administrative Clerk II	

In June 2010, the City was still facing a structural deficit of $1.4M in the fifth year of the 5-Year Forecast. Reserves had been reduced by 38% to balance budgets and in June 2012 were at the Council's minimum reserve policy and were not a fiscally prudent solution for a future year. At this point, the City had taken all reasonable steps available to reduce spending and still was not able to bring expenditures in line with anticipated revenues. Further spending reductions would have required deeper cuts including cuts to essential public services including closing a City facility such as the Senior Center or to start eliminating Police Officers. The City Manager determined that, without additional sources of General Fund revenue, the City would be forced to further reduce City services. The City then moved forward to consider a temporary sales tax measure.

Fiscal Emergency and Measure F Ballot Measure

Because of changes in State law, particularly the approval of Propositions 62 and 218, the City had very few substantive means available for increasing General Fund revenue. On June 22, 2010, the City Council declared a fiscal emergency. Article XIIIC, section 2(b) of the California Constitution permits a City, in an emergency situation declared unanimously by its Council, to seek voter approval for a general tax at an election that is not consolidated with an election for a member of the Council. On July 27, 2010, the City Council voted unanimously to place a general revenue measure on the ballot for a ½ cent sales tax for five years. By going to the voters, the City Council wanted to allow the community of Novato to (a) determine the level of service that it valued and (b) chose to provide additional resources to stop additional reductions and/or to restore some prior reductions.

On November 2, 2010, the voters of Novato passed Measure F with 58% support. The approval of Measure F prevented additional cuts which would have negatively impacted Novato residents and our overall quality of life. As described in the ballot measure, Measure F was seen as preventing any additional reductions, with the remainder used to restore some of the prior reductions or make investments in key priority areas: (1) Enhance Neighborhood Services and Public Safety; (2) Support Seniors, Youth and Families; and (3) Reinvest in Park and Street Maintenance. It was estimated to provide about $3 million per year at the time of its passage (as the economy has slowly improved, Measure F is generating about $4 million per year). The City began to receive these new revenues in April 2011. The funding will end in January 2016. With the passage of Measure F, the City Council committed to a transparent dialogue and public engagement process with the community to develop a plan for use of Measure F funding and also to develop a long term fiscal plan. The Council also created the Measure F Oversight / Citizens' Finance Committee, a seven-member commission, charged with reviewing and reporting on the revenue and expenditure of Measure F and overall review of the City's finances.

With the passage of Measure F, the City has been able to stabilize the organization and take the time to methodically and thoughtfully develop a long-term plan to allow the City to be both fiscally and operationally sustainable. Longer term, the City must develop a budget that is less subject to the vagaries of the economy and create a sustainable organization that is capable of providing quality programs and services within the revenues that are available. This additional revenue stream has provided Novato with the time to work down the structural deficit, maintain key services in the interim, and spend the time necessary to chart a long-term path to sustainability.

In order to create a multi-year work plan to achieve fiscal and organizational sustainability, the City embarked on a new course of action – "*Phase 2 – Plan for Fiscal and Organizational Sustainability*". This Phase has two main components: education on relevant fiscal sustainability topics and the development of an interactive "Sustainability Options Tool" to assist in discussing and weighing policy options and strategies for the long term.

Starting in August 2012 and continuing through July 2013, the City held a series of detailed background information and analysis work sessions on various components of fiscal sustainability. Each of the work sessions contained draft recommendations of options to consider for fiscal sustainability. The most relevant and realistic of these options were incorporated into an interactive Options Tool. The Council was also able to propose other ideas or options for staff to investigate. The focus of the Options Tool was on larger scale items of $100,000 or over. At the end of each work session, staff asked the Council for feedback as to what options and strategies to add to the sustainability options tool for future consideration. The goal was to develop 3-5 options within each topic area to add to the Options Tool. The final Options Tool would be polished and returned to Council for review and approval before developing it into a web-based educational tool for Council and the public.

The "Options Tool" takes the City's structural deficit and allows the Council and residents to visualize different choices and attempts to solve the structural deficit using an on-line interactive web site. This interactive spreadsheet will assist Council and the community to understand the tensions, choices and implications of various strategies to solve the City's long term structural deficit. It is staff's hope that the Options Tool will help Council move to the end goal -- the City Council's approval of a plan for the City to gain long term fiscal and operational sustainability.

Below is a list of the public work sessions and what occurred at each public meeting.

July 24, 2012 – The first fiscal sustainability work session outlined a draft process for Council's consideration and input. This included a schedule of proposed work sessions and the use of a web-based interactive Options Tool.

August 28, 2012 -- The next fiscal sustainability work session reviewed the assumptions in the City's 5-year Forecast Model and determined if there were other "baseline" assumptions that the Council wanted to be able to consider within the Sustainability Options Tool. This work session also explained the overall process and how the Options Tool would work.

September 18, 2012 – As a starting point, staff believed that a presentation on each department would provide important background information and context. This meeting covered Central Administration (City Manager's Office, City Attorney and City Clerk), Administrative Services, Citywide and Community Development. Each Department Head presented an overview of their department and discussed current trends and issues, current service levels, recent expenditure reductions, and service level holes where opportunities exist to invest resources for the long-term to improve services and/or understand the consequences. Information was also presented on current unfunded liabilities and options for reducing these liabilities through strategic investments.

October 16, 2012 – The department review sessions continued with three additional departments: Parks, Recreation and Community Services; Police and Public Works.

December 11, 2012 – A good understanding of the City's revenue base is critical for the Fiscal Sustainability initiative. Staff presented potential revenue options for the City and explained why some revenues that other cities are able to utilize are not available to Novato. Staff also provided some per capita comparisons on revenue. Staff called this presentation "Revenue-Part 1" because it excluded discussions on revenue generation through economic development.

February 5, 2013 – A focused meeting on economic development with two key components – a draft Economic Development Work Plan presented by the Economic Development Manager and information and options for how the City's economic development initiatives might link back to potential strategies for the City's fiscal sustainability efforts. This was the City Council's first proactive conversation regarding economic development in almost two years since the State of California eliminated redevelopment agencies throughout California. The loss of redevelopment created an additional $800,000 hole in the City's structural deficit and eliminated 2.5 staff positions focused on economic development and redevelopment.

March 12, 2013 -- Staff presented a work session on Employee Compensation which provided a broad overview of Novato's employee compensation compared to other cities, balancing recruitment and retention and overall macro-level employee compensation options for Council's consideration. The Employee Compensation Work Session included a review of the Five Year Financial Forecast, background and history about Novato's workforce, a discussion about the key components of employee compensation, including pensions, and discussion about Novato's compensation in relation to other public agencies in our local and regional labor markets. It is important to note that the session was not intended as a discussion about labor relations or negotiations or a detailed review of all benefit components, nor was it a pension study session. The purpose was to provide a broad overview of employee compensation, explore the relationship between the City's finances and employee compensation, discuss the impact of employee compensation on recruitment and retention, and present macro level compensation options for Council consideration.

March 16, 2013 – A consulting firm, Faithful+Gould, was hired to provide a Facility Condition Assessment (FCA) and Maintenance Analysis to review the City of Novato's 21 active-use facilities. Faithful+Gould inspected each facility to evaluate its current condition, report any existing physical or operational deficiencies, and provide cost estimates and a time schedule for repair work. The Facility Condition Assessment identified current deferred maintenance, recommended annual maintenance funding levels and prioritized capital improvements/major repairs necessary to maintain the facilities at current service levels. Faithful+Gould staff visited the 21 city-owned facilities in January 2013 and subsequently generated a FCA report for each facility. These reports provide a summary of the facility information, the scope of work performed, an equipment inventory, evaluation of the visually apparent condition of the property and an expenditure forecast of expenditures anticipated over the next 20 years. The consultant presented their findings and the financial implications and options of their work.

March 26, 2013 – A discussion centered around City infrastructure to understand long-term maintenance and capital funding options. The City owns many different types of infrastructure and assets including buildings, streets, streetlights, retaining walls, bridges, the storm drain system and more. As with most public agencies, there are large financial needs to maintain and repair these assets. This session described the various components and outlined options and costs for consideration by Council. One of the key decisions for the Council was if a portion of the City's General Fund should be utilized to help fund these investments or if Novato should rely on bonds and grants.

April 23, 2013 -- Staff presented information and recommendations regarding Core Staffing – areas where management believes that overall service levels and service delivery are not operationally sustainable and provided recommendations for consideration. The Core Staffing presentation included a review of past baseline staffing levels, a look at base staffing augmentations (grant and Measure F funded positions), current staffing levels and recommendations for long-term Core staffing as part of fiscal sustainability. The purpose of this session was to provide the City Council with a high-level view of core staffing options for the Fiscal Sustainability Options Tool and to offer background and research on the recommended number of core staff required to maintain service levels and become fiscally and organizationally sustainable in the future.

May 7, 2013 -- City Council held a four-hour work session to review, in detail, the options proposed for inclusion in the "Sustainability Options Tool"; to ask questions of staff and gain additional education and information about the financial impacts and tradeoffs of various decisions; and to review and provide feedback about the public input process for the fiscal sustainability planning effort. Council gave staff significant feedback and suggestions for changes, modifications, and improvements to various options contained within the tool.

May 21, 2013 – This session was Council's final approval of the Options Tool. Staff had followed Council's direction from the May 7th session and also performed further polish and clarification. The version of the Fiscal Sustainability Options Tool that was approved on May 21 was then transformed into the interactive web-based version for inclusion on the City's website.

As emphasized throughout this process, the Council was not making final decisions about fiscal sustainability at any of these work sessions. Rather, staff presented to the community and Council detailed background information and analysis as part of this education phase. Each of the work sessions contains draft option recommendations for potential inclusion in the Options Tool based on Council's direction.

PUBLIC ENGAGEMENT PROCESS

There have been a wide variety of tools and techniques used to encourage the public to be involved in Phase 2 of the Fiscal Sustainability effort that began in July 2012. Below is an overview of the public engagement opportunities that have already been provided and those that are available in the next 60 days.

- 12 Work Sessions - Twelve City Council work sessions completed, with educational data and information about the various topic areas (links to these videos will be integrated into the Options Tool and Fiscal Sustainability web pages).

- Retail Sales Tax Leakage Analysis with Shopper Survey and Business Survey – The Retail Sales Tax Leakage Study was presented on May 7 at a Council meeting. The study found $169 million in sales tax leakage out of Novato. The Measure F Oversight/Citizens Finance Committee and the Economic Development Commission were very involved in the sales tax leakage analysis.

- Community Satisfaction Survey -- In March 2013, the City contracted with the International City Management Association (ICMA) to utilize their National Citizens Survey (NCS) to survey Novato residents. The NCS is a five-page questionnaire that provides a statistically-valid survey of residents' opinions about their community and services. Four-hundred local governments in the United States use NCS to benchmark service quality and assess community needs. A standard survey is used for all jurisdictions requesting feedback on quality of life in the community, resident use of services and quality of services delivered. This allows all jurisdictions to benchmark their results nationally and regionally with other agencies that have also completed the survey. Surveys were sent to a randomly-selected sample of 3,000 households in Novato. Residents were able to complete the survey in a written format or on-line. A total of 825 completed surveys were returned yielding an overall response rate of 28%. The Council heard a presentation regarding the results on June 18, 2013. The results provided a variety of information that was relevant and helpful to the Council and community when considering some of the fiscal sustainability choices and options. A brief summary of the Survey is in the Appendix with links to the full report.

- Measure F Oversight / Citizens' Finance Commission – Staff held active review and discussion with the Council's key financial commission, the Measure F Oversight/Citizens' Finance Committee, through the development of all of the research and work sessions. The Commission's agendas and minutes are on the City's web site for review. Staff would like to sincerely thank the Committee for their valuable input, advice and recommendations as this Plan was developed.

- Enhanced Fiscal Sustainability Web Pages – New web information has been added to provide background and context to the community to help them participate in Council's deliberation process in June/July 2013.

- Sustainability Options Tool Web Tool –The Option Tools is a complicated and robust Excel-based financial management tool. Staff has taken the spreadsheet version and worked with a web developer to create an interactive tool. The Options Tool can be found on the City's web page for Council, Commission and community use. The Options Tool will be available on the City's web site at www.novato.org on the Hot Topics page. This interactive Options Tool will allow members of the public to try out different options and determine their own preferred scenario to solve the structural deficit. Each option is accompanied by a background paragraph that provides additional information. Participants will be able to select, or unselect, each of the various options, and the Tool will automatically re-solve the General Fund deficit accordingly. It is important to remember that the purpose of the Options Tool is to allow the Council and community members to explore difficult choices, tradeoffs, and implications of possible decisions. While staff tried to make the Options Tool clear and concise for the

public, some of the financial choices within the Options Tool will remain complicated due to the nature of option. In order to understand the options and provide meaningful input, the Options Tool requires that users read this Fiscal Sustainability Plan and there is additional background information on the web site.

The web-based Options Tool will not provide the public with an option to submit their preferred solution electronically. Raw data from residents' use of the Options Tool will not be collected and/or analyzed; however, the Tool does have a comment form for members of the public to send in their ideas, comments, concerns, suggestions, etc about the Options Tool and Fiscal Sustainability.

- Two Town Hall Meetings – Staff will hold Fiscal Sustainability Town Hall meetings on July 2nd and July 8th. These meetings are intended to serve as an update to the fiscal sustainability process, an overview of the options contained in the Tool, and how the Tool works mechanically. The primary purpose is to serve as an educational component for residents who have not fully followed along with all of the past Council work sessions, as well as serve as a feedback loop to obtain public comment.

- Fiscal Sustainability Plan – This document is the Fiscal Sustainability Plan and was released publicly on June 19th. The Plan has a variety of background information, descriptions of the various aspects of the City budget, overviews of the options contained in the Tool, and the City Manager's recommended "solution" to long term fiscal and organizational sustainability.

- City Council Discussion & Deliberation– After learning about the Options Tool and reading the draft Fiscal Sustainability Plan, the community will be invited and encouraged to participate in a number of City Council meetings to discuss and ultimately adopt the final version of the Fiscal Sustainability Plan. The first City Council review of the Plan will be on June 25th. Additional meetings are scheduled for July 9th and July 16th.

FIVE-YEAR FORECAST

The Five-Year General Fund Forecast was developed four years ago as a long-range planning tool, showing a five-year outlook of future City revenues and expenditures, with the ability to model different outcomes by changing the assumptions. The forecast is based on a large set of reasonable assumptions that, in staff's view, reflect a "most likely" scenario. The forecast is not a five-year budget; the City Council makes decisions about the annual budget during the spring of each year, based on the most recent revenue projections and on the City Manager's and department head recommendations about expenditures for the upcoming year. Rather, the forecast uses the current budget and projects out from there – assuming no new programs or staff additions, no major changes in state law, and without attempting to buffer every possible negative or positive future impact that could occur. Staff does, however, attempt to integrate known information about specific revenues or expenditures; for example, limited-term positions are assumed to expire on schedule, grant-funded positions to expire when the grants expire, one-time revenues are pulled out of the forecast when they end, and so on.

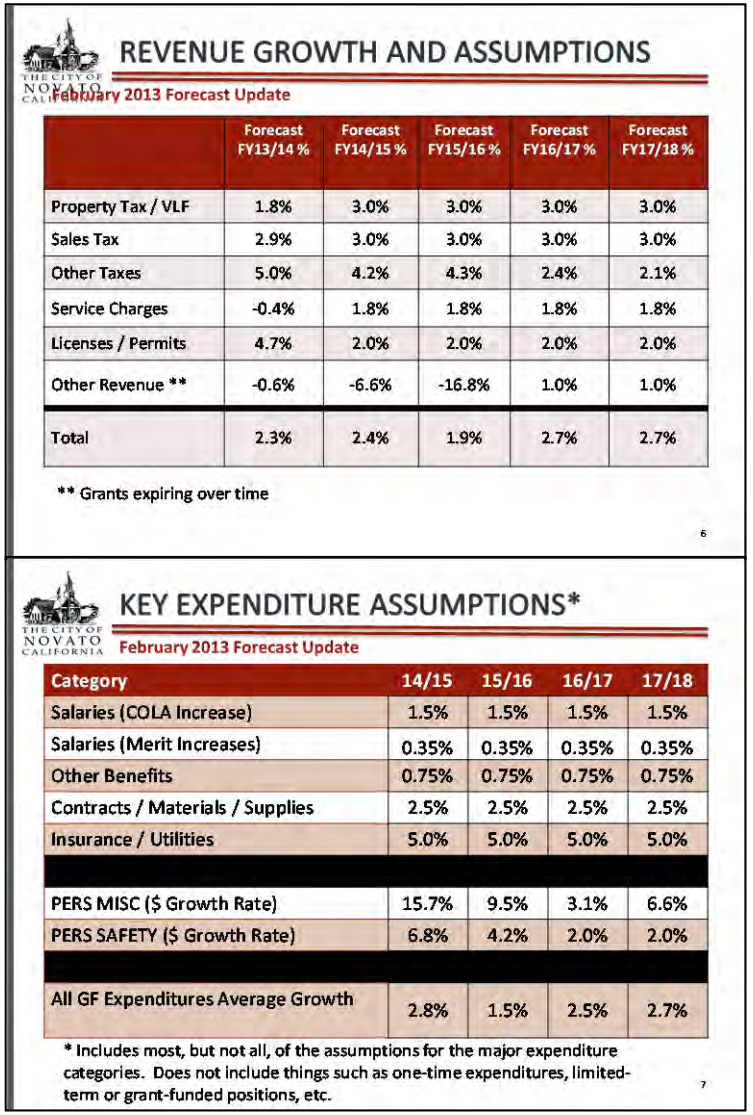
The Five-Year Forecast has been an important tool to help staff and the Council manage the structural deficit and make a variety of decisions to reduce and improve our financial position from where we were in FY 07/08 to where we are today.

Revenue and Expenditure Assumptions – As mentioned above, the forecast is based on a large set of assumptions for both revenues and expenditures. Staff incorporates as much information as possible when putting together the assumptions, including factors such as:

- Inflation, unemployment, retail sales performance, changes in property values, and other economic factors
- Known legislative and policy changes
- Historical performance of various revenue categories
- Rate increases from services providers – utilities, contracts, material suppliers, etc
- Negotiated bargaining agreements – salaries, benefits, work hours, etc

After considering all available information, staff puts the assumptions into the model so that the revenue and expenditure trends can be calculated. The revenue assumptions for the most recent forecast are summarized in the *Revenue Growth and Assumptions* slide. As shown in the table, it is important to point out that the forecast does assume growth in revenues over time. At an average growth rate of 2% to 3% annually, the growth in revenues roughly mirrors the long term inflation average of about 2.4%, but varies depending on the individual revenue source. As mentioned above, these projections represent staff's "most likely" scenario, with the recognition that actual revenue performance is likely to differ from these assumptions. As the forecast is updated about three times per year, these assumptions may change over time to reflect the newest information.

Staff also conducts similar analysis on the expenditure assumptions and uses those assumptions to project the expenditures over the five-year forecast horizon. The *Key Expenditures Assumptions* slide illustrates the expenditures assumptions.



REVENUE GROWTH AND ASSUMPTIONS

February 2013 Forecast Update

	Forecast FY13/14 %	Forecast FY14/15 %	Forecast FY15/16 %	Forecast FY16/17 %	Forecast FY17/18 %
Property Tax / VLF	1.8%	3.0%	3.0%	3.0%	3.0%
Sales Tax	2.9%	3.0%	3.0%	3.0%	3.0%
Other Taxes	5.0%	4.2%	4.3%	2.4%	2.1%
Service Charges	-0.4%	1.8%	1.8%	1.8%	1.8%
Licenses / Permits	4.7%	2.0%	2.0%	2.0%	2.0%
Other Revenue **	-0.6%	-6.6%	-16.8%	1.0%	1.0%
Total	2.3%	2.4%	1.9%	2.7%	2.7%

** Grants expiring over time

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KEY EXPENDITURE ASSUMPTIONS*

February 2013 Forecast Update

Category	14/15	15/16	16/17	17/18
Salaries (COLA Increase)	1.5%	1.5%	1.5%	1.5%
Salaries (Merit Increases)	0.35%	0.35%	0.35%	0.35%
Other Benefits	0.75%	0.75%	0.75%	0.75%
Contracts / Materials / Supplies	2.5%	2.5%	2.5%	2.5%
Insurance / Utilities	5.0%	5.0%	5.0%	5.0%
PERS MISC ($ Growth Rate)	15.7%	9.5%	3.1%	6.6%
PERS SAFETY ($ Growth Rate)	6.8%	4.2%	2.0%	2.0%
All GF Expenditures Average Growth	2.8%	1.5%	2.5%	2.7%

* Includes most, but not all, of the assumptions for the major expenditure categories. Does not include things such as one-time expenditures, limited-term or grant-funded positions, etc.

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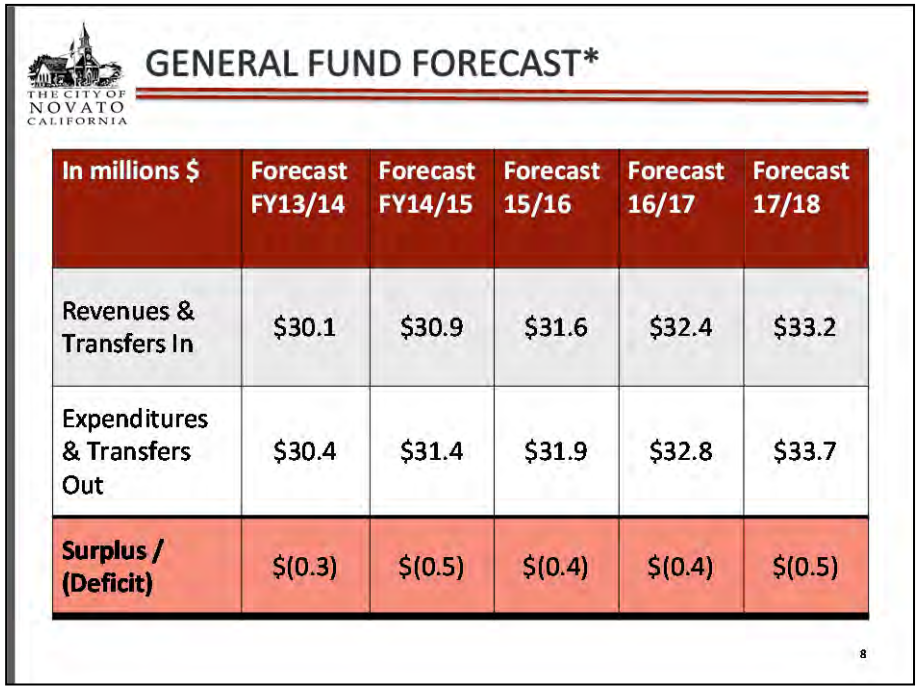
Results and Charts – After putting all of the above assumptions into the forecast and running the model, the *General Fund Forecast* slide shows the following results. Essentially, the City's structural General Fund deficit as computed in the forecast is about $400,000 to $500,000 per year. This is significantly lower than has been forecasted in prior years, mostly due to the lengthy budget reduction process that the City undertook from 2009 to 2012.



GENERAL FUND FORECAST*

In millions $	Forecast FY13/14	Forecast FY14/15	Forecast 15/16	Forecast 16/17	Forecast 17/18
Revenues & Transfers In	$30.1	$30.9	$31.6	$32.4	$33.2
Expenditures & Transfers Out	$30.4	$31.4	$31.9	$32.8	$33.7
Surplus / (Deficit)	$(0.3)	$(0.5)	$(0.4)	$(0.4)	$(0.5)

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- Employee salaries are projected to grow at 1.5% per year. This is lower than inflation, and given current data that shows many of the City's job classifications are compensated significantly below our market comparables, this assumption may or may not be sustainable.

- Facilities maintenance is funded at $300,000 per year. This amount is less than the estimated $400,000 required to fully upkeep most City facilities. It also does not contribute any money to other infrastructure maintenance such as bridges, retaining walls, storm drains, etc.

- Grant funded positions expire. Some key positions currently on staff will end when the grants expire. The forecast does not assume any additional general fund funding on an ongoing basis for these positions.

- No additional revenue is assumed from new businesses or economic development. As mentioned above, revenues are generally growing 2% to 3% per year, which essentially representative of inflation. Any additional retail or commercial businesses that start in Novato over the next five years have not been factored into the forecast at this time, however, the Options Tool does allow the choice to select addition economic development revenue.

One important aspect to keep in mind about the assumption-driven nature of the forecast is that sometimes changing one or two key assumptions can make substantial differences in the forecast. One example to which to call the reader's attention is the recent modification to the citywide salary increase assumptions for employees. For the past 18 months or thereabouts, every version of the forecast that staff has produced has used assumptions on salaries that increased by 2.5%, 2.5%, 3.0%, and 3.0% during the final four years of the forecast. While these forecasts always vary slightly each time, the deficit for the 2017/18 year was consistently showing about at $1.4 to $1.8 million. During recent review of the Forecast for the preparation of the Options Tool and this report, the City Council directed staff to lower that assumption to a flat 1.5% per year each year.

While not necessarily appearing to be a massive change, the compounding effects are large; you can see that the deficit is now in the range of $500,000 in that same fiscal year. This is approximately a $1,000,000 swing in the Forecast. As you will read later, there is an option in the Options Tool to set salaries to grow with inflation, closer to 2.5%, which closely model the prior assumptions in the Forecast.

FISCAL SUSTAINABILITY OPTIONS TOOL OVERVIEW

The goal of creating a fiscally sound long-term financial plan has been in the City Council's strategic plan for a number of years. Rather than having staff simply draft a plan with a series of analysis and proposals, and then solicit community and Council feedback, Novato more or less reversed the process. Instead, staff presented to the community and the City Council a series of work sessions intended to educate them regarding the various aspects and components of the City's financial health. These work sessions began in August 2012, and included topics such as revenues, economic development, departmental expenditures, employee compensation, infrastructure financing, and more. The effect of this process was essentially to walk through, in a deliberate and public way, the analysis that staff would have undertaken anyway during the drafting and construction of the long-range financial plan.

The culmination of each of the work sessions was a series of options that could be chosen that would have some effect on the long-range fiscal sustainability of the City. Staff and the City Council worked to aggregate all of these options into one matrix – the Fiscal Sustainability Options Tool. The Options Tool is intended to be used as a scenario modeling tool. The Options Tool gives the user the ability to select and un-select the options that he/she prefers for the City to pursue, and automatically sees how those choices affect the long-term General Fund deficit. It is intended to simulate the tradeoffs, tensions, and implications of choosing the various options. This is at least a 4-dimensional puzzle, but portrayed in a 2-dimensional format. Some of the considerations include:

- *Dollars* – How much does each option save (or cost) the General Fund?
- *Time* – How long does an option take to begin saving or costing money, and how do the savings change over time as you move through the five years?
- *Service Levels and Community Values* – How does the choice affect service levels, community character, employee morale, etc?
- *Risks / Probability of Implementation* – How easily can an option be implemented and what are the risks in doing so?

The work sessions, information found on the website, as well as this report are intended to provide more of those third and fourth dimensions listed above, as they are more challenging to portray on a spreadsheet-style forecast matrix. The options are initially explored within the background sections: Section 3 - Revenue, Section 4 - Expenditures, Section 5 – Facilities and Infrastructure. Section 6 is a complete detailed table of the Options Tool with descriptions and analysis. The next page shows the Sustainability Options Tool as a reference. The overall appearance will be different on the City's web site, but the content is the same.

The Options Tool can be found on the City's web site at www.novato.org on the Hot Topics page.

The first line of the Options Tool shows the current forecasted deficit, utilizing all of the assumptions described in Section 6 of this report. Below that, there is a description of each option, as well as a display of the dollar savings (or cost) for each of the five years of the forecast model. To the left of each choice, the user can select which options he / she wishes, and the Options Tool will automatically re-solve and re-display the deficit with the selected options. Hovering over the title of any option or section will display a message box to the right that will provide the user with additional description and background about that particular option.

We invite you to try the tool on-line.

Novato Fiscal Sustainability Options Tool

Include?	Initial Forecast	One-Time Funds	(All $$ in thousands) 2013/14	2014/15	2015/16	2016/17	2017/18
√	Deficit from May 2013 Budget Forecast		(301)	(482)	(371)	(413)	(520)
	Revenue and Economic Development Options						
	Contingency for State of CA Revenue Takeaways / Shifts		(50)	(100)	(150)	(200)	(250)
	Pursue Options to Collect Refuse Road Impact Fee					350	350
	Voter Approved Option (e.g. 0.25% Sales Tax) - continue & reduce current tax to 0.25%		-	-	-	2,200	2,266
	Voter Approved Option (e.g. 0.375% Sales Tax) - continue & reduce current tax to 0.375%					3,300	3,399
	Voter Approved Option (e.g. 0.5% Sales Tax) - continue current 0.5% tax					4,400	4,532
	Status Quo Economic Development - offsetting increased sales tax leakage		-	-	-	-	-
	Economic Development $500k add'l ongoing revenue by 2017/18					250	500
	Economic Development - $1.0M add'l ongoing revenue by 2017/18					500	1,000
	Economic Development - $1.5M add'l ongoing revenue by 2017/18					750	1,500
	Expenditure / Departmental Options						
	Install Synthetic Turf Sports Field(s) / Park Improvements to increase revenue / decrease mai	$ 1,300		130	130	130	130
	Replace all remaining streetlights with LED bulbs	$ 1,200		132	136	140	144
	Pay off Corporation Yard Debt to Yield Ongoing Debt Service Savings	$ 1,200	100	100	100	100	100
	Service Level Additions / Reductions						
	Staff Recommended Base Service Levels + Additional Service Level Enhancements		(556)	(980)	(1,252)	(1,867)	(1,905)
	Staff Recommended Base Service Levels		(556)	(726)	(737)	(1,083)	(844)
	Additional Service Level Enhancements		-	(254)	(515)	(784)	(1,061)
	No changes to existing Forecast - grant-funded positions end when grants ends		-	-	-	-	-
	Additional service level reductions / staffing cuts		-	-	-	1,000	1,015
	Utilize 50% of Parks Measure A Funding to offset existing / proposed Rec & Maintenance expenses				200	206	212
	Utilize 100% of Parks Measure A Funding to offset existing / proposed Rec & Maintenance expenses				400	412	424
	Employee Compensation / Benefits						
	Set salary growth at inflation (2.5% per year) and add $$ to remain competitive			(403)	(834)	(1,284)	(1,767)
	Set salary growth assumptions to keep pace with inflation (2.5% per year)			(202)	(415)	(636)	(871)
	Keep existing salary assumptions in the Forecast (1.5% per year)			-	-	-	-
	Eliminate salary growth assumptions in the Forecast			302	615	932	1,261
	Additional Assumption for PERS Increases				(297)	(524)	(705)
	Implement modifications to employee health care / cafeteria contributions			(200)	(203)	(206)	(209)
	Pre-pay OPEB Liability with other funds	$ 2,000	140	140	140	140	140
	Facilities and Infrastructure Maintenance						
	Fully fund facilities maintenance as well as storm drains, bridges, retaining walls, and multi-use paths		(332)	(340)	(349)	(358)	(366)
	Fund streets / pavement / bike / pedestrian maintenance to maintain 2011 levels		(300)	(308)	(315)	(323)	(331)
	Fund additional infrastructure investments equivalent to Measure B levels		(1,500)	(1,538)	(1,576)	(1,615)	(1,656)
	NEW DEFICIT TO SOLVE WITH SELECTED OPTIONS		**(301)**	**(482)**	**(371)**	**(413)**	**(520)**
	TOTAL ONE-TIME INVESTMENT REQUIRED	$ -					
	TOTAL MEASURE F DEFICIT BACKFILL FUNDS REQUIRED	$ 2,087					

SECTION 3

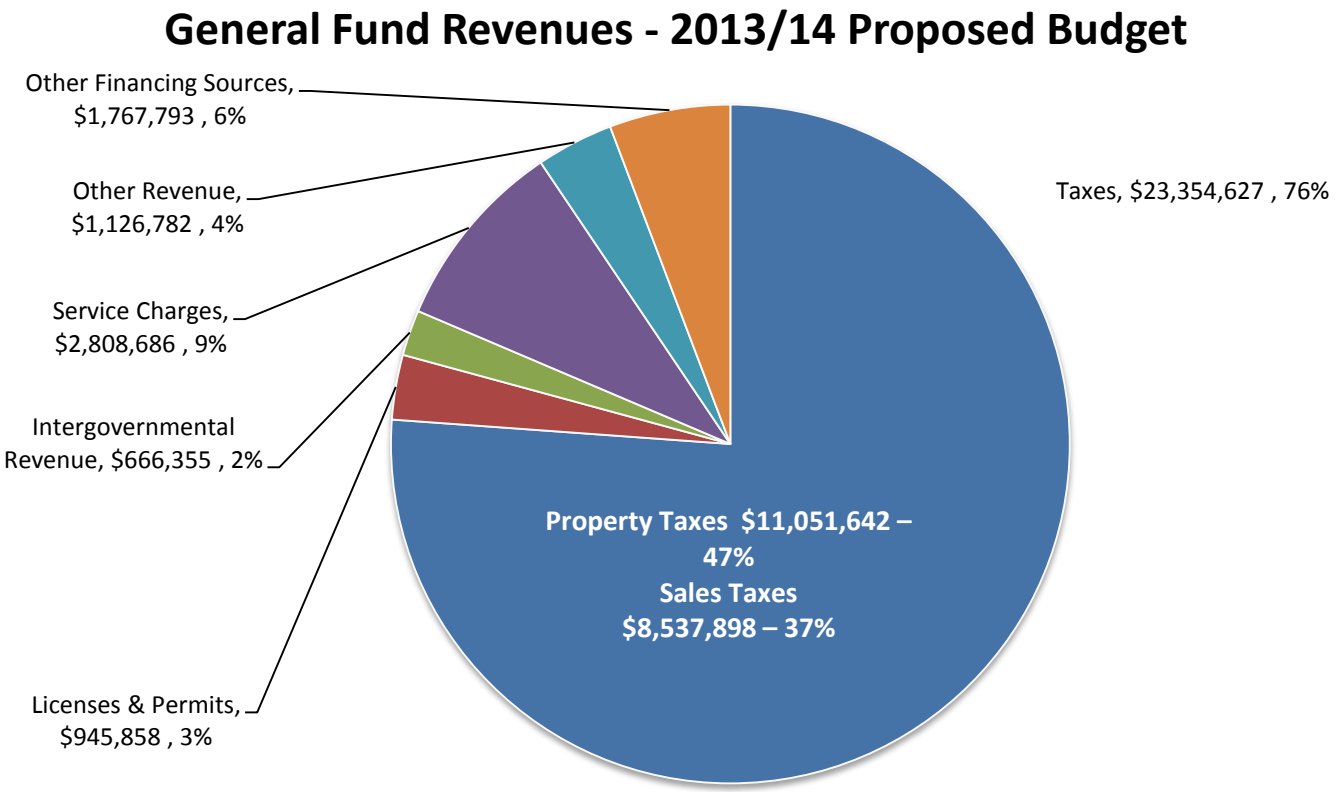
Revenues

Fiscal Sustainability Plan

NOVATO REVENUES

Novato obtains its General Fund revenues from a variety of sources, including taxes, fees, charges, fines, interest, and leases. The *General Fund Revenues – FY 2013/14 Proposed Budget* chart shows that taxes are by far the largest source of revenue, comprising about 76% of the General Fund available resources.

Within the Taxes category, sales and property taxes represent nearly 84% of the total, with real property transfer tax, franchise fees, business license tax, and transient occupancy tax representing the rest of that significant category.



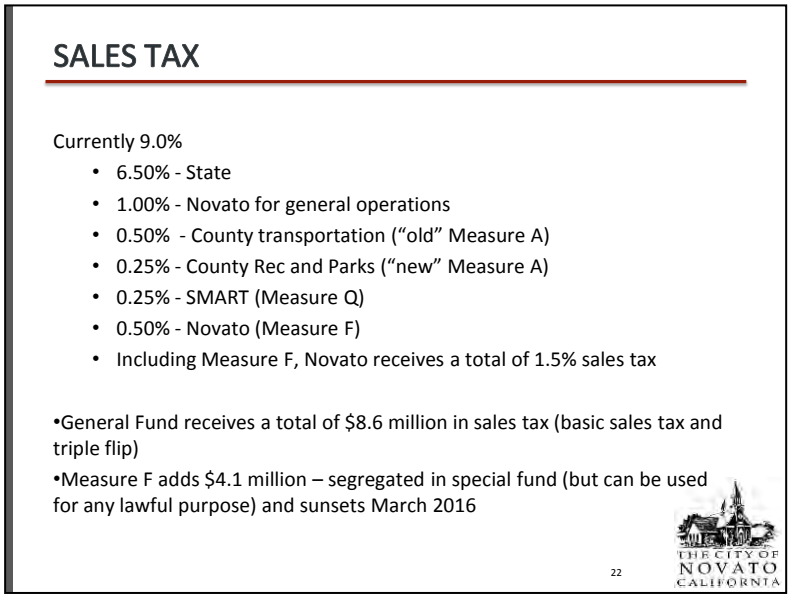
Property Tax – Property tax includes Novato's small share of the basic 1% property tax that is paid on all real property in the City. It also includes supplemental property tax, unsecured property tax, tax in lieu of motor vehicle license fees, refunds from the Education Revenue Augmentation Fund (ERAF), and previously obligated distributions of former tax increment from the City's former Redevelopment Agency.

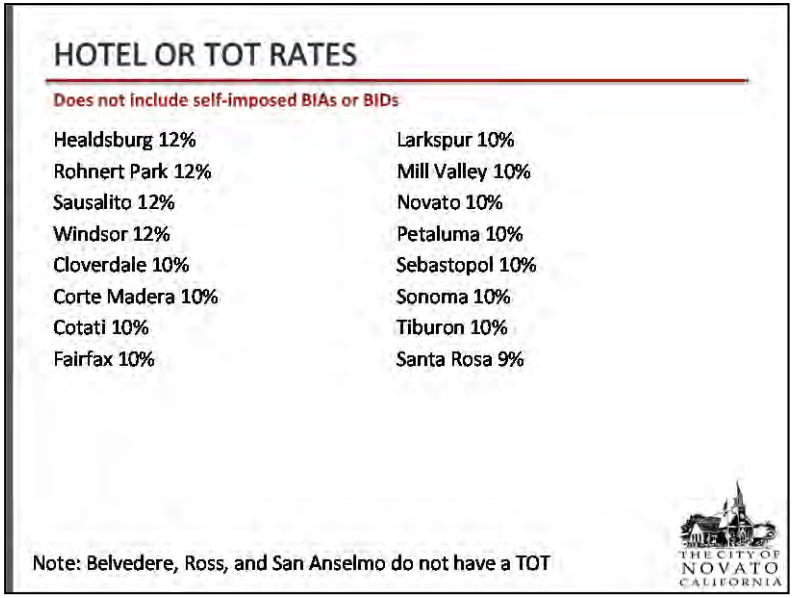
Sales and Use Tax – The City receives 1% out of the total 9% current sales tax rate for its General Fund. There is also a small public safety sales tax (often known as "Prop 172"). The recent passage of Measure F has also begun contributing an additional 0.5% to the City, but that is tracked in a separate fund of the City and does not directly come into the General Fund. The *Sales Tax* slide shows a breakdown of sales tax.

Real Property Transfer Tax – This tax is a charge that is levied anytime real property changes hands in the City. The City receives $0.55 per $1,000 of the sales price of a property. This tax rate is set by state law for General Law cities such as Novato.

Franchise Fees – The City receives franchise fees from all cable providers in Novato, as well as from PG&E for both gas and electric service. These operators pay a fee for the exclusive right to offer those services to residents. The waste hauling franchise, which is often another public service for which cities receive a franchise fee, resides with the Novato Sanitary District, and the City receives no compensation from that agreement.

Transient Occupancy Tax – The hotel tax in Novato is a total of 12%, with some of that charge going directly to the Countywide Business Improvement District, and a portion being dedicated to promoting tourism in Novato. The remainder (9%) is General Fund revenue. See the *Hotel or TOT Rates* slide for some comparisons of the 12% Novato tax to surrounding jurisdictions (other jurisdictions displayed do not include any relevant business improvement district assessments).

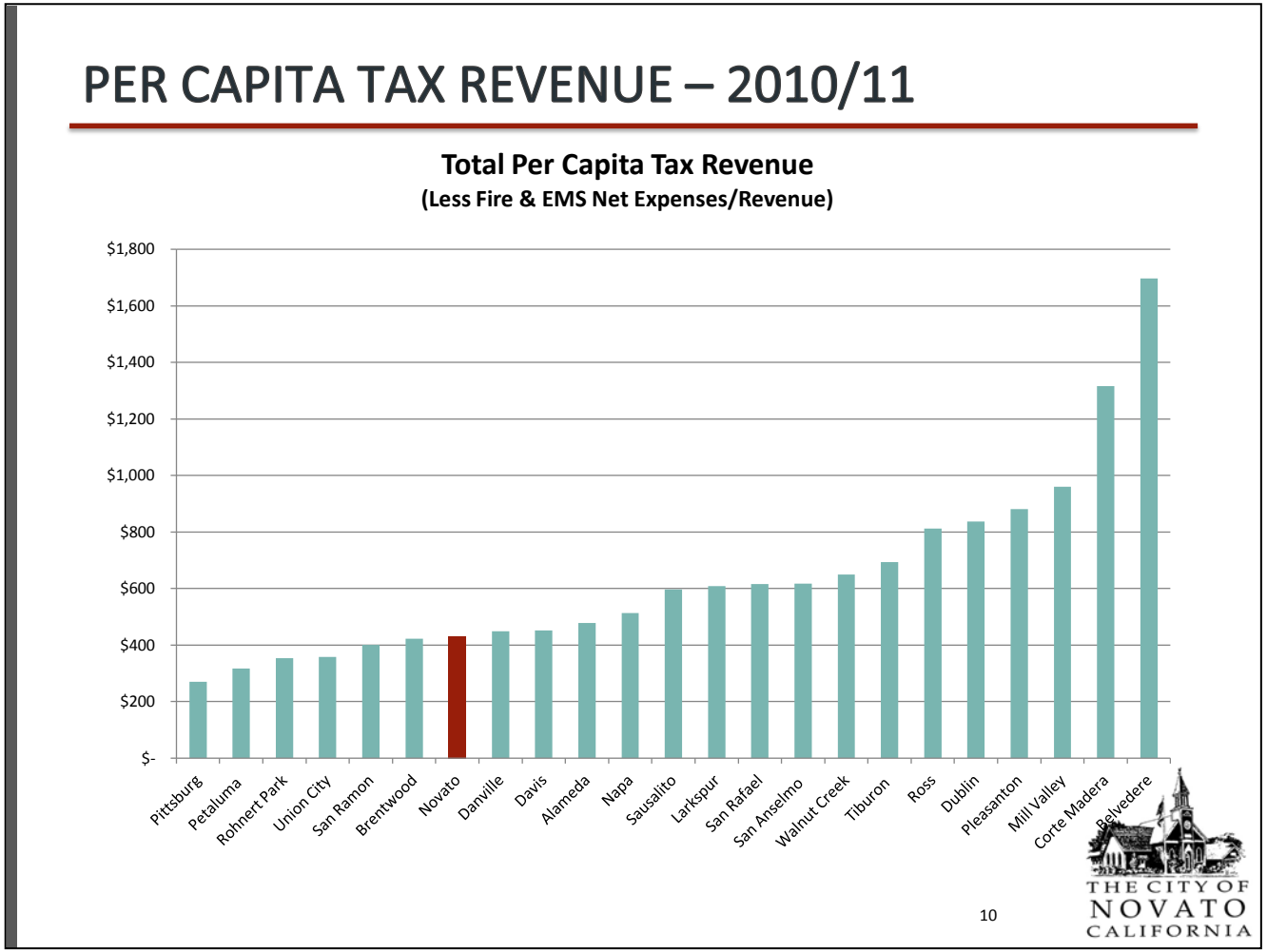




Business License Tax – Most businesses operating within City limits are required to possess a business license and pay the required fee on an annual basis. The fee is based on several factors, including type of business and number of employees.

One way to measure Novato's tax base is on a per capita basis. This method of comparison controls for differences in population among different cities. Because of some of the inherent challenges to Novato's overall revenue base (discussed in more detail below), it is clear that Novato does not have the same basic level of revenue available that other similar sized cities have.

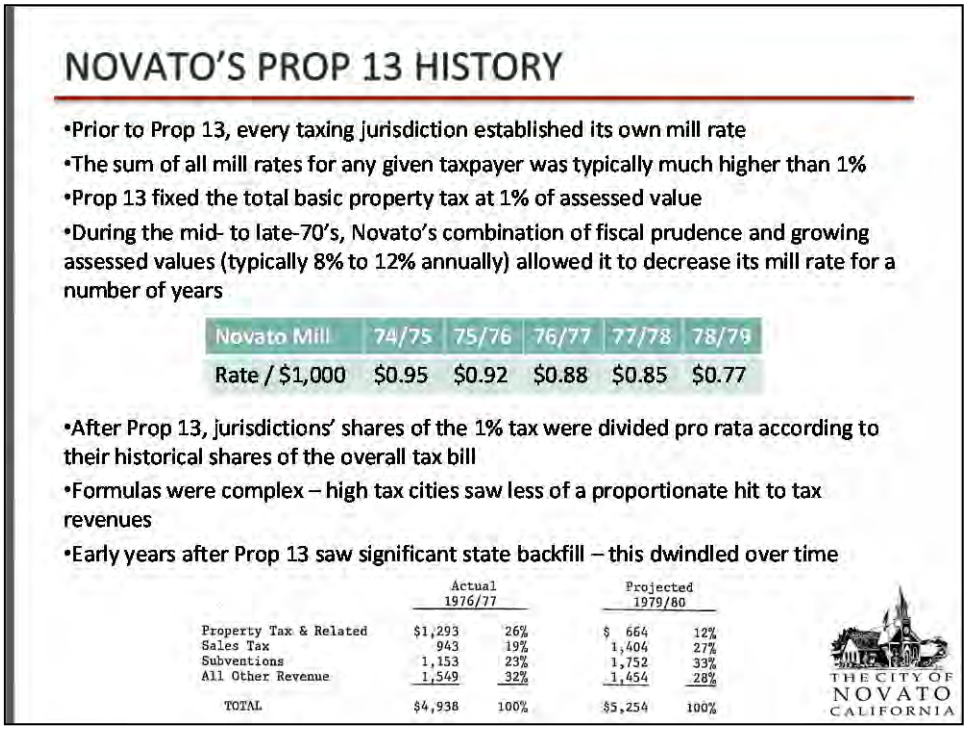
The *Per Capita Tax Revenue – FY 2010/11* slide shows the total tax revenue for a variety of cities, excluding expenditures on Fire and EMS services (since those services are not City-provided in Novato). The data for this analysis is taken from the State of California Controller's Report. Clearly, Novato is well below many of the comparable cities in terms of total tax revenue, and is at the bottom of the list when comparing Marin County cities only.

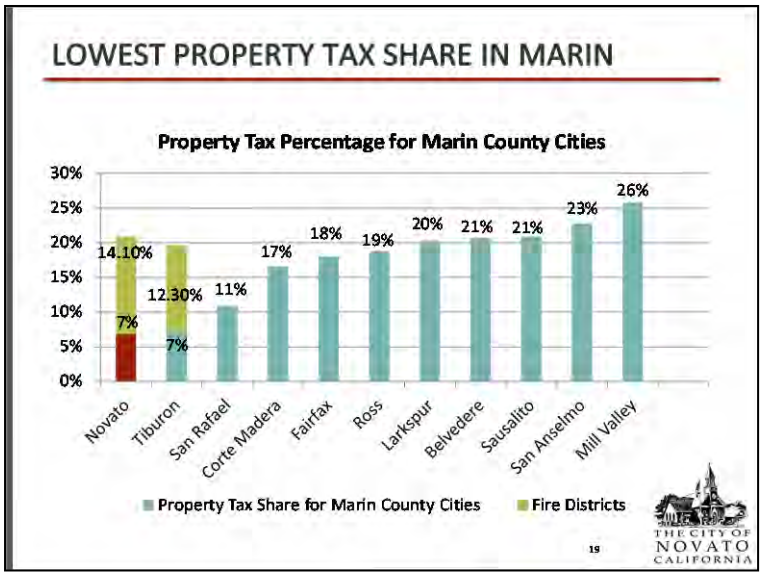


Novato Faces Major Challenges Due to Revenue Inequalities:

Novato is not a full-service city - Novato officially incorporated in 1960. This incorporation date came after the Novato Sanitary District (incorporated in 1925), and the Novato Fire District (incorporated in 1926), and the North Marin Water District (incorporated in 1948). These dates are important because Novato, in contrast to many other cities, does not provide sanitary, fire or water services to the public. These services are provided by the relevant special district.

Some of these entities receive a portion of the local property tax revenue to provide services. In instances where the City is "full-service," the city receives a higher percentage of property tax revenue due to the larger number of services they provide. In Novato's case, the City receives a lower percentage share of property taxes. This situation is illustrated in the *Novato's Prop 13 History* slide which compares the property tax allocations for Novato and all other Marin County cities. The property tax allocation is a formula and is not necessarily based on service need as balanced against other services. Such separate districts make sharing of administrative overhead difficult.





The deeper reason for these large discrepancies can be traced to Proposition 13, which was adopted by California voters in 1978. While it is fairly widely known that Prop 13 implemented the current rules for property tax levies in California – namely that the base tax is fixed at 1% of valuation and that the valuations can only go up a maximum of 2% per year – few realize the implications of Prop 13 for local governments. Essentially, Prop 13 locked in allocations of resources that were in effect in 1978, since the formulae were established using each agency's pro-rata share of property taxes charged in that year. Those allocations have effectively remained unchanged since. The *Lowest Property Tax Share in Marin* slide explains a little bit more about how Proposition 13 affected Novato, including the fact that, at the time leading up to Prop 13, the Novato City Council was *reducing property tax rates*, effectively undermining its eventual share of the basic property tax when it came time to establish the allocations.

The financial reality is that Novato's property tax allocation is the smallest in Marin County. This is particularly noteworthy because property taxes are Novato's primary revenue source; accounting for approximately $11 million annually to the City's General Fund.

Additional Revenue Options Limited

The City does not have some of the revenue sources that other communities have. For example:

The City does not have a utility users tax. Approximately 50% of Californians pay this revenue to a local government, which is essentially a tax on electricity, gas, telephone, cell phone service, etc. for those cities that have the tax, it makes up 15% of their General Fund budget. Since the passage of Proposition 218 which increased voter thresholds, the probability of passing a new utility users tax is slim.

- Due to the fact that the City does not provide garbage or sanitary services, the City does not receive a refuse franchise fee from waste haulers. This issue will be discussed in more detail later in the report, but by way of example, other cities of our size in Marin and Sonoma that operate garbage franchises typically receive between $1 million and $3 million annually from the waste hauler to pay for local services and the right to exclusively use the city maintained roads.
- The City has a lower real property transfer tax than many other local communities. Novato's tax is $0.55 per $1,000 in valuation. The Cities of Petaluma and San Rafael's tax is $2.00 per $1,000 in valuation. Novato would need to become a Charter City in order to increase its rate.
- Finally, the zoning designations of parcels throughout the City limit the ability to develop commercial and/or industrial projects. Only 5% of Novato's land is zoned as commercial or industrial in contrast with Petaluma and San Rafael who have 11% and 17%, respectively. The zoning designations limit the development impact fee revenue Novato would receive as a result of new development in the City. The zoning along with being a community that is mostly built out, results in limited ability to develop commercial property and generate additional sales revenue.

State of California Takeaways

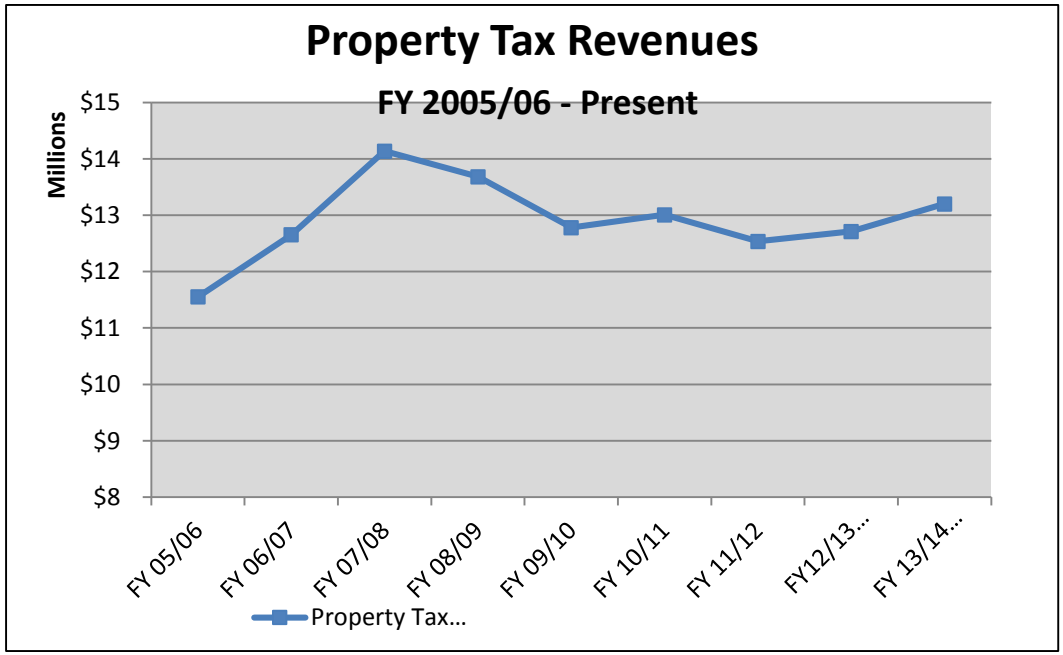
The state of California has diverted City property tax revenues since the early 1990s. In 1992, the state faced a significant budget deficit. In order to meet its constitutional obligations to fund education at certain levels, the state shifted a portion of their financial responsibility to local governments (cities, counties and special districts). This transfer was done through a mechanism called the Educational Revenue Augmentation Fund (ERAF). This transfer was ongoing; each year, a portion of Novato's property taxes is diverted to the ERAF. Most recently, the state has turned its attention towards city redevelopment revenues. Through the redevelopment process, the City retained property tax increment (i.e. growth) for designated areas that are rehabilitated and improved. In 2009, the state adopted legislation requiring redevelopment agencies

across the state to transfer $2.05 billion over FY 2009/10 and FY 2010-11 fiscal years. Novato's portion of the payment translated to $2.7 million in FY 2009/10 and $550,000 in FY 2010/11.

This action was only a prelude to the State's more egregious action in 2011. In June, the state Legislature and the Governor approved legislation abolishing redevelopment agencies. The agency was a separate entity from the City's General Fund. However, transfer of redevelopment funds and the elimination of the redevelopment agency place additional administrative cost and economic development burdens on the General Fund totaling $800,000 annually.

With the FY 2011/12 budget, the State eliminated the last modest piece of Motor Vehicle License Fees allocated to cities – an impact of about $100,000 annually to Novato. Additionally, with the 2012/13 budget, the state continued its occasional practice of eliminating funding for certain mandates pushed down to local governments. By simply removing or suspending the requirement of local governments to provide certain services, the State relieves itself of any requirement to fund that service. In this case, the state suspended the requirements of the Brown Act (i.e. open meetings law), thereby eliminating a $20,000 reimbursement to the City – despite the fact that Novato has every intention of continuing to comply with open meetings rules.

Proposals that would divert or otherwise affect other City revenue sources (examples: highway users tax and transient occupancy/hotel taxes) have also been introduced in recent years. Fortunately, these proposals have not been enacted into law.



