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 13, 2019
Veterans Memorial Hall - 5:30 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

- Morro Bay Chamber of Commerce Quarterly Update

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.

Public comment is an opportunity for members of the public to provide input to the governing body. To increase the effectiveness of the Public Comment Period, the City respectfully requests the following guidelines and expectations be followed:

- Those desiring to speak are asked to complete a speaker slip, which are located at the entrance, and submit it to the City Clerk. However, speaker slips are not required to provide public comment.
- When recognized by the Mayor, please come forward to the podium to speak. Though not required, it is helpful if you state your name, city of residence and whether you represent a business or group. Unless otherwise established by the Mayor, comments are to be limited to three minutes.
- All remarks should 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.
- The Council in turn agrees to abide by its best practices of civility and civil discourse according to Resolution No. 07-19.

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 25, 2019, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 25, 2019, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE JULY 08, 2019, CITY COUNCIL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 CONSIDER APPROVAL OF PUBLIC WORKS ADVISORY BODY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: City Council consider and approve the request submitted by Public Works Advisory Board (PWAB) Member, Jan Goldman, to excuse her absences from the August 21 and September 18, Regular Public Works Advisory Board meetings

A-5 GRAND JURY RESPONSE REGARDING AFFORDABLE HOUSING, LAW ENFORCEMENT AND DETENTION FACILITIES AND FIRE RISK MANAGEMENT; (CITY MANAGER)

RECOMMENDATION: Receive and file the City of Morro Bay's response to the County of San Luis Obispo Grand Jury Report regarding affordable housing, law enforcement and detention facilities and fire risk management.

A-6 APPROVAL OF RESOLUTION NO. 69-19 FOR A NEW COMMERCIAL BUILDING LEASE AGREEMENT WITH THREE STACKS AND A ROCK BREWING COMPANY, LLC, FOR PORTIONS OF THE BUILDING AT LEASE SITE 69-70/69W-70W, LOCATED AT 595 EMBARCADERO ROAD (THE FORMER MORRO BAY AQUARIUM SITE); (HARBOR)

RECOMMENDATION: City Council approve Resolution No. 69-19 for a one-year Commercial Building Lease Agreement, with options to renew for additional terms, with Three Stacks and a Rock Brewing Company, LLC for portions of the building at Lease Site 69-70/69W-70W, formerly occupied by the Morro Bay Aquarium.

A-7 FISCAL YEAR 2018/2018 PRELIMINARY YEAR-END BUDGET PERORMANCE AND STATUS REPORT FOR THE TWELVE-MONTH PERIOD ENDING JUNE 30, 2019; (FINANCE DIRECTOR)

RECOMMENDATION: Staff recommends the City Council:

A. Receive the Fiscal Year 2018/19 Preliminary Year-End Budget Performance and Status Report for the twelve-month period ending June 30, 2019; and
B. Adopt Resolution No. 72-19 authorizing staff to proceed with the preliminary year-end budget adjustments.

B. PUBLIC HEARINGS

B-1 ADOPTION OF RESOLUTION NO. 70-19 PRE-ZONING THE 27.6 ACRE PORTION OF THE WATER RECLAMATION FACILITY PARCEL APN 073-101-017 AS A PUBLIC FACILITY ZONE DISTRICT AND APPROVAL OF GENERAL PLAN & LOCAL COASTAL PROGRAM TEXT AND MAP AMENDMENTS AND INTRODUCTION OF PRE-ZONING ORDINANCE NO. 623 (CASE NO. MIN#19-009); (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Staff recommends the Council:

1) **Adopt Resolution No. 70-19, approving pre-zoning of a 27.6-acre portion of parcel APN 073-101-017 as a Public Facility zone district for the Water Reclamation Facility (WRF) to be located at 555 South Bay Blvd and approval of associated General Plan and Local Coastal Program Text and Map Amendments; and**
2) **Introduce for first reading by title only, and waive further reading, Ordinance No. 623 (Attachment 1), pre-zoning the 27.6 acre Water Reclamation Facility (WRF) portion of APN: 073-101-017 to Public Facility.**

B-2 ADOPT RESOLUTION NO. 71-19 AMENDING THE COASTAL LAND USE PLAN TO CLARIFY THE TOTAL DENSITY DERIVED FROM THE ALLOWED DENSITY TRANSFER WITHIN THE CLOISTERS SUBDIVISION; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Adopt Resolution 71-19 approving the proposed text amendments to the Coastal Land Use Plan (LUP) (Exhibit A) and direct staff to submit to the California Coastal Commission for certification.

C. BUSINESS ITEMS

C-1 CONSIDERATION OF LOCAL HIRE OPTIONS FOR CONSTRUCTION WORK ON COMPONENTS OF THE WATER RECLAMATION FACILITY PROJECT, AND PROVIDE DIRECTION AS DEEMED APPROPRIATE (LOCAL LABOR DISCUSSION/DIRECTION); (CITY MANAGER)

RECOMMENDATION: Staff recommends either:

a) **Council direct staff to initiate negotiations with local labor representatives to develop a community workforce agreement for the pipeline conveyance and injection well components of the Water Reclamation Facility (WRF) project, or**
b) **Council direct staff to add a local hire provision to contracts with the firms selected to construct and complete the pipeline conveyance and injection well components of the WRF project, or**
c) **Council could choose not to pursue a mechanism to encourage local hiring on the identified portions of the WRF project.**

C-2 RECEIVE, REVIEW, AND PROVIDE DIRECTION ON THE WRF QUARTERLY UPDATE REPORT; (PUBLIC WORKS)

RECOMMENDATION: Receive WRF Capital Project Quarterly Update Report (Q4 Fiscal Year 2018/2019) and review and provide direction, if any, as Council may deem appropriate.

C-3 ADOPTION OF RESOLUTION NO. 73-19 DECLARING THE CITY'S INTENTION TO APPROVE CALPERS CONTRACT AMENDMENT AND INTRODUCTION AND FIRST READING OF ORDINANCE NO. 624 AUTHORIZING AN AMENDMENT TO THE CALPERS CONTRACT TO IMPLEMENT AN ADDITIONAL 1% COST SHARING FOR

LOCAL POLICE MEMBERS IN THE MORRO BAY PEACE OFFICERS ASSOCIATION; (CITY CLERK/HUMAN RESOURCES MANAGER)

RECOMMENDATION: **Staff recommends the City Council take the following separate actions:**

1) **Adopt Resolution No. 73-19 giving notice of the City's intention to approve an amendment to the contract between the City and the Board of Administration of the California Public Employees' Retirement System (CalPERS), and**

2) **Introduce for first reading by title only, with further reading waived, Ordinance No. 624 Authorizing an Amendment to the Contract between the City of Morro Bay and the Board of Administration of the California Public Employees' Retirement System (CalPERS) Implementing Section 20516 (Employees Sharing Additional Cost) to provide additional employee cost sharing of 1% for local police members in the Morro Bay Peace Officers Association (MB POA) for Fiscal Year 2019/20 (FY2019/20).**

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, August 27, 2019 at 5:30 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.

AGENDA NO: A-1

MEETING DATE: August 13, 2019

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – JUNE 25, 2019
VETERANS MEMORIAL HALL
209 SURF STREET – 4:00 P.M.

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Robert Davis	Council Member
	Marlys McPherson	Council Member
ABSENT:	Jeff Heller	Council Member
STAFF:	Scott Collins	City Manager
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Tony Mosqueda	Police Sergeant

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding established a quorum and called the meeting to order at 4:00 p.m. with all but Council Member Heller present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA
https://youtu.be/ss8qyfz5Lsk?t=42

Homer Alexander, Morro Bay, encouraged the City to consider innovative policies that would incentivize individuals and businesses to invest in Morro Bay and complete projects more quickly. He expressed concern no mention was made of expense reductions or a critical look at staffing.

Rigmor, Morro Bay, was in favor of a 1% sales tax increase and $100/year parcel tax but felt a $10 per $100,000 assessment tax would be unfair. She opposed paid parking and suggested using a CalPoly student to conduct polling.

Dana Stein, Morro Bay, urged the Council to reconsider waterfront RV parking as a potential revenue enhancement for the Harbor Fund. He believed up to $100,000 per year is possible and suggested a pilot period managed by the Harbor Department staff.

Betty Winholtz, Morro Bay, read the letter submitted as agenda correspondence urging the Council to cut unnecessary costs rather than use one-time reserve funds to balance the budget. She also opposed a sales tax measure

The public comment period was closed.

STUDY SESSION:

I. REVENUE ENHANCEMENT OPTIONS
https://youtu.be/ss8qyfz5Lsk?t=42

City Manager Collins presented the report and responded to Council inquiries.

The Council provided individual comments then established concurrence on the following items:

Paid parking – The Council was interested in review and further discussion of the Parking Management Plan but agreed paid parking would not positively impact revenues to the degree needed at this time.

Sales tax – The Council supported community polling to gain an understanding of what an increased sales tax would pay for and the cost to residents. Staff will obtain more information from consultants on cost, techniques and recommended timing.

Harbor Assessment District – The Council was not in favor of putting two measures on the ballot in 2020 but agreed through polling they would better understand the community's priorities and alternatives to pay for those services.

Sale of City Property – Mayor Headding and Council Member McPherson were not interested in pursuing the sale of City property at this time. Council Members Addis and Davis were interested in exploring consolidation of staff from a safety aspect. Staff will bring back recommended safety improvements at a future meeting.

The Council did not take any formal action on this item.

ADJOURNMENT
The meeting adjourned at 5:22 p.m.

Recorded by:

Dana Swanson
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JUNE 25, 2019
VETERAN'S MEMORIAL HALL – 5:30 P.M.

AGENDA NO: A-2

MEETING DATE: August 13, 2019

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Robert Davis	Council Member
	Marlys McPherson	Council Member
ABSENT:	Jeff Heller	Council Member
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Tony Mosqueda	Police Sergeant

ESTABLISH QUORUM AND CALL TO ORDER
Mayor Headding called the meeting to order at 5:32 p.m., with all but Council ~~m~~Members~~s~~ Heller present.

MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION – None

PRESENTATIONS
- Cookie Crock Proclamation presented to Carla Wiley.
  https://youtu.be/K7ki7RE7aHs?t=150

CLOSED SESSION REPORT – None.

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/K7ki7RE7aHs?t=317

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
https://youtu.be/K7ki7RE7aHs?t=711

PUBLIC COMMENT
https://youtu.be/K7ki7RE7aHs?t=823

Robert Swain, Morro Bay Maritime Museum, announced tours of a P-520 Crash Rescue Boat will be available for four months beginning July 1.

Linda Winters, Morro Bay, shared appreciation for presentations provided by Council Member Addis and other keynote speakers at the Women Making Waves event and announced a letter writing campaign to preserve mobile homes as an affordable living alternative.

David Baldwin spoke in favor of a community workforce or project labor agreement for the lift station and conveyance project.

Brett Anderson encouraged the Council to support local labor agreements.

Autumn Brown spoke in support of community workforce agreements.

Tyler Scheidt spoke regarding local pre-apprenticeship programs and supported community workforce agreements as a path to bring young adults into the workforce.

Carol Swain, Morro Bay, spoke in support of project labor agreements and congratulated the City on the approval of funding for the WRF project.

Erica Crawford, Morro Bay Chamber of Commerce, provided an update on the Women Making Waves event and announced upcoming events and learning opportunities.

Bob Keller, Morro Bay, announced a fundraising event for Project Surf Camp, to be held Friday, June 28th at San Luis Sports Therapy at 890 Shasta Avenue.

Betty Winholtz, Morro Bay, requested trash cans be replaced near Morro Rock, expressed concern about construction at the corner of Radcliffe and Main, and encouraged the community to attend the Coastal Commission hearing on July 11th at Embassy Suites in San Luis Obispo.

Barry Branin, Morro Bay, repeated his request for the City to issue requests for proposals to maintain existing sewer pipes.

Mayor Headding closed public comment.

A. CONSENT AGENDA
https://youtu.be/K7ki7RE7aHs?t=2211

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 MAY 28, 2019, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 11, 2019, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 PROCLAMATION RECOGNIZING THE COOKIE CROCK FOR THEIR GENEROUS CONTRIBUTIONS TO THE MORRO BAY COMMUNITY; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted.

A-4 RECERTIFICATION OF THE UPDATED SEWER SYSTEM MANAGEMENT PLAN; (PUBLIC WORKS)

RECOMMENDATION: Council recertify the proposed Sewer System Management Plan (SSMP).

A-5 ADOPT RESOLUTION NO. 49-19 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2019/20; (FINANCE)

RECOMMENDATION: City Council adopt Resolution No. 49-19, which sets the FY 2019/20 appropriations limit at $28,065,499.

A-6 ADOPT RESOLUTION NO. 50-19 APPROVING A NEW TEMPORARY LICENSE AGREEMENT FOR OPERATION OF BAITING SERVICES WITH MORRO BAY COMMERCIAL FISHERMEN OWEN HACKLEMAN, ROGER CULLEN AND WILLIAM DILLER; (HARBOR)

RECOMMENDATION: City Council adopt Resolution No. 50-19 approving a new two-year Temporary License Agreement with Morro Bay commercial fishermen Owen Hackleman, Roger Cullen and William Diller for commercial baiting services in a portion of the Harbor Department storage yard, that includes an option to extend for one two-year period.

A-7 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT MONTHLY UPDATE REPORT; (PUBLIC WORKS)

RECOMMENDATION: Council receive WRF Capital Project Monthly Update Report.

A-8 AGREEMENT BETWEEN THE CITY AND MORRO BAY CHAMBER OF COMMERCE FOR ECONOMIC DEVELOPMENT FACILITATION SUPPORT SERVICES; (CITY MANAGER)

RECOMMENDATION: Approve the proposed agreement with the Morro Bay Chamber of Commerce to provide economic development services for the City and approve the City Manager executing in substance the proposed agreement.

A-9 ADOPTION OF RESOLUTIONS APPROVING THE CITY OF MORRO BAY ACCOUNTING AND FINANCIAL REPORTING POLICIES RELATED TO COMPUTER DISASTER RECOVERY PLAN, CAPITAL ASSETS, CITY CREDIT CARDS, TRAVEL, REIMBURSEMENT, CASH ADVANCE, DONATIONS, GRANT MANAGEMENT, UTILITY PAYMENT ARRANGEMENT, LEAK REVIEW, APPROVED PAYMENT TYPES, AND CHANGE OF PRIMARY ACCOUNT HOLDER; (FINANCE)

RECOMMENDATION: City Council adopt Resolution Nos. 58-19 through 62-19 approving the City of Morro Bay's Accounting and Financial Reporting Policies related to Computer Disaster Recovery Plan, Capital Assets, City Credit Cards, Travel, Reimbursement, Cash Advance, Donations, Grant Management, Utility Payment Arrangement, Leak Review, Approved Payment Types, and Change of Primary Account Holder.

Council Member Davis pulled Items A-7 and A-9. Council Member McPherson pulled Item A-4. Mayor Headding also wished to pull Item A-7.

Mayor Headding opened public comment for the Consent Agenda.

Betty Winholtz, Morro Bay, spoke to Item A-4, spoke regarding sanitary sewer overflow and asked about the timing of sewer pipeline repairs.

The public comment period was closed.

A-4 RECERTIFICATION OF THE UPDATED SEWER SYSTEM MANAGEMENT PLAN; (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=2374

Council Member McPherson asked staff to respond to questions raised during public comment. Utilities Division Manager Mueller explained the Sewer System Management Plan was an operational plan, not a master plan for repairing and replacing those pipes. Public Works Director Livick added design work was needed prior to issuing the request for proposals and the anticipated timeline was identified in the capital improvement project section of the adopted budget.

A-7 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT MONTHLY UPDATE REPORT; (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=2564

Council Member Davis discussed the appearance of the pump station near Lemos be as attractive as possible as it is a gateway route to the City. Mayor Headding announced the Coastal Commission public hearing to be held Thursday, July 11th at the Embassy Suites in San Luis Obispo and congratulated staff for excellent work on the State Revolving Fund funding application.

A-9 ADOPTION OF RESOLUTIONS APPROVING THE CITY OF MORRO BAY ACCOUNTING AND FINANCIAL REPORTING POLICIES RELATED TO COMPUTER DISASTER RECOVERY PLAN, CAPITAL ASSETS, CITY CREDIT CARDS, TRAVEL, REIMBURSEMENT, CASH ADVANCE, DONATIONS, GRANT MANAGEMENT, UTILITY PAYMENT ARRANGEMENT, LEAK REVIEW, APPROVED PAYMENT TYPES, AND CHANGE OF PRIMARY ACCOUNT HOLDER; (FINANCE)
https://youtu.be/K7ki7RE7aHs?t=2918

Council Member Davis appreciated the work that had been done and encouraged staff to develop a ransomware recovery plan.

MOTION: Council Member Davis moved for approval of all items on the Consent Agenda. The motion was seconded by Council Member McPherson and carried 4-0-1 by roll call vote with Council Member Heller absent.

Staff responded to issues raised during public comment.

B. PUBLIC HEARINGS

B-1 ADOPTION OF RESOLUTION NO. 51-19 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=3305

Public Works Director Livick provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing.

Dawn Beattie, Morro Bay, pointed out the Cloisters Park and surrounding open space is public but maintenance is paid for entirely by Cloisters homeowners and requested the City begin paying for something that benefits more than just the homeowners.

Mayor Headding opened Public Comment; seeing none, the public comment period was closed.

The Public Hearing was closed.

MOTION: Council Member Davis moved the Council adopt Resolution No. 51-19 approving the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District for FY 2019/20. The motion was seconded by Council Member McPherson and carried 4-0-1 by roll call vote with Council Member Heller absent.

B-2 ADOPTION OF RESOLUTION NO. 52-19 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=3716

Public Works Director Livick provided the report.

Mayor Headding opened the Public Hearing and Public Comment.

Betty Winholtz, Morro Bay, asked for clarification on the proposed lighting.

Staff clarified security lighting for parking area.

The Public Hearing was closed.

MOTION: Council Member McPherson moved the Council adopt Resolution No. 52-19 directing the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance District. The motion was seconded by Council Member Davis and carried 4-0-1 by roll call vote with Council Member Heller absent.

B-3 PUBLIC HEARING TO REPORT ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AND ADOPT RESOLUTION NO. 53-19 AUTHORIZING SAN LUIS OBISPO COUNTY ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AS TAX LIENS AGAINST THE PROPERTIES (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=3974

Management Analyst Burlingame provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing and Public Comment; seeing none, the Public Hearing was closed.

MOTION: Council Member Davis moved the Council adopt Resolution No. 53-19 to confirm the report, so as to authorize the delinquent fees as assessments due as tax liens against the respective properties. The motion was seconded by Council Member McPherson and carried 4-0-1 by roll call vote with Council Member Heller absent.

C. BUSINESS ITEMS

C-1 REVIEW PROGRESS UPDATE FROM CENTRAL COAST AQUARIUM FOR POTENTIAL FUTURE MORRO BAY AQUARIUM; (CITY MANAGER)
https://youtu.be/K7ki7RE7aHs?t=4424

City Manager Collins provided a brief report. Subcommittee members Mayor Headding and Council Member Addis shared comments based on their involvement and meetings with Aquarium representatives.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

The Council did not take any formal action on this item.

The Council took a brief recess at 6:54 p.m. The meeting reconvened at 7:04 p.m. with all members present.

C-2 ADOPTION OF RESOLUTION NOS. 54-19 AND 55-19 AUTHORING THE FILING OF TWO SEPARATE APPLICATIONS WITH THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) TO COMMENCE PROCEEDINGS FOR (I) A SPHERE OF INFLUENCE DESIGNATION AND ANNEXATION OF THE 27.6-ACRE PROPERTY THE CITY WILL BE PURCHASING FROM TRI-W, INC. (TRI-W) FOR THE CONSTRUCTION AND OPERATION OF THE WATER RECLAMATION FACILITY (WRF) AND (II) A SPHERE OF INFLUENCE DESIGNATION FOR THE REMAINING PORTION OF THE TRI-W PROPERTY THE CITY IS NOT PURCHASING; (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=5243

Water Reclamation Facility Program Manager Casares provided the report and, along with Public Works Director Livick, responded to Council inquires.

The public comment period for Item C-2 was opened.

Betty Winholtz, Morro Bay, asked if the proposed action had been reviewed by the Planning Commission and raised various questions.

Bob Keller, Morro Bay, urged the Council to move forward and avoid project delays.

Nancy Bast, Morro Bay, asked why the City had not simply purchased the property rather than agree to conditions in the MOU.

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

MOTION: Council Member McPherson moved to adopt Resolutions No. 54-19 and 55-19 authorizing the filing of two separate applications with the Local Agency Formation Commission (LAFCO) to commence proceedings for (I) a sphere of influence designation and annexation of the 27.6-acre property the City will be purchasing from Tri-W, Inc. for the construction and operation of the Water Reclamation Facility and (II) a sphere of influence designation for the remaining portion of the Tri-W property the City is not purchasing, and that of course rescinds the prior resolution. The motion was seconded by Council Member Davis and carried 4-0-1 by roll call vote with Council Member Heller absent.

C-3 ADOPTION OF RESOLUTION NO. 56-19 CREATING THE MORRO BAY PUBLIC FACILITIES CORPORATION NEEDED TO FACILITATE FINANCING OF THE WATER RECLAMATION FACILITIES AND OTHER FUTURE CAPITAL PROJECTS; (PUBLIC WORKS)
https://youtu.be/K7ki7RE7aHs?t=6284

Water Reclamation Facility Program Manager Casares provided the report and, along with City Attorney Neumeyer, responded to Council inquires.

The public comment period for Item C-3 was opened.

Betty Winholtz, Morro Bay, expressed concern there was no sunset clause and that establishing a corporation created a firewall between residents and the Council.

Barry Branin, Morro Bay, reiterated Ms. Winholtz's comments and was concerned by the transfer of funds.

The public comment period for Item C-3 was closed.

Council Member Davis suggested the following amendments for clarification:

- Resolution No. 56-19, Section 6 - list the Finance Director shall serve as Treasurer and the City Clerk shall serve as Secretary of the Corporation.
- Bylaws Article II, Section 10 - remove the last half of the final sentence.
- Bylaws Article III, Sections 1 & 2 – list all officers, including Secretary & Treasurer.
- Bylaws Article III, Section 3 – remove "and the officers" in the second sentence.
- Bylaws Article III, Section 9 – provide gender clarification "his/her"
- No changes were suggested for the Articles of Incorporation

City Attorney Neumeyer provided clarification in response to issues raised during public comment.

MOTION: Council Member Davis moved to adopt Resolution No. 56-19, as amended, authorizing the creation of the Morro Bay Public Facilities Corporation. The motion was seconded by Council Member McPherson and carried 4-0-1 by roll call vote with Council Member Heller absent.

C-4 ADOPTION OF RESOLUTION NO. 57-19 APPROVING REQUEST FOR CONSOLIDATED COASTAL DEVELOPMENT PERMIT PROCESSING FOR CAYUCOS SANITARY DISTRICT SEWER INFRASTRUCTURE & PUBLIC LOT CREATION; (COMMUNITY DEVELOPMENT)
https://youtu.be/K7ki7RE7aHs?t=7669

Community Development Director Graham provided the report and responded to Council inquires.

The public comment period for Item C-4 was opened.

Betty Winholtz, Morro Bay, suggested approval of the request could have been used as leverage for future negotiations with Cayucos regarding the existing WWTP.

The public comment period for Item C-4 was closed.

The Mayor & Council Members commented on the importance of preserving open space, positive relations with the Cayucos Sanitary District, and a regional approach on water resiliency.

MOTION: Mayor Headding moved to adopt Resolution No. 57-19, approving request for consolidated Coastal Development Permit processing for Cayucos Sanitary District and public lot creation. The motion was seconded by Council Member Davis and carried 4-0-1 by roll call vote with Council Member Heller absent.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/K7ki7RE7aHs?t=8852

In light of affordable housing items being heard at the State level, Council Member Addis requested discussion of a policy that allowed Council Members to submit letters of support on legislative items of interest. Mayor Headding suggested reviewing the existing Council Policies

& Procedures and potentially crafting language that would be helpful. Council Member McPherson suggested this could be considered during the Advisory Board Bylaws/Council Policy review planned for an upcoming meeting.

Council Member Davis requested the Council consider a position on House Resolution 763 which levies carbon tax on carbon dioxide producers and encourages clean energy. There was full Council support for this item.

E. ADJOURNMENT

The meeting adjourned at 8:14 p.m.

Recorded by:

Dana Swanson
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JULY 8, 2019 – 3:00 P.M.
FIRE STATION TRAINING ROOM – 715 HARBOR ST.

AGENDA NO: A-3

MEETING DATE: August 13, 2019

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Robert Davis	Council Member
	Jeff Heller	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Scot Graham	Community Development Director
	Eric Endersby	Harbor Director
	Dana Swanson	City Clerk/Human Resources Manager

ESTABLISH QUORUM AND CALL TO ORDER
Mayor Headding called the meeting to order at 3:00 p.m. with all members present.

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

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

Chuck and Amanda Nettnin, owners of Three Stacks and a Rock Brewing Co., spoke regarding their proposal for short-term use of the former Aquarium lease site.

Aaron Ochs spoke in favor of the Nettnin's business proposal.

The public comment period was closed.

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

CS-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Attorney

CS-2 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8
Property: Lease Site 69-70/69W-70W, 595 Embarcadero
Property Negotiators: Chuck Nettnin, Three Stacks and a Rock Brewing Co. LLC
Agency Negotiators: Scott Collins, City Manager; Scot Graham, Community Development Director and Chris Neumeyer, City Attorney
Under Negotiation: Price and Terms of Payment

CS-3 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: One Matter

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

ADJOURNMENT - The meeting adjourned at 3:58 p.m.

Recorded by:

Dana Swanson
City Clerk

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AGENDA NO:	**A-4**
MEETING DATE:	**August 13, 2019**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: July 29, 2019**

FROM: **Heather Goodwin, Deputy City Clerk**
Dana Swanson, City Clerk

SUBJECT: **Consider Approval of Public Works Advisory Body Board Member's Request for an Excused Absence**

RECOMMENDATION

Staff recommends the City Council consider and approve the request submitted by Public Works Advisory Board (PWAB) Member, Jan Goldman, to excuse her absences from the August 21 and September 18, Regular Public Works Advisory Board meetings.

ALTERNATIVES

The Council may choose not to excuse Ms. Goldman's absences.

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. That policy, which is included in the current Advisory Bodies Handbook and By-Laws, 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 Public Works Advisory Board Member, Jan Goldman, for Council consideration to excuse her absences from the August 21, 2019 and September 18, 2019 regular meetings. Ms. Goldman's attached letter details her reasons for the absences which staff accepts as reasonable and warrant Council consideration. Ms. Goldman does not have any unexcused absences in the previous 12-month period and it is worth mentioning that Ms. Goldman has never missed a meeting since being appointed to the Board. Ms. Goldman is requesting her absences be excused as it is her desire to continue to serve the City of Morro Bay community as a member of the Public Works Advisory Board.

CONCLUSION

Staff recommends the Council approve Ms. Goldman request for an excused absence from the August 21, 2019 and September 18, 2019 Regular Public Works Advisory Board meetings.