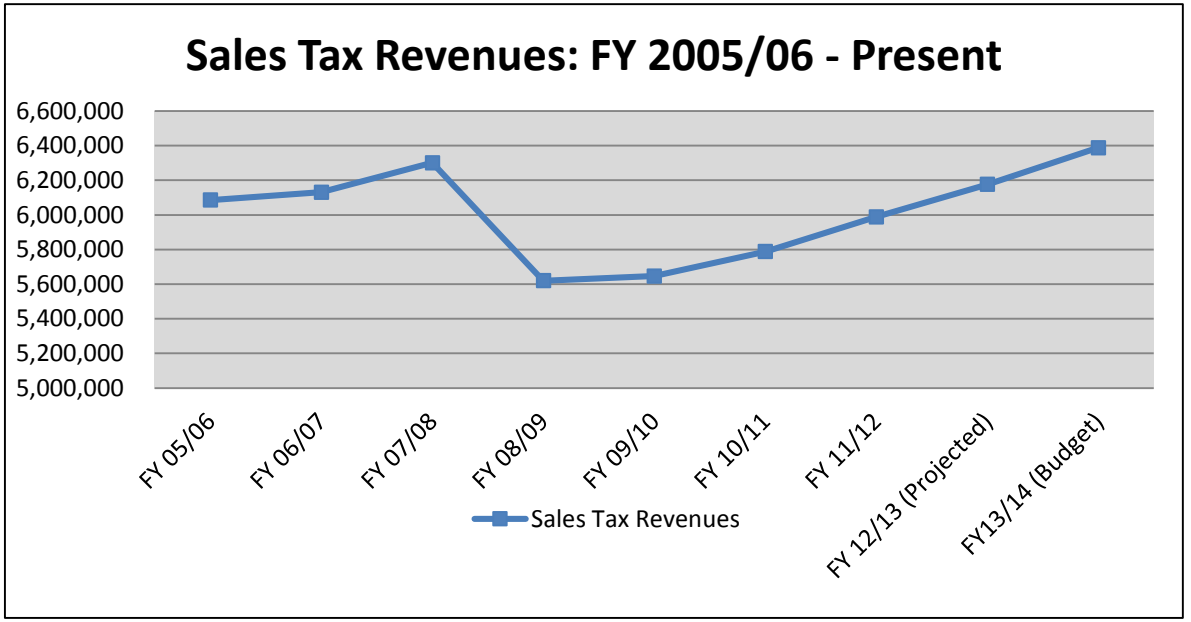
In summary, Novato has been negatively impacted by previous state transfers and the City continues to face yearly threats from the state. The Council and staff work closely with City legislative representatives in Sacramento to protect our revenues.

The Great Recession Exacerbates Financial Challenges

Along with the City's inherent fiscal challenges, the recession further complicated the City's financial picture by significantly reducing key revenue sources. The City's primary revenue source is property tax. The *Property Tax Revenue FY 2005/06 – Present* slide shows the recent trend in property tax revenue. Over a four-year period between FY 2007/08 and FY 2011/12, property tax revenue decreased by approximately $1.6 million, a decrease of about 11%. While this revenue source has stabilized somewhat,

the level remains significantly lower than it was five years ago.

During this same time period, the City's second revenue source, sales tax, also decreased substantially. The *Sales Tax Revenues: FY 2005/06 – Present* slide shows sales tax revenues in recent history. The significant drop in sales tax in FY 2008/09 represented a drop of about $600,000 annually, or about 12%. Clearly, as the nation has slowly pulled out of recession, the City's sales tax revenue has recovered as well.



Other revenue streams have been significantly impacted by the recession in the non-tax categories. Charges for services include all of the permit fees, engineering fees, planning fees, recreation registration fees, etc that Novato charges directly to users of its services. As development slowed with the economic downturn many of these development-related charges and permit fees declined dramatically.

Similarly, investment and interest income has declined significantly since FY 2007/08. With the historic decline in interest rates since 2008 and the restrictions on investment vehicles for public entities, the City's investment portfolio has been earning very low returns for the past few years. The City also has a unique irrevocable trust, the Hamilton Trust Fund, which provides investment income to the General Fund. The City entered into a trust agreement with the developer of the Hamilton housing subdivisions, permanently dedicating a $30 million investment trust to the City. The City is only permitted to utilize portions of the interest earned on the trust corpus, and certain components of the interest earnings must be used for specific purposes (e.g. senior housing). Pre-recession, this trust was earning over $1 million annually for the City. Today, that income is around $300,000 based on today's low yields.

The table below shows this history comparing FY 2007/08 with estimated totals for FY 2012/13:

	2007/08 Revenue	2012/13 Projected Revenue
Charges for Services	$3,288,582	$2,750,725
General Fund Investment Income	$334,124	$20,000
Hamilton Trust Investment Income	$1,033,337	$341,660

ECONOMIC DEVELOPMENT

The elimination of redevelopment agencies throughout California eliminated the key redevelopment and economic development tool for the City of Novato. With a Redevelopment Administrator and a Senior Management Analyst, the City had a dedicated team looking at opportunities for future economic improvements in key redevelopment areas. Since the loss of those positions and the elimination of the redevelopment tax increment funding source, the City Council approved the addition of a full-time Economic Development Manager (for a 4-year limited term appointment from FY 2012/13 through FY 2016/17) to continue these efforts. This position has been actively pursuing opportunities and working on strategic goals. Understandably, the work plan for this single position is large, and includes a wide variety of objectives and initiatives.

- Commission a retail sales leakage analysis study to identify weaknesses, trends, and opportunities for improvement in Novato's retail sector
- Creation of marketing materials to attract new retail businesses
- Assist new retail businesses to find appropriate sites and guide them through the development process
- Meet with new and expanding businesses to help find appropriate office space lease sites
- Identify companies looking to relocate; market Novato and assist with finding quality office space
- Participate in County, regional, and "cluster-based" marketing and outreach opportunities
- Develop and market a business brand image for Novato; including implementation of a proactive media campaign
- Work with angel and venture capital investors to support entrepreneurial start-up companies
- Promote Novato as a regional destination for hosting of targeted regional and industry conferences / meetings

Along with all of the above objectives, and in addition to focusing on improving the overall economy and bringing in quality jobs, companies, shopping, and entertainment to Novato, another important goal is to focus on generating additional revenue to support City services. There are a number of specific sites and projects in Novato that are in various stages of development that could bring significant additional revenue to the City – specifically, Hanna Ranch, Redwood Corridor, and Hamilton. During the work session on this topic in March 2013, staff highlighted a variety of these sites and gave rough estimates of the potential dollar impact to City revenues if development were to proceed. The charts below show information on the specific sites that could be further developed and generate revenue for the City in addition to enhancing value for the community in different ways.

Finally, keep in mind that some level of Economic Development may be necessary regardless simply to play "defense;" that is, with major new retail development on the verge of opening in Petaluma and San Rafael, and with a potentially large development proposal in Napa appearing to gain steam, Novato can expect some additional sales leakage to those communities if nothing is done locally to counterbalance it.

Hanna Ranch

HANNA RANCH – HOTEL AND COMMERCIAL

Entitled development approved by Council

Location:

▪Southern end of Rowland Boulevard, east of Highway 101 and north of State Route 37, in central Novato

Mixed-use Development:

▪34,700-sqft of retail
▪ 21,200- sqft office space
▪116-room business class hotel
▪10,000-sqft restaurants
▪Estimates full build-out

Development Type	Minor build-out w/out Hotel	Build-out w/out hotel	Full build-out
Transient Occupancy Tax	$0	$0	$370,000
Sales Tax	$59,000	$118,000	$235,000
Property Tax	$13,000	$ 27,000	$ 54,000
Total:	**$72,000**	**$145,000**	**$660,000**

Challenges

▪Estimates don't include cannibalization of other businesses

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THE CITY OF NOVATO CALIFORNIA

North Redwood Corridor

NORTH REDWOOD CORRIDOR

Estimate of potential development for Redwood Blvd

•Public engagement process initiated to gauge the community's development preferences
•The area with the highest potential is the north-west side of Redwood Blvd-north of Olive Dr.
•The area consists of mostly vacant and underdeveloped parcels

Development	City Retail-Oriented	Regional Retail-Oriented	Mixed-use Regional Retail with Housing
Square feet	144,000	144,000	192,000
Average price per sqft sales	$340	$460	$460
Housing	-	-	280 units
Sales Tax	$490,000	$655,000	$800,000
Property tax	$ 60,000	$ 75,000	$200,000
Total:	**$ 550,000**	**$730,000**	**$1,000,000**

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THE CITY OF NOVATO CALIFORNIA

HAMILTON

Available land

The new Hamilton Base Reuse Director is conducting analysis on these properties for potential new uses.

Lands to Parks Parcels

- Parcels must be used for recreational purposes or open space and can't be sold
- Possible swap or kind-value exchange for other properties

Type of Property	Sites	Acres	Vacant Buildings
Land to Parks Parcels Vacant Property	Commissary	5.5	-
	Town Center	4	Theater
	Officers Club and BOQ	4	
Unencumbered Vacant Property	Hamilton Hospital	3	Hospital
	Transit and Senior Housing Site	3	-
	HUD parcel	5.5	-

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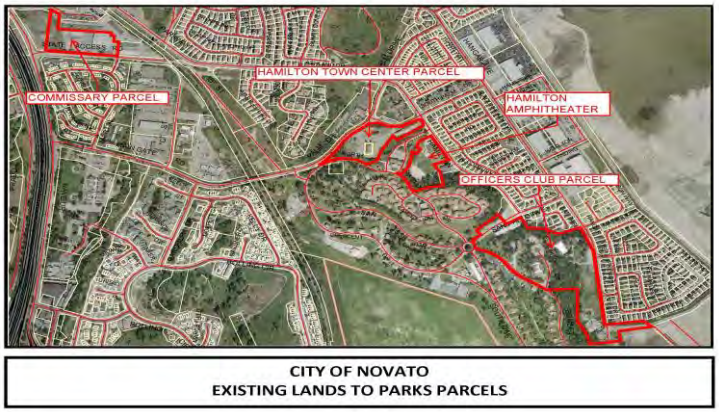
CITY OF NOVATO CALIFORNIA

Hamilton – City Owned Properties



CITY OF NOVATO
EXISTING LANDS TO PARKS PARCELS

MEASURE F

Background - On July 27, 2010, the Novato City Council adopted Ordinance No. 1551 adding Section 16-6 to the Novato Municipal Code. By adopting Ordinance No. 1551, the Novato City Council approved the placement of a 5-year ½ cent local sales and use tax increase before the voters. The Measure F ordinance was placed on the November 2010 ballot to ask Novato residents to maintain vital city services during these difficult economic times. The ballot language outlined that the funds were to (1) offset and prevent additional budget cuts and (2) maintain and restore vital general city services. A summary of the Measure F ballot language is included below:

> "*To offset/prevent additional budget cuts and maintain/restore vital general city services including, and not limited to: neighborhood police patrols, crime prevention programs, 9-1-1 response times; city street/pothole repair; park maintenance; preventing closure or elimination of youth and senior centers/services, shall the City of Novato enact a half-cent sales tax for 5 years, with review by a citizen committee, annual independent audits, and all funds spent locally for the benefit of Novato citizens?*"

This ordinance, "Measure F" on the ballot, was subsequently approved by the Novato voters in the November 2010 election. The tax increase took effect on April 2011 and will sunset on March 31, 2016 absent any action to extend the measure. As a general tax measure, the revenues were not legally designated to fund particular programs or services and, therefore, can legally be spent on any City operation. However, the ballot measure identified "priority focus" areas where Measure F revenues would likely be spent.

These priority areas of focus included:

1. Enhance Neighborhood Services and Public Safety
2. Support Seniors, Youths and Families
3. Reinvest in Park and Street Maintenance
4. General City Services

Usage of Measure F to Date

The expenditures of the past few years in Measure F have coordinated closely with the key priority areas outlined in the Measure F language itself. Programs funded with Measure F to date include the following:

- Equipment, Training, Overtime, and a Management Analyst position to help support the Novato Response Team
- Commitment to fund the fourth year of the three NRT police officers after the expiration of the federal COPS grant expires
- Two Public Works maintenance workers (limited-term)
- Hamilton Base Reuse Director position and associated operating budget
- Economic Development Program – Economic Development Manager and associated operating budget
- Recreation and Parks After School Initiative program
- Front counter receptionist and imaging position

The Council has been cautious in its use of Measure F revenue and has generally focused on using the funds for one-time rather than ongoing expenditures until the Fiscal Sustainability Plan is finalized. As such, a limited amount of the total funds have been spent. At the same time, actual Measure F revenue has been higher than budgeted in the past two fiscal years due to an increase in sales tax revenues.

The limited expenditures and higher revenue levels created a $4.3 million balance in the Measure F fund at the close of FY 2011/12, with a projected balance at the end of current FY 2012/13 of nearly $8 million. Looking out one more year, based on the current budget revenues and expenditures for FY 2013/14, it is estimated that Measure F will end that year with a balance of approximately $11.3 million. The *Projection of Future Planned Measure F Expenditures* table shows more detail on the finances of the Measure F fund to date, including the projected usage for FY 2013/14.

Projection of Future Planned Measure F Expenditures

	Actual	Actual	Projected (figures estimated and rounded)					
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Measure F Annual Forecast	689,473	4,098,892	4,435,563	4,441,391	4,460,000	3,655,000	0	0
Measure F Budgeted Expenditures (approved in 12/13 budget or earlier	–	(222,166)	(451,541)	(504,064)	(250,000)	(250,000)	–	–
Measure F Budgeted Expenditures (Recommended in 13/14 budget)			–	(297,000)	(10,000)	(10,000)	(10,000)	(10,000)
Proposed Future Expenditures (4th year of COPS grant officers)	–	–	–	–	–	(468,000)	–	
Measure F Deficit Infusion		(16,784)	(544,102)	(343,000)	(482,000)	(371,000)	(413,000)	(520,000)
Measure F Balance	689,473	4,549,415	7,989,335	11,286,662	15,004,662	17,560,662	17,137,662	16,607,662

Future Usage of Measure F and Fiscal Sustainability

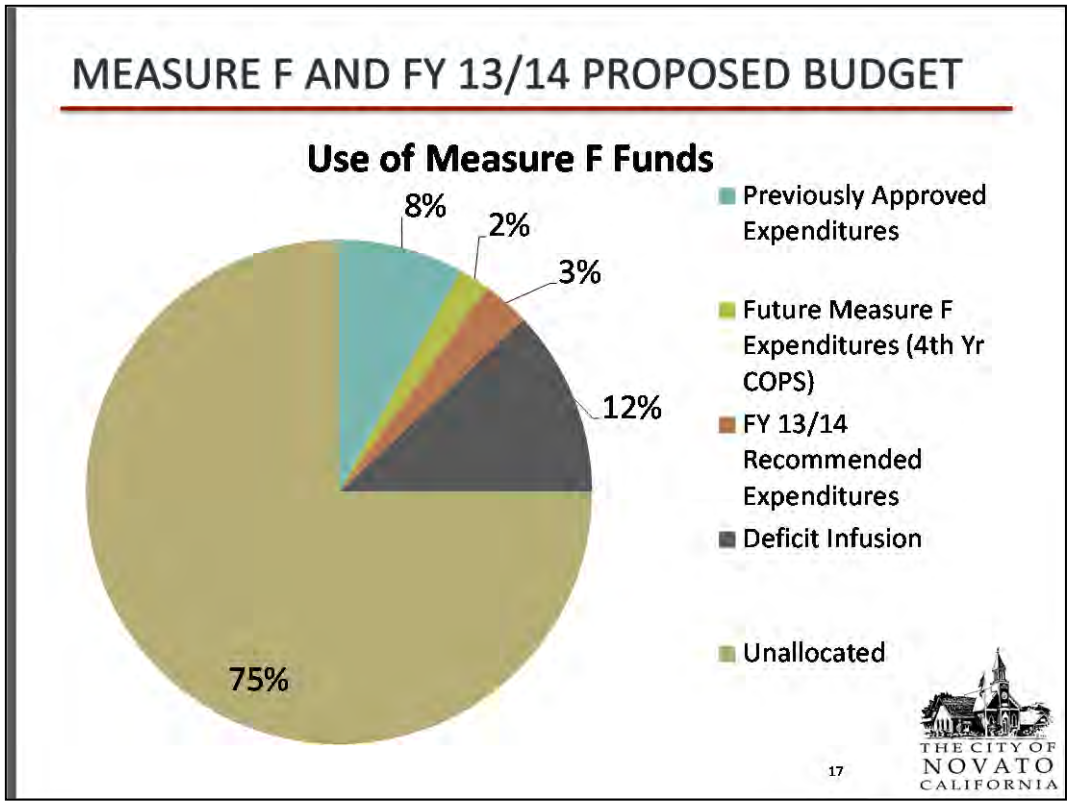
Measure F will be a key part of the overall fiscal sustainability plan for Novato moving forward. There are a number of reasons for this including:

- **Deficit Backfill** – The first stated purpose for Measure F in the ballot language is to "offset / prevent additional budget cuts" that would otherwise occur in the General Fund if the deficits were not backfilled. This is one of the primary purposes that Measure F has served to date and will continue to serve. For the Fiscal Sustainability Options Tool, any budget deficits at the end of each year will be solved with this funding source.

- **One Time Measures to Reduce Ongoing Costs** – There are several measures in the Options Tool that require one-time investments in order to save ongoing funds. The details of these options are discussed later. These one-time funds could come from Measure F, which would then free up ongoing General Fund resources and help the deficit.

- **New Projects / Programs / Community Enhancements** – There are a significant number of projects, initiatives, ideas, capital items, and other investments that are not contemplated in either the five-year forecast or the Options Tool. These choices have probably not been possible with the budget realities of the past few years, but Measure F may give Novato the opportunity to pursue some initiatives that would significantly enhance important aspects of the community such as: bicycle / pedestrian options, recreation programming, community events, community policing services, pavement maintenance, etc. After the long term financial plan is adopted and finalized, the City Council may begin a discussion of how to fund some of these potential initiatives.

Another way to look at the total 5-year package of revenues and expenditures is to roll up all of the years to examine what has been spend to date, what is committed but not spent, and what remains uncommitted and, therefore, available for potential future uses. The *Measure F and FY 2013/14 Proposed Budget* chart shows this calculation. The bottom line is that up to 75% of the total 5-year available Measure F revenue remains uncommitted at this point. Future discussions with the City Council and the community will determine the uses for these funds.



OPTIONS TOOL – REVENUE & ECONOMIC DEVELOPMENT

The following options related to revenue and economic development are outlined below with additional background explanations. These options are included in the Fiscal Sustainability Options Tool at the end of this Plan.

Contingency for State of California Revenue Takeaways / Shifts					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($50,000)	($100,000)	($150,000)	($200,000)	($250,000)

Since the early 1990s, the State of California has had a history of using dedicated local revenues from cities and counties to address its budget issues. There are many examples. A few are outlined below:

- In 2004, the state enacted the "Vehicle License Fee Swap," essentially trading VLF revenues for a property tax allocation based on overall assessed value growth. However, cities were still receiving a small amount based on actual motor vehicle registration activity, as a true-up payment. For Novato, this true-up payment amounted to about $100,000 annually. In 2011, the State adopted SB 89, which effectively eliminated the true-up payments to local cities, and dedicated the revenue to state-funded programs, thereby eliminating a $100,000 revenue source for Novato.

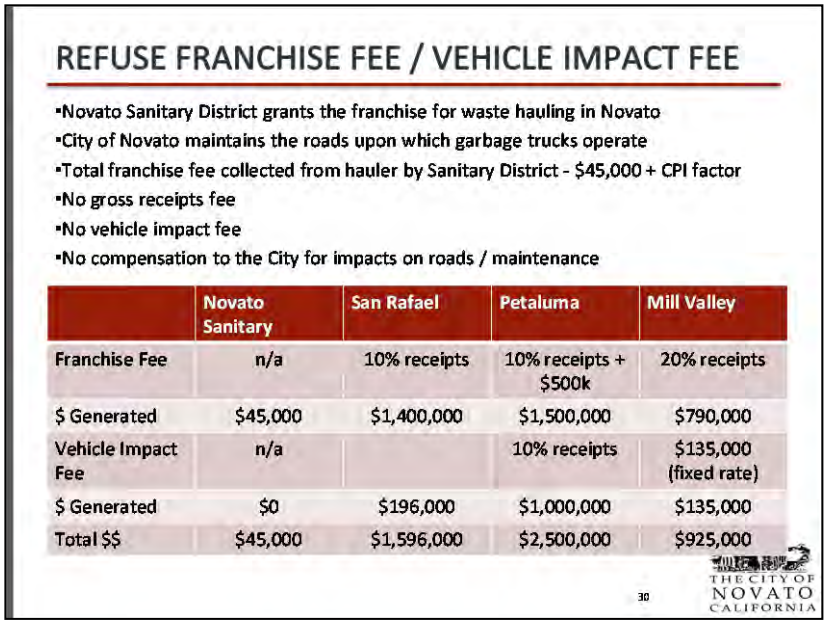
- California eliminated Redevelopment Agencies in 2011. While technically separate entities, redevelopment agencies served as economic development catalysts in their respective cities, investing in infrastructure and providing funding to revitalize run-down areas. Redevelopment agencies provided funding for staff to focus on economic development and redevelopment initiatives, to enhance the economy, and work with the business community. Moving forward, Novato must fund all redevelopment and housing-related activities out of its General Fund revenues.

This option in the Options Tool, if selected, is a way to buffer the forecast against additional future State impacts. It doesn't predict any specific impacts, but reflects upon the perceived likelihood that something may occur in the future that would negatively impact City Revenues.

Pursue Options to Collect Refuse Road Impact Fee					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a				$350,000	$350,000

Most cities in California do not offer garbage service directly as a City-provided service. Rather, they typically contract out that service to an exclusive provider via a "franchise agreement" that gives one provider effectively a monopoly on that service in town. As compensation for granting a monopoly franchise for garbage service, cities typically charge a franchise fee within the agreement that provides significant compensation to the City. This franchise fee is considered general revenue to the City (similar to general tax revenue) and can be used for any City services. Additionally, many franchise agreements levy a separate but related fee on the waste hauler that is specifically a "Road Impact Fee" or similarly named fee, that is specifically charged to compensate for the significant wear and tear that the weekly waste and recycling trucks have on city streets and pavement conditions.

Novato is fairly unique amongst cities in that it is one of the only incorporated municipalities that does not hold the garbage franchise. In those rare instances where cities are not the franchise holder, there is a pass-through by the franchise holder to the City. Rather in Novato's case, the Novato Sanitary District is the public agency in Novato that contracts with and administers the waste hauling franchise. There are multiple issues for the City with this arrangement. First, the City receives no compensation under the arrangement – either for the right of the waste hauler to have a monopoly or for the wear and tear on City streets. While the Sanitary District holds the franchise due to its earlier formation, it is the *City's responsibility* to repair and maintain the pavement, storm drains, and other public assets that receive wear and depreciation from the weekly waste and recycling trucks. This effectively amounts to a City taxpayer subsidy to the waste hauler for the wear and tear on City-maintained streets. Second, it should be noted that it is City staff's belief that not even the Sanitary District is receiving appropriate compensation from the hauler for the franchise rights. The Novato waste hauler pays a total annual franchise fee of $45,000 per year. For comparison purposes, the *Refuse Franchise Fee / Vehicle Impact Fee* slide looks at the financial details of three other neighboring cities' franchise agreements. It is clear that franchise agreements, even for small- to medium-sized cities, can result in millions of dollars in annual additional revenue to the cities.

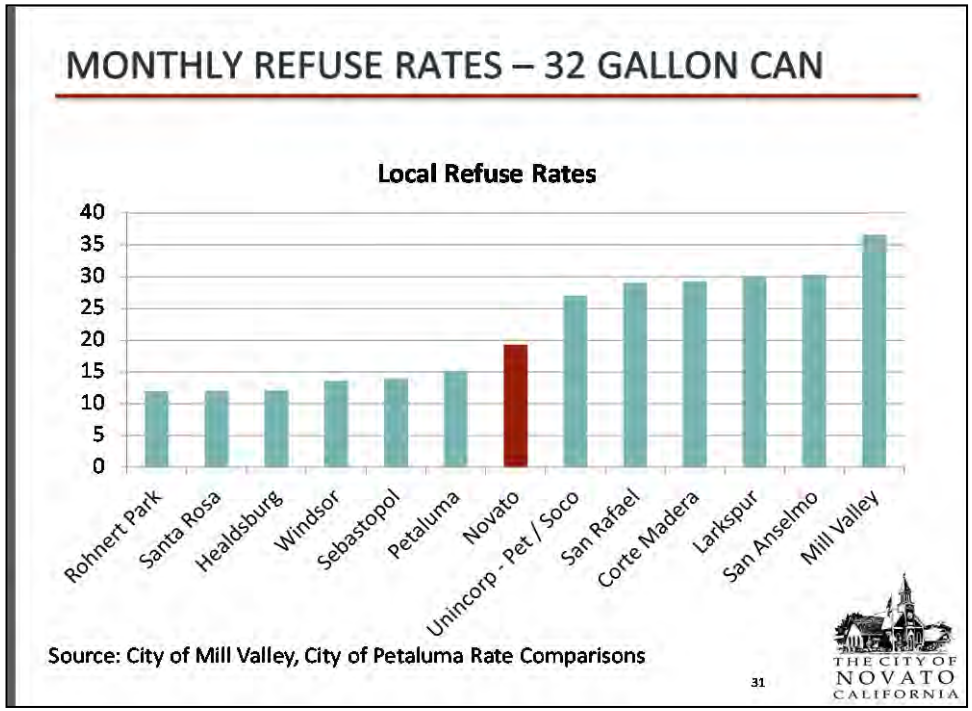


There is clearly a nexus between the franchise fee amount and the rates charged to the residents. Within each franchise agreement, it is typically spelled out fairly

clearly what portions of a franchise fee can be passed on to residents in higher rates and which cannot be. In essence, portions of any franchise fee are paid directly out of the waste hauler's profit margin, and other portions of the fee end up coming from user rates.

The effect of Novato Sanitary's franchise agreement are multiple: (1) the waste hauler effectively shares only a minor amount of the gross receipts and therefore keeps almost a 100% of their profit; (2) rates are relatively low; and (3) the City (and its taxpayers) receive no compensation for road impacts.

The *Monthly Refuse Rates – 32 Gallon Can* slide, compiled in the fall of 2012, compares garbage rates of some various Marin and Sonoma cities. Clearly, Novato is the lowest of the Marin County cities, and yet Novato's rates are above many Sonoma County cities. What is especially interesting about the chart is that all of the cities that have lower rates than Novato are served by the same waste hauler company, and most of those cities receive significant franchise fee payments from their franchise agreements.



This option in the options tool, if selected, does not attempt to institute a new franchise fee or attempt to take over the franchise from the Sanitary District. Instead, it proposes to enter into negotiations with both the waste hauler and the Sanitary District to implement a road impact fee, specifically to help fund roadway improvements and upkeep that are necessitated by the continual operation of waste trucks on City-owned streets. Very rough estimates are that this option could generate about $350,000 annually for the City's roads, but would be ultimately be subject to the completion of a nexus study to quantify the actual impacts.

Voter Approved Options					
	FY 13/14	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
1/4 cent Sales Tax (0.25%)				$2,200,000	$2,266,000
3/8 cent Sales Tax (0.375%)				$3,300,000	$3,399,000
1/2 cent Sales Tax (0.5%)				$4,400,000	$4,532,000

Cities in the State of California are quite limited as to their ability to raise taxes to fund municipal services. Since the passage of Proposition 13 and Proposition 218, virtually every tax increase must be approved by the voters in the local jurisdiction. For taxes that are considered "general" in nature, and not dedicated to paying for any specific services, the vote must be a simple majority of 50%+1. For taxes that are considered "special" taxes, which are to pay for specified services, the vote must be a 2/3 majority to pass. There are a variety of taxes that could be levied or increased in Novato to help pay for services. These include:

- Parcel Tax – Essentially an add-on property tax, this tax could take the form of, for example, a $50 per parcel tax that would be added onto every property owner's tax bill each year. This option is slightly different than a "general obligation bond measure" where bond proceeds are raised and the debt service for the bonds are placed on the property tax bill. Instead, this is simply a tax revenue source that would go to the City to pay for services (and could be "specific" or "general" in nature).

- Sales Tax – Add-on sales tax rates are common in California, and Marin County and Novato already have several of them in place. Current add-on sales taxes in Marin County include a transportation-dedicated 0.50% tax, a parks and recreation-dedicated 0.25% tax, and the SMART rail tax of 0.25%. Additionally, in November 2012, Novato voters adopted Measure F, which was a 5-year general 0.50% sales tax within the City.

- Utility Users Tax – As mentioned earlier in this report, Novato does not currently levy a utility users tax. This is a tax that about half of California residents pay, and can vary from 1% to 5% on their electric, gas, telephone, cell phone, and voice-over-IP charges.

- Business License Tax – This is a tax on businesses who operate in the City. The basic license is $97 per year plus add-ons for various business types. The total revenue projected for FY 13/14 is $923,000. Any changes to the current City business license tax ordinance would require voter approval.

- Transient Occupancy Tax – This is a tax on hotel/motel guests and shows up on their room bill. The current tax is 12% in Novato, and is split to several different entities for tourism and promotional purposes (9% to City of Novato, 1% designated for tourism / promotions, and 2%

for a Countywide Business Improvement District focused on tourism). This tax could be raised with voter approval, and could be either a special or general tax.

- Real Property Transfer Tax (RPTT) – This tax on real estate transactions is currently set at $1.10 per $1,000 of sales price. The City and County split the tax with $0.55 each. The tax rate is set by state law for General Law cities (i.e. cities that do not operate under their own charter). Charter cities have the option to change their RPTT, while General Law cities do not, and in fact many have done so. Both Petaluma and San Rafael both have a $2.00 per $1,000 RPTT.

These are just some of the most obvious examples of voter-approved revenue measures, and any future decision to put any type of revenue measure on the ballot will be subject to future public debate and Council decision.
For purposes of the Options Tool, staff has used the example of a sales tax option, since Novato has experience with sales tax measures and it is fairly easy to quantify the financial impact, given our existing sales tax base. Furthermore, it is assumed that no tax would be implemented until the expiration of the existing Measure F sales tax in FY 2015/16, so the Options Tool shows the revenue from a new tax, if adopted, beginning in FY 2016/17.

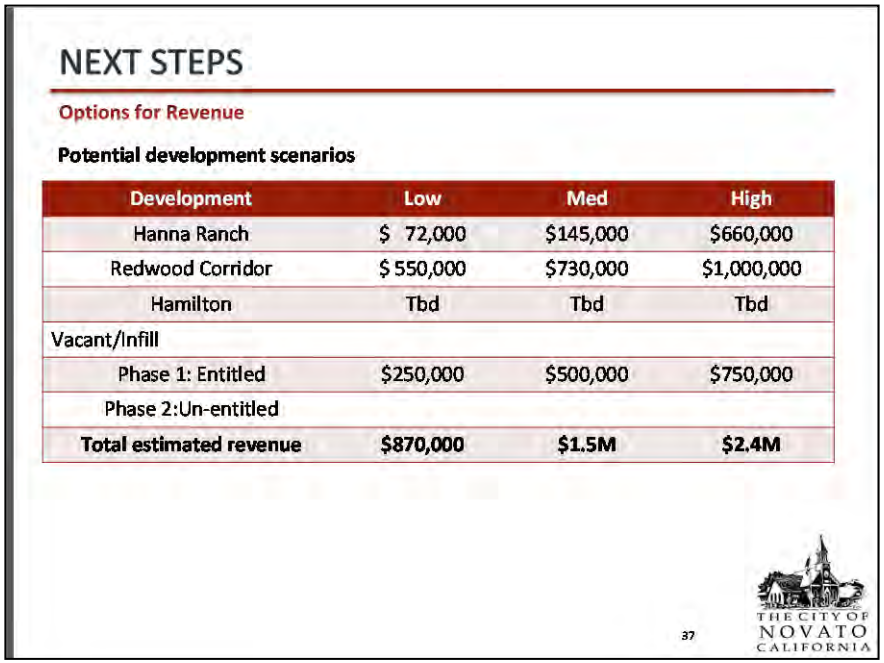
Different types of tax measures have significantly different histories with success at passage at the ballot box. Although one might select one of the sales tax options in the Tool, the actual type of tax implemented could be determined at a future date.

Voter Approved Revenue Option – examples	Annual Revenue to Novato
0.25% Sales Tax – extend and reduce existing tax	$2,200,000
0.375% Sales Tax – extend and reduce existing tax	$3,300,000
0.50% Sales Tax – continue existing 0.50% tax	$4,400,000

ECONOMIC DEVELOPMENT OPTIONS					
	FY 13/14	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
Status quo economic development	-	-	-	-	-
$500,000 ongoing revenue					$500,000
$1,000,000 ongoing revenue					$1,000,000
$1,500,000 ongoing revenue					$1,500,000

From these individual project estimates, for purposes of the Options Tool, staff boiled down the options into three Economic Development tiers; the user of the Options Tool has the option to select one of these tiers (or none of them). It should be noted that the tiers are intentionally generic in nature. The purpose of this financial plan is not to weigh in on specific development proposals or assign probabilities to the likelihood of any given proposal actually occurring. Rather, the intent is for the community and City Council to weigh in on how much Economic Development new revenue should be "counted on" in the context of long term fiscal sustainability.

Obviously, the higher the tier chosen, the more proactive and aggressive the Economic Development program will need to be in order to meet those goals. Additionally, if, at some point in the next few years, it becomes doubtful that the chosen levels can be achieved, an alternative plan may need to be developed to keep the integrity of the Fiscal Sustainability Plan relevant and balanced in the long-term.


NEXT STEPS

Options for Revenue

Potential development scenarios

Development	Low	Med	High
Hanna Ranch	$ 72,000	$145,000	$660,000
Redwood Corridor	$ 550,000	$730,000	$1,000,000
Hamilton	Tbd	Tbd	Tbd
Vacant/Infill			
Phase 1: Entitled	$250,000	$500,000	$750,000
Phase 2:Un-entitled			
Total estimated revenue	**$870,000**	**$1.5M**	**$2.4M**

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THE CITY OF NOVATO CALIFORNIA

KEY FINDINGS AND STAFF CONCLUSIONS – REVENUE AND ECONOMIC DEVELOPMENT

Novato is an outlier among cities with respect to its revenue sources. Novato does not have the revenue base that other cities have. Novato is hamstrung by a low property tax share, no Utility Users Tax, a low Real Property Transfer Tax, no waste hauler franchise fees, significant leakage of sales tax to other communities, limited remaining commercially-zoned space, and no ongoing locally-approved sales tax. Staff believes that additional economic development and retail sales tax generation can be accomplished in a manner that still maintains Novato's small town character and sense of place. Yet while some additional revenue can come to the City from economic development, staff does not believe it can be the sole solution. Overall, it is critical to establish additional long-term revenue sources to properly support the key priorities of the City.

SECTION 4

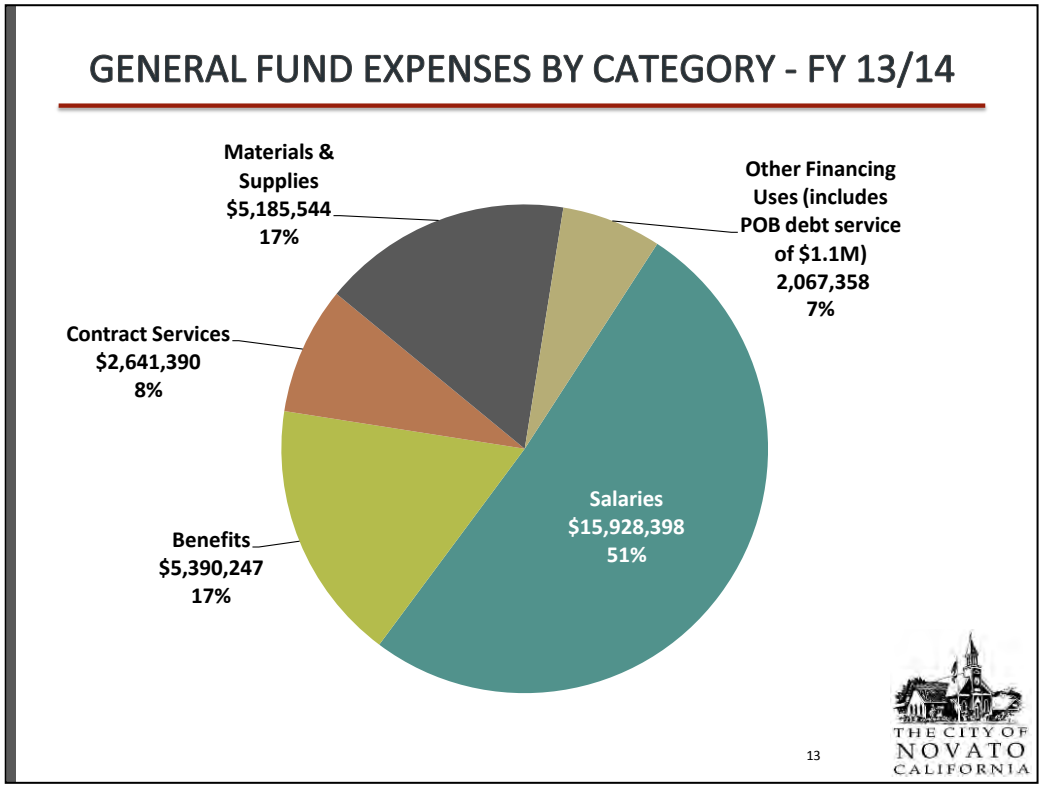
Expenditures

Fiscal Sustainability Plan

NOVATO EXPENDITURES

Novato's General Fund is the main conduit through which all core service delivery is financed. As mentioned above, the General Fund brings in a variety of tax revenues, fees, and charges to finance the operations of the City departments. Novato has five departments, plus Central Administration, through which services are delivered. In addition, there is a citywide budget that has expenses shared across the organization, like insurance costs, animal control, and citywide memberships. These departments and their services are described in detail in the sections that follow.

- Central Administration
- Administrative Services Department
- Community Development Department
- Parks, Recreation, and Community Services Department
- Police Department
- Public Works Department



Each department spends its budgeted funds on a variety of employee costs, contracts, materials, and supplies that help deliver services. These expenditures fall into a variety of broad categories, depicted in the *General Fund Expenses by Category – FY 13/14* slide. Generally, the City organization provides services through its employees like Police Officers, Street Maintenance Workers, or City Planners. It is not surprising, therefore, that employee compensation (Salary and Benefits), is by far the largest expense in the City's budget.

Salaries – Includes wages for all employees, including part-time and temporary staff; overtime; special pays; and other forms of wages.

Benefits – Includes contributions to CalPERS for retirement; health care / cafeteria plan contribution by the City to employees; Medicare tax; and other miscellaneous benefits.

Contract Services – Includes all services provided by third party contracts; City Attorney services; engineering services; animal control services; contract staffing services at Hamilton Pool; software licenses; maintenance contracts; etc.

Materials and Supplies – Includes all manner of physical materials used to perform City services; office supplies and equipment; tools; landscape materials; recreation equipment; asphalt; water; computers and IT equipment; etc.

Other Financing Uses – Includes all General Fund transfers to other funds; Pension Obligation Bond payments; Equipment Replacement Fund; Long-Term Maintenance fund; Capital Improvement Program and the General Plan fund.

CITY DEPARTMENTS

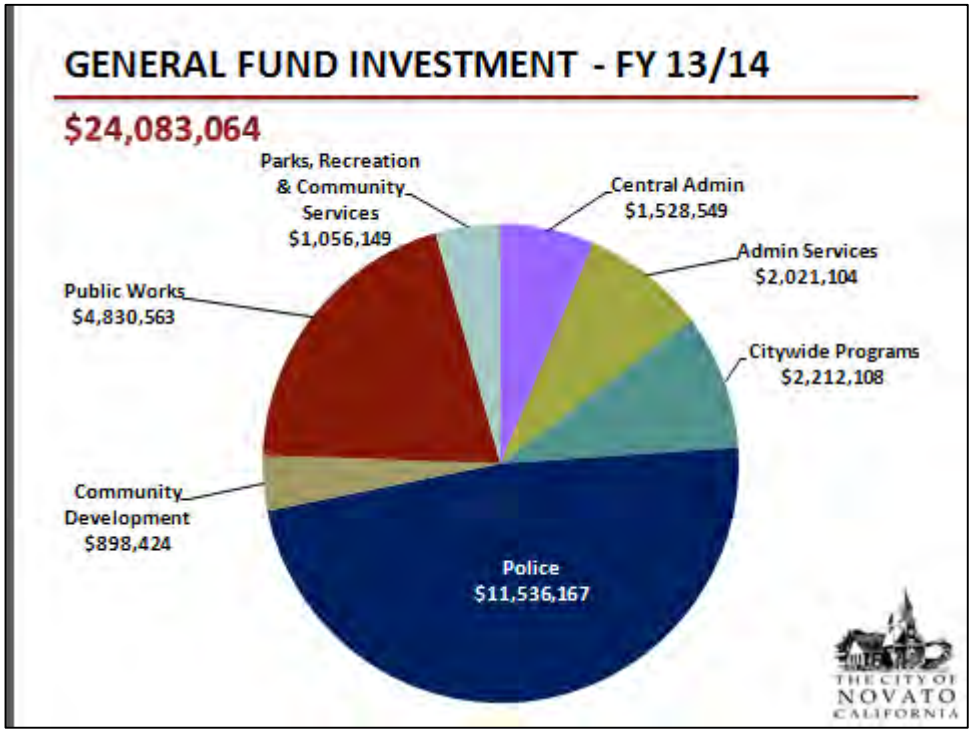
The fiscal sustainability process included a review and discussion of each of the City's departments. This review occurred in two public sessions held on September 18, 2012 and October 16, 2012.

Department	FY 13/14 Expenditures/ Transfers Out	FY 13/14 Revenues/ Transfers In	General Fund Investment ($) / %
Central Administration	$1,553,490	$24,941	$1,528,549 / 6.35%
Administrative Services	$2,342,536	$321,432	$2,021,104 / 8.39%
Citywide Programs	$2,240,659	$28,551	$2,212,108 / 9.19%
Community Development	$2,497,364	$1,598,940	$898,424 / 3.73%
Parks, Recreation & CS	$3,089,740	$2,033,091	$1,056,149 / 4.39%
Police	$13,015,081	$1,478,914	$11,536,167 / 47.90%
Public Works	$6,166,048	$1,088,789	$4,830,563 / 16.11%

The department review provided an overview of each department and discussed current trends and issues, current service levels, recent expenditure reductions and service level holes where the Council and the community might wish to invest resources for the long-term. In essence, the presentations identified where the department currently stands in terms of staffing and resources following years of reductions, what key issues and trends will impact the department, plus long-term fiscal and organization sustainability questions to be addressed.

The Administrative Services, Central Administration and Community Development departments were reviewed on September 18th and the Parks, Recreation and Community Services, Police, and Public Works departments were discussed at the October 16th meeting. Departments also presented information on current unfunded liabilities and options for reducing these liabilities through strategic investments. There were ideas considered, and some chosen, for inclusion on the Options Tool. Finally, departments also presented fiscal sustainability and Measure F ideas and proposals for Council consideration.

The focus of the fiscal sustainability discussions is on the use of General Fund resources. The General Fund is the discretionary fund of the City. The *General Fund Investment – FY 13/14* chart shows each department's reliance on the General Fund after any revenues that are dedicated to that department are removed. This shows the "subsidy" or "investment" by the General Fund to provide a particular department's services.



Not surprisingly, departments have different opportunities for revenue collection. It is important to understand the current service levels and issues in each department, it is also important to recognize that some departments are able to recover some of their costs through revenues, while others are not. For example, Community Development is only subsidized by the General Fund by 3.73%; while the Police Department has much fewer revenue opportunities and has a 47.9% investment by the General Fund. The City has looked hard at opportunities to recover costs for services where appropriate and early in the recession increased a number of fees and charges. Other than general tax increases, staff does not believe that there are significant opportunities to increase such revenues at this time.

In each section below, there is information regarding the current spending and revenues for each departments and an organization chart. If there are positions that are currently funded with Measure F or grant funding, those positions are noted by being highlighted in grey.

SERVICE LEVEL HOLES SUMMARY – Each department of the City has outlined areas where the level of service that is provided is not at the level the department feels is appropriate. A broader discussion occurs in each department's section. The table below is a summary of this information.

Central Administration	Administrative Services	Community Development
Events and Partnerships -- Opportunities for City to promote community events has been reduced through budget reductions; the goal is to bring residents together and to build community connectedness. Record Management and Imaging -- The City has many documents that need to be scanned into electronic format; digital images will allow for greater staff efficiency and enhanced customer service; this will entail a multi-year and large technology and scanning investment.	Additional analytical support for Human Resources Division -- The Human Resources Division is not staffed correctly. An additional professional position is needed in order to meet the needs of departments and proactively move forward key projects. Staff capacity for process re-engineering and streamlining -- With all the reductions and realignments, there is a need to review how we work and streamline steps that don't add value. Examples that need review include: Purchasing / Contracts, City Claims, Encroachment permits, Personnel hiring and processing, and Accounts Payable / Receivable. Additional Staffing for IT Division – Additional staffing and support is needed to jumpstart, and then support going forward, a number of needed technology investments and initiatives. These investments will help the City streamline processes and provide better information more efficiently. Funding for Technology investments for software and hardware to improve service and to allow staff to work more efficiently and effectively.	Need to Augment Planning and Building Staffing when Economy Improves -- As development activity increases with the decreased staffing levels there will be a need for temporary staff as warranted by revenues and workload to maintain permit processing and inspection timelines. Code Enforcement cannot meet community expectations currently -- Community-wide code enforcement complaints are increasing beyond staff capabilities to respond in a timely manner. Staffing is also inadequate to perform proactive code enforcement to improve community aesthetics and nuisance abatement. No Staff Focused on Environmental Sustainability -- Adoption and implementation of the Climate Action Plan has not progressed due to staffing levels and the focus on the Housing Element and General Plan updates. Front Receptionist needed -- Occupancy of the new City Administrative Office Building will require review of staffing options for front counter public reception functions.

SERVICE LEVEL HOLES SUMMARY (continued)

Parks, Recreation & Community Services	Police	Public Works
Lack of staff to perform research, manage projects, identify and manage grants, and support program and projects of Department – Examples include ADA Committee Oversight; Special projects with non-profits and service clubs; Logistics Section Planning and Training for EOC; Public art efforts, both private and public; Capital Improvement Projects related to parks and recreation facilities, including studies and construction efforts. Lack of City-run Community Events and Series - Concerts in the Park; Celebrate Family events; community celebrations; children's events; special events focused on health (Let's Move, endurance sports events, bike and run events, competitions – i.e., dance, aerobics). Lack of programs for low income; limited funding for the Youth Financial Assistance program Limited time of professional staff to support the City museums - including little time to ensure trained oversight of the historical collections.	Investigations – Current staffing can handle majority of investigations. No depth of personnel for complex and lengthy investigations, or coverage for injuries, illnesses, or protracted court appearances. Availability of Lobby Access – Reduced hours of front counter service to the public resulting in occasional lengthy delays for members of the public. Increased overtime costs. Emergency Services Coordinator – A full-time staff member to coordinate preparedness and mitigation programs including public education, staff training and disaster exercises, the Emergency Operations Plan and implement the Hazard Mitigation Plan. Administrative Staff & Technical Support -- Currently the Chief's Administrative Assistant is the only administrative support person for entire department; Heavy reliance upon volunteers to assist/perform critical department functions. Lack of ability to coordinate and regularly staff Neighborhood Watch meetings. Reduction of on-going, proactive Crime Analysis. Community Outreach programs such as child safety seat inspections and installations.	Community expectations in park and island maintenance Need for new software – To improve monitoring, management and response of operations (such as computerized maintenance management; fleet, etc.) Decreasing funding for roadway maintenance - Measure B expired March 2012; loss of $1.0 - $1.5 million per year; Remaining funding is $1.25 million per year from Gas Tax and Measure A; deferred maintenance continues to grow for City streets Other infrastructure with limited to no non-General Fund monies (See Infrastructure Section of this Report) – Need for ongoing and one-time funding for facility and infrastructure maintenance; non-General Fund sources are minimal. Parks facilities – No non-General Fund monies for short-term or long-term capital improvement or deferred maintenance enhancements.

MEASURE F FUNDED POSITIONS AND PROGRAMS – SUMMARY TABLE FOR ALL DEPARTMENTS

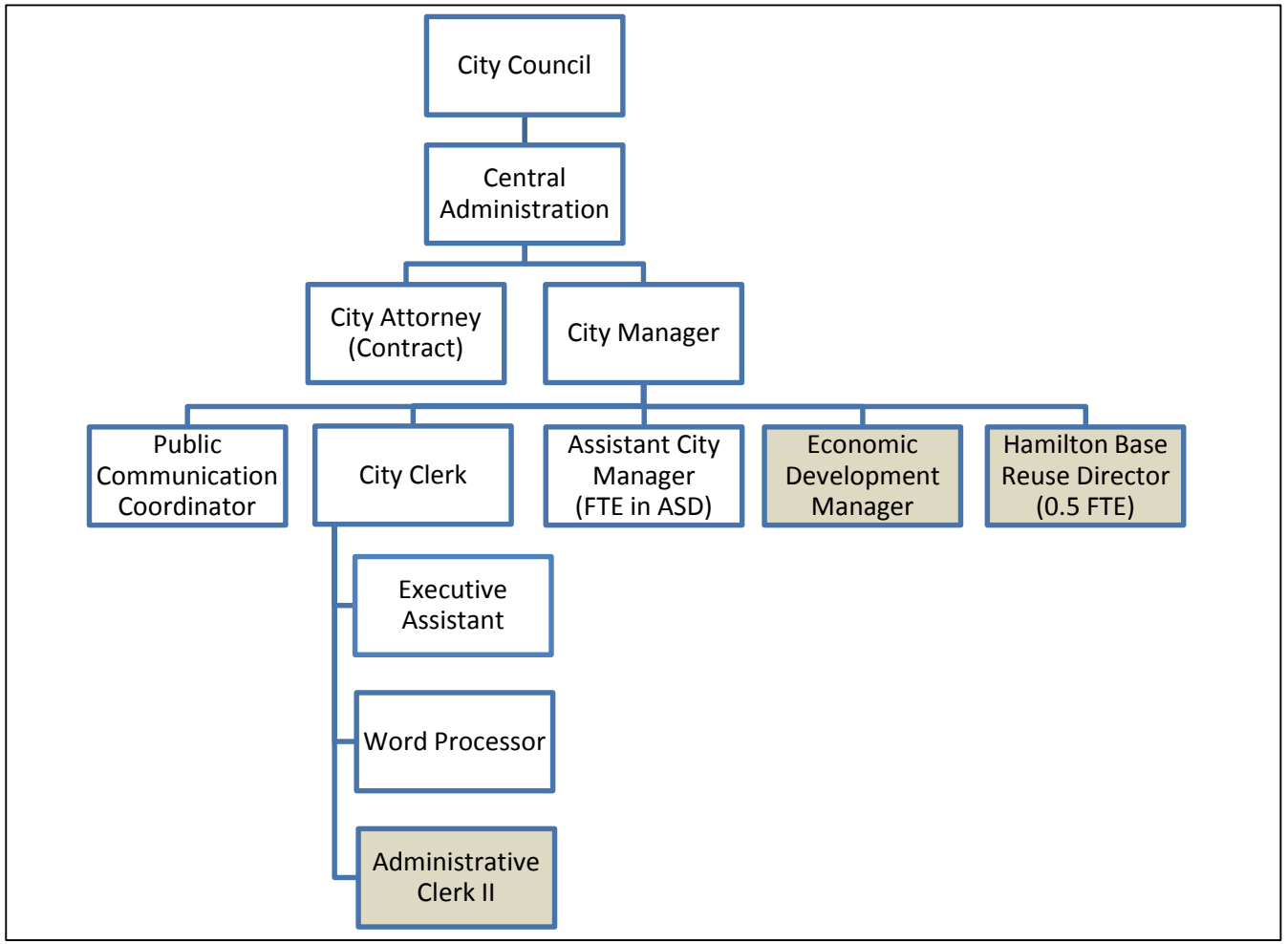
Measure F Funded Positions & Programs	FY 13/14 Funding
CENTRAL ADMINISTRATION	
Economic Development Manager & Program Budget	$219,000
Hamilton Base Reuse Property Manager & Program Budget	$221,000
Front Reception Position – Records and Imaging Assistance	$61,000
PARKS, RECREATION, AND COMMUNITY SERVICES	
Low income scholarships, youth summit and needs assessment, and continuation of after-school initiative	$55,000
POLICE	
Emergency services contract & Tactical pre-plan site surveys	$40,000
Management Analyst for NRT team	$85,000
Overtime, supplies and materials for NRT team	$38,000
PUBLIC WORKS	
Maintenance Worker for parks, islands, median maintenance	$82,000
TOTAL	$801,000

CENTRAL ADMINISTRATION (CITY MANAGER'S OFFICE, CITY CLERK, CITY ATTORNEY)

The mission of Central Administration is to assist the City Council provide valuable overall policy direction to the organization through the general management, legal and administrative services of the City Manager, City Attorney and the City Clerk. Specifically, the City Manager's office also houses the City's front reception, economic development, Hamilton reuse development and public communication functions. The City Manager's office is also responsible for the oversight of Marin Valley Mobile Country Club, a 315 unit mobile home park providing affordable housing to senior citizens, which is owned by the City. In addition, the Successor Agency for the Dissolved Novato Redevelopment Agency is included within the Central Administration function.

CURRENT ORGANIZATION CHART

The Organization Chart for Central Adminstration is shown to the right. Any Measure F or Grant Funded Position are highlighted in grey and are not included within the historical comparison of staffing below.



In general, the Department has responded well to the new economic reality. While the numbers look the same, there have been significant realignments in staffing. There have been positions eliminated and functions reviewed and then re-engineered. The City Clerk's operation used to have 3.3 FTE and the same work is now accomplished with 2.2 FTE through use of technology. An Assistant to the City Manager position was eliminated, and a Grant/Volunteer Coordinator position was reclassified to focus on public information and communication.

STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

CENTRAL ADMINISTRATION	2007/08	2012/13	% Change
Staffing Level (in Full Time Employees)	5.50	4.85	(12%)

CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to Central Administration.

FY 13/14 (Division)	Expenditures / Transfers Out	Revenues / Transfers In	General Fund Investment ($)	General Fund Investment (%)
City Manager	$602,194	$355	$601,839	2.50%
City Clerk	$378,931	$233	$378,698	1.57%
City Council	$66,336	$0	$66,336	0.28%
City Attorney	$506,029	$24,353	$481,676	2.00%
TOTAL	**$1,553,490**	**$24,941**	**$1,528,549**	**6.35%**

DESCRIPTION OF CURRENT SERVICE LEVELS

Below is a brief summary of the current service levels and responsibilities of each function within Central Administration.

- City Council
  - Provides policy direction to the organization and sets long term strategic direction; represents the organization in the community and the community in the region and State; Hires and reviews performance of the City Manager and City Attorney
- City Manager's Office
  - Develops policy options for and implements policies of the City Council
  - Manages all City departments as well a number of functions directly reporting out of the City Manager's Office including:
    - City Clerk -- Oversees coordination and production of City agendas, manages City document retention and destruction, and elections
    - Economic Development and Hamilton Reuse -- Economic Development Manager Position funded for 4 years and Director of Hamilton Reuse funded half-time for 2 years

        - Public Communication and Community Engagement -- Proactively manage web, social media, public outreach, communications, and community engagement
    - Special Projects including oversight of Marin Valley Mobile Home Park, direct oversight of City Administrative Offices construction, Fiscal Sustainability Process Oversight, among other projects
- City Attorney (Contract)
    - Provides legal consultation, litigation and legal advice on City municipal code issues and other City-related legal matters.

Overall, service levels within Central Administration are sustainable with the inclusion of the Measure F funded positions for economic development. Staff believes that the overall support of the City Council by the City Manager and City Clerk is responsive and of good quality. The City is making progress on the Council's strategic plan goals and customer issues are responded to in a prompt manner. The City contracts for legal services through Walter & Pistole and occasionally uses additional specialized legal counsel if necessary. This contracting relationship is at a sustainable service level.

CURRENT ISSUES / TRENDS

There are three primary issues and trends impacting Central Administration.

1. State Redevelopment Agency Dissolution Issues – Joining a growing number of municipalities throughout California suing the State over use of redevelopment funding, the City is legally challenging a determination issued by the Department of Finance (DOF) that denies a $6 million repayment to the City for loan advances made to its former redevelopment agency (RDA). The City loan advances to the RDA were pursuant to a 30-year old agreement between the City and RDA to jump-start community redevelopment projects. In its initial determination, DOF rejected a total of $21.5 million in repayments of obligations of the City's former redevelopment agency arising from loan advances made by the City from its General Fund. These loan advances were made over decades and the RDA's repayment occurred prior to the passage of ABx1 26--the law that ordered the dissolution of city redevelopment agencies. Disputing their findings, the City met with DOF on March 21 to provide supporting documentation and evidence that the RDA's loan repayments to the City were legally valid.

   Subsequently, DOF revised its position and allowed $14.5 million in bond proceeds issued by the RDA to repay the City, noting that "the proceeds were used for the purposes for which they were issued." DOF also allowed $855,600 in cash repayments that occurred in 2010.

The DOF now contends that the remaining $6 million in RDA loan repayments are "disallowed cash transfers," that aren't enforceable obligations of the RDA, despite the fact the repayment of the $6 million from the RDA to the City was a repayment of the same loan advances as the repayment made from the $14.5 million in bond proceeds the DOF approved. The City is also currently undergoing an "asset transfer audit" of its RDA by the State Controller.

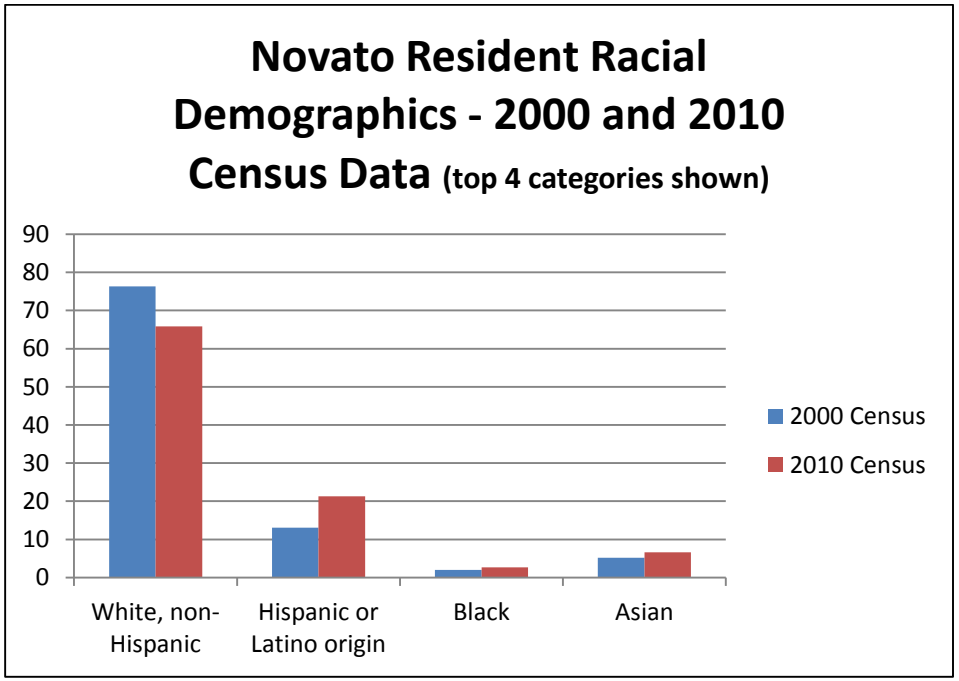
The City and Redevelopment Successor Agency filed a lawsuit in Sacramento County Superior Court to seek a judicial determination that the $6 million repaid by the RDA to the City for the outstanding loan advances was lawful. This lawsuit as well as issues being reviewed by the State Controller will continue to be a significant focus of staff's effort and attention in Central Administration as well as Finance..

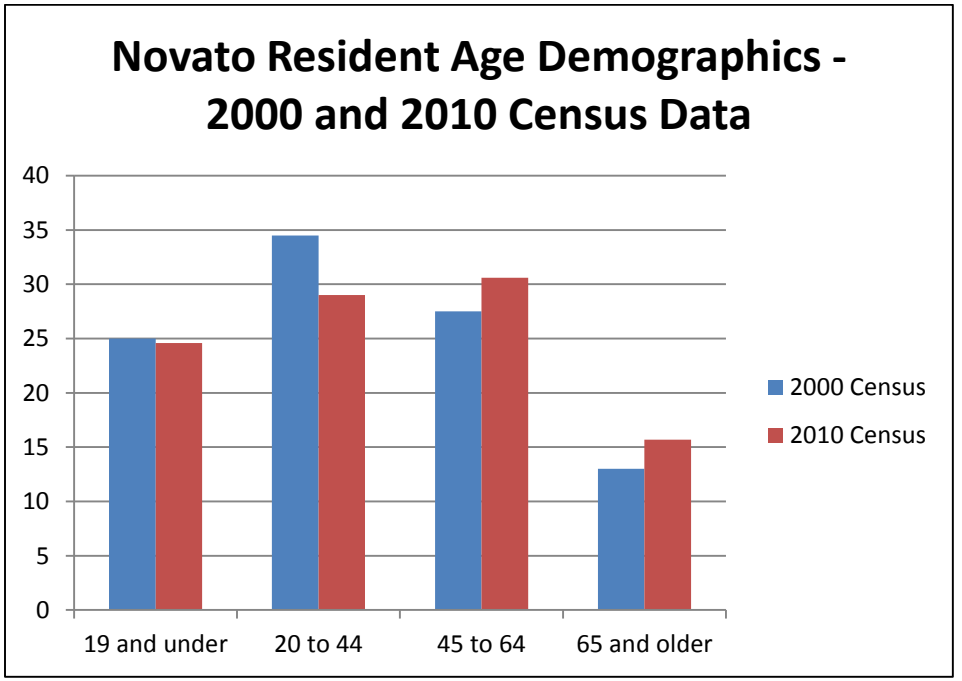
2. Economic Development Program – With the elimination of redevelopment agencies by the State of California, the financial support for redevelopment and economic development has shifted to the General Fund effective February 1, 2012. This meant an $800,000 impact to the General Fund. There are many discussions and different sponsored legislation that may created a new form of redevelopment tools for cities, but that is yet to be determined.

   Another impact to the City with the loss of its Redevelopment Agency was the loss of any Economic Development staff. With an understanding of the need for economic development and a business liaison, the Council approved a 4-year limited term Economic Development Manager to be funded via Measure F. Staff believes that an Economic Development Manager and function should be part of the City's core services which is why this position is recommended in the Core Staffing option in the Fiscal Sustainability Tool. In addition, a half-time position focused on the reuse of Hamilton Base properties owned by the City was also created for two years. Together, these positions represent the City's focused efforts to improve the economy and maximize revenues for services.

3. Public Communication Coordination / Education – Today's fast paced world is changing the dynamics of how organizations communicate. Cities must provide accurate, timely and clear information to its residents. This communication must also be proactive. Technology and the social media phenomenon have created new and heightened expectations for dialogue, response and interaction with a city's residents and stakeholders. The Public Communications Coordinator provides management of the city's web site, social media, and other outreach efforts. This position also works directly with staff on key projects to ensure that the communication and engagement needs are woven into the project plan and process.

4. Changing Demographics – The 2010 Census shows an aging population and an increase in the Latino population. See the *Novato Resident Racial Demographics* and the *Novato Resident Age Demographics* charts for the comparison between the 2000 and 2010 Census data.





MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs. It is important to remember that these positions are funded by Measure F and are not included in the current staffing levels of the General Fund. An elimination of Measure F funding for these positions would mean that the services associated with them would also evaporate.

Measure F Funded Positions & Programs	FY 13/14 Funding
Economic Development Manager and Program Budget	$219,000
Hamilton Base Reuse Property Manager and Program Budget	$221,000
Front-Reception Position – Records and Imaging Assistance	$61,000

SERVICE LEVEL HOLES

Below is a summary of key areas that Central Administration feels that there are areas where services could be improved:

- Events and Partnerships -- Opportunities for City to promote community events has been reduced through budget reductions; partner with Downtown to bring residents downtown and to build community connectedness; partner with other commercial areas to support events and programs to bring together neighborhoods for fun and community building.

- Record Management and Imaging – The City has many documents that need to be scanned into electronic format; digital images will allow for greater staff efficiency and enhanced customer service; this will entail a multi-year and large technology and scanning investment requiring focused time and project management attention.

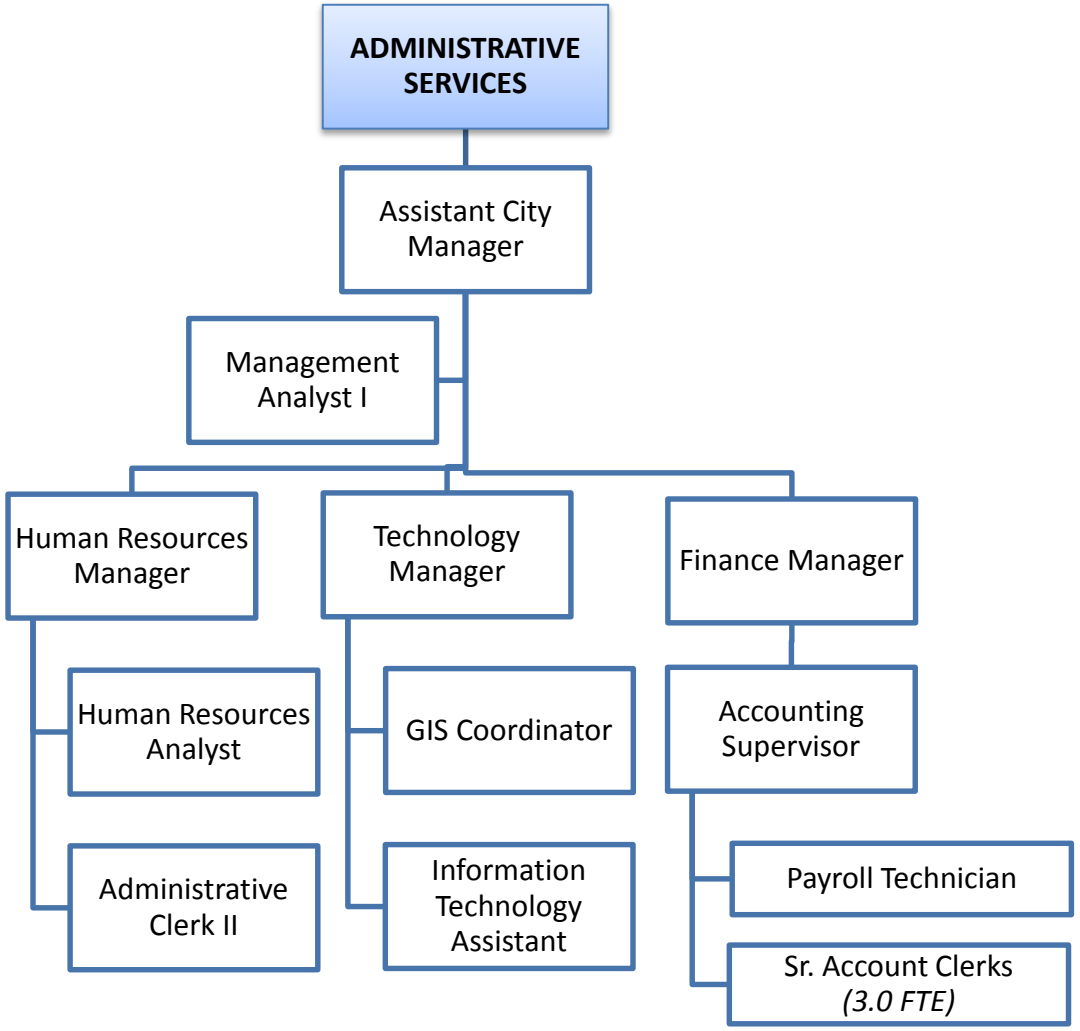
ADMINISTRATIVE SERVICES DEPARTMENT

The mission of the Administrative Services Department is to provide comprehensive and effective staff services to other city departments. As an internal service provider, the Department provides financial, human resources, risk management, information technology support and assistance to each of the other departments, management and employees. Under the supervision of the Assistant City Manager, Administrative Services also provides some direct services to the public, such as business licenses and other permits.

CURRENT ORGANIZATION CHART

The Organization Chart for Administrative Services is shown to the right. There are no Measure F or Grant funded positions within the department.

In general, the Department has responded well to the new economic reality. While the numbers look the same, there have been realignments in staffing from FY 07/08 to FY 13/14. There have been positions eliminated and functions reviewed and then re-engineered. Centralized purchasing and reprographics have been eliminated and decentralized for departments to administer.



STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

ADMINISTRATIVE SERVICES DEPARTMENT	2007/08	2012/13	% Change
Staffing Level (in Full Time Employees)	13.55	13.45	None

CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to the Administrative Services Department.

ADMINISTRATIVE SERVICES DEPARTMENT
2013/14 Budget and General Fund Subsidy

Divisions	Expenditures/ Transfers Out	Revenues/ Transfers In	Total General Fund Subsidy ($)	Total General Fund Subsidy (%)
Administration	$281,646		$281,646	1.17%
Human Resources	$537,359		$537,359	2.23%
Finance	$725,170	$321,432	$403,738	1.68%
Info. Technology	$798,361		$798,361	3.32%
Citywide Programs	$2,240,659	$28,551	$2,212,108	9.19%
TOTAL	**$4,583,195**	**$349,983**	**$4,233,212**	**17.58%**

DESCRIPTION OF CURRENT SERVICE LEVELS

The information below summarizes current staffing levels, the staffing changes and impacts of the budget cuts to date and staff's assessment of where the operations currently stand. The sustainability of staffing levels and services ranges among the specific functions.

Human Resources & Risk Management -- The Human Resources division is not at sufficient staffing levels. In addition, the City's risk management function is also staffed by Human Resources. Risk Management includes management of liability claims, worker's compensation, mandated safety training and systems, and oversight of the City's insurance and contracting requirements to try to proactively manage and prevent issues on the front end. For all of these duties, the Human Resources / Risk Management Division has never been adequately staffed with the right level and mix.

There is the need for an additional high level professional human resource position to support the departments in their employee development and management. Increased complexity in Federal and State requirements and regulations require active human resources management.

The Human Resources Division provides the following support:

- Overall management of City's human resource activities and services
- Negotiate labor agreements with six different employee groups
- Conduct recruitments for all City job openings (13 recruitments completed in 2011; 19 in 2012 to date);
- Manage the City's general liability claims (19 liability claims in 2011; 17 in 2012 to date);
- Manage worker's compensation and employee injuries; manage return to work for health of employee and organization;
- Assist department management with performance issues and provide staffing for employee professional development.

Finance -- Staffing levels in Finance are currently appropriate. The Division has a manager, supervisor and four accounting clerical positions. Management staff does believe that with a new financial software system, there will be streamlined operations which will allow one less accounting clerical position within 3-4 years with a new financial system is in place. This is one of the positions that is recommended for reduction as part of the City Manager's Core Staffing recommendation later in the report.

The Finance Division provides the following support:

- Payroll for approximately 175 full-time staff and approximately 90 temporary part-time employees;
- Process approximately 3,500 payments to vendors for purchased materials and services annually;
- Process approximately 4,500 business licenses annually;
- 622 new licenses issued in 2011-2012 fiscal year (average = 677 prior 4 years); and
- Manage, prepare and account for all financial transactions and official recordkeeping.

Information Technology -- Staffing levels for Information Technology are not sustainable in the future based on technology investments that are envisioned to improve services, efficiency and access. The City had an IT Assessment and IT Master Plan completed this past fiscal year. A reliable and high performing technology infrastructure is critical to allow staff to obtain the maximum benefits from business and operations applications (i.e., finance, payroll, permitting, document management, etc.).

The City's current technology environment provides a strong foundation to build upon to realize the full benefits technology has to offer.

The City's use of third party service providers has proven to be a cost effective approach to maintaining a secure, reliable, and robust technology environment. In fact, using third party service providers has allowed the City access to technical expertise that may not be available if the City were to rely exclusively on City resources. The most significant service providers for the City are as follows:

- MIDAS – Marin Information Data Access System (MIDAS) is a wide-area telecommunications network that links its members and provides internet access. It is currently managed by the Marin County Department of Information Services and Technology. The MIDAS program connects the County to its municipal and non-profit business partners by providing internet access and support for private network-based shared applications: MariNET libraries, Marin Law Enforcement Data System, MarinMap, the County, as well as cities and towns of Marin.
- MarinMap – The City participates in MarinMap, which is a consortium of public agencies (local governments and special districts) organized under the legal authority of the Marin General Services Authority. MarinMap provides the City access to Countywide Geographic Information Systems (GIS) applications.
- County Sheriff - The City contracts with Marin County for computer aided dispatch (CAD) and records management system (RMS) to support the Police Department.

The IT Master Plan estimates $2.5 to $3 million in technology investments in the next 3-5 years. Without continued investments, the technology gap will increase and the City will not have the software and hardware to provide high customer service. With these investments, there will be the need for additional staffing of at least one permanent position and one temporary position within this time period.

CURRENT ISSUES / TRENDS

There are three primary issues and trends impacting the Administrative Services Department.

1. Need for software and technology improvements to enhance effectiveness – The City has made improvements in the last five years to its network and invested in some key software to enhance services in a few departments – Police, Parks & Recreation and Community Development. There are major software needs in Administrative Services (a financial software system that is 15 years old and cumbersome for department use; no Human Resources system) and Public Works is using Excel and Access to manage maintenance, assets, work orders, fleet and custodial. Every department has identified technology to improve services and opportunities to utilize mobile technology. A significant investment in technology will be needed to position the organization to work with ongoing leaner staff and meet the expectations and responsiveness of the community.

2. Training and Succession Planning for City departments – The City has reduced 25% of its staffing from layoffs and retirements. There will be more key retirements in the coming years and there is a need to ensure that current and future workers have necessary skills to respond to new challenges. Also with the reductions and employee concessions, there has been very little training for employees or management. Training in technology and software will also be key.

3. Ability to Retain and Attract Talented Employees – Novato's compensation in base salary and total compensation including what employees pay for health care and pensions is below our neighboring communities and our labor market. During the past four years with the recession, we have been able to hold our own. However, management staff believes that as the economy improves our pay practices will make it more difficult to recruit and retain the best employees moving forward.

MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs.

Measure F Funded Positions & Programs	FY 13/14 Funding
None	None

SERVICE LEVEL HOLES

Below is a summary of key areas that Administrative Services feels are areas where services could be improved.

- Additional analytical support for Human Resources Division -- The Human Resources Division is not staffed correctly. An additional professional position is needed in order to meet the needs of departments and proactively move forward on key projects. For example there is the need to update Personnel Rules and Regulations; Administrative Policies; Training and Professional Development Program; Comprehensive Safety Training Program; Evaluation System; new Human Resources Information System (HRIS).

- Staff capacity for process re-engineering and streamlining -- With all the reductions and realignments, there is a need to review how we work and streamline steps that don't add value. However, to change processes that cut across many departments requires time and staff. At this time, there are not enough staff resources to transform how the organization does work and still maintain the current work priorities and demands. Many of these processes need to be reviewed and changed prior to or in conjunction with new software systems. Examples that need review include: Purchasing / Contracts, City Claims, Encroachment permits, Personnel hiring and processing, and Accounts Payable / Receivable.

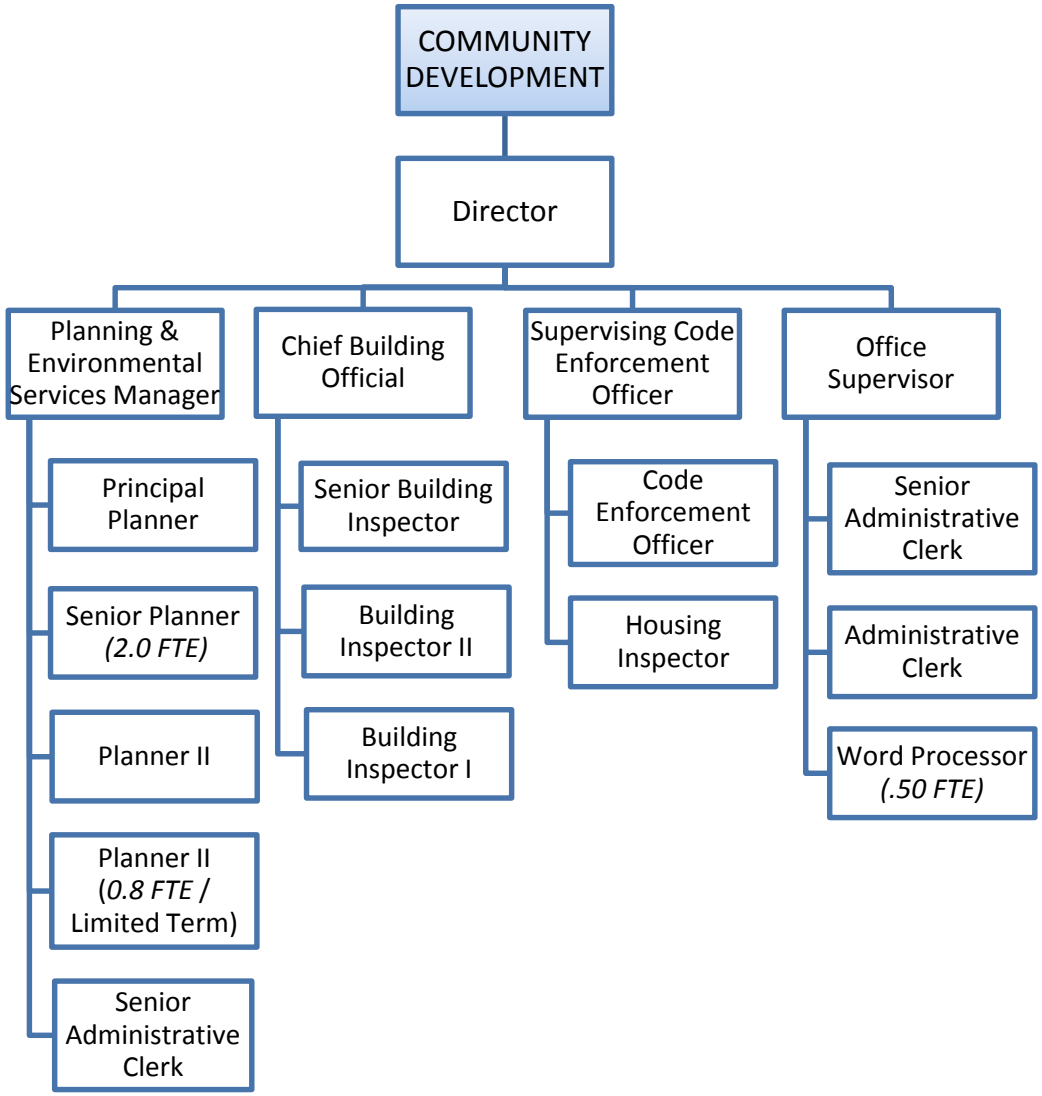
- Additional Staffing for IT Division -- The Information Technology Division has been staffed with an IT Manager and an IT Technician. The GIS Coordinator position was moved from the Public Works Department after a retirement last year, but has not yet been filled. If the Council is supportive of making an investment in technology to jump the City's capabilities and capacities, then there will need to be additional resources to support these systems. Ultimately, this could mean two additional positions.

COMMUNITY DEVELOPMENT DEPARTMENT

The mission of the Community Development Department is to actively engage the community in defining its goals, ensure that Novato's values are reflected in the physical environment of the city, and assist in providing safe and well maintained buildings. The Community Development Department is responsible for administering land use policies, environmental regulations, and design and building code standards for new construction based on federal, state and local requirements. The Community Development Department provides staffing to various commissions and committees that support the Department's mission, with the Planning Division providing support to the Planning Commission and Design Review Commission. Building and code enforcement staff provides support to the Novato Housing, Zoning and Building Codes Appeals Board.

CURRENT ORGANIZATION CHART

The Organization Chart for Community Development is shown to the right. There are no Measure F or Grant funded positions within the department at this time. In general, the Department has adjusted to the new economic reality; however there have been impacts. Staff has been reduced by 29%. The table below highlights these budget cuts.



STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

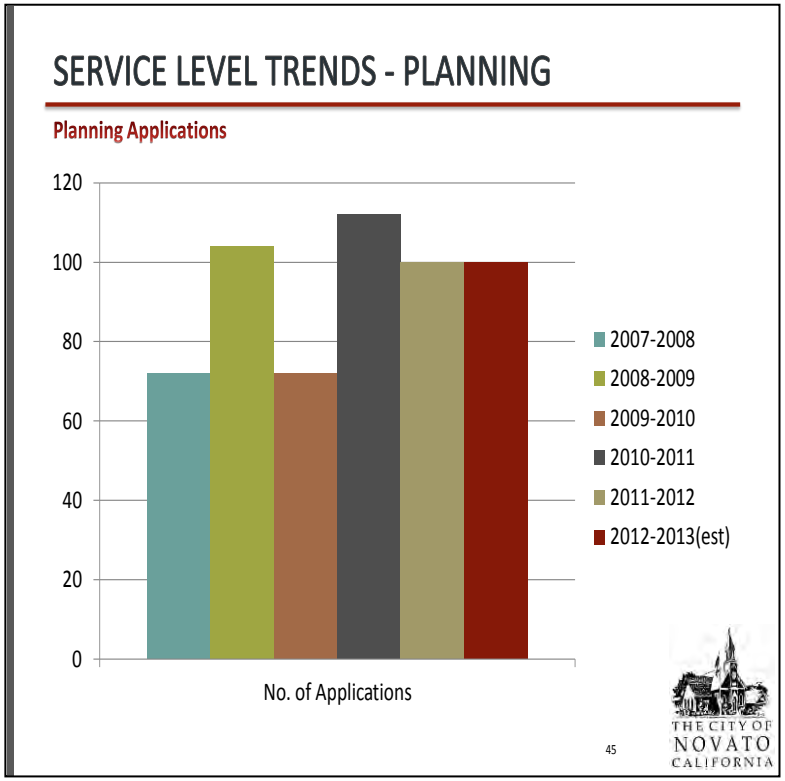
COMMUNITY DEVELOPMENT DEPARTMENT	2007/08	2012/13	% Change
Staffing Level (in Full Time Employees)	26.13	18.3	(30%)

DESCRIPTION OF CURRENT SERVICE LEVELS

The *Service Level Trends* charts summarize the staffing changes and impacts of the budget cuts to date and staff's assessment of where the operations currently stand.

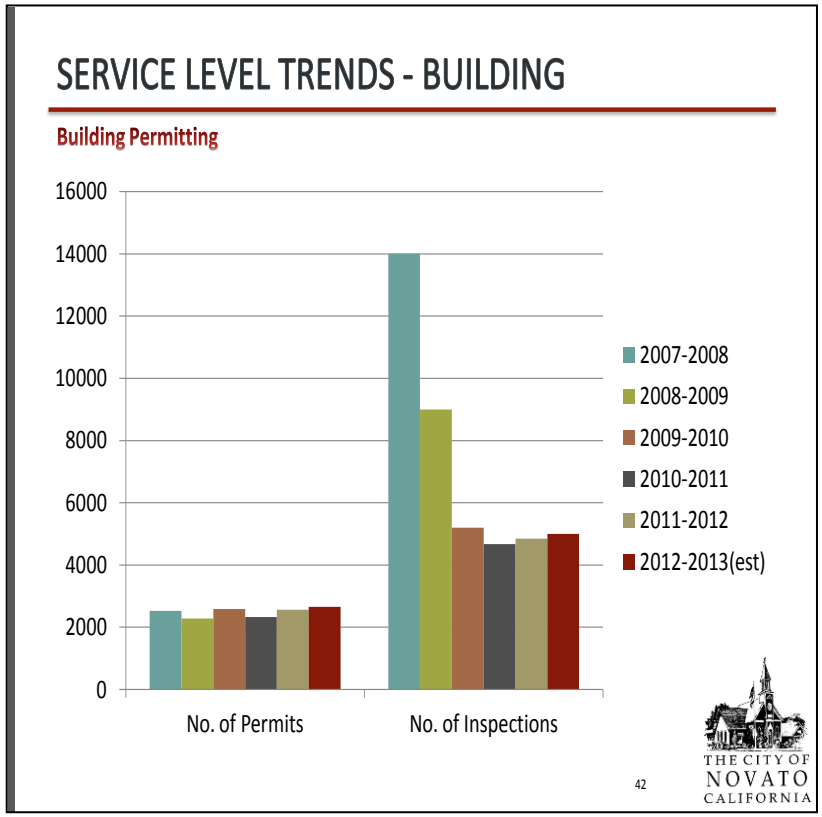
- Planning - The Planning Division maintains and implements the Novato General Plan, the local governing policy document that reflects the City's vision of future growth and development and which provides policy direction for department operations. In addition, the Planning Division is charged with management of the City's environmental sustainability efforts and its Climate Action Plan.

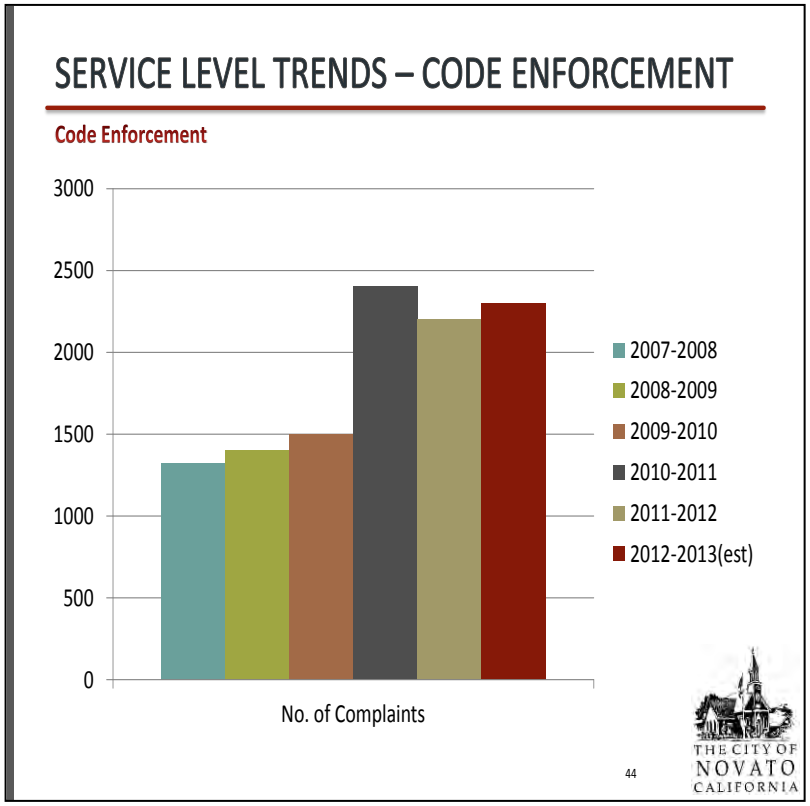
  Planning staff has been reduced by 4 FTE. In FY 07/08, there were 10.2 full time planners working in Novato. Today, there are 6.2. Planning in Novato is complicated and often controversial. As a primarily built-out community, the majority of new planning projects are in-fill projects and have current neighbors and stakeholders with their own impressions and desires.



- Building Inspection & Compliance- The Building Division is responsible for issuing building permits and inspecting construction projects according to state building codes. This division staffs the City's One-Stop Shop for over-the-counter permitting services.

- Code Enforcement – The Code Enforcement Division investigates and directs the remediation of unsafe and blighted properties. This division also manages the city's residential resale program and the multi-family inspection program. The multi-family inspection program complements the residential resale inspection program by providing ongoing monitoring of the overall condition of a range of housing types and reducing unpermitted construction. Code Enforcement staff has been reduced from 4.15 positions in FY 07/08 to 3.00 positions in FY 13/14. One major change was the reduction in how often multi-family inspections occur.





CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to the Community Development Department. Community Development had cost recovery of 86% from application fees in 2011/12 and 73% in 2012/13 due to increased General Fund expenses for the Housing Element/General Plan Update. A large portion of this change is the impact of the elimination of the City's Redevelopment Agency and the resulting shifting of some staff completely back to the General Fund.

COMMUNITY DEVELOPMENT DEPARTMENT
2013/14 Budget and General Fund Subsidy

Divisions	Expenditures/ Transfers Out	Revenues/ Transfers In	Total General Fund Subsidy ($)	Total General Fund Subsidy (%)
Administration	$223,611		$223,611	0.93%
Planning / Housing	$1,224,173	$312,500	$911,673	3.79%
Building	$525,053	$851,470	($326,417)	(1.36%)
Code Enforcement	$298,277	$416,300	($118,023)	(0.49%)
Clerical Support	$226,250	$18,670	$207,580	0.86%
TOTAL	**$2,497,364**	**$1,598,940**	**$898,424**	**3.73%**

CURRENT ISSUES / TRENDS

Below are primary issues and trends impacting the Community Development Department.

1. Increased Construction Activity - Development activity continued during the recession due to home remodels and commercial tenant improvements, and is increasing in 2013 as the economy improves. Community Development has experienced an almost 30% reduction in staffing over the past four years. As development activity increases, it will require additional staff resources. Staff anticipates much of this staffing to be hired on a temporary basis to allow for future flexibility and the volatility of development cycles.

2. Infill Development - There are few vacant properties remaining in Novato. Most new development will occur on more challenging infill sites and through redevelopment of existing sites. The level of likely public participation in the development review process will increase as well as the amount of time for staff review and sheparding of such projects through the development process.

MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs.

Measure F Funded Positions & Programs	FY 13/14 Funding
None	None

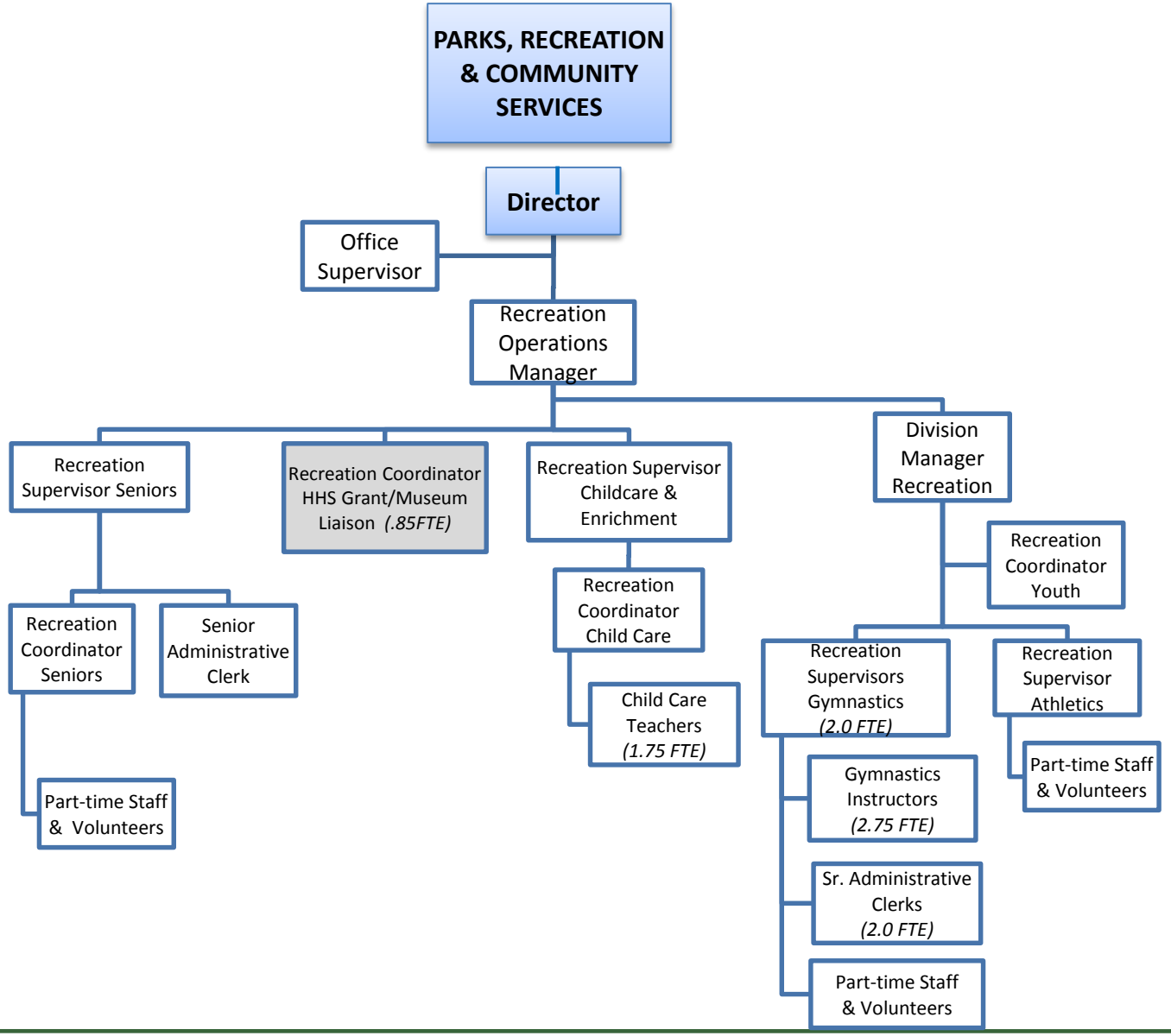
SERVICE LEVEL HOLES

Below are a summary of key areas that Community Development feels that there are areas where services could be improved.

- Need to Augment Planning and Building Staffing when Economy Improves - As development activity increases with the decreased staffing levels there will be a need for temporary staff as warranted by revenues and workload to maintain permit processing and inspection timelines.
- Code Enforcement cannot meet community expectations currently - Community-wide code enforcement complaints are beyond staff capabilities to respond in a timely and proactive manner.
- No Staff Focused on Environmental Sustainability - Adoption and implementation of the Climate Action Plan has not progressed due to staffing levels and the focus on the Housing Element and General Plan updates.

PARKS, RECREATION & COMMUNITY SERVICES DEPARTMENT

The mission of the Parks, Recreation and Community Services Department (PRCS) is to enrich individual and community life. The goals remain: 1) Promoting a healthy community through the provision of high quality active recreation programs, and supporting active living throughout life, 2) Investing in youth by providing opportunities to grow and develop into productive, thriving, and resilient adults, 3) Investing in seniors to provide active opportunities to remain independent and healthy, and 4) Prevention – PRCS recreation programs and facilities help prevent crime, disease, depression, and help a community to thrive by engaging community members in positive activities and interactions. PRCS manages over 20 community recreation facilities. The City offers a wide variety of programs, activities, services, and events, for individuals ranging in age from preschool to senior citizens. PRCS manages parks and recreation facilities for City programs and community uses.



For decades, PRCS has worked with, and continues to rely on, volunteers to meet community needs and its mission. Currently, PRCS manages nearly 600 volunteers a year who donate more than 25,000 hours annually (value of over $425,000). The Department provides a Youth Financial Assistance Program which **e**nables a limited number of eligible children from low-income families to participate in recreation programs, classes, and activities.

CURRENT ORGANIZATION CHART

The Organization Chart for PRCS is shown on the previous page. There are no Measure F funded positions and one 0.75 FTE Grant funded position within the department at this time.

In general, the Department has responded well to the new economic reality; however there have been significant impacts. Since FY 07/08, full-time staff has been reduced by 30% and part-time staff has been reduced by 41% (the equivalent of 12.21 FTE). The department is generating more revenue which has reduced the amount of General Fund investment provided. The table below highlights these budget cuts.

STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT	2007/08	2012/13	% Change
Staffing Level (in Full Time Employees)	28	19.85*	-30%

Note -- *In FY 12/13 1 FTE added by converting part-time salaries, causing no net impact to GF.
One .75 FTE position is funded through a multi-year grant to work with the Novato Blue Ribbon Coalition for Youth, with no impact to the GF.

DESCRIPTION OF CURRENT SERVICE LEVELS

The slides below summarize the staffing changes and impacts of the budget cuts to date and staff's assessment of where the operations currently stand. In the last five years, the General Fund investment/subsidy to the PRCS department has been reduced by 50%. Reductions in analytical and management staff have significantly reduced the Department's ability to respond to initiatives, community service volunteer project requests, and our partners' needs. The department has eliminated many of their free programs and has shifted to a "pay-to-play" package of services. The Department has also eliminated community concerts and many other free community events that have historically been organized by the City. Even in this era of reduced staffing, PRCS serves nearly 140,000 participants and attendees through programs, events, and facilities. Below are descriptions of the services provided by PRCS:

Overview of Parks, Recreation & Community Services

- Provides thousands of hours of programs each year and operate a dedicated senior center, gymnastics facility, and the downtown community center
- Collaborates with many partners, including Novato Historical Guild, Senior Club, Gymnastics Boosters, NIEP, City of San Rafael, Fire District, Reading Institute, Novato Blue Ribbon Coalition for Youth

CHILD CARE AND ENRICHMENT	**2,943 served annually**	**MUSEUMS**	**2,858 served annually**
Lu Sutton Before and After School Child Care Summer Day Camp, Camp Ton-of-Fun, Specialty Classes Novato School of Dance Facility Rentals – 295 bookings for Hamilton Community Center 2,943 annual attendance in camps, classes, child care, programs		Museum Liaison and Museum Volunteers 2,639 Visitors & School Tours, 219 attendance for special events	

ATHLETICS	**15,386 served annually**	**GYMNASTICS**	**6,800 served annually**

Children, Teen & Adult Athletics
▪ Multiple Sports, Camps, Classes, (Preschool – Teen) – 1,616 enrolled
▪ Youth, Men, Women & Coed Sports Leagues – 2,480 on teams
▪ 1st- 8th Grade Girls & Boys Basketball Leagues – 610 on teams
▪ Basketball Tournaments – 380 participants
▪ League Games & Tournament Attendance – 9,000 spectators
▪ Saturday Night Dances – 300 attendees
▪ Middle School Events - 1,000 attendees; 7th & 8th Grade Middle School Dances; 6th Grade Recreation Nights & Welcome to Middle School
▪ Facility Rentals -
  ▪ 1,729 Gym bookings, 3,492 Field reservations
  ▪ 670 Downtown Recreation Center/Pocket Park reservation
		Recreational Gymnastics Classes – 3,619 enrolled
		
		Competitive Girls Gymnastics Team Program – 528
		
		Gymnastics Camps – 253 participated
		
		Gymnastics Meets & Shows – 2,400 participants and spectators	

SENIORS AND ADULTS	49,826 served annually	FACILITY MANAGEMENT AND RENTALS	28 sites managed

• Drop-In Classes & Programs – 19,566 annual attendance
• Senior Club Activities – 11,207 meeting & program attendance, trip sign-ups
• Novato Independent Elders Program/Episcopal Senior Communities Services, Meals, & Program attendance – 12,464
• Senior/Adult Classes – 1,835 enrollments
• Margaret Todd Senior Center Membership – 1,065 members (Year 2011)
• Senior Center & Club Special Events – 3,267 attendance
• In addition, there are Facility Rentals – 1,482 bookings of Margaret Todd Senior Center and Hill Community Room
		• 11 Community Recreation Buildings
		  • Including Gymnastics Center, Margaret Todd Senior Center, and 3 Gymnasiums
		• 11 Fields, Tennis Courts, and Outdoor Activity Areas
		  • Including Marion Park, Hill, IVC, Thigpen , Hamilton Pool and more
		  • 32,000 pool admissions
		  • 800 swim lessons , 350 season passes,
		• 6 Parks for Rentals and Events
		  • Including Civic Green, Pioneer, Hoog, and Miwok Parks, Scottsdale Pond, and Pocket Park	

CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to the Parks, Recreation and Community Services Department.

PARKS, RECREATION & COMMUNITY SERVICES DEPARTMENT
2013/14 Budget and General Fund Subsidy

Divisions	Expenditures/ Transfers Out	Revenues/ Transfers In	Total General Fund Subsidy ($)	Total General Fund Subsidy (%)
Administration	$739,109	$261,756	$477,353	1.98%
Children's Programs	$594,711	$505,338	$89,373	0.37%
Museum Administration	$16,826		$16,826	0.07%
Senior Programs	$315,442	$161,100	$154,342	0.64%
Athletic Programs	$1,423,652	$1,105,397	$318,255	1.32%
TOTAL	**$3,089,740**	**$2,033,591**	**$2,033,591**	**4.39%**

CURRENT ISSUES / TRENDS

There are four primary issues and trends impacting the Parks, Recreation & Community Services Department:

1. Most Low Income Programs Eliminated – With the need to reduce the amount of subsidy provided to the Department by the General Fund, most low cost and free programs and community events were eliminated. These included programs targeted at at-risk youth, free family summer event series, and concerts in the park. The recent Community Survey showed strong support for increasing programs for youth.

2. Expectation and Opportunity to Participate in Cross-agency, County, State and National Initiatives – There are a series of initiatives that warrant coordinated efforts and response. These include youth alcohol prevention, crime prevention related to youth, gang prevention, HEAL – healthy eating, active living, and future workforce preparedness including programs focused on science, technology, and math curriculums. Participation and partnerships require extensive staff time interacting with community coalitions, non-profits, and other governmental agencies. An appropriate role for the City is as an active collaborator and facilitator in these initiatives.

3. Demographic Changes
    a. Increasing number of senior citizens as a percentage of the community – largest cohort of seniors in history is unfolding over next few years and will impact the programs provided by the City's Senior Center.
    b. The increasing Hispanic population is anticipated to continue and will make up a major segment of the City's future workforce. The Department will continue to explore how to provide the most appropriate and needed programs to this population.

4. Passage of County-wide Measure A – The voters in Marin County recently adopted a new quarter-percent sales tax dedicated to funding parks and recreation facilities and programs across the County. A portion of the money generated from this new tax is dedicated to Cities and Special Districts to enhance recreation and parks in those jurisdictions. Staff estimates that Novato will receive about $400,000 per year for the nine-year duration of the tax. This money is relatively flexible in how it can be spent, so the City has numerous choices.

MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs.

Measure F Funded Positions & Programs	FY 13/14 Funding
After-School Program – Pilot Project Status: Pilot program was launched successfully at one school and expansion is planned for upcoming school year, and additional funding was secured from the Kaiser Foundation for 2013 in support of the physical activity part of the program (SPARK Afterschool)	$45,000
Youth Financial Assistance Program	$10,000

SERVICE LEVEL HOLES

Below is a summary of key areas that PRCS feels are areas where services could be improved.

- Project Management Staffing - The significant reduction of fulltime staff in the Department has impacted the ability of the Department to perform research, manage projects, identify and manage grants, and support programs and projects. Examples include ADA Committee Oversight, projects with non-profits and service clubs (Community Garden, Miwok Museum Expansion), emergency preparedness logistics section planning and training, public art efforts (both private and public), and capital improvement projects related to parks and recreation facilities including studies and construction efforts. One position has been included in the Core Staffing recommendation of the City Manager to assist in this area.
- Community Events – There is a great opportunity to create community by providing Concerts in the Park, Celebrate Family events, community celebrations, children's events, special events focused on health (Let's Move, endurance sports events, bike and run events, competitions – i.e., dance, aerobics).
- Programs Targeting the Low Income Community – The Department is primarily a "pay to play" operation following reductions. Some funding was allocated with Measure F this year for financial assistance.
- Museum Staffing – The Department has limited staff time to support the city museums including little time to ensure trained oversight of the historical collections.

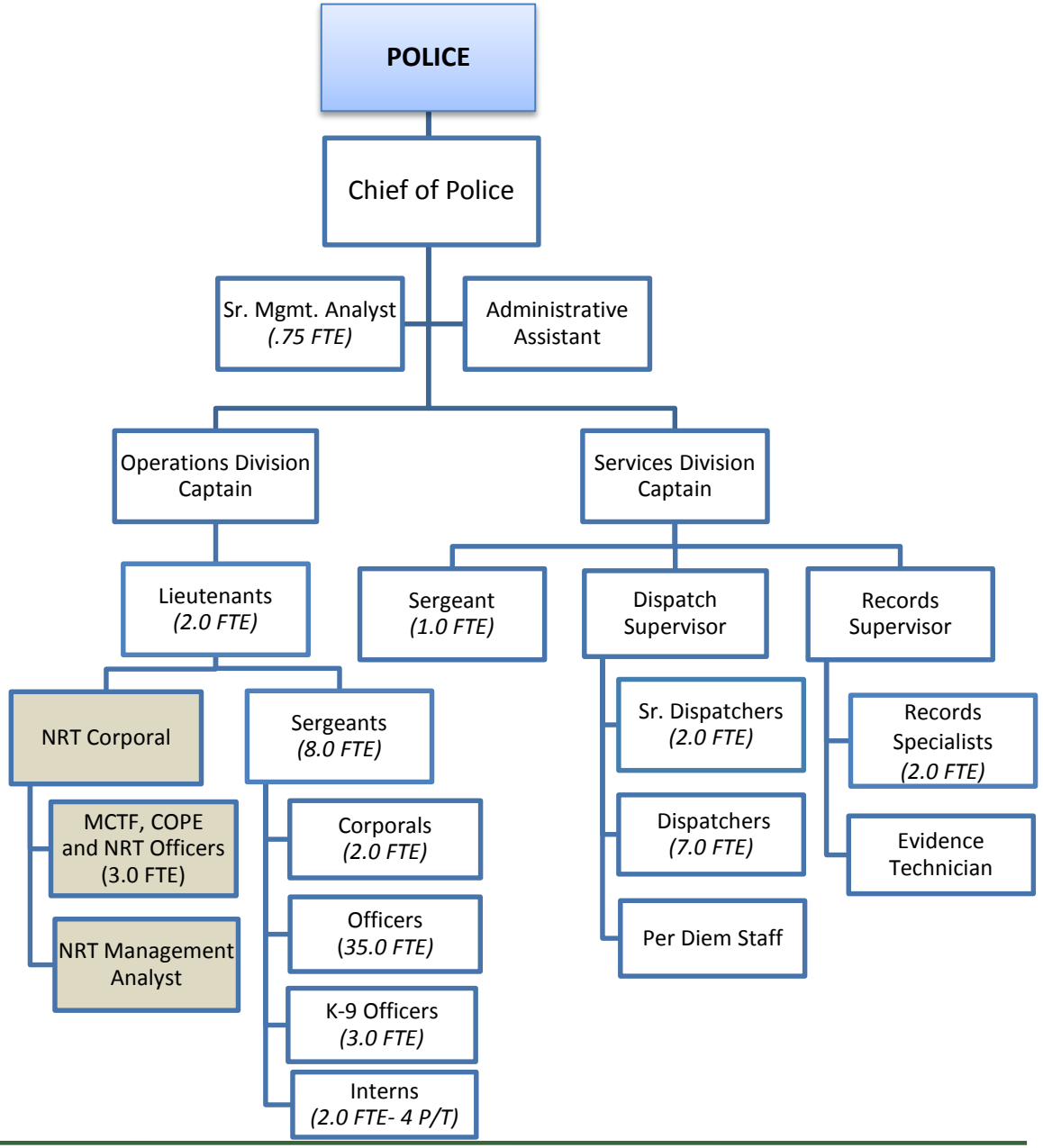
POLICE DEPARTMENT

The mission of the Novato Police Department is to provide a safe and secure environment through professional and proactive law enforcement partnerships with the community. The dimensions of our community-oriented philosophies are problem solving, community partnerships, and a focus on service delivery at the neighborhood level. The Department's services include Patrol, Investigations, Traffic, Emergency Services, Youth Services and other programs designed to enhance the quality of life in Novato.

CURRENT ORGANIZATION CHART

The Organization Chart for the Police Department is shown to the right. Any Measure F or Grant Funded Position are highlighted in grey and are not included within the historical comparison of staffing below.

Administration: Administration handles planning and management, policy development, scheduling, crime analysis, grant writing, budget development oversight, confidential files, training, staff reports, policy revisions, and many other functions.



Operations Division: The Operations Division is responsible for Patrol, Investigations, Traffic, Special Response Team, Novato Response Team, Crisis Negotiation Team and Special Police programs.

Services Division: The Services Division Captain is responsible for Professional Standards, Dispatch, Records and Property, Volunteers in Policing, Emergency Services, General Order review and update, budget oversight, grant management, and purchasing.

Reductions to the Police Department were significant yet purposeful. Overall, patrol staff was protected, but overall Police staff was reduced by 11%. Between FY 2009/10 and FY 2011/12, three management positions were eliminated from the department. This equals a 37.5% reduction in police management staff in three years. The table below highlights these budget cuts.

STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

POLICE DEPARTMENT	2007/08	2012/13	% Change
Total Staffing Level (in Full Time Employees)	80.63	69.75	(13.5%)
Grant Funded Positions	1.00	5.00	400%
Total Employees	81.63	74.75	(8.4%)
Total Patrol Staffing Level	42.00	41.00	(2.4%)
Officers/Corporals	33.00	33.00	--
Sergeants/Lieutenants	9.00	8.00	(11.1%)
Total Investigations/Traffic Staffing Levels	14.00	13.00	(7.1%)
Total Civilian Staffing Levels	22.63	15.75	(30.4%)
Dispatch/Records	17.00	14.00	(17.6%)
Admin. Asst./M. Analyst	2.63	1.75	(33.5%)
Community Service Officers/Interns	3.00	2.00	(33.3%)

CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to the Police Department.

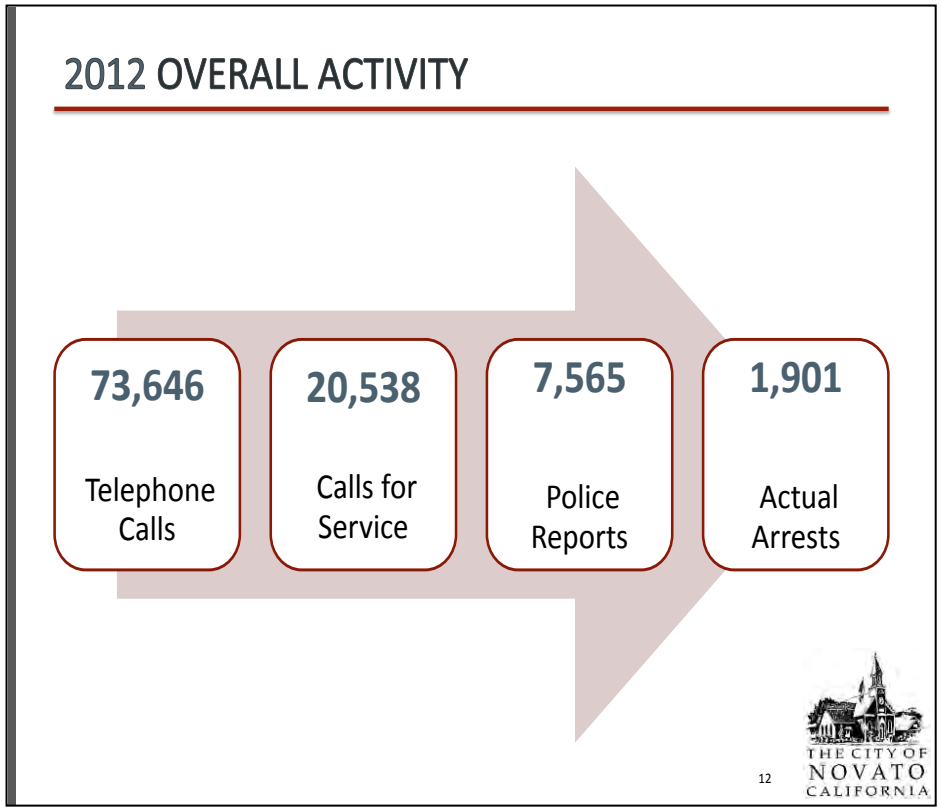
Division	Expenditures / Transfers Out	Revenues / Transfers In	Total General Fund Subsidy ($)	Total General Fund Subsidy (%)
Administration	$1,154,407	$38,130	$1,116,277	4.64%
Technical Services	$1,732,095	$43,975	$1,688,120	7.01%
Professional Standards	$373,281	$30,000	$343,281	1.43%
Investigations	$854,552	$13,500	$841,052	3.49%
Patrol	$7,465,266	$781,386	$6,683,880	27.75%
Traffic	$679,741	$107,000	$572,741	2.38%
Special Police Services	$755,739	$464,923	$290,816	1.21%
TOTAL	**$13,015,081**	**$1,478,914**	**$11,536,167**	**47.90%**

DESCRIPTION OF CURRENT SERVICE LEVELS

Overall, the Police Department sees the following service levels and issues:

- Patrol - Current patrol staffing levels are able to adequately respond to the current level of calls for service. Budget reductions have not resulted in a reduction in patrol staffing, with exception of one management level position (Lieutenant).
  - Patrols city streets 7 days a week, 24 hours per day
  - Minimum staffing levels of uniformed officers ranges from 5 to 9 officers/sergeant depending on day and time of the week
  - Department has maintained officer/sergeant staffing levels in the Patrol Bureau

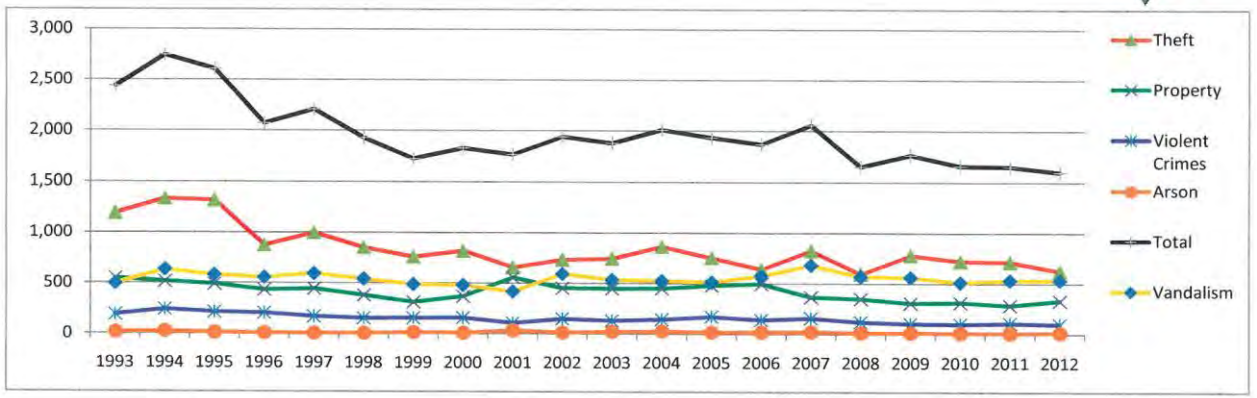
- Investigations - The Investigation Section is responsible for the investigation of violent crimes and felony property crimes
    - The Investigations Section served +/- 50 search and arrest warrants in 2011
    - Coordinates County wide gang and probation enforcement operations
    - Coordination and supervision of newly created Novato Response Team
- Crime Trends - In 2012, the City experienced its lowest incidences of violent crime in 20 years.
- Grants - The Police Department has taken extensive advantage of grants to fund technology projects which increase officer efficiencies as well as grants to increase traffic safety and prevent youth access to alcohol. The Department also received a three year grant for three officers which are staffing the Novato Response Team (NRT). NRT is increasing service delivery and augmenting patrol and investigations while initiating proactive projects for intervention, prevention and enforcement. This team has demonstrated its effectiveness such that 3 out of 4 positions on the Team are part of the City Manager's baseline core staffing recommendations.