ATTACHMENTS

1. Request for Excused Absence submitted by Ms. Goldman
2. Link to Advisory Bodies Handbook and By-Laws

Heather Goodwin

From: Dana Swanson
Sent: Thursday, July 25, 2019 3:02 PM
To: Heather Goodwin
Subject: FW: PWAB attendance

-----Original Message-----
From: Jan Goldman [redacted]
Sent: Tuesday, July 23, 2019 11:07 AM
To: Dana Swanson <dswanson@morrobayca.gov>
Cc: Janeen Burlingame <jburlingame@morrobayca.gov>
Subject: PWAB attendance

Dana,
I am formally requesting an excused absence from both the August and September PWAB meetings. I will be babysitting my grandchildren in August (and I doubt they'd be good audience members during the meeting!) and I will be in Scotland on a pre-arranged trip in September. Please pass this request on to whoever needs to know.
Thank you,
Jan

AGENDA NO: A-5

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 6, 2019**

FROM: **Scott Collins, City Manager**

SUBJECT: **Grand Jury Response Regarding Affordable Housing, Law Enforcement and Detention Facilities and Fire Risk Management**

RECOMMENDATION

Receive and file the City of Morro Bay's response to the County of San Luis Obispo Grand Jury Report regarding affordable housing, law enforcement and detention facilities and fire risk management.

ALTERNATIVE

Council may direct staff to do modify or supplement the response to the Grand Jury report.

FISCAL IMPACT

None.

BACKGROUND/DISCUSSION

On July 3, 2019, the City received a letter from the San Luis Obispo Grand Jury following up on the Grand Jury report for 2018-2019. The City was asked to provide responses to three separate sections of the report by August 6 and 20, 2019. The three pertinent sections are as follows:

1) Fire Risk Management: Cities do it, why not the County?
2) "Affordable Housing" and Urgent Problem for our County.
3) Inspection Report for SLO County Law Enforcement and Detention Facilities.

The City's has prepared responses to certain findings and recommendations in report that are germane to Morro Bay. Those responses are provided in the attached letters from the Community Development Department, Fire Department and Police Department.

ATTACHMENTS

1. Link to SLO County Grand Jury Report 2018-2019
2. Fire Department Response to Fire Risk Management recommendation R4
3. Community Development Department Response to Affordable Housing Findings F6 and F7 and Recommendations R1, R2, R4, R5, and R6
4. Police Department Response to Law Enforcement and Detention Facilities recommendation R6

CITY OF MORRO BAY
FIRE DEPARTMENT
715 Harbor Street
Morro Bay, CA 93442

July 31, 2019

Presiding Judge Ginger Garrett
Superior Court of California
1035 Palm St. Room 355
San Luis Obispo, CA. 93408-1000

Dear Judge Garrett,

I have received and reviewed the 2018-2019 San Luis Obispo County Grand Jury report titled "Fire Risk Management Cities do it – Why Not the County" and have prepared the following response to the recommendation.

Response to Recommendation R4:

R4- *The County and all city fire jurisdictions should offer a chipping program similar to Atascadero. Funds may be available through the Fire Safe Program. A plan for this should be accomplished by the end of the 2019-2020 fiscal year.*

This recommendation will not be implemented because it is not warranted. The City of Morro Bay has a total of 10.3 square miles which includes its waterfront and bay. Most lots in Morro Bay are smaller with building footprints covering a good portion of their lots. Typical vegetation fuel load in Morro Bay is lighter (1 to 10-hour fuels) which has not required large chipping operations for the business and residential areas in our community. As in all communities in San Luis Obispo County, Morro Bay's weed abatement program and the green waste program through Morro Bay Garbage has proven to be sufficient for the lighter vegetation fuel load removal in Morro Bay.

The community of Morro Bay has been successful with hazardous fuel management in the Black Hill forest with the partnership with California State Parks, San Luis County Fire Department, San Luis Obispo Fire Safe Council, and California Conservation Corps. Within Morro Bay's city limits, Morro Bay State Park fills our southern border surrounding by residential neighborhoods and tourist destinations. Since 2013, the Black Hill Forest Hazard Fuel Management Project and Prescribed Fire Program for vegetation management has led to significant fuel load reduction and increased the safety to many residences in south Morro Bay. This program has greatly reduced dead, downed and diseased fuels in the wildland-urban interface, decreased potential for wildfires, enhanced the health of the native plant communities, encouraged increased species composition, restored essential nutrients to the soil, aided in the control of pine pitch canker, and improved our defensible space on areas adjacent to neighborhoods and park facilities.

CITY OF MORRO BAY
FIRE DEPARTMENT
715 Harbor Street
Morro Bay, CA 93442

Response to Recommendation R7:

R7- *Cities should investigate installing additional warning systems where there are no existing sirens. A draft plan should be finalized by the end of fiscal year 2019-2020.*

This recommendation will not be implemented because it is not warranted. The City of Morro Bay is currently in Protection Action Zone – 9 and is covered by the PG&E siren system which is described in our Diablo Canyon Nuclear Power Plant annex in both Morro Bay's and San Luis Obispo County's Emergency Management Plan.

In your Grand Jury Report, it states, "There is an existing siren system within the county that was built and is maintained by PG&E. This system is currently limited to warnings concerning the Diablo Canyon nuclear power plant and is not being used in connection to wildfires or any other purpose, though such use is permitted." This statement is in error as each emergency siren in and surrounding the Morro Bay community can be isolated and used through our Operational Area Emergency Operations Center (EOC) to alert residents and visitors to other emergencies such as tsunamis, wildland fires, and flooding. Through coordination with our Operational Area EOC, the Emergency Alert System (EAS) messages are broadcast immediately following the ending of the sounding sirens. The local EAS stations will continue to broadcast EAS messages advising residents and visitors the appropriate protective actions to be taken. Other public notifications will simultaneously occur through:

- Reverse 911
- Social Media such as Twitter, Facebook, Instagram, My Backyard, and PulsePoint
- City Website
- Press Releases and announcements at our carless collection points
- If all should fail, a backup public alerting procedure designed by the San Luis Obispo County Office of Emergency Services (OES) and through our Estero Bay Community Emergency Response Team (CERT) will be utilized.

Respectfully in a safe community,

Steven C. Knuckles
Fire Chief
Morro Bay Fire Department

CITY OF MORRO BAY
COMMUNITY DEVELOPMENT DEPARTMENT
955 Shasta Avenue
Morro Bay, CA 93442

August 6, 2019

Presiding Judge Ginger Garrett
Superior Court of California
1035 Palm St. Room 355
San Luis Obispo, CA. 93408-1000

Dear Judge Garrett,

The City of Morro Bay Community Development Department has reviewed the 2018-2019 San Luis Obispo County Grand Jury Report Titled "'Affordable Housing' An Urgent Problem for our Community," and has prepared the following response to items F6, F7, R1, R2, R4, R5, and R6:

Findings

F6. Most of the required annual housing element updates are difficult to access by the public.

City Response: City disagrees with this finding. The City's housing element can be found on the City's website by simply typing "Housing Element" into the search window on the front page of the City's Website, which will bring up the page where the Housing Element is located (See following link) :
http://www.morrobayca.gov/DocumentCenter/View/7710/Housing-Element-2014-2019---Final-Council-Adopted?bidId=

F7. The length and cost of the building permitting process is a major barrier to the construction of all housing, especially low income housing.

City Response: Respondent agrees with finding

Recommendations

R1. Reassess and improve processes to fast-track building and planning permit approvals within 12-months from the date of application. This should be implemented within FY 2019-2020.

City Response: The recommendation requires further analysis. The City recently (August 2018) implemented a new project tracking system (Cityworks), which has served to streamline how applications are processed in the City. As the City becomes more proficient with the software application, processing times are expected to be reduced even further.

The City has also initiated a comprehensive update to its General Plan and Local Coastal Program and zoning code, as the current versions of these documents are old, outdated and

difficult to use. The current General Plan and Local Coastal Program totals approximately 1100 pages, which make them difficult for the public to use. The updated and combined document will be modernized, searchable, cross referenced and significantly reduced in length (approximately 340 pages), which should considerably improve usability, again reducing project review and processing times. The update process is expected to be complete in 2020; however, the final combined General Plan/Local Coastal Program and zoning code are required to be certified by the California Coastal Commission, whose certification timeframe is outside City control.

R2. Create, File and publish the required housing element documents and reports on time and in a form easily accessible to the public. This should be done by the next report cycle.

City Response: The recommendation has been implemented. The housing element and housing element reports can be found at the following link:
http://www.morrobayca.gov/574/General-Plan-Local-Coastal-Plan

R4. The cities and County should concentrate on promoting rentals for families earning below moderate incomes by increasing the percentage of required inclusionary units.

City Response: Recommendation requires further analysis. The City is embarking on the 6th cycle of the housing element update and has an RFP out for consultant services to assist with the process (RFP closes on August 21, 2019). The City will be looking at increasing the percentage of inclusionary units along with many other concepts for providing and encouraging affordable housing including: possible revision of how impact fees are charged for affordable units, looking at objective development standards to provide some by right options for housing, development of policies for tiny homes/micro homes and likely many others.

The City will make decisions on the improvement of affordable housing policies through the Housing Element update process, where several options for affordable housing will be considered and the public can be engaged in the decision making process. Timeline for Housing Element Certification is 2021.

R5. Increase the opportunities through re-zoning for non-traditional housing options, such as modular homes, prefabricated homes and mobile home parks. This should be accomplished within FY 2020-2021.

City Response: Recommendation requires further analysis. Modular and prefabricated homes are already allowed in the City's residential zones under the current zoning ordinance. The draft zoning code also allows for modular and prefabricated homes in residential zones and mobile home parks one of the uses permitted in both the medium and high density residential districts. Also, see response to R4 above. Item will be addressed as part of the City's General Plan/Local Coastal Program update and as part of the City's Housing Element update.

Timeframe for completion of the General Plan/Local Coastal Program update is 2020, with unknown timeframe for Coastal Commission certification. Housing element certification is anticipated in 2021.

R6. The cities and County should detail their specific plans to engage the public in the formulation of the 2020 – 2028 Housing Plan Update.

City response: The recommendation has not yet been implemented but will be implemented in the future. An outreach plan, including a minimum of two public workshops is a requirement of the recently released RFP (bid period closes August 21, 2019).

Development of the workshop and outreach strategy will take place once a consultant is chosen and the contract is awarded, likely in Fall of 2019.

Respectfully submitted,

Scot Graham
Community Development Director
City of Morro Bay

CITY OF MORRO BAY
POLICE DEPARTMENT
850 Morro Bay Boulevard
Morro Bay, CA 93442

July 15, 2019

Presiding Judge Ginger Garrett
Superior Court of California
1035 Palm St. Room 355
San Luis Obispo, CA. 93408-1000

Dear Judge Garrett,

I have received and reviewed the 2018-2019 San Luis Obispo County Grand Jury report titled "Inspection Report for San Luis Obispo County Law Enforcement and Detention Facilities" and have prepared the following response to the recommendation.

Response to Recommendation R6:

R6-*Crime Lab should provide the same training to city law enforcement agencies for handling DNA evidence as they do for Sheriff Deputies.*

This recommendation will require further review. The Morro Bay Police Department currently utilizes the San Luis Obispo County Sheriff Department personnel and Crime Lab resources for all major crime scene investigations. Morro Bay PD would welcome any additional training from the SLO County Sheriff Crime Lab related to the preservation and collection of DNA evidence. Morro Bay PD will work with the San Luis Obispo County Sheriff to determine the best course of action to develop and obtain this additional training for all front-line patrol and investigations personnel.

This recommendation will require development of a training course outline, increased training costs and review of our department policies/procedures to insure the required training meets California Peace Officer Standards and Training requirements. I will work with the San Luis Obispo County Sheriff Department and the Criminal Justice Administrators Association on accomplishing this recommendation.

Sincerely,

Jody Cox
Chief of Police
Morro Bay Police Department

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AGENDA NO: A-6

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor and City Council** **DATE: July 31, 2019**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Approval of Resolution No. 69-19 for a New Commercial Building Lease Agreement with Three Stacks and a Rock Brewing Company, LLC, for Portions of the Building at Lease Site 69-70/69W-70W, Located at 595 Embarcadero Road (the Former Morro Bay Aquarium Site)**

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 69-19 for a one-year Commercial Building Lease Agreement, with options to renew for additional terms, with Three Stacks and a Rock Brewing Company, LLC for portions of the building at Lease Site 69-70/69W-70W, formerly occupied by the Morro Bay Aquarium.

ALTERNATIVES

The City Council can direct staff other than is being recommended.

FISCAL IMPACTS

Revenue to the Harbor Department budget of $1,916.67/month ($23,000/year), with a rent-free period until December 1, 2019 while the tenant is undergoing significant tenant improvement and building improvement construction efforts, outlined later in this report. In addition, City will incur an estimated $7,000-$10,000 in necessary building improvement costs to get the building suitable for occupancy. If necessary, then staff will bring a future budget amendment back to Council for those improvements, depending on final estimated costs and whether or not the Harbor Operating Budget can absorb them without amendment.

There will be no percent rent obligations of the tenant for one year after occupancy is achieved in recognition of the considerable building improvements proposed by the tenant.

Since this is a building lease, there will be as-yet to be determined costs to the City for the standard and ongoing repair and maintenance obligations of a building lessor. Those costs, however, are ultimately limited to the amount of rent collected, and not expected to be excessive once the initial improvements contemplated are completed.

BACKGROUND

The owners of Three Stacks and a Rock Brewing Company, LLC (“Three Stacks”) recently approached City staff regarding potential locations for them to relocate their brewery and tasting room from their current location in North Morro Bay. Discussions and investigations took place over several months on the old Morro Bay Aquarium site located at 595 Embarcadero, which Three Stacks and staff determined a viable and desirable location.

Three Stacks' proposal was brought to the City Council in closed session on July 8, 2019, for negotiation direction, the result of which is the building lease agreement approval now under consideration.

Unlike the standard master "ground" leases on the Embarcadero, where the City leases the land and the tenant builds, owns and maintains the improvements, this would be a "building" lease where the City owns and maintains the building, and the tenant rents as in a standard commercial lease arrangement.

DISCUSSION

Three Stacks is a successful local microbrewery that has developed a dedicated following in their relatively short period of time operating in Morro Bay. Beer tourism now rivals wine tasting in terms of general popularity, and Three Stacks, the only brewery currently brewing in Morro Bay, is a good fit on the tourist-oriented Embarcadero.

If approved, then Three Stacks' owners Chuck and Amanda Nettnin will occupy only the downstairs spaces of the former aquarium building, and make significant tenant improvements to those spaces to accommodate their vision of their operation, as well as significant and much-needed building improvements. Those improvements generally consist of:

A. Remodeling Space A of the building (as-depicted in the lease attachment) to accommodate beer tasting, food and retail services open to the public, and other improvements to the other spaces necessary to operate as a brewery.
B. Enlargement of the existing restroom under the stairs in Space A to meet ADA-accessibility requirements.
C. Clean-up and restoration of floors, walls and windows, and supplying all necessary fixtures.
D. Construct a deck in the open-air Space C portion of the building over the old seal tanks of the aquarium, including installation of an ADA lift, if required, to the deck.
E. Completing all necessary lighting improvements.
F. Completing necessary improvements in Space B to serve as the brewing and tankage area.
G. Completing all necessary plumbing improvements, including correction of the floor drainage in Space B to drain to the municipal sewer system, as opposed to the bay where it currently drains.
H. Completing necessary improvements to make the front door entrance ADA-compliant, if required.

The City, in turn, will make the following improvements:

A. Remove and dispose of the enclosure and chain-link fencing over the Space C former seal tank area.
B. Ensure the various electrical panels and electrical components are code-compliant and in working, operational condition, and all unused/unnecessary electrical components removed.
C. Remove all the old aquarium fish tanks from Space B, and remove the aquarium pedestals from the center locations in Space B, leaving the aquarium pedestals around the perimeter in place.

Three Stacks will not use or occupy the upstairs spaces of the building, the wharf or the dock on the water, and the City retains the right to use or rent those improvements provided said use does not hinder, affect or compete with Three Stacks' use. At this point, staff only anticipate using the upstairs building space for possible internal (department) storage or meeting/training use, and to

rent the dock to a recreational vessel. The wharf, due to its deteriorated condition, is not suitable for any use other than access to the dock.

While this lease is for a one-year initial term, as previously stated, there is provision for additional term(s) as it is anticipated that, even should the Central Coast Aquarium project be successful in funding and building a new aquarium on this lease site, that project is a minimum of three, and likely more, years out from breaking ground.

Staff is proposing the attached new Commercial Building Lease Agreement (modeled after the building agreement recently approved for the Skateboard Museum) with Three Stacks, containing the following highlights:

1. Section 2.2 Initial Term. One-year initial term commencing from the date Three Stacks' construction improvements are eligible to receive a certificate of occupancy for completion, but no later than December 1, 2019,
2. Section 2.4 Exclusive Right to Negotiate Term Extension. Exclusive right to negotiate up to two additional twelve-month term extensions should the Central Coast Aquarium not be prepared to take possession of the premises.
3. Section 2.5 Exclusive Right to Negotiate New Long-Term Ground Lease. Should Central Coast Aquarium project not be fully funded and permitted, exclusive right to negotiate for a new long-term ground lease based on a Three Stacks site redevelopment proposal, should one be proposed.
4. Section 3.1 Monthly Rent. $1,916.67 monthly rent ($23,000 annually), pro-rated to begin on the commencement date, as-defined in Section 2.2.
5. Section 3.2 Percentage Rent. No percentage rent due for a one-year period beginning with the commencement date in partial consideration of the improvements stipulated in Section 3.3. After the one-year period, tenant and City shall negotiate a percentage rent in good faith for any future tenancy.
6. Section 3.3 Performance Standards – Tenant. Tenant shall complete the tenant and building improvements previously outlined above in a minimum documented amount of $120,000.
7. Section 3.4 Performance Standards – Landlord. City shall complete the improvements and maintenance previously outlined above.
8. Section 7.1 Maintenance and Repair by Tenant. Standard tenant maintenance and repair obligations under a building lease.
9. Section 7.2 Maintenance and Repair by Landlord. Standard landlord maintenance and repair obligations under a building lease, including limiting maintenance and repair costs to no more than is collected in rent (excluding safety/health issues).

CONCLUSION

If this agreement is approved, then Three Stacks intends to begin occupying the building and starting the necessary improvements in short order. In addition, staff will begin the City's improvement commitments with the overall aim of Three Stacks being open for business this fall.

Staff believe this occupancy is a good fit and will bring in a much-needed revitalization of this section of the Embarcadero in general and this lease site in particular, and thus recommend approval of Resolution No. 69-19 and this lease agreement.

ATTACHMENTS

1. Resolution 69-19
2. Commercial Building Lease Agreement with Three Stacks and a Rock Brewing Company

RESOLUTION NO. 69-19

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING A ONE-YEAR COMMERCIAL BUILDING LEASE AGREEMENT
FOR PORTIONS OF THE BUILDING ON LEASE SITE 69-70/69W-70W,
LOCATED AT 595 EMBARCADERO ROAD,
BETWEEN THE CITY OF MORRO BAY AND
THREE STACKS AND A ROCK BREWING COMPANY, LLC**

**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 the lessor of certain properties on the Morro Bay Waterfront described as City Tidelands leases and properties; and

WHEREAS, Lease Site 69-70/69W-70W (the former Morro Bay Aquarium lease site) has stood vacant since September, 2018 and no Master Leaseholder currently occupies the site; and

WHEREAS, Three Stacks and a Rock Brewing Company, LLC wishes to complete significant improvements to, occupy and operate from certain portions of the building on Lease Site 69-70/69W-70W; and

WHEREAS, City wishes to lease those portions of the building to Three Stacks and a Rock Brewing Company under a Commercial Building Lease arrangement; and

WHEREAS, the City and Three Stacks and a Rock Brewing company have agreed to a one-year building lease agreement for Lease Site 69-70/69W-70W located at 595 Embarcadero, with options to renew for additional terms.

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

1. The attached Commercial Building Lease Agreement for portions of Lease Site 69-70/69W-70W is hereby approved.
2. The Mayor is hereby authorized to execute said Building Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of August, 2019 on the following vote:

AYES:
NOES:
ABSENT:

_____
John Headding, Mayor

ATTEST:

_____
Dana Swanson, City Clerk

COMMERCIAL BUILDING LEASE AGREEMENT

by and between

CITY OF MORRO BAY,
a municipal corporation

"Landlord"

and

Three Stacks and a Rock Brewing Company, LLC

a California limited liability company
"Tenant"

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Exhibit A Depiction of Premises

COMMERCIAL BUILDING LEASE AGREEMENT

THIS COMMERCIAL BUILDING LEASE AGREEMENT ("this Lease") is made effective this 1st day of August, 2019, by and between the CITY OF MORRO BAY, a municipal corporation ("Landlord"), and Three Stacks and **a** Rock Brewing Company, LLC., a California limited liability company ("Tenant"). Landlord and Tenant are sometimes individually referred to as a "Party" and jointly as the "Parties."

R E C I T A L S :

A. The State of California passed certain tide and submerged lands located within the Morro Bay City Limits to the County of San Luis Obispo and to its successors, being Chapter 1076, Statutes of 1947, as amended by Chapter 413, Statutes of 1955, Chapter 1874, Statutes of 1957, and Chapter 70, Statutes of 1960, first extraordinary session; which Statutes may be amended from time to time by the Legislature of the State of California; all of which Statues expressly recognize and agreed to be in full force and effect by the Parties hereto.

B. The Parties hereto recognize and agree on July 17, 1964, Landlord succeeded to all of the right, title and interest of the County of San Luis Obispo in and to all of the tide and submerged lands conveyed to said County by the State of California pursuant to the above-mentioned acts.

C. Judgement has been entered on October 14, 1964, in the case of the CITY OF MORRO BAY, Plaintiff, versus COUNTY OF SAN LUIS OBISPO, and STATE OF CALIFORNIA, Defendants, by the Superior Court of the State of California in and for the County of San Luis Obispo, #30417, adjudging and decreeing, among other things, that the title to said tide and submerged lands so conveyed by the State of California to the County of San Luis Obispo in trust, as set forth above, passed automatically to Landlord upon the date of its incorporation as a city on the 17th day of July, 1964.

D. Tenant accepts this Lease with the full knowledge there is no warranty of title in and to the Premises, as defined below, by Landlord to Tenant.

E. In order to develop and improve Morro Bay Harbor and to assist in carrying out the provisions of the tideland grant as aforesaid, and in order to provide facilities for the accommodation of those using Morro Bay Harbor, Landlord desires to lease to Tenant the Premises upon the terms and conditions set forth below:

The portions of the Building, as defined below, which housed the former "Morro Bay Aquarium" and identified as Spaces A, B, C and D, as described and depicted on the attached Exhibit A, is the subject of this Lease, and is also referred to as the "Premises."

The upstairs second story portions of the Building, outside portions of the rear (ocean-side) of the building, wharf and boat dock (the "Remainder") are expressly excluded from this Lease, and Landlord retains the right (i) to rent or lease those portions of the Building to a third party or parties, or (ii) to use the Reminder of the Building for Landlord's own needs, at Landlord's option; provided, that said third party rents, leases or Landlord uses (i) do not unduly interfere

with Tenant's quiet enjoyment of the Premises as stipulated in Section 26, and (ii) are not a business or entity that directly competes or conflicts with Tenant's business.

F. In order to develop and improve Morro Bay Harbor and to assist in carrying out the provisions of this Lease, the Premises are located in the structure (the "Building") located at 595 Embarcadero Road on Lease Site 69-70/69W-70W (the "Lease Site") on Landlord's waterfront (the "Waterfront Area").

G. The Parties desire to enter into a written lease agreement and to confirm the rights and obligations of both Parties therein. Pursuant to the terms of this Lease, Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Premises, for Tenant's sole exclusive use, subject to the rights of Landlord to use and lease, to others, the Remainder, as provided in Recital E., above.

NOW, THEREFORE, in consideration of the above Recitals and the mutual promises of the Parties set forth in this Lease, Landlord and Tenant hereby agree as follows:

1. LEASE OF PREMISES; CONDITION OF PREMISES.

1.1. **Lease.** Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises (as defined in the Recitals incorporated herein) solely for the uses specified in Section 4.

1.2. **Condition of Premises.** Tenant acknowledges it has and shall accept the Premises from Landlord in its "AS IS" condition without representation or warranty. Tenant has inspected the Premises and is aware of its condition. Pursuant to California Civil Code Section 1938, Tenant is advised the Premises have not undergone an inspection by a Certified Access Specialist; and, therefore, Landlord is not aware if the Premises comply with the applicable construction-related accessibility standards pursuant to Civil Code Section 55.53.

2. EFFECTIVE DATE; TERM.

2.1. **Effective Date.** This Lease shall be deemed effective as of August 8, 2019 (the "Effective Date"). All other Tenant's rights and obligations under this Lease shall commence as of the Effective Date.

2.2. **Initial Term.** The term of this Lease shall commence upon Tenant receiving a Certificate of Occupancy or Final Inspection, as applicable, for the improvements satisfactorily completed pursuant to Section 3.3 of this Lease, but in no case slater than December 1, 2019 (the "Commencement Date") for a fixed term of twelve full calendar months after the Commencement Date (the "Initial Term**"),** and terminate without notice twelve at the end of the "Initial Term, unless otherwise amended by the Parties pursuant to Section 2.4 and 29.15.

2.3. **Right to Terminate.** Tenant shall have the right to terminate this Lease at any time within the Initial Term, or any Extended Term (as defined below), upon providing Landlord at least sixty-days' written notice to Landlord.

2.4. **Exclusive Right to Negotiate Term Extension.** If Tenant has not been in default of any of its obligations under this Lease at any time during the previous six months of the Initial Term or any subsequent Extended Term, as defined below,, then Tenant shall have the exclusive right to negotiate ("ERN") (but not the obligation) an extension of this Lease upon mutually acceptable terms (including, but not limited to, rent payments) for up to two additional full 12-calendar-month periods (the "Extended Term(s)") (the "ERN Right"); provided, that the ERN Right is not applicable if the Central Coast Aquarium is prepared to take possession of the Premises for its proposed site redevelopment project (the "Aquarium Project") and is fully funded and received all necessary permits for the Aquarium Project. Tenant must exercise the ERN Right by sending a written notice to Landlord specifying its exercise of the ERN Right, which notice must be delivered to Landlord not less than ninety days prior to the expiration of the Initial Term, or the Extended Term, as applicable, (the "ERN Notice"). Within fifteen business days after receipt of the ERN Notice, Tenant and Landlord will meet to begin negotiations for an amendment to this Lease to extend the Initial Term or Extended Term, as applicable. If prior to the end of the Initial Term or Extended Term, as applicable, the Parties agree to an extension and other modifications, then such terms shall be effective only if this Lease is amended in accordance with Section 290.15. If the Parties do not agree to an amendment, then this Lease shall terminate without further notice at the end of the Initial Term or Extended Term, as applicable.

2.5. **Exclusive Right to Negotiate New Long-Term Ground Lease Agreement and Site Redevelopment Project.** If this Lease is extended for the maximum time allowed for the Extended Terms and if at the end of the last of the Extended Terms the Aquarium Project is not fully funded and permitted and if Tenant has not been in default of any of its obligations under this Lease at any time during the previous six months of the Initial Term or any Extended Term, then Tenant shall have the right to enter into a ninety-day period of exclusive negotiation with Landlord to redevelop the Premises, Building and entirety of Lease Site in exchange for a long-term ground lease agreement.

3. RENT & PERFORMANCE STANDARD.

3.1. **Monthly Rent.** Tenant agrees to pay Twenty-three Thousand Dollars ($23,000) per 12-month period on an equally-divided monthly basis, in advance, due no later than the 10th day of month for which rent is being paid (the "Rent"). The first monthly payment of the Rent shall be due, on a prorated basis, upon the Commencement Date; provided, that if the Commencement Date is other than the first of a calendar month, then that first payment prorated amount shall be due on the 10th day after the Commencement Date..