Crime Data:

The overall crime level in Novato is very low. As stated above, Novato is experiencing its lowest incidences of violent crime in 20 years. Despite these statistics, there are mixed perceptions in the community regarding crime and safety. Some of the perceptions came out of the affordable housing discussions in the last few years; while others may come from media's focus on individual crime incidents. Overall, staff believes that the level of patrol staffing is adequate to meet the community's needs when it is linked with the additional resources provided by the specialized Novato Response Team.

20 Year review of Crimes in Novato
1993 - 2012



Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Population	47,585							47,630										53,449		
Theft	1,190	1,331	1,315	874	997	850	760	818	656	734	745	863	754	641	825	596	780	722	715	624
Property	547	515	490	433	444	380	311	368	555	453	448	450	479	496	367	350	308	313	285	332
Vandalism	495	633	580	555	594	541	487	480	418	593	536	527	513	575	682	571	562	512	533	533
Violent Crimes	188	240	212	202	168	152	154	155	106	148	129	143	170	139	157	119	103	99	108	96
Arson	16	24	10	6	5	4	13	8	32	13	22	26	18	19	23	14	13	11	10	13
Total	2,436	2,743	2,607	2,070	2,208	1,927	1,725	1,829	1,767	1,941	1,880	2,009	1,934	1,870	2,054	1,650	1,766	1,657	1,651	1,598

Theft includes:
- Burglary Auto
- Grand Theft
- Petty Theft

Property includes:
- Burglary Commercial
- Burglary Residential
- Vehicle Theft

Violent Crimes incluses:
- Homicide
- Rape
- Robbery
- Assualt/Aggravated includes Kidnap

One of the ways in which the Police Department measures success in meeting the Department mission is the collection and reporting of crime statistics. Crime statistics are submitted to both the federal and state government and they are one tool in measuring the safety of a community. These *Crime Data Comparison* slides compare Novato's property and violent crimes with Petaluma, San Rafael and Beverly Hills as a comparison. The statistics reflect that Novato, much like any other City, is not crime free. However they do reflect that Novato is a very safe community in comparison to similar size communities and that crime is significantly down in most areas over a twenty year period.

CRIME DATA COMPARISON– PROPERTY CRIMES

Police-FBI Annual Report

YEAR	Petaluma	San Rafael	Novato	Beverly Hills
Population	55,178	55,901	53,449	34,318
2008	902	1,573	946	1,070
2009	852	1,705	1,088	1,230
2010	782	1,675	1,035	985
2011	887	1478	1000	974
2012	816	1785	956	1080

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THE CITY OF NOVATO CALIFORNIA

CRIME DATA COMPARISON– VIOLENT CRIMES

Police-FBI Annual Report

YEAR	Petaluma	San Rafael	Novato	Beverly Hills
Population	55,178	55,901	53,449	34,318
2008	217	202	119	126
2009	169	175	103	82
2010	206	259	99	75
2011	143	207	107	172
2012	153	194	93	98

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THE CITY OF NOVATO CALIFORNIA

CURRENT ISSUES / TRENDS

There are a variety of issues and trends impacting the Police Department.

1. Integrating New Technologies into the Department – The number of technologies used by Police has grown significantly. These technologies have increased the effectiveness and efficiency of Officers and our ability to increase safety in the community. The challenge moving forward is our ability to support, upgrade, provide training, and integrate these technologies with existing sworn staff. Many technology initiatives are moving forward with the most significant being the County-wide Emergency Radio replacement. Others include: installation of emergency and communication equipment in the Mobile Command Vehicle, electronic ticket writers to expand into the whole fleet to increase officer efficiency, and Wi-Fi networks to enhance transmission speeds for complex and critical information to and from patrol units traveling within the City.

2. State Prisoner Realignment (AB109) – Although at this point in time, there does not seem to be a significant impact to Marin County, realignment is impacting other counties across the State. Staff will continue to monitor this issue to determine impacts and any actions needed.

3. Changing Demographics/Community Outreach – With the increase in the Hispanic population in the community and the aging of Novato, the Department will need to continue to increase outreach and partnerships to improve safety and the perception of safety.

4. Staffing – See Service Level Holes below.

MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs.

Measure F Funded Positions/Programs	FY 13/14 Funding
Novato Response Team funding:	
Overtime	$12,000
Training	$12,500
Equipment	$13,500
Management Analyst	$85,000
**Measure F Funding for NRT already approved by City Council for FY15/16*	
Emergency Services contract	$40,000
TOTAL	**$163,000**

SERVICE LEVEL HOLES

Below is a summary of key areas where services could be added or augmented.

- Staffing Depth in Patrol and Investigations – While generally staffed appropriately to respond to calls for service and the majority of investigations, there is very little depth in staffing which creates challenges when employees are injured, ill, retire, involved with lengthy investigations, or leave for other agencies. It becomes difficult during these times to be proactive with regard to graffiti research and documentation, response to homeless encampments, making crime prevention presentations, and other activities. The Novato Response Team has definitely assisted, however, when significant safety issues surface.
- Emergency Preparedness Program - Currently, Emergency Services tasks are being handled by a Police Captain. Staff believes that emergency coordination is critically important. This function would best be handled by a dedicated staff member that can coordinate preparedness and mitigation programs including public education, staff training and disaster exercises, manage the Emergency Operations Plan and implement the Hazard Mitigation Plan. The City and Novato Fire Prevention District will share the costs for a half time Emergency Services Coordinator starting in FY 13/14 to be paid by Measure F funding.
- Comprehensive Community Education / Neighborhood Watch / Crime-free Multi Family Housing Program – With the elimination of the Department's Community Services Officers, many of these functions either fall to existing patrol staff, NRT, or are not pursued.

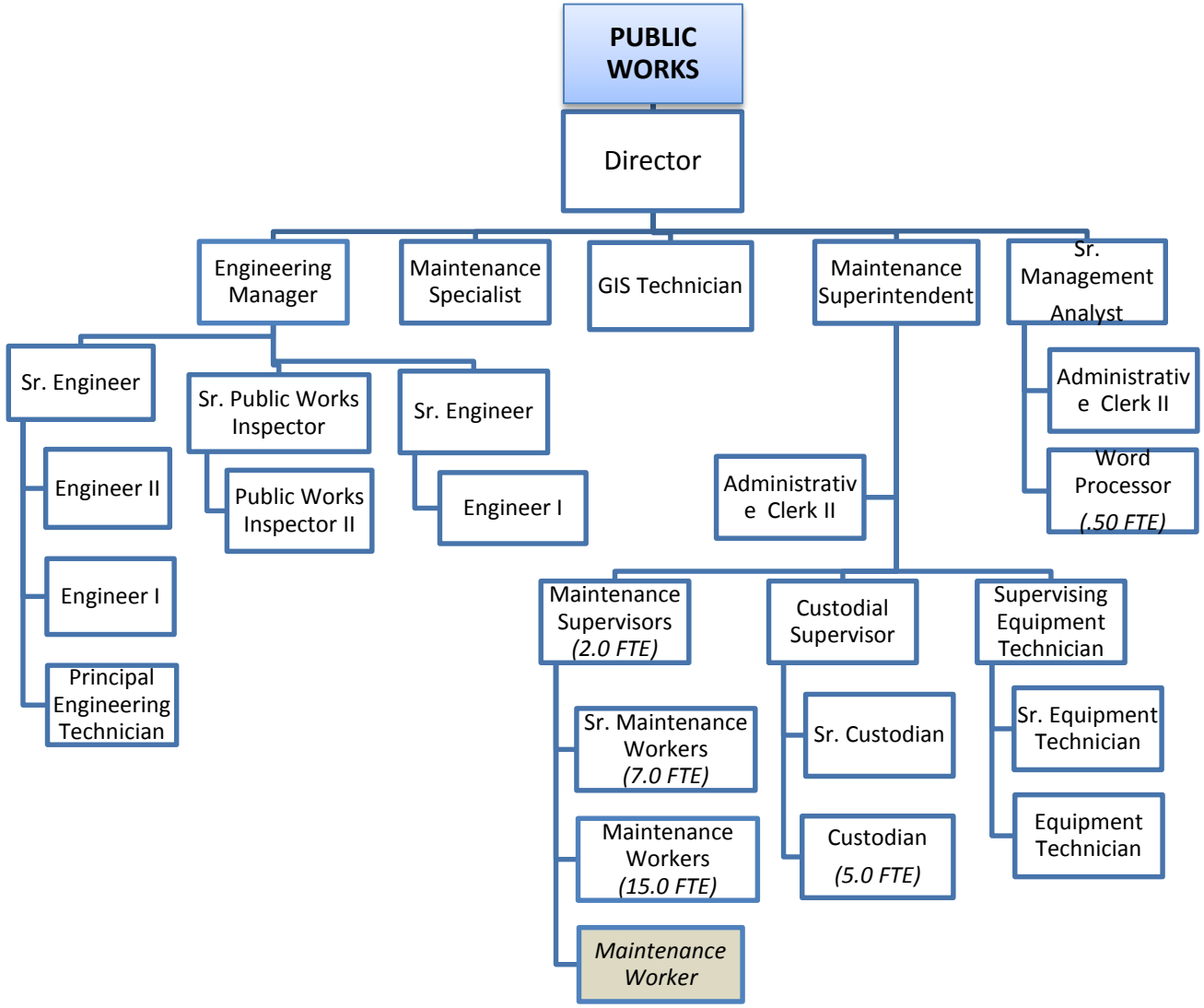
PUBLIC WORKS DEPARTMENT

The Public Works Department is committed to providing top quality programs, projects and services through the design, construction, maintenance, and operation of public use facilities. The Department is comprised of the Engineering and Maintenance Divisions. These two operating divisions are complementary in achieving the successful design, construction, and operation of the city's public infrastructure.

Current Organization Chart

The Organization Chart for Public Works is shown to the right. Any Measure F or Grant Funded positions are highlighted in grey and are not included within the historical comparison of staffing below.

The Engineering Division is responsible for all technical issues related to traffic movement, the design of public facilities (public street, park, building and drainage improvements) and project construction management within the public right-of-way. The division also administers the streetlight maintenance contract, several landscaping assessment districts, the pavement management program (PMP), drainage master plan, Geographic Information System (GIS) and applications, bus shelter advertising program and special programs such as the National Flood Insurance Program (NFIP) including the community rating system.



The Maintenance Division is responsible for the long-term care of all city-owned land and public buildings, as well as regular maintenance and repair of streets, storm drains, pumping facilities and levees, parks, median islands, roadside landscaping, street trees, vehicles, and equipment. The division also provides many additional behind the scenes services to the community such as winter storm preparedness, emergency/disaster response, hazardous materials cleanup and disposal, and traffic management services. The division provides regular community services such as street sweeping, debris and leaf removal, graffiti removal, banner installation and removal, compost and wood chip provision, holiday tree light placements in the downtown area, and facilities set-up for public and private events.

In general, the Department has responded well to the new economic reality; however there have been impacts. Staff has been reduced by 29%.

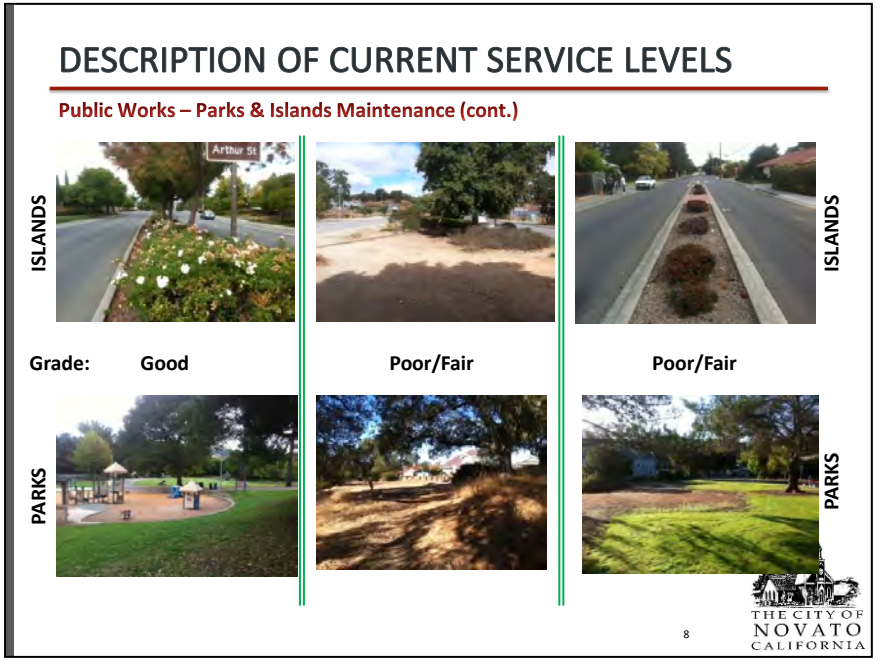
STAFFING REDUCTIONS DUE TO 5 YEARS OF BUDGET REDUCTIONS

PUBLIC WORKS DEPARTMENT	2007/08	2012/13	% Change
Staffing Level (in Full Time Employees)	71.5	50.5	(29%)

Due to reductions in staff, management has analyzed internally or with consultants existing operations to explore the potential for increased efficiencies and cost savings. Some of these efforts include:

- Equipment Maintenance (complete; implementation in process)
- Vehicle and Equipment Utilization Study (completed; implementation pending)
- Custodial and Building Maintenance Study (completed; implemented as recommended; transition through attrition)
- Landscape and Streets Maintenance Service Level Evaluation (complete)
- Building Condition Assessment & Maintenance Analysis (complete)
- Park Facilities Condition Assessment (in process)

The Maintenance Division management staff has been forced to modify how work tasks are delegated and performed due to the low staffing levels, resulting in more combined division operations. The current staff resource levels are below national service level standards, which is becoming visible in the community due to reductions in the frequency of services provided and increased deferred maintenance.



CURRENT FUNDING – FY 13/14 PROPOSED BUDGET

Below is a summary of the expenditures, revenues and remaining General Fund subsidy provided to the Public Works Department.

PUBLIC WORKS DEPARTMENT
2013/14 Budget and General Fund Subsidy

Division	Expenditures/ Transfers Out	Revenues/ Transfers In	Total General Fund Subsidy ($)	Total General Fund Subsidy (%)
Engineering Administration	$813,579	$10,000	$803,579	3.34%
Engineering Development/Const. Mgmt/GIS	$477,942	$330,770	$147,172	0.61%
Maintenance Admin	$318,141	$3,300	$314,841	1.31%
Street Maintenance	$1,297,339	$967,000	$330,339	1.37%
Traffic Operations	$437,881	$2,700	$435,181	1.81%
Tree & Island Maintenance	$349,521		$349,521	1.45%
Parks Maintenance	$1,340,252	$4,545	$1,335,707	5.55%
Building Maintenance	$1,131,393	$17,170	$1,114,223	4.63%
TOTAL	**$6,166,048**	**$1,335,485**	**$4,830,563**	**20.06%**

DESCRIPTION OF CURRENT SERVICE LEVELS

The *Description of Current Service Levels* slides summarize the staffing changes and impacts of the budget cuts to date and staff's assessment of where the operations currently stand.

DESCRIPTION OF CURRENT SERVICE LEVELS (CONT.)

Public Works – Parks & Islands Maintenance

	2007/08	2012/13	% Change
Maintenance Workers	16 FTE	11 FTE	-31%

- **The resource / service level relationship is unbalanced in Park & Island Maintenance, as we do not believe we are providing the expected service level to the community.**
- Island maintenance has been concentrated on main thoroughfares, while secondary islands and landscapes get less frequent attention.
- No active maintenance of Open Space
- Parks maintenance has been concentrated on high-use regional parks, while community parks get less frequent attention.
- Increased focus on volunteerism through close collaboration with the Streetscape Maintenance Coalition Advisory Committee

Landscape Areas: 450
Island & Medians: 85 acres
Parks: 230 acres

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THE CITY OF NOVATO CALIFORNIA

DESCRIPTION OF CURRENT SERVICE LEVELS (CONT.)

Public Works – Streets Maintenance

	2007/08	2012/13	% Change
Maintenance Workers	8 FTE	5 FTE	-37%

Roadways: 151 miles
Storm Drain Inlets: 3,110

New ways to fix old roads

- **Operational changes away from paving to potholing & preventative maintenance.**
- Effective management of current storm water quality requirements; however, NPDES Phase II increases mandates.
- Street sweeping has been reorganized and made more efficient, resulting in a significant reduction in complaints due to standardized program (~$50,000 per year in efficiency & maintenance).
- To date, staff has had healthy roadway maintenance funds through community approved infrastructure bonds, such as Measure B ($1.0 - $1.5 million per year).
- Staffing is adequate for the current service level.
- Increasing focus on removal of homeless camps. (8/26–9/21: 307 man-hours; $25,000 total cost)

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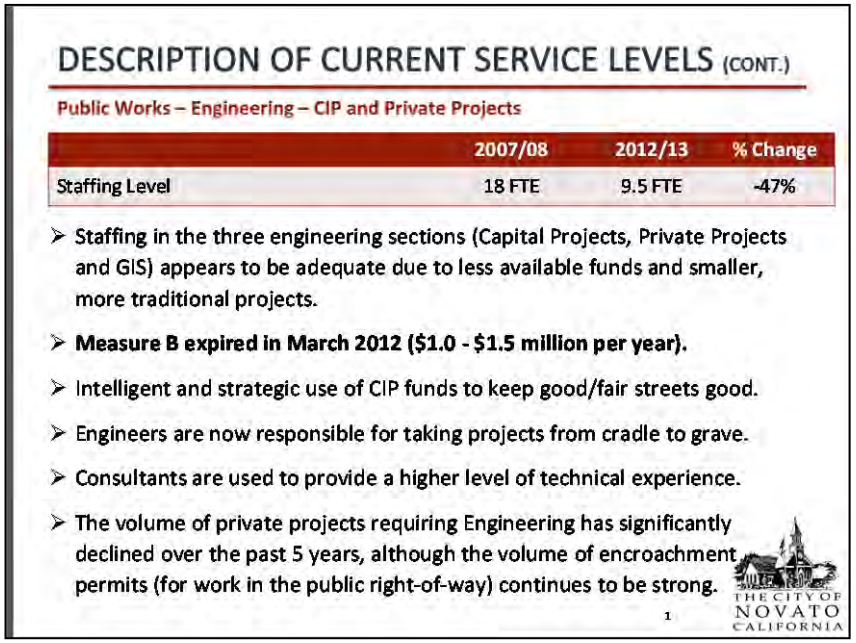
THE CITY OF NOVATO CALIFORNIA



CURRENT ISSUES / TRENDS

There are a few primary issues and trends impacting the Public Works Department.

1. National Pollutant Discharge Elimination System (NPDES) Phase II Permit Mandates - Regulatory changes by the State and Federal government impact our local operations and practices. Generally, these increased requirements require additional costs without any additional funding. The Federal Clean Water Act (CWA) was amended in 1987 to address urban stormwater runoff pollution of the nation's waters. The National Pollutant Discharge Elimination System (NPDES) program includes regulations that apply to storm drain systems owned and operated by cities. This permitting program requires storm drain system operators like a city to implement a stormwater management program as a means to control polluted discharges from the storm drain system.

   In California, it wasn't until 2003 that small (less than 100,000 population) municipalities were required to obtain coverage under a statewide NPDES municipal general storm water permit (Phase II Permit) issued by the State Water Resources Control Board. In Marin, the County and all Marin's municipalities are subject to the conditions of the regulations described in the current Phase II Permit, however, all

of Marin's local governments have been implementing a baseline stormwater pollution prevention through the Marin County Stormwater Pollution Prevention Program (MCSTOPPP).

The Phase II Permit currently requires Marin's municipalities and the county to implement their Stormwater Management Plan with the goal of reducing the discharge of pollutants to the maximum extent practicable (MEP). The Stormwater Management Plan program areas include public education and outreach; public information and participation; illicit discharge detection and elimination; construction and post-construction stormwater controls for development projects; and good housekeeping for municipal operations. The new NPDES permit dramatically increases permit requirements for cities. The Public Works Department is working with MCSTOPPP to meet the requirements. The exact impacts and costs are not known; however staff anticipates that these new federal requirements may mean additional staffing and/or costs.

2. Street Maintenance, Transportation, and Infrastructure Funding -- Novato faces less available funding for street maintenance, street improvements, and other infrastructure funding in the next few years. Measure B, the City's local street infrastructure bond, expired in March 2012 and with it the $1.0 - $1.5 million per year available for these purposes. Gas Tax is another source of funding; however, with the move to electric vehicles, it is likely that there will be less Gas Tax available in the future. Gas tax funding is also not indexed for inflation therefore it loses value over time. In addition, there are policy changes underway to link regional transportation funding to land use planning. Many of these changes are through the Association of Bay Area Governments "One Bay Area" effort. This could significantly decrease the transportation funding that is available to Novato.

MEASURE F – DIRECT FUNDING

The table below shows where the City Council has specifically approved Measure F funding for positions/programs.

Measure F Funded Positions/Programs	Measure F Funding
1.0 FTE Maintenance Worker (retain for 1 year) *Rationale – position needed for one year for graffiti abatement/general maintenance; analysis of staffing levels to be completed this fiscal year*	**$82,000**

SERVICE LEVEL HOLES

Below are some key areas where the Public Works Department feels services could be improved:

- Park and Island Maintenance – Even with Measure F funding the restoration of one Maintenance position, it has been very difficult to keep up with island and park maintenance responsibilities at a level that staff believes the community expects.

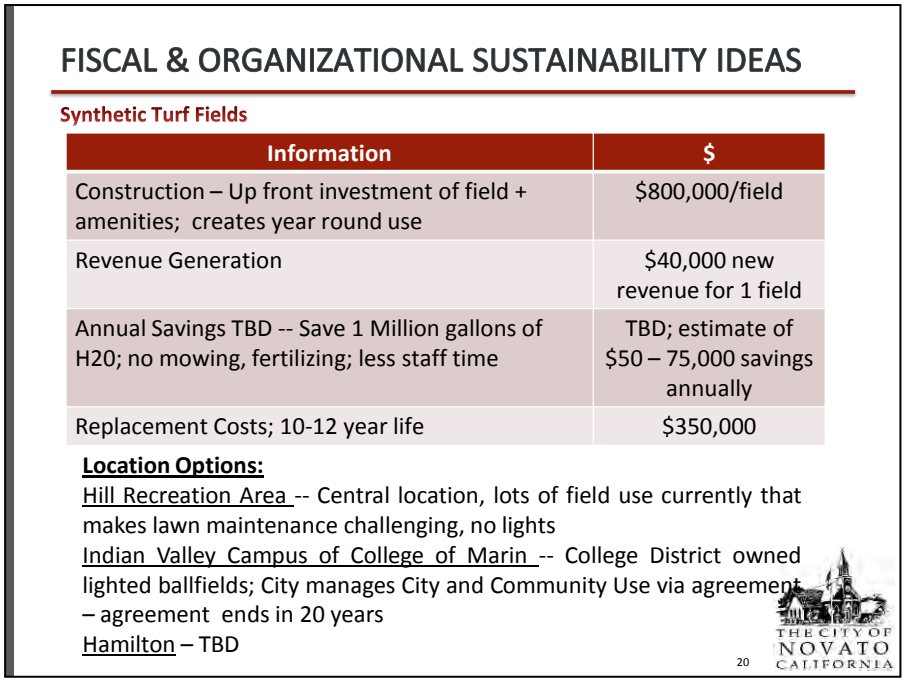
OPTIONS TOOL – CITY DEPARTMENTS

The following options related to City departments are outlined below with additional background explanations. These options are included in the Fiscal Sustainability Options Tool at the end of this Plan.

Install Synthetic Turf Sports Fields / Park Improvements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
$1,300,000		$130,000	$130,000	$130,000	$130,000

This option in the Options Tool proposes to install two sets of improvements, both of which have the goal of improving recreation facilities and access in Novato, as well as generating additional revenue and/or reducing maintenance expenses.

Synthetic Turf Sports Fields – This project would replace one or more existing natural grass sports fields in the City with a comparable artificial turf field. The benefits of this are multiple. The fields can be used more often, including the winter months and evenings, when sports teams and leagues could not normally use natural grass fields due to weather conditions. This generates additional revenue through team/league registrations and lease revenue. Additionally, maintenance costs can be drastically reduced since synthetic turf does not need to be mowed or edged, and overall maintenance is significantly less than grass. Finally, watering costs are negligible – approximately one million gallons of water can be saved each year with one synthetic turf field. The downsides in terms of financial costs to the City are both the initial upfront construction cost of an estimated $800,000 and the need to budget for the eventual replacement of the fields, which tend to have a 10-12 year useful life. The *Fiscal & Organizational Sustainability Ideas – Synthetic Turf Fields* slide summarizes some of the additional considerations for the fields, including potential revenue generation and cost savings. In total, the upfront investment of $800,000 yields an ongoing financial benefit to the City of about $80,000 annually.



FISCAL & ORGANIZATIONAL SUSTAINABILITY IDEAS

Synthetic Turf Fields

Information	$
Construction – Up front investment of field + amenities; creates year round use	$800,000/field
Revenue Generation	$40,000 new revenue for 1 field
Annual Savings TBD -- Save 1 Million gallons of H20; no mowing, fertilizing; less staff time	TBD; estimate of $50 – 75,000 savings annually
Replacement Costs; 10-12 year life	$350,000

Location Options:

Hill Recreation Area -- Central location, lots of field use currently that makes lawn maintenance challenging, no lights

Indian Valley Campus of College of Marin -- College District owned lighted ballfields; City manages City and Community Use via agreement – agreement ends in 20 years

Hamilton – TBD

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Bocce Tournament Facility at Margaret Todd Senior Center – This project would install a bocce ball tournament facility and associated improvements at the Margaret Todd Senior Center. Similar to the synthetic field above, this would add a new community asset while, at the same time, generating additional revenue for the City. In general terms, the facility would cost about $500,000 to construct, including some money for parking improvements at the senior center to accommodate the additional usage. Revenue generated by the facility is estimated to be about $82,000 annually, and it would require annual upkeep and maintenance of about $35,000. Thus, the net additional financial benefit to the City would be about $47,000. The *Fiscal & Organizational Sustainability Ideas – Bocce Ball Tournament Facility at MTSC* slide gives some additional information about the facility.

Replace All Remaining Streetlights with LED Bulbs					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
$1,200,000		$132,000	$136,000	$140,000	$144,000

Novato has already begun a program of replacing its high pressure sodium streetlight bulbs with more energy-efficient LED bulbs. In 2011 and 2012, the City replaced about 1,400 of its 3,900 streetlights with LED bulbs, saving about $60,000 in energy costs annually, but leaving around 2,500 bulbs still to be replaced. This option would use one-time funds of about $1,200,000 (less any available PG&E rebates) to replace the remaining bulbs. This effort would save the General Fund about $140,000 annually, increasing over time as energy costs increase. The chart below shows some additional information about this effort.

Use one-time funds to pay off corporation yard lease					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
$1,200,000	$100,000	$100,000	$100,000	$100,000	$100,000

The City took out a loan from its own Hamilton Trust Fund in 2004 to help finance a variety of improvements that were to be made at the City's Corporation Yard. The loan was $1.7 million at a 6.5% interest rate. This loan made sense for the City, as a relatively low cost and simple way to borrow money for needed capital improvements, and it also made sense for the Hamilton Trust, which could earn 6.5% on its money. As an aside, the City's General Fund actually is the beneficiary of 80% of the interest earned by the Hamilton Trust, so the effective interest rate paid by the City is really only 1.30%. Fast forward to today, and the City still owes about $1.2 million on the loan and is making annual payments of about $155,000 per year. If the City were to pay off the loan with some one-time funds, it would save the amount of principal paid each year, as well as the 20% component of the interest that it doesn't receive back from the Hamilton Trust. In summary, paying off the remaining $1.2 million of the loan would save the City about $100,000 annually in debt service payments.

KEY FINDINGS AND STAFF CONCLUSIONS – CITY DEPARTMENTS

As detailed throughout this report, City departments have endured significant reductions in personnel over the past 5 years which have directly impacted service. Still other reductions have been absorbed by re-alignments, implementation of technology, and other means. Overall, the workforce is 24% smaller than it was 5 years ago. Therefore, staff does not believe that additional reductions in employees, other than those few recommendations contained within the Core Staffing discussion, are feasible at this time. Additionally, one of the key priorities of the Measure F sales tax was to "offset / prevent additional budget reductions," so it is staff's view that additional reductions at this time do not support the goal presented to the public. Departments did, however, propose several creative solutions that would expend one-time resources to save ongoing dollars and provide additional community benefit. While additional research and planning is needed to properly implement them, staff feels that these strategies have merit and should continue to be explored.

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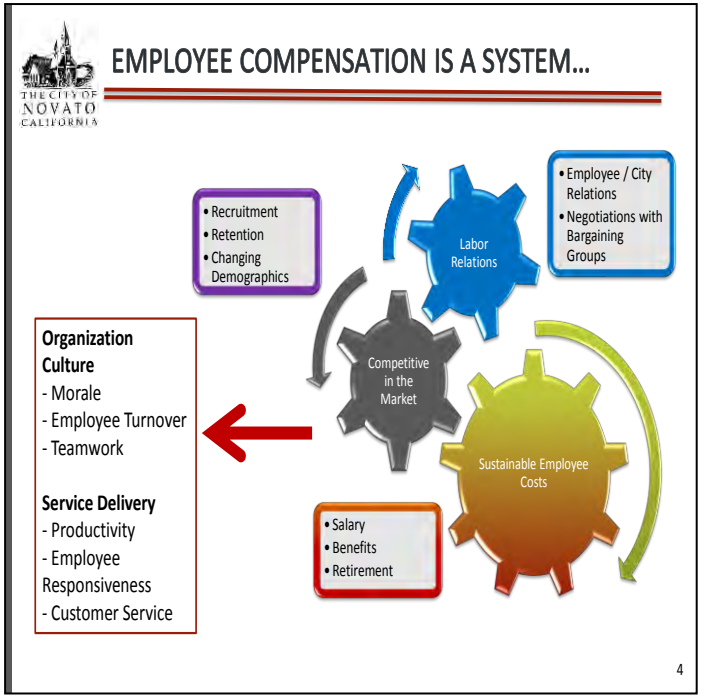
EMPLOYEE COMPENSATION BACKGROUND

This section provides background and history about Novato's workforce, a discussion about the key components of employee compensation including pensions, and discussion about Novato's compensation in relation to other public agencies in our local and regional labor markets. The expenditure data included in this section is based on the FY 12/13 budget, which was in effect when the employee compensation presentation was prepared in March 2013 for the City Council. The purpose of this section of the Plan is to provide a broad overview of employee compensation, explore the relationship between the City's finances and employee compensation, discuss the impact of employee compensation on recruitment and retention, and to present a macro level view employee compensation options for Council consideration. This overview and Council's deliberation sessions to come are not intended as a discussion about labor relations or negotiations or a detailed review of all employee benefit components. Its purpose is to wrestle with compensation policy issues for the long term, not what might be appropriate to negotiate in any particular labor contract in the short term.



Employee compensation is part of an integrated system and affects our service delivery options, culture, and productivity. As a local government, Novato is in the service industry with our main costs being employee compensation. While there are the hard costs of employee compensation in the budget, there are also important employee "soft costs" that are not measured on a city's accounting books. These soft costs affect operations and customer service and include competency and knowledge, an ability to manage risks and liability, creativity, and experience and expertise. Just like any organization, a city is only as good as the employees who are working for it.

Employee compensation includes salaries, benefits such as retirement and health, and various leaves. Controlling and understanding employee compensation costs must be balanced with the ability to attract and retain the most qualified employees. This is particularly true in a small, lean organization that has cut 25% of its staff and has limited redundancy in many positions. The City competes regularly with other public agencies when we are trying to attract or retain employees. At times, we also compete with the private sector for employees also – this is especially true for information technology and engineering positions.

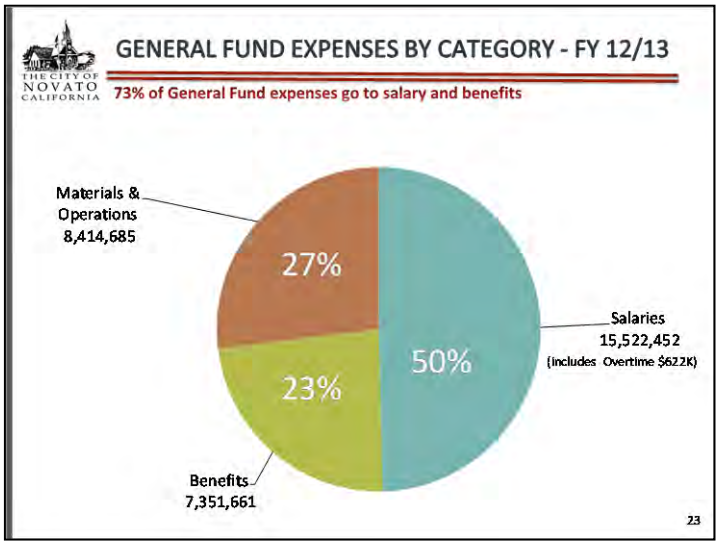
The ability to hire and retain talented employees is based primarily on what the City's compensation package is and how it compares to alternative places of work – the "labor market". However, studies are clear that employees of all sectors do not come to work or stay with an employer for compensation only. Employees want to feel valued, provide service, develop their skills and feel as if their contributions matter. Compensation, however, is a key factor in retention and recruitment and there is a point at which even long-tenured employees stop feeling valued financially for their work and may leave.

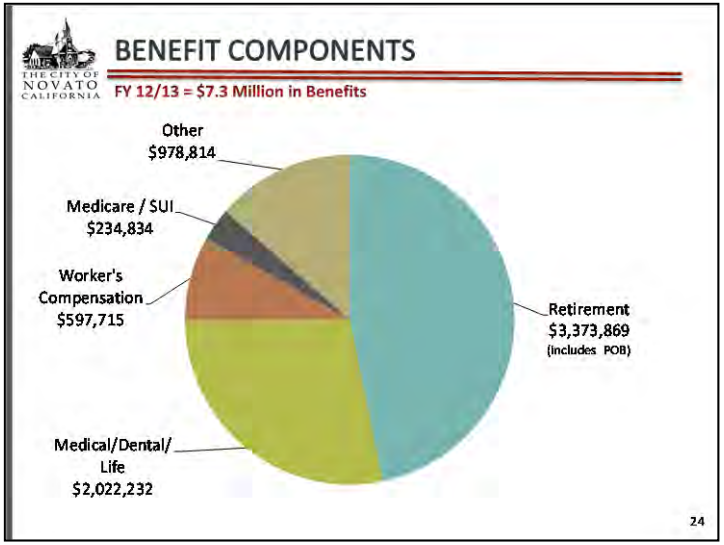
The overall key messages regarding employee compensation are:

- Compensation costs must be sustainable for the organization;
- Historically, Novato City Councils have been fiscally conservative with all elements of employee compensation;
- All legally permissible pension reform has been accomplished; local efforts are now supplemented by statewide reform;
- A new normal exists for the organization; there is a leaner base staffing level going forward;
- Pension costs are likely to increase as CalPERS modifies its base actuarial assumptions and risk allocation parameters;
- Novato's compensation structure is lower than surrounding cities and its labor market;
- Novato's health care contribution is extremely low; and,
- Fiscal sustainability discussions need to consider Novato's competitive position in the market as well as the need to retain and attract talented and qualified employees.

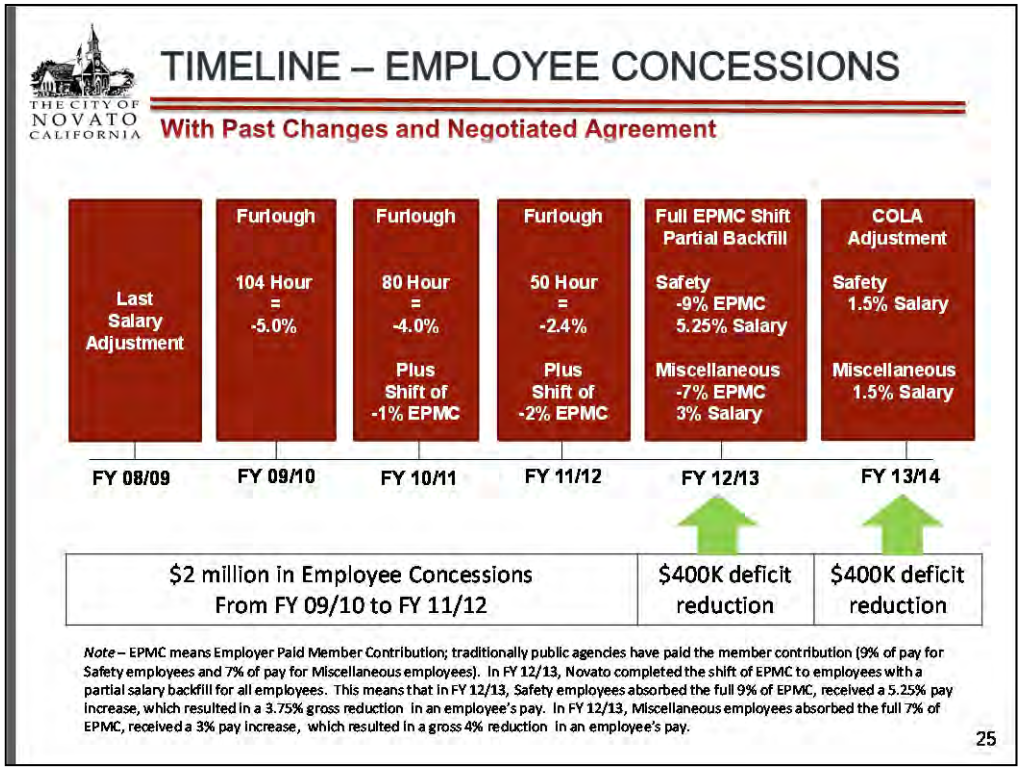
Financial Overview of Employee Compensation

The *General Fund Expenses by Category – FY 12/*13 slide and the *Benefit Components* slide provide a summary of employee compensation. As a customer service business, 73% of the City's General Fund is expended on employee salary and benefits. While this figure may sound high, it is far less many local governments.





The *Timeline – Employee Concessions* slide shows the employee compensation changes that have occurred from FY 08/09 through FY 13/14. For these six years, there were concessions provided by employees that totaled $2.8 million. These concessions were part of the deficit reductions that took place and have been important in helping the City address its structural deficit. The employee concessions were a blend of furloughs, a partial shifting of pension costs to employees, and no salary increases from FY 08/09 to FY 12/13. During this same time period, health care costs increased by 42% and the City's contribution to employee health care increased by 9%.



Who are Novato employees?

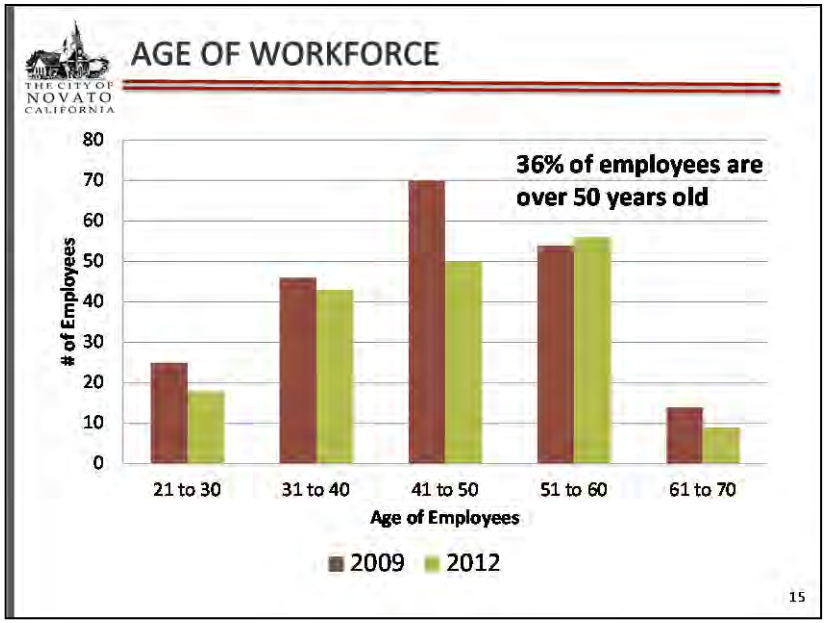
In order to understand Novato's workforce, one must understand the jobs that are performed and the education, skills, and experience needed for those positions; where employees live or their residency; age of the work force; and staff turnover or the percentage of your employees that changes each year.

The services of cities as municipal corporations are as broad and diverse as their employees – from a Police Officer carrying a gun, a Maintenance Worker fixing streets or landscaping parks, to a Planner and Building Inspector reviewing projects based on State and federal standards, or to a Recreation Coordinator working with senior citizens, teens or youth. Each of the employees in these "service businesses" requires different training (often very specialized). Many require Bachelors or Masters Degrees, and all require ongoing training and professional development.

Residency -- The majority of city employees used to live within Novato; that is no longer true. 24% of all employees live in Novato and only 8% of sworn employees live in Novato. The great majority of city employees live in Sonoma County (73% of sworn employees and 50% of miscellaneous employees). Still other employees drive from Contra Costa County or the East Bay.

Residency	Miscellaneous. Employees	Sworn Employees
Live in Marin County	40%	11%
Live in Sonoma County	50%	73%
Another County (Primarily Contra Costa)	10%	16%

The residency of employees is important for two reasons. First, employees in general choose jobs and public agencies that are commuting distance from their residence. These commute patterns help define our labor market [Marin, Sonoma and Contra Costa counties] , since employees can choose to work for any public agency in these counties. Second, City employees are expected to respond to emergencies – floods, earthquake, fire, etc. It is important for the City to have employees live close enough to respond during these critical times.



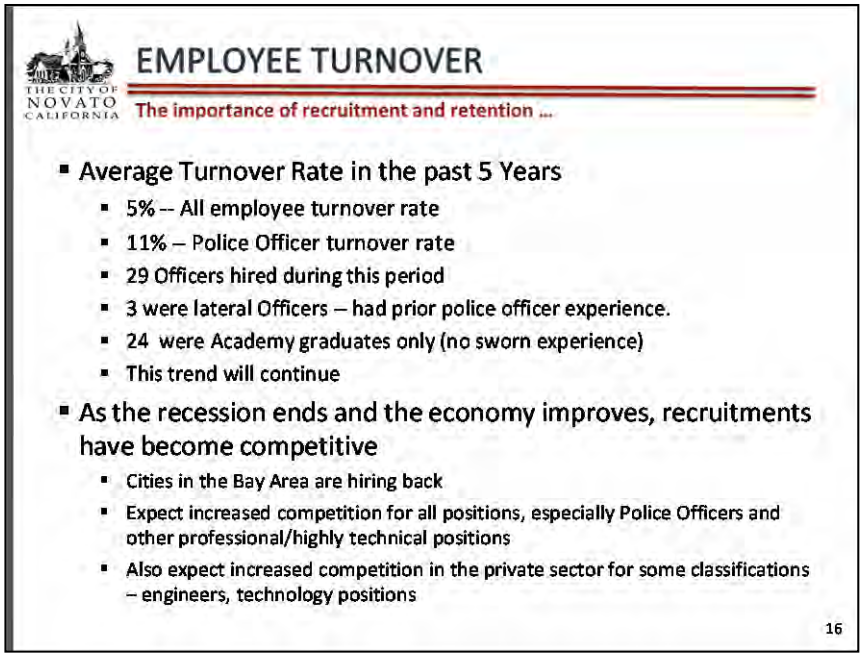
Age –Historically, Novato has been fortunate to have many employees work and build a career working for the City. There have been many employees with over 25 years of public service within this organization.

In the last four years, there have been a number of retirements in Novato – some through some deficit reduction incentives and others independently. Just like in the private sector, however, the economy, and in particular the cost of medical insurance, has made some employees revisit the timing of their retirement and decide to stay and continue working longer than they had originally expected.

In addition, there were 12 layoffs over a two year period. These were employees with the least amount of public service, which tended to be younger employees. These are some of the factors that have resulted in an increase in the average age of Novato's work force.

Employee Turnover -- Employee turnover has been relatively low during this time of economic crisis and uncertainty. Management staff is concerned about an increase in turnover as the economy starts to improve and employees have options to go to other local governments with higher compensation, stronger benefit packages, and shorter commutes than Novato.

Specifically, the turnover rate for a Police Officer is higher at 11%. In the past 5 years, Novato hired 29 Police Officers and only three were Police Officers with experience from another public agency. Traditionally, Novato has not been able to attract or hire laterally (meaning Police Officers from another agency), but rather must hire new graduates of the Police Academy and then teach these new officers the business of law enforcement. While there are some benefits of being able to "grow our own" sworn personnel, this strategy can be costly in terms of time and money. Police staff is also seeing increased competition and recruiting for Academy graduate as departments across the Bay Area are beginning to increasing their hiring.



Below is some cost information regarding the hiring of new Police Officers coming from the Academy.

- Hiring of a Police Officer -- Approximately 13 hours and $4,000 to recruit and hire a new Officer (includes testing, interviewing and background, medical and psychological screening)

- Training of a Police Officer -- Developing new Officers requires an extensive investment in on-the-job training. The new Officer is with a Field Training Officer and receives daily review, training and evaluation. The training, much of it mandated, requires 1,600 hours of staff and Trainee time over a 16 week period and costs approximately $78,000. Even after or during the training, a probationary police officer can be released from service. It is not uncommon for Police Officers to be released from employment during their probationary period due to risks to their own safety, or their inability to perform to the standards of the organization.

As shown above, the hiring and training of a Police Officer is a time intensive and costly initiative because of the liability and safety issues the City places in each sworn officer it hires. While there is always turnover in police personnel, too much turnover is costly on a financial and operational basis. This is an area that we will continue to monitor and needs to be considered within our employment strategy.

EMPLOYEE PENSIONS AND RETIREMENT

After the federal government, the California Public Employees' Retirement System (CalPERS) is the largest provider of employee retirement benefits in the country. Most local governments in California belong to CalPERS and provide their pensions through CalPERS. CalPERS offers what is known as a "defined benefit plan", which means an eligible member will receive a specific dollar amount in retirement based on three factors: how long the member worked in CalPERS agencies, the member's salary at retirement and the benefit formula the employer provides. The other common type of retirement program is a "defined contribution plan" in which the employer contributes a fixed dollar amount or a percentage of salary to a traditional 401K or deferred compensation account on behalf of the employee. At one time, defined benefit-style plans were typical in both the public and private sectors. In the last several decades, there has been a shift from defined benefit plans to defined contribution plans in the private sector.

CalPERS divides membership between public safety employees, such as police officers and firefighters ("Safety Members") and all other employees ("Miscellaneous Members"). Within each category of membership (Safety and Miscellaneous), there are different benefit formulas that an employer can provide. Until recently, employers usually provided one formula for each membership category (i.e., one for Safety members and one for Miscellaneous members). More recently, with the increase in pension costs, many employers started providing a second, lower benefit formula for new employees (commonly referred to as a "2nd Tier"). While these formulas continue to be available to employees who began working for a public agency before the end of 2012 ("Classic"), they are no longer available to new public employees. Recent statewide pension reform in California has resulted in three new Safety formula and one new Miscellaneous formula that are mandated for new public employees hired after December 31, 2012. These formulas provide a lower benefit and have a lower cost than the formulas that have traditionally been offered by public employers through CalPERS.

Novato provides the "2% at 55" formula for its "Classic" Miscellaneous employees and the "3% at 55" formula for its "Classic" Safety employees; new Miscellaneous and Safety employees, however, are provided the mandated "2% at 62" and "2.7% at 57" formulas, respectively. The formula references (e.g., "2% at 55" and "3% at 55") are merely convenient ways of referring to and distinguishing the formulas. As an example, a "2 at 55"

"Classic" Miscellaneous employee would receive a 2% of his/her salary (the "benefit factor") for each year of service if the employee retired at age 55. If an employee started working at age 25 and retired at age 55, the employee would have 30 years of service times 2%. As such, the employee would receive 60% of salary at retirement.

CalPERS uses the average of the highest consecutive 36 months of salary as the standard method for determining the retirement benefit; however historically public agencies could contract for a higher benefit at 12 months of salary, also referred to as "single highest year". Many years ago, the City of Novato contracted for the "single highest year" method for determining the retirement benefit. In 2011, the City Council amended Novato's contract so that the City now uses the average of the highest 36 consecutive months for new employees hired after the effective date of the amendment. The practical effect of the amendment was to lower the retirement benefit for future employees and reduce the City's pension costs. Statewide pension reform that became effective on January 1, 2013, mandates the 36 month method all new employees.

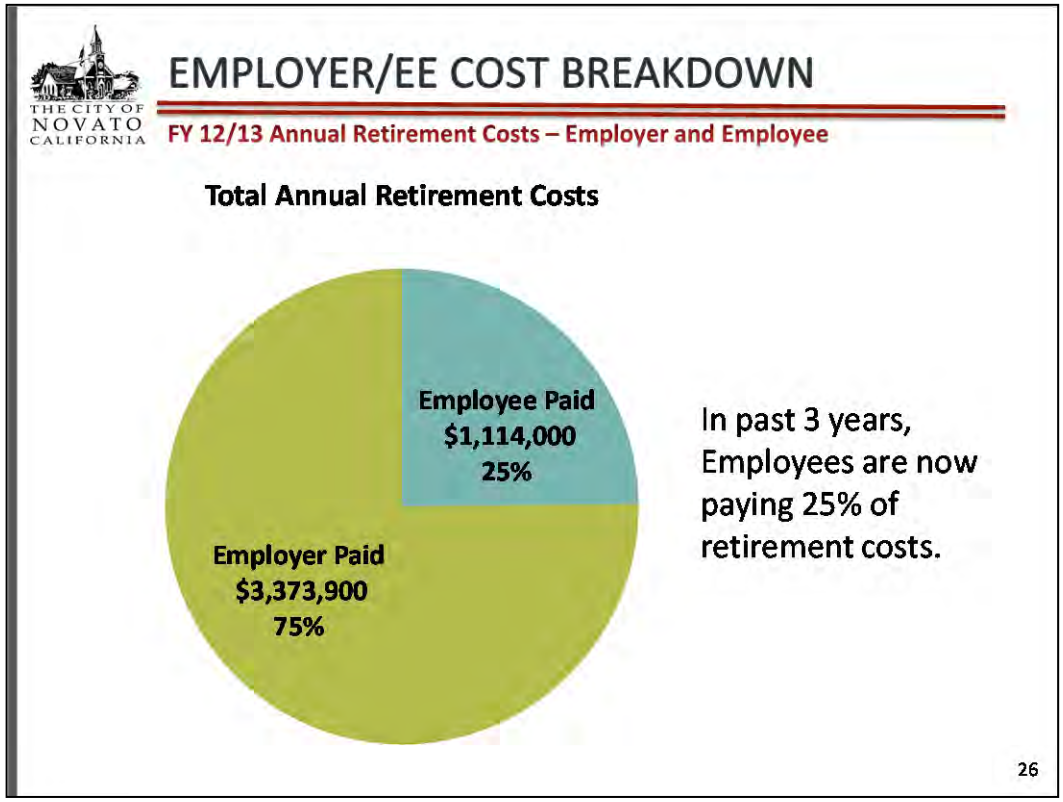
Another important pension topic is the concept of employee and employer contributions. CalPERS receives money to pay for retirement benefits from three sources: employer contributions, and employee contributions, and investment earnings on the contributed funds. By far, most of the money CalPERS uses to pay benefits comes from investment earnings.

Employee Contributions – Historically, employee contributions are constant. They are 7% for standard Miscellaneous plans, 8% for enhanced Miscellaneous enhanced plans and 9% for Safety plans. Based on statewide pension reform that was enacted on January 1, 2013, rates for Miscellaneous employees can grow to 8% and Safety employees to 12%.

Employer Contributions – Employer rates can vary from year to year based on CalPERS investment earnings. When CalPERS' investment earnings are good, employer rates can be relatively low; when investments earnings are poor, employer rates go up.

Investment Earnings – CalPERS assumes investment earnings at 7.5% over the long-term. When CalPERS reaches or exceeds these earnings, then the employer rates and required contributions go down. During the Tech Boom of the 1990's, the required contribution for many agencies went down to zero. However, when CalPERS does not reach 7.5% earnings, employers' rates and consequent contributions are increased to make up for this deficit. CalPERS does not pass on the investment gains and losses immediately because it could result in wild fluctuations in Employer contribution rates, which makes budgeting difficult at best. Instead, PERS has recently used a method that smoothes out the gains and losses over many years so that there is some degree of stability in rates. In 2013, the CalPERS Board of Administration eliminated the pension fund's unfunded liability by changing the smoothing method which will cause employer contribution rates to increase substantially in FY 15/16 and remain high for many years thereafter.

Employer Paid Member Contributions (EPMC) -- Prior to statewide pension reform, employers could also agree through the collectively bargaining process to pay on behalf of employees the employees' contribution. This is known as Employer Paid Member Contribution (EPMC). It was commonly negotiated 10 to 15 years ago, typically in lieu of salary and other benefit increases. This meant that the employer paid both the Employer and Employee share. This was the practice in Novato until FY 10/11 when portions of the EPMC began to be shifted back to employees. A related aspect of this practice is that the employer could also elect to report the value of EPMC to CalPERS. In this circumstance, CalPERS recognizes the EPMC as salary for purposes of calculating the employee's retirement benefit. As another step in pension reform, Novato changed its CalPERS contract and stopped reporting the value of EPMC for new employees, and more recently, the City has fully shifted the employee contribution back to employees. "Classic" employees now pay the 7% (Miscellaneous) or 9% (Sworn) employee share. New employees also pay the full employee contribution, although the rates are slightly different based on statewide pension reform requirements.



Public employee pensions are a complicated and sometimes dizzying topic, both in terms of the mechanics of the retirement system and the issues surrounding pension reform. Novato as been active in reforming its pensions and managing costs including: placing a cap on Miscellaneous employee benefits, moving to the 36 month average, shifting the employee contribution back to employees, and no longer reporting the value of EPMC. In the last three years, the City has shifted 25% of its total pension costs to employees through negotiations and agreements with its labor unions. The City is appreciative of these concessions from employees.

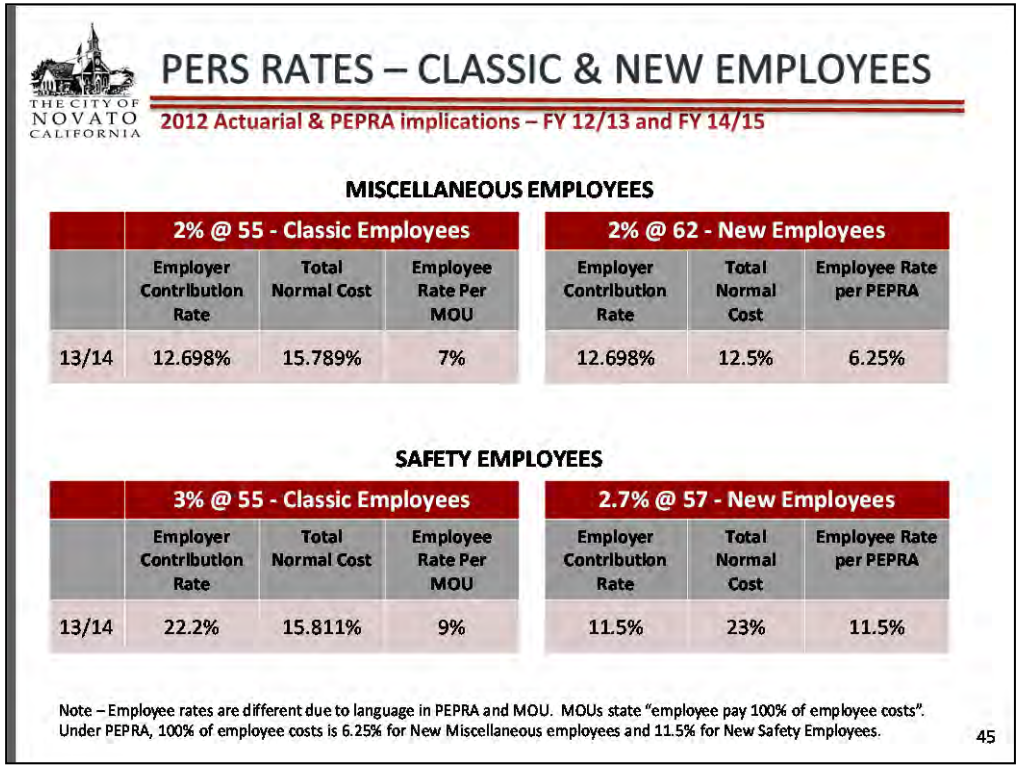
Statewide Pension Reform

Effective January 1, 2013, the State passed the Public Employees Pension Reform Act (PEPRA) which created standard pension benefits for all new employees at lower rates with higher costs. Specifically, PEPRA established single statewide pension formulas for new employees -- Miscellaneous (2% @ 62) and Safety (2.7% @ 57).

PEPRA also created 50/50 cost sharing of pension of the Normal Cost. The Normal Cost, an actuarial term for pensions, does not include any costs associated with unfunded liability or pension obligation bonds. In other words, the current year's cost to provide the current year's earned pension benefit is to be shared with employees on a 50/50 basis starting in 2018.

PEPRA clearly distinguishes that there are no benefits changes for any current employee, termed "Classic" employees. At this point, it does not appear likely that there will be further Statewide pension reform. Although not pension reform, the only option to reduce costs related to retirement is to shift additional costs to employees. In 2018, PEPRA allows an employer to unilaterally impose cost sharing of up to 50% of the Normal Cost. An employer must first attempt to negotiate the change and must observe recently enacted impasse procedures if not mutually agreed upon. Over time, through turnover and retirements, there will be more employees in the new lower PEPRA retirement formulas which will reduce costs.

CalPERS has recently modified its rate smoothing actions which has increased its rates to employers. This increase has not impacted Novato as much as others since City staff anticipated such action and previously built increases into the City's Five-year forecast. However, CalPERS continues to review its actuarial assumptions, which could result in additional pension cost increases for Novato of up to $700,000 in outer years. These potential cost increases are one of the options for consideration within the Fiscal Sustainability Options Tool.



THE CITY OF NOVATO CALIFORNIA

PERS RATES – CLASSIC & NEW EMPLOYEES

2012 Actuarial & PEPRA implications – FY 12/13 and FY 14/15

MISCELLANEOUS EMPLOYEES

	2% @ 55 - Classic Employees			2% @ 62 - New Employees		
	Employer Contribution Rate	Total Normal Cost	Employee Rate Per MOU	Employer Contribution Rate	Total Normal Cost	Employee Rate per PEPRA
13/14	12.698%	15.789%	7%	12.698%	12.5%	6.25%

SAFETY EMPLOYEES

	3% @ 55 - Classic Employees			2.7% @ 57 - New Employees		
	Employer Contribution Rate	Total Normal Cost	Employee Rate Per MOU	Employer Contribution Rate	Total Normal Cost	Employee Rate per PEPRA
13/14	22.2%	15.811%	9%	11.5%	23%	11.5%

Note – Employee rates are different due to language in PEPRA and MOU. MOUs state "employee pay 100% of employee costs". Under PEPRA, 100% of employee costs is 6.25% for New Miscellaneous employees and 11.5% for New Safety Employees.

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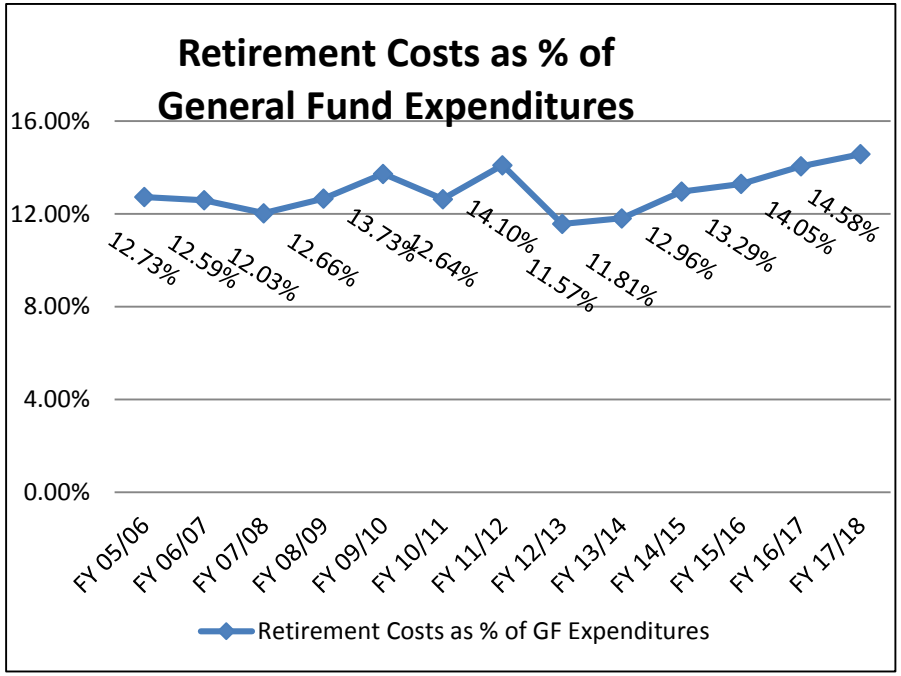
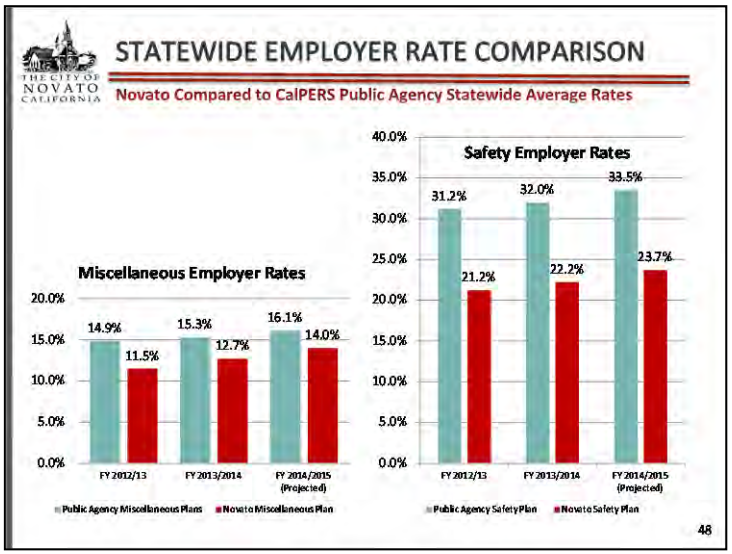
Retirement Costs Increasing

With the recession, investment earning by PERS were dramatically affected. As outlined above, when PERS does not meet its investment assumptions, then the employer's costs increase. The City has experienced increasing retirement costs which have been somewhat mitigated by reduction in staff positions and cost shifting of 25% of the pension cost to employees.

The *Retirement Costs as % of General Fund Expenditures* slide shows that while pension costs have increased, these costs as a percent of the General Fund have been in the 12% to 14% range for the past 10 years. The decrease in FY 12/13 is when the final full employee share was shifted back to employees.





Notwithstanding statewide pension reform measures implemented in January of 2013 that will produce modest initial savings, recent administrative changes approved by the CalPERS Board of Administration to the manner in which unfunded liabilities are amortized will likely cause the City's pension costs to climb above 14% beginning in FY 16/17. Additionally, further administrative changes to the discount rate and mortality assumptions that may be contemplated by CalPERS in 2014 could put further pressure on employer rates. If approved, it is estimated this could be $700,000 more in later years.

Compared to other public agencies in California, Novato's pension costs are lower for Miscellaneous Employees and substantially less for sworn (Safety Employees). This is due in large part to the City not providing the more expensive retirement formulas that have created significant unfunded liabilities for other public agencies.

Novato's Compensation and the Labor Market

The following section describes Novato's compensation for it employees and compares it to Novato's Labor Market, those cities that we compete against for talent (employees). Specifically, the following information is outlined below: (1) Base Salary and Total Compensation Comparisons; (2) Retirement Comparisons; (3) Health Care and Benefit Comparisons and (4) Other Post Employment Benefits. The purpose of this section is to provide an understanding of Novato's relative position in the labor market and implications moving forward.

Historically, each bargaining unit has had different agencies selected for its labor market. For overall ease, staff has recommended the following unified Labor Market to evaluate the City's competitive position in the market. The *Novato Labor Market* table outlines the recommended Labor Market.

Novato's Labor Market was determined based on a number of important criteria:

- Proximity to Novato and typical employee residency/commute patterns;
- Size of city – employees and population;
- Services offered;
- General Fund budget; and,
- Overall community character.

Novato Labor Market	
Local Agencies	Regional Agencies
Marin	Napa
San Rafael	Fairfield
Marin County	Pleasant Hill
Sonoma	Concord
Petaluma	Walnut Creek
Rohnert Park	
Santa Rosa	

Base Salary and Total Compensation Comparisons

In March 2013, the City conducted a sample survey of 14 classifications representing a blend of safety, general staff, and management staff. Within the City, there are 186 full-time positions and 66 classifications/job descriptions (based on similarities of purpose, required knowledge, skills, and abilities; education and experience; duties). While 14 classifications were only a sample, staff believed that it represented 75% of the positions in the organization. Staff surveyed base salary and total compensation to include retirement, health and welfare benefits at full family assumption, any special pays, and deferred compensation. For the purposes of this analysis, "Below Market" was defined as more than 5% below median. Before exploring the results of this market survey, it is important to discuss why the "market" matters. First, Novato directly competes with other public agencies. As a smaller agency, Novato hires primarily lateral seasoned employees versus hiring employees and training them to do the job. One key exception to this practice is Police Officers where we have been unable to directly compete and hire seasoned officers from other agencies. We seek employees that know the business of public sector operations and regulations. With a smaller workforce, we have less depth and redundancy in positions now than previously. We need employees with experience that can walk in and perform their duties with minimal

ramp-up time or training. Second, Novato also competes against the private sector for some occupations – engineers, information technology. Third, turnover is costly in terms of recruiting, training and time. Fourth, while there are other aspects of employment that are important (such as location, career opportunities, culture), an organization can reach a "tipping point" in their compensation package where they are no longer competitive.

Key Findings

Overall, Novato's compensation package is lower and less competitive when compared with our Labor Market. The chart below shows Novato's relative position in comparison to the labor market. The summary results are listed below.

BASE SALARY # of Classes / % of Classes	**2 14%**	**7 50%**	**4 28%**	**1 7%**			
Relative % to Market (Median)	**5.0% to 0.0%**	**0% to -5.0%**	**-5.1% to -10.0%**	**-10.1% to -15.0%**	**-15.1% to -20.0%**	**-20.1% to -25.0%**	**-25.1% to -30.0%**
TOTAL COMPENSATION # of Classes / % of Classes		**1 7%**	**1 7%**	**7 50%**	**3 21%**		**2 14%**

Salary

- Base Salary -- 36% of surveyed positions are below market
- Total Compensation -- 93% of positions are below market

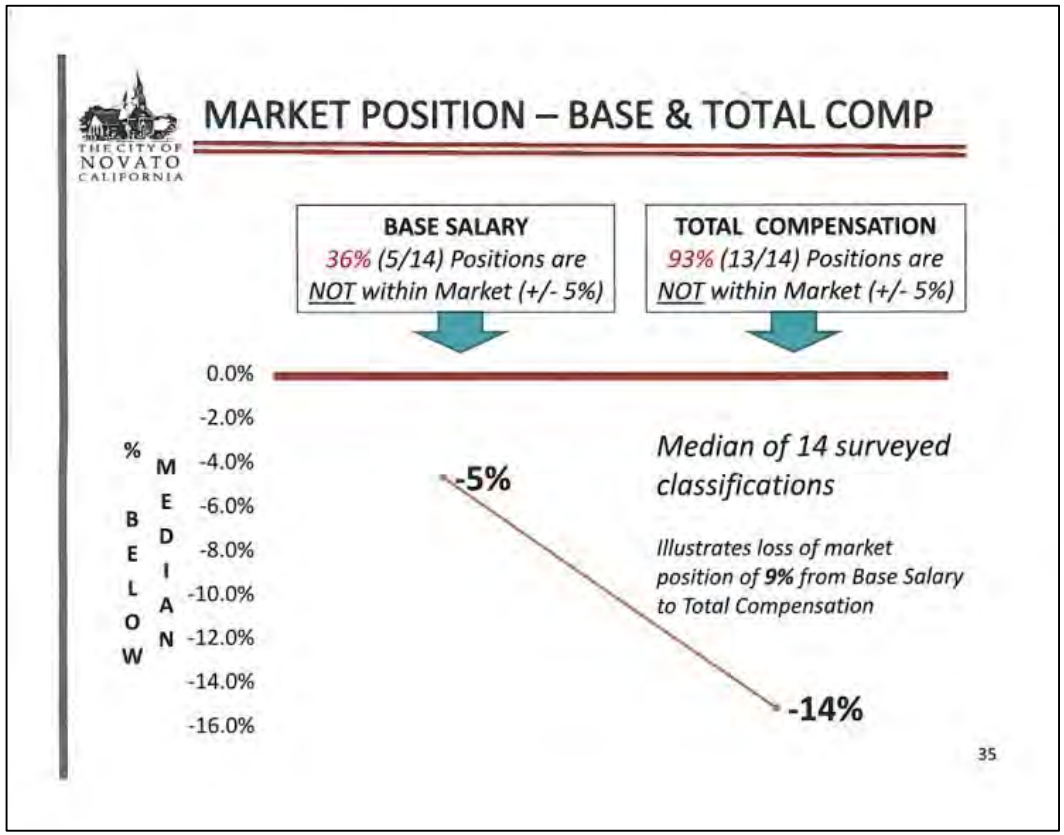
Benefits

- Novato offering lower contributions towards health and related insurance; Novato is one of few agencies with Cafeteria plan capping costs
- Health insurance family plan reduces gross pay by about $8,800/year

Retirement

- Many agencies are continuing to pay a portion of Employee's share of retirement; more true for Police employees than Miscellaneous employees
- Novato has shifted 100% of Employee share to Novato employees (9% for Police and 7% of General Employees)
- Novato never provided top enhanced formula plans and market is shifting to where Novato is – but still agencies with enhanced formulas; creates a competitive disadvantage for Novato when attracting employees with prior public sector experience

A look a base salary only shows about 2/3 of the positions to be within 5% of market and 1/3 to be more than 5% below market. However, it is important to remember that the City increased the base salaries of City employees in FY 12/13 with the complete shift of the Employer Paid Member Contribution. So while the base salary increased, so did the costs that employees now pay out of their paycheck.



Overall, the picture changes when one looks at Total Compensation. With employees paying 100% of the Employee Paid Member Contribution (7% for Miscellaneous Employees and 9% for Sworn Employees) and the out-of-pockets costs for health care increasing, City employees lose market position. 93% of the classifications are more than 5% off market with the median being 14% off market when total compensation is considered.

The *Market Position – Base & Total Comp* slide provide a summary of the comparison information and explanations of what is occurring within the Market. Basically, on average base salaries of employees are slightly below market (with some positions being significantly off market), however, the position gets worse once total compensation is taken into consideration.

Being competitive within a local government market is complicated and has a number of dimensions to consider. A brief summary is provided below each chart as information.

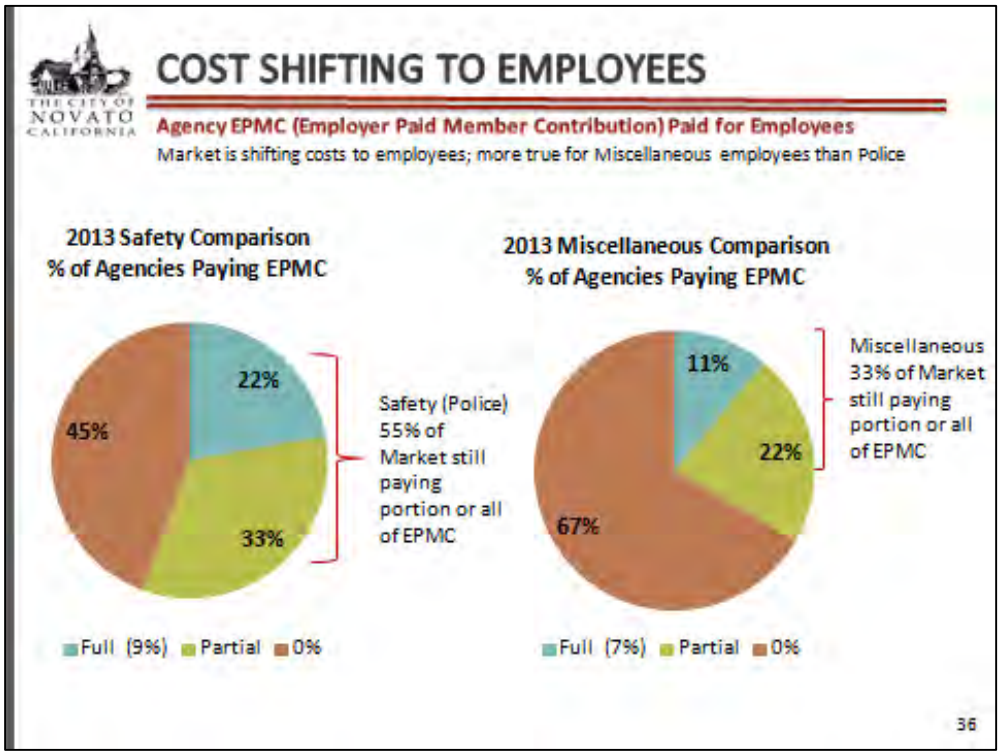
Retirement Comparisons - Cost Shifting to Employees

One element of pension reform has been shifting costs to employees such that the employee is paying for a portion of their retirement (EPMC). Historically, many public agencies were paying all of the retirement costs. In the past four years, this has begun to change as agencies negotiate to shift a portion of retirement costs to employees.

As we compare our compensation structure to other agencies, one question is "how much shifting of retirement costs has actually occurred" in our labor market. The *Cost Shifting to Employees* slide shows differences between Safety employees and Miscellaneous employees. For Safety employees, 22% of the Employers have not shifted any retirement costs to employees and another 33% have shifted some, but not all. This means that in 55% of the labor market, the Employer is still paying all or a portion of the retirement costs. This means more take home compensation for the employee. Novato sits with the other 45% of the labor market agencies and is at a disadvantage when competing (all other compensation elements being equal) with the other 55% of agencies that have not shifted all of the 9% of EPMC to their employees.

For Miscellaneous employees, the story is a little different. 67% of the Labor Market is not paying any EPMC. This means that, like Novato, they have shifted all of the employee costs to the employee. One third of the labor market is still paying all or a portion of the EPMC for Miscellaneous employees. Novato sits with the majority of the public agencies in the labor market for Miscellaneous Employees.

The *Cost Shifting to Employees* pie charts show the cost shifting, but the charts do not indicate if there was backfill or an increase in salary by the public agency when these shifts of EPMC occurred. From Staff's review, Novato was one of the more frugal agencies by only providing a partial backfill; many agencies shifted the EPMC and increased salaries in a corresponding manner.

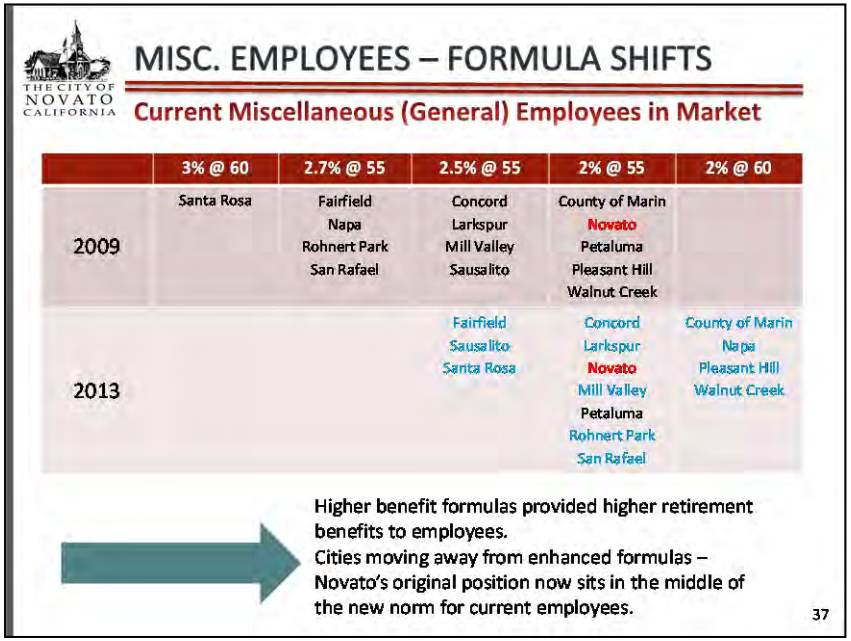


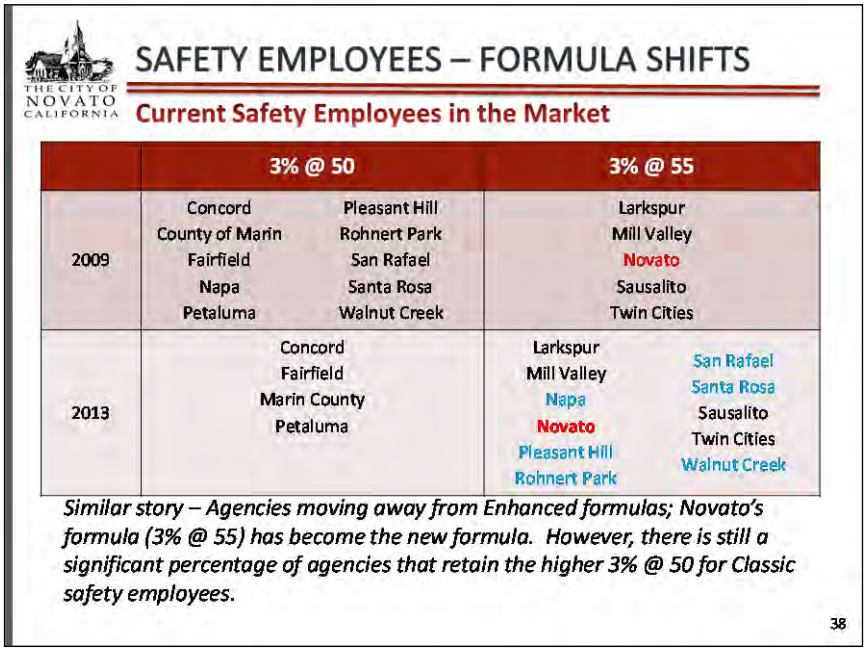
Retirement Comparisons - Formula Changes

Another key difference when looking at retirement across agencies is what level of benefit formula is provided by the agency. Novato never provided the enhanced formula for its miscellaneous employees and did not provide the richest benefit for its sworn employees.

The F*ormula Shift* slides show the different formulas that existed in 2009 and then where agencies sit in 2012 following negotiations. Once again, there have been significant changes for Miscellaneous employees with only three agencies providing higher formulas and now four agencies providing lower formulas. However, for public safety, there are still four agencies providing the enhanced 3% @ 50 benefit.

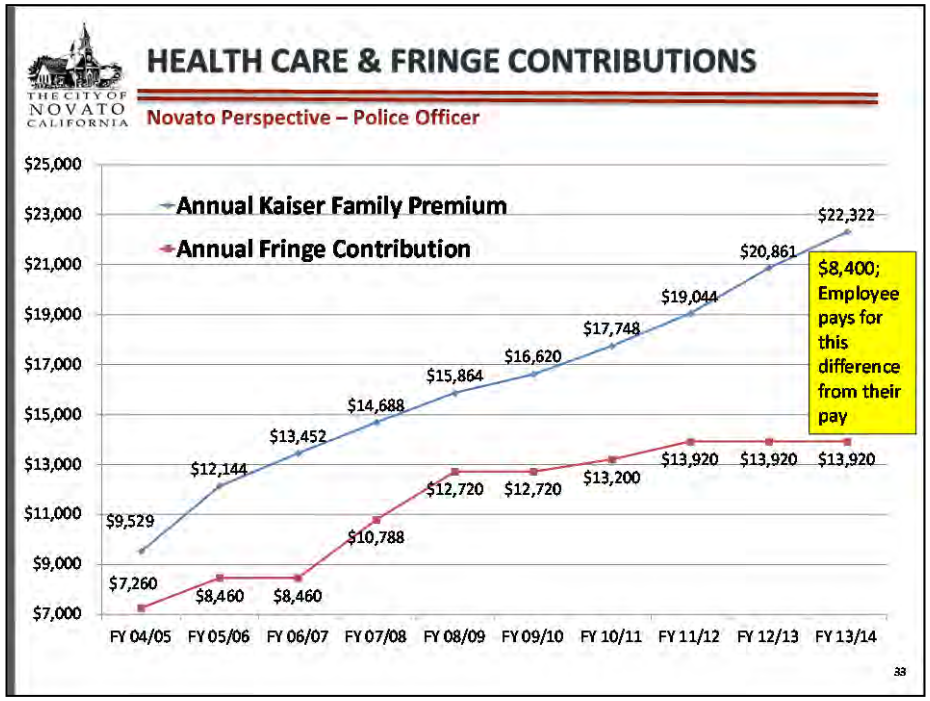
Even with statewide pension reform in place, any legacy employee (those employees working for public agencies prior to January 1, 2013) is able to receive the benefit formula that is in place for current employees and not the new lower statewide formula. This means that Novato will compete based on benefit formula as a variable that employees will consider – if they are thinking about coming to Novato or if they are thinking about staying with Novato. This is particularly true for sworn employees and a labor market difference that needs to be kept in mind.





Health Care & Benefit Comparisons

The City provides various optional and mandatory benefits to employees through a cafeteria plan. Employees receive a specific monthly dollar amount for these fringe benefits based on the employee's bargaining unit. The contribution for all bargaining groups averages approximately $1,000/month. Employee's can purchase medical insurance, as well as mandatory dental and life insurance. Any unused fringe benefit contribution becomes taxable income, however, it is not PERSable or included when calculating the employee's retirement benefit. Within the City's Labor Market, only 20% of the agencies offer a cafeteria program (San Rafael and Marin County). Cafeteria plans tend to be more conservative in terms of covering the cost of benefits for employees. The other agencies in the City's labor market pay all or a significant portion of each benefit provided, which means higher employer contributions towards health and welfare insurance costs. The average contribution for labor market agencies for health and related benefits is $1,610/month, while Novato's total direct contribution to employees for all health and welfare benefits is approximately $1,060.

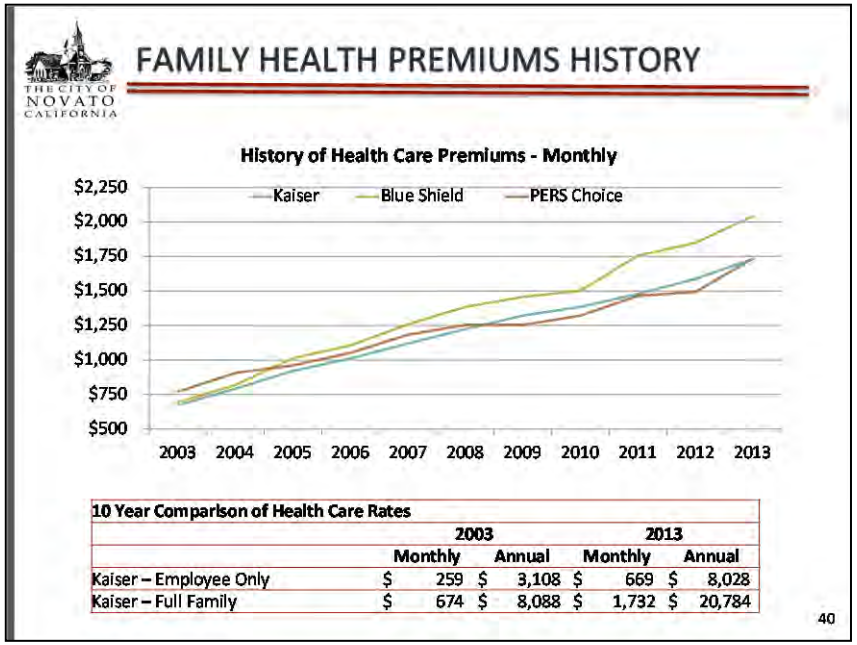


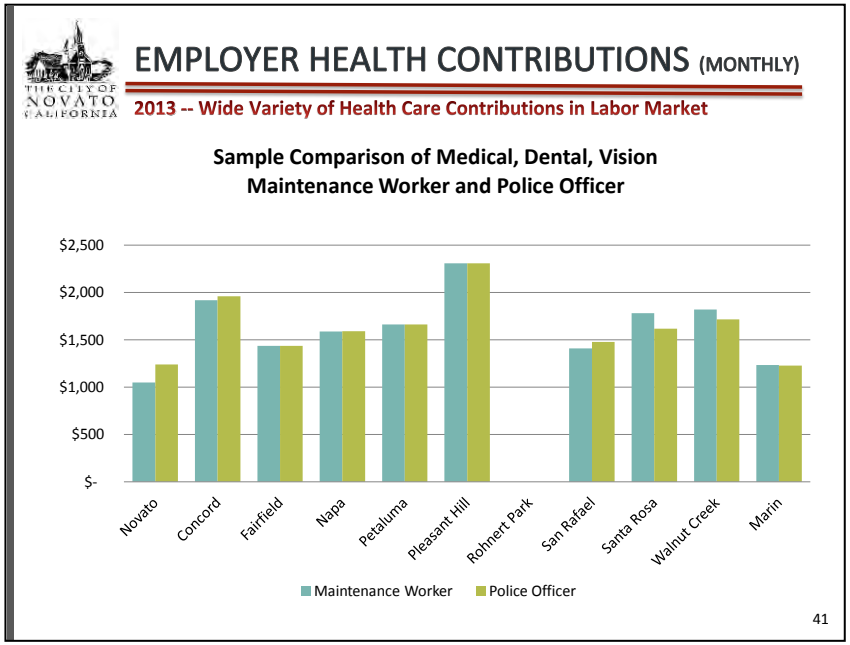
The majority of City employee enrolled in the City's medical plan choose Kaiser as their health care provider. Kaiser is the least expensive HMO option and costs $1,738/month for full family coverage. Therefore with respect to the costliest benefit, medical insurance, Novato employees enrolled in the full family Kaiser plan pay an out-of-pocket difference of approximately $8,800 per year, based on the average fringe benefit contribution of $1,000 per month. This is just for medical insurance. Mandatory dental and life insurance result in further out-of-pocket cost for these employees.

	Novato	Labor Market Median
All Health & Welfare Benefits	$1,060 / month	$1,610 / month

Health care costs have risen dramatically in the last 10 years. There has been a 157% increase in Kaiser rates and a 194% increase in Blue Shield rates. As an illustration, the table below and the *Family Health Premiums History* demonstrate these cost increases. The *Employer Health Contributions* slide shows the different contributions that the different labor agencies provide.

	2003		2013	
HMO / PPO	*Monthly*	*Annual*	*Monthly*	*Annual*
Kaiser – Employee Only	$ 259	$ 3,108	$ 669	$ 8,028
Kaiser – Full Family	$ 674	$ 8,088	$ 1,732	$ 20,784
Blue Shield – Employee Only	$ 267	$ 3,204	$ 785	$ 9,420
Blue Shield – Full Family	$ 695	$ 8,340	$ 2,040	$ 24,480





Other Post Employment Benefits – OPEB

Other Post-Employment Benefits (OPEB) are non-pension benefits provided to employees upon retirement. Novato provides a very minor health care contribution (a defined contribution) for retiree health. The City contracts with CalPERS to purchase health care (PEHMCA). CalPERS requires public agencies that participate in PEHMCA to provide an option for retirees to purchase their health care at the same rates as existing employees. Novato participates at the minimum contribution available. For 2013, the minimum employer contribution for retiree health care is $115 per month for each retiree. Currently, the City is paying $77,000 per year for the health contribution for retirees. Based on a 2010 actuarial study, the City should be setting aside $139,000 per year to pay for future retiree costs. The City has just joined an Irrevocable Trust as a means to gain greater investment earnings to help pay for these retiree health costs.

THE CITY OF NOVATO CALIFORNIA

OPEB LOCAL AGENCY COMPARISON

Marin 2011 data and * updated for 2012 Sonoma and Napa 09/10 Financials

Jurisdiction	Unfunded Liability (GASB 45)	Unfunded Liability Per Capita
Mill Valley	$20.3 M	$1,445
Marin County	$359.9 M	$1,411
Rohnert Park	$45.5 M	$1,100
Sausalito*	$6.6 M	$925
San Rafael	$46.1 M	$791
Larkspur	$7.5 M	$622
Ross*	$1.5 M	$614
Fairfax*	$2.31 M	$307
Tiburon*	$2.15 M	$237
Belvedere	$374,116	$179
San Anselmo*	$1.94 M	$156
Corte Madera	$1.4 M	$150
Napa	$10.9 M	$140
Petaluma	$7 M	$120
Santa Rosa	$19.8 M	$117
Novato*	***$2.7 M***	***$53***

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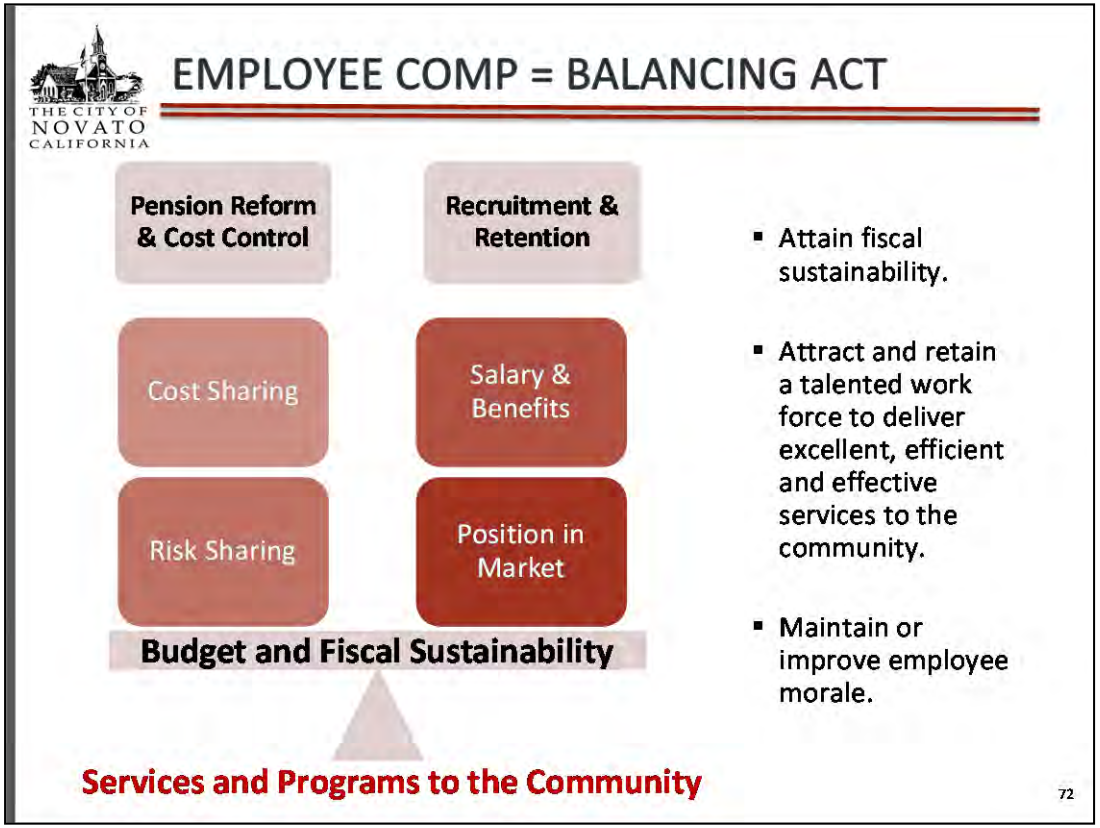
The City has been very conservative with post employment benefits and is fortunate to have this benefit well under control. There are many public agencies with millions of dollars in retiree health benefits and tens of millions of dollars of unfunded liabilities. The *OPEB Local Agency Comparison* slide showing Novato's modest costs versus other agencies.

One of the options in the Sustainability Options Tool is to use some one-time funds to prepay the liability and reduce the current and future costs, saving the City about $140,000 per year if a lump sum of $2,000,000 is invested.

Overall, Novato has been very fiscally conservative compared to most other California agencies:

- Never gave highest enhanced pension benefits;
- Never gave lifetime health or other post employment benefits;
- New employees now have lower retirement benefits;
- Novato has lower base salary and total compensation for current employees when compared to surrounding agencies and labor market; and,
- Current employees are now paying 100% of employee share of retirement costs.



OPTIONS TOOL – EMPLOYEE COMPENSATION

The following options related to employee compensation are outlined below with additional background explanations. These options are included in the Fiscal Sustainability Options Tool at the end of this Plan.

The Employee Compensation section earlier in the report contains significant background about how the City's compensation and benefit programs work and how they compare in the broader marketplace. It also describes the history of salaries and employee concessions over the past few years. It is important to understand a few things about how salary assumptions work in the City's Five-Year Forecast and what the implications would be of any given choice in the Options Tool. If employees have existing bargaining agreements in place, the Forecast uses those parameters to estimate salary increases and benefit costs. Once current contracts end, however, the Forecast *builds in an assumption* about how much employee salaries will grow. Note that this is an assumption. Actual wages and benefits will be negotiated in good faith at the bargaining table when the contracts are up for re-negotiation. The Forecast and the Options Tool are not labor relations parameters or strategies. The City Council sets negotiating parameters at the time the agreements are being bargained, and any actual changes in compensation could be different from those chosen in the Options Tool. Instead, keep in mind that this is a long-term planning tool, intended to show the Community and the City Council the impacts of different compensation levels. It is not a budget or contract that actually sets compensation.

Eliminate Salary Growth Assumptions in the Forecast					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a		$302,000	$615,000	$932,000	$1,261,000

As mentioned in the Forecast in Section 2 of this report, the salary growth assumption in the forecast is 1.5%. This is not projected to keep up with inflation of approximately 2.5%. As detailed in the Employee Compensation section earlier in the report, recent compensation surveys and analysis conducted by an outside firm show that employee salaries and total compensation are, in some classifications, significantly behind the market of peer organizations. Choosing this option eliminates those 1.5% salary assumptions. It saves about $300,000 annually, compounding each year such that by the last year of the forecast the savings is about $1.2 million. The tradeoff is that staff salaries are at risk of falling further behind market and challenge the City's ability to recruit and retain qualified employees in the future.

Keep the Existing Salary Assumptions in the Forecast					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a		-	-	-	-

This option keeps the existing 1.5% salary increases in the Forecast as they currently are. Since this is the existing assumption, there is no financial impact positive or negative to the Forecast. However, the issues mentioned in the previous option still exist in this option. To the extent that Novato salaries are not keeping up with inflation and benefit costs such as health continue to rise, employees' take home pay and buying power goes down. Additionally, assuming that surrounding organizations do offer raises that are fairly consistent with inflation, Novato will continue to risk falling further behind in salary and overall compensation.

Set Salary Growth Assumptions to Keep Pace with Inflation (2.5% per year)					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a		($202,000)	($415,000)	($636,000)	($871,000)

This option would increase the existing assumptions on the growth in employee salaries from 1.5% per year to 2.5% per year. This assumption is projected to keep pace with inflation and keep employee salaries from falling further behind in market comparisons. This option does increase the deficit by about $200,000 per year compounding, such that by the last year of the forecast the deficit is increased by about $800,000.

Set Salary Growth at Inflation (2.5% per year) and add $$ to remain competitive					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a		($403,000)	($834,000)	($1,284,000)	($1,767,000)

This option builds on the previous option to set compensation increase assumptions at 2.5% per year and add additional dollars, equivalent to another 1% of salary for each year of the forecast, to remain competitive in the market. These dollars could be used in a variety of ways, including across-the-board increases, targeted increases for classifications that are significantly behind market, bonus programs, increases to the health care contribution, etc. The specific uses would be determined at a later date.

Additional Assumptions for CalPERS Increases					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a			($297,000)	($524,000)	($705,000)

The rates that the City pays for its employee pension plan, administered by CalPERS, have changed through a variety of factors over the past several years. After the significant investment losses in FY 2008/09, CalPERS implemented some additional actuarial smoothing techniques to spread the losses over a few years. This had the effect of lessening the impact of rate increases for local governments in the short term. In the spring of 2012, the CalPERS Board adopted a new discount rate, reducing the assumption of their investment returns from 7.75% to 7.5%. This change had the immediate effect of increasing employer rates to offset the lower investment earnings. In the summer of 2012, the City concluded its labor negotiations with all bargaining units, implementing additional cost-sharing measures; effective July 1, 2012, employees began paying the full employee share.

Effective January 1, 2013, the statewide pension reform took effect, reducing pension formulas for new hires and mandating additional future cost sharing between employers and employees. In the long term, this will reduce employer rates as more newly hired employees enter under the new system. The CalPERS Board took additional actions in April 2013, as recommended by the actuarial office, to modify some of the smoothing techniques that were previously put into place during the Great Recession. These changes do not kick in until 2015/16, but they will have the effect of putting upward pressure on rates – the benefit of these actuarial changes is that plans will have a higher probability of being fully funded in the long term.

The rates forecasted by the City in the most current version of the Five-Year Forecast take all of the above into account. Novato contracted with an actuarial firm to make projections of what Novato's CalPERS rates would be including all of the above changes, and we have built those rates into the forecast. However, the CalPERS Board is also considering making additional changes in the Spring of 2014 that would significantly increase employer rates. These include changes to the mortality tables used (i.e. how long workers are expected to live after retirement) and an additional change to the assumed discount rate, down to 7.25%. These additional changes have not been built into the forecast, since the CalPERS Board is still about a year away from making any decisions, and there is no guarantee that they will do so. However, staff along with the Actuary made estimates of what these changes would do to Novato's contribution rates, and have estimated what the impacts would be to the forecast. Selecting this option in the Options Tool will increase the deficit, but it does present a way to buffer the forecast and plan for future changes in CalPERS, though whether or not the changes actually happen remains to be seen.

The two *PERS Contribution Rates – Current and Projected* charts give additional detail on the existing retirement rate assumptions built into the forecast, as well as what the next set of changes from CalPERS might do to rates in the future. The first chart shows the data for Novato's Safety employees, the second for Miscellaneous employees.

PERS Contribution Rates - Current and Projected; Updated with Bartel & Associates

Date - May 7, 2013

Rates Based on "Expected" Investment Return of 7.5% annually

Safety

	13/14	14/15	15/16	16/17	17/18	18/19	19/20
PERS Rate Projections from October 2012 Actuarial (no additional info after 14/15)	22.20%	23.70%	23.70%	23.70%	23.70%	23.70%	23.70%
Assumption for possible actuarial changes			1.00%	1.00%	1.00%	1.00%	1.00%
Additional out-year growth assumption				0.50%	1.00%	1.50%	2.00%
Our Prior Projections	22.2%	23.7%	24.7%	25.2%	25.7%	26.2%	26.7%
New Bartel Calculations							
APPROVED BY STATE LEGISLATURE OR PERS BOARD							
Tier 1, 2 & PEPRA	21.9%	23.2%	23.4%	23.4%	23.5%	23.5%	23.6%
Tier 1, 2 & PEPRA + Smoothing	21.9%	23.2%	24.3%	24.7%	25.7%	26.7%	27.6%
FUTURE PERS BOARD POSSIBLE ACTIONS							
Tier 1, 2 & PEPRA + Smoothing + Mortality & Rate	21.9%	23.2%	27.7%	29.6%	31.5%	33.4%	35.2%

Tier 2 = 3 Year Final Average Compensation
PEPRA = Public Employee Pension Reform Act
Smoothing = new amortization periods and smoothing methods
Mortality & Rate = possible future changes to mortality assumptions and discount rate

PERS Contribution Rates - Current and Projected; Updated with Bartel & Associates

Date - May 7, 2013

Rates Based on "Expected" Investment Return of 7.5% annually

Miscellaneous

	13/14	14/15	15/16	16/17	17/18	18/19	19/20
PERS Rate Projections from October 2012 Actuarial (no additional info after 15/16)	12.70%	14.70%	15.10%	15.10%	15.10%	15.10%	15.10%
Assumption for possible actuarial changes			1.00%	1.00%	1.00%	1.00%	1.00%
Additional out-year growth assumption				0.50%	1.00%	1.50%	2.00%
Our Prior Projections	12.7%	14.7%	16.1%	16.6%	17.1%	17.6%	18.1%
New Bartel Calculations							
APPROVED BY STATE LEGISLATURE OR PERS BOARD							
Tier 1, 2 & PEPRA -	12.7%	14.2%	14.5%	14.7%	14.9%	15.1%	15.3%
Tier 1, 2 & PEPRA + Smoothing (Included in new forecast)	12.7%	14.2%	15.4%	16.6%	17.7%	18.9%	20.0%
FUTURE PERS BOARD POSSIBLE ACTIONS							
Tier 1, 2 & PEPRA + Smoothing + Mortality & Rate	12.7%	14.2%	17.4%	19.3%	21.2%	23.0%	24.9%

Tier 2 = 3 Year Final Average Compensation

PEPRA = Public Employee Pension Reform Act

Smoothing = new amortization periods and smoothing methods

Mortality & Rate = possible future changes to mortality assumptions and discount rate

Implement Modifications to Employee Health Care / Cafeteria Contribution					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a		($200,000)	($203,000)	($206,000)	($209,000)

In the recent compensation surveys, one key factor in the City's lack of competitiveness in the market is the contribution to Health Care benefits. As mentioned in the Employee Compensation section earlier in this report, an employee choosing full family health care can easily be out of pocket by $9,300 on top of the City's contribution due to the costs of the health plans compared to the City's contribution. To make the City's cafeteria contribution more competitive, it would require an approximate $200,000 General Fund cost. This increase would bring the contribution from the City to 90% of the Kaiser full family price and would significantly increase Novato's competitiveness to recruit and retain employees.

Pre-pay OPEB Liability					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
$2,000,000	$140,000	$140,000	$140,000	$140,000	$140,000

Many public employers offer post-employment health benefits when employees retire, ranging from a small stipend or defined contribution programs to fully paid health benefits for retirees and their families. When these programs were initially implemented, health insurance costs were relatively low and the ratio of retirees to active workers was quite low, making the offered benefit easy to fund on a pay-as-you-go basis. However, as the landscape for healthcare and health insurance has changed, and as the number of retirees increases (and those retirees live longer), the costs for public agencies begins to mount. Additionally, accounting changes implemented in 2004 requiring the disclosure of the annual expenses, unfunded liabilities, and other information about these benefits have exposed significant accrued liabilities for agencies that offered more generous plans. Some examples of unfunded actuarial accrued liabilities reported on June 30, 2012 financial statements (or from the June 3, 2013 Marin County Civil Grand Jury Report on this topic) for some local jurisdictions are shown in the *Unfunded OPEB Liability* table.

Agency	Unfunded OPEB Liability
County of Marin	$359.9 million
San Rafael	$24.3 million
Rohnert Park	$39.5 million
Mill Valley	$24.5 million
Corte Madera	$11.8 million
Larkspur	$7.5 million
Petaluma	$7.0 million
Novato	$2.8 million

Novato is fortunate to have a relatively small liability as a percentage of payroll, since we offer the minimum benefit required by participating in CalPERS' health program. We essentially pay a small premium (currently $115) each month per retiree that enables retirees if desired to buy into CalPERS health plans at standard employee rates once they retire.

While Novato's liability is relatively low, the actuarially required contribution is still about $220,000 per year. This amount includes both the annual payment of the current year's benefit as well as the amortization of the unfunded liability. Novato's current policy, begun in the most recent fiscal year, is to fully fund the annual required contribution each year, placing the pre-funding amount into an OPEB trust to be invested and to be set aside to pay for future costs.
The option in the Options Tool would amount to setting aside about $2,000,000 to fully fund the unfunded liability and set that amount of money into Novato's OPEB trust. This would eliminate the need to contribute the annual pre-funding amount and save the General Fund that annual amount, or $140,000.

KEY FINDINGS AND STAFF CONCLUSIONS – EMPLOYEE COMPENSATION

Historically, Novato's City Councils have been fiscally conservative with regard to employee compensation. Novato never offered the additional enhanced pension formulas that most cities offered their employees, did not offer lifetime retiree health, only provided a partial stipend to pay for health benefits, and maintained compensation below market levels. Considering both the locally adopted pension changes as well as statewide pension reform that began in January of this year, there is very little cost-cutting left to be done with regard to pensions. Retirement costs and pensions have been discussed and reviewed thoroughly. For reasons outlined in this report, rates will be increasing over time. While not ideal, with the changes that have been made locally and statewide, they are manageable within the context of our budget. The more conservative assumptions made by ourselves and CalPERS are anticipated to reduce volatility over time.

Furthermore, staff has conducted a variety of research and analysis and determined that Novato's compensation system significantly lags its peers in the marketplace. While in some cases there are intangibles that may bring employees to work for Novato, there is significant concern about recruitment and retention challenges for key positions. While admittedly appearing self-serving, management staff feels that it is important in the long run, particularly if we are to have far fewer employees, to have a compensation package that is competitive in the market.

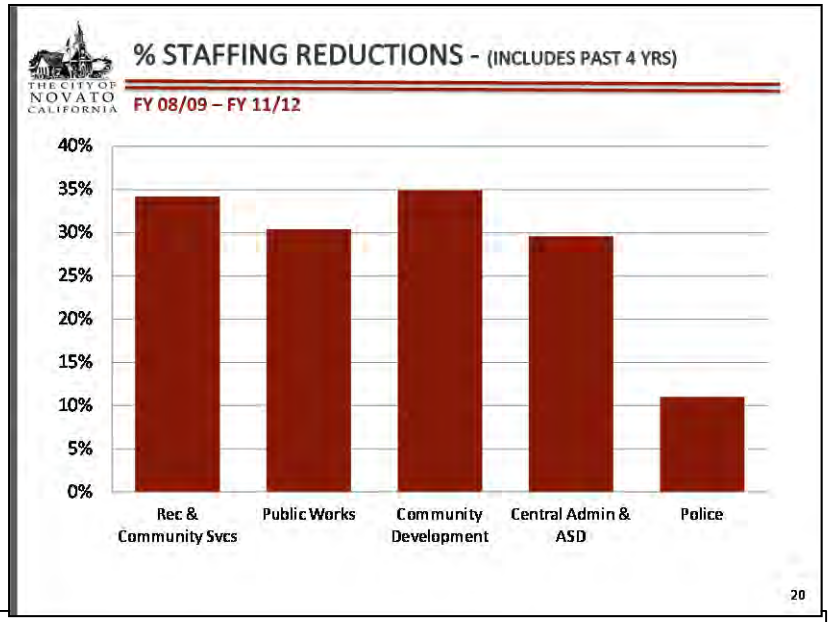
SERVICE LEVELS AND STAFFING

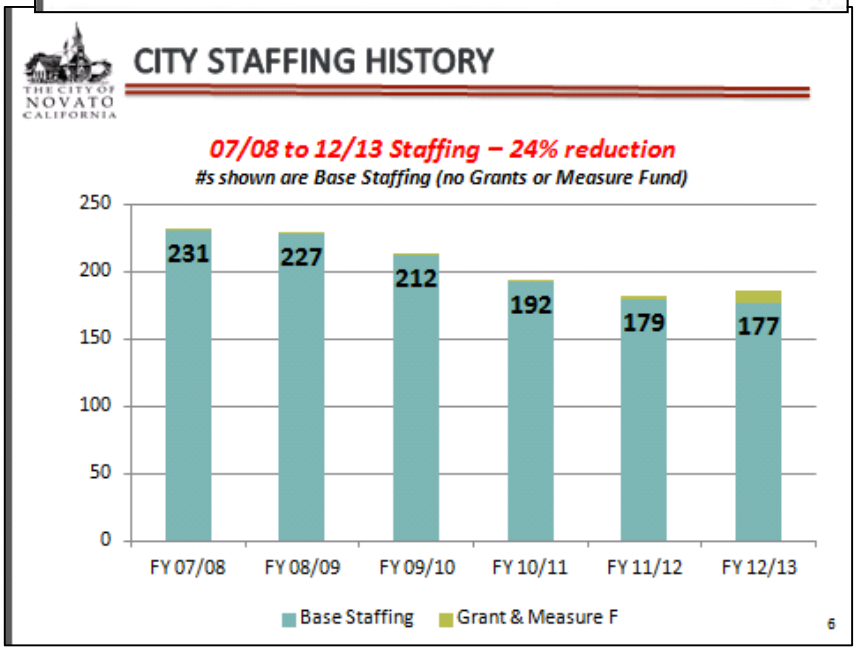
This section includes a review of past baseline staffing levels, a look at base staffing augmentations (grant and Measure F funded positions), current staffing levels and recommendations for long-term Core or baseline staffing as part of fiscal sustainability. The purpose of this section is to provide the City Council with a high-level view of core staffing options for the Fiscal Sustainability Options Tool.

With deficit and staffing reductions the past four years, staff was able to review the core operational needs and services provided to the community. The core staffing options presented reflect areas where there are holes in current city service levels. Some of these holes are already being filled with temporary grant and Measure F funding, but will be eliminated when this special funding ceases.

Core or baseline staffing is the number of staff that is required in order to maintain the service levels of an organization that is fiscally and operationally sustainable. With deficit reductions of the past 4 years, Novato's staffing levels are 24% lower than 5 years ago and the current staffing levels are the same as in FY 95/96 despite population increases of 13% during the same time period. The *City Staffing History* slide shows the reduction in staff by year.

The *% Staffing Reductions* slide shows that each department reduced their staff by 30% except Police which reduced staff by 11% in order to maintain sufficient law enforcement service levels. No Police Patrol staff positions were eliminated. The second chart to the right shows the current staffing levels by department in FY 12/13. Grant funded positions are shown in a different color from positions that are funded by the General Fund.

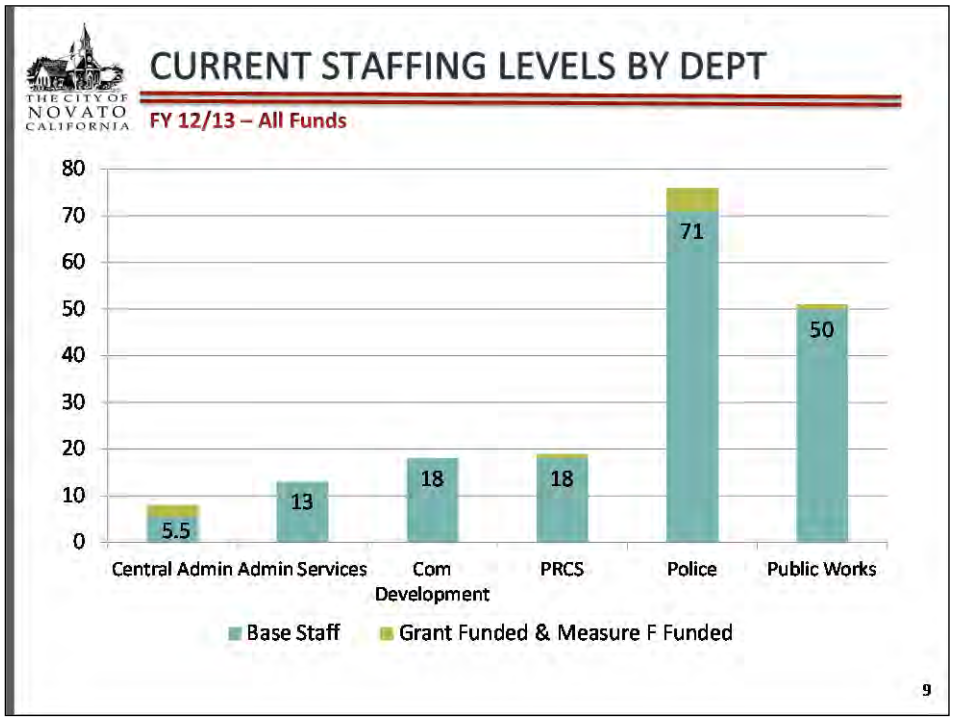




During this same time period, the State of California reduced revenue to Novato and there have been increased State and Federal mandates during the same time period.

With these reductions, Management has found the following:

- The City cut too deeply in some functions which are not operationally sustainable – maintenance, customer service, and administrative infrastructure.
- State takeaways and the dissolution of redevelopment eliminated funding for economic development and business support – therefore the need to fund an Economic Development position.
- Before reductions took place, the City was not adequately staffed in key areas impacting the organization's productivity – information technology and human resources.
- Need for proactive community policing effort to focus on prevention and intervention separate from routine police patrol and resources for Emergency Preparedness.