3.2. **Percentage Rent.** In partial consideration of completing the improvements stipulated in Section 3.3 of this Lease, Tenant shall have no percentage rent payment obligations for the first twelve full-calendar months of tenancy after the Commencement Date. At least sixty days prior to the end of the Initial Term, Tenant and Landlord agree in good faith to negotiate an equitable Percent Rent rate for any future tenancy of the Premises.

3.3. **Performance Standards - Tenant.** As material consideration for this Lease, Tenant covenants to diligently maintain and repair the Premises in compliance with Section 7.1, as well as satisfactorily complete the items listed in Sections 3.3.1 and 3.3.2 (the "Tenant Performance Standard"); provided, Tenant shall expend as least $120,000 on actual hard construction costs for the items listed in Section 3.3.2; and provided, further, that Tenant shall provide the Harbor Director with satisfactory documentation evidencing those expenditures,.

3.3.1. On or before December 1, 2019:

- Remodel Space A to accommodate a beer tasting, food and retail room for guests
- Enlargement of the existing restroom under the stairs in Space A to meet the American with Disability Act (ADA) accessibility standards,
- Clean up/restoration of floors, walls and windows and supply all necessary fixtures to accomplish renovation of the Space A portion of the building,
- Construct a deck in the open-air Space C portion of the building over the old aquarium seal tanks,
- Install a power wheelchair lift for ADA access to the Space C deck, if required by the ADA,
- Complete all necessary lighting improvements,
- Complete plumbing improvements, including correction of the floor drainage in Space B to drain to the municipal sewer system,
- Complete improvements necessary to make the front entrance door ADA-compliant, if required by the ADA,
- Appropriate tenant improvements to realize Tenant's vision for the Premises and necessary to operate as a brewery and beer tasting/food service facility regularly open to the public.

3.3.2. On or before sixty days prior to the expiration of the Initial Term, provide the City Manager and Harbor Director a financial report of Tenant's Gross Sales, as defined, to be used for negotiation of any Extended Term(s) for this Lease.

"Gross Sales," as used herein, shall mean (subject to the exceptions and authorized deductions as herein set forth) the total selling price and the total gross amount received by Tenant from all merchandise sold and services rendered in, on or from the Premises by Tenant, its sublessees, licensees or concessionaires, both for cash or on credit, and if on credit whether or not payment be actually made therefore, the gross amount received by Tenant for merchandise sold pursuant to orders received in the Premises, even if filled elsewhere, and the gross amount received by Tenant from any and all other sources of income derived from the business being conducted upon the Premises.

Notwithstanding the other provisions of Section 3.2.2, the term "Gross Sales" shall not include the following items, and such may be deducted from Gross Sales to the extent they have been included therein:

- Credits and refunds made to customers for merchandise returned or exchanged,
- Any sales or excise taxes otherwise includable in Gross Sales as defined in this Section because such taxes are part of the total selling price of merchandise or services rendered in, from or on the Premises, where Tenant must account for and remit the taxes to the government entity or entities by which they are imposed,
- With respect to credit card sales, fees retained or withheld by the issuer and/or merchant bank pursuant to Tenant's credit card acceptance agreement, and
- Rental payments to Tenant from sublessees, licensees or concessionaires whose total gross sales are included in gross sales computations.

3.4. **Performance Standards – Landlord.** As material consideration for this Lease, Landlord covenants to diligently maintain and repair the Premises in compliance with Section 7.2, as well as satisfactorily complete the items listed in Subsection 3.4.1

3.4.1 On or before December 1, 2019:

- Remove and dispose of the chain link fencing and support structure enclosing the open-air portion of Space C of the Premises,
- Ensure the various electrical panels and electrical components such as, but not limited to, power to light switches and power outlets are code-compliant and in working, operational condition and with all unused electrical components removed in Spaces A, B, C and D, and
- Remove the old aquarium fish tanks and tank stand structures for the fish tanks in the center section of Space B, and remove the fish tanks only (leaving the tank stand structures in place) for the fish tanks stationed around the perimeter of Space B.

3.5. **Payment of Rent.** All Rent and all other monetary obligations to be paid by Tenant to Landlord shall be in lawful money of the United States of America at the address specified in Section 29.12, or such other address as Landlord shall notify Tenant in writing.

3.6. **Late Payment.** Any payment of any sum to be paid by Tenant, not paid within ten days after its due date, shall be subject to a ten percent late charge.

3.7. **Security Deposit.** Tenant is not required to provide, and has not provided, a security deposit to Landlord.

4. USES.

4.1. **Authorized Uses; Minimum Program Requirements**.

4.1.1. **Authorized Uses.** Tenant shall use the Premises solely as brewery and beer/food tasting facility, including ancillary sales and services related to those uses.

4.2. **Prohibited Uses.** Tenant shall not use, or permit the Premises, or any part thereof, to be used for any purpose or purposes other than those express uses specified in Section 4.1.1.

Tenant shall not sell or permit to be displayed, performed, sold, kept, or used in or about the Premises any conduct, which may be prohibited by standard forms of fire insurance policies.

Tenant shall not violate any and all requirements, pertaining to the use of the Premises, of any insurance organization or company necessary for the maintenance of reasonable fire and public liability insurance, covering the buildings within the Premises and appurtenances.

Tenant shall not permit smoking or vaping on any portion of the Premises.

Tenant shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant or occupant of the Waterfront Area. Tenant shall not conduct or permit to be conducted any sale by auction in, upon or from the Premises, whether said auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors, or pursuant to any bankruptcy or other solvency proceeding nor display any "going out of business" or similar sign.

Tenant shall not engage in any activity in, on or about the Premises that violates any Environmental Law, as defined below,, and shall promptly, at Tenant's sole cost and expense, take all investigatory and/or remedial action required or ordered by any governmental agency or Environmental Law for clean-up and removal of any contamination involving any Hazardous Material created or caused directly or indirectly, by Tenant. The term "Environmental Law" shall mean any federal, state or

local law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environmental conditions on, under or about the Premises, including, without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Sections 9601, *et seq*.; (ii) the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901, *et seq*.; (iii) California Health and Safety Code Section 25100, *et seq*.; (iv) the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5, *et seq*.; (v) California Health and Safety Code Section 25359.7; (vi) California Health and Safety Code Section 25915; (vii) the Federal Water Pollution Control Act, 33 U.S.C. Sections 1317, et seq.; (viii) California Water Code Section 13000, *et seq*.; and (ix) California Civil Code Section 3479, *et seq*., as such laws are amended and the regulations and administrative codes applicable thereto. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined or listed as a "hazardous waste", "extremely hazardous waste," "restrictive hazardous waste," or "hazardous substance" or considered a waste, condition of pollution or nuisance under the Environmental Laws; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos; and/or (iv) substances known by the State of California to cause cancer and/or reproductive toxicity. It is the intent of the Parties hereto to construe the terms "Hazardous Materials" and "Environmental Laws" in their broadest sense. Tenant shall provide all notices required pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5, *et seq*. Tenant shall provide prompt written notice to Landlord of the existence of Hazardous Materials on the Premises and all notices of violation of the Environmental Laws received by Tenant. Notwithstanding the foregoing, Tenant is not responsible for the remediation or removal of any Hazardous Materials, which Tenant did not directly or indirectly cause to be placed at the Premises.

4.3. **Abandonment.** Tenant shall not vacate or abandon the Premises at any time during the Initial Term or any Extended Term. Upon termination of this Lease for any reason, any personal property belonging to Tenant and left on the Premises shall be deemed to be abandoned and, at the option of Landlord, shall become the property of Landlord.

5. REAL ESTATE TAXES. Tenant shall pay any and all real property taxes applicable to Tenant's possessory interest in the Premises. All such payments shall be made at least ten days prior to the due date of the applicable installment. Tenant shall promptly (at least five days prior to the due date) furnish Landlord with satisfactory evidence such taxes have been paid. If any such taxes to be paid by Tenant shall cover any period of time after the expiration or earlier termination of the Term hereof, then Tenant's share of such taxes shall be equitably prorated to cover only the period of time within the tax fiscal year that this Lease is in effect; and Tenant may apply to the County of San Luis Obispo (the **"**County**"**) for reimbursement of any overpayments after such proration. Notwithstanding anything above to the contrary, to the extent any assessment is levied against the Premises payable in installments, Tenant shall pay all installments coming due and payable during the Initial Term and any Extended Term.

Tenant acknowledges, although Landlord is a municipal entity exempt from real property taxes, Tenant's possessory interest under this Lease may be subject to real property taxation.

Upon request, Landlord agrees to work with Tenant to assist in providing information to the County Tax Assessor to reduce the valuation of Tenant's possessory interest in the Premises. Landlord provides no assurance to Tenant that it will be successful in such efforts and that Tenant may be required to pay real property taxes.

6. PERSONAL PROPERTY TAXES. During the Initial Term or any Extended Term, Tenant shall pay prior to delinquency all taxes assessed against the levied upon fixtures, furnishings, equipment and all other personal property owned by Tenant (excluding Landlord's personal property) located in the Premises, and when possible, Tenant shall cause said fixtures, furnishings, equipment and other personal property to be assessed and billed separately from Landlord's personal property. In the event any or all of Tenant's fixtures, furnishings, equipment and other personal property shall be assessed and taxed with Premises, Tenant shall pay its share of such taxes within ten days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

7. MAINTENANCE AND REPAIRS.

7.1. Maintenance and Repair by Tenant. Except the specific maintenance obligations of Landlord as set forth in Sections 3.4 and 7.2, Tenant shall at all times during the Term, and at Tenant's sole cost and expense, keep, maintain and repair the Premises in good and sanitary order, condition, and repair. Such maintenance obligations shall include, but not be limited to, any equipment installed by Tenant, furnishings (such as seating, carpeting and drapes, mirrors, and interior repainting) and landscaping.

Tenant shall keep the Premises in good and sanitary order on a daily basis. Upon termination of this Lease, the Premises shall be surrendered in a good, clean and sanitary "broom clean" condition, except for reasonable use and wear. Tenant agrees to surrender the Premises in the condition after all improvements or alternations, which have been approved by Landlord and installed by Tenant pursuant to Section 8.1, have been satisfactorily completed. If Landlord wants to reserve the right to require Tenant to remove any of those improvements and alterations upon the expiration or earlier termination of this Lease, then Landlord must reserve such right in its notice of approval any of those improvements or alterations. If Tenant is required to remove any improvements from the Premises upon termination of this Lease, then Tenant shall do so at Tenant's sole cost and expense, and Tenant will repair any damage to the Premises caused by such removal. Tenant shall promptly notify Landlord in writing of any condition in the Premises that require necessary repairs by Landlord (the "Repair Notice"), which shall be made by Landlord as set forth in Section 7.2.

Tenant acknowledges Tenant's maintenance obligations under this Section are material considerations to Landlord for this Lease; and, therefore, this Section 7.1 shall be construed liberally for the protection and preservation of the Premises.

7.2. **Limited Maintenance and Repair by Landlord.** Landlord shall be responsible to maintain in good repair and in compliance with all applicable laws, ordinances and regulations, at Landlord's sole cost and expense, **only** (i) the physical structure of the Premises, such as the structural elements, roof, plumbing, water heating system, electrical systems, HVAC equipment and exterior painting, and (ii) subject to the financial limitations set forth below.

Notwithstanding the foregoing, Landlord shall not be required to make repairs necessitated by reason of (i) the negligence or willful misconduct of Tenant, or any of Tenant's staff, volunteers, students, contractors, invitees, subtenants, patrons or customers, (ii) the failure of Tenant to perform or observe and promptly report to Landlord any conditions the repair of which are Landlord's responsibility or (iii) the failure of Tenant to perform or observe the conditions or agreements in this Lease, or caused by unauthorized alterations, additions or improvements made by Tenant or anyone claiming under Tenant (collectively the "Tenant Caused Damages"). Tenant shall be solely responsible, at its sole cost and expense, to repair any Tenant Caused Damages.

Upon receipt of a Repair Notice, Landlord shall have a reasonable period of time (not to exceed five business days) to commence necessary repairs. Upon commencement of necessary repairs, Landlord shall use reasonable efforts to diligently complete same. At a time and date reasonably agreed to by the Parties, the Parties shall jointly conduct an annual inspection of the Premises to aid Landlord in determining if any repairs by Landlord may be necessary.

Any renovation work performed by Landlord to the Premises shall not unreasonably interfere with Tenant's operations, to the extent practicable.

Notwithstanding the foregoing and Landlord's Performance Standard obligations under Section 3.4, Landlord's repair obligations are **specifically limited** in that Landlord shall not be required to make repairs the cost of which exceeds the Rent actually received by Landlord from Tenant as set forth below. During the Term, Landlord shall maintain a cumulative on-going record of all Rent received by Landlord ("**Landlord Repair Fund**"). Any repairs and maintenance costs incurred by Landlord under this Section 7.2 shall reduce the Landlord Repair Fund. If at any time when a repair or maintenance item, which is Landlord's responsibility under this Section 7.2, then Landlord shall only be obligated to make such repair to the extent the current balance of the Landlord Repair Fund is sufficient to pay the cost of such repair. However, if the repair item is critical for Tenant's operation of the Premises, then Landlord shall promptly make such repair, but the cost of such shall reduce the Landlord Repair Fund. If Landlord elects, in its sole discretion, to make repairs notwithstanding the foregoing limitations, then such election shall not be deemed a waiver of this limitation with respect to future repairs and the cost of such repairs shall reduce the Landlord Repair Fund.

8. ALTERATIONS

8.1 **To Premises.** Tenant shall not make any alterations to the Premises, or any part thereof, outside those stipulated in Section 3.3 without the prior written consent of Landlord and in compliance with any and all necessary permits and/or entitlements. If Tenant wishes to make additional improvements to the Premises, then Tenant shall notify Landlord in writing specifying in reasonable detail the proposed alterations and the cost thereof. Within fifteen days after receiving such notice from Tenant, Landlord shall send written notice to Tenant indicating whether Landlord approves or disapproves of the contemplated improvements. The City Manager may act on behalf of Landlord for approvals or disapprovals under this Section. Landlord's approval shall not be unreasonably withheld and any disapproval shall be in writing and shall explain the reasons for the denial. However, as a condition to granting its approval to any of the improvements, Landlord may require Tenant to provide Landlord with reasonably satisfactory evidence of Tenant's financial ability to pay for the costs of the improvements and may require a completion bond be provided to Landlord or other security reasonably acceptable to Landlord. Any such alterations shall comply with all applicable laws and regulations. All improvements (excluding minor improvements as determined by Landlord) shall be under the supervision of a licensed architect or structural engineer (at Tenant's cost) and made in accordance with plans and specifications approved in writing by Landlord, in its governmental and landlord capacities, prior to the commencement of such work. All work shall be done in a good and workmanlike manner, diligently prosecuted to completion and completed in compliance with Section 12. All such improvements shall immediately be deemed a part of the Premises and may not be removed by Tenant. Prior to commencing any work of improvement hereunder, Tenant shall notify Landlord so that Landlord can post and record an appropriate Notice of Non-Responsibility.

9. **COMPLIANCE WITH LAWS**. Except as to the specific obligations of Landlord under Section 7.2, Tenant shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force or which may hereafter be in force pertaining to the use of the Premises, and shall faithfully observe in said use all municipal ordinances, including, but not limited to, the General Plan and zoning ordinances, state and federal statutes, or other governmental regulations now in force or which shall hereinafter be in force. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such order or statute in said use, shall be conclusive of that fact as between Landlord and Tenant.

10. INSURANCE.

10.1. **Landlord to Provide Property Insurance**. Landlord shall maintain, at Landlord's sole cost and expense, fire, and excess coverage insurance throughout the term of this Lease, on all buildings and improvements located on the Premises (and fixtures thereto), in an amount equal to one hundred percent of the replacement value of the Premises, together with such other insurance, coverages and endorsements as Landlord may determine in its sole discretion. Tenant hereby waives any right of

recovery from Landlord, its officers and employees, and Landlord hereby waives any right of loss or damage (including consequential loss) resulting from any of the perils insured against as a result of said insurance.

10.2. Tenant's Insurance Obligations.

10.2.1. Liability Insurance. During the entire term of this Lease, Tenant shall, at Tenant's sole cost and expense, for the mutual benefit of Landlord and Tenant, maintain comprehensive general liability insurance insuring against claims for bodily injury, death or property damage occurring in, upon or about the Premises, written on a per occurrence basis in an amount not less than either (i) a combined single limit of Five Million Dollars ($5,000,000) for bodily injury, death, and property damage or (ii) bodily injury limits of Five Hundred Thousand Dollars ($500,000) per person, One Million Dollars ($1,000,000) per occurrence and One Million Dollars ($1,000,000) products and completed operations and property damage limits of Two Hundred Fifty Thousand Dollars ($250,000) per occurrence and One Million Dollars ($1,000,000) in the aggregate.

10.2.2. Worker's Compensation Insurance. Tenant shall, at Tenant's sole cost and expense, maintain a policy of worker's compensation insurance in an amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both Tenant and Landlord against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by Tenant in the course of conducting Tenant's business in the Premises.

10.2.3. Business Automobile Coverage Insurance. Tenant shall, at Tenant's sole cost and expense, for the mutual benefit of Landlord and Tenant, maintain Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent, with combined single limits of liability not less than One Million Dollars ($1,000,000) per accident. If Tenant owns no vehicles, then this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Tenant or Tenant's employees will use personal autos in any way for the operation of any business on the Premises, then Tenant shall provide evidence of personal auto liability coverage for each such person.

10.2.4. General Provisions. All of the policies of insurance required to be procured by Tenant pursuant to this Section 10.2 shall be primary insurance and pursuant to Subsections 10.2.1 and .3 shall name Landlord, its employees and agents as additional insureds. All policies shall waive all rights of subrogation and provide that said insurance may not be amended or canceled without providing thirty-days' prior written notice by registered mail to Landlord, unless the cancellation is for non-payment

of a premium and then such written notice shall be no less than ten days. Within ten business days after execution of this Lease by the last Party to sign, and at least thirty days prior to the expiration of any insurance policy, Tenant shall provide Landlord with certificates of insurance and full copies of the insurance policies evidencing the mandatory insurance coverages written by insurance companies acceptable to Landlord, licensed to do business in California and rated A:VII or better by Best's Insurance Guide. Landlord may require an increase in the coverage and/or the types of coverage from time to time upon written notice to Tenant. Each of the Parties, on behalf of their respective insurance companies insuring such property of either Landlord or Tenant against such loss, waive any right of subrogation that it may have against the other.

11. INDEMNIFICATION. Tenant shall indemnify, protect, defend and hold harmless the Premises, Landlord and its managers, officers, directors, members, employees, agents, contractors, partners and lenders, from and against any and all claims, and/or damages, costs, liens, judgments, penalties, permits, reasonable attorneys' and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, the occupancy of the Premises by Tenant, the conduct of Tenant's business, any act, omission or neglect of Tenant or any of, its officers, directors, members, employees, agents, invitees, customers or contractors, and out of any breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease, except for matters which are the result of Landlord's gross negligence, intentional wrongful acts, or in default of this Lease. The foregoing shall include, but not be limited to, all costs of the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against Landlord) litigated and/or reduced to judgment. In case any action or proceeding is brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be so indemnified. In addition, Landlord may require Tenant to pay Landlord's reasonable attorneys' fees and costs in defending against or participating in such claim, action or proceeding if Landlord shall decide, in its exercise of reasonable judgment, it is unsatisfied with the representation of its interest by Tenant or its counsel.

Landlord shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Tenant, Tenant's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, earthquake, flood, terrorism, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other any other cause, whether the said injury or damage results from conditions arising upon the Premises or from other source or places, unless such injury or damage is finally determined to be the result of the gross negligence or willful misconduct of Landlord or any of Landlord's employees, contractors or agents.

12. NO LIENS. Tenant shall keep the Premises, free from any liens arising out of any work performed, material furnished, or obligation incurred by Tenant or alleged to have been incurred by Tenant. If Tenant shall fail to pay any charge for which a mechanic's lien claim

and suit to foreclose the lien have been filed, and shall not have obtained the release of said lien from the property subject to such lien, then Landlord may (but shall not be so required to) pay said claim and any costs, and the amount so paid, together with reasonable attorneys' fees incurred in connection therewith, shall be immediately due and owing from Tenant to Landlord, together with interest at the rate prescribed in Section 30.6, on the amount of the mechanic's lien claim.

13. SIGNS. Tenant shall not place or permit to be placed any signs upon the exterior or in the windows of the Premises without Landlord's prior written consent. Any sign installed without such approval shall be immediately removed by Tenant and, if said sign is not removed by Tenant within three days of written notice from Landlord to Tenant, then Landlord may remove and destroy said sign without Tenant's approval and without any liability to Tenant. Tenant shall not modify or alter any of the signs without the prior written approval of the City Manager for Landlord, which approval shall not be unreasonably withheld or delayed. Landlord shall reply to any proposed alteration within fourteen days from submission. Any revision shall comply with the Morro Bay Municipal Code requirements related to signage prior to any revisions actually being made to the signs. Tenant shall maintain the signs in good condition and repair at all times during the entire term at its sole cost and expense.

14. UTILITIES.

14.1. Tenant's Responsibilities. Tenant shall pay, before delinquency, all charges for water, gas, heat, electricity, power, sewer, telephone service, solid waste collection and all other services and utilities used in, upon, or about the Premises by Tenant or any of its subtenants, licensees, or concessionaires during the entire term of this Lease. Tenant shall pay such fees, assessments or charges as may be levied for the operation, maintenance and service of such facilities and shall comply with reasonable rules and regulations established from time to time for use thereof. Tenant shall insure that trash and debris produced by the activities on Premises do not accumulate on the Premises. Tenant shall not be responsible for any utility charges of any other tenant to whom Landlord may lease other portions of the Building, wharf or dock behind the Building; and each such tenant shall have utilities separately metered or otherwise monitored to account for utility charges to be paid by that tenant. As between Landlord and Tenant, Landlord shall be responsible for having metering and accounting provided.

15. ENTRY AND INSPECTION. Tenant shall permit Landlord and its employees and agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of making repairs, alterations or additions or performing the improvements to any portion of said building(s), including the erection and maintenance of such scaffolding, canopy, and fences as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions or repairs, or for the purpose of placing upon the Premises any usual or ordinary signs for public safety as determined by Landlord. Landlord shall be permitted to do any of the above without any rebate of Rent and without any liability to Tenant for any loss of occupation or quiet enjoyment of the Premises thereby occasioned. Landlord shall make reasonable efforts to coordinate times for any repairs

deemed necessary with Tenant to reduce to the extent practicable any interference with Tenant's use of the Premises. Tenant shall permit Landlord, at any time within ninety days prior to the expiration of the Term, to place upon the Premises any usual or ordinary "For Lease" or "For Sale" signs, and during such ninety-day period, Landlord or its agents may, during normal business hours, enter upon said Premises and exhibit the same to prospective tenants or purchasers.

16. DAMAGE AND DESTRUCTION.

16.1. **Notice to Landlord.** Tenant shall give prompt notice to Landlord in case of any fire or other damage to the Premises.

16.2. **Partial Casualty to Premises.** If the Premises shall be damaged by any casualty including, but not limited to, civil unrest, vandalism, a fire, flood or earthquake, such that (i) the cost of replacement or repair of the Premises is less than or equal to fifty percent of the total replacement cost thereof; or (ii) the cost of replacement or repair of damage to the Premises, and any structures comprising the Premises, when aggregated together is less than or equal to fifty percent of the total replacement cost thereof, then Landlord shall promptly repair and restore the same to substantially the condition thereof immediately prior to said damage or destruction. If insurance proceeds are forthcoming, then Landlord shall not be obligated to commence the restoration and/or repair until Landlord has received said insurance proceeds. Landlord shall take all reasonable steps necessary so as to obtain such insurance proceeds promptly so as to prevent delay in restoring and/or repairing the Premises to its prior condition.

16.3. **Substantial Damage to Premises.** If the Premises shall be damaged or destroyed by any casualty (or the other matters described above), such that (i) the cost of replacement or repair of the Premises exceeds one-years' rent; or (ii) the cost of replacement or repair of damage to the Premises, and any of the other structures comprising the Premises, when aggregated together exceeds one-years' rent total, then Landlord may elect to either replace or repair the damage as aforesaid, cancel this Lease by written notice of cancellation given to Tenant within ninety days after the date of the casualty, or allow Tenant to cause repairs to be made to City standards. This Lease shall cease and terminate twenty days following Tenant's receipt of Landlord's cancellation notice; and Tenant shall vacate and surrender the Premises to Landlord in accordance with the terms of this Lease.

16.4. **Reconstruction.** In the event of any reconstruction of the Premises under this Section 16, Landlord shall be obligated to reconstruct the Premises only to the extent of the condition of the Premises prior to the damage.

16.5. **Rent Abatement**. In the event any casualty to the Premises is such that operations are impossible or impractical during the reconstruction as determined by Tenant, Tenant shall be entitled to abatement of the Rent for actual number of business days closed based on a pro-rata ratio of the total days in the month.

16.6. **Termination.** Upon any termination of this Lease under any of the provisions of this Section 16, the Parties shall be released thereby without further obligations to the other Party coincident with the surrender of possession of the Premises to Landlord, except for obligations which have theretofore accrued and be then unpaid, and except for Tenant's obligations under Section 11.

16.7. **Determination of Percentage of Damage or Destruction.** If either Landlord or Tenant contends the percentage of the damage or destruction referred to above exceeds one-year's rent total and the other Party disagrees, then the determination of the percentage shall be made in writing by a senior officer of the insurance company that is to make insurance proceeds available for replacement or repair. If said insurance company elects not to render such a determination in a timely manner, or no determination is rendered for any other reason, then, in such event, upon fifteen-days' prior written notice to Tenant, then Landlord's determination shall be deemed the agreed upon determination of the damage or destruction.

17. ASSIGNMENT AND SUBLETTING.

17.1. **Assignment and Subletting.** Tenant shall not sublet the Premises or assign this Lease without the prior written consent of Landlord. Landlord shall not unreasonably withhold its consent to an assignment or sublease to a proposed assignee or subtenant. In no event shall Landlord be required to approve of any assignment or sublease, which would result in a violation of any other agreements to which Landlord is a party and/or for which all of the following criteria are not met:

a. The proposed assignee or subtenant has submitted to Landlord financial statements showing the proposed assignee's or subtenant's financial condition, including net worth and liquidity, is equal to or greater than Tenant's financial condition;

b. The proposed assignee or subtenant is morally and financially responsible; and

c. Tenant is not in default in the payment of Rent or the performance of any obligations under this Lease.

Any such assignment shall be subject to all of the terms and conditions of this Lease, including, but not limited to, the use restrictions, and the proposed assignee or subtenant shall assume the obligations of Tenant under this Lease in writing in form satisfactory to Landlord. The proposed assignee or subtenant shall simultaneously provide to Landlord an estoppel certificate in the form described in Section 21. Consent by Landlord to one assignment or subletting shall not be deemed to be consent to any subsequent assignment or subletting. Any assignment or subletting without the prior written consent of Landlord shall be void, shall constitute a material breach of this Lease, and shall, at the option of Landlord, terminate this Lease. Neither this Lease nor any interest therein shall be assignable as to the interest of Tenant by operation of law.

Landlord shall be under no obligation to consider a request for its consent to an assignment or sublease until Tenant shall have submitted in writing to Landlord a request for Landlord's consent to such assignment or sublease, a history of the proposed assignee's or subtenant's business experience and financial viability and such other information as required by Landlord to verify that the criteria set forth herein are met.

18. DEFAULT AND REMEDIES; TERMINATION.

18.1. Default by Tenant. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

(i) Failure to pay any Rent or other monetary payment required hereunder to Landlord within five days after receiving notice from Landlord of Tenant's failure to pay any such obligation when due under this Lease.