Before we outline the specific recommendations for Core Staffing based on current service levels, it is important to remember that Measure F and grant funding are augmenting services now that will be eliminated without a decision by the Council to move these positions to the General Fund and determine a funding strategy. Below is a list of those positions.

Position	Why	Measure F / Grant Funding
Economic Development Manager	Position eliminated with loss of Redevelopment funds	4 years; Measure F Funding Approved through FY 15/16
Police Novato Response Team focused on Prevention & Intervention (2 Police Officers, Corporal, Management Analyst)	Elimination of Community Service Officers and School Resource Officers and a recognition of the need for focused proactive community based problem solving. Patrol staffing at thresholds that do not allow for sustained follow-up or proactive prevention.	3 years of federal COPS grant mandated with 1 year of Measure F funding; Analyst only funded by Measure F for FY 12/13 and 13/14
Maintenance Worker (Parks & Islands)	37% reduction in Maintenance Worker staffing levels 9 positions eliminated since FY 09/10	1 year of Measure F funding approved for FY 11/12; continued for FY 12/13 and FY 13/14
Receptionist	42% reduction in clerical staffing levels citywide 5 positions eliminated since FY 09/10 Front receptionist eliminated in FY 10/11; operated by rotating staff in position for 1 year; not effective or efficient; customer service suffered.	1 year of Measure F funding approved for FY 11/12; continued for FY 12/13 and FY 13/14

Core Staffing is NOT Ideal Staffing

Core Staffing represents a recommendation from the City Manager regarding the staffing necessary to maintain the existing reduced service levels, not increase or restore services to pre-recession levels. The recommendation is also not for enhanced or new service levels or programs for customers. These are important distinctions. Simply put, Core Staffing is not ideal staffing. There are many other services that could be enhanced or new services that could be developed for the community with additional resources. Below are some ideas that are not included in the Core Staffing recommendation, but do reflect higher service levels if funding and commitment were available.

- Full Novato Response Team as staffed presently with 3 sworn officers instead of the partial team recommended in the Core Staffing proposal
- Family and community building events
- Staffing to assist Novato's Downtown, the heart of the City, thrive and reach its potential
- Arborist and more proactive Integrated Pest Management
- Environmental sustainability and action plan initiatives
- Hispanic community outreach and leadership development
- Staffing of museums and arts program
- Economic Development resources
- Additional maintenance resources to improve city owned parks and landscaping

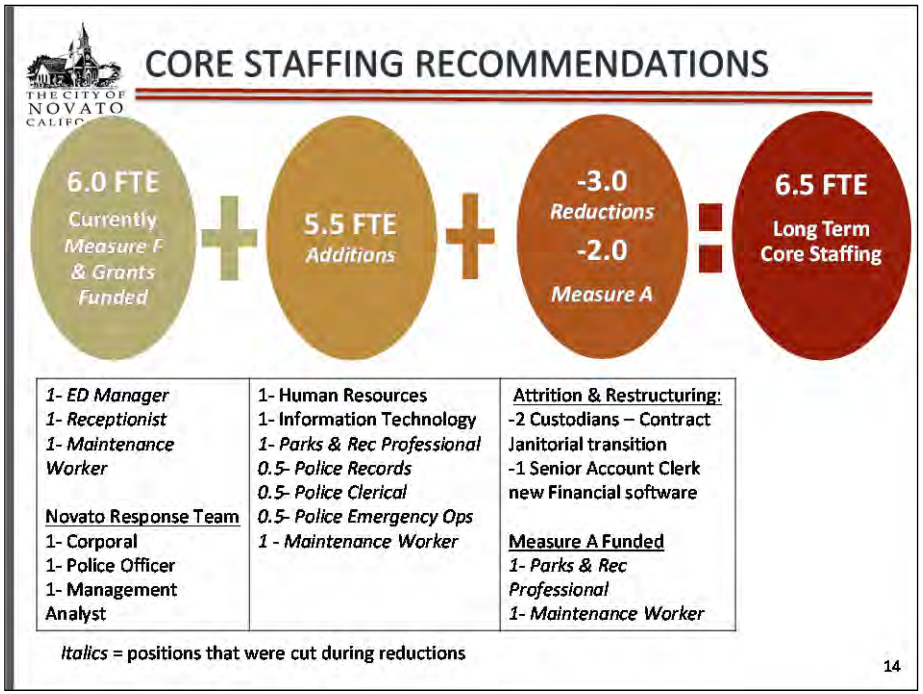
Core Staffing Recommendations

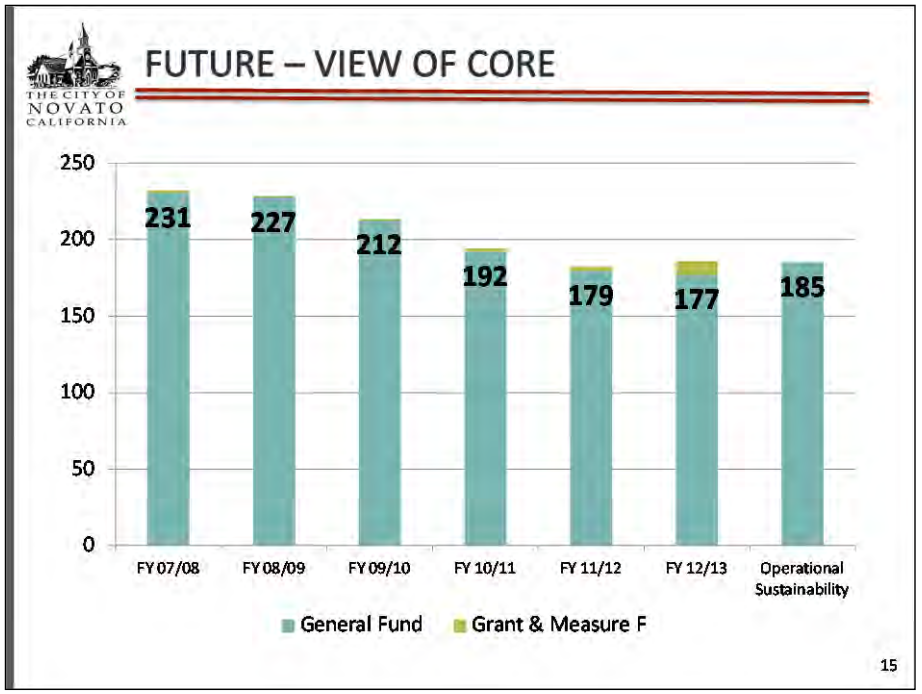
The City's executive management team is recommending that 11.5 positions be added to the City's core or base staffing. A list of the positions is in the table below. However, staff believes that there are some staff reductions that can be made and an opportunity for alternative funding that should be utilized.

Restructuring –Management believes that 3 positions can be eliminated through restructuring and contracting out. Through attrition, two Custodian positions can be eliminated with a focus to contract out janitorial services and refocus remaining staff on building maintenance services. With technology improvements, one of the four accounting clerical positions can be eliminated with a more streamlined operation available after a new financial software system is implemented.

Marin County Measure A Funding (Parks & Recreation) – This nine year special tax is to be spent on recreation and maintenance programs and Novato will receive approximately $400,000 per year. This funding can be used for capital, programs or staffing. Management believes that a backfill of two positions – one for maintenance and one for recreation – is an appropriate use of these funds and would allow services levels to be maintained at current levels.

The recommendations below outline what the City Manager and management staff believes is minimally necessary to meet the goals of the Council and the community based on current services. The overall recommendation is for a net 6.5 positions over existing positions. Below is chart summarizing the recommendation and a table with further information. The slide titled "Future – View of Core" illustrates what the staffing levels would look like if the Staff's Core Staffing Recommendation was approved in order to allow operational sustainability within the organization.





Core Staffing Summary - City Manager Recommendations				
Position Type	**Position Type**	**Total Cost Estimate**	**Position Type**	**Position Type**
Customer Service / Clerical (Central Admin)	1.0	$70,000	Measure F Funded Through FY 13/14 *Prior Reduction*	Central customer service clearing house for City; provide professional front line consistent assistance to all centralized phone, web, in-person customers.
Manager – Economic Development (Central Admin)	1.0	$160,000	Measure F Funded Through FY 15/16 *Prior Reduction*	Maintain and increase City revenue and ability to provide City services through retention and attraction of businesses and jobs.
Human Resource Professional (Admin Services)	1.0	$140,000	No funding -- At this time	Support line departments with professional human resources and risk management systems ensuring accountability, training and support..
Information Technology Professional (Admin Services)	1.0	$115,000	No funding -- At this time New	Software, hardware, and network that allows employees and customers efficient, current and effective technology solutions to improve service delivery and information access.
Parks & Recreation Professional /Analyst (PRCS)	1.0	$106,000	Fund with Measure A *Prior Reduction*	Ability to respond to business and community-driven project/requests, preserve and develop collaborative partnerships, and perform analysis for grants and ADA compliance.
Police Officer Partial Augmentation (2 sworn staff / 1 professional analyst) (Police) Novato Response Team -- 1 Corporal, 1 Officer, 1 Analyst	3.0	$355,000	Grant & Measure F Funded Through 15/16 *Prior reduction; realignment of 3 SROs*	Neighborhood Response Team - Proactive street crimes & neighborhood intervention law enforcement. Multi-faceted unit provides rapid response to community with emphasis on long-term solutions ranging from gang interdiction to issues surrounding homelessness to neighborhood blight plus liaison with NUSD. *(1 less sworn position than in place now.)*
Customer Service & Records Support (PT) (Police) 0.5 Position 0.5 Position	 0.5 0.5	 $37,500 $37,500	No funding -- At this time *Prior Reduction* *Prior Reduction*	Enhance administrative support for proper customer service, responsiveness and internal staff and public. Ensures that sworn employees focus on higher level duties with efficiency.
Police Professional – Emergency Operations (PT) (Police) 0.5 Position	0.5	$37,500	No funding -- At this time *Prior Reduction*	Ensure City is prepared for emergency situations in order to protect community. Focused leadership for emergency operation planning, exercises and training in partnership with Novato Fire District.
Maintenance Work – Parks & Islands (Public Works 1.0 Position 1.0 Position	 1.0 1.0	 $82,000 $82,000	1 position Measure F Funded Through 13/14; Fund 1.0 with Measure A *Prior Reduction* *Prior Reduction*	Preserves existing service levels and reduces deferred maintenance activities to ensure basic safety, functionality and aesthetic standards for streets, parks, islands and active open space areas are realized.
Positions to be Added	**11.50**	**$1,222,500**		
Positions to be Eliminated	**(3.0)**	**($240,000)**		Elimination of 2 Custodians and 1 Senior Account Clerk through attrition and realignment.
Positions offset with Measure A	**(2.0)**	**($188,000)**		Fund 1 Recreation & Parks position and 1 Maintenance position with Measure A funds.
General Fund Staffing @ Year 5	**6.50**	**$794,500**		**FINAL GENERAL FUND CORE STAFFING SUMMARY**

OPTIONS TOOL – SERVICE LEVELS / STAFFING

The following options related to service levels and staffing are outlined below with additional background explanations. These options are included in the Fiscal Sustainability Options Tool at the end of this Plan.

Additional Service Level Reductions / Staffing Cuts					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a				$1,000,000	$1,015,000

The Core Staffing section of this report details the existing staffing levels within the City, and the Departmental sections describe in detail the service levels currently offered by the City departments and what current service level holes exist. Choosing this option in the Options Tool would save about $1 million annually in the forecast, but there would be a reduction in existing service levels in Novato. The following is an example of approximately $1M service level reductions. It is not a recommended course of action. Any actual program or staffing cuts would need to go through public budget processes over a series of years. **THESE ARE FOR ILLUSTRATION PURPOSES ONLY – NOT RECOMMENDATIONS.**

- **Example**: Eliminate transfer of $300,000 to capital program for facility maintenance
- **Example**: Eliminate Police motorcycle traffic unit including 1.0 Sergeant and 3.0 Police Officers and the resulting reduction in traffic safety ($300,000)
- **Example**: Reduce 2.0 Maintenance staff including proactive graffiti removal
- **Example**: Reduce either senior or youth programs by $100,000
- **Example**: Reduce central administration by $100,000

Additionally, recall that the City currently has seven grant-funded and Measure F positions whose funding expires over the next three years. Selecting this option also implies that those grant-funded positions would go away and would not be renewed or funded by the General Fund in subsequent years.

No Changes – Grant-funded positions eliminated when grants end					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	-	-	-	-	-

As outlined below, and as detailed in the Core Staffing section of this report, the City has seven positions currently funded by grants and Measure F.

Position	Measure F / Grant Funding
Economic Development Manager	4 years; Measure F Approved through FY 15/16
Novato Response Team (Police Prevention & Intervention Task Force); 2 Police Officer, 1 Corporal, 1 Analyst	3 years of federal COPS grant mandated with 1 year of Measure F funding; Analyst only funded by Measure F for FY 12/13 and 13/14.
Maintenance Worker (Parks & Islands)	1 year of Measure F funding approved for FY 11/12; continued then for FY 12/13 and FY 13/14.
Receptionist	1 year of Measure F funding approved for FY 11/12; continued then for FY 12/13 and FY 13/14.

Selecting this option has no impact on the General Fund deficit because the Forecast does not currently budget to provide any General Fund funding for these positions when they end. The current assumption in the forecast is that limited-term and grant-funded positions end when they are projected to end. That said, all of the above positions are critical services for the City, and selecting the "No Changes" option effectively eliminates these seven positions over the course of several years, thereby reducing service levels in Novato.

Staff Recommended Core Staffing Levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($556,000)	($726,000)	($737,000)	($1,083,000)	($844,000)

The reasons and recommendations that encompass the staff-proposed "Core Staffing" proposal are detailed in the Core Staffing section of this report. In order to maintain current service levels to residents in Novato, City Staff recommends a package of "core" staff positions. The term "Core" is meant to describe the baseline staff needed to operate and provide the current service levels being provided to the community in the long term. Some of these positions were cut in the past five years; other functions were not staffed appropriately even before the reductions. Below is a list of the positions to be added. In addition, this recommendation also includes the reduction of three current positions where City staff believes there are opportunities to realign services.

Add these Positions that are Currently Funded by Grants or Measure F	**Add these Positions to Restore Prior Reductions and/or to Increase Service Level for Base Operations**
Economic Development Manager	Human Resources professional position
Front-desk receptionist	Information Technology professional position
Maintenance Worker	Police Department clerical and records support
Novato Police Response Team (NRT)	Part-time Emergency Preparedness Coordinator
Corporal	Maintenance Worker (funded by Measure A)
Police Officer	Parks and Recreation professional position (funded by Measure A)
Management Analyst	

In total, this option adds 6.5 staff members. It is important to note that, in the opinion of staff and the City Manager, this option represents the minimum level of investment to maintain current service levels after the grants and Measure F expire; not a significant upgrade in community services.

Additional Service Level Enhancements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	-	($254,000)	($515,000)	($784,000)	($1,061,000)

While the Options Tool contains an item that eliminates positions and reduces service levels, staff and the City Council felt it was appropriate to also include a choice that enhances and improves service levels. Department Heads and the City Manager brainstormed a sample list of enhancements that could be made to City services that would total approximately $1 million in additional ongoing General Fund expenditures. They also had the benefit of using the preliminary results and conclusions from the Community Satisfaction Survey that was recently conducted by a national survey firm. One aspect of the survey revealed a desire by a majority of respondents for service enhancements in recreation programs for youth, maintenance of streets, and police services.

The following is an **example** of approximately $1M service level enhancement. Any actual enhancement would need to go through public budget processes over a series of years. These examples are not a recommended course of action, but rather are intended to give an idea, if this option were chosen, of the types of programs that could receive enhancements. **THESE ARE FOR ILLUSTRATION PURPOSES ONLY – NOT RECOMMENDATIONS.**

- **Example**: After school youth programs targeted at at-risk youth promoting character building, fitness, and math and science aptitude
- **Example**: Crime prevention coordinator focused on community safety and best management practices at multi-family housing
- **Example**: Additional street maintenance staff to improve quality of streets and sidewalks
- **Example**: Create position to improve vibrancy of the Downtown and the types and health of businesses
- **Example**: An additional Police Officer to bring to full staffing the Novato Response Team (NRT)

Core Staffing Recommendations + Additional Service Level Enhancements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($556,000)	($980,000)	($1,252,000)	($1,867,000)	($1,905,000)

This choice adds both of the prior options as described. Thus the total impact to the City's deficit is approximately $2 million when fully implemented.

Parks Measure A Options					
	FY 13/14	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
50% of Parks Measure A			$200,000	$206,000	$212,000
100% of Parks Measure A			$400,000	$412,000	$424,000

The voters in Marin County recently adopted a new quarter-percent sales tax dedicated to funding parks and recreation facilities and programs across the County. A small portion of the money generated from this new tax is dedicated to Cities and Special Districts to enhance recreation and parks in those jurisdictions. Staff estimates that Novato will receive about $400,000 per year for the nine-year duration of the tax. This money is relatively flexible in how it can be spent, so the City has numerous choices. The two options presented for selection in the Options Tool represent assumptions that either 50% or 100% of the funds would be spent on existing or proposed staffing and programs. This essentially represents a "backfill" of existing General Fund spending, which improves the City's overall General Fund deficit situation. On the other hand, to the extent that monies are used for existing programs, clearly less funding is available for service-level enhancements, new programs, new facilities, etc. The "Core Staffing" recommendation presented above assumes that one park maintenance position and one Recreation and Parks professional position will be funded with Measure A, but these recommendations will be subject to future budget discussions.

KEY FINDINGS AND STAFF CONCLUSIONS – SERVICE LEVELS / STAFFING

Despite the significant reductions in staff incurred over the past few years, Novato is close to having the right mix of personnel and programs to provide a quality level of service to residents. The City organization has been realigned and a "new normal" level of lower staff levels is set for the future. Novato is fortunate to have received some significant grants over the past few years, as well as to have Measure F to help support and backfill some of the most critical community priorities and the associated staff positions. However, staff believes that some key position additions will dramatically assist the entire City. The recent Community Satisfaction Survey outlined preferences for additional services which are generally aligned with staff's prior recommendations. Some of these positions are direct service-delivery personnel like the continuation of the Police Department Novato Response Team (a dedicated team of one Corporal, two Police Officers and one Analyst) and additional maintenance staff for parks and streets. Some of the proposed positions will help advance the City's human resources, information technology, and other administrative areas to increase the level of productivity, efficiency, and best practices of the line departments.

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SECTION 5

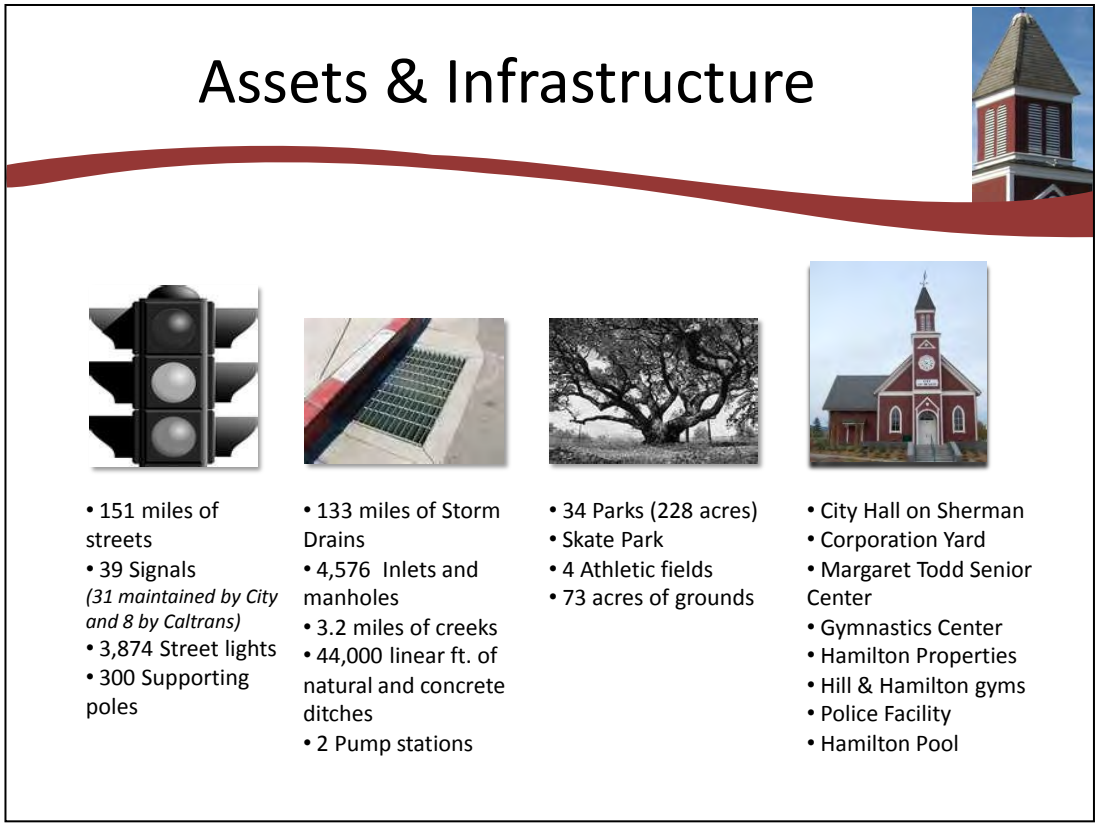
Facilities and Infrastructure

Fiscal Sustainability Plan

FACILITIES AND INFRASTRUCTURE

The City of Novato has a wide variety of facilities, infrastructure, and other physical assets under its care and ownership. These facilities vary widely by type of use, age, and condition. Some facilities are used most days of the week (Margaret Todd Senior Center). Other structures are historic and have not been used for decades such as the Hamilton Hospital. Still others, such as roads and pavement, are used at all hours of the day and night. Additionally, the City has assets that most residents never even notice or think about such as retaining walls, levees, pump stations, and drainage facilities. The City has a responsibility to maintain these assets to preserve the public investment, to protect life and safety, and to enhance the beauty and quality of life in the community. Novato also has many assets that provide recreational opportunities to residents while generating significant revenue for the City. Proper maintenance of all these facilities is critical in the long term.

In an effort to fully understand the value, longevity and ongoing service needs of these assets, the City has initiated a series of studies to inventory, assess and evaluate a number of key operations related to City infrastructure. These studies have helped staff to more fully understand all of the City's assets and facilities to ensure that the appropriate resources are identified to maintain them in good working order for the benefit of the entire community.



Studies that have been initiated and completed to date include:

- Facilities Condition and Maintenance Report (i.e. City buildings) – Completed in 2013
- Roadway Infrastructure / Pavement Condition – Completed in 2011; 2013 update is in progress
- Storm Drain Master Plan – Development of Plan budgeted to commence in FY 2013/14
- Bridges – Annual reports generated by CalTrans
- Streetlights – Maintained by Marin General Services Authority
- Traffic Signals – Recently negotiated new maintenance contract; citywide signal timing evaluation in progress; completion in June 2013
- Retaining walls – Study budgeted to commence in FY 2013/14
- Multi-use pathways – To be determined
- Parks – Study similar to Facilities Condition Report above in progress
- Landscape Maintenance – Completed in April 2013
- Fleet Utilization Study – Completed in June 2010

This section will review the various components of the City's infrastructure and assets and provide a status of their condition and the associated fiscal implications and options.

City Buildings

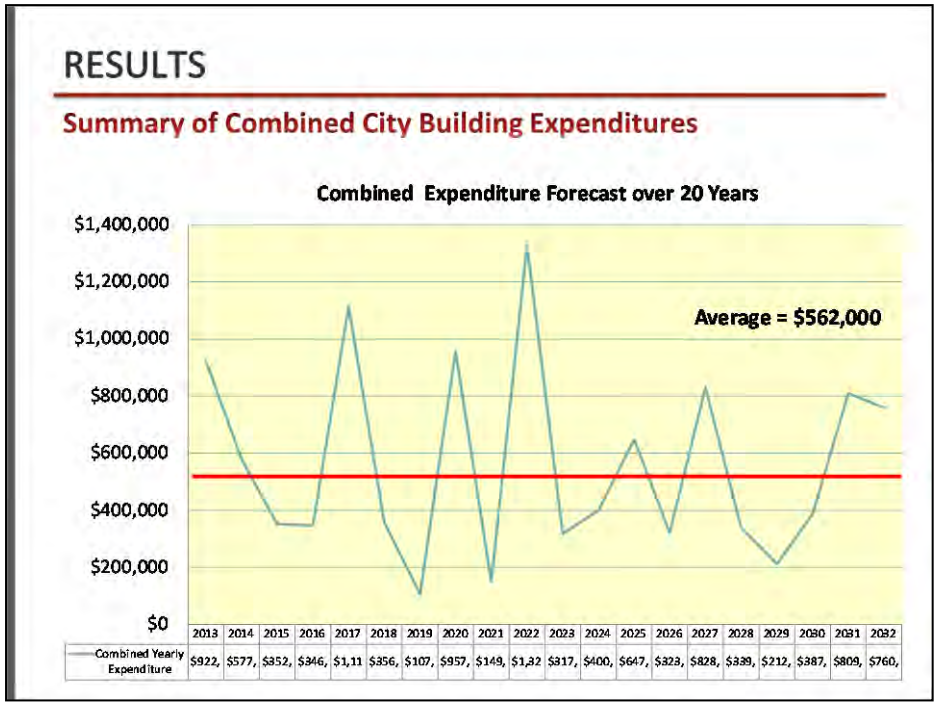
The City owns a significant number of buildings, about 15 of which would be considered "actively used", with many more either not operational or only rarely used. The 2013 Facility Condition and Maintenance Report, mentioned above, examined the status and maintenance needs of each of the 15 actively used facilities, and outlined the condition of every system in each building (roof, walls, plumbing, electrical, HVAC, structural, flooring, etc).

The detailed report also put together a 20-year maintenance plan for every building, taking into account the current condition of the systems as well as the expected useful life and immediate maintenance needs to be addressed. The study included a detailed maintenance plan in addition to cost estimates for a 20-year horizon.

The *2013 Facilities Studied* table lists the facilities that were included in the study, and those that were not. The overall report card for City facilities is good. There is only one facility in poor condition – the old Hamilton Gymnasium. (With the construction of the new shared gymnasium at Hamilton School, the Council will make a decision in the future about the disposition of the older facility.)

Some deferred maintenance was identified totaling approximately $920,000, with two-thirds of that total associated with the old Hamilton Gymnasium. Additionally, a routine maintenance program spanning the 20-year horizon was identified for each facility.

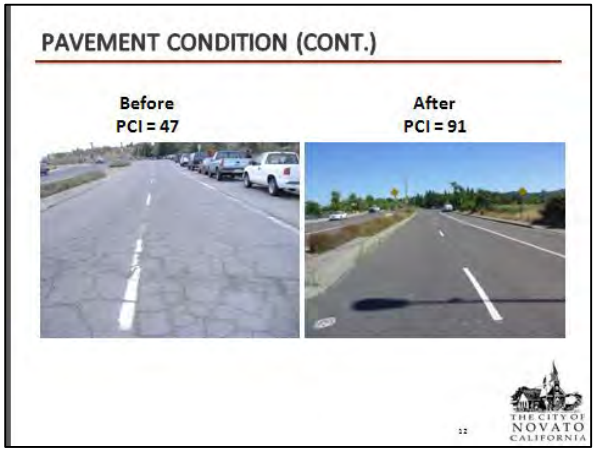
2013 Facilities Studied - Report	
Facilities Included in the Analysis	***Facilities <u>Not</u> Included in this Analysis***
▪ *City Council Chambers* ▪ *Police Department* ▪ *Downtown Recreation Center (Gymnastics)* ▪ *Margaret Todd Senior Center* ▪ *Hill Gymnasium & Community Room* ▪ *Corporation Yard Building and Maintenance Buildings* ▪ *Lu Sutton Child Care Trailers* ▪ *Postmaster's House (History Museum)* ▪ *Carlile House (Chamber of Commerce tenant)* ▪ *Hamilton Community Center* ▪ *Hamilton Pool & Bath House* ▪ *Hamilton Gym & Bowling Alley* ▪ *New Hamilton Gym* ▪ *Hamilton Firehouse* ▪ *Hamilton Arts Center Complex*	▪ *Hamilton Vacant Buildings* ○ *Hospital, Theater, BOQ, Officer's Club* ▪ *Downtown Vacant Buildings* ○ *Simmons, Hanen, Scott, Community House* ▪ *Facilities City Does Not Maintain* ○ *Morning Star, Miwok Museum* ▪ *Park Bathrooms and Other Structures* ▪ *New City Administrative Offices* ▪ *Infrastructure* ○ *Roads, Storm Drains, Retaining Walls, Lights, etc.*

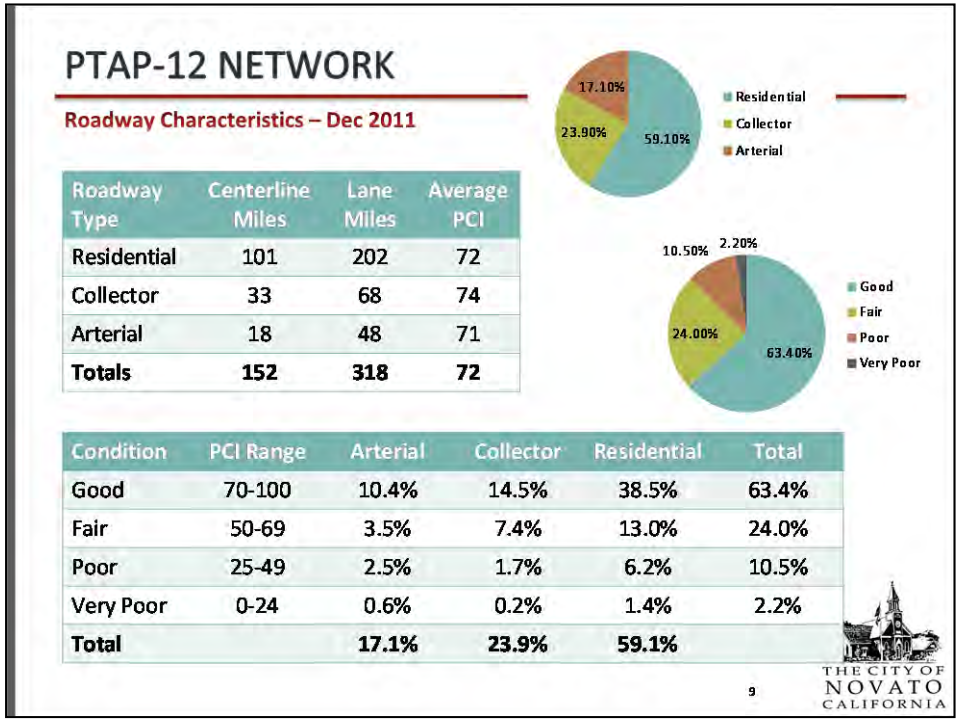


While there will be peaks and valleys in terms of what and when projects need to be completed, the average expenditure required over the 20 year horizon is about $562,000 per year. Removing the Old Hamilton Gym from the equation drops the current deferred maintenance requirement to only $247,000 and reduces the annual required expenses to approximately $500,000. Furthermore, some City facilities have active leases or other funding sources that can be used to pay for identified maintenance activities (i.e. non-General Fund sources). Accounting for the other outside funding sources reduces the annual contribution from the General Fund to an estimated $400,000 per year. The *Results* chart shows the original information from the consultant's report projecting forward the annual expenditure costs until 2032.

Roadway Infrastructure and Pavement Condition

Streets and pavement are a critical City-owned infrastructure, and maintaining them in good condition helps support smooth, safe traffic flow for residents, businesses and safety personnel in Novato. Pavement condition is typically measured by "Pavement Condition Index", or PCI. Every two years, the City partners with the Metropolitan Transportation Commission (MTC) to conduct a pavement condition assessment of City streets. This assessment provides the City with a comprehensive evaluation to guide the development of a cost-effective pavement rehabilitation strategy and program. The *PTAP-12 Network* slide shows the results for 2011; Novato's pavement condition was rated a 72 on a scale of 0 – 100 by MTC. This rating is considered in the category of "good" and ranks Novato within the top 30 percent of Bay Area cities and counties in terms of overall pavement quality and condition. The *PTAP-12 Network* slide gives a summary of the results from this study, broken down by arterial streets, connector streets, and residential streets.





Roadway Type	Centerline Miles	Lane Miles	Average PCI
Residential	101	202	72
Collector	33	68	74
Arterial	18	48	71
Totals	**152**	**318**	**72**

Condition	PCI Range	Arterial	Collector	Residential	Total
Good	70-100	10.4%	14.5%	38.5%	63.4%
Fair	50-69	3.5%	7.4%	13.0%	24.0%
Poor	25-49	2.5%	1.7%	6.2%	10.5%
Very Poor	0-24	0.6%	0.2%	1.4%	2.2%
Total		**17.1%**	**23.9%**	**59.1%**	

Funding for street maintenance comes from a few different sources; unfortunately, some of those sources are drying up and may be less available or not available at all in the future. Prior to 2012, Novato was spending about $1.5 million a year from the locally adopted $15,000,000 Infrastructure Bond Measure B, which was approved by the Novato voters in 2000 for street and pavement maintenance. This funding expired in 2012 and all funds have been spent or allocated to qualifying projects. Gas tax also provides a substantial revenue source, contributing about $1.3 million annually to street maintenance.

Finally, the City receives approximately $450,000 annually from the Countywide Transportation Measure A, a locally adopted sales tax to support transportation initiatives in Marin County. Given the above, the lack of additional bond funding will significantly constrain the City's ability to continue to maintain roads in "good" condition resulting in ongoing pavement degradation. Furthermore, with the gas tax having no built-in escalator for inflation and the purchase of electric cars on the rise, the potential for gas tax funding to decline over time is likely.

Related to the issue of pavement condition and funding is the fact that maintaining and preserving the existing pavement is significantly less expensive than rebuilding a street from the sub-base upward. Properly maintaining a street in good condition usually costs about six to eight times less than it does to reconstruct a street. For this reason, as well as the desire to continue to have quality streets in Novato, the final fiscal sustainability plan should consider the funding levels for pavement maintenance and how that fits into the long term funding sources available to the City.

Storm Drains and Drainage

The storm drain system is the network of pipes, ditches, culverts and gutters that direct and move rainwater from the roadways and private property into the proper drainage channels and creeks, ultimately ending up in the bay. The system, built over many years (most by private developers), traverses both public and private property and is owned both by the City as well as private property owners. The City has been, and is currently, in a reactionary mode with respect to storm drain maintenance.

There is limited dedicated funding for storm drain repair and maintenance. The stormwater runoff fee, which is an assessment on property tax bills for clean stormwater programs, generates about $350,000 annually for the City. Portions of this fee are used to contribute to countywide services provided by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP), while the remainder is programmed for Novato's own activities and projects. The development impact fee charged on new development in the City also has a storm water component but can only be used for capital projects and has a "City match" aspect, such that the City must use additional funds from the General Fund or other sources to match the contributions from the fees.

The City Council has approved for the 2013/14 fiscal year funding to begin developing a storm drain master plan. This report would act similarly to the facilities condition report discussed earlier, giving the City a complete picture of its storm drain assets and their locations, conditions, and sizes. It will also provide a schedule of recommended maintenance and associated costs to comply with the maintenance program. Until this project is complete, it is unclear what the proper level of funding for storm drain maintenance should be.

Bridges

The City of Novato maintains 18 bridges and many other smaller pedestrian-oriented bridges. Additionally, we are responsible for maintaining the Atherton / San Marin overcrossing over Highway 101 per an agreement with Caltrans. For many years, the City has been diligent and fairly successful at receiving grants and other funding sources to retrofit and improve bridges. Over the past 10 years, Novato has received approximately $2 million in grant funds to replace two bridges – the Simmons Lane bridge and the Center Road bridge. Additionally, we have been approved for an additional $1 million in funding to improve the Grant Avenue bridge, currently in the design phase and is anticipated to be constructed in FY 2014/15. Other than outside funding sources, there is no typical annual budget or program for bridge repair and maintenance projects.

Caltrans performs an annual bridge assessment that represents a comprehensive evaluation of both the structural safety and the projected longevity of every bridge. Despite the average age of Novato's bridges being 53 years old, most of the comments indicate that the structures are in good condition with no major issues.

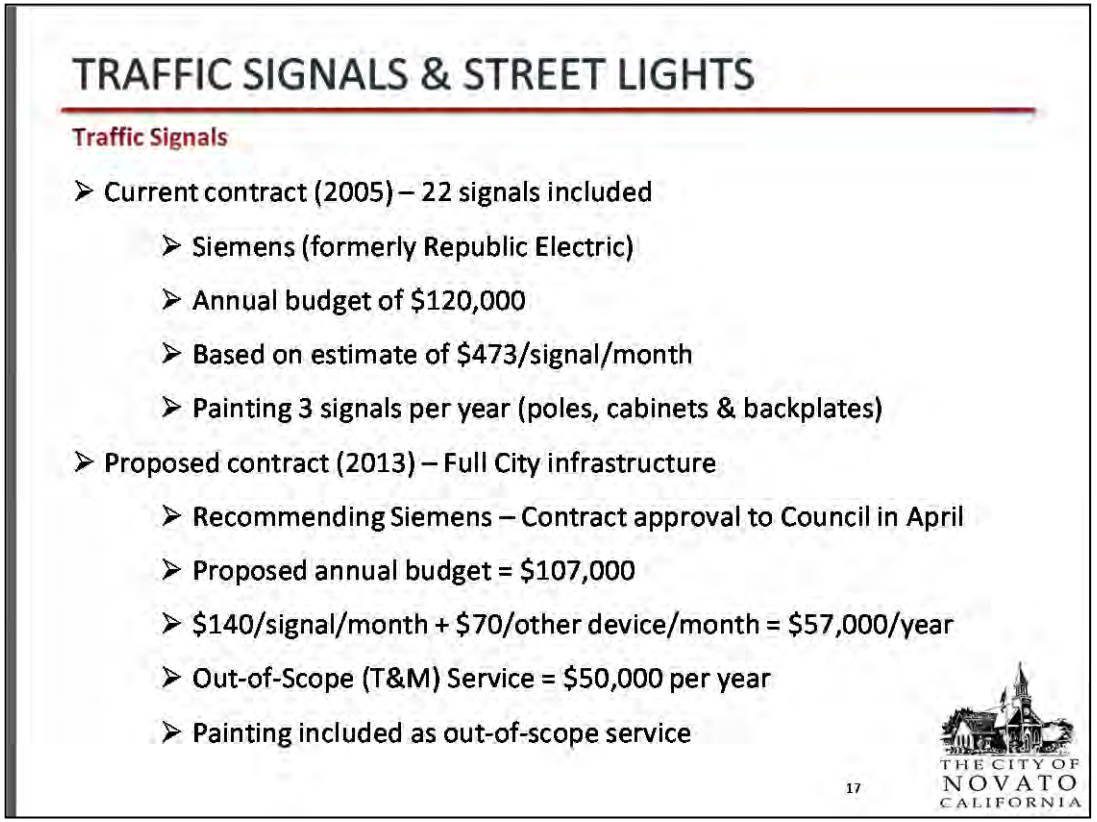
Streetlights

Most of the roughly 3,900 streetlights in Novato are actually owned by the Marin General Services Authority (MGSA) through a joint powers agreement designed to manage the maintenance of streetlights throughout Marin County. While the MGSA owns the physical lights and poles, each agency is responsible for monthly maintenance activities, electric bills and any capital improvement projects. The City has adopted an annual operating budget of $111,000 annually for the maintenance contract.

In 2011, Novato began a program of replacing all of its streetlights with high efficiency LED bulbs. The first two phases, completed in 2012, converted 1,400 lights, at an annual savings of about $60,000 annually. On the Fiscal Sustainability Options Tool, later in this report, the reader will note that staff has included an option that would entail spending about $1.2 million in one-time funds to replace the remaining 2,500 streetlights and save the City more than $130,000 annually.

Traffic Signals

The City owns 31 traffic signals, 1 pedestrian-actuated flasher, and 5 radar feedback signs. These assets are maintained under a contract which is paid out of the annual operating budget. The City recently solicited bids for the maintenance contract and awarded a contract that was fiscally superior to the prior contract. The *Traffic Signals & Street Lights* slide details the old and new contracts.

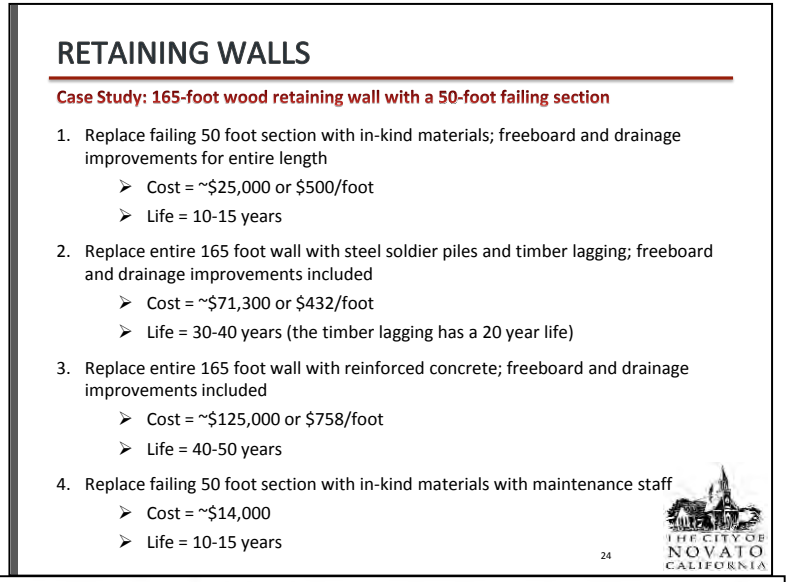


Retaining Walls

The City owns a variety of retaining walls throughout town, but the actual number, height, and length of all of the retaining walls in Novato is currently unknown. Many walls were built when subdivisions were originally constructed, with no clear demarcation or inventory of what is City owned. Some walls even pass across private and public property, further obscuring maintenance responsibility. Furthermore, conditions of retaining walls can vary depending on differing soil conditions and drainage patterns along the same length of wall.

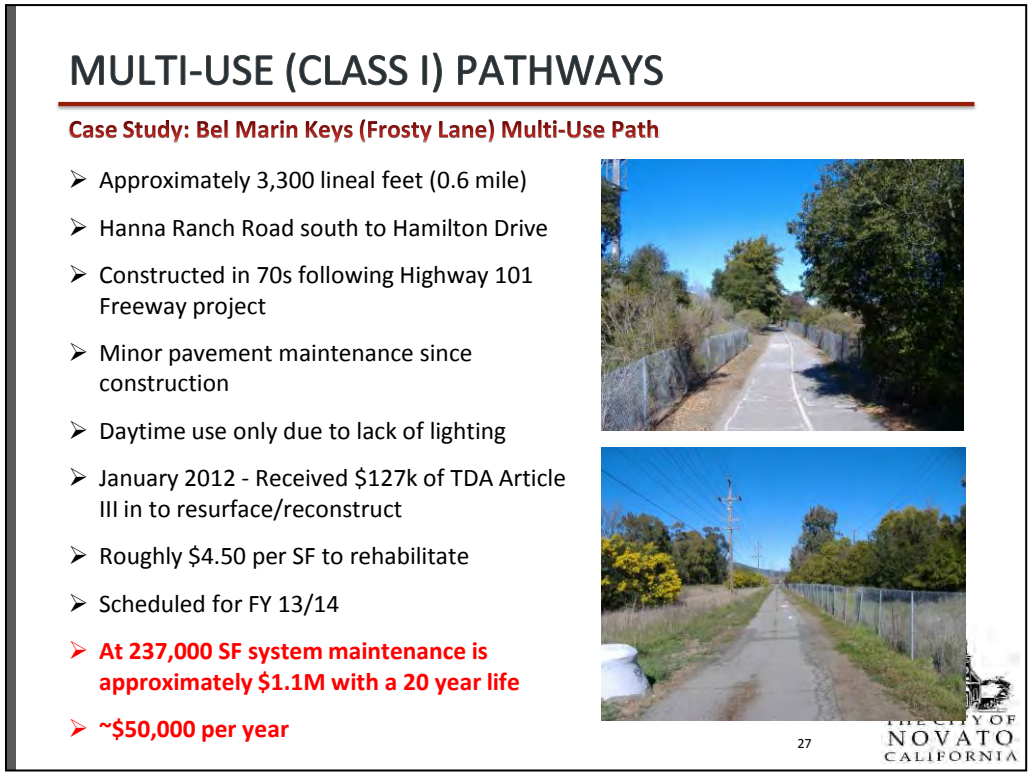
Most of the retaining walls in Novato are wood construction and nearing or at the end of their useful lives. A full assessment is needed to collect all of this currently spotty or unknown data and recommend a replacement schedule and cost estimates. This study would function similar to the other condition analysis studies mentioned above for the other infrastructure categories. There is funding budgeted in the capital improvement program to conduct this study in FY 2013/14.

In the *Retaining Walls* slide, the reader can see the range of costs for repairing and/or replacing a section of retaining wall. As an illustration, the other slide shows an analysis for retaining walls on Indian Hills Drive which outlines the different possible choices. A full report, which will occur in FY 13/14, regarding the condition and potential costs for retaining walls will help guide the City in its maintenance of this infrastructure.



Multi-Use Pathways

Novato currently owns and maintains 5.62 miles of multi-use (class I) pathways. These are dedicated paved pathways for walking, biking, and other recreational use. They are not included in the roadway infrastructure report mentioned above, so staff currently does not have detailed knowledge of the PCI of every stretch of pathway. That said, even from casual observation, it is clear that the pavement condition varies greatly.



For multi-use pathways, it is relatively easier to apply for and receive outside funding to construct new pathways when compared to locating funds to pay for maintenance and repair of existing pathways. The City has been successful in receiving multiple grants recently to construct new sections of path, including a $1.9 million commuter bike connection and a commitment from SMART to construct three different segments along the rail line through Novato. On the other hand, maintenance of pathways can only be funded by a few limited sources: TDA Article III funding, Gas Tax (which, if used, would reduce the amount available for road maintenance), and the Transportation Authority of Marin Measure B funds (new surcharge on vehicle license fees in Marin). For example, the City was recently awarded $127,000 of TDA Article III funds to resurface a pathway in the Bel Marin Keys area, but there is not a large pool of funding for these types of projects. Using the funding in this example, staff has calculated that it would take approximately a $50,000 per year investment to continue to maintain and preserve Novato's multi-use paths in good condition. The *Multi-use (Class I) Pathways* slide is further information about the Bel Marin Keys example.

Parks, Play Equipment, Sports Fields, Activity Areas, Medians

The City maintains a robust park system and other facilities for outdoor recreation. It is also responsible for maintaining many of the medians, islands, and other landscaped public areas within the City.

In aggregate, these include:

- 230 acres of parkland
- 450 individual landscaped areas
- 85 acres of islands and medians
- 11 sports fields and outdoor activity areas (including Hamilton Pool, Thigpen, Hill Recreation Area, etc)

The City employs a team of 11 full-time staff members (down from 16 several years ago, a 31% decline) dedicated to maintaining the City's parks, recreation and landscape facilities. As staffing has been reduced, the focus has shifted more to the high-use parks and the main thoroughfares' islands and medians. Less attention is given to smaller neighborhood parks and secondary and tertiary roadway medians and landscaped areas.

Park and recreation projects are typically funded through the capital budget as the needs arise. For example, for FY 2013/14, multiple tennis courts in the City were identified as having a pressing need to be resurfaced for safety purposes, therefore the City has included those projects in the capital budget for the upcoming fiscal year. Development impact fees provide Novato with a significant funding source for parks and open space improvement projects; however, as with other DIF funds, a very sizable match is required. It occasionally can take years to accumulate the appropriate funds. Parks and recreation projects can also be funded with General Fund, grant sources, and the new County Measure A sales tax.

OPTIONS TOOL – FACILITIES AND INFRASTRUCTURE

The following options related to facilities and infrastructure are outlined below with additional background explanations. These options are included in the Fiscal Sustainability Options Tool at the end of this Plan.

Fully fund facilities maintenance, as well as storm drains, bridges, retaining walls, and multi-use pathways					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($332,000)	($340,000)	($349,000)	($358,000)	($366,000)

As outlined in the Facilities and Infrastructure background section, the City has a wide variety of infrastructure for which it is responsible, including streets, storm drains, parks and recreation facilities, City-owned buildings, street lights, traffic signals, retaining walls, and multi-use pathways. For purposes of the Fiscal Sustainability Options Tool, staff has broken out the Streets maintenance funding into two separate options, described below. Funding for the remaining components of City infrastructure is captured in this section of the Options Tool.

The City currently has included a $300,000 contribution for long-term maintenance in the baseline forecast assumptions. To increase this amount to the level recommended by the Facilities Condition Report would require an additional $100,000 per year. For the other infrastructure components, many of these areas require additional research and analysis to obtain more concrete estimates of the future maintenance costs. Additionally, street light maintenance and traffic signal maintenance are currently funded out of the operating budget, and parks and recreation area projects are typically funded with development impact fees, grants and County Parks Measure A funds which allow us to exclude those components of the infrastructure from this section; however, the recommended staff-estimated funding levels for the other infrastructure components are as follows:

	Recommended Funding	**Amount Assumed in Forecast**	**Difference**
City Buildings	$400,000	$300,000	$100,000
Storm Drains	$75,000	$0	$75,000
Bridges	$20,000	$0	$20,000
Retaining Walls	$100,000	$0	$100,000
Multi-Use Pathways	$50,000	$0	$50,000
Total Funding Option for Options Tool			**$345,000**

These funding estimates are based on a combination of recommendations from the various studies, extrapolations of current work efforts and/or professional judgment by staff. Over time, it may be necessary to increase or decrease these funding levels based on the more complete analytical studies once completed.

Fund streets / pavement / bike / pedestrian maintenance to maintain 2011 PCI levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($300,000)	($308,000	($315,000)	($323,000)	($331,000)

Per the 2011 pavement condition report, one of the scenarios that the report analyzed was the amount of expenditure required to maintain Novato's PCI at the 2011 level (PCI of 72 = "Good"). The amount estimated by the report was approximately $2.7 million annually. Summing all of the available funding sources for street maintenance, Novato currently budgets approximately $2.4 million annually. Thus, this item in the Options Tool would dedicate an additional $300,000 annually from the General Fund toward street maintenance.

Fund additional infrastructure investments equivalent to Measure B levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY15/16*	*FY 16/17*	*FY 17/18*
n/a	($1,500,000)	($1,538,000)	($1,576,000)	($1,615,000)	($1,656,000)

As mentioned in the Facilities and Infrastructure background section, the City was utilizing Infrastructure Measure B bond funds through March 2012 that injected an extra $1.5 million per year into the street repair capital improvement program. Those funds have now expired and are fully expended. This item in the Options Tool would infuse $1.5 million additional funding for street maintenance consistent with the Measure B funding level of about $3.9 million annually. This item would actually increase Novato's PCI from a current level of 72 to a level five years from now of about 78. Despite that, even with this additional level of funding, a significant deferred maintenance component would still exist, albeit much less than if the City did not fund the additional $1.5 million annually.

KEY FINDINGS AND STAFF CONCLUSIONS - FACILITIES AND INFRASTRUCTURE

Being a proper steward of the public's infrastructure investments is one of the key responsibilities of local government. To date, the residents of Novato have been quite supportive of maintaining streets and pavement, having approved several bond measures over the past decades. With all Bond Measure B funds having been expended, however, Novato is at a crossroads with its infrastructure funding. Armed with substantial additional information and analysis, plus more on the way, staff is gaining a better understanding of the condition of Novato's infrastructure and what it will take to maintain it into the future. That said, at the same time, funding sources have the potential to dwindle over time, so the question becomes how these key capital projects will be funded. Staff is supportive of dedicating some General Fund resources to maintaining active buildings and other types of infrastructure that may not have another dedicated revenue source. However, staff also realizes that the significant investment and importance of the roadway infrastructure in Novato may require another funding source if significant improvements in quality are to be made.

Section 6

Sustainability Options Tool

Fiscal Sustainability Plan

Initial Surplus/Deficit Forecast – Deficit from May 2013 Budget Forecast					
	FY 13/14	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
	($301,000)	($482,000)	($371,000)	($413,00)	($520,000)
REVENUE AND ECONOMIC DEVELOPMENT OPTIONS					
The five-year forecast projects a $520,000 deficit in FY 2017/18, meaning that expenditures exceed revenues on a year-to-year basis. This section focuses on increasing revenues to eliminate the deficit accumulated over a five-year period. The City of Novato's total General Fund revenue for FY 2013/14 is approximately $31 million. Like most cities, property and sales taxes are the two largest sources of revenue. Compared to all other Marin County cities, the City of Novato generates the lowest amount of tax revenue per capita (per person in the population). Tax revenue can be increased in a number of ways, but we focus on two key methods in the Options Tool - through voter-approved tax increases or through economic development.					
Contingency for State of California Revenue Takeaways/Shifts					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	($50,000)	($100,000)	($150,000)	($200,00)	($250,000)
Recent State actions have impacted the City's budget including the elimination of Agencies and the elimination of the vehicle license fee transfer to cities. This option creates a buffer for unforeseen future State actions that could further impact the City.					
Pursue Options to Collect Refused Road Impact Fee					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a				$350,000	$350,000
In most cities, the waste (garbage) hauler pays a franchise fee to the City for the exclusive right to operate the service for residents. Some franchise agreements also charge the hauler some version of a "Road Impact Fee" to compensate for the wear and tear that the hauler causes. The fees pay for the maintenance and improvement of the public streets within the City that are impacted by these heavy trucks regularly driving on City Streets. In Novato, the waste hauler is managed by Novato Sanitary District and does not pay a road impact fee to the City to drive on its roads. This option, if actively pursued, assumes the City could negotiate with the Novato Sanitary District and begin collecting a road impact fee from the waste hauler.					

Voter Approved Options					
	FY 13/14	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
¼ cent Sales Tax (0.25%)				$2,200,000	$2,266,000
⅜ cent Sales Tax (0.375%)				$3,300,000	$3,399,000
½ cent Sales Tax (0.5%)				$4,400,000	$4,532,000

Each of the following options proposes an on-going voter approved sales tax. Sales tax is a general purpose tax paid by all consumers purchasing goods and services in the City. Visitors and residents making purchases (excluding groceries and prescriptions) would be subject to the tax.

Measure F, a 5 Year ½ cent sales tax increase was approved by Novato voters in November 2010.

An on-going 0.25% sales tax would generate $2.2 million annually. If a visitor or resident made a $100 purchase in Novato, she or he would pay an extra 25¢ as compared to if the tax were not in place.

An on-going 0.375% sales tax would generate $3.3 million annually. If a visitor or resident made a $100 purchase in Novato, she or he would pay 38¢ more on the bill as compared to if the tax were not in place.

An ongoing 0.50% sales tax would generate $3.3 million annually. If a visitor or resident made a $100 purchase in Novato, she or he would pay 50¢ more as compared to if the tax were not in place. This is the same amount as the current Measure F sales tax which expires in March 2016.

Economic Development Options					
	FY 13/14	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
Status quo economic development	-	-	-	-	-
$500,000 ongoing revenue					*$500,000*
$1,000,000 ongoing revenue					*$1,000,000*
$1,500,000					*$1,500,000*

With the loss of Redevelopment Agencies (primarily responsible for creating incentives, constructing infrastructure, assembling parcels, or other mechanisms to attract new businesses and developments), the City has limited funding for the purchase of property or business recruitment and retention efforts. The goal of economic development is to increase revenue for the City of Novato and improve the health of the local economy. Seventy-five percent of the City's annual tax revenue comes from property tax ($6.5 million) and sales tax ($12 million). The City can influence economic development by actively marketing Novato as a viable business community, building relationships with current business owners, facilitating strategic public/private partnerships and changing zoning laws and granting entitlements. The City's Economic Development Manager and staff developed an Economic Development Strategy for the City of Novato that aims to increase sales tax revenue, help existing businesses grow and expand, recruit new businesses and clusters of industry, encourage high paying jobs, and promote development that fits with the communities' character.

This set of options provides three tiers of estimated revenue that could be generated by economic development. The estimated revenue generation comes from potential development at Hanna Ranch, North Redwood Corridor, Hamilton Air Force base and a variety of vacant and underused sites within the City, but does not specifically anticipate any particular development.

Economic Development - No additional revenue by FY 2017/18 - This option assumes that any new revenue generated is offset by loss of revenue to new retail developments to the north and south of Novato.

Economic Development - $500k additional revenue by FY 2017/18 - This option assumes the City of Novato can generate $500,000 in new and on-going revenue through economic development efforts by 2017.

Economic Development - $1.0M additional revenue by FY 2017/18 - This option assumes the City of Novato can generate $1 million in new and on-going revenue through economic development efforts by 2017.

Economic Development - $1.5M additional revenue FY 2017/18 - This option assumes the City of Novato can generate $1.5 million in new and on-going revenue through economic development efforts by 2017.

EXPENDITURE / DEPARTMENTAL OPTIONS					
The Public Works Department and Parks, Recreation and Community Services Department have put forward four options that require one-time investment of funds, but save the City money on an ongoing basis.					
Install Synthetic Turf Sports Fields/Park Improvements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
$1,300,000		*$130,000*	*$130,000*	*$130,000*	*$130,000*
This option includes installing synthetic turf sports fields and a bocce ball court. The one-time investment pays for the initial construction and installation. The projected savings are a combination of lower maintenance and utility costs as a result of the synthetic turf fields (use less water and require less labor hours to maintain) and revenue generation from fees for use and rental of the bocce court complex. The ROI (return on investment is estimated at 10 years.)					
Replace All Remaining Streetlights with LED Bulbs					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
$1,200,000		*$132,000*	*$136,000*	*$140,000*	*$144,000*
Two-thirds of streetlights within the City have been converted to LED bulbs which use less energy and reduce the City's utility bills. This option invests $1.2M of one-time funds to complete the streetlight conversion. This option creates savings for the City that will increase over-time because as utility rates go up, the City will be using less energy and thus paying a lower bill. The ROI (return on investment is estimated at 8 years.)					
Use One-Time Funds to Pay Off Corporation Yard Lease					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
$1,200,000	*$100,000*	*$100,000*	*$100,000*	*$100,000*	*$100,000*
In 2004, the City made improvements to the Public Works Corporation Yard. The "Corp Yard" is the home-base for all Public Works crews in the City and where all road, park and landscape maintenance equipment is stored. The City's General Fund borrowed $1.8M at a 1.3% interest rate and still owes $1.2M. This option would pre-pay the loan with one-time funds and save about $100,000 per year on debt payments for the next 12 years. The ROI (return on investment is estimated at 12 years.)					

SERVICE LEVELS ADDITIONS / REDUCTIONS OPTIONS

City employees are service providers to residents in Novato. Each service and program offered by the City is supported by various staff members. Since 2008, the City's staffing levels have decreased by 50 employees – a 24% reduction of City's employees. With these reductions, the City has changed how it delivers some services and worked to improve efficiency, but the City has also reduced the level of service provided to City residents. Additionally, current staffing levels are being supported by a number of grants and temporary funding sources. Within a current workforce of just over 180 full-time equivalent staff, 6.5 positions are being funded with temporary sources that will expire with the next 1-3 years.

This section includes options that will continue, reduce or increase the level of services provided to residents by increasing or reducing the number of employees working for the City.

Additional Service Level Reductions/Staffing Cuts

One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a				*$1,000,000*	*$1,015,000*

This option cuts $1 million of City services provided to the community. These reductions can help balance the structural deficit, but would significantly impact levels of service.

The following is an example of approximately $1M service level reductions. Any actual program or staffing cuts would need to go through public budget processes over a series of years.

- Example: Eliminate transfer of $300,000 to capital program for facility maintenance
- Example: Eliminate Police motorcycle traffic unit including 1.0 Sergeant and 3.0 Police Officers and the resulting reduction in traffic safety ($300,000)
- Example: Reduce 2.0 Maintenance staff including proactive graffiti removal
- Example: Reduce either senior or youth programs by $100,000
- Example: Reduce central administration by $100,000

No Changes – Grant-Funded Positions Eliminated When Grants End

One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	--	--	--	--	--

Measure F and Grants provide funding for six employee salaries (referred to as positions). The positions include: Economic Development Manager, Front-desk receptionist, Maintenance Worker and the Novato Response Team (a dedicated police team focused on crime prevention, suppression and early intervention comprised of a Corporal, 2 Police Officers and a Management Analyst. Both funding sources will expire in the near future effectively eliminating the positions. This option does not offer alternative funding sources for the six positions. This option means no backfill of these grant funded positions when the funding is completed -- service levels to residents will decrease with the expiration of these six positions. Financially, there is no net gain or loss but as mentioned above, but service levels will decrease due to elimination of staff.

Staff Recommended Core Staffing Levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	*($556,000)*	*($726,000)*	*($737,000)*	*($1,083,000)*	*($844,000)*

In order to maintain current service levels to residents in Novato, City Staff recommends a package of "core" staff positions. The term "Core" is meant to describe the baseline staff needed to operate and provide the current service levels being provided to the community in the long term. Some of these positions were cut in the past five years; other functions were not staffed appropriately even before the reductions.

Specifically, this package includes continuing the following positions currently being funded by Grants or Measure F:

- Economic Development Manager
- Front-desk receptionist
- Maintenance Worker
- Novato Police Response Team (NRT)
  - Corporal
  - Police Officer
  - Management Analyst

And adds or restores the following staff positions

- Human Resources professional position
- Information Technology professional position
- Police Department clerical and records support
- Part-time Emergency Preparedness Coordinator
- Maintenance Worker (funded by County Parks Measure A)
- Parks and Recreation professional position (funded by County Parks Measure A)

This option also eliminates three current positions where City staff believes there are opportunities to realign services.

In total, this option adds 6.5 staff members. It is important to note that, in the opinion of staff and the City Manager, this option represents the minimum level of investment to maintain current service levels after the grants and Measure F expire; not a significant upgrade in community services.

Additional Service level Enhancements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	--	*($254,000)*	*($515,000)*	*($784,000)*	*(1,061,000)*

This option adds $1 million for service level enhancement to be provided by the City. The City of Novato has conducted a Community Satisfaction Survey which revealed a desire by a majority for service enhancements in recreation programs for youth, maintenance of streets, and police services.

The following is an example of approximately $1M service level enhancement. Any actual enhancement would need to go through public budget processes over a series of years.

- Example: After school youth programs targeted at at-risk youth promoting character building, fitness, and math and science aptitude
- Example: Crime prevention coordinator focused on community safety and best management practices at multi-family housing
- Example: Additional street maintenance staff to improve quality of streets and sidewalks
- Example: Create position to improve vibrancy Downtown and the types and health of businesses
- Example: An additional Police Officer to bring to full staffing the Novato Response Team (NRT)

Core Staffing Recommendations + Additional Service Level Enhancements					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	*($556,000)*	*($980,000)*	*($1,252,000)*	*(1,867,000)*	*($1,905,000)*

Parks Measure A Options					
	FY 13/14	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
50% of Parks Measure A			*$200,000*	*$206,000*	*$212,000*
100% of Parks Measure A			*$400,000*	*$412,000*	*$424,000*

50% of Parks Measure A - In 2012, Marin County voters passed a temporary (9 years) ¼ cent sales tax measure to fund the protection of natural places, local parks and family farms in Marin County. The City of Novato expects to receive $400,000 per year (for nine years) to spend on park-related programs and projects. This option utilizes 50% or $200,000 of Measure A funding to offset existing and proposed recreation and park maintenance expenses including staff positions. The remaining $200,000, under this option, would be allocated to new services, programs, facilities, etc, and would not assist in balancing the deficit.

100% of Parks Measure A - This option utilizes 100% or $400,000 of Measure A funding to offset existing or proposed recreation and park maintenance expenses including staff positions

EMPLOYEE COMPENSATION / BENEFIT OPTIONS

As a service provider to the residents of Novato, 70% of the City's budget is personnel. This is not atypical for a public agency, but 70% is lower than most cities. Employee compensation (salary and benefits) is a large part of the fiscal sustainability conversation. The City employs 186 staff who are represented by five labor bargaining units. Historically, Novato Councils have been fiscally conservative with all elements of employee compensation.

Facts about Novato's employee compensation:

- All legally permissible employee pension reform has been implemented; local efforts are supplemented by Statewide (CalPERS) reform
- Employees pay 25% of their annual retirement costs
- Novato's healthcare and dental benefit structure is different than many entities that pay a fixed percentage of the cost of benefits. Novato employees receive a "cafeteria" plan or a lump sum of money to be used to purchase health care. An employee receiving full-family medical benefits still pays on average $8,800 per year out of pocket for benefits
- A study comparing Novato employee compensation to its labor market revealed that Novato's compensation package is lower

As the economy grows and cities and private companies begin to hire, Novato will be less competitive and in some areas may be unable to recruit and retain the caliber of employees needed to run an efficient organization. There's a balancing act between keeping compensation costs low and remaining competitive in the labor market to ensure the recruitment and retention of high quality candidates.

Eliminate Salary Growth Assumptions in the Forecast

One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a		*$302,000*	*$615,000*	*$932,000*	*$1,261,000*

Salary increases occur on an annual basis and typically mirror the inflation rate. This option completely removes salary increases for employees from the forecast.

It is important to note the potential impacts of selecting this option. In conjunction with the below-market conditions currently exhibited by Novato's compensation structure, staff have gone 5 years with no salary increases, and have contributed additional amounts of compensation in the form of mandated furloughs and contributions to their retirement plan. July 2013 will represent the first salary increase (1.5%) in 5 years.

Keep the Existing Salary Assumptions in the Forecast					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a		--	--	--	--
Salary increases over time typically mirror the inflation rate. This option holds increases at 1.5% on an on-going basis; Because this assumption is built into the forecast, there's no change to the deficit. However, even a 1.5% increase each year is well below projected inflation and could push staff salaries and compensation further behind the labor market medians in many classifications.					
Set Salary Growth Assumptions to Keep pace with Inflation (2.5% per year)					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a		*($202,000)*	*($415,000)*	*($636,000)*	*($871,000)*
Salary increases occur on an annual basis and typically mirror the inflation rate. This option builds in a 2.5% salary increase for employees each year to keep up with inflation.					
Set Salary Growth at Inflation (2.5% per year) and Add $$ to Remain Competitive					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a		*($403,000)*	*($834,000)*	*(1,284,000)*	*($1,767,000)*
Salary increases occur on an annual basis and typically mirror the inflation rate. This option builds in a 2.5% salary increase for employees each year to keep up with inflation. This increases salaries for specific classifications to bring them within market (or comparable to other classifications in other cities) and make them more competitive.					
Additional Assumptions for PERS Increases					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
			($297,000	*($504,000)*	*($705,000)*
Public Employee Retirement Service (PERS) manages individual public agencies' employee pension programs throughout the State. Periodically, PERS will make changes to various investment assumptions or rates which directly affect Novato's pension costs. An actuarial study was completed to project the potential changes PERS might implement in the future and its financial costs for the City. This option essentially prepares the City for potential PERS cost increases by building those costs into the forecast. CalPERS is contemplating making a number of important changes in the spring of 2014, which would first impact Novato's pension rates in FY 2015/16, at the earliest. Selecting this option adds estimates into the model to plan for those increased rates.					

Implement Modifications to Employee Health Care/Cafeteria Contribution					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a		*($200,000)*	*($203,000)*	*($206,000)*	*($209,000)*
This option increases the amount of funds provided to employees to purchase healthcare and dental insurance to make the City's benefits package more competitive.					
Pre-Pay OPEB Liability					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
$2,000,000	*$140,000*	*$140,000*	*$140,000*	*$140,000*	*$140,000*
The City of Novato pays only one Other Post Employment Benefit (OPEB) to its retirees – health care. Novato provides the minimum contribution which is $121 per month to City retirees. The City is required to calculate and report the amount of money it will need to pay for its future retirees. This is known as the City's unfunded liability. The City established an irrevocable trust fund to pay-down its unfunded liability and generate tax exempt revenue through investment earnings. This option invests $2 million in the OPEB trust which will save the City $140,000 per year.					

FACILITIES AND INFRASTRUCTURE MAINTENANCE

The City of Novato is responsible for the maintenance of its assets, or buildings and various elements of its road-way network (streets and sidewalks, bridges, traffic signals and retaining walls). The City's funds the maintenance and repair of its assets through its Capital Improvement Program. On-going maintenance helps prevent the failure of any of these assets and the cost to repair a major failure.

A Facilities Condition Assessment and Maintenance Study was completed in 2013 to analyze the condition of City's buildings and estimate short and long-term repair needs. The study revealed 20 of the 21 City buildings are good condition.

In order to keep facilities in good condition, the analysis recommended investing $11,235,000 over 20 years. Up front, it's recommended the City fund its deferred maintenance, $920,000. Then, maintenance costs per year would be $515,000 per year on average. The five-year Forecast currently builds in an annual $300,000 per year for maintenance.

A 2012 Infrastructure Assessment Study analyzed the condition of the City's roadway assets (pavement, traffic signals, bridges, retaining walls and multi-use paths). Results of the Study showed assets are in good condition. Most of the maintenance funding for these assets come from Measure B (a bond measure passed by voters for street, sidewalk and storm drain improvements), $1.5 million per year. The funding from local Measure B has been spent. There is no longer $1.5 million annually for street improvements.

Both studies recommend an increase in annual maintenance funding to ensure the City's assets remain in good condition. This section offers options for funding improvements and maintenance for the City's assets.

Fully Fund Facilities Maintenance, as well as Storm Drains, Bridges, Retaining Walls, and Multi-Use Pathways

One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	*($332,000)*	*($340,000)*	*($349,000)*	*($358,000)*	*($366,000)*

The five-year Forecast includes an annual appropriation of $300,000 for maintenance of the City's assets. According to two analyses, this amount is not adequate to ensure the good condition of City assets.

Choosing this option fully funds the recommended maintenance needs of all City buildings, bridges, retaining walls and multi-use paths. The $332,000 would be in addition to the $300,000 already included in the five-year forecast. This amount increases over five-years to keep up with inflation.

Fund Streets/Pavement/Bike/Pedestrian Maintenance to Maintain 2011 PCI Levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	*($300,000)*	*($308,000)*	*($315,000)*	*($323,000)*	*($331,000)*

The Pavement Condition Index (PCI) measures the overall condition of the roadway network. The PCI ranges include:

- 100-70: Good
- 69-50: Fair
- 49-25: Poor
- 24-0: Very Poor

The average score for the City of Novato's 318 lane miles and 27,536,000 square feet of pavement is 72 or within the "good" range. Maintaining a good condition keeps the costs of roadway infrastructure repairs low.

Choosing this option funds maintenance, repairs and improvements to maintain the City's PCI score of 72.

Fund Additional Infrastructure Investments Equivalent to Measure B Levels					
One-Time Funds	*FY 13/14*	*FY 14/15*	*FY 15/16*	*FY 16/17*	*FY 17/18*
n/a	*($1,500,000)*	*($1,538,000)*	*($1,576,000)*	*($1,615,000)*	*($1,656,000)*

Funding for maintenance and improvements of the City's roadway infrastructure primarily comes from two places, local Measure B (bond measure passed by voters in 2000) $1.5 million, and State Gas Tax, $1.2 million.

Measure B funding has run out. All bond proceeds have been spent and this funding source is no longer available.

Choosing this option essentially supplements the expiration of Measure B funding with new funding into the City's General Fund for maintenance and to improve the City's roadway assets.

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Section 7

City Manager Recommended Scenario

Fiscal Sustainability Plan

The selected mix of options represents a data driven, balanced, and strategic approach to making Novato a fiscally and organizationally sustainable organization in the long run. The overall results of implementing the recommendation are:

- The existing 0.50% sales tax would be continued, providing the necessary ongoing funding source that our community lacks;
- Core staffing recommendations would be implemented in order to maintain existing service levels. The recommendation does not include the "enhanced service levels" option;
- Employee salaries would keep pace with inflation, with additional dollars available to address recruitment challenges in key positions; and,
- City infrastructure would receive additional General Fund resources, ensuring the long-term viability and maintenance levels of City streets, facilities, and parks.

Revenue and Economic Development Options – Staff's perspective is that the best long term solution to expand the revenue base for Novato is to extend or make permanent the 0.50% sales tax that is currently in place. After two years, residents and visitors are used to paying this tax and Novato has seen no visible impacts (in terms of lost sales tax revenue) from this change. Staff also recommends selecting the $500,000 level of economic development; though, if a few key properties were to be successful, our actual revenue from economic development could be higher. This conservative level of economic development recognizes that there are some significant new projects underway in surrounding cities that will absorb some of the demand for new commercial and retail space over the next few years. Staff is not recommending selection of the "State Takeaways" option or the "Road Impact Fee" option, since the likelihood of occurrence of both of these items appears questionable at this point.

Expenditure and Departmental Options – All three of these options appear to be worthwhile investments of one-time resources, and all three save ongoing expenses or generate ongoing revenue. Key details of some of the capital projects will need to be worked out and will come back before the City Council prior to commencement, but staff feels these are quality projects to move forward in the Options Tool.

Service Level Additions / Reductions Options – Staff has given careful thought and analysis about the provision of services and the advancement of a variety of best practices and technology initiatives. The positions currently funded by grants and Measure F dollars were or have become key functions within the City and should be continued. The additional recommended positions will pick up a variety of backlogged work and key projects moving forward that will allow the continuing provision of quality services to the community without any further degradation. While the "Additional Service Level Enhancements" are not selected, note that the recommended option generates about a $1 million surplus beginning in year 4, which could be used if available to selectively fund additional positions in the future. Finally, staff believes that a balanced approach to the usage of County Parks Measure A funds is appropriate and is recommending the "50% Measure A" option, which will allow for some Measure A funds to be utilized for new projects or programs.

Employee Compensation / Benefits Options – Staff believes that, for several key position classifications, Novato is very close to the point of not being able to properly hire qualified employees. While salaries and total compensation overall are behind the market, some positions are much more significantly off than others. Staff recognizes that employee compensation is a balancing act, but keeping up with inflation and improving Novato's market position will pay dividends in terms of recruiting the most qualified employees to deliver services moving forward. Staff also selected the "PERS Assumptions" option, as it does appear likely that the CalPERS Board will make changes next year. Finally, staff recommends pre-paying a larger portion of our OPEB obligation, as it saves ongoing contributions and will allow us to take advantage of higher investment yields than our standard portfolio.

Facilities and Infrastructure Maintenance Options – Properly maintaining roads, storm drains, bridges, buildings, and all manner of capital assets is key to the City's long-term success. As the steward of public assets, staff recommends that Novato begin a program of fully funding the long-term maintenance needs of all actively used City buildings, as well as setting aside annual contributions to maintain the other types of infrastructure within the City's purview. Additionally, while the City receives gas tax and County Transportation Measure A funds for street maintenance, the expiration of local Measure B has meant that some other funding source needs to replace it to continue proper upkeep of our roads. Short of putting another infrastructure bond measure on a future ballot, staff is not recommending committing $1.5 million annually from General Fund to maintain roads. Rather, the recommendation is to commit $300,000 to increased road maintenance from the General Fund, with any additional augmentations to come from an as-yet-unplanned bond measure or future economic development growth.

City Manager Recommended Fiscal Sustainability Plan

Novato Fiscal Sustainability Options Tool

Include?	Initial Forecast	One-Time Funds	(All $$ in thousands) 2013/14	2014/15	2015/16	2016/17	2017/18
√	Deficit from May 2013 Budget Forecast		(301)	(482)	(371)	(413)	(520)
	Revenue and Economic Development Options						
	Contingency for State of CA Revenue Takeaways / Shifts		(50)	(100)	(150)	(200)	(250)
	Pursue Options to Collect Refuse Road Impact Fee					350	350
√	Voter Approved Option (e.g. 0.5% Sales Tax) - continue current 0.5% tax					4,400	4,532
√	Economic Development $500k add'l ongoing revenue by 2017/18		-	-	-	250	500
	Expenditure / Departmental Options						
√	Install Synthetic Turf Sports Field(s) / Park Improvements to increase revenue / decrease mai	$ 1,300		130	130	130	130
√	Replace all remaining streetlights with LED bulbs	$ 1,200		132	136	140	144
√	Pay off Corporation Yard Debt to Yield Ongoing Debt Service Savings	$ 1,200	100	100	100	100	100
	Service Level Additions / Reductions						
√	Staff Recommended Base Service Levels		(556)	(726)	(737)	(1,083)	(844)
√	Utilize 50% of Parks Measure A Funding to offset existing / proposed Rec & Maintenance expenses				200	206	212
	Employee Compensation / Benefits						
√	Set salary growth at inflation (2.5% per year) and add $$ to remain competitive			(403)	(834)	(1,284)	(1,767)
√	Additional Assumption for PERS Increases				(297)	(524)	(705)
	Implement modifications to employee health care / cafeteria contributions			TBD	TBD	TBD	TBD
√	Pre-pay OPEB Liability with other funds	$ 2,000	140	140	140	140	140
	Facilities and Infrastructure Maintenance						
√	Fully fund facilities maintenance as well as storm drains, bridges, retaining walls, and multi-use paths		(332)	(340)	(349)	(358)	(366)
√	Fund streets / pavement / bike / pedestrian maintenance to maintain 2011 levels		(300)	(308)	(315)	(323)	(331)
	NEW DEFICIT TO SOLVE WITH SELECTED OPTIONS		**(1,249)**	**(1,757)**	**(2,197)**	**1,381**	**1,225**
	TOTAL ONE-TIME INVESTMENT REQUIRED	$ 5,700					
	TOTAL MEASURE F DEFICIT BACKFILL FUNDS REQUIRED	$ 5,203					

Section 8

Appendix

Fiscal Sustainability Plan

Fiscal Sustainability Options Tool – Options Not Considered

Throughout the research process for the past 12 months' work sessions with the City Council and for the options within the Options Tool, staff has uncovered a number of choices and strategies that do not appear in the final version of the Options Tool. This may be for a variety of reasons, including feasibility, legal restrictions, lack of good data, etc. The table below captures this research.

Option Name / Topic	Type	Description	Reasons not Selected
Re-fund Pension Obligation Bonds	Expenditure / Departmental	The City's POBs could be re-financed beginning in 2016, possibly for lower debt service interest rates.	Because of the taxable nature of the POBs, the call provisions are very unfavorable to the City, and according to a recent analysis, would cause a $3 million present value cost to the city (as opposed to a savings)
Re-financing other City debt obligations	Expenditure / Departmental	The City has smaller debt obligations issued to fund its MERA radio obligations, as well as various solar installations in Novato.	The MERA bonds were just re-funded in 2011 and are not callable until 2021. The Solar bonds have a 0% interest rate, so paying those bonds off early or otherwise re-financing them does not make sense at this time.
Usage fee and impact fee studies	Revenue	The City has not conducted a comprehensive fee study or impact fee analysis for many years. These studies used detailed City financial and cost information to calculate the maximum fees that can be legally charged.	Staff's perspective is that there is not a lot of capacity to raise fees. With the great recession, a number of jurisdictions have moved to reduce fees, delay the payment of impact fees, and other programs to reduce the impacts fees have on families and businesses.
Changes to business license tax	Revenue	Through its research staff discovered several changes that could be made to the business license. The ordinance has a CPI inflation adjustment built in, but that has not been implemented since 2003. Staff has the option to begin implementing the escalator, and / or implement a "catch-up" provision to raise the fee to the level at which it should currently be.	Staff initially put these options into the Options Tool, but it was decided by staff, with Council support, to simply implement these options administratively as the ordinance mandates. These changes are now included in the base forecast shown in the Options Tool.
Enhanced Parking Enforcement Program (using Automated License Plate Readers)	Departmental / Expenditure	This program would enhance existing parking enforcement efforts with vehicles that utilize automated license plate reader technology).	Up front purchase costs of about $25,000 per vehicle combined with uncertain revenue estimates and possible negative reaction to stepped-up parking enforcement.

Option Name / Topic	Type	Description	Reasons not Selected
Pre-Pay CalPERS unfunded liability	Expenditure / Departmental	At the last valuation, the Miscellaneous pension plan had a reported unfunded liability of $6.7 million. One option available to the City is to contribute additional money to PERS to pre-pay the City's obligations, thus reducing future rates and rate increases.	Contributing these additional monies makes them instantly susceptible to investment losses / gains as with all assets in the PERS portfolio. In general , this is a riskier option than some other pre-payment strategies, since the City loses any future ability to control the money contributed or direct the investment options for the funds.
$2 million economic development tier	Economic Development	This option would assume $2 million of economic development revenue by the fifth year of the forecast	While proposed in staff's initial presentation, it was later decided that this may be too aggressive of an option to put into the Options Tool. It would require a significant amount of new retail development, most likely, in order to occur.
Additional investment in solar capacity	Departmental / Expenditure	With the move to Marin Clean Energy for the City's electricity, the City would have the option to add additional solar generation to City facilities to reduce energy costs	While staff is very supportive of this option, a feasibility study is underway and has not yet been completed. For purposes of the options tool, we removed the choice since it was still TBD. However, when staff has more information about the solar options, a separate Council agenda item will be scheduled to discuss those possibilities.
Pursue options to implement a franchise fee	Revenue	Similar to the Road Impact Fee described in the Revenue Options section.	This option is considered to be of even lower likelihood than the Road Impact Fee. It was removed for that reason. There are a number of barriers to implementation, the most significant of which is the Novato Sanitary District's existing franchise agreement that does not expire until at least 2025.

2013 Community Survey

In March 2013, the City contracted with the International City Management Association (ICMA) to utilize their National Citizens Survey (NCS) to survey Novato residents. NCS is a five-page questionnaire that provides a statistically-valid survey of residents' opinions about their community and services. Five-hundred and fifty local governments in the United States use NCS to benchmark service quality and assess community needs. A standard survey is used for all jurisdictions requesting feedback on quality of life in the community, resident use of services and quality of services delivered. This allows all jurisdictions to benchmark their results nationally and regionally with other agencies that have also completed the survey.

Surveying residents within the community on a routine basis is a best practice for many jurisdictions as it helps gauge service performance, benchmark service quality, assess community needs, assist with strategies for improvement, and evaluate potential policies or community characteristics. The last community survey in Novato was conducted in 2007.

The following goals for surveying Novato's residents were as follows:

- Gather information regarding resident's satisfaction with City services and performance measurement;
- Gather input regarding growth, economic development and fiscal sustainability;
- Create a benchmark for current status and future progress by using consistent questions both against ourselves for future performance and against other cities as a point of comparison;
- Reach a broad segment of the community that may not be actively engaged in local government including those who can't or don't regularly participate in public meetings, but still have valuable input on how the City can improve its service delivery; and,
- Look for opportunities to include the Hispanic community (2010 Census demographic figures show 21.3% of Novato's population as Hispanic).

Community Survey Results

Surveys were sent to a randomly-selected sample of 3,000 households in Novato. Residents were able to complete the survey in a written format or on-line. A total of 825 completed surveys were returned yielding an overall response rate of 28%. This is within the typical response rate range of 25% to 40%. With this positive response rate, staff is pleased to share the results with the City Council and the community. Attached to the staff report is the full report.

The survey contained questions that are standard for all NCS survey participants. The City also asked three custom questions related to priorities, service level desires and an open ended response to allow residents to state what services they would like to see restored, improved or added in

the next five years. Some of the key findings are summarized. In addition, staff is finalizing a PowerPoint presentation that will be given on Tuesday at the meeting to provide an overview of the survey results.

Most residents experienced a good quality of life in the City of Novato and believed the City was a good place to live. The overall quality of life in the City of Novato was rated as "excellent" or "good" by 87% of respondents. Almost all reported they plan on staying in the City of Novato for the next five years.

A variety of characteristics of the community were evaluated by those participating in the study. The three characteristics receiving the most favorable ratings were quality of overall natural environment in Novato (84%), ease of car travel (74%), and ease of walking in Novato (73%). The three characteristics receiving the least positive ratings were availability of affordable quality housing (42%), opportunities to attend cultural activities (49%) and employment opportunities (27%).

Residents in the City of Novato were civically engaged. While 26% had attended a meeting of local elected public officials or other local public meeting in the previous 12 months, a majority had read the Novato newsletter (67%) and visited the City's website (56%).

In general, survey respondents demonstrated trust in local government. A majority (55%) rated the overall direction being taken by the City of Novato as "good" or "excellent." Those residents who had interacted with an employee of the City of Novato in the previous 12 months gave high marks to those employees. 74% of respondents rated their overall impression of employees as "excellent" or "good." On average, residents gave generally favorable ratings to many local government services. 76% of respondents rated police services as "good" or "excellent."

Respondents were asked to rate how frequently they participated in various activities in Novato. The most popular activities included providing help to a friend or neighbor and visiting a neighborhood or City park; while the least frequent activities were attending a meeting of local elected officials and riding a local bus. Generally, participation rates in the various activities in the community were similar to other communities across the nation.

In addition to the standards questions, three custom questions were asked of which two were multiple choice and one was open-ended. Respondents were asked what level of priority (Very High, High, Intermediate, Low or Not a Priority) they would give to certain services. Of the services listed, respondents rated as high or very high: programs for youth and teens (74%), maintaining parks and recreation facilities (70%), maintaining streets and bike paths (69%), senior programs (62%), and programs for at-risk and low income youth (60%).

Respondents were also asked if they would increase, keep the same or reduce service levels for a list of services. The services respondents would increase are recreation programs for youth (60%), maintenance of City streets (58%) and emergency preparedness/disaster recovery (49%). The services respondents would keep the same are maintenance of islands and medians (62%), maintenance of City parks (57%) and maintenance of City public recreation facilities (53%).

There was also an open survey available to any interested person that was posted on the City's web site for ten days. The City received 98 responses. While not statistically significant, the results were similar in theme to what was received in the mailed primary survey.

Benchmark Report

Ratings of community characteristics were compared to the national benchmark database and two other databases. The national benchmark contained cities across the nation of various population levels. In order to have a more refined group of benchmark cities, staff worked with the NCS consultant to create two other benchmarks. The purpose of these benchmarks is to select one group going forward that can be utilized for comparison purposes in future years.

National Benchmark -- When looking at the national benchmark comparison of the 28 characteristics for which comparisons were available, eight were above the national benchmark comparison, nine were similar to the national benchmark comparison and 11 were below.

National Benchmark All Cities in NCS Database – 500 Cities		
*Novato **Above** National Benchmark*	*Novato **Similar** National Benchmark*	*Novato **Below** National Benchmark*
8	**9**	**11**

Benchmark #1 - National Population (35,000-65,000) + Household Incomes ($68,000-$88,000)		
Brea, CA	Urbandale, IA	Huntersville, NC
San Rafael, CA	Crystal Lake, IL	Westerville, OH
Walnut Creek, CA	Elmhurst, IL	Westerville, OH
Broomfield, CO	Oak Park, IL	Lake Oswego, OR
Castle Rock, CO	Blaine, MN	Rowlett, TX
Ankeny, IA	Edina, MN	Edmonds, WA
*Novato **Above** Benchmark #1*	*Novato **Similar** Benchmark #1*	*Novato **Below** Benchmark #1*
2	**9**	**17**

Benchmark #2 – California Population (35,000-65,000)		
Menlo Park	Dublin	Lodi
Seaside	San Rafael	Walnut Creek
Brea	Cupertino	Palo Alto
Palm Springs	Encinitas	
*Novato **Above** Benchmark #2*	*Novato **Similar** Benchmark #2*	*Novato **Below** Benchmark #2*
4	**13**	**11**

Benchmark #1—National Group - Population & Household Income

Staff asked NCS to select a group of Cities that were similar in socio-economic background of residents and community size to try to compare Novato against communities of similar characteristics and culture. This database created a benchmark of 18 cities with similar populations (35,000-65,000) and with household incomes ranging from $68,000-$88,000. The group of cities included three California cities -- San Rafael, Walnut Creek, Brea -- the remaining cities were from across the nation. Out of the 28 characteristics compared, two were above, nine were similar and 17 were below the benchmark.

Staff conducted some research on the above agencies to understand the rationale for these benchmark distinctions. Staff is reviewing this data and will have more information to provide to Council at the meeting. Although the City of Novato fits within the socio-economic ranges of these Cities, the difference in the amount of available revenue per capita (plus the many factors associated with out-of-State regulations and revenue differences) is considerable. Staff is reviewing this data as well and will have more information to provide to Council at the meeting.

Benchmark #2—California Group - Population Only

Staff asked NCS to select a group of California cities within Novato's population range, 32,000 to 65,000, irrespective of income. Of the 28 characteristics compared, four were much above, 13 were similar and 11 were below the benchmark. Staff believes this group of Cities serves as a stronger comparison because each City is faced with the same revenue challenges brought on by Proposition 13 and 218.

The charts to the right show how Novato compares to these different bench market agencies. The results are based on comparing 28 characteristics from the survey. Although these Cities are different in character and socioeconomic status, staff believes that Benchmark #2 can be used as a performance metric in the future to gauge how well the City is doing to improve its service delivery.

PRIORITY OF CERTAIN SERVICES	"High" or "Very High" Priority
Programs for youth and teens	74%
Maintaining park and recreation facilities	70%
Maintaining streets and bike paths	69%
Senior program	62%
Programs for at-risk and low income youth	60%

Fiscal Sustainability

As the City is looking at its Fiscal Sustainability decision making starting at the end of this month, the feedback from this survey can be utilized by staff, residents and the Council. Residents were asked two custom questions. The first question asked was about their priority for a list of services. The second question asked about whether residents would like to see certain services increased, remain the same or reduced. The following tables offer a summary of results.

SERVICES RESIDENTS WOULD INCREASE OR KEEP THE SAME

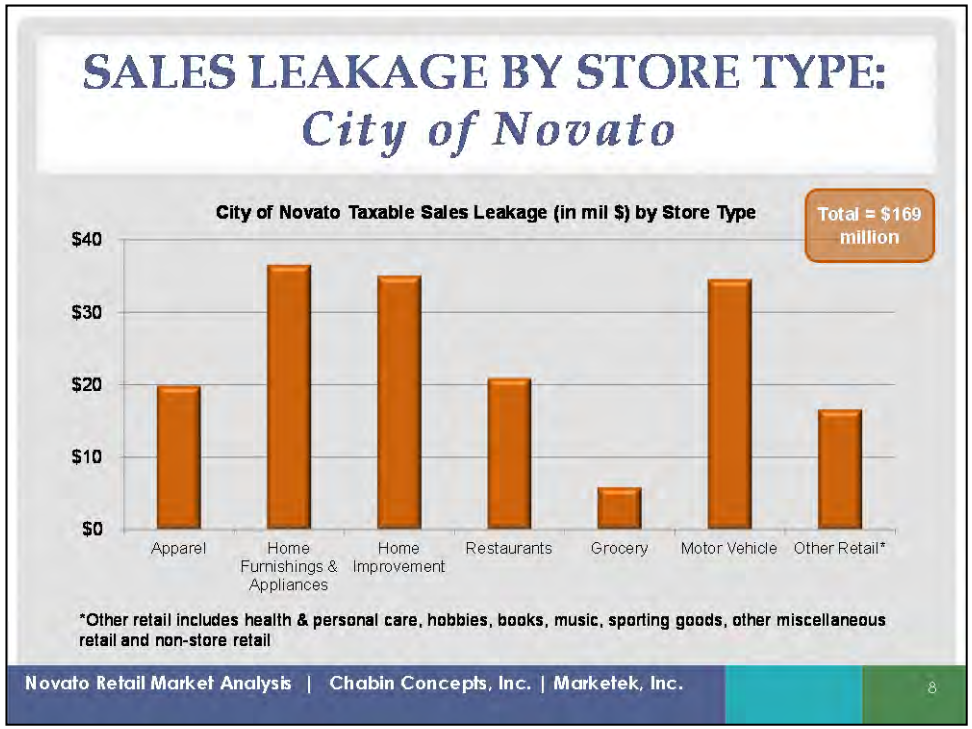
Increase "Significantly" or "Somewhat"		Keep the Same	
Recreation programs for youth	60%	Maintenance of islands and medians	61%
Maintenance of City streets	58%	Maintenance of City parks	57%
Police street patrol	51%	Maintenance of public recreation facilities	53%
Emergency preparedness/disaster recovery	49%	Programs and activities for seniors	49%
Programs and activities for seniors	46%	Emergency preparedness/disaster recovery	47%

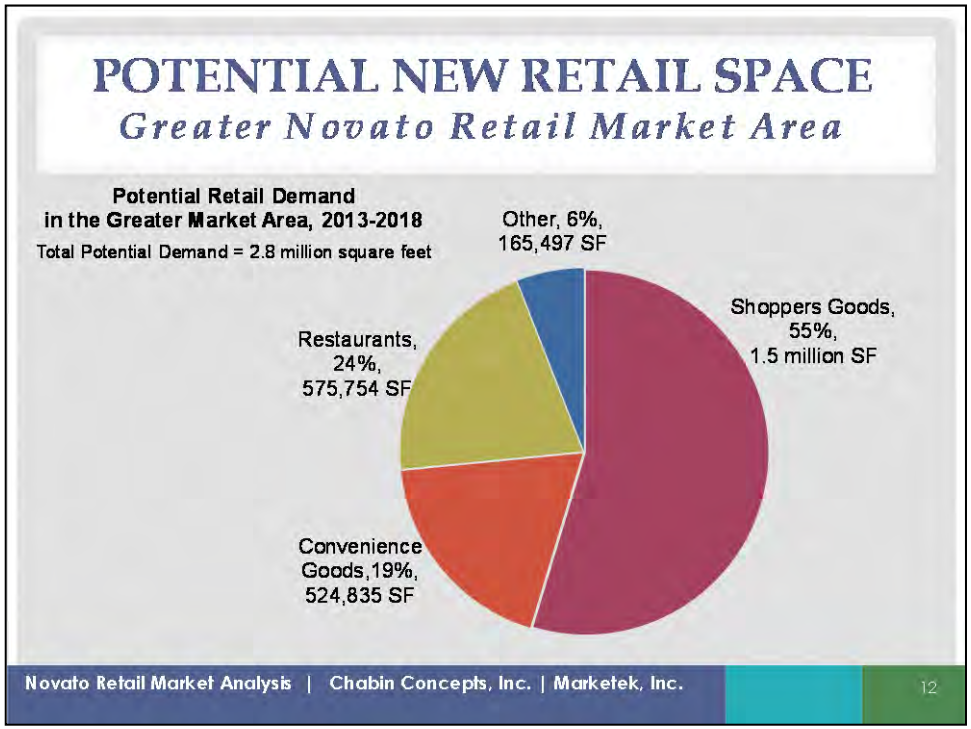
Retail Market Analysis

Consultants conducted a Retail Market Analysis for the City of Novato and the regional trade area which includes all of Marin and southern Sonoma Counties. The study was based on interviews with local business, real estate brokers and community stakeholders, an online opinion survey of business and residents, evaluations of existing retail centers and potential development areas, and research and analysis of city-wide and regional economic data.

The results of the analysis provided the City's with a range of opportunities and challenges for business retention and attraction. Areas for improvement included a retail leakage of nearly $170 million for the City of Novato. The largest leakage area is in home furnishings and appliance stores at $37 million followed by building materials and garden equipment at $35 million. To assess the existing and future retail demand potential the study referred to the regional trade area and estimated a $850 million loss in sales primarily in the dining and general merchandise areas

In short, residents and visitors consistently leave the City of Novato and the market trade area to their shopping for areas of items mentioned above. The City will embark on number strategies to capture this lost revenue and provide more shopping opportunities for residents and visitors.





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FISCAL SUSTAINABILITY TASK FORCE REPORT
FEBRUARY 2018

CITY OVERVIEW

The City of Dublin, incorporated in 1982, is located in the East Bay of the San Francisco Bay Area approximately 30 miles east of San Francisco and 30 miles northeast of Silicon Valley. Dublin is one of five communities that comprise the Tri-Valley region. In 2011, the City was named an "All-America City" by the National Civic League, one of the nation's oldest and most prestigious civic organizations. In 2017, the City celebrated its 35th anniversary as an incorporated city. According to the California Department of Finance, the population in the City of Dublin is 53,746, excluding group quarters, as of January 1, 2016. The City covers a land area of 14.62 square miles.

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FACILITATOR
Greg Larson, Management Partners

For more information on the Task Force's work, please visit the City of Dublin's Fiscal Sustainability Task Force Website at:
http://dublinca.gov/1880/Fiscal-Sustainability-Task-Force

ACKNOWLEDGEMENTS

The Task Force wishes to thank the City Council for establishing fiscal sustainability as its top strategic priority for the last two years. We also want to acknowledge the foresight by this City Council in working so far in advance of the actual projected deficit through the creation of this Task Force. This effort is extraordinary, and deserves recognition by municipalities across the state who will also be faced budgetary challenges over the next several years.

Our work was faced with great discussion, debate, and oftentimes with dissention on matters under consideration. We respect the views of the members of this Task Force and to that end, some may wish to express how their personal opinions may differ from the recommendations. However, this report was unanimously approved by the Task Force.

We want to thank City staff and our facilitator, Greg Larson, for his work, patience and participation. This effort gave us all a greater appreciation of managing a large group of people with strong personalities.

Lastly, we strongly believe that the City Council has a real opportunity to create a constructive dialogue with the community about the long-term fiscal challenges, and prepare them over the next several years that their levels of service will be impacted.

EXECUTIVE SUMMARY

While the City of Dublin's FY 2017-18 Adopted Budget reflects growth in the City's major revenue categories resulting in a budgeted surplus of $8.4 million, flattening sales tax revenue, rising contracted service costs, and the anticipated decline in development revenue as the City nears build out, are causes for concern. The City's 10-Year General Fund Forecast projects deficit spending of $1.5 million in the General Fund by FY 2022-23, potentially growing to a deficit of $4.3 million in FY 2024-25, as reflected in the most recent update provided to the City Council.

In March 2015, the City Council identified long-term fiscal sustainability as the City's key strategic initiative and directed Staff to ensure that fiscal sustainability becomes a major factor in future decisions, including future budget proposals. In November 2016, the City Council approved the formation of the City's first Fiscal Sustainability Task Force with the goals of:

a) Educating the public and fostering discussion on the City of Dublin's current and projected financial status; and
b) Producing an advisory document with future budget options for the City Council to consider.

This report is the product of the Task Force's work over the last year in evaluating the City's financial position and formulating potential solutions to the structural deficit. Each of the recommendations contained herein were approved by a majority vote of Task Force Members.

BACKGROUND – FINANCIAL OUTLOOK

Dublin's short term financial picture reflects a healthy, growing community able to provide a high level of services and fund large capital projects. Annual growth in the City's primary revenue sources of property tax, sales tax, and development revenue, which make up 46%, 24%, and 12% respectively, of total General Fund revenues budgeted in FY 2017-18, have allowed for budget surpluses the last few years. In addition, the City has been able to sustain the rising costs of public safety and maintenance contracts, which make up the majority of General Fund expenditures, and in the current year Police Services staffing was increased in response to the community's needs.

The City's General Fund reserves are healthy, with $125.3 million in total reserves, $37.2 million in unassigned cash flow reserves, and a variety of emergency and economic stability reserves. The City's pension and retiree health plans are well funded, at 73% and 102% respectively, and the City sets aside annual budgets for additional contributions to long-term liabilities.

Dublin, like most of its neighbors, has rebounded from the recession and entered a rapid recovery period. Following a 2% loss in overall assessed valuation (AV) during FY 2010-11, the City has increased total AV from $8.4 billion in FY 2011-12 to $13.7 billion in FY 2016-17, owing

to real estate values that have been restored, higher sales prices, and new developments coming on line. Large projects have also brought in high permit and development services revenues, which cover City development costs and provide an overhead revenue source. In a developing City, such continual building activity can sustain and supplement General Fund operations for many years. In a developed City, operations are focused on maintenance and ongoing operations, and large spikes in revenue are atypical. As Dublin transitions to a developed City, it must plan for revenue declines and increased service costs associated with a larger, mature community.

Furthermore, the City must be ready to weather the next recessionary cycle, the signs of which are beginning to be seen with recent Sales Tax reports. The City's second largest revenue stream is flattening out, particularly in the Autos and Transportation sector – in FY 2016-17 auto sales tax grew only 2.4% over the prior year, adding just $155,815 to Sales Tax revenues, after three years of average annual growth of 7.8%. For an agency heavily concentrated in the Auto sector, this is a concern. Moreover, the majority of the total Sales Tax growth in Fiscal Year 2016-17 occurred in the third quarter of 2016, followed by two quarters of flat revenue, and a final quarter that reflected a loss of 7.9% ($133,241). The Building and Construction sector also grew 2.4% ($101,231) for the year, compared to 7.0% the prior year.

Development-related revenue is the third largest revenue stream to the City, but it is the most volatile. Building permit revenue and development services revenue (planning and engineering services) increased a combined 17% last year, but the yearly increases since the recession have been extremely varied: since FY 2010-11, development revenue increased 52%, 18%, 7%, 3%, 1%, and 17% in the respective years. The City anticipates a downward trend as some of the larger development projects near completion, and continues to maintain a Service Continuity Reserve in the General Fund to ensure that there are future funds to cover expenditures when development activity slows.

While FY 2016-17 finished with a General Fund surplus of $17.7 million (before transfers out to capital projects), it is long-term fiscal sustainability that remains at the forefront of budget discussions. Even with the continued growth in property and sales tax, declining development revenues and the rising costs of contracted services could result in deficit spending of $1.5 million in the General Fund by FY 2022-23 up to $4.3 million in FY 2024-25.

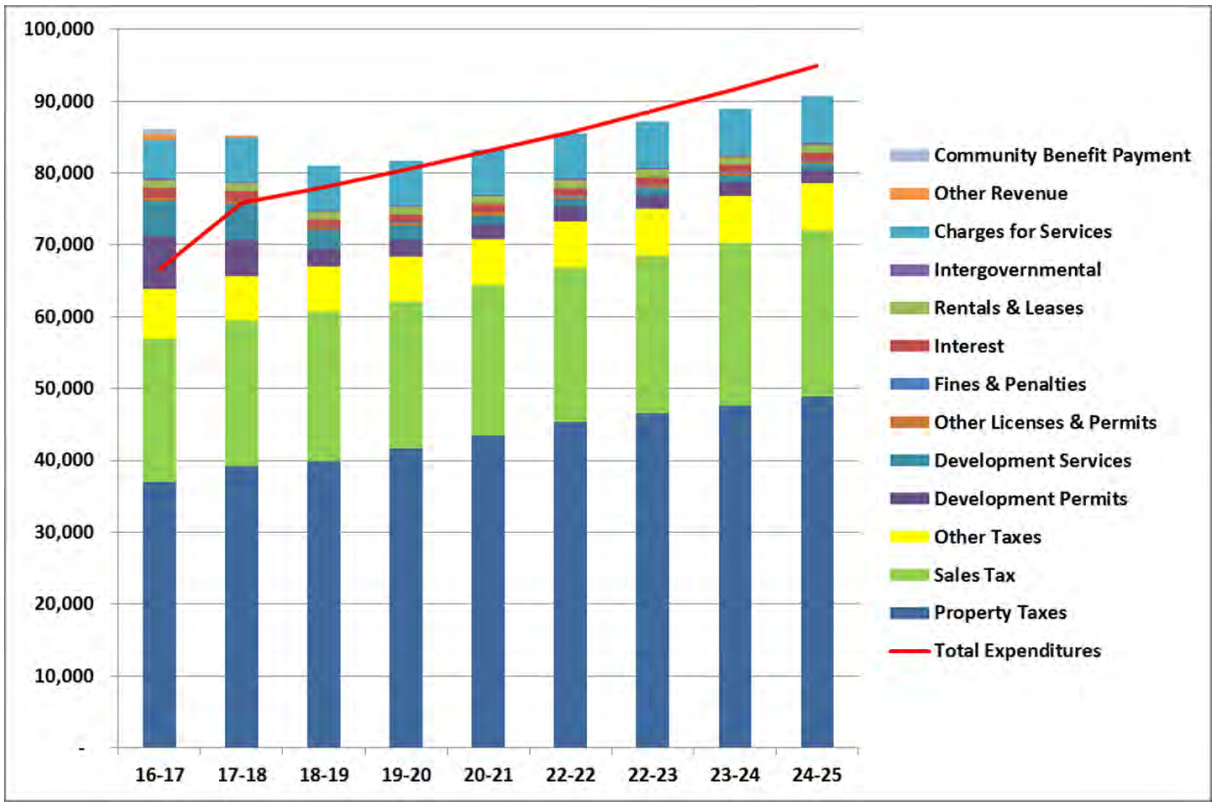
10-Year Forecast

The 10-Year Forecast serves as the foundation of the City's annual budget, in terms of guiding the City's use of resources now to prepare for the future. The Forecast is typically updated and presented with the annual budget adoption, however as major changes occur (e.g., a large property tax increase), Staff provides an updated Forecast to the City Council.

The current assumptions as revised during the FY 2017-18 1st Quarter Financial Review are presented below, followed by a graphical representation of revenues and expenditures.

Revenue	
Property Tax	2.0% growth in FY 2018-19, 4.4% annually until FY 21-22, 2.5% growth thereafter.
Sales Tax	2.7% growth in FY 18-19, Flat in FY 19-20 (conservative recessionary scenario), 2.5% thereafter.
Development Revenue	Permit revenue decreasing 48.6% in FY 18-19, then an average decrease of 6.3% annually until it baselines at $1.7 million in FY 24-25. Development Services revenue decreasing in FY 18-19 by 49.7%, then an average decrease of 15.1% annually.
Interest Income	Flat interest of $1.1 million (recessionary scenario).
Transient Occupancy Tax and Franchise Fees	1.0% annual growth.
Recreation Revenue	1.0% annual growth (including The Wave).
Community Benefit Payments	None after FY 17-18.
Expenditures	
Salaries and Wages	5.0% annual growth. (accounts for COLAs and merit increases)
Benefits	3.0% annual growth, including $1 million supplemental pension funding and potential health rate increases.
Services and Supplies	Flat in FY 18-19, 1.0% annual growth thereafter.
Internal Services Charges	2.0% annual growth.
Utilities	3.0% annual growth.
Contracted Services	3.0% annual growth on all contracts (development contracts will be reduced while public safety and maintenance will increase more than 3.0%).
CIPs	No General Fund CIP funding after FY 21-22.

General Fund 10-Year Forecast (in $ thousands)
Updated November 2017



It is important to note that in years 5-10 of the forecast Staff uses conservative assumptions, as projecting long term conditions is challenging. Some recessionary factors have been included, such as a one-year decrease in Sales Tax and flat interest income. It is important to note that in the out years, while the numbers fluctuate with new information, the overarching story does not change. As the City nears build out, the focus will be on maintaining facilities rather than building them, and development revenue will not come in as high as it has in recent years. This information was provided to the Task Force to set the stage for its discussions.

TASK FORCE MEETING SUMMARY

The Task Force was originally set to meet bi-monthly for two hours beginning January 25th, 2017 for a total of six meetings, culminating in the production of an advisory document to be presented to the City Council in early 2018. Due to the amount of information that was to be presented to the Task Force, and to give the Task Force adequate time to review and debate the issues, four meetings were added for a total of 10 meetings lasting three hours each. The first five meetings were classified as "informational downloads", in which City Staff presented an overview of the City's finances and major functions of each direct-service department. Following the Staff presentations, Task Force Members were given the opportunity to ask questions on the information presented.

Once the "informational downloads" were complete, the next three meetings were dedicated to decision-making, in which the Task Force worked to develop, review, and revise recommendations which were ultimately included in this report. During this time, the Task Force Members had the opportunity to request additional and clarifying information to aid in the discussion. The November meeting was used for refining the language in the recommendations and making formal votes on the recommendations. The January 2018 meeting was dedicated to reviewing the draft report and discussing the presentation of the materials to the City Council.

The following is a description of the work undertaken at the Task Force Meetings.

January 25, 2017 (Mission and City Finance Introduction)

This first meeting served as an introduction of the Task Force, Staff members, and the Facilitator, Greg Larson of Management Partners. Members discussed their backgrounds and why they were interested in being on the Task Force. Mr. Larson provided a review of the Task Force's objectives and work plan. It became apparent from the on-set that the number of meetings proposed, as well as the meeting length, would not be sufficient to cover the amount of material at the depth necessary to fully understand the City's financial status and formulate recommendations to the City Council. As a result, the work group added four meetings to the schedule. The second half of the meeting included a high-level overview of municipal finances and the City's General Fund Operating Budget presented by Administrative Services Director Colleen Tribby.

February 23, 2017 (10-Year Forecast and Capital Improvement Plan)

As a continuation of the high-level overview from the first meeting, Administrative Services Director Tribby provided an overview of the City's Financial Forecasting, including the 10-year revenue and expenditure assumptions and the City's long-term liabilities and reserve funds. The Assistant Public Works Director/City Engineer Andrew Russell then presented an overview of the City's Capital Improvement Program (CIP). The presentation included information on the CIP budgeting process and funding sources, as well as highlighting some of the City's large parks and streets projects.

March 22, 2017 (Public Safety and Retirement)

Beginning with the March meeting, City department directors were invited to present to the Task Force an overview of their departments and discuss current and future challenges. At this meeting Dublin Police Chief Dennis Houghtelling presented information on the Alameda County Sheriff's police services contract with the City, including service levels and operational budgets. Following the Police Chief Houghtelling, Assistant City Manager Linda Smith and Assistant Administrative Services Director Lisa Hisatomi provided an overview of Dublin Fire Services. Following the presentations, Administrative Services Director Colleen Tribby provided an overview of the CalPERS pension system, the City's retirement benefit provisions and liabilities, and the steps that the City has taken to reduce current costs and address long term liabilities.

April 25, 2017 (Public Works, Community Development and Parks and Community Services)
The departmental review sessions continued with Public Works Director Gary Huisingh, Community Development Director Luke Sims, and Parks and Community Services Director James Rodems. Each presenter provided information on departmental structure, services, and challenges in continuing to provide the same level of services as the City reaches build-out. The Parks discussion included information on the City's park acreage and recreational facilities.

May 25, 2017 (Economic Development and Decision Points)
Assistant City Manager Smith provided an overview of the City's Economic Development efforts, including opportunities and challenges, proposed projects and future development sites, and commercial capacity. After the presentation, Facilitator Larson reviewed the initial Decision Points, or proposals to address the structural deficit, brought forward by the Task Force Members. The Decision Points were classified into four categories:

A. Expenditure-Related: proposals to reduce costs
B. Revenue-Related: proposals to raise new revenues or increase existing revenues
C. Net Benefit Solutions: proposals that would have some initial investment but that would result in cost savings or revenue increases over time
D. Process-Related: proposals that introduce new, or improve existing, processes, that ultimately will help the City be more proactive in addressing future challenges

The original Decision Points brought forward by the Task Force are listed below. Under each of these general categories the Task Force identified specific recommendations which were ultimately voted on. Several categories (shown in italics below) were eliminated or changed in the Final Recommendations, though they were all discussed in detail.

Expenditure-Related Proposals	
E-1	Address General Fund CIP's
E-2	Decrease Park Maintenance Costs (MCE contract)
E-3	*Move to Fixed Retirement Contribution for New Hires*
E-4	Across the Board Departmental Reductions (1 - 5%)
E-5	*Eliminate Cemetery Expansion Plans*
Revenue-Related Proposals	
R-1	Increase Business License Fees
R-2	Increase Parks Use Fees
R-3	Increase Non-Resident Fees
R-4	Increase Overall Cost Recovery for City Programs
R-5	Increase Commercial Growth
R-6	Increase Sales Tax
R-7	*New Public Works Revenues*
R-8	*Full Cost Recovery for Solar Permits*
R-9	*Increase "Buy Dublin" Efforts*

Net Benefit Solutions	
N-1	Downtown Renovation
N-2	*Implement Parking Meters/Enhance Parking Fine Enforcement*
Process-Related Proposals	
P-1	Plan for Appropriate Police Services Growth
P-2	Consider Non-Sworn Police Support (Reserves, Volunteers)
P-3	Realign Reserve Needs
P-4	Tier Budget Response Based on Forecast
P-5	*Require Budget Offsets for New/Increased Services*
P-6	*Establish Base Year with Annual Inflation Thereafter*

*Augus*t 3, 2017 (Decision Packages and Direction, Part I)
Facilitator Larson began the discussion reminding the Task Force of the current projects which showed a $530,000 projected deficit in the City's General Fund operating budget beginning in FY 2021-22 increasing to $3.7 million in FY 2024-25. Administrative Services Director Tribby reviewed the revenue- and expenditure-related Decision Points. Task Force Members discussed the Decision Points and provided ideas on the best way to move forward, narrowing their focus on what the recommendations to the City Council will ultimately include.

September 13, 2017 (Decision Packages and Direction, Part II)
Facilitator Larson reviewed the remaining Decision Points to be considered. The Task Force continued their discussion.

October 19, 2017 (Decision Packages and Direction, Part III)
The Task Force reviewed the remaining points for final discussion and vote during the November meeting.

November 15, 2017 (Final Decision)
Administrative Services Director Tribby began the meeting by providing an overview of the City's most up-to-date financial information including the current 10-year forecast received by the City Council at its November 7 meeting. Director Tribby indicated that with an increase in property tax in FY 2017-18, the first year of the projected deficit was pushed out one year to FY 2022-23. Director Tribby also stated that while revenue numbers may change in the short term, the eventuality of a structural deficit still exists: eventually the City will no longer collect development revenue for large projects, and contracted service costs will rise.

Facilitator Larson then led the Task Force through all Decision Points discussed to date and took a final vote on each.