(ii) Failure to perform any provision of this Lease (other than the payment of money), if the failure to perform is not cured within thirty days after receiving written notice of the default from Landlord. If the default cannot be reasonably cured within thirty days, then Tenant shall not be in default of this Lease if Tenant commences to cure the default within the thirty-day period and diligently and in good faith continues to cure the default, but within no more than one hundred eighty days from commencement of the cure.

(iii) Failure of Tenant to meet or comply with any Tenant Performance Standard.

(iv) Vacation or abandonment of the Premises by Tenant.

(v) Making a general assignment for the benefit of creditors.

(vi) Filing of a voluntary petition in bankruptcy or the adjudication of Tenant as a bankrupt.

(vii) Appointment of a receiver to take possession of all or substantially all the assets of Tenant located at the Premises or of Tenant's leasehold interest in the Premises.

(viii) Filing by any creditor of Tenant of an involuntary petition in bankruptcy which is not dismissed within sixty days after filing.

(ix) Attachment, execution or other judicial seizure of all or substantially all of the assets of Tenant or Tenant's leasehold where such an attachment, execution or seizure is not discharged within sixty days.

In the event of any such default or breach by Tenant, Landlord may at any time thereafter, without further notice or demand, rectify or cure such default, and any

sums expended by Landlord for such purposes shall be paid by Tenant to Landlord upon demand and as additional Rent hereunder. In the event of any such default or breach by Tenant, Landlord shall have the right to continue the lease in full force and effect and enforce all of its rights and remedies under this Lease, including the right to recover the Rent as it becomes due under this Lease or Landlord shall have the right at any time thereafter to elect to terminate the Lease and Tenant's right to possession thereunder. Upon such termination, Landlord shall have the right to recover from Tenant:

(a) The worth at the time of award of the unpaid Rent which had been earned at the time of termination;

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; and

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such Rent loss that Tenant proves could be reasonably avoided.

The "worth at the time of award" of the amounts referred to in subparagraphs (a), b), and (c) above shall be computed by allowing interest (or by discounting in the case of subparagraph (c)) at three percent over the prime rate, but in no event greater than the maximum rate permitted by law.

For purposes of this Section. "Rent" shall include all sums payable pursuant to this Lease on a regular basis; including reimbursement of real estate taxes and any similar amounts. The payment shall be computed on the basis of the average monthly amount thereof accruing during any preceding twelve-month period selected by Landlord, except that if it becomes necessary to compute such Rent before such a twelve-month period has occurred, then the Rent shall be computed on the basis of the average monthly amount hereof accruing during such shorter period.

Such efforts as Landlord may make to mitigate the damages caused by Tenant's breach of this Lease shall not constitute a waiver of Landlord's right to recover damages against Tenant hereunder.

Notwithstanding any of the foregoing, the breach of this Lease by Tenant, or an abandonment of the Premises by Tenant, shall not constitute a termination of this Lease, or of Tenant's right of possession hereunder, unless and until Landlord elects to do so, and until such time Landlord shall have the right to enforce all of its rights and remedies under this Lease, including the right to recover rent, and all other payments to be made by Tenant hereunder, as they become due. Failure of Landlord to terminate this Lease shall not prevent Landlord from later terminating this Lease or constitute a waiver of Landlord's right to do so.

18.2. **No Waiver.** Acceptance of any payment under this Lease shall not be deemed a waiver of any default or a waiver of any of Landlord's remedies.

18.3. **Landlord's Default**. Except as may be elsewhere expressly provided in this Lease, Landlord shall not be in default, unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty days after written notice by Tenant to Landlord, specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty days are required for performance, then Landlord shall not be deemed in default if Landlord commences performance within the thirty-day period and thereafter diligently prosecutes the same to completion.

18.4. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity, except Tenant i) cannot seek money damages or pursue an action in law; and ii) is instead limited to bringing a proceeding in the nature of specific performance, injunctive relief or mandamus, or any other action in equity to enforce any applicable provision of this Lease.

18.5. **Termination.**

18.5.1. The Parties acknowledge this Lease shall be terminated immediately at the occurrence of any of the following events:

a. By expiration of the Lease;

b. By mutual agreement of both Parties; or

c. In the case of casualty as provided for in Section 16.6.

18.5.2. The Parties acknowledge this Lease may be terminated by Landlord upon thirty-days' written notice if Tenant fails to meet any Performance Standard.

18.5.3. Except as set forth in Section 2.3, termination of this Lease shall not extinguish Tenant's obligations to pay Rent or its other obligations including indemnification of Landlord.

19. SURRENDER OF PREMISES. The voluntary or other surrender of the Premises by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or licensees, or may, at the option of Landlord, operate as an assignment to it of any or all of such subleases or licenses.

20. FORCE MAJEURE. If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations or other cause without fault and beyond the control of the Party obligated (financial inability excepted), then performance of such act shall be excused for the period of the delay and the

period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in this Section 20 shall excuse Tenant from the prompt payment of any Rent.

21. ESTOPPEL CERTIFICATE. Tenant shall, at any time and from time to time upon not less than twenty-days' prior notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying this Lease is unmodified and is in full force and effect, and the dates to which the Rent has been paid, and stating whether or not to the best knowledge Landlord is in default under this Lease, and, if in default, specifying in reasonable detail each such default, and such other matters as Landlord may reasonably request, it being intended that any such statement delivered by Tenant may be relied upon by Landlord or any prospective purchaser of the fee or any prospective mortgagee or encumbrancer thereof.

22. SUBORDINATION. The rights of Tenant shall be and are subject and subordinate at all times to the lien of any mortgage now or hereafter in force against the Premises, and Tenant shall promptly execute and deliver such further instruments subordinating this Lease to the lien of any such mortgage as shall be requested by Landlord.

23. CONDEMNATION. In the event a condemnation or transfer in lieu thereof results in a taking of any substantial and/or material portion of the Premises, Landlord or Tenant may, upon written notice given to the other Party within thirty days after such taking or transfer in lieu thereof, terminate this Lease. In connection therewith, Landlord and Tenant acknowledge that:

a. Landlord (acting as the City of Morro Bay) possesses the power to take the Premises through eminent domain proceedings; and

b. The business to be conducted by Tenant upon the Premises is not a viable business without financial assistance from Landlord, therefore if Tenant must vacate the Premises, it will be extremely impractical, if not impossible, for Tenant to operate its business elsewhere.

Therefore, upon such termination Tenant shall have the right to claim and recover from Landlord and/or the condemning authority only the amount equal to the value of any improvements installed by Tenant. Tenant shall **not** receive any value related to the leasehold value of the property which shall be paid solely to Landlord.

24. USE OF LANDLORD'S NAME. Tenant shall not use Landlord's name for advertising or promotion without Landlord's prior written consent, which may be granted or withheld in its sole discretion.

25. TRADE FIXTURES. Tenant has the right to use the Landlord's personal property located on the Premises, but Tenant shall, at its own cost and expense, install and equip the Premises with all furniture, fixtures, trade fixtures, equipment and personal property reasonably required for the operation of Tenant's business. Any and all fixtures and appurtenances

installed by Tenant shall conform with the requirements of all applicable laws and regulations. All furniture, equipment, and trade fixtures installed by Tenant shall remain the property of Tenant during the Term of this Lease, but Tenant shall not remove any trade fixtures during the Term hereof without Landlord's prior written consent which may be provided by the City Manager on behalf of the Landlord. On termination of this Lease, Tenant may, provided Tenant is not in default of this Lease, remove at its own expense all trade fixtures, equipment and its personal property. At termination of this Lease, if Tenant has left any merchandise, furniture, equipment, signs, trade fixtures or other personal property in the Premises, then Landlord may give Tenant written notice to remove such property. In the event such property is not removed within fifteen days after the date of said notice, Landlord may dispose of said property in any manner whatsoever and Tenant hereby waives any claim or right to said property or any proceeds derived from the sale thereof. Any damage to the Premises resulting from the installation or removal of any of said trade fixtures or equipment shall be repaired by Tenant at Tenant's sole cost and expense.

26. QUIET ENJOYMENT. As long as Tenant is not in default under this Lease, Tenant shall have quiet enjoyment of the Premises during the Term.

27. HOLDOVER. Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease. Any holding over after the expiration or earlier termination of the Initial Term or any Extended Term, as applicable, with the consent of Landlord, express or implied, shall be construed to be a tenancy from month-to-month, cancelable upon thirty-days' written notice, and at a monthly rent equal to two hundred percent of the Rent set forth in Section 3.1 and upon terms and conditions as existed during the last month of the Initial Term or Extended Term, as applicable.

28. NOTICE AND WAIVER REGARDING RELOCATION, GOODWILL, PROPERTY INTEREST AND CONDEMNATION

28.1. Tenant knowingly and voluntarily acknowledges and agrees upon its vacation of the Premises at the end of the Lease term, upon the sooner termination thereof for any reason, or vacation, of the Premises under any circumstances, in no event shall Tenant be entitled or shall Landlord, including its employees, agents and assignees, be required to provide any relocation benefits, compensation for loss of goodwill, or assistance under any applicable federal, state, or local laws or regulations including without limitation, the Uniform Relocation Assistance Laws, California Government Code Section 7260 *et seq*. Further, Tenant being fully informed of any and all of its rights and obligations and all laws and regulations (including without limitation, the Uniform Relocation Assistance Laws, California Government Code Section 7260 et seq.) in connection therewith fully waives, releases and rejects any and all relocation assistance and benefits relating to or in any respect connected with Tenant vacating the Premises.

28.2. Tenant knowingly and voluntarily acknowledges and agrees upon its vacation of the Premises at the end of the Term, upon the sooner termination thereof for any reason, or vacation, of the Premises under any other circumstances, in no event shall Tenant be entitled or shall Landlord be required to provide any compensation or

consideration to Tenant for the leasehold interest of Tenant, improvements pertaining to realty, personal property, fixtures and equipment, pre-condemnation damages, severance damages or interest and litigation expenses, whether based on condemnation, inverse condemnation or any other reason. Upon vacation of the Premises or termination of the Lease, Tenant knowingly waives and surrenders any claims or rights to the leasehold interest, improvements pertaining to realty, personal property, fixtures and equipment, pre-condemnation damages, severance damages or interest and litigation expenses.

29. MISCELLANEOUS.

29.1. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their successors and assigns and be governed by the laws of the State of California. Any litigation between the Parties hereto concerning this Lease shall be initiated in the Superior Court of the State of California for the County.

29.2. **Partial Invalidity.** If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, then the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereof.

29.3. **Successors in Interest.** The covenants herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the Parties hereto, and each and all, including the Party making the assignment, shall be jointly and severally liable hereunder.

29.4. **No Oral Agreements.** This Lease covers in full each and every agreement of every kind or nature whatsoever between the Parties hereto concerning this Lease, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein, and there are no oral agreements. Tenant acknowledges no representations or warranties of any kind or nature not specifically set forth herein have been made by Landlord or its employees, agents or representatives.

29.5. **Interest.** Any sum due to Landlord under this Lease shall bear simple interest from and after its due date at a rate equal to ten percent per month until paid to Landlord, but not in excess of the maximum rate permitted by law.

29.6. **Authority.** Each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant and that this Lease is binding upon Tenant in accordance with its terms.

29.7. **Time.** Time is of the essence of this Lease.

29.8. **Consistency.** Each provision herein shall be interpreted so as to be consistent with every other provision.

29.9. **Relationship of Parties.** The relationship of the Parties is that of Landlord and Tenant, and it is expressly understood and agreed Landlord does not in any way or

for any purpose become a partner of Tenant in the conduct of Tenant's business or otherwise, or a joint venture with Tenant.

29.10. **Non-Discrimination.** Tenant herein covenants by and for Tenant, Tenant's successors, heirs, executors, administrators and assigns, and all persons claiming under or through Tenant, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, sexual preference or identity or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises, nor shall the Tenant, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, Tenants, subtenants, subtenants or vendees of the Premises.

29.11. **Non-Collusion.** No official, officer, or employee of Landlord has any financial interest, direct or indirect, in this Lease, nor shall any official, officer, or employee of Landlord participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or non interest pursuant to California Government Code Sections 1091 and 1091.5. Tenant represents and warrants that (i) it has not paid or given, and will not pay or give, to any third party including, but not limited to, Tenant or any of its officials, officers, or employees, any money, consideration, or other thing of value as a result or consequence of obtaining this Lease; and (ii) it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any official, officer, or employee of Landlord, as a result or consequence of obtaining this Lease. Tenant is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Lease void and of no force or effect.

29.12. **Notices.** Wherever in this Lease it shall be required or permitted that notice and demand be given or served by either Party to this Lease to or on the other, such notice or demand shall be given or served in writing and shall not be deemed to have been duly given or served unless in writing, and personally served or forwarded by certified mail, postage prepaid, addressed as specified below. Either Party may change the address set forth below by written notice by certified mail to the other. Any notice or demand given by certified mail shall be effective one (1) day subsequent to mailing.

Landlord:	City of Morro Bay Attn: City Manager 595 Harbor Street Morro Bay, CA 94585
With a copy to:	Aleshire & Wynder, LLP Attn: Chris F. Neumeyer, City Attorney 18881 Von Karman Ave., Suite 1700, Irvine CA 92612
Tenant:	Three Stacks and a Rock Brewing Company, LLC Attn: Ananda Nettnin 3118 Main Street Morro Bay, California 93442

29.13. **Not an Offer.** The submission of this Lease and any ancillary documents to Tenant shall not constitute an offer to lease, and Landlord shall have no obligation of any kind, express or implied, to lease the Premises to Tenant until Landlord has approved, executed and returned to Tenant a fully signed copy of this Lease.

29.14. **Amendments.** This Lease may be modified or amended only in writing executed by both Parties and approved by Landlord in accordance with applicable law.

29.15. **Exhibits.** Exhibit A is attached hereto and incorporated herein by reference.

29.16. **Acknowledgement of Content.** Each Party acknowledges they have read and fully understand the contents of this Lease and have had an opportunity to consult with an attorney regarding the same. This Lease represents the entire and integrated agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral.

IN WITNESS WHEREOF, the Parties have duly executed this Lease on the day and year first above written in Morro Bay, California.

LANDLORD:

CITY OF MORRO BAY,
a municipal corporation

By: _____
Scott Collins, City Manager

_____, 2019

ATTEST:

_____
Dana Swanson, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

By: _____
Chris F. Neumeyer, City Attorney

TENANT:
THREE STACKS AND A ROCK BREWING COMPANY, LLC., a California limited liability company

By: _____
_____
Its _____

_____, 2019

(Attach Notary Acknowledgements for Tenant)

EXHIBIT A

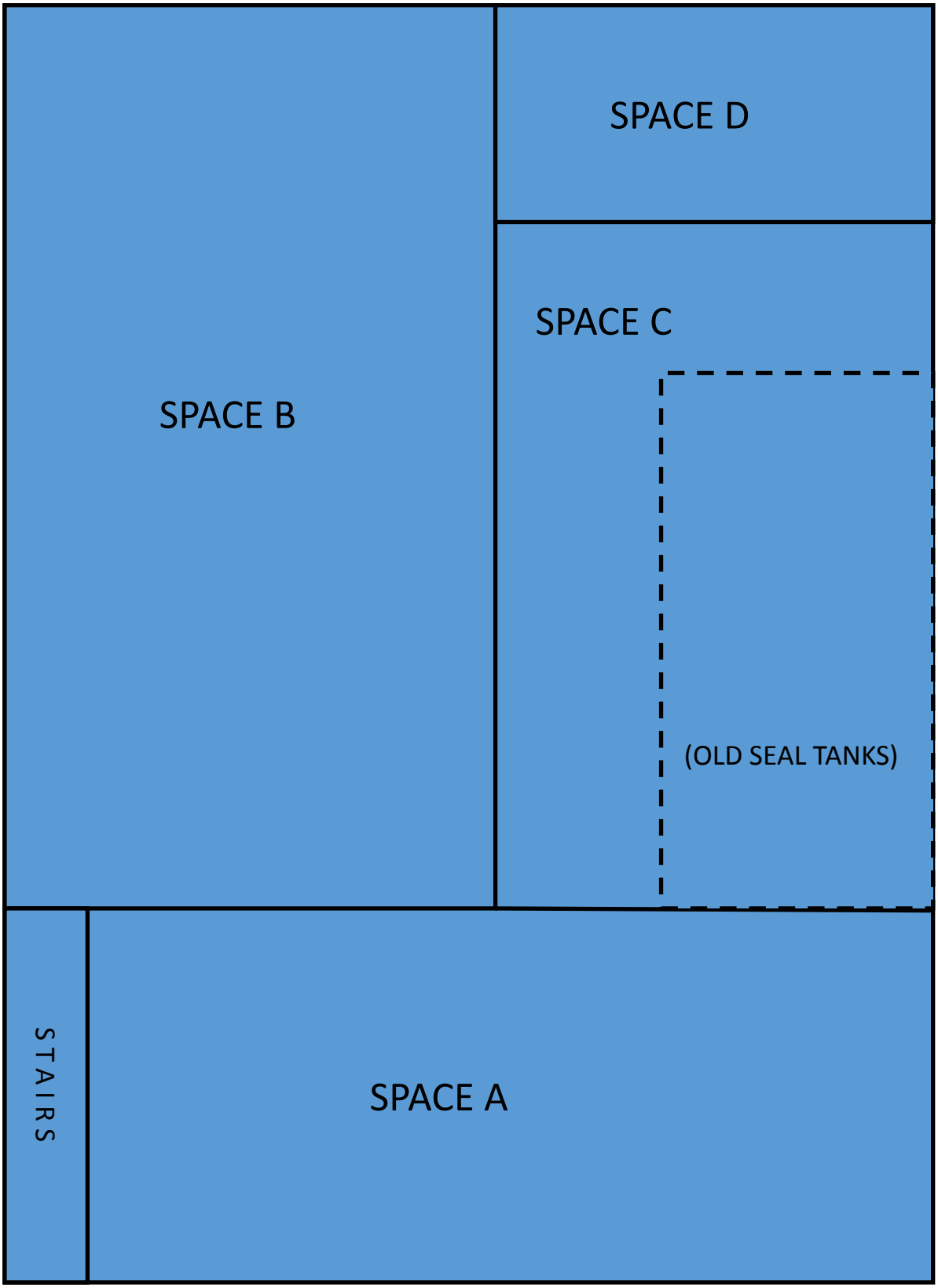
DEPICTION OF PREMISES

The Premises consist of Spaces A, B, C and D as depicted on the figure following.

(The Building on Lease Site 69-70/69W-70W)

EXHIBIT A

(BAY)



NOT TO SCALE. DOORS, WINDOWS NOT SHOWN.

(EMBARCADERO)

AGENDA NO: A-7

MEETING DATE: August 13, 2019

Staff Report

TO: Honorable Mayor & City Council DATE: August 6, 2019

FROM: Jennifer Callaway, Finance Director

SUBJECT: Fiscal Year 2018/19 Preliminary Year-End Budget Performance and Status Report for the Twelve-Month Period Ending June 30, 2019

RECOMMENDATION

Staff recommends that the City Council:

A. Receive the Fiscal Year 2018/19 Preliminary Year-End Budget Performance and Status Report for the twelve-month period ending June 30, 2019; and
B. Adopt Resolution No. 72-19 authorizing staff to proceed with the preliminary year-end budget adjustments.

DISCUSSION

The City's fiscal year closes on June 30th of each year. The annual year-end process includes keeping the City's financial books open for 60 days after June 30th to properly record all revenues and expenditures in the appropriate fiscal year. Following the 60 days, staff works to complete year-end journal entries and completes a final year-end budget status report requesting final budget adjustments and carryforwards for unfinished projects.

In FY 2018/19 the City did not complete a third quarter budget update due to workload capacity with developing the FY 2019/20 budget. As such, staff has prepared a very preliminary year-end report, identifying revenues and expenditures that have been recorded against FY 2018/19 as of July 8, 2019 and has included preliminary budget adjustments for the City Council's consideration that are known at this time. There are typically a substantial amount of revenues and expenditures recorded during the 60-day waiting period so a final year-end report will be provided in late September which will more accurately reflect the City's year-end 2018/19 position.

With the preliminary data reviewed, staff projects to close the General Fund financials with a surplus of approximately $60,000. Again, staff would note that this estimate could change significantly as year-end receipts are still in process of being recorded.

The overtime category being over budget by 124% is consistent with prior years, due to Fire Department mutual aid for out of area wildfire assistance that will be billed for reimbursement.

Below are tables with a preliminary review of the General Fund as of June 30, 2019.

City of Morro Bay
Preliminary Schedule of General Fund
Operating Revenues vs. Operating Expenditures
By Department
For the period ended June 30, 2019

	FY18/19 Adopted Budget	FY18/19 Preliminary YE Actuals	FY18/19 % YTD	FY18/19 Finance Projection
Revenues				
Property Tax	$ 4,322,326	$ 4,378,082	101%	$ 4,378,082
Other Taxes	$ 228,683	$ 243,363	106%	$ 243,363
Transient Occupancy Tax	$ 3,524,835	$ 3,116,380	88%	$ 3,524,835
Sales Tax	$ 1,853,490	$ 1,690,408	91%	$ 1,853,490
Franchise Fees	$ 531,799	$ 444,729	84%	$ 531,799
Licenses & Permits	$ 92,859	$ 129,054	139%	$ 129,054
Business Tax	$ 370,000	$ 376,276	102%	$ 376,276
Charges for Services	$ 1,662,764	$ 1,771,851	107%	$ 1,652,138
Fines & Forfeitures	$ 12,000	$ 18,896	157%	$ 18,896
Intergovernmental	$ 41,663	$ 26,554	64%	$ 26,554
Other Sources	$ 14,736	$ 55,123	374%	$ 55,123
Use of Money & Property	$ 379,200	$ 128,473	34%	$ 324,200
Fund Transfers	$ 1,605,795	$ 1,009,372	63%	$ 1,605,795
Total Revenues	14,640,150	13,388,561	91%	14,719,604
Expenditures				
City Council	150,550	119,242	79%	$ 135,000
City Manager	359,343	294,233	82%	$ 359,343
City Attorney	409,376	279,845	68%	$ 409,376
Contract Services	646,176	646,658	100%	$ 646,176
City Clerk/HR/Elections	409,880	360,037	88%	$ 409,880
Deputy City Manager	-	-		$ -
Accounting & Treasury	629,073	600,467	95%	$ 629,073
Police Department	3,166,165	3,053,586	96%	$ 3,125,515
Support Services	233,099	231,365	99%	$ 233,099
Fire Department	2,758,023	2,672,196	97%	$ 2,758,023
Emergency Operations Center	11,967	6,442	54%	$ 6,442
Community Development	1,161,133	898,677	77%	$ 1,111,133
Public Works	729,629	457,207	63%	$ 572,207
Consolidated Maintenance	866,162	909,596	105%	$ 925,596
Vehicle, Parks, Facilities	127,231	128,845	101%	$ 140,328
Streets, Street Trees, Storm Drains/Creeks	870,390	735,356	84%	$ 820,390
Street lighting	122,000	60,419	50%	$ 97,500
Curbside Recycling	26,280	-	0%	$ 26,280
Recreation Services - Administration	324,961	295,089	91%	$ 324,961
Recreation Services - Dance 39+	10,000	11,278	113%	$ 11,278
Recreation Services - Sports	406,811	425,785	105%	$ 450,785
Recreation Services - Youth Services	294,432	287,953	98%	$ 325,432
Recreation Services - Teen Programs	51,100	34,069	67%	$ 51,100
Recreation Services - Community Pool	147,862	99,448	67%	$ 147,862
Electricity	60,000	65,398	109%	$ 70,190
Total Expenditures	$ 13,971,643	$ 12,673,189	91%	$ 13,786,968
Transfers In/Out	631,730	218,852	35%	864,701
Total Operating Expenditures	$ 14,603,373	$ 12,892,042	88%	$ 14,651,670
Net Surplus or (Use) of Reserves	$ 36,777	$ 496,519		$ 67,934

City of Morro Bay
Preliminary Schedule of General Fund
Operating Revenues vs. Operating Expenditures
By Category
For the period ended June 30, 2019

	FY18/19 Adopted Budget	FY18/19 Preliminary YE Actuals	FY18/19 % YTD	FY18/19 Finance Projection
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Other Taxes	228,683	243,363	106%	$ 243,363
Transient Occupancy Tax	3,524,835	3,116,380	88%	$ 3,524,835
Sales Tax	1,853,490	1,690,408	91%	$ 1,853,490
Franchise Fees	531,799	444,729	84%	$ 531,799
Licenses & Permits	92,859	129,054	139%	$ 129,054
Business Tax	370,000	376,276	102%	$ 376,276
Charges for Services	1,662,764	1,771,851	107%	$ 1,652,138
Fines & Forfeitures	12,000	18,896	157%	$ 18,896
Intergovernmental	41,663	26,554	64%	$ 26,554
Other Sources	14,736	55,123	374%	$ 55,123
Use of Money & Property	379,200	128,473	34%	$ 324,200
Fund Transfers	1,605,795	1,009,372	63%	$ 1,605,795
Total Revenues	14,640,150	13,388,561	91%	14,719,604
Expenditures				
Salaries	5,242,753	5,003,117	95%	$ 5,242,753
Overtime	377,040	466,295	124%	$ 475,295
Part-time	903,092	781,498	87%	$ 850,498
Other Salaries	325,391	301,143	93%	$ 325,391
Labor Costs Applied	26,280	8,050	31%	$ 26,280
Benefits	2,549,737	2,500,663	98%	$ 2,721,021
Unfunded Acrrued Liability	1,070,706	869,087	81%	$ 869,087
Supplies, Materials and Services	2,815,732	2,189,104	78%	$ 2,615,732
Utilities	434,222	373,348	86%	$ 434,222
Insurance	160,974	123,128	76%	$ 160,974
Debt Service	35,190	35,189	100%	$ 35,190
Payment to other Agencies	30,525	22,567	74%	$ 30,525
Total Expenditures	$ 13,971,642	$ 12,673,189	91%	$ 13,786,968
Transfers In/Out	631,730	218,852	35%	864,701
Total Operating Expenditures	$ 14,603,372	$ 12,892,041	88%	$ 14,651,669
Net Surplus or (Use) of Reserves	$ 36,778	$ 496,520		$ 67,935

The requested preliminary budget adjustments at this time are described below:

SUMMARY OF KEY RECOMMENDED BUDGET ADJUSTMENTS

General Fund

Revenues:

- Administrative Citations - Police: A budget augmentation of $2,795 is recommended due to higher receipts in the fiscal year compared to budget.
- Fingerprinting Fees - Police: A budget augmentation of $4,691 is recommended due to higher receipts in the fiscal year compared to budget.
- Refunds/Adjustments/Restitutions – Police and EOC: A budget augmentation of $17,819 is recommended due to higher receipts in the fiscal year compared to budget (Police - $11,966 and EOC $5,853).
- Other Misc. Revenues: A budget augmentation of $6,394 is recommended due to higher receipts in the fiscal year compared to budget.
- Nuclear Planning Assist: A budget reduction of ($9,000) is recommended due to the City not being awarded anticipated grant funds.
- Processing Fees - Recreation: A ($14,764) budget reduction is being recommended due to increased processing fees for recreation programs.
- Notification Fees: A $11,899 budget augmentation is recommended due to higher receipts in the fiscal year compared to budget.
- IT Service Fee: A ($110,000) budget reduction is recommended as these funds will be transferred to the IT Fund to support IT services from the General Fund Department Community Services.
- LaserFisch Fee: A ($14,334) budget reduction is recommend as these funds will be transferred to the IT Fund to support laserfische services.
- Property Tax Current Secured: A $25,000 budget augmentation is recommended due to actual receipts thus far.
- Property Tax In-Lieu VLF: A budget augementation of $6,295 is recommended due to actual receipts thus far.

General Fund Revenues				
Fund	Prog	Acct	Description	Adjustment
001	4110	3615	Administrative Citations - Police	2,795
001	4110	3461	Fingerprinting Fees - Police	4,691
001	4110	3922	Refunds/Adjustments/Restitution - Police	11,966
001	4110	3990	Other Misc Revenues - Police	6,394
001	4220	3922	Refunds/Adjustments/Restitution - EOC	5,853
001	4210	3393	Nuclear Planning Assist	(9,000)
001	6110	3501	Processing Fees - Recreation	(14,764)
001	7105	3920	Notification Fees	11,899
001	7105	3407	IT Service Fees	(110,000)
001	7105	3406	Laserfisch Fees	(14,334)
001	3510	3011	Property Tax - Secured	25,000
001	3510	3021	Property Tax In Lieu - VLF	6,295
	Total General Fund			**(73,205)**

Expenditures:

- Transfer Out: A budget augmentation of $91,388 is recommended to transfer unused econcomic development strategic plan implementation funds in Community Development to a new Economic Development fund.
- Transfer Out: A budget augmentation of $114,552 is recommended to transfer IT service and Laserfisch fees collected in Community Development permitting process to the IT Fund to support these services.
- Transfer Out: A budget augmentation of $38,194 is recommended to transfer FY 2017/18 cash to the General Fund Emergency Reserve Fund.
- Transfer Out: A budget reduction of $11,163 is recommended to true-up general fund contribution to the Tourism Business Improvement District (TBID) with actual Transient Occupancy Tax (TOT) received in FY 2017/18.

General Fund Expenditures				
Fund	Prog	Acct	Description	Adjustment
001	7710	8501	Transfer Out - Economic Development	91,388
001	7710	8501	Transfer Out - IT Services	114,552
001	7710	8501	Transfer Out - GFER	38,194
001	7710	8530	Transfer Out - Tourism	(11,163)
			Total General Fund	**232,971**

Enterprise Funds

Revenues:

- Sewer Equpiment Replacement Fund – Auction Property: A budget augmentation of $32,301 is recommended due to the sale of the old vac truck and other smaller auctioned property.
- WRF Capital Project – SRF Loan Draws: A budget augmentation of $217,441 is recommended to account for the City's drawdown of the SRF planning loan.
- WRF Litigation Project – Transfer In: A budget augmentation of $18,995 is recommended to fund the WRF litigation costs.

Enterprise Funds Revenues				
054		3919	Auctioned Property - Sewer Equipment Replacement	32,301
922	8312	3925	SRF Loan Draws - WRF Project	217,441
922	8326	3802	Transfer In	18,995
			Total Other Funds	**268,737**

Expenditures:

- Water Accumulation Fund Interfund Transfer: A budget augmentation of $8,700 is recommended to transfer out of the water accumulation fund and into the WRF litigation fund to fund waters 29% share of the WRF litigation costs.
- Sewer Accumulation Fund Interfund Transfer: A budget augmentation of $21,300 is recommended to transfer out of the sewer accumulation fund and into the WRF litigation fund to fund sewers 71% share of the WRF litigation costs.
- Harbor Equipment Replacement Fund: A budget augmentation of $911 is recommended to support budget overage in purchase of two new rescue watercraft.

Enterprise Funds Expenditures				
952	7710	8410	Intrafund Transfer - To WRF Litigation	21,300
951	7710	8410	Intrafund Transfer - To WRF Litigation	8,700
055	6510	7205	Vessles - Harbor Equipment Replacement	911
			Total Other Funds	**30,911**

Other Funds

Revenues:

- Transfers In – TBID: Staff recommends a reduction in the General Fund contribution to TBID of $11,163 to align with the funding calculation approved by City Council.
- Transfer In – Economic Development Fund: Staff recommends a budget augmentatin of $91,388 to transfer unspent Economic Development implmenetation plan funds budgeted for in the General Fund (Community Development Department budget) to a newly established economic development fund.
- Transfer In – General Fund Emergency Reserve: Staff recommends a budget augmentatin of $38,194 to appropriate the transfer in of FY 2017/18 Genral Fund cash reserves to the General Fund Emergency Reserve.
- Other Miscellaneous Revenues – Community Benefit Fund: Staff recommends a budget augmentation of $250,000 to budget the receipt of Community Benefit funds from Castle Wind for wind energy.
- Rental Income – Triangle lot: Staff recommends a budget adjustment of $3,515 to account for rental income received from rental of the triangle lot.

Other Funds Revenues				
Fund	Prog	Acct	Description	Adjustment
907	7710	3801	Tansfers In	91,388
007	7710	3801	Transfer In - TBID	(11,163)
051	7710	3802	Intrafund Transfer In - GFER	38,194
906	1111	3990	Other Misc. Revenues - Community Benefit	250,000
925	1111	3730	Rental Income - Triangle Lot	3,515
			Total Other Funds	**371,934**

Expenditures:

- Triangle Lot Expenditures: A budget augmentation of $4,733 is recommended to account for staff time and expenses in opening and administering the triangle lot boat parking storage space.
- Economic Development: A budget adjustment of $12,000 is recommended to account for expenditures at year-end for wayfinding implementation.

Other Funds Expenditures				
Fund	Prog	Acct	Description	Adjustment
907	7105	6105	Consulting Services	12,000
925	1111	4910-6107	Triangle Lot	4,733
			Total Other Funds	**16,733**

Capital Projects

Expenditures:

- WRF Litigation – A budget augementation of $30,000 is recommended to fund the litigation costs the City has incurred thus far related to the WRF projet.

Capital Projects Expenditures				
922	8326	4910-6914	WRF Litigation	30,000
			Total Other Funds	**30,000**

CONCLUSION

The available preliminary data highlights the efforts that staff has taken to maximize resources and control expenditures. Staff will continue to examine revenue and expenditure activity and work to identify opportunities to enhance revenue to support current and future operating needs. The draft FY 2018/19 preliminary year-end report was presented to the Citizen's Finance Advisory Committee (CFAC) on July 16, 2019. The CFAC's action on this item is summarized in the Chair's letter to the City Council, provided as Attachment 2.

ATTACHMENTS

1. Resolution No. 72-19 Approving Amendments to the City's Fiscal Year 2018/19 Budget.
2. CFAC Chairwomen Spagnola's Notification to Council regarding CFAC's Discussion items.

RESOLUTION NO. 72-19

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING AMENDMENTS TO THE CITY'S FISCAL YEAR 2018/19 BUDGET**

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

WHEREAS, Fiscal Year 2018/19 preliminary adjustments were discussed and approved during the August 13, 2019 Council meeting; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California,

1. The operating budgets of the City are amended by the additional revenues and expenditures, as shown on the attached Exhibit 1, that were discussed at the August 13, 2019 Council Meeting.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of August 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

General Fund Revenues				
Fund	Prog	Acct	Description	Adjustment
001	4110	3615	Administrative Citations - Police	2,795
001	4110	3461	Fingerprinting Fees - Police	4,691
001	4110	3922	Refunds/Adjustments/Restitution - Police	11,966
001	4110	3990	Other Misc Revenues - Police	6,394
001	4220	3922	Refunds/Adjustments/Restitution - EOC	5,853
001	4210	3473	EMS Services & Transport	
001	4210	3393	Nuclear Planning Assist	(9,000)
001	6110	3501	Processing Fees - Recreation	(14,764)
001	7105	3920	Notification Fees	11,899
001	7105	3406	Laserfisch Fees	(14,334)
001	7105	3407	IT Service Fees	(110,000)
001	3510	3011	Property Tax - Secured	25,000
001	3510	3021	Property Tax In Lieu - VLF	6,295
			Total General Fund	**(73,205)**

General Fund Expenditures				
Fund	Prog	Acct	Description	Adjustment
001	7710	8501	Transfer Out - Economic Development	91,388
001	7710	8501	Transfer Out - IT Services	114,552
001	7710	8501	Transfer Out - GFER	38,194
001	77110	8530	Transfer Out - Tourism	(11,163)
			Total General Fund	**232,971**

Enterprise Funds Revenues				
054		3919	Auctioned Property - Sewer Equipment Replacement	32,301
922	8312	3925	SRF Loan Draws - WRF Project	217,441
922	8326	3802	Transfer In	18,995
			Total Other Funds	**268,737**

Enterprise Funds Expenditures				
952	7710	8410	Intrafund Transfer - To WRF Litigation	21,300
951	7710	8410	Intrafund Transfer - To WRF Litigation	8,700
055	6510	7205	Vessles - Harbor Equipment Replacement	911
			Total Other Funds	**30,911**

Other Funds Revenues				
Fund	Prog	Acct	Description	Adjustment
907	7710	3801	Tansfers In	91,388
007	7710	3801	Transfer In - TBID	(11,163)
051	7710	3802	Intrafund Transfer In - GFER	38,194
906	1111	3990	Other Misc. Revenues - Community Benefit	250,000
925	1111	3730	Rental Income - Triangle Lot	3,515
			Total Other Funds	**371,934**

Other Funds Expenditures				
Fund	Prog	Acct	Description	Adjustment
907	7105	6105	Consulting Services	12,000
925	1111	4910-6107	Triangle Lot	4,733
			Total Other Funds	**16,733**

Capital Projects Revenues				
			Total Other Funds	**-**

Capital Projects Expenditures				
922	8326		WRF Litigation	30,000
			Total Other Funds	**30,000**

Grand Total: Revenues **567,466.36**

Grand Total: Expenditures **310,615.09**

From:	Barbara Spagnola
To:	John Headding; Dawn Addis; Robert Davis; Jeffrey Heller; Marlys McPherson
Cc:	CFAC; Jennifer Callaway; Scott Collins
Subject:	Summary of CFAC Meeting July 16, 2019
Date:	Thursday, July 18, 2019 12:08:06 PM

Mayor Headding and Council Members Addis, Davis. Heller, and McPherson,

After much discussion at this week's CFAC meeting, please be aware the following motions were approved unanimously by the Citizens Finance Advisory Committee:

1. Add a processing fee to all recreation and facility rental fees for all transactions utilizing credit cards for payment, assuming it is not cost prohibitive to do so.
2. The WRF Project Manager cease distributing monthly financial reports and instead only distribute quarterly reports.
3. The CFAC and City Council should receive on a quarterly basis a summarized WRF timeline schedule of the significant milestones from the Microsoft Project Schedule used to track progress on the WRF project.

While I recognize the above items will be included in our meeting minutes, our members felt it important that our City Council receive advance notice of our recommendations. It was the opinion of our members that the above actions, if implemented, will result in both time and cost savings for City staff.

Please feel free to contact any CFAC member if you have any questions or comments regarding our discussion. Thank you as always for your support.

Barbara Spagnola, Chair
Citizens Finance Advisory Committee
Email: bspagnola@morrobayca.gov
[redacted]
Morro Bay, CA 93442

AGENDA NO: B-1

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor and City Council** **DATE: July 31, 2019**

FROM: **Scot Graham, Community Development Director**
Cindy Jacinth, Senior Planner

SUBJECT: **Adoption of Resolution No. 70-19 pre-zoning the 27.6 acre portion of the Water Reclamation Facility parcel APN 073-101-017 as a Public Facility Zone District and approval of General Plan & Local Coastal Program Text and Map Amendments and Introduction of Pre-zoning Ordinance No. 623 (Case No. MIN#19-009)**

RECOMMENDATION

1. Adopt Resolution No. 70-19, approving pre-zoning of a 27.6-acre portion of parcel APN 073-101-017 as a Public Facility zone district for the Water Reclamation Facility (WRF) to be located at 555 South Bay Blvd and approval of associated General Plan and Local Coastal Program Text and Map Amendments; and
2. Introduce for first reading by title only, and waive further reading, Ordinance No. 623 (Attachment 1), pre-zoning the 27.6 acre Water Reclamation Facility (WRF) portion of APN: 073-101-017 to Public Facility.

ALTERNATIVES

No alternatives are recommended.

FISCAL IMPACT

No fiscal impact associated with the pre-zoning action or the General Plan and Local Coastal Program (LCP) text and map amendments.

BACKGROUND

On June 25, 2019, Council authorized filing of two separate applications with LAFCO. Resolution Nos. 54-19 and 55-19 authorize:

1. An application with LAFCO for a sphere of influence designation and annexation of the South Bay WRF site, and
2. A sphere of influence (SOI) designation for the Tri-W remainder parcel.

LAFCO's application requirements include City Council to approve pre-zoning of the South Bay WRF parcel. That action was not included with the Council's previous action.

As part of the City's land use process, the Planning Commission (PC) reviewed the prezoning proposal on July 16, 2019, in order to provide a recommendation to the Council on the future land use for the site. The PC approved Resolution No. 18-19 forwarding a favorable recommendation to the City Council to pre-zone the subject 27.6-acre portion of parcel APN #073-101-017 as a Public Facility zone district in anticipation of a new Water Reclamation Facility (WRF) to be built at this

location. The current County zoning is Agriculture.

DISCUSSION

The proposed action will make the following changes to the General Plan Land Use Element and LCP Coastal Land Use Plan.

1. General Plan Map and Text Amendment to amend Land Use Element Figure LU-16.
2. The LCP Amendment will include both a Map and Text Amendment to Figure 4 of the Coastal Land Use Plan's Land Use Map.
3. Pre-zone a 27.6-acre portion of a 396.3-acre parcel (APN 073-101-017), located east of Highway 1 and South Bay Blvd. for Public Facility zone district.
4. The request also includes a General Plan and LCP amendment to the Urban Reserve and Urban Service line and LCP Urban-Rural Boundary.

Text Amendment changes:

Both General Plan and LCP amendments are necessary to update both the text and maps to include the associated land use. Both the City's current General Plan (1988) and the City's Coastal Land Use Plan (1984) include two land use classifications for industrial uses. Those two land uses are General Industry and Coastal-Dependent Industrial. General Industry is considered a light industry land use and Coastal-Dependent Industrial uses are those specifically given priority by the Coastal Act as being required to be adjacent to the coastline. The approved WRF project site is no longer located adjacent to the coastline and, therefore, does not fall into either of those land use categories.

The City's draft combined General Plan / LCP, known as "Plan Morro Bay" recognizes that and includes an identified land use for the subject area known as "Public/ Institutional," which is intended to accommodate a wide variety of publicly owned facilities and community-serving uses. Public/ Institutional is defined as:

Public/Institutional Land Use: Facilities which serve the public, including government buildings and service facilities; or quasi-public facilities such as hospitals and cultural or civic resources.

The proposed action would amend the text of both the existing General Plan and LCP to include this change (See Attachment 1, Exhibit A).

Map Amendment

The map amendments are shown in Attachment 1, Exhibit B. This would include specific amendments to:

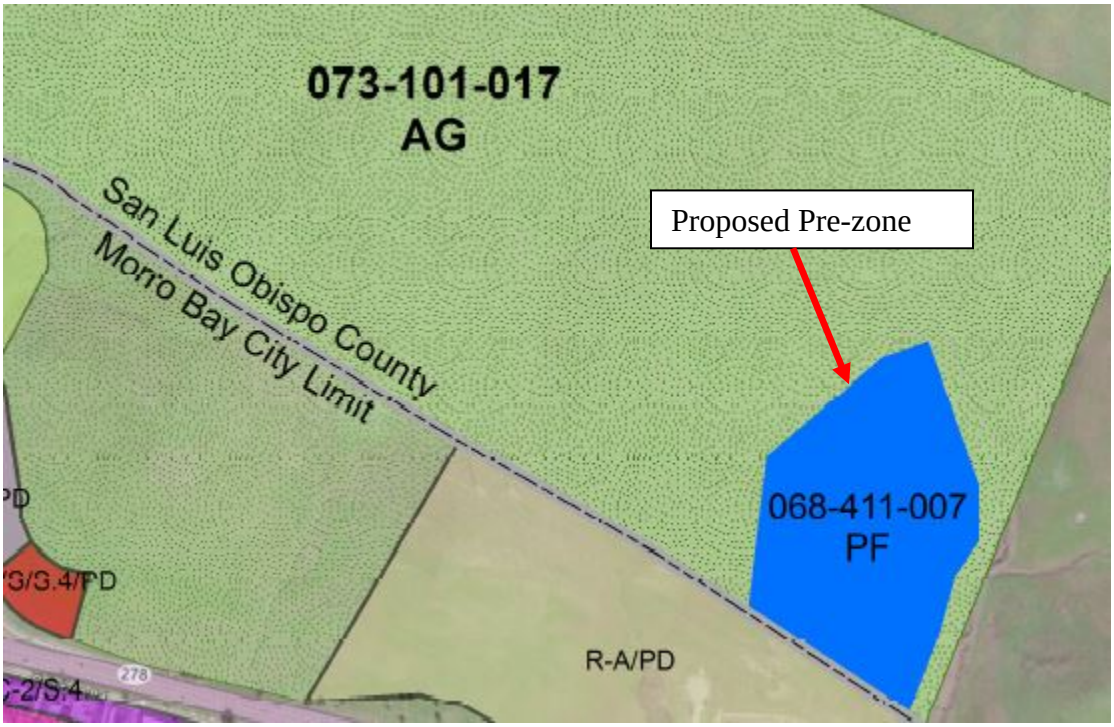
1. General Plan Land Use Element Figure LU-16
2. LCP Coastal Land Use Plan Figure 4.

Pre-Zone

Both LAFCO application requirements and the City's General Plan require pre-zoning of lands at the time of an annexation request. The City's General Plan Program LU-22.3 states*: At the time of*

request for annexation, the City shall prezone all lands within its sphere of influence in keeping with the above policy will utilize all methods available to insure county cooperation therewith. (LUE 8) Pre-zoning shall be applied to the sphere of influence with the intent to minimize urban expansion and maximize environmental conservation. (LUE 39) The sphere of influence areas will not be allowed to annex to the City until the Local Coastal Plan has been amended to include those areas within the LCP Urban-Rural Boundary."

The area to be pre-zoned is shown on Exhibit A of Attachment C. The 27.6-acre piece of the overall 396-acre parcel (APN 073-101-017) is in process of being created as a public lot, which is required as part of the LAFCO SOI Amendment and Annexation application. Prezoning Ordinance 623 is provided as Attachment C.



The Public Facility zone district is not an identified zoning designation in the City's current 1997 Zoning Ordinance. It is included in the draft new Zoning Code currently being reviewed by the Coastal Commission. That new Public Facility (PF) zone district is defined as follows:

> "The PF District is intended for facilities that serve the public, such as government buildings and service facilities, schools, hospitals, cultural centers, and other public and quasi-public uses. The Public Facility District implements the Public/Institutional General Plan/Local Coastal Plan Land Use Designation."

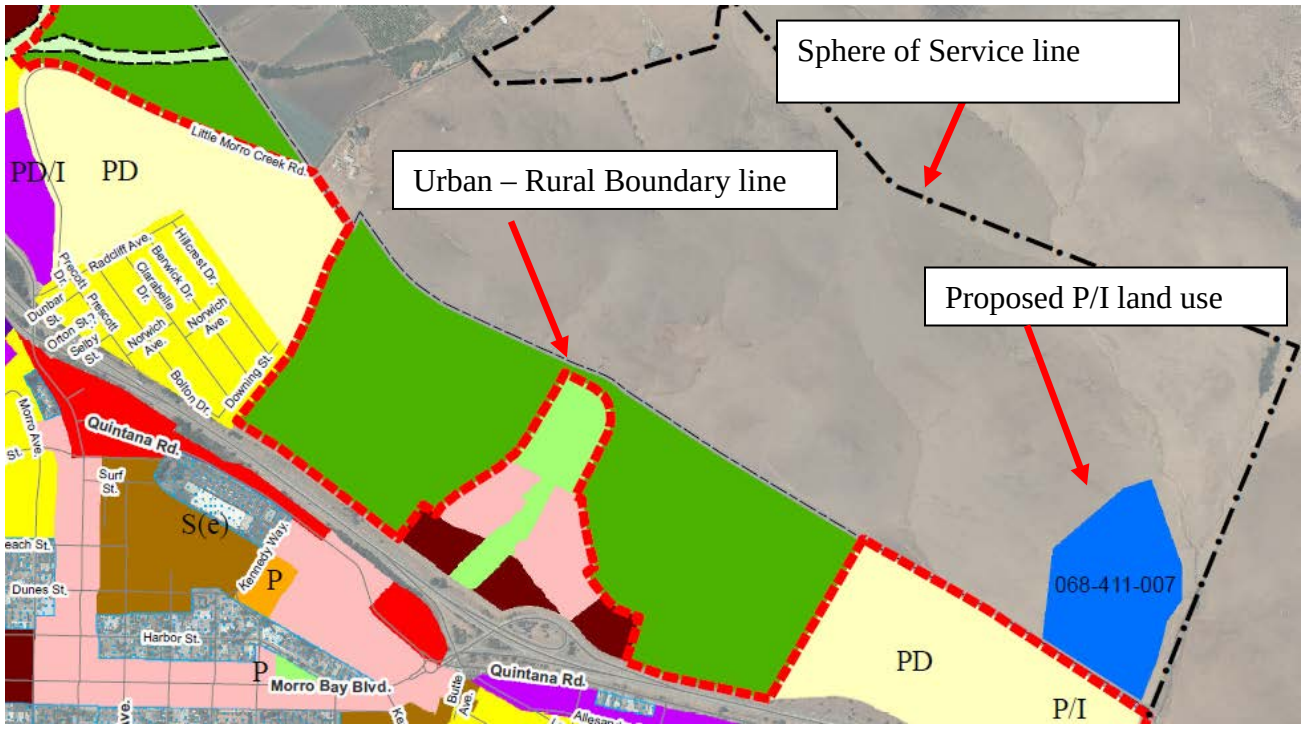
Urban Reserve and Urban Service line and LCP Urban-Rural Boundary

Both the "Urban Reserve and Urban Service line" in the General Plan, and the "LCP Urban-Rural

Boundary," which is found in the LCP are proposed for amendment to reflect the Sphere of Influence (SOI) amendment and annexation action. The current boundary lines are described in General Plan Policy LU-47 which states:

> "POLICY LU-47: The City's Urban Reserve and Urban Service lines (LCP) shall be drawn as follows: include all area within the City limits but exclude the Cabrillo property and the portion of the Williams property which is outside of the approximately 38 acre area adjacent to Highway One and designated for commercial and open area uses. (LCP 137)"

That policy will be amended to be consistent with the boundaries in Exhibit B of Attachment 1 and as also shown in the parcel legal description reviewed by City Council at its June 25, 2019 meeting.



ENVIRONMENTAL

The impacts of the new Water Reclamation Facility, which will be facilitated by the proposed Public Facility zoning, were considered in a Final EIR for that project, which was certified on August 14, 2018. No additional CEQA review is required for the prezoning action. When a city pre-zones an area for annexation, CEQA requires the City to be lead agency and for LAFCO to be the responsible agency per CEQA Guideline 15051(b)(2). Council Resolution No. 54-19 requested LAFCO be the lead agency. The attached Council Resolution contains a revision to reflect the City is acting as lead agency in this matter.

PUBLIC NOTICE:

Notice of a public hearing on this item was posted at the site and published in the Tribune newspaper both on July 13, 2019 and again on August 2, 2019, and mailed directly to all property owners and occupants of record within 500 feet of the subject site. The notices invited the public to

attend the hearing and express any concerns they may have regarding the proposed project.

CONCLUSION

Pursuant to Government Code section 65859, the City may pre-zone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the City. The zoning becomes effective at the same time the annexation becomes effective. The future public lot where the WRF will be located is currently outside City limits. On June 25, 2019, City Council adopted Resolution No. 54-19, which authorized the filing of an application to LAFCO for SOI Amendment and Annexation. That resolution approved by Council on June 25, 2019 included authorization of the annexation application along with a plan for services. The City is in the process of filing an application for annexation with LAFCO, which requires that this property be pre-zoned. In addition to authorizing changes to various land use designations, Resolution No. 70-19, being recommended for adoption, also modifies Resolution No. 54-19 by designating the City as the lead agency and LAFO as a responsible agency for CEQA purposes.

Staff recommends Council accept the PC favorable recommendation and approve the Pre-zone and General Plan and LCP amendments as submitted.

ATTACHMENTS:

1. City Council Resolution No. 70-19
2. Planning Commission Resolution No. 18-19
3. Pre-Zoning Ordinance No. 623
4. Staff Presentation for 8/13/19 City Council Meeting

Online Links:
June 25, 2019 City Council staff report and attachments
http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/5072

July 16, 2019 Planning Commission staff report and attachments
http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/5085

RESOLUTION NO. 70-19

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO PRE-ZONE A 27.6-ACRE PORTION OF PARCEL APN 073-101-017
AS A PUBLIC FACILITY ZONE DISTRICT AND APPROVE GENERAL PLAN AND
LOCAL COASTAL PROGRAM TEXT AND MAP AMENDMENTS IN ANTICIPATION OF A
NEW WATER RECLAMATION FACILITY TO BE BUILT AT THIS LOCATION,
555 SOUTH BAY BLVD**

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

WHEREAS, the City of Morro Bay, California, pursuant to Resolution No. 54-19, authorized staff to initiate proceeding pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code (Act), for annexation of territory to the City of Morro Bay, California;

WHEREAS, the principal reasons for the proposed sphere of influence designation and annexation is as follows:

a. Tri-W Enterprise, Inc. is the owner of that certain approximately 396.3-acre property within San Luis Obispo County and outside of the City of Morro Bay boundary lines (Property),

b. the City of Morro Bay (City) has entered into a Memorandum of Understanding (MOU) with the Tri-W Enterprise, Inc. for the acquisition of a 27.6-acre portion of the Property for the construction and operation of the City's new Water Reclamation Facility, and

c. the City intends to use the Subdivision Map Act Exemption identified in Section 66428(a)(2) to create the 27.6-acre parcel to be annexed into the City's boundaries; and

WHEREAS, the following agency would be affected by the proposed jurisdictional changes:

Agency	Nature of Change
County of San Luis Obispo	Annexation/Sphere of Influence;

WHEREAS, the portion of the Property proposed to be included in the City's designated Sphere of Influence and to be annexed are uninhabited, and a map of the boundaries of the Property are shown on Exhibit B; and

WHEREAS, the City Council on June 25, 2019 authorized filing of two separate applications with Local Agency Formation Commission of San Luis Obispo County (LAFCO) through Resolutions No. 54-19 and 55-19, which authorized an application with LAFCO for a sphere of influence (SOI) designation and annexation of the WRF site and a SOI designation for the Tri-W remainder parcel.

WHEREAS, the City Council's action on June 25, 2019 included adoption of the Plan for Service, Map, and Legal Description which are included as attachments to Resolution 54-19; and

WHEREAS, California Government Code subdivision 65859 (a) states, a city may pre-zone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the city. The zoning shall become effective at the same time that the annexation becomes effective; and

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on July 16, 2019, for the purpose of considering a favorable recommendation to City Council for pre-zoning of a 27.6-acre portion of parcel APN 073-101-017 which is located outside of the City limits (Case No.: #MIN19-009); and

WHEREAS, the current zoning designation in the unincorporated County is agriculture and the City desires to pre-zone this 27.6-acre parcel as public facility; and

WHEREAS, the parcel is currently vacant and will be the location of the City's new Water Reclamation Facility, and a map of the boundaries of the parcel are attached hereto as Exhibit B; and

WHEREAS, the City's General Plan Policy LU-22 states growth is to be carefully managed and monitored and allowed only when it can be conclusively proven that all community services can be adequately and economically provided to new residents; and

WHEREAS, the City's General Plan Program LU-22.3 states at the time of request for annexation, the City shall pre-zone all lands within its sphere of influence in keeping with the above policy and will utilize all methods available to insure county cooperation therewith. Prezoning shall be applied to the sphere of influence with the intent to minimize urban expansion and maximize environmental conservation. The sphere of influence areas will not be allowed to annex to the City until the Local Coastal Plan has been amended to include those areas within the LCP Urban-Rural Boundary; and

WHEREAS, the California Coastal Commission on July 11, 2019, during its regularly scheduled meeting approved a Coastal Development Permit (CDP) for the City's Water Reclamation Facility; and

WHEREAS, as a modification to Resolution No. 54-19 and pursuant to 14 CCR 15051(b)(2), the City Council of the City requests LAFCO to assume Responsible Agency status regarding compliance with the California Environmental Quality Act (CEQA) regarding the subject annexation and sphere of influence application, with the understanding, (i) the City Council will act as the Lead Agency and (ii) on August 14, 2018, the City Council of the City certified the Final Environmental Impact Report for the Morro Bay Water Reclamation Facility (SCH# 2016081027) (FEIR), for which notices of preparation and availability were provided to LAFCO and LAFCO provided written comments to the FEIR on May 1, 2018, to which the City responded, as required by CEQA;

WHEREAS, the impacts of the new Water Reclamation Facility, which will be facilitated by the proposed Public Facility zoning, were considered in a Final EIR for that project, certified on August 14, 2018. No additional CEQA review is required for the pre-zoning action.

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the City Council has duly considered the evaluation and recommendations by staff and the Planning Commission presented at said meeting and accepts the Planning Commission recommendation; and.

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

Section 1. The City Council hereby approves a General Plan and Local Coastal Land Use Plan Text Amendments adding the Public/Institutional Land Use Designation as shown in Exhibit A.

Section 2. The City Council hereby approves to the General Plan and Local Coastal Land Map Amendments as shown on Exhibit B.

Section 3. Staff is directed to submit the Coastal Land Use Plan Amendments to the California Coastal Commission for certification.

Section 4. The Coastal Land Use Plan text and map amendments will become effective upon certification by the Coastal Commission if certified without change or with minor changes. If significant changes are made to the amendments, the changes will become effective upon adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13TH day of August, 2019 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADDING, Mayor

ATTEST

DANA SWANSON, City Clerk

General Plan Text Amendment of Land Use Element, page II-50 (text addition shown in bold underlined font and text deletion shown in strikethrough):

c. Industrial Uses:

(1) General Industry: Light industry land uses which do not require materials or equipment which would emit excessive air, audio, water or land pollutants, or would require considerable outdoor storage, are allowable in this designation. The City would like to encourage the location of light industries that would specifically cater to commercial fishing and regional needs, such as machine shops, auto mechanic shops, blacksmithing, cold storage, warehousing and food processing, light manufacturing, component assembling and small parts processing.

(2) Coastal-Dependent Industrial Land Use: This land use specifically relates to those industrial land uses which are given priority by the Coastal Act of 1976 for location adjacent to the coastline. Examples of uses in this designation are thermal power plants, seawater intake structures, discharge structures, tanker support facilities and other similar uses which must be located o or adjacent to the sea in order to function. The Morro Bay wastewater treatment facilities are protected in their present location since an important operational element, the outfall line, is coastal-dependent; see LCP Policy 5.03.

(3) Public/Institutional Land Use: Facilities which serve the public, including government buildings and service facilities; or quasi-public facilities such as hospitals and cultural or civic resources.

Coastal Land Use Plan (LCP) Text Amendment of Chapter II, page 22 (text addition shown in red font and text deletion shown in strikethrough):

3. Industrial Land Uses

~~Two~~ **Three** industrial land use categories have been established, General (Light) Industrial, ~~and~~ Coastal Dependent Industrial**, and Public/Institutional** land uses. ~~Both~~ **These** designations reflect the existence of ~~two~~ basic industrial uses in the City, commercial fishing and processing ~~and~~ public utility and energy land uses**, and the City's new Water Reclamation Facility**.

(1) General Industry: Light industry land uses which do not require materials or equipment which would emit excessive air, audio, water or land pollutants, or would require considerable outdoor storage, are allowable in this designation. The City would like to encourage the location of light industries that would specifically cater to commercial fishing and regional needs, such as machine shops, auto mechanic shops, blacksmithing, cold storage, warehousing and food processing, light manufacturing, component assembling and small parts processing.

(2) Coastal-Dependent Industrial Land Use: This land use specifically relates to those industrial land uses which are given priority by the Coastal Act of 1976 for location adjacent to the coastline. Examples of uses in this designation are thermal power plants, seawater intake structures, discharge structures, tanker support facilities and other similar uses which must be located o or adjacent to the sea in order to function. The Morro Bay wastewater treatment facilities are protected in their present location since an important operational element, the outfall line, is coastal-dependent; see LCP Policy 5.03."

(3) Public/Institutional Land Use: Facilities which serve the public, including government buildings and service facilities; or quasi-public facilities such as hospitals and cultural or civic resources.

CITY OF MORRO BAY EXISTING LAND USE

RESIDENTIAL

- Low Density Residential
- Medium Density Residential
- Moderate Density Residential
- High Density Residential
- Medium Density Residential / Neighborhood Commercial

COMMERCIAL

- Commercial / Recreational Fishing
- District Commercial
- Service Commercial
- Visitor Serving Commercial

INDUSTRIAL

- Coastal Development Industrial
- General (Light) Industrial

OTHER

- Agriculture
- Environmentally Sensitive Habitat
- Harbor / Navigational Ways
- Mixed Use
- Mixed Uses (Harbor)
- Open Space / Recreation
- School
- City Limits
- LAFCO Sphere of Service
- General Plan and LCP Urban/Rural Boundary

OVERLAYS

PD	PLANNED DEVELOPMENT	
R	RESTRICTED	
P	PARK	
S	SCHOOL	(e) Elementary (h) High School
P/I	PUBLIC/INSTITUTIONAL	
I	INTERIM OPEN SPACE	

0 850 1,700 3,400 5,100 6,800 Feet

CITY OF MORRO BAY PROPOSED LAND USE

RESIDENTIAL

- Low Density Residential
- Medium Density Residential
- Moderate Density Residential
- High Density Residential
- Medium Density Residential / Neighborhood Commercial

COMMERCIAL

- Commercial / Recreational Fishing
- District Commercial
- Service Commercial
- Visitor Serving Commercial

INDUSTRIAL

- Coastal Development Industrial
- General (Light) Industrial
- Public/Institutional

OTHER

- Agriculture
- Environmentally Sensitive Habitat
- Harbor / Navigational Ways
- Mixed Use
- Mixed Uses (Harbor)
- Open Space / Recreation
- School
- City Limits
- LAFCO Sphere of Service
- General Plan and LCP Urban/Rural Boundary

OVERLAYS

PD	PLANNED DEVELOPMENT	
R	RESTRICTED	
P	PARK	
S	SCHOOL	(e) Elementary (h) High School
P/I	PUBLIC/INSTITUTIONAL	
I	INTERIM OPEN SPACE	

068-411-007

0 850 1,700 3,400 5,100 6,800 Feet

RESOLUTION NO. PC 18-19

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION FORWARDING A FAVORABLE RECOMMENDATION TO THE MORRO BAY CITY COUNCIL TO PREZONE A 27.6 ACRE PORTION OF PARCEL APN 073-101-017 AS A PUBLIC FACILITY ZONE DISTRICT IN ANTICIPATION OF A NEW WATER RECLAMATION FACILITY TO BE BUILT AT THIS LOCATION, 555 SOUTH BAY BLVD

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on July 16, 2019, for the purpose of considering a favorable recommendation to City Council for prezoning of a 27.6 acre portion of parcel APN 073-101-017 which is located outside of the City limits (Case No.: #MIN19-009); and

WHEREAS, pursuant to California Code of Regulation section 65859 subsection (a) which states that a city may, pursuant to this chapter, prezone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the city. The zoning shall become effective at the same time that the annexation becomes effective; and

WHEREAS, the City intends to pursue annexation and a sphere of influence (SOI) amendment of this 27.6 acre parcel to be addressed as 555 South Bay Blvd; and

WHEREAS, the current zoning designation in the unincorporated County is agriculture and the City desires to prezone this 27.6 acre parcel as public facility; and

WHEREAS, the Planning Commission reviewed Exhibit B of the July 10, 2019 staff report which provided a map exhibit depicting the proposed Public Facility zoning of the 27.6 acre portion of parcel APN 073-101-017 where the Water Reclamation Facility is proposed; and

WHEREAS, the City's General Plan Policy LU-22 states growth is to be carefully managed and monitored and allowed only when it can be conclusively proven that all community services can be adequately and economically provided to new residents; and

WHEREAS, the City's General Plan Program LU-22.3 states at the time of request for annexation, the City shall prezone all lands within its sphere of influence in keeping with the above policy and will utilize all methods available to insure county cooperation therewith. Prezoning shall be applied to the sphere of influence with the intent to minimize urban expansion and maximize environmental conservation. The sphere of influence areas will not be allowed to annex to the City until the Local Coastal Plan has been amended to include those areas within the LCP Urban-Rural Boundary; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: All of the above recitals are true and correct and incorporated herein by reference.

Section 2: California Environmental Quality Act (CEQA) Findings

The impacts of the new Water Reclamation Facility, which will be facilitated by the proposed Public Facility zoning, were considered in a Final EIR for that project, certified in June 2018. No additional CEQA review is required for the prezoning action.

Section 3. Action. The Planning Commission does hereby forward a favorable recommendation to City Council to prezone the 27.6 acre portion of parcel APN 073-101-017 as a public facility zone district in anticipation of a new water reclamation facility to be built at 555 South Bay Blvd where the current zoning designation is agriculture and finds this action to be consistent with the General Plan.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 16TH day of July , 2019 on the following vote:

AYES: : Luhr, Lucas, Ingraffia, Barron
NOES:
ABSENT:
ABSTAIN:

Chairperson Gerald Luhr

ATTEST

Scot Graham, Secretary

The foregoing resolution was passed and adopted this 16th day of July, 2019.

ORDINANCE NO. 623

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ESTABLISHING PRE-ZONING FOR THE 27.6-ACRE PORTION
OF PARCEL APN #073-101-017
(CASE NO.#MIN19-001)**

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

WHEREAS, California Government Code subdivision 65859 (a) states, a city may pre-zone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the city. The zoning shall become effective at the same time that the annexation becomes effective; and

WHEREAS, the City intends to pursue annexation and a sphere of influence (SOI) amendment of the subject 27.6-acre parcel, which is currently uninhabited and located in unincorporated San Luis Obispo County and to be addressed as 555 South Bay Blvd; and

WHEREAS, the current zoning designation in the unincorporated County is agriculture and the City desires to pre-zone the subject 27.6-acre parcel as Public Facility (PF); and

WHEREAS, PF zoning is consistent with the Public/Institutional General Plan Land Use Designation; and

WHEREAS, the Site is currently uninhabited and is designated by the draft combined General Plan / Local Coastal Program ("Plan Morro Bay") for Public/ Institutional land use with the draft Zoning Code to be Public Facility (PF) zone district.; and

WHEREAS, the City of Morro Bay received approval on July 11, 2019, for a coastal development permit from the California Coastal Commission for construction of a Water Reclamation Facility to be located on the subject 27.6-acre portion of an overall 396 acre parcel (APN #073-101-017); and

WHEREAS, at its meeting of July 16, 2019, the Planning Commission took the following actions:

a. Considered the facts and analysis, as presented in the staff report prepared for this project;
b. Conducted a public hearing to obtain public testimony on the proposed project;

WHEREAS, at its meeting of August 13, 2019, the City Council took the following actions:

a. Considered the facts and analysis, as presented in the staff report prepared for this project;
b. Considered the recommendations of the Planning Commission;
c. Conducted a public hearing to obtain public testimony on the proposed project;
d. Approved Resolution 70-19 approving General Plan and Local Coastal Program Text and Map amendments adding the Public/Institutional land use classification to both documents to facilitate the prezoning of the site.

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

SECTION 1. The above stated facts of this ordinance are true and correct.

SECTION 2. This subject pre-zoning to PF is consistent with the City's General Plan and Local Coastal Program.

SECTION 3. The area being pre-zoned is outside of the City limits and hereby established as shown on the attached Exhibit A.

SECTION 4. This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting of the City Council held on the 13th day of August 2019, by motion of Council Member _____ and seconded by Council Member _____.

PASSED AND ADOPTED on the 27th day of August 2019, by the following vote:

AYES:
NOES:
ABSENT:

_____
JOHN HEADDING, Mayor

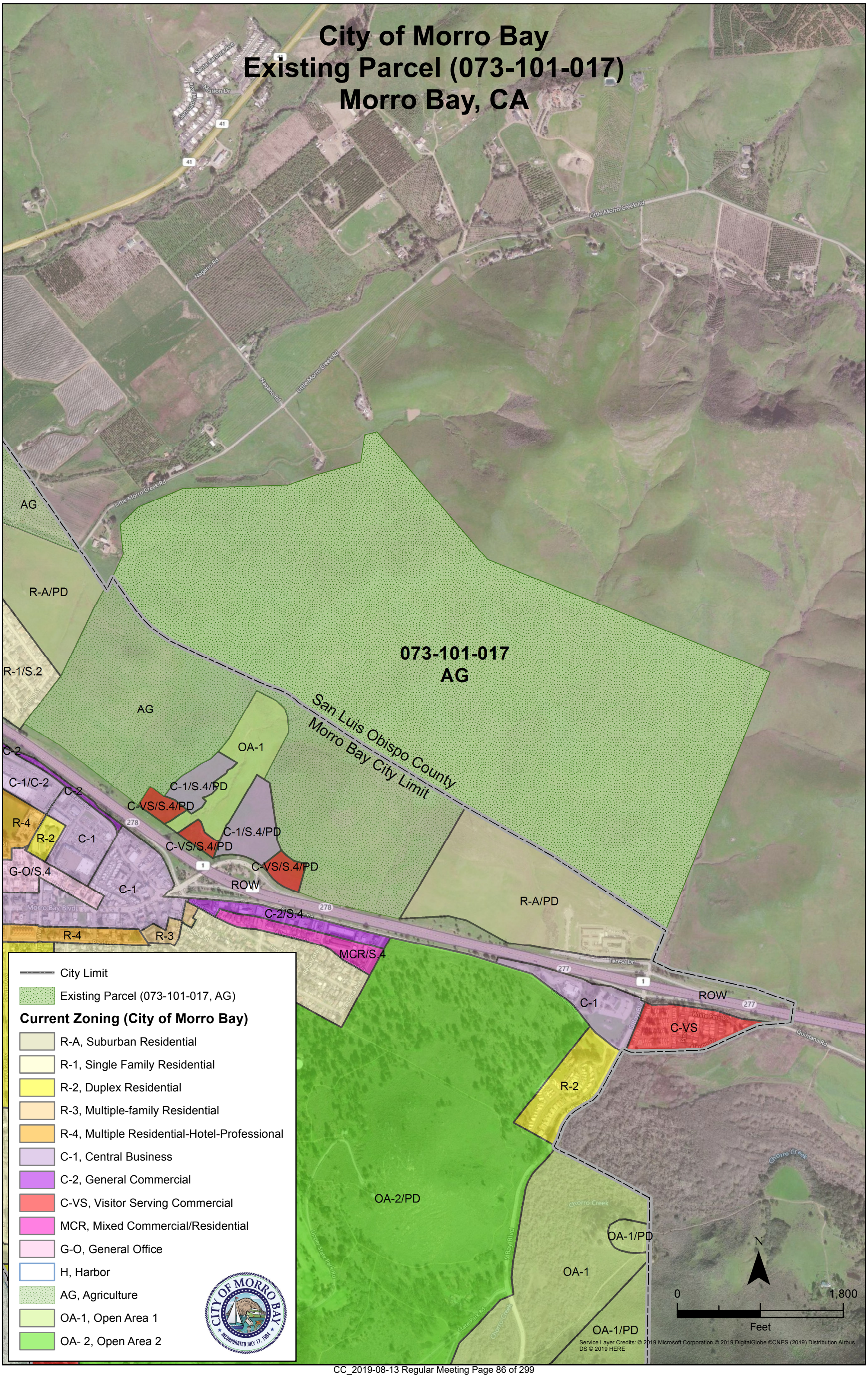
ATTEST:

_____
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

_____
CHRIS F. NEUMEYER, City Attorney

City of Morro Bay
Existing Parcel (073-101-017)
Morro Bay, CA



W:\GIS\CityofMorroBay\Planning\Projects\WRF Zoning\B-WRF-ExistingZoning-Portrait.mxd

City of Morro Bay
Existing Parcel (073-101-017) with Proposed Water Reclamation Facility
Morro Bay, CA

073-101-017
AG

068-411-007
PF

San Luis Obispo County
Morro Bay City Limit

AG
R-A/PD
R-1/S.2
C-2
C-1/C-2
R-4
R-2
C-1
G-O/S.4
OA-1
C-1/S.4/PD
C-VS/S.4/PD
ROW
C-2/S.4
MCR/S.4
OA-2/PD
OA-1/PD
C-VS

Little Morro Creek Rd
Nagano Rd
Morro Bay Blvd
Teresa Dr
White Pine Dr
Quintana Rd
Chorro Creek
State Park Rd
S Bay Blvd

City Limit
Proposed Water Reclamation Facility (Public Facility)
Existing Parcel (073-101-017, AG)

Current Zoning (City of Morro Bay)

- R-A, Suburban Residential
- R-1, Single Family Residential
- R-2, Duplex Residential
- R-3, Multiple-family Residential
- R-4, Multiple Residential-Hotel-Professional
- C-1, Central Business
- C-2, General Commercial
- C-VS, Visitor Serving Commercial
- MCR, Mixed Commercial/Residential
- G-O, General Office
- H, Harbor
- AG, Agriculture
- OA-1, Open Area 1
- OA- 2, Open Area 2

N

0 1,800
Feet

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W:\GIS\CityofMorroBay\Planning\Projects\WRF Zoning\B-WRF-ExistingZoning-ProposedWRF.mxd

Prezoning of WRF Location, GP/LCP Text & Map Amendments, & Introduction of Pre-zoning Ordinance No. 623

- THE CITY OF MB IS PROPOSING TO PREZONE THE 27.6 ACRE WRF LOT TO PUBLIC FACILITIES (PF)
- CITY APPROVAL OF PREZONING IS NECESSARY IN ORDER TO PROCESS AN APPLICATION WITH LAFCO FOR ANNEXATION
- GENERAL PLAN & LCP TEXT AND MAP AMENDMENTS TO LAND USE ELEMENT AND COASTAL LAND USE MAP.
- GP & LCP AMENDMENT TO URBAN RESERVE & LCP URBAN-RURAL BOUNDARY

MORRO BAY
PUT LIFE ON COAST

Background

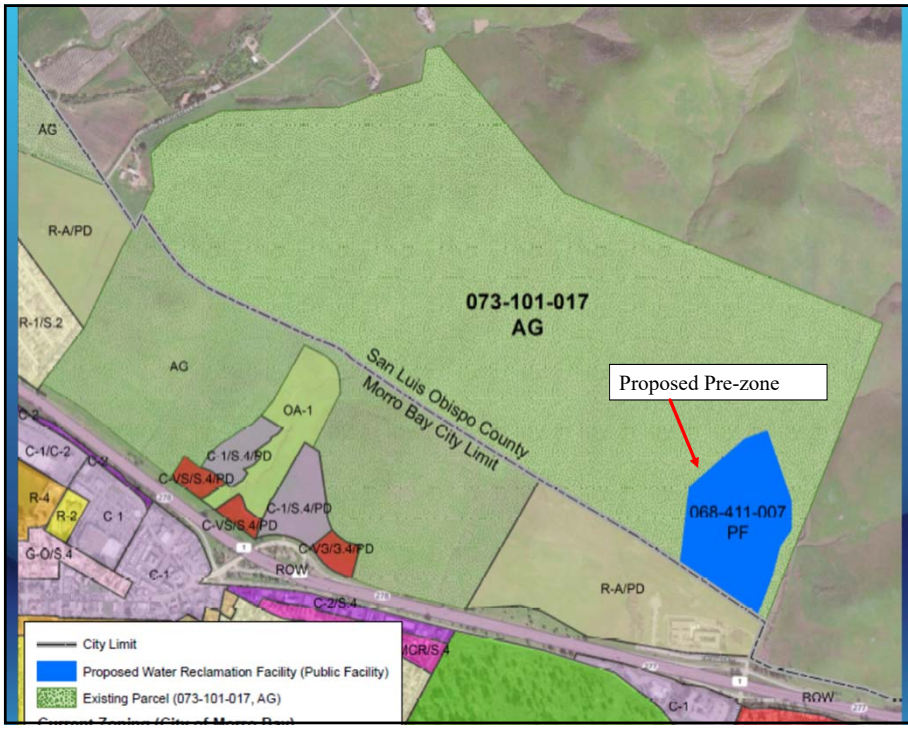
- June 25, 2019: Council approved Resolutions 54-19 authorizing the filing of a combined application for sphere of influence designation and annexation of the 27.6 acre site, the City is planning on purchasing from Tri-W (MOU), for construction of the WRF
- The property proposed for annexation is vacant and located off of South Bay Boulevard on the east side of Highway 1.
- Planning Commission reviewed prezoning proposal on July 16, 2019.

MORRO BAY
PUT LIFE ON COAST

Draft GP/LCP/Zoning

- The City's draft Zoning classification includes a Public Facilities (PF) Zone district with the following definition: "*the PF district is intended for facilities that serve the public, such as government buildings and service facilities, schools, hospitals, cultural centers, and other public and quasi public uses. The Public Facilities District implements the Public/Institutional General Plan/Local Coastal Plan Land Use Designation*"

MORRO BAY
PUT LIFE ON COAST



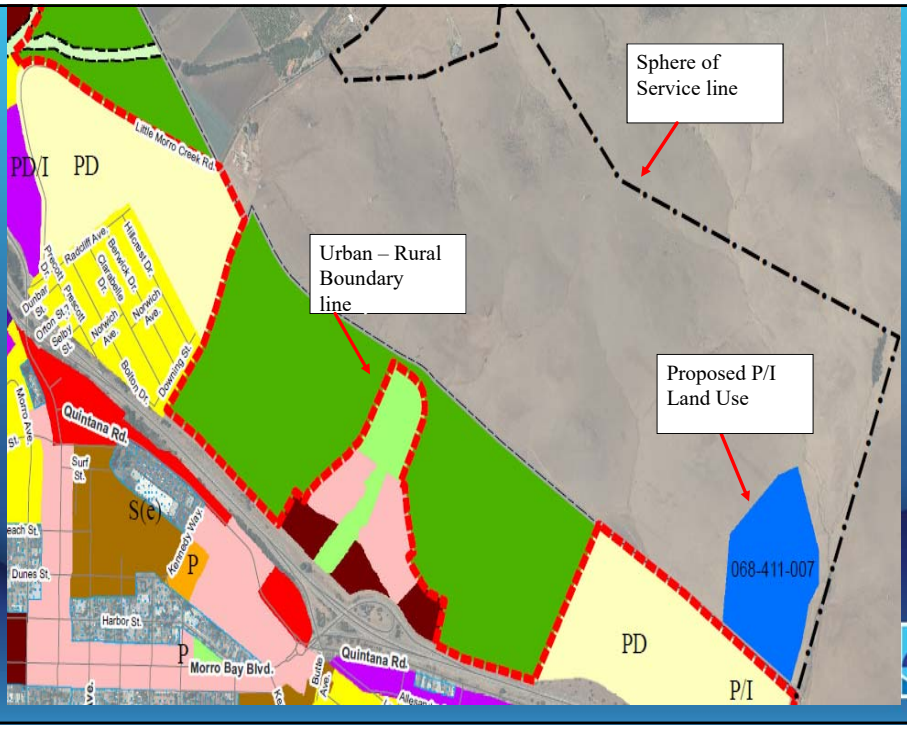
Prezoning for Annexation

MORRO BAY
PUT LIFE ON COAST

Draft Public / Institutional Land Use

- The property is identified on the City's Draft Land Use Map as Public Facilities/Institutional.
- Public / Institutional (P/I) land use has the following definition: "*Facilities which serve the public, including government buildings and service facilities; or quasi-public facilities such as hospitals and cultural or civic resources*"

MORRO BAY
PUT LIFE ON COAST



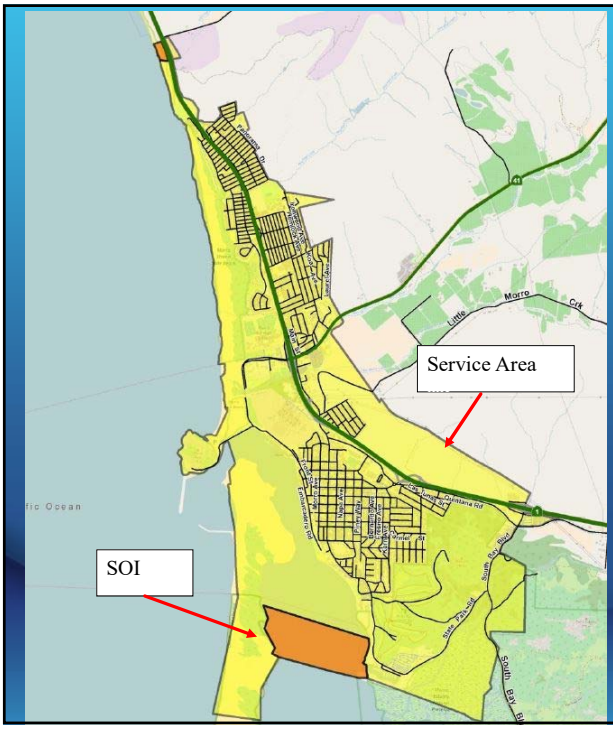
Proposed Public/ Institutional Land Use

MORRO BAY
PUT LIFE ON COAST

Text Amendment Changes & Urban Reserve Line / LCP Urban - Rural

- Both General Plan and Coastal Land Use Plan include two categories of industrial uses. Text amendment would add Public/Institutional as a third category.
- Urban Reserve /Urban Service and LCP Urban-Rural Boundary are described in General Plan Policy LU-47 which include all area within City limits but excludes the Cabrillo property and the portion of the Williams property which is outside of the approximately 38 acre area adjacent to Highway One and designated for commercial and open area uses.

MORRO BAY
PUT LIFE ON COAST



City limits and Sphere of Influence from LAFCO 2017 Adopted SOI Update Municipal Service Review

MORRO BAY
PUT LIFE ON COAST

Environmental

Final EIR certified on August 14, 2018. No additional CEQA review is required for the prezoning action.

CEQA requires the City act as lead agency for prezone action per CEQA guideline 15051(B)(2). LAFCO acts as a responsible agency. Council resolution 70-19 reflects this requirement.

MORRO BAY
PUT LIFE ON COAST

Conclusion & Staff Recommendation

- Per Govt. Code section 65859, the City may prezone unincorporated territory to determine the applicable zoning to that territory upon annexation. Council approved Resolution 54-19 authorizing the City to move forward with an application to LAFCO for annexation of the WRF property.
- Staff Recommends adoption of Resolution No. 70-19, approving prezone of the WRF site to Public Facilities (PF) and approval of associated GP/LCP text and map amendments; and
- Introduce for first reading by title only Ordinance 623.

MORRO BAY
PUT LIFE ON COAST

AGENDA NO: B-2

MEETING DATE: August 13, 2019

Staff Report

TO: Honorable Mayor and City Council **DATE:** July 29, 2019

FROM: Nancy Hubbard, Contract Planner

SUBJECT: **Adopt Resolution No. 71-19 Amending the Coastal Land Use Plan to Clarify the Total Density Derived from the Allowed Density Transfer within the Cloisters Subdivision.**

RECOMMENDATION

Adopt Resolution 71-19 approving the proposed text amendments to the Coastal Land Use Plan (LUP) (Exhibit A) and direct staff to submit to the California Coastal Commission for certification.

ALTERNATIVES

Council may modify or deny the proposed amendment; however, the change is a mathematical clarification related to verbiage included in an amendment from 1988, as such denial will not resolve the past difficulties with interpretation of the previous text amendments.

FISCAL IMPACT

The proposed text amendment will have no fiscal impact.

BACKGROUND

This text amendment relates to allowed density on the land that became the Cloisters Subdivision in 1996. The property owner and the City worked together to determine acceptable uses and densities for the 84.4 acres west of Highway 1, north of Morro Bay High School and generally South of Azure Street (one block South of San Jacinto). The 1988 and 1989 LUP amendments relate to the negotiations and the resulting July 1989 settlement agreement between the City of Morro Bay and Keyoto-Natalie Corporation, the then property owner.

SUMMARY OF TEXT AMENDMENT:

The LUP amendment language approved in October 24, 1988 (Reso No. 127-88) related to the currently proposed text amendment, and is provided below in underlined italics:

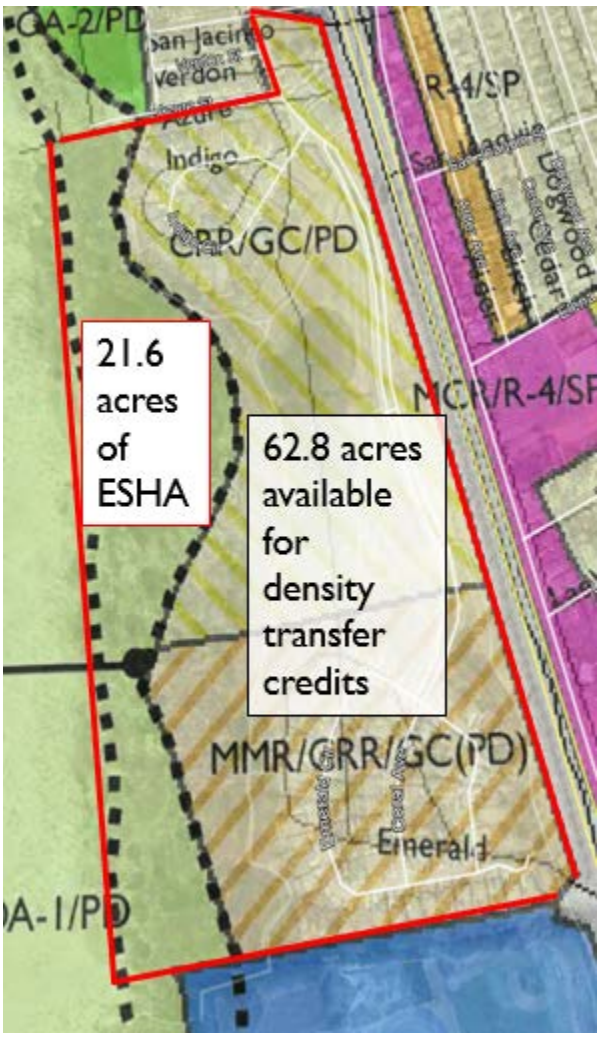


Policy 0.6 Development within Mixed Use Area G (2); 1. Land Use Permitted;

b. Coastal Resource Residential: *Portions of the area, generally adjacent to the Atascadero Beach Tract on the north, Morro Bay High School on the south, and outside the public view corridor designated by Figure 32, may be used for single family detached residences with minimum lot areas of not less than 6,000 square feet a consistent with Chapter 16 of the Municipal Code. Density credit derived from the overall area designated as Coastal Resource (Limited Density) Residential on the Land Use Plan Map with a base density of up to 2 units per acres, may be transferred to the areas outside of the public viewshed, and residences may be developed at higher densities within those areas, subject to the minimum lot sizes set forth above.*

The LUP was amended again on October 30, 1989 (Resolution No. 126-89) to add the underlined and italicized language below to the end of Policy 0.6 shown above: Note that 1989 amendment also included an error in the final map date – shown as 1015, when the actual map was recorded in 1915. That correction has been added to this text amendment request.

Such Transferred density will allow 120 residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about 1015.



ANALYSIS

The settlement agreement between the City of Morro Bay and Keyoto-Natalie Corporation included an agreement for 120 residential units, which were to be derived through the density transfer allowed on property carrying the *Coastal Resource Residential land use classification (CRR)* within the subdivision, excluding the ESH. The LUP amendment included the change to "allow 120 residential units;" however, the math for the density transfer allows more than 120 units and that is not clear in the existing LUP language. The determination of the total residential density allowed required identification of the portion of the 84.4 acres that was deemed to be ESH, and in the Final Environmental Impact Report (FEIR) dated December 1991, the ESH was determined to be 21.6 acres. So, 84.4 acres less the ESH area of 21.6 acres is 62.8 acres. Using the 2 units per acres allowed under the CRR land use classification calculates to 125.6 total units. The original 120 residential units was based on an estimate that there were 60 acres outside of the ESH to use for density transfer, and as such the settlement agreement resulting 120 residential units were included in the north and south residential clusters, shown in the final Tract Map 1996. However, the remaining 5.6 residential units of density credit available to transfer from the overall area designated as Coastal Resource Residential to remaining land not in the ESH and not within the View Corridor, were not mentioned in the LUP amendments. Morro Bay Municipal Code, section 17.48.030 requires rounding up of fractions for purposes of density calculations only if the fraction is .95 or greater. In this case, the 5.6 residential units is rounded down to 5 units. That is the available residential density that is allowed and available to transfer to land outside of the Public View Corridor. This text amendment is necessary to clarify the maximum allowed density for the subdivision is 125 residential units, not the 120 units mentioned in LUP Policy 0.6.

ENVIRONMENTAL DETERMINATION

The proposed amendments to the text of the Coastal LUP are exempt from environmental review pursuant to Subdivision 15061(b)(3) of the State CEQA Guidelines under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and Subdivision 15265(c) which exempts approval of Coastal LUPs pursuant to the California Coastal Act.

PUBLIC NOTICE

Notice of this item was published in the San Luis Obispo Telegram-Tribune newspaper on July 13, 2019 as a 1/8th page notice, meeting the legal requirements for public notification. Additionally, postcard notifications were sent to all residents of the Cloisters, adjacent jurisdictions, to all residents within 500 feet of Lot 124 and notices were posted in the City Kiosks and a sign was posted on Lot 124.

CONCLUSION

Adopt City Council Resolution 71-19 approving the proposed text amendments to the Coastal Land Use Plan (Exhibit A) and direct staff to submit to the California Coastal Commission for certification.

ATTACHMENTS

1. City Council Resolution 71-19
    - Exhibit A - Coastal Land Use Plan Amendment
2. Planning Commission Resolution 15-19
3. Staff Presentation for 8/13/19 City Council Meeting

RESOLUTION NO. 71-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, APPROVING TEXT AMENDMENT MIN 19-06 TO THE MORRO BAY COASTAL LAND USE PLAN NECESSARY TO CLARIFY THE TOTAL RESIDENTIAL DENSITY DERIVED FROM THE ALLOWED DENSITY TRANSFER IN THE CLOISTERS SUBDIVISION (TRACT 1996)

THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA

WHEREAS, the purpose of the Morro Bay Coastal Land Use Plan is to establish the kinds, location, and intensity of land uses, and the applicable resource protection and development policies for the use of land in the City of Morro Bay; and

WHEREAS, it is important to have clear, consistent, and easy to interpret policies within the Coastal Land Use Plan; and

WHEREAS, amendment of Coastal Land Use Plan Policy 0.6 is necessary to clarify the total density transfer derived from the allowed density transfer to non-view corridor property identified with a land use classification of Coastal Resource Residential (CRR); and

WHEREAS, the proposed amendments to the Coastal Land Use Plan are exempt from further environmental review pursuant to Subdivision 15061(b) (3) of the State CEQA Guidelines under the general rule that CEQA only applies to projects, which have the potential for causing a significant effect on the environment, and Subdivision 15265(c), which exempts approval of Coastal Land Use Plans pursuant to the California Coastal Act;

WHEREAS, clarifying the density transfer allowed under the CRR land use classification has no potential for causing a significant effect on the environment, as any development would be subject to the provisions of the Coastal Land Use Plan and all City development standards;

WHEREAS, the amendments as presented are consistent with the intent of the City of Morro Bay's Coastal Land Use Plan.

WHEREAS, on July 16, 2019, Planning Commission approved Resolution 15-19 forwarding a recommendation for City Council approval of the proposed text amendments following a duly noticed public hearing in which the Commission considered all evidence, including the testimony of all interested parties, both written and oral, and the evaluation and recommendations by staff, presented at said hearing;

WHEREAS, the City Council of the City of Morro Bay conducted a duly advertised public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on August 13, 2019, to consider Text Amendments to the Coastal Land Use Plan (MIN19-06)

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

1. Coastal Land Use Plan text amendment (MIN19-06), attached hereto has Exhibit A and incorporated herein by this reference, is approved
2. Staff is directed to submit the text amendment to California Coastal Commission for certification.
3. The text amendment will be effective upon certification by California Coastal Commission if minor or no changes. If significant changes are made to the amendment, then the changes will become effective upon adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13th day of August 2019 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

.

EXHIBIT “A”

Amendment of Coastal Land Use Plan Section II.E.

Underlined bold text is new language.

II. Land Use Plan Map and General Land Use Policies

E. SPECIFIC LAND USE POLICIES

Current Language:

Policy 0.6 Development within Mixed Use Area G (2); 1. Land Use Permitted;

b. Coastal Resource Residential: Portions of the area, generally adjacent to the Atascadero Beach Tract on the north, Morro Bay High School on the south, and outside the public view corridor designated by Figure 32, may be used for single family detached residences with minimum lot areas of not less than 6,000 square feet a consistent with Chapter 16 of the Municipal Code. Density credit derived from the overall area designated as Coastal Resource (Limited Density) Residential on the Land Use Plan Map with a base density of up to 2 units per acres, may be transferred to the areas outside of the public viewshed, and residences may be developed at higher densities within those areas, subject to the minimum lot sizes set forth above. Such Transferred density will allow 120 residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about 1015.

Proposed Language (bold and underlined):

Policy0.6 Development within Mixed Use Area G (2); 1. Land Use Permitted;

b. Coastal Resource Residential: Portions of the area, generally adjacent to the Atascadero Beach Tract on the north, Morro Bay High School on the south, and outside the public view corridor designated by Figure 32, may be used for single family detached residences with minimum lot areas of not less than 6,000 square feet a consistent with Chapter 16 of the Municipal Code. Density credit derived from the overall area designated as Coastal Resource (Limited Density) Residential on the Land Use Plan Map with a base density of up to 2 units per acres, may be transferred to the areas outside of the public viewshed, and residences may be developed at higher densities within those areas, subject to the minimum lot sizes set forth above. Such Transferred density will allow **up to 125** residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about **1915**.

RESOLUTION NO. PC 15-19

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL APPROVE TEXT AMENDMENTS TO THE MORRO BAY COASTAL LAND USE PLAN NECESSARY TO CLARIFY THE TOTAL RESIDENTIAL DENSITY DERIVED FROM THE ALLOWED DENSITY TRANSFER IN THE CLOISTERS SUBDIVISION (TRACT 1996)

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on July 16, 2019, to considering Text Amendments to the Coastal Land Use Plan, to clarify the total allowed residential density from the density transfer allowed for use on non-ESH land in the Cloisters Subdivision;

WHEREAS, notices of said public hearing were made at the time and in the manner required by law;

WHEREAS, it is the purpose of the Morro Bay Coastal Land Use Plan is to establish the kinds, location, and intensity of land uses, and the applicable resource protection and development policies for the use of land in the City of Morro Bay; and

WHEREAS, it is important to have clear, consistent, and easy to interpret policies within the Coastal Land Use Plan; and

WHEREAS, amendment of Coastal Land Use Plan Policy 0.6 is necessary to clarify the total density transfer derived from the allowed density transfer to non-view corridor property identified with a land use classification of Coastal Resource Residential (CRR); and

WHEREAS, the proposed amendments to the Coastal Land Use Plan are exempt from further environmental review pursuant to Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and Section 15265(c) which exempts approval of Coastal Land Use Plans pursuant to the California Coastal Act;

WHEREAS, clarifying the density transfer allowed under the CRR land use classification has no potential for causing a significant effect on the environment, as any development would be subject to the provisions of the Coastal Land Use Plan and all City development standards;

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of all interested parties, both written and oral, and the evaluation and recommendations by staff, presented at said hearing;

WHEREAS, the amendments as presented are consistent with the intent of the City of Morro Bay's Coastal Land Use Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

SECTION 1: The Planning Commission forwards a favorable recommendation to the City Council to approve amendment of the Coastal Land Use Plan Section II.E as contained in Exhibit "B", attached hereto and made a part of this Resolution.

SECTION 2: To implement the amendments adopted herein, the Planning Commission of the City of Morro Bay, California hereby finds as follows:

1. That the above recitations are true and correct and constitute the findings of the Planning Commission in this matter.

2. That the proposed amendments to the Coastal Land Use Plan will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the community.

3. That the proposed amendments are in general conformance with the intent of the City Coastal Land Use Plan; and

4. That proposed amendments to the Coastal Land Use Plan are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act.

SECTION 4: If any section, subsection, clause or phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this ordinance.

The Planning Commission hereby declares that it would have recommended approval of the amendments codified as Exhibit B and each chapter, section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 16th day of July 2019 on the following vote:

AYES: Lucas, Barron, Ingraffia, Luhr

NOES:

ABSENT: Stewart

ABSTAIN:

Gerald Luhr, Chairperson

ATTEST

Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 16th day of July 2019.

EXHIBIT "B"

Amendment of Coastal Land Use Plan Section II.E.

Whereas underlined bold text is new language.

II. Land Use Plan Map and General Land Use Policies

E. SPECIFIC LAND USE POLICIES

Current Language:

Policy 0.6 Development within Mixed Use Area G (2); 1. Land Use Permitted;

b. Coastal Resource Residential: Portions of the area, generally adjacent to the Atascadero Beach Tract on the north, Morro Bay High School on the south, and outside the public view corridor designated by Figure 32, may be used for single family detached residences with minimum lot areas of not less than 6,000 square feet a consistent with Chapter 16 of the Municipal Code. Density credit derived from the overall area designated as Coastal Resource (Limited Density) Residential on the Land Use Plan Map with a base density of up to 2 units per acres, may be transferred to the areas outside of the public viewshed, and residences may be developed at higher densities within those areas, subject to the minimum lot sizes set forth above. Such Transferred density will allow 120 residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about 1015.

Proposed Language (bold and underlined):

Policy0.6 Development within Mixed Use Area G (2); 1. Land Use Permitted;

b. Coastal Resource Residential: Portions of the area, generally adjacent to the Atascadero Beach Tract on the north, Morro Bay High School on the south, and outside the public view corridor designated by Figure 32, may be used for single family detached residences with minimum lot areas of not less than 6,000 square feet a consistent with Chapter 16 of the Municipal Code. Density credit derived from the overall area designated as Coastal Resource (Limited Density) Residential on the Land Use Plan Map with a base density of up to 2 units per acres, may be transferred to the areas outside of the public viewshed, and residences may be developed at higher densities within those areas, subject to the minimum lot sizes set forth above. Such Transferred density will allow **up to 125** residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about **1915**.

City Council Hearing

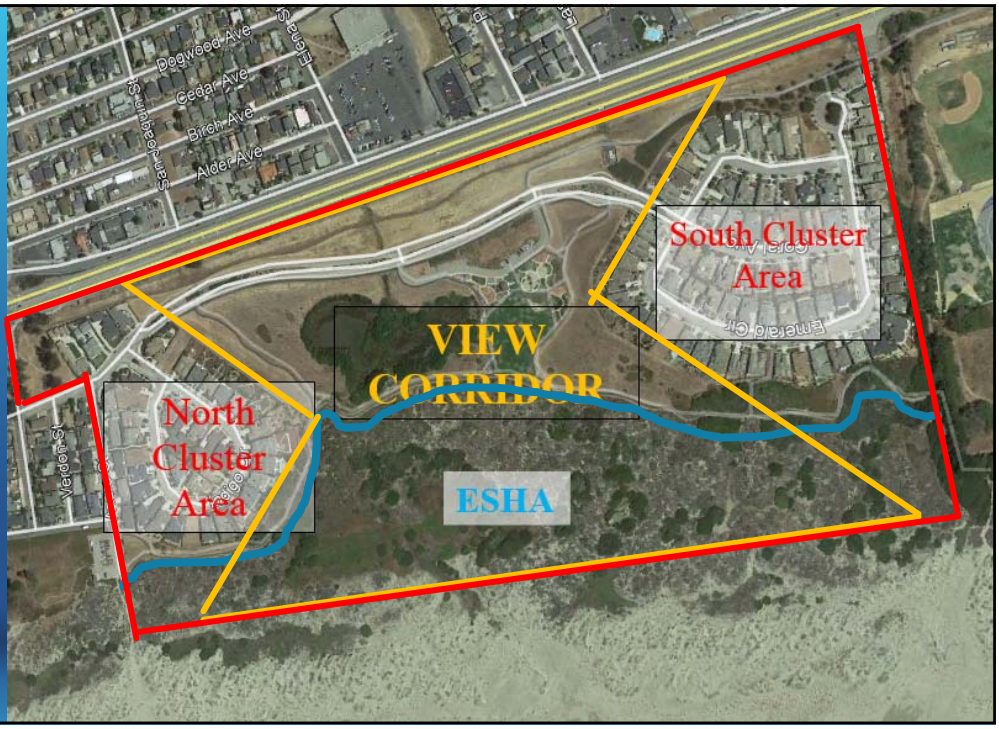
APPROVAL OF A TEXT AMENDMENT TO THE COASTAL LAND USE PLAN (MIN19-06)

AUGUST 13, 2019

MORRO BAY
PUT LIFE ON COAST

Site overview

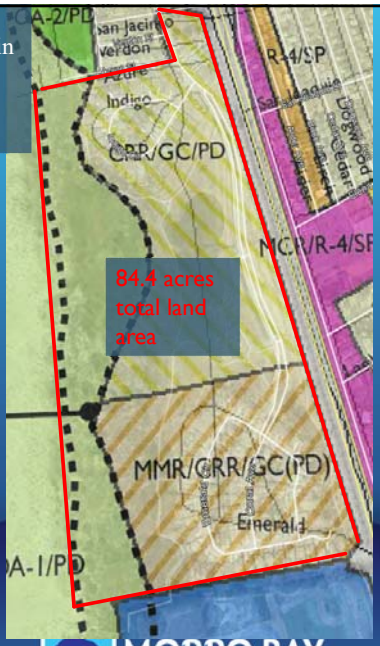
- Change effects the Cloister Subdivision Track 1996 – shown in red
- View corridor shown in Yellow
- Esha shown in blue
- Residential areas shown as north and south cluster areas (incudes all land outside the view corridor and outside the ESHA)



Land Use Policy 0.6

- Following years of public hearings and discussion regarding the best use for the 84.4 acres known as the Cloisters, on October 24, 1988 (RESO 127-88) the Coastal Land Use Plan - Land Use Policy 0.6 was amended to reflect the resulting changes. The portion of Policy 0.6 related to the density allowed is as follows: *Density Credit derived from the overall area designated as Coastal Resource Residential land may be transferred to the areas outside the public viewshed and residences may be developed at higher densities within those areas.*

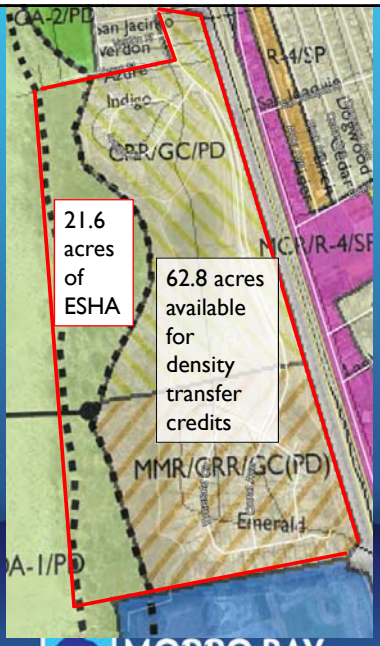
The attached map shows the Specific Land Uses allowed in Policy 0.6 within the Mixed-Use Area "G" Land Use Designation



Land Use Policy 0.6

- Policy 0.6 also stated that *No residential density credit accrues from the ESH areas*.
- The Land Use designation was *Mixed Use Area G-2* (specifically for the 84.4 acres that became the Cloisters).
- A new limited density residential land use category was created: *Coastal Resource Residential (CRR): allows up to 2 dwelling units per acre.*

The attached map shows the Specific Land Uses allowed in Policy 0.6 within the Mixed-Use Area "G" Land Use Designation



Why the Amendment is necessary

The 1988 LUP Amendment is very clear: *Density Credit derived from the overall area designated as Coastal Resource Residential land may be transferred to the areas outside the public viewshed and residences may be developed at higher densities within those areas*

But the 1989 LUP Amendment added language to reflect the agreement with the property owner for 120 lots that were specifically identified as residential in the proposed subdivision, but should have been clear that this was not the total allowed density: *Such transferred density will allow 120 residential units in a Clustered Residential Development, clustered to the north and south of the view corridors*.



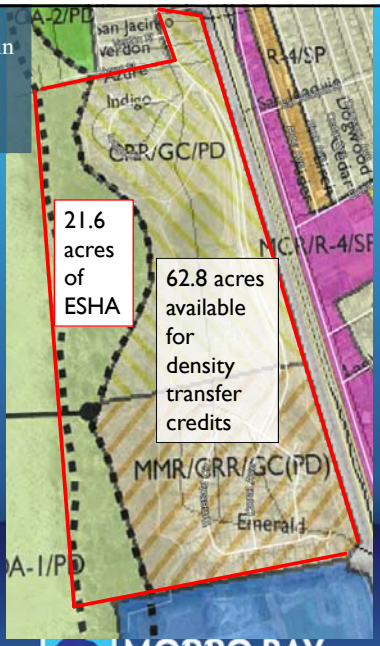
Why the Amendment is necessary

- In a subdivision proposal in 2007 and a potential sale in 2013, the California Coastal Commission recommended that an LUP amendment might be necessary to clarify the total density allowed.
- In 2018, the subdivision of Lot 124 (former location for Fire Station) was delayed and the Coastal Commission concluded that the best remedy would be to amend the LUP to clarify the intent for the allowed density.



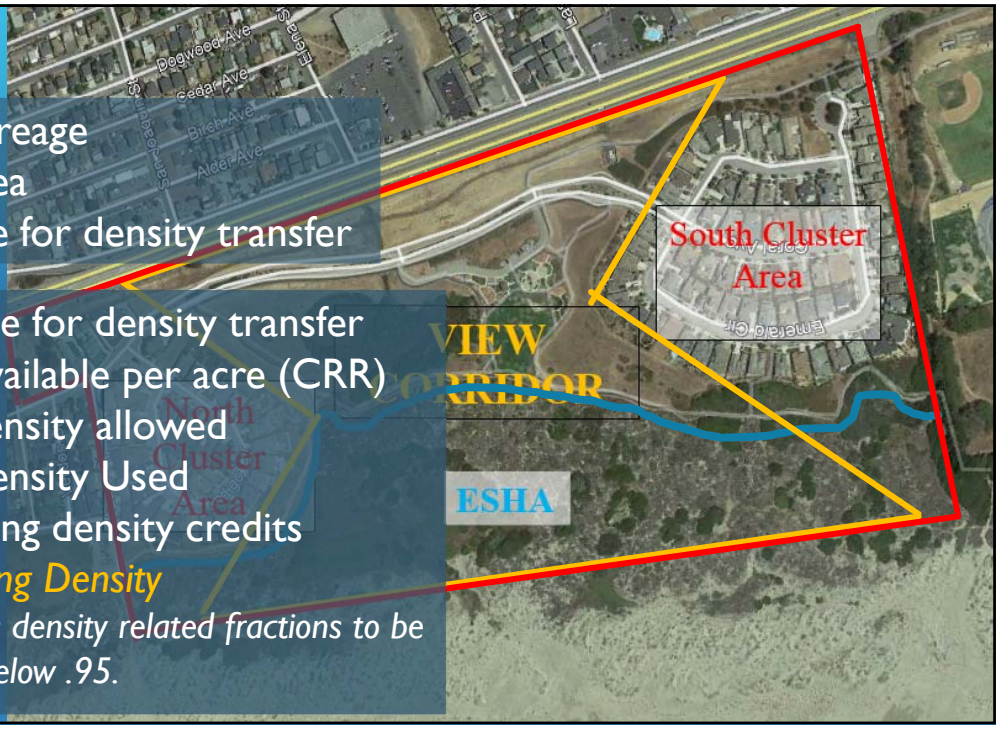
The Math

The attached map shows the Specific Land Uses allowed in Policy 0.6 within the Mixed-Use Area "G" Land Use Designation



- The total site area of 84.4 acres is divided into:
  - 21.6 acres of ESHA
  - 62.8 acres of CRR designated land area available for density transfer credits

The Math



84.4 Total Acreage
(21.6) ESH Area
62.8 Available for density transfer

62.8 Available for density transfer
x 2 Units available per acre (CRR)
125.6 Total density allowed
120.0 Less Density Used
5.6 Remaining density credits
5.0 Remaining Density

City policy requires density related fractions to be rounded down if below .95.

Text Amendment change

Text Amendment MIN19-06 : *Red text shows the changes*

Such Transferred density will allow up to 125 residential units in a Clustered Residential Development, clustered to the north and south of the view corridors. There shall be no transferred density by reason of the subdivision map recorded in or about 1915.

Above changes reflect a mathematical clarification on the total density derived from the density credit allowed from all MU-G2 area that includes the Special Land Use Designation of Coastal Resource Residential. The date change (from 1015 to 1915) is correcting an error.

MORRO BAY
PUT LIFE ON COAST

July 16, 2019 Planning Commission Hearing

- There was public testimony at the hearing specifically related to the future development of Lot 124 believing that the proposed Text Amendment was approving density for that parcel.
- Planning Commission voted 4-0 to forward a recommendation (Resolution 15-19) for approval of the LUP Text Amendment to City Council.

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Staff and Planning Commission recommend approval of MIN19-06 for a Text Amendment to the Coastal Land Use Plan by approving City Council **Resolution 73-19** which includes the Findings and Conditions of Approval for the project.
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AGENDA NO: C-1

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 6, 2019**

FROM: **Scott Collins, City Manager**

SUBJECT: **Consideration of Local Hire Options for Construction Work on Components of the Water Reclamation Facility Project, and Provide Direction as Deemed Appropriate**

RECOMMENDATION

Staff recommends either:

a) Council direct staff to initiate negotiations with local labor representatives to develop a community workforce agreement for the pipeline conveyance and injection well components of the Water Reclamation Facility (WRF) project, or
b) Council direct staff to add a local hire provision to contracts with the firms selected to construct and complete the pipeline conveyance and injection well components of the WRF project, or
c) Council could choose not to pursue a mechanism to encourage local hiring on the identified portions of the WRF project.

FISCAL IMPACT

Pursuing a community workforce agreement with local labor groups for the pipeline conveyance and injection well components of the WRF project will result in increased overall project costs of approximately $45,000 to $90,000, related to negotiation and compliance expenses. Other potential WRF cost increases, including project labor, related to a workforce agreement are uncertain.

Adding a local hire provision to the eventual contracts with firms that construct the pipeline and injection well components of the WRF project will result some minor increases in costs to the overall WRF project, likely around $10,000 - $20,000, to develop the contract language and for compliance expenses. Other potential WRF cost increases, including project labor, related to a local hire provision in the contracts are uncertain.

There are no additional costs associated with maintaining status quo.

BACKGROUND

City Council identified local hire/local worker preference for the WRF project as an objective for the Council approved 2019-2020 City Goals. The approved action item states the intent is to include local worker/local hire/local labor preference on major City capital improvement projects, with the WRF being the initial project. The value of local hiring preference is it would create a mechanism to potentially increase the availability and opportunities for construction work for local workers. That is particularly important for a community such as Morro Bay with a median income of $51,000 and a

limited number of head of household jobs.

City staff, including the WRF Team, City Attorney and City Manager, have spent portions of the past several months reviewing various opportunities available to the City to help achieve this local worker objective. That work included a review of common practices related to local worker preference, review of literature on local worker programs, such as Public Labor Agreements (PLA) or Community Workforce Agreements (CWA), discussions with other agencies that either have a CWA in place or are considering a CWA for projects similar in size and scope to the WRF project, and engagement with local labor representatives.

In the next section of this report, staff identifies the major options available to the City related to local hire preferences on the WRF project and future large capital projects, while summarizing how they function and outlining their various pros and cons. It should be noted in advance, any provision, whether it's a PLA, CWA or a local hire provision embedded in a construction contract, that provision will not apply to the treatment facility component of the WRF project, as that part of the project is already under contract. The construction costs for the remainder of the WRF components—pipeline conveyance and injection well systems—are approximately $30 Million.

DISCUSSION

Public Labor Agreements/Community Workforce Agreements

PLAs or CWA (to be referred to collectively for ease as CWAs for the remainder of the report) can be negotiated agreements between local building trade union councils and individual construction trade unions and the project owner. CWAs are negotiated prior to advertisement for bids, and requirements bound by the CWA become part of the bid submission, procurement documents and contract. CWAs typically include provisions for uniform work conditions, hiring procedures, wages and benefits, management rights, labor-management dispute resolution procedures and no strike provisions. CWAs also include added features such as bidding preferences for local hiring, whereby the goal can be set for percentage of total hours of construction to be conducted by local workers. They can also include targets for apprentices' participation in the project, which can help connect younger laborers and underrepresented groups to the trades.

CWAs typically require program management/construction management work directly with local labor halls to hire construction workers for the job (and with a preference for local workers if such a preference is included in the agreement). In turn, program management/construction management monitor and document the contractor and sub-contractor(s) efforts to achieve compliance with the agreement.

In the case of Morro Bay, a CWA cannot require the City or its contractors/sub-contractor(s) to achieve the local hire goals, as that is prohibited as these requirements have been found to violate an individual's Constitutional right to travel. Rather, the agreement could specify the efforts that must be undertaken to try, in good faith, to achieve the local worker goals.

The City of San Luis Obispo (SLO) recently executed a CWA for its Water Resource Recovery Project (estimated at over $120 Million). According to City of SLO staff, that CWA will cost the City an additional $179,000 - $274,000. Those added costs are related to the legal expenses to negotiate and execute the contract and properly comply with the agreement once the project is under construction. In addition, South SLO County Sanitation District is formally pursuing a CWA for its wastewater projects and other SLO County agencies are considering that option for their similar projects. In the case of Morro Bay, staff anticipates the total cost for negotiation and compliance ranges from $45,000 to $90,000 for the WRF project.

In reviewing the literature available on CWAs and talking with local labor groups and agencies and construction managers that have either completed projects with CWAs or are in the process of constructing projects with CWAs, there are several pros and cons for City Council to consider. It should be noted the literature available offers a mixture of viewpoints on CWAs, with no definitive agreement regarding whether they add or reduce costs to construction projects beyond the negotiation and compliance costs. Two reports are attached that discuss the pros and cons in more detail. These reports are meant to provide additional context, but are just a sample of the many reports and studies on CWAs available online

CWA Pros

- Limit labor/management disagreements, and potential work disruptions related to such disagreements.
- Establish local worker goals and provides unions with legal authority to implement local hire program.
- Give greater assurance to the agency comprehensive efforts have been undertaken to use local labor (in comparison to local hire preference or local hire resolution options).
- The agreement can include other provisions such as apprenticeship programs and connect the contractor and union groups with local learning institutions such as the high school and community college.

CWA Cons

- Added costs to the project for negotiating an agreement and compliance with the agreement.
- Some argue projects with CWAs may discourage non-union local contractors and sub-contractors from bidding on the project because of the added costs borne by contractors due to union agreements. Those costs include paying into retirement funds and other benefits.
- CWAs may require the use of certain trades be utilized that carry a higher cost for work that may be able to be done by a lower classification.

Pursuing this option would not impact the schedule of the pipeline conveyance and injection well system components of the project.

Local Hire Provision in Construction Contract

As an alternative, the City could choose to include a local hire provision in the contracts for the WRF project pipeline conveyance and injection well system construction. Under that approach, the contractor would be contractually obligated to create a local hire program and monitor their efforts. The City's WRF Project Manager would verify the contractor complies with the requirement. As with the CWA, the City cannot require a local hire goal be met, but rather require the good faith efforts identified in the contract are carried out to attempt to achieve the local hiring goal. The main difference between this approach and the CWA is the union halls are not the agent to conduct the hiring outreach, that responsibility would be placed on the contractor. Staff anticipates additional costs ranging from $10,000 to $20,000 for creating contract language and for the project management/contract management to monitor the local hire program.

Local Hire Provision in Contract Pros:

- Establish local worker goals.
- Can include apprenticeship programs.

Local Hire Provision in Contract Cons:

- Added cost to include this provision in the contract and monitor for compliance (though lower than CWA).
- Less assurance to the project owner comprehensive efforts would be undertaken to use local labor (as compared to the CWA).
- Potential for work stoppage.

Pursuing this option would not impact the schedule of the pipeline conveyance and injection well system components of the project.

Status Quo – Market
Finally, the City could choose not to enter into a CWA or add provisions to construction contracts and leave it up the market to determine local worker outcomes. There are no added costs for this option, though there would be no formalized/contractual effort to encourage local workers on the WRF project.

Local Hire Resolution/Ordinance for Large Capital Projects
City Council could also choose to develop a local hire resolution that would require good faith attempts to be taken on all large capital projects to encourage local hiring. That option could be done in conjunction with the CWA or local hire provision in the construction contracts for the pipeline and injection well systems or serve as a standalone method to encourage local hiring on the WRF project. However, staff recommends this option be considered only after the City completes the WRF project and has gained experience with either the CWA or local hire provision, in the case that the City pursued one of these options for the WRF project.

Questions for City Council
1) Is Council interested in pursuing a local hiring provision for the identified components of the WRF project? If yes, which local hire option is Council interested in proceeding forward with for the WRF project at this time?
2) What are the Council broad priorities for local hiring on those remaining components of the WRF project?
3) What are Council's specific goals with regard to local workers (in terms of percentage of hours of total work to be performed by local workers and apprentices)?
4) What other specific goals should be considered, if any?
5) Is additional information needed or are there any unanswered questions requiring answers prior to making any decision?

ATTACHMENTS
1) Congressional Research Services Study on PLAs
2) UC Berkeley Study on PLAs
3) Staff Presentation for August 13, 2019 Meeting



Project Labor Agreements

-name redacted-
Analyst in Labor Policy

June 28, 2012

Congressional Research Service
7-....
www.crs.gov
R41310

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

The National Labor Relations Act (NLRA) gives most private sector workers the right to join or form a labor union and to bargain collectively over wages, hours, and working conditions. The act allows workers in the construction industry to enter into a collective bargaining agreement before a project begins. A project labor agreement (PLA) is a collective bargaining agreement that applies to a specific construction project and lasts only for the duration of the project.

In February 2009, President Barack Obama signed an Executive Order (EO) that encourages federal agencies "to consider requiring" the use of PLAs on large-scale construction projects. The EO defines a large-scale project as one where the total cost to the federal government is $25 million or more. The order states that agencies are not required to use PLAs. Regulations implementing the EO went into effect in May 2010.

A PLA generally specifies the wages and fringe benefits to be paid on a project, and it usually includes procedures for resolving labor disputes. PLAs generally include a provision that unions agree not to strike and contractors agree not to lock out workers. A PLA may require contractors to hire workers through a union hiring hall. If not, it may require employees to become union members after being hired. A PLA applies to all contractors and subcontractors on a project.

Opponents and proponents of PLAs disagree on the economic effects of PLAs. Supporters argue that the agreements provide uniform wages, benefits, overtime pay, hours, working conditions, and work rules for work on major construction projects. They maintain that PLAs provide contractors with a reliable and uninterrupted supply of workers at predictable costs for wages and benefits, and they argue that a PLA makes it easier to manage a large project, which ensures that it will be completed on time and on budget. Supporters also say that PLAs help train workers, improve worker safety, and ensure compliance with labor and health and safety laws.

Opponents argue that PLAs have several disadvantages. They argue that PLAs increase construction costs. Nonunion contractors may not bid on projects that are covered by a collective bargaining agreement or, when they bid, they cannot win contracts on the basis of lower costs. If they have to hire workers through a union hiring hall, contractors may not be able to use their own workers. A nonunion contractor's workers may have to join a union and pay union dues. When a contractor has to pay into a union pension plan, employees may not be on the project long enough to vest in the plan. PLA opponents also argue that nonunion contractors can operate more efficient worker training programs and that evidence does not indicate that nonunion construction projects are less safe than union projects. Finally, opponents argue that federal and state agencies enforce labor and workplace health and safety laws.

Much of the research on the effect of PLAs on the costs of construction is inconclusive. In part, it can be difficult to find similar projects where some use a PLA and the others do not. Instead of comparing similar projects, economists often use statistical models that attempt to control for differences in the characteristics of the projects. It can be difficult, however, to control for all the factors that affect the costs of construction. For example, if the Davis-Bacon locally prevailing wage is the local union wage, contractors may pay workers the union wage whether or not the project is covered by a PLA. In addition, statistical models may not take into account the quality of construction, whether projects are finished on time, or the safety records of different projects. Finally, the relationship between PLAs and construction costs may be interdependent. PLAs may affect construction costs, but the size and cost of construction may also affect the use of PLAs.

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Advantages and Disadvantages of PLAs 4
    PLAs and the Davis-Bacon Act 6
The Economic Effects of PLAs 6
    Research 7

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The National Labor Relations Act of 1935 (NLRA) gives most private sector workers the right to join or form a labor union and to bargain collectively over wages, hours, and working conditions.[1] The act allows workers in the construction industry to enter into a collective bargaining agreement (CBA) before a project begins. A project labor agreement (PLA) is a collective bargaining agreement that applies to a specific construction project and lasts only for the duration of the project.

In February 2009, President Barack Obama signed Executive Order 13502, which encourages federal agencies "to consider requiring" the use of PLAs on large-scale construction projects. Regulations implementing the Executive Order (EO) went into effect in May 2010.

This report begins with a description of PLAs. It then describes President Obama's EO and summarizes regulations to implement it. The report then examines arguments for and against the use of PLAs and reviews research on the economic effects of the agreements.

Project Labor Agreements

Most collective bargaining agreements are between an employer and a labor union and usually last for a specific period of time (e.g., for three years or five years). The NLRA allows employers and unions in the construction industry to enter into pre-hire agreements, which are CBAs between employers and unions that are reached before workers are hired for a project. Under one type of pre-hire agreement, one or more unions negotiate a contract with one or more building contractors. The agreement applies to projects before they arise and lasts for a specific period of time. A project labor agreement is another type of pre-hire agreement. A PLA applies to a specific construction project and lasts only for the duration of the project. All contractors and subcontractors on the project are bound by the agreement.[2]

A PLA generally specifies the wages and fringe benefits to be paid on a project. A PLA may require contractors to hire workers through a union hiring hall.[3] If not, it may require employees

[1] The NLRA is also known as the Wagner Act, after Senator Robert Wagner of New York who sponsored the bill in the Senate. Representative William Connery of Massachusetts sponsored the bill in the House of Representatives. The Railway Labor Act covers labor-management relations in the airline and railroad industries. The Federal Service Labor-Management Relations Statute governs labor-management relations for most federal workers. For more information on the NLRA, see CRS Report RL32930, *Labor Union Certification Procedures: Use of Secret Ballots and Card Checks*, by (name redacted).

[2] Section 8(f) of the National Labor Relations Act (NLRA) allows employers and unions in the construction industry to enter into pre-hire agreements. Section 8(e) of the act allows agreements that limit work on a project to contractors who agree to the terms of a PLA.

This section of the report is based on out-of-print CRS Report 98-965, *Project Labor Agreements in Federal Construction Contracts: An Overview and Analysis of Issues*, by (name redacted) (available upon request); CRS General Distribution Memorandum, *Project Labor Agreements Under Federal and New York Law*, by Vince Treacy (available from the author of this report); John Lund and Joe Oswald, "Public Project Labor Agreements: Lessons Learned, New Directions," *Labor Studies Journal*, vol. 26, Fall 2001, pp. 1–2; and John T. Dunlop, *Project Labor Agreements*, Joint Center for Housing Studies, Harvard University, W02-7, September 2002, pp. 14–15. (Hereinafter cited as Dunlop, *Project Labor Agreements*.)

[3] Under union hiring hall procedures, a union refers members to jobs. Generally, members who have been out of work the longest are referred first. A PLA that requires contractors to hire through union hiring halls may allow nonunion contractors to hire a certain percentage of "core" employees outside of the union hall referral procedures. Fred B. Kotler, *Project Labor Agreements in New York State: In the Public Interest*, Cornell University, School of Industrial and Labor Relations, March 2009, p. 4.

to become union members after being hired. After they are hired, employees may petition the National Labor Relations Board (NLRB) to decertify the union or reject the requirement that they join the union.[4]

A PLA usually includes procedures for resolving labor disputes. For example, if there is a disagreement between management and the unions over the interpretation of the PLA, the dispute may go to mediation and then to arbitration. PLAs usually include a provision that unions agree not to strike and contractors agree not to lock out workers.

The Use of PLAs

PLAs have been used in the United States since at least the 1930s. According to a 1998 report by the Government Accountability Office (GAO), PLAs were used in the construction of the Grand Coulee Dam in Washington in 1938, the Shasta Dam in California in 1940, the Trans-Alaska Pipeline, Walt Disney World and the Kennedy Space Center in Florida, and the cleanup of Boston Harbor.[5] PLAs were also used in the construction of nuclear power plants in Hanford, WA, and Oak Ridge, TN.[6]

According to the GAO report, the total number of PLAs is not known. The report states that there is no identifiable group in either the private or public sectors that keeps comprehensive data on the number of PLAs. Nevertheless, GAO's research concluded that most PLAs are in the private sector and that they have been used in all 50 states and the District of Columbia on both private and public projects.[7]

President Obama's Executive Order on PLAs

On February 6, 2009, President Obama signed Executive Order 13502, which encourages federal agencies "to consider requiring" the use of PLAs on large-scale construction projects. The EO defines large-scale projects as those where the total cost to the federal government is $25 million or more. The order states that agencies are not required to use PLAs. It also states that agencies are not prevented from using PLAs on projects not covered by the order.

The EO states that agencies may require a PLA if it will

> advance the Federal Government's interest in achieving economy and efficiency in Federal procurement, producing labor-management stability, and ensuring compliance with laws and

[4] The NLRB administers and enforces the NLRA. The NLRB is an independent federal agency that consists of a five-member Board and a General Counsel. The General Counsel's office conducts secret ballot elections and investigates complaints of unfair labor practices. National Labor Relations Board, "Basic Guide to the National Labor Relations Act" (Washington, DC: U.S. Government Printing Office, 1997), p. 33, http://www.nlrb.gov.

[5] U.S. Government Accountability Office, *Project Labor Agreements: The Extent of Their Use and Related Information*, GGD-98-82, May 1998, pp. 4–5. (Hereinafter cited as GAO, *Project Labor Agreements*.)

[6] Dunlop, *Project Labor Agreements*, p. 2.

[7] GAO, *Project Labor Agreements*, pp. 6, 10.

> regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters.[8]

On July 10, 2009, Peter Orszag, Director of the Office of Management and Budget (OMB), issued a memorandum requesting agencies to submit quarterly reports identifying all contracts awarded for large-scale construction projects and whether or not a PLA was required on the project.[9]

On April 13, 2010, the Administration issued final regulations that implement President Obama's EO. The regulations went into effect on May 13, 2010, and they include general requirements for PLAs. A PLA shall

- bind all contractors and subcontractors on a construction project to comply with the PLA;
- allow all contractors and subcontractors to compete for contracts and subcontracts whether or not they are otherwise a party to a collective bargaining agreement;
- contain guarantees against strikes, lockouts, and similar job disruptions;
- provide binding procedures for resolving labor disputes that may arise during the term of the PLA;
- provide other mechanisms for labor and management cooperation on matters of mutual interest and concern, such as productivity, quality of work, safety, and health; and
- include any additional requirements that an agency deems necessary.

The final rule encourages agencies to consider PLAs early in the acquisition process. The rule states that an agency may specify the terms and conditions of a PLA. In addition, the final rule identifies several factors that agencies may consider when deciding whether to use a PLA. These factors are

- the construction project will require multiple contractors or subcontractors who employ workers in multiple crafts or trades;
- a shortage of skilled workers exists in the area of the construction project;

[8] President Barack Obama, "Use of Project Labor Agreements for Federal Construction Projects," *Federal Register*, vol. 74, February 11, 2009, pp. 6985–6987. President Obama's EO revoked EOs issued by President George W. Bush in February and April 2001. On February 17, 2001, President Bush signed Executive Order 13202. The order said that federal agencies could not "require or prohibit" construction contractors from entering into PLAs. The EO did not prevent contractors from voluntarily entering into PLAs; President George W. Bush, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," *Federal Register*, vol. 66, February 22, 2001, pp. 11225–11226. On April 6, 2001, the EO was amended to allow PLAs to continue if they were in effect on the date that EO 13202 was issued; President George W. Bush, "Amendment to Executive Order 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," *Federal Register*, vol. 66, April 11, 2001, pp. 18717–18718.

[9] Peter Orszag, Office of Management and Budget, *Memorandum for the Heads of Executive Departments and Agencies*, M-09-22, July 10, 2009, available at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-22.pdf.

- a project will last an extended period of time;
- PLAs have been used on comparable public or private projects in the area;
- a PLA will promote the agency's long-term program interests, such as training workers to meet the agency's future construction needs; and
- any other factors that an agency thinks are appropriate.[10]

Number of Projects Affected by President Obama's Executive Order

The Administration has estimated that, annually, federal agencies may use PLAs on approximately 30 construction projects of $25 million or more. The estimate is based on federal construction data for FY2008 and FY2009.[11]

Advantages and Disadvantages of PLAs

Proponents of PLAs argue that the agreements have several advantages, including the following:[12]

- A PLA provides uniform wages, benefits, overtime pay, hours, working conditions, and work rules for work on major construction projects.
- A PLA provides contractors with a reliable and uninterrupted supply of workers at predictable costs for wages and benefits. PLAs prohibit strikes and lockouts. Because local unions are generally members of a national union, a union can recruit workers both locally and nationally.[13]
- A large project is easier to manage if there is a PLA. Instead of dealing with several unions that may have different wages and benefits and whose contracts may have different expiration dates, contractors must deal with a single collective bargaining agreement.

[10] Department of Defense, General Services Administration, and the National Aeronautics and Space Administration, "Use of Project Labor Agreements for Federal Construction Projects," Final Rule, *Federal Register*, vol. 75, April 13, 2010, pp. 19168–19179.

[11] Ibid., p. 19176. Department of Defense, General Services Administration, and the National Aeronautics and Space Administration, "Use of Project Labor Agreements for Federal Construction Projects," Proposed Rule, *Federal Register*, vol. 74, July 14, 2009, p. 33955.

[12] Dunlop, *Project Labor Agreements,* pp. 15–17. U.S. Senate, Committee on Health, Education, Labor, and Pensions, *Examining if Project Labor Agreements and Their Use of Public Funds are Really in the Best Interest of Taxpayers*, Hearing, 106th Cong., 2nd Sess., June 5, 2000 (Washington, DC: U.S. Government Printing Office, 2000), p. 46. Also see *Project Labor Agreements on Public Construction Projects: The Case For and Against*, Worcester Municipal Research Bureau, Report No. 01-4, May 21, 2001, http://www.wrrb.org/files/downloads/reports/pub_admin/2001/01-4pla.pdf.

[13] PLAs typically include provisions that require local unions to provide an adequate number of workers when the workers are needed. If the unions cannot provide enough workers, the PLA may allow contractors to hire their own workers. Dale Belman and Matthew M. Bodah, *Building Better: A Look at Best Practices for the Design of Project Labor Agreements*, Economic Policy Institute Briefing Paper No. 274, August 11, 2010, available at http://epi.3cdn.net/179fd74170130cd540_ibm6ib3kd.pdf, p. 7.

- Because labor costs are predictable and because a PLA makes it easier to manage a large project, a PLA helps ensure that a project will be completed on time and on budget.
- A PLA may help train workers by requiring contactors to participate in apprenticeship and training programs.
- A PLA can improve worker safety by requiring contractors and workers to comply with project safety rules.
- A PLA can help ensure compliance with labor standards (e.g., wages and overtime) and workplace health and safety laws.

Opponents argue that PLAs have several disadvantages:[14]

- PLAs can increase costs. Because a PLA sets standard labor costs, nonunion contractors cannot win bids based on lower costs. Nonunion contractors may choose not to bid on projects that are covered by a PLA, resulting in fewer bids and higher costs.
- PLAs can impede efficiency. If a PLA requires contractors to hire workers through a union hiring hall, contractors may not be able to use their own workers. Standard work rules can prevent contractors from managing the project in the most efficient manner.
- If a contractor is able to use his own workers, the workers may have to join a union and pay union dues.[15] If a contractor has to pay into a union pension plan, the employees may not be on the project long enough to vest in the plan.
- Nonunion contractors may operate more efficient worker training programs. Instead of apprenticeship programs of a fixed duration, nonunion contractors can train workers for specific tasks.
- Evidence does not indicate that nonunion construction projects are less safe than union projects.
- The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) enforces federal wage, overtime, and other labor standards and either the federal Occupational Safety and Health Administration (OSHA) or states with their own plans enforce workplace health and safety standards.

[14] Herbert R. Northrup and Linda E. Alario, "'Boston Harbor'– Type Project Labor Agreements in Construction: Nature, Rationales, and Legal Challenges," *Journal of Labor Research*, vol. 16, Winter 1998, pp. 1, 9, 12–14, 17–19; Maurice Baskin, "The Case Against Union-Only Project Labor Agreements on Government Construction Projects," *Journal of Labor Research*, vol. 16, Winter 1998, p. 117.

[15] In 22 right-to-work states, collective bargaining agreements cannot require workers to join a union or pay union dues. In other states, collective bargaining agreements may require employees to provide financial support to a union as a condition of employment. Workers who do not join the union pay the union an agency fee. Nonunion members are represented by the union, but do not participate in union activities. Nonmembers may choose to pay a reduced agency fee if they object to the use of their payments for political activities.

PLAs and the Davis-Bacon Act

On some federal construction projects, workers may be paid a union wage whether or not the project is covered by a PLA. The Davis-Bacon Act requires employers to pay workers at least the locally prevailing wage and fringe benefits on construction projects of more than $2,000 to which the federal government is a party. Prevailing wages and fringe benefits are based on U.S. Department of Labor surveys of construction contractors, subcontractors, and building trades unions.

Under the Davis-Bacon Act, if more than 50% of workers in a job classification are paid the same wage, the *majority wage* is the prevailing wage. The majority wage may be a wage negotiated under a collective bargaining agreement. If a majority of workers in a job classification are not paid the same wage, the prevailing wage is the weighted *average wage* of workers in the job classification.

For some occupations in some areas, the Davis-Bacon locally prevailing wage may be the local union wage. Thus, on some federal construction projects, contractors may pay some, if not most, workers the local union wage, even if the project does not use a PLA.[16] On some projects, workers in certain crafts may be covered by a collective bargaining agreement even if the project does not use a PLA.

The Economic Effects of PLAs

Opponents and proponents of PLAs disagree on the economic effects of PLAs. To some extent, projects that use PLAs may be different from projects that do not use them. Based on interviews it conducted, GAO observed that

> Proponents and opponents of the use of PLAs said it would be difficult to compare contractor performance on federal projects with and without PLAs because it is highly unlikely that two such projects could be found that were sufficiently similar in cost, size, scope, and timing.[17]

If projects that use PLAs are different from projects that do not use them, it may be difficult to isolate the economic effects of PLAs.

It may also be difficult to identify the economic effects of PLAs if contractors use PLAs because of the advantages that PLAs may provide. If, for example, contractors are more likely to use PLAs on large and expensive projects, it may be the size and cost of a project that determine the use of a PLA. Thus, it may be difficult to measure the economic effects of PLAs if the characteristics of a project determine whether a PLA is used.

[16] For more information on the Davis-Bacon Act, see CRS Report R40663, *The Davis-Bacon Act and Changes in Prevailing Wage Rates, 2000 to 2008*, by (name redacted).

[17] GAO, *Project Labor Agreements*, p. 12.

Research

This section summarizes the findings of research on the economic effects of PLAs.

In a 1998 report, GAO summarized three studies on the effect of PLAs on project costs. The first study was conducted by the Associated Builders and Contractors. The study concluded that PLAs raised bids by 26% on two New York state projects. In the second study, the New York Thruway Authority hired a consultant to negotiate a PLA for a project to refurbish the Tappan Zee Bridge. The consultant concluded that the PLA reduced the cost of the project by $6 million (or 4.6%). Instead of 19 local CBAs (each of which would have expired during the project), the PLA standardized the terms and conditions of the project. The third study involved construction at the Department of Energy's Lawrence Livermore National Laboratory in Livermore, CA. An official from the laboratory provided GAO with documents that indicated that the project contractor estimated that the PLA lowered the cost of the project by about 0.4%. Most of the estimated savings were due to lower costs for overtime, shift differentials, and holiday pay, as well as the greater use of apprentices instead of higher-paid journeymen.[18]

More recent studies have reached different conclusions about the economic impact of PLAs. The Beacon Hill Institute at Suffolk University in Boston has published a series of studies on the effects of PLAs. The studies conclude that PLAs raise the costs of construction. In a study of 62 school construction projects in the Boston area from 1995 to 2003, researchers at the institute concluded that PLAs raised the cost of construction by $16.51 per square foot (in constant 2001 dollars), or 12%. The study controlled for the size of construction (i.e., square feet) and whether the project was new construction or renovation.[19]

The Beacon Hill Institute also published a study in 2004 of school construction projects in Connecticut. The study concluded that PLAs raised the cost of construction by $30.00 per square foot (in constant 2002 dollars), or 18%. The estimate controlled for the size of the project, whether the project was new construction or renovation, the number of stories, and whether the project was an elementary school.[20]

On the other hand, a study of 70 new school construction projects in Massachusetts from 1996 to 2002 concluded that, after controlling for several characteristics of the projects, the relationship between PLAs and school construction costs was not statistically significant. The study found that

[18] Ibid., pp. 13–14.

[19] The study included projects of $5 million or more and excluded small and large projects