FINAL RECOMMENDATIONS

The Task Force's recommendations, summarized in the table below, are based on the most current 10-Year Forecast as presented by Staff at the November 7, 2017 City Council meeting,

and based on a final vote tally taken at the November 15 meeting. Final recommendations required a majority vote of Task Force Members (excluding alternates). The three alternates who participated throughout the Task Force process voted with the majority of the Task Force members or abstained, except for one "No" vote on the half-cent sales tax measure. All three alternates voted in support of the full package, along with all but one regular member of the Task Force.

The background information presented to the Task Force to aid the discussions is included in the Appendix to this report.

The Task Force would like to specifically note the following assumptions upon which its recommendations are made:

- Future development revenue and sales tax projections are based only on vested residential and commercial projects and existing businesses; no assumptions about potential changes to zoning and/or potential businesses coming to Dublin have been incorporated.
- Police staffing is held constant at 63 positions (55 sworn, 4 non-sworn, 4 City support staff).

	Recommendation	Estimated Annual Fiscal Impact	Member Vote Tally
EXPENDITURE-RELATED PROPOSALS			
E-1 (a)	Policy Statement: The CIP planning process should include a specific discussion of the future General Fund obligations due to on-going operational costs of the CIP. Future CIP budget books will include an operational impact statement for all projects. Should a CIP project scope be revised, or should a new CIP be created at a time other than the Budget, Adoption, the Staff Report will include the operating impact statement.	None- Policy Statement	Pass: 6-1
E-1 (b)	Policy Statement: As a general policy the General Fund should only be used to fund renovation CIPs, not new CIP's. Should it be determined that the General Fund will be used to fund in whole or part a new CIP, a statement of justification must be included in the project description, indicating why it is necessary to use the General Fund.	None- Policy Statement	Pass: 6-1
E-2	Policy Statement: When considering multi-year maintenance contracts the City must complete	None- Policy Statement	Pass: 7-0

	the full Request for Proposal/Qualification process, including where applicable comparing like services with the other Tri-Valley cities. In addition, contracts should include a review of the performance of the existing service provider.		
E-4	Reduce the General Fund operating budget, exclusive of Public Safety, by at least, $600,000 by the first year of the deficit according to the prior 10-Year Forecast.	Savings - $600,000	Pass: 7-0
REVENUE-RELATED PROPOSALS			
R-1	Do not subsidize the Business License Fee. Continue fee proration throughout the year.	Revenue Increase – $91,000	Pass: 7-0
R-2	Parks and Community Services, excluding the Library, should reach at least a 65% cost recovery rate department wide, within five years.	Revenue Increase - $1,500,000	Pass: 7-0
R-3	Increase non-resident rates to levels comparable to neighboring cities.	Revenue Increase – $25,000 - $125,000	Pass: 7-0
R-4 (a)	Evaluate potential efficiencies at The Wave, once full costs and adjustments are understood. If after several years, the City subsidy continues to be $1 million or more, the Task Force recommends looking into alternative management and operational models including outsourcing.	Unknown	Pass: 4-2-1
R-4 (b)	Consider revising/updating City's current User Fee Policy	Unknown	Pass: 7-0
R-5	Increase Economic Development resources to implement activities as detailed in the Economic Development Strategy.	Potential Revenue Increase	Pass: 7-0
R-6 (a)	Bring Half-Percent Sales Tax Measure to Dublin Voters.	Revenue Increase - $6,200,000	Pass: 5-2
R-6 (b)	Policy Statement: If a Sales Tax measure goes forward to the voters the ballot language should include the potential cuts that the City would have to make if the Sales Tax measure fails, and the impact of those cuts.	None- Policy Statement	Pass: 6-1
NET BENEFIT SOLUTIONS			
N-1	Continue to strategically use the Downtown Public Improvement Reserve to promote and improvement downtown businesses, as exemplified by work that has been undertaken	Increase in costs, funded from reserve. Potential revenue increase due to new businesses /	Pass: 6-1

	on Village Parkway. Consider replenishing the reserve, as funds are used, during Year-End when unassigned fund balance is available.	additional foot traffic.	
PROCESS-RELATED PROPOSALS			
P-1	Budget for additional sworn police officers through buildout and include the officers in the 10 year forecast.	Increased Cost – $250,000 per new position	Pass: 6-1
P-2	Explore the possibility of using non-sworn volunteers in the Police Department.	Increased Cost - start-up costs and on-going operational costs. Potential savings from using volunteers in support of Safety staff.	Pass: 5-2
P-3	Policy Statement: The City should only use the reserve to balance the budget as a matter of last resort.	None- Policy Statement	Pass: 7-0
P-4 (a)	Policy Statement: The City should use one-time money and reserves to invest in new ways to reduce future costs and/or in technologies that create efficiency.	None- Policy Statement	Pass: 7-0
P-4 (b)	Policy Statement: The City shall, during the course of the year, minimize budget adjustments needing Council approval to those issues that have been deemed urgent. All other budget adjustments shall be made as part of the City's quarterly financial report to the City Council. All budget adjustment will include the long-term impact of any approved budget adjustments and once approved will be incorporated in the City's long-term financial forecast.	None- Policy Statement	Pass: 7-0
P-4 (c)	In the event that the Sales Tax measure doesn't pass and the City is in a deficit, the City should explore staffing furloughs at a projected savings of $40,000 per day.	Cost Savings – $40,000 per day	Pass: 5-1-1
	APPROVE TOTAL PACKAGE OF RECOMMENDATIONS		**Pass: 6-1**

The following section provides some context to the Task Force's Final Recommendations. Information on all original Decision Points, including those that did not make the final list, is included in the Appendix.

E-1. Address General Fund CIP's

The Task Force believes that the full impact of capital improvement projects (CIPs) should be clear to both the City Council and the public. To that end, they recommend all CIPs should include a clear statement of their future operational impact on the General Fund. In addition, the Task Force recommends that as a general policy the General Fund should not be used for new CIP's, given the projected deficit.

E-2. Decrease Park Maintenance Costs

Initially, the discussion was focused on detailing maintenance costs at City parks and looking for areas of efficiencies. This proved difficult as the group did not have reliable comparative data from other agencies and could not responsibly suggest specific service reductions. Instead, emphasis was placed on the need to conduct a full competitive bid process when the maintenance contract with MCE Corporation is next up for renewal. The Task Force felt that long term contracts should not be renewed without a periodic review of performance and a study of comparable services in other similar organizations to ensure the City is getting the highest level of service for the best possible price. The Task Force noted that one of the possible outcomes of such a comparison could be the City's consideration of multiple contractors to perform the work currently being provided by MCE, if that makes financial sense.

E-4. Across the Board Reductions

The Task Force sought to balance the need for cost reductions while maintaining a high level of service. The Task Force discussed in depth the potential for across-the-board cuts on a percentage basis, but ultimately decided upon a dollar amount that the General Fund should be reduced. The Task Force recommends leaving the decision of what to cut to City staff, as opposed to singling out any single function or department. The Task Force agreed on a minimum reduction of $600,000, exclusive of Public Safety, by the first year of the projected deficit.

It should be noted that this proposed reduction is in addition to overall cost recovery proposals discussed in this report.

R-1. Increase the Business License Fee

As part of the City's 2012 User Fee Study that was used to adopt a Master Fee Schedule, it was determined that it cost the City $72.85 to issue a business license. During the adoption of the

Master Fee schedule, the City Council opted to set the fee at $50.00 and to pro-rate it for partial year licensing, to encourage compliance and support economic development.

The Task Force discussed this issue and reviewed the business license practices in surrounding cities, and is recommending that the City charge the full cost of the fee, and that pro-rating the fee should continue. Using 2012 numbers, the difference is roughly $91,000 per year that the City could potentially collect.

Note: the City is currently undertaking an update to the User Fee Study, therefore the actual City cost may will likely change.

R-2. Increase Parks Use Fees

This category focused initially in rental rates for City parks and facilities, and the Task Force evaluated Dublin's rates as compared to neighboring cities. There was consideration of the fact that Dublin's rates for other public agencies and sports leagues is lower than in surrounding communities, but it was determined that that category is not a particularly high revenue-generator.

The Task Force decided that a more holistic approach to the City's provision of parks and community services was needed; in particular, in light of at the existing overall cost recovery rate of 50% the Task Force felt that the larger impact would be felt by achieving a 65% cost recovery rate over five years for the entire PCS Department (excluding the Library). This is estimated to generate $1.5 million in additional revenue (or in cost savings) to the General Fund.

R-3. Increase Non-Resident Rates

The City of Dublin currently charges non-Dublin residents 20% more than Dublin residents for Parks and Recreation classes. This premium is consistent with the Tri-Valley area, though San Ramon's non-resident premium is at 25%.

Based on data from PCS, non-residents make up roughly 15% of total program registrations. Assuming 15% Non-Residents across all program categories, including the 20% premium, Non-Resident revenue would be approximately $500,000. For every 1% that Non-Resident rates were increased, Dublin would receive an additional $25,000 in revenue. Note: this assumes no reduction in registrations.

R-4. Increase Overall Cost Recovery for City Programs

As an expansion of the PCS cost recovery discussion, the Task Force felt it was important to call out increased cost recovery at The Wave as a separate item. There was significant interest by the members in finding ways of reducing the General Fund's projected subsidy of $1 million per year for operations at the City's new aquatics complex. While some members felt that the City

does not yet have enough information to make significant changes to the way the facility is run, the majority determined that contracting the service to an outside entity is a viable option.

In addition, the Task Force concluded that with the next User Fee Study (to be completed in the next few months), the City should focus on full cost recovery efforts for all services it provides.

R-5. Increase Economic Development Activities

The Task Force emphasized the need for a strong focus on work that supports initiatives identified in the Economic Development Strategy.

R-6. Increase Sales Tax

Of all Decision Points discussed, the Sales Tax Measure has the greatest immediate positive impact on the General Fund. The Task Force evaluated a quarter-percent measure and a half-percent measure, deliberated about their impacts on the Dublin consumer, and considered the potential for another public agency (the County, BART, or a special district) to pass its own sales tax measure, thus directing those potential funds away from the City. The group looked at recent similar measures, rates of success, and uses of such funds, and ultimately determined by majority vote that the City should move forward with a measure on a future ballot.

In addition, the Task Force agreed that any language used to advocate for such a measure should clearly identify the potential impacts to the City should the measure not pass and the City is still in a deficit position. This includes identifying service cuts or other budget-balancing solutions the City would undertake that would impact Dublin residents.

N-1. Downtown Renovation

The Task Force determined that the City should continue to promote and improve Downtown businesses similar to the work that has been recently done on Village Parkway. The Task Force also felt that, should the City have one-time funds available, it should consider setting funds aside for future investment in in the Downtown area. The recommendation is centered on the idea that the use of use one-time monies and reserves to fund projects may positively impact the City's revenues or save the City money in the future.

P-1. Plan for Police Services Growth

The importance of public safety was a consistent and universal theme throughout the Task Force meetings. The group praised the work of Dublin Police Services, while acknowledging the rising cost of the contract (the Alameda County Sheriff's Office contract for police services is the largest single cost to the City). The Task Force had multiple discussions about the increase in the cost of the contract and the potential need for additional police staffing as the City continues to

grow. To that end, the Task Force recommends a policy statement to continue to plan for the expansion police services in the 10-Year Forecast.

P-2. Consider Non-Sworn Police Support

As part of the discussion around the need to increase public safety support, the Task Force discussed the use of non-sworn volunteers to supplement enforcement and provide an additional public safety monitoring presence in the City, as is done in other California cities such as Lincoln, Newark, Palm Springs, Rancho Cucamonga, and Santa Paula. The use of volunteers is not meant to supplant the hiring of additional sworn officers, but to supplement them, possibly delaying the need for additional sworn staff. The Task Force believes this could potentially save money in the future while providing additional service to Dublin residents. It should be noted that the Task Force recommendation comes with the understanding that any program such as this would require operational support and guidance from the Alameda County Sheriff's Office.

P-3. Realign Reserve Needs

The Task Force discussed the General Fund reserve categories and restrictions of use and evaluated the potential to use reserves as a budget balancing solution. The Task Force acknowledged the health of the City's reserves and agreed with the City's practice of using budgetary surplus to shore up reserves against future liabilities (such as pension and retiree health obligations). The group determined that reserves are one-time funding sources that should only be used for General Fund budgetary solutions as a temporary, last resort.

P-4. Tier Budget Response Based on Forecast

The Task Force discussed tiered levels of budget reductions based on changes in the Forecast; however the group ultimately recommended the consideration of several policy statements to guide the future budget process. These policies address the following:

1) The use of one-time funds on projects that reduce costs or create revenues over time (such as investment in new technologies that create operational efficiencies);
2) A more controlled and transparent process for bringing mid-year budget amendments to the City Council; and
3) The use of furloughs in the event of a deficit and no new sales tax revenue.

CONCLUSION

The recommendations contained in this report represent the good faith work of the Fiscal Sustainability Task Force over the last year.

APPENDIX:
Information Provided to the Fiscal Sustainability Task Force

R-1 – Increase Business License

Overview

The topic of business licenses has been brought up on multiple occasions through discussion during Task Force meetings and in member correspondence asking for more information. The following is an overview of Dublin's Business License fee, what flexibility the city has in terms of increases/decreases in the fee and how Dublin compares to the rest of the Tri-Valley area.

Most Important: The City of Dublin Business License is a fee not a tax.

There have been many inquires about revenue the City could generate by increasing the cost of Business Licenses fees to certain benchmarks such as $100 or $200. However, since this is a fee rather than a tax, the maximum the City can charge is equal to the cost of providing the service (i.e., to issue licenses and renewals, and to maintain the database) and is determined by a User Fee study. The current maximum fee the City can charge is $72.85 as determined by the City's 2012 User Fee study. The City is currently undertaking a new User Fee Study which will give us an updated cost of this service.

The current fee is $50.00 and is Pro-Rated.

A User Fee Study determines how much it cost for a City to perform a service or task, which per Prop 218, with few exceptions, is the maximum a City may charge. The City does have flexibility when it comes to charging less than the full fee. During the adoption of the Master Fee Schedule, the City Council decided to set the Business License Fee at $50.00 "to encourage compliance and support economic development". In addition, the fee is prorated at $4.17 per month if a business license is obtained for a partial year (business licenses must be renewed annually on the Federal Fiscal Year – October 1 – September 30).

Based on data provided during the last User Fee Study, the average fee paid was $42.50, due to prorating the fee.

Estimated General Fund Subsidy

Based on the projected revenue for FY 2017-18 generated from Business License Fees, and the $72.85 total cost as calculated in 2012, the City is currently subsidizing this service by **$121,400.** Approximately $30,000 of the subsidy is due to prorating.

Items for Consideration

Consider 1) whether the General Fund should subsidize the cost to provide Business Licenses; and 2) whether to prorate the Business License Fee for a partial year.

R-2: Increase Park Use Fees

Overview

In the FY 2015-16 the City spent $2,624,000 on parks and open spaces.

Maintenance	$1,923,000
Utilities	$701,000
Total	**$2,624,000**

During the same period, the City received $249,300 in revenue for rental of sports fields and picnic areas.

Sports Field	$219,000
Picnic Area	$30,330
Total	**$249,330**

The City charges field rental fees based on a tiered system. Note: this does not include all fees such as lighting and synthetic turf.

Tier	Dublin Rates	Pleasanton/San Ramon (Avg)
Tier 1: Public Agencies Serving City	$7.00	$14.52
Tier 2: Dublin Sports League Organizations	$7.00	$14.52
Tier 3: Non-Profit Organizations	$16.80	$17.00
Tier 4: Residents	$21.00	$15.40
Tier 5: Non-Residents	$25.20	$24.75
Tier 6: Commercial Residents	$33.60	$23.56
Tier 6: Commercial Non-Residents	$40.30	$27.25

Revenue generated in Dublin by each tier is as follows:

Tier	% of Field Usage	Estimated Revenue
Tier 1	1.45%	$3,165
Tier 2	87.63%	$191,901
Tier 4	1.66%	$3,626
Tier 5	9.14%	$20,006
Tier 6: Non-Residents	0.14%	$302
Total		$219,000

Items for Consideration

Based on usage, for every dollar that all fees are increase for all tiers, assuming no reductions in field rentals, the City would receive an additional **$28,883**.

Tier	$1.00 Increase Additional Revenue
Tier 1	$459
Tier 2	$27,419
Tier 3	$0
Tier 4	$180
Tier 5	$797
Tier 6 – Resident	$0
Tier 6 – Non- Resident	$29
Total	$28,883

R-3: Increase Park Non-Resident Fees

Overview

The City of Dublin currently charges non-Dublin residents 20% more than Dublin residents for Parks and Recreation classes. This premium is consistent with the Tri-Valley area.

In Fiscal Year 2015-16, the Parks and Community Services Department's (PCS) program revenue was as follows:

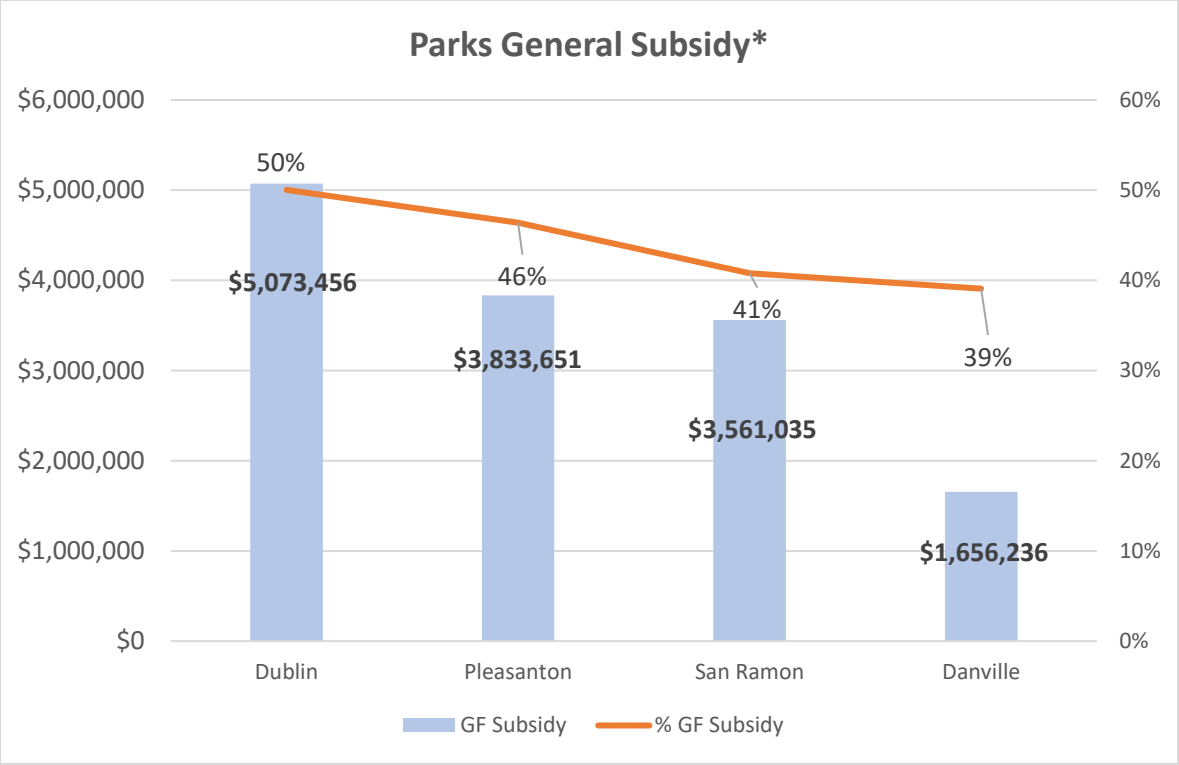
Revenue Source	Amount
Cultural Activities	$5,423
Heritage Center Programs	$14,364
Family Programs	$748,950
Recreational Activities	$503,508
Preschool Programs	$363,212
Senior Programs	$110,463
Sports Programs	$849,202
Aquatic Programs	$237,369
Total	$2,832,495

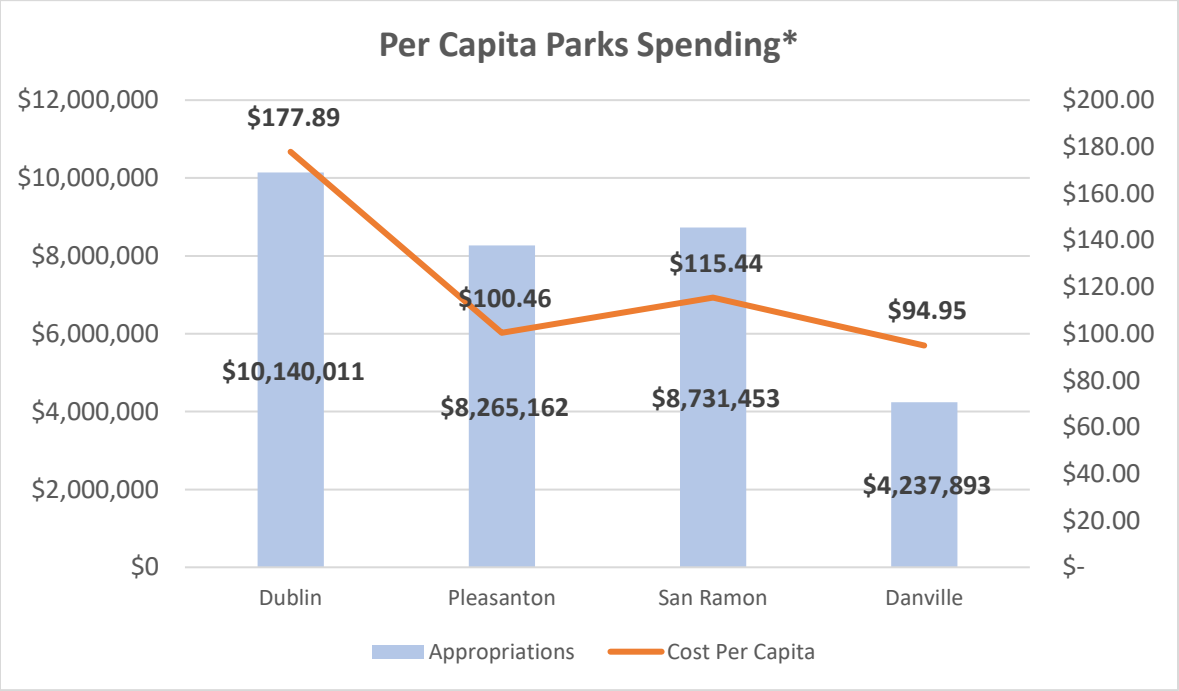
Based on data from PCS, non-residents make up roughly 15% of total program registrations. Assuming 15% Non-Residents across all program categories, including the 20% premium, Non-Resident revenue would be approximately $500,000. For every 1% that Non-Resident rates were increased, Dublin would receive an additional $25,000 in revenue. Note: this assumes no reduction in registrations.

Non-Resident Rate	Increased Revenue	Estimated Total Revenue
Resident + 20%	**$0**	**$500,000**
Resident + 21%	**$25,000**	**$525,000**
Resident + 22%	**$50,000**	**$550,000**
Resident + 23%	**$75,000**	**$575,000**
Resident + 24%	**$100,000**	**$600,000**
Resident + 25%	**$125,000**	**$625,000**

Local Rec Program Premiums for Non-Residents

City	Non-Resident Rate
Pleasanton	Non-Resident 10% increase in costs
Danville	Non-Resident 20% increase
Dublin	Non-Resident 20% increase
San Ramon	Non-Resident 25% increase





*Does not include the cost associated with the Dublin Library

Items for Consideration

Should the City increase the Non-Resident premium, and if so, to what level?

R-4 – Increase overall cost recovery for City Programs

Overview

The City recovers costs for City programs/services through user fees. The City's User Fee Cost Recovery Policy requires the completion of a comprehensive User Fee Study every five years to assure that these user fees reflect the City's underlying costs. Furthermore, the Policy states that "absent reasons to the contrary, the City will set user fees at a level to recover the total cost of delivering the related service, including indirect costs". To ensure that the fees keep pace with annual increases in City costs, the Policy includes an automatic annual increase to fees based on the consumer price index. The City is currently working with consultants on a new study, which is anticipated to be completed by the end of 2017.

After reviewing the 2011 User Fee Study, the City Council approved a fee schedule that included a City subsidy of 57 fees (including building and solar permits), at an estimated total subsidy of $380,000. The current dollar figure of the subsidy is unknown, as the new study is not yet complete. However, the majority of the fees that are subsidized, would net little revenue to the city with the exception of two fees 1) the Business License 2) Conditional Use Permit.

Parks and Community Services Program Revenue

The above information does **not** include Parks and Community Services fees, which are set by a separate pricing policy and are not calculated through the user fee study process. The Parks and Community Services Pricing Policing (PCS Pricing Policy) was first adopted by the City Council on September 21, 2010 and revised on June 21, 2016. Where the user fee study looks to set rates at full cost recovery the PCS Pricing policy sets the goal of a 65% cost recovery minus the cost of the Library.

The General Fund Subsidy for Parks and Community Services (minus the Library) for FY 2017-18 is $5.0 million which represents a cost recovery of 50%.

Items for Consideration

User Fees (Non-PCS):

The current User Fee Cost Recovery Policy already provides for the City to recover the City's full underlying costs including departmental and citywide overhead costs, with the exception of fees that are subsidized for reasons of economic development, resident access to programs/services and health and safety. In Addition, the Business License fee is being addressed separately and increasing the Conditional Use Permit fee would directly affect Dublin resident access to service.

PCS Fees:

Does the Task Force want to recommend an adjustment to the current Pricing Policy of 65%?

R-5: Increase Commercial Growth / Increase "Buy Dublin" Efforts

Overview

The City of Dublin already employs a robust economic development strategy, which includes a "Buy Dublin" effort and which was developed with the help of Economic & Planning Systems, Inc and stakeholders from all facets of the business community. A copy of the report detailing the economic development strategy has been distributed to the Task Force. The City believes that any additional efforts will not result in any new bankable revenue for the City and as such recommends that the current efforts continue.

Items for Consideration

Staff is providing this as an informational item.

R-6: Increase Sales Tax

Overview

The Sales Tax rate in the City of Dublin is 9.25%, allocated to various agencies as follows:

Sales Tax Break Down (Alameda County)

Rate	Jurisdiction	Purpose
3.6875%	State	State General Fund
0.25%	State	State General Fund
0.50%	State	Local Public Safety Fund (Support Local Criminal Justice)
0.50%	State	(1991 Realignment) – Support Local Health & Social Services
1.0625%	State	2011 Realignment
1.00%	Local	City Operations
0.25%	Local	County Transportation
7.25%	Total Statewide Rate	
0.50%	Alameda County	Hospital
0.50%	Alameda County	Transportation
0.50%	Alameda County	Transportation
0.50%	Alameda County	Transportation
9.25%	Alameda County Rate	

Since the passing of Prop 13, the options for cities to generate revenue have continually declined or become much more difficult. One option agencies have is to seek a voter-approved increase to the Sales Tax rate, the proceeds from which would belong solely to the agency passing the measure.

Projected Additional Revenue in Dublin from Sales Tax Measure

% Increase	Additional Revenue
.25%	$3.1 million
.50%	$6.2 million

The maximum Sales Tax that can be charged in Alameda County without a legislative waiver is 9.75%.

City Sales Tax Rates in Alameda County

City	Rate
Albany	9.75%
Hayward	9.75%
Newark	9.75%
San Leandro	9.75%
Union City	9.75%
Alameda	9.25%
Berkeley	9.25%
Dublin	**9.25%**

Emeryville	9.25%
Fremont	9.25%
Livermore	9.25%
Oakland	9.25%
Piedmont	9.25%
Pleasanton	9.25%

Alameda County Cities with Sales Tax Increases

Albany

Type	General Tax
Rate	0.50%
Effective	April 1, 2013 – March 31, 2021
Measure	Measure F - **79.88% (Pass)**
Estimated Revenue	$1.1 Million/Annually

Hayward

Type	General Tax
Rate	0.50%
Effective	October 1, 2014 – September 30, 2035
Measure	Measure C – **67.36% (Pass)**
Estimated Revenue	$10 Million/Annually

Newark

Type	General Tax
Rate	0.50%
Effective	April 1, 2017 – March 31, 2042
Measure	Measure GG – **61% (Pass)**
Estimated Revenue	$3.5 Million/Annually

San Leandro

Type	General Tax
Rate	0.50%
Effective	April 1, 2015 - March 31, 2046
Measure	Measure HH – **64.45% (Pass)**
Estimated Revenue	$11 - $13 Million/Annually

Union City

Type	General Tax

Rate	0.50%
Effective	April 1, 2011 – March 31, 2025
Measure	Measure JJ **– 73.74% (Pass)** – JJ extended previously approved (November 2010 m- Measure AA) tax for 10 years.
Estimated Revenue	$4.5 Million/Annually

General vs. Special Tax

General Local Sales Taxes cannot be allocated for a specific purpose and must be approved by a majority (50%+1) of the vote in the city.

Special Local Sales Taxes are for a specific purpose and can only be used for that purposes, these are most commonly used for Police/Fire and Transportation/Streets/Roads. Special Taxes must be approved by a supermajority (66%+1).

California Local Sales Tax (Add-Ons)

As of April 1, 2017 California had 176 cities with approved Local Sales Taxes; 27 were Special Taxes.

Rate	**0.25%**	**0.50%**	**0.75%**	**1.00%**	**1.25%**	**1.50%**	**1.75%**
#	13	84	18	53	2	5	1

From 1995 through November 2016 (537) proposals for local Sales Taxes have been submitted to the voters (City and County)

	General Tax	**Special Tax**
Proposed	324	213
Approved	230	92
%	**71%**	**43%**

Cities general purpose taxes have shown a greater rate of success that county measures passing 76% (224/295) of the submitted measures. Approximately half of the special purpose taxes submitted by cities have passed 50% (40/79). Sales Taxes structured as a majority vote has and continues to be the most popular and successful revenue tool for cities, in part to due to the lower threshold for approval.

Sales Tax Recession Impact

The following projection includes what could happen in a mild economic downturn and is similar in scale to the recession of the early 2000's. The projection takes into consideration the City's heavy reliance on automotive sales. The below figures are already calculated into the City's 10-year forecast.

2016-17 Projected	**2017-18 Budgeted**	**2018-19 Projected**	**2019-20 Projected**	**2020-21 Projected**	**2021-22 Projected**
$20,666,260	$20,296,801	$20,615,327	$20,446,605	$21,742,279	$22,297,711

Items for Consideration

Would the Task Force consider recommending a City Sales Tax Measure? If so, what level and type of Sales Tax increase would best serve the City?

Does the Task Force want Staff to bring back information related to other tax mechanisms? (TOT, UUT)

R-7: New Public Works Revenue

Overview

Special Districts are a common tool for agencies to finance the operating cost of maintaining streetlights, landscaping, general maintenance, and other related items, or the capital cost of infrastructure, in specific areas.

Types of Funding

Districts are required to be approved by the property/landowners who will benefit from the improvements, although the voter approval threshold and process vary by district. The following is a list of the most commonly used forms of Special Districts.

Type	Description
Benefit Assessment District	Benefit Assessments are commonly used by local government to pay for fire suppression, sewer, sanitation and flood control services. **(Government Code 54710)**
Geological Hazard Abatement District	Provides a vehicle for property owners to finance and share the potentially high costs or preventing and controlling geologic threats to properties **(Public Resources Code 26500)**
Abatement Districts	Created to pay the costs of preventing and controlling threats to public health and property. Two most common: 1) Mosquito Abatement District 2) Vector Control Districts **(California Health and Safety Code 2200)**
Business Improvement Districts	Allows business owners to approve an assessment to pay to increase services and promote their district. **(Streets & Highways Code 36500 & 36600)**
Mello-Roos Community Facilities District	Allows for financing of public improvements and services, including streets, sewer system and basic infrastructure, police protection, fire protection, ambulance services, and parks **(Government Code 53311-53368.3)**
Community Rehabilitation Districts	Created to finance the rehabilitation, renovation, repair or restoration of existing public infrastructure, but cannot be used to pay for maintenance. **(Government Code 53370)**
Maintenance District	Create to finance the costs of maintaining open space, parks, playgrounds and other public areas. **(Government Code 50575)**
Landscaping and Lighting Districts	Created to pay the costs of landscaping and lighting public areas and to finance parks, open space and community centers **(Streets & Highways 22500)**

The City currently has the following Special Districts:

Landscape and Lighting

- 1983-1 Street Lighting
- 1983-2 Stagecoach Landscape
- 1986-1 Dougherty Landscape
- 1997-1 Santa Rita Landscape
- 1999-1 East Dublin Street Lighting

Geologic Hazard Abatement Districts

- Schaefer Ranch
- Fallon Village Annex/Jordan Ranch
- Fallon Crossing

Mello-Roos Community Facilities Districts

- 2015-01 Dublin Crossing
- 2017-01 Dublin Crossing (Public Services)

In addition Dublin Residents reside in one or more Mosquito and Vector control abatement districts, which are not controlled by the City.

Items for Consideration

Staff is providing this as an informational item.

R-8: Full Cost Recovery for Residential Solar Permits

Overview

Residential Solar Permits

The City's current residential Solar permit fee is $250, for any size system. This fee was set by City Council as part of the City's green building program to enhance public health and welfare by encouraging green building measures in the design, construction and maintenance of buildings. The full cost as calculated as part of the 2012 User Fee study was $327.

The City's permit fee is currently below the State maximum as set by SB 1222 which states, residential rates have a max fee of $500 for a 15Kw system or less and $15 for each KW above the 15KW.

Commercial Solar Permits

SB 1222 set the commercial rate for permit fees at a max of:

Size	Amount
Up to 50Kw	**$1,000**
51Kw to 250 Kw	**$7.00 for each additional Kw**
251Kw and above	**$5.00 for each additional Kw**

The City's Commercial permit fee rate is **not** subsidized and is as follows, $972 (for one inverter and up to ten panels); $110 per additional inverter; and $125 per each additional 100 panels. When a permit is processed in the City system, the database calculates the City fee and the State maximum fee. Should the City fee by higher, the system will charge the applicant only up to the State maximum.

In FY 2015-16 the City received:

Fee Type	Number of Permits	Revenue
Commercial	6	$7,820
Residential	524	$131,000
Total	**530**	**$138,820**

Estimated General Fund Subsidy

Based on the number of permits, the City is subsidizing this service by **$40,348. Please Note:** The subsidizing of the residential solar permit fee is part of the City's Climate Action Plan which addresses targets established by SB 350 to reduce greenhouse gas emissions to 40% below 1990 levels by 2030.

Items for Consideration

Would the Task Force like to consider recommending increasing the cost recovery to a level closer to the maximum allowable?

Additional Information: (R-2: Increase Park Use Fees/ R-3 Increase Park Non-Resident Fees)

Overview

At the August 3rd Task Force meeting staff presented information on multiple topics related to Parks and Community Services (PCS). The Task Force requested that additional information be provided that showed the expenses and revenue for the whole PCS program, to put the previous information in context. The prior information/decision points that were presented was

- Increase Park Use Fees
- Increase Park Non-Resident Fees

The following discussion does not include the cost of the Library, which is a cost placed in the PCS budget, but which is a City program and City cost and not that of anyone City Department. In addition the Library costs are not included due to the fact that the City's PCS pricing policy also excludes the costs. The City Council has set the cost recovery target for PCS at 65%.

The PCS budget has increased 88% ($4.8 million) since FY 2012-13, while the departments General Fund subsidy has increased 119% ($2.77 million). During the same time period excluding PCS the City's operating budget grew 38%. (**Note:** The below numbers do **not** include the cost to maintain the City parks. These costs are reflected in the Public Works budget)

	FY 2012-13 Actuals	**FY 2013-14 Actuals**	**FY 2014-15 Actuals**	**FY 2015-16 Actuals**	**FY 2016-17 Actuals**	**FY 2017-18 Adopted Budget**
Expenditures	5,380,103	5,671,310	5,942,186	6,805,690	8,100,787	10,140,011
Revenue	3,073,969	3,426,991	3,738,237	3,747,907	3,731,185	5,066,555
GF Subsidy	**2,306,134**	**2,244,320**	**2,203,950**	**3,057,784**	**4,369,602**	**5,073,456**
Cost Recovery %	**57.1%**	**60.4%**	**62.9%**	**55.1%**	**46.1%**	**50.0%**

As indicated in the chart above the City's current budgeted Cost Recovery percentage is 50%. To reach the 65% threshold PCS would need to collect an additional $1.5 million. The following is an overview of the PCS Cost Recovery by Program area along with the FY 2017-18 Adopted Budget Expenditures.

PCS Program	**Cost Recovery %**	**FY 2017-18 Adopted Budget**
Human Services	**2.6%**	**$290,200**
Historical Facilities Operations & Rental	**42.4%**	**$209,150**
Dublin Cemetery	**85.0%**	**$7,321**

Heritage Center Programs	**11.0%**	**$226,216**
Cultural Activities	**53.4%**	**$393,835**
Community Events & Festivals	**26.1%**	**$698,181**
Facility Operations& Rentals	**34.2%**	**$1,385,602**
Parks & Community Services Admin	**0.0%**	**$1,821,447**
Family Programs	**136.2%**	**$544,245**
Recreational Activities	**103.0%**	**$309,285**
Preschool Programs	**144.3%**	**$249,413**
Senior Programs	**21.7%**	**$443,728**
Sports Programs	**107.1%**	**$720,929**
EGRAC	**62.0%**	**$2,877,750**

Items for Consideration

Create a Policy Statement that requires the Parks and Community Service Department to obtain a 65% cost recovery within 5 years, with benchmarks for each year leading up until the 65% mark to avoid a dramatic increase in costs and/or reduction in services.

E-1: Address General Fund CIP's / E-5: Eliminate Cemetery Expansion Plans

Note: Items E-1 and E-5 have been combined and replaced as Decision Point E-1

Overview

The majority of the City's capital improvement projects result in an ongoing operating impact on the City's General Fund. The Task Force has discussed the importance of weighing these costs when determining whether a project should move forward. In addition, specific General Fund reserves have been set aside to fund capital projects – the Task Force is scrutinizing these uses for relevancy/feasibility in the current financial climate.

On July 15, 2017, the City Council discussed future capital projects requiring General Fund contributions. This item was continued to August 15th to allow Staff to provide the City Council with additional information.

Items for Consideration

These decision points are related to actions the City Council will likely consider in the near future.

Pending City Council action removing the cemetery expansion project, it is recommended that, should the Task Force wish to address this topic in its final recommendations to the City Council, it should create a policy statement, such as the following:

"The CIP planning process should include a specific discussion of General Fund obligations, for both capital funding needs and operational funding needs."

E-2: Decrease Park Maintenance Costs (MCE Contract)

Overview

The budget for the MCE contract for FY 2017-18 is $5.6 million. The following is list of the major cost components of the work performed by MCE, with potential savings and impacts of cost cutting. If all cost cutting actions are implemented, the City would save approximately **$ 656,400** annually.

1. Turf

Cost Cutting Actions

- Reduce mowing schedule by 50%
    - Parks – 2x a week to 1x a week
    - Neighborhood parks – 1x a week to 1x every other week

Impact

The City currently uses recycled water in the major of the parks, which causes grass to grow at a high rate. Reducing the mow schedule would result in 40% cost savings (longer grass results in longer mow times). Longer grass could impact user groups.

FY 2017-18 Budget

Task	Budget	Estimated Savings
Mow Schedule	**$316,000**	**$126,400**

2. Trees

Cost Cutting Actions

- Reduce tree staking and pruning
- Eliminate tree replacement (note – the City Council recently re-funded tree replacement)
    - Tree pruning and removal will be focused on public safety to accommodate sidewalk encroachment and vertical pedestrian clearances. Removal will be limited to dangerous trees.

Impact

The cost cutting actions would result in a reduction of approximately 50% in tree maintenance. Any reduction in tree pruning service level will result in deferred costs, as the tree will continue to grow and lack of pruning in any given year will result in one-time maintenance that takes longer and is more expensive. Additionally, if trees are not pruned, this can become a liability to the City, especially in winter months, as the unpruned trees become saturated and the risk of tree-related damage increases. Please note: that the MCE budget in FY 2016-17 was the first year that tree pruning/upkeep was restored to pre-recession levels. The City has approximately 8,550 trees.

FY 2017-18 Budget

Task	Budget	Estimated Savings
Tree Upkeep	**$301,000**	**$164,000**

3. Shrubs/Bedding/Leaves

Cost Cutting Action

- Reduce pruning from 2x a year to 1x a year
  - Focus on sidewalks and high traffic areas
- Reduce leaf clean up
  - Focus on high traffic areas

Impact

As with reduced tree upkeep, the reduction in shrub/bedding pruning will result in a deferred cost as the pruning will eventually need to occur. A reduction in leaf clean-up may cause additional costs in maintaining the City's storm water system as a building in leaves and debris can be costly to clean and cause street flooding. The City has 220 acres of City parks and 74 landscape acres.

FY 2017-18 Budget

Task	Budget	Estimated Savings
Shrubs/Bedding	**$998,000**	**$300,000**
Leaf	**$165,012**	**$66,000**

4. Park Restrooms Maintenance

The City currently spends approximately $300,000 annually on park restroom maintenance. A neighborhood park costs the City between $10,000 - $15,000 annually, with heavier-trafficked parks such as Fallon and Emerald Glen costing $45,000 each annually. MCE has not provided an estimate of potential cost-cutting measures and impacts of those, although Staff believes a reduction in service or availability could produce significant savings, should it become necessary.

Items for Consideration

Should the City explore any reduction to the services described above?

E-3: Alternate Retirement Option

Overview

This paper is meant to address issues brought up by the Task Force regarding alternate retirement options, available to CALPERs or 1937 Act Retirement systems. The 1937 State County Employees Retirement Law (CERL), allowed Counties to establish retirement systems for County Employees. The following is not a legal opinion nor has any legal counsel been sought. The majority of research is from information available from CALPERs.

Do all California City Government agency participate in a Defined Benefit Plan, such as Calpers?

No, but of the 459 California municipalities identified in a recent study only 10 had no defined benefit plan with only two of those cities having populations over 24,000 (Danville and Lafayette).

City	Population	City	Population
Danville	43,146	Mendota	11,225
Holtville	6,154	Orinda	18,089
Huron	6,843	Rio Dell	3,347
Lafayette	24,659	San Juan Bautista	1,905
McFarland	13,745	Trinidad	361

- Of the non-PERS agencies that could be identified, the average maximum Employer contribution is between 10% - 15%.
- Orinda was the only municipality that could be identified as once having a defined benefit plan for all employees. The defined benefit plan for non-safety employees was phased out in the late 90's. Orinda current contracts with Contra Costa Sheriff for Police Services.

Can a CalPERs contracted municipality have a split retirement system that includes both a Defined Benefit Plan and a Defined Contribution Plan?

No. CalPERs contracted municipalities cannot have a split plan, as this would violate current Public Employee Retirement Law (PERL). Currently the only way to establish a Defined Contribution plan would be to place a hard freeze (stopping future service accruals for all (current and future) employees) on the Defined Benefit plan.

Can a City implement a hard freeze?

Yes, but there would be significant hurdles. Municipalities have in fact approved a hard freeze for their organizations, but in cases that could be researched, one of two situations occurred: 1) the organizations no longer had employees eligible to receive pensions; or 2) had themselves been dissolved (i.e. small special districts absorbed into other municipalities). Another option would be for current employees of an organization to agree to a hard freeze in exchange for an alternative benefit.

While a City could attempt to unilaterally institute a hard freeze, without employee consent, outside of bankruptcy, it would in all likelihood be seen as a violation of the "California Rule" which comprises a series of court decisions ruling that the pension promised on the date of hire becomes a vested right, protected by contract law, that can only be cut if offset by a new benefit of comparable value.

In the case of Orinda, a soft freeze was implemented where current employees were allowed to keep the Defined Benefit plan and new employees were placed into a Defined Contribution plan. This is now against the law.

What would be the cost for Dublin to get out of CALPERs?

A lot. Assuming all other hurdles were dealt with the cost for the City of Dublin to leave CalPERs would be between $44,711,069 and $63,641,481 as of the most current valuation. In addition this amount would be required to be paid immediately upon termination from CALPERs (no multiple year payments plans are available).

Why is the Termination Liability so much higher than the City's current unfunded liability?

CALPERs policy is to use a discount rate for "risk-free securities" which is a blended rate of various Treasury bond maturities, but which is closely aligned with the yield of the 20-year Treasury Bond, which was approximately 2.75% as of the release of the current actuarial report.

Does the City have any options in terms of CALPERs?

Yes and No. Options to change benefits within CALPERs are available. Prior to 2013 the most common action was to lower the benefit level for future employees. With the passage of PEPRA (Public Employees' Pension Reform Act), the State took that step for all municipalities for anyone hired into the system after January 2013. The largest impact of PEPRA in terms of employer savings was shifting all new employees to a new, likely lower, State retirement formula. For the City of Dublin that works out as follows:

Retirement Age	**55**	**62**
Classic PERS Factor	2.7%	2.7%
PEPRA Factor	1.3%	2.0%

EXAMPLE:

	Benefit	**Compensation**	**Years of Svc**	**Benefit Factor**
Classic	2.7@55	$100,000	30	.027 x $100,000 x30 =**$81,000**
PEPRA	1.3@55	$100,000	30	.013 x $100,000 x30 =**$39,000**

What actions has the City of Dublin taken?

The City of Dublin provides two retirement benefit plans, the City's pension plan and retiree health care. Both plans have unfunded liabilities and are long-term liabilities for the City. The following is a list of actions taken by the City and City Staff to address them:

Retiree Health (OPEB):

- Fully funded annual retirement contribution (ARC). In FY 2015-16 Dublin had the highest OPEB funding percentage in all of Alameda County (Note: Most cities institute a pay-as-you-go approach to OPEB funding (i.e not setting funds aside). Dublin fully funds the OPEB ARC to help ensure future benefits are funded.

- Beginning January 1, 2016 all new employee receive the minimum OPEB benefit of $125/month compared to $1,680/month. Projected savings is $4.4 million over 15 years.
- Pre-funded additional $1,000,000 in FY 2015-16, saving $120,000 per year.

CALPERs Pension:

- Shifted 7% of the City's annual pension costs to the employees – saving approximately $700k annually.
- Implemented PEPRA (State Law), reducing pension benefits for new PERS members. It is estimated that within 20 years of implementation, all active employees will be PEPRA members.

Status	Classic	PEPRA
Active	80	11
Transferred	47	0
Separated	34	1
Retired	71	0
Total	**232**	**12**

- Budgeted for lump sum payments against unfunded liabilities (in addition to fully funding the annual required contribution):
    - FY 2015-16 - $250,000, FY 2016-17 - $750,000, FY 2017-18 - $1,000,000.
- Created Post-Employment Benefits Trust Program with Public Agency Retirement Services (PARS) to Pre-Fund Pension Obligations. This allows for greater interest earnings and acts as protection against potential future budget hits. Any assets invested with this new trust count against the City's unfunded liability.

City of San Diego

In 2012 the City of San Diego placed Measure B on the ballot which would create a dual pension system, in which all new hires would be placed into a new "401 (k) – style" plan, while current members would remain in the "classic pension" system. Coming out of the great recession left many cities hanging on a thread trying to balance budgets while seeing pension obligation continue to increase, it was this that prompted the City of San Diego to act. The measure ultimately passed, was implemented while the City has simultaneously been defending the Measure in court.

Epilogue

During the time City Staff was writing this paper a court decision was handed down by the State Appellate Court which found in favor of the City of San Diego and their hybrid retirement system, this was seen by many as an opening for other municipalities to create similar systems. The case will be appealed to the State Supreme Court, which many believe will serve as the first test case for cities to follow to create plans similar to San Diego. How the case will play out at that level is unknown, but what is known is under the current law San Diego, itself is an outlier, as mentioned above. San Diego is a charter city, with a retirement system that was created independently of the State's 1937 Act to allow counties to create a retirement system similar to "CalPERs" and therefore have different laws pertaining what that system can or cannot do. Current law as applied to CALPERs cities states that cities/counties could not independently create a hybrid system, this could only be done by the State Legislator or

possibly by a Statewide ballot. The State did look into creating the ability for agencies to create a hybrid system, but this was ultimately not included in the law that would become known as CALPEPRA. Individual citizens in the past 2016 election attempted to get statewide ballot measures placed, but ultimately were not able to.

San Diego was not alone in their attempt to create a hybrid plan. Many cities have looked into the possibility. Around the same time, Ventura County attempted to take a similar measure but was blocked by a court decision.

Items for Consideration

This option is not feasible under current law. Staff is providing this as an informational item.

E-4: Across the Board Reductions (1-5%)

Overview

The Task Force is exploring the impact of potential tiered cuts to all operating departments. Please note that any across the board reduction would include a reduction to the maintenance (MCE) budget and, therefore (E-4) Across the Board Reduction and (E-2) Decrease Park Maintenance Costs cannot be considered as separate savings.

The FY 2017-18 General Fund operating budget is $74,786,921. Assuming all things being equal, if every department were to make a 1% - 5% reduction to their budget, the resulting savings would be:

Operating Budget (Total)	1%	2%	3%	4%	5%
$74,786,920	747,869	1,495,738	2,243,608	2,991,477	3,3739,346

Due to Dublin's unique set-up, many of the services and associated costs are contracted out including Public Safety, the City's biggest expense. Therefore an across the board reduction to all departments is not possible and in some cases not practical. Reduction calculations should exclude Public Safety.

Operating Budget (w/o Public Safety)	1%	2%	3%	4%	5%
$41,101,137	411,011	822,022	1,233,034	1,644,045	2,055,057

The City has three revenue generating Departments: Community Development, Parks and Community Services and Public Works. While each of these departments has the availability to cut costs, because they do generate revenue they, as a general rule, would not want to cut a cost that is revenue offset. To capture this, all costs that have revenue off-sets should be removed from the calculation.

Operating Budget (w/o Public Safety or revenue offsets)	1%	2%	3%	4%	5%
$25,713,915	257,139	514,278	771,417	1,028,556	1,285,695

The remaining cost cuts would be borne by supporting departments. Preliminarily, should departments need to cut 1% or 2% from their budgets, this could be absorbed without reducing staff. Higher than 3% departmental reductions would require a reduction in Staff.

Items for Consideration

How could a tiered cost-cutting approach be used in actuality?

N-1: Downtown Renovation

Overview

The City Council set aside $1 million in a General Fund reserve for Downtown Public Improvement projects. To date, the city has spent a portion of funds on Amador Plaza pedestrian improvements and Downtown Wi-Fi access.

The City Council recently approved a consultant to being work on a Downtown Streetscape Master Plan. Funding for the consultant will come from this General Fund reserve. The costs associated with the public improvements will come from community benefit payments as a result of the Downtown Specific Plan Development Pool.

Items for Consideration

Recommend reallocating the remaining reserve funds.

Consider alternate uses of/ongoing contributions to this reserve.

N-2: Implement Parking Meters/Enhance Parking Fine Enforcement

Overview

The City currently does not have parking meters. Parking violation enforcement is currently undertaken by the Dublin Police. In FY 2017-18 the City received **$47,942.50** in Parking fines.

For comparison: the City of Walnut Creek operates a Downtown Parking and Enhancement Enterprise Fund. All funding is used for operations, parking structure improvements and downtown enhancements. Includes operations of 1,500 parking meters, 22 city parking lots and garages and the downtown trolley.

Operating Expenditures*	$5,353,404
Operating Revenues	$5,687,534
+/-	**$ 334,130**

*Includes depreciation of $606,042

Items for Consideration

Staff is providing this as an informational item.

P-1: Plan for Appropriate Police Services Growth/ P-2: Consider Non-Sworn Support

Overview

As part of the FY 2017-18 Budget, the City of Dublin added two Deputies to the Dublin Police Services, bring the total allocated positions to 63.

City Support Staff	**4**
Contracted Positions	**59**

With the addition of the 2 deputies, the projected General Fund cost for Dublin Police Services over the next 8 years is:

	FY 2017-18	**FY 2018-19**	**FY 2019-20**	**FY 2020-21**
Police Contract	18,259,770	19,333,784	20,397,142	21,518,985
City Support	2,048,625	2,110,084	2,173,386	2,238,588
Total	**20,308,395**	**21,443,868**	**22,570,528**	**23,757,573**

	FY 2021-22	**FY 2022-23**	**FY 2023-24**	**FY 2024-25**
Police Contract	22,702,529	23,951,168	25,268,482	26,658,249
City Support	2,305,745	2,374,918	2,446,165	2,519,550
Total	**25,008,275**	**26,326,086**	**27,714,648**	**29,177,799**

All costs have been included into the City's Forecast

The costs are based on the following assumptions

- No new staff being added
- Contract costs increasing 5.9% in FY 2018-19 and 5.5% annually beginning FY 2019-20
- Support staff costs increasing 3% annually

In addition to the projected costs the City has set aside an additional $1 million in a General Fund Reserve to provide future funding of four officers.

Non-Sworn Support

The City currently does not have Reserve Police or Volunteer Police, although the Sheriff's Department does utilize Non-Sworn support at various Dublin events.

Items for Consideration

Staff is providing this as an informational item.

P-3 – Realign Reserve Needs

Overview

The Governmental Accounting Standards Boards Statement No. 54 (GASB 54) requires fund balance (City Reserves) to be classified into different categories depending on the extent to which the use of the resources is constrained for specific purposes.

Non-Spendable – amounts that cannot be spent because they are either (a) not in spendable form, or (b) legally or contractually required to be maintained.

Restricted – amounts with constraints placed on the use of the resource which are either (a) externally imposed by creditors, contributors, or laws and regulations of other agencies or (b) imposed by law through constitutional provisions or enabling legislation.

Committed – amounts that can only be used for specific purposes pursuant to formal action of the agency's governing body.

Assigned – amounts that are constrained by the governing body's intent to be used for specific purposes, but are neither restricted nor committed.

Unassigned – used by General Fund for residual classification of positive funds.

The following is a summary of the estimated amounts the City's will have in each of the Reserve categories.

Type	Amount
Non-Spendable	$199,943
Restricted	$639,000
Committed	$32,825,059
Assigned	$43,337,733
Unassigned	$33,333,200
Total	**$110,334,935**

Reserves of Note

Catastrophic Facility/Infrastructure Loss & City Business Recovery – City Council target is 15% of the reported book value of the City-owned buildings. **($11,368,531)**

Unassigned for Cash Flow Purposes – Should have a minimum equal to two months of budgeted operating expenditures with a goal to achieve a maximum of four months. **($35,530,554 – 4 months)**

Allocation of additional residual resources. After maintaining the minimum level of unassigned cash-flow funding, additional resources shall be allocated as follows – a) 50% to Pension and Other Post-Employment Benefits; b) 50% to Non-Streets CIP Reserve.

Since the great recession the City's General Fund reserves have grown 72% from $64 million to $110 million. This growth is not sustainable and as such the City has worked to strategically set aside cash flow surpluses into reserves that address the City's current and future liabilities, such as retirement, but also includes funding for known replacement of City assets and future projects. In addition, the City has used the surpluses to fund an economic uncertainty reserve as well as setting funds aside for City costs as development slows down.

Items for Consideration

With the exception of the Non-Spendable and Restricted funds plus the reserves that require a minimum level of funding, the Task Force can recommend realigning the reserves.

P-4: Tiered Budget Response Based on Forecast/P-6: Establish Base Year with Annual Inflation Thereafter

Overview

The following is a high level overview of the City's Budget process.

1. The City utilizes a baseline budget to start the budget process, in the current year adjusted budget becomes the new budget. The budget is then adjusted based on the following:

    - Salary and Benefit increases
    - Projected contractor workload
    - Inflationary Factors – (i.e. increase in utility costs)
    - Contract proposals (Public Safety and MCE)

2. Next City Council initiatives and priorities are included. This can result in a myriad of increases, (staffing – adding a planner or contracted services – adding a deputy)

3. Departments are then able to request additional funds theat can include both one-time costs and/or on-going costs.

The City's current practice for budgeting does not include any single inflationary factor. The Urban Consumers Price index for the San Francisco area has increased by an average of 2.8% over the past five years, while City revenues has increased by approximately 5.0%.

Within the Budget Document presents all new costs as well as a detailed description of all the assumptions and increase/decreases in costs and revenue are provided

Items for Consideration – P-4

Recommend a tiered budget Policy Statement where actions should be taken when benchmarks are hit. Actions would correlate with the severity of the benchmarks hit.

Items for Consideration – P-6

Recommend the City tie budget increases to a general inflationary factor.

P-5 – Require Budget offsets for new/increased services

Overview

The City currently does not require new costs to be offset by the reduction of costs in another area. The City does ensure funding is currently available for any new costs and also incorporates those cost into the City's 10-year forecast. The effects of the additional cost in the years in which the City is running a deficit play a large role in determining whether a new cost is brought forward to the City Council. An example of this can be seen in the City's hiring of limited term staff when filling vacancies and the use of contractors instead of adding City staff.

Items for Consideration

Recommend a Policy Statement requiring new costs are offset with costs reduction.

Recommend a Policy Statement requiring that future cost of new/increased services are clearly identified for the Council in Staff Reports and the Budget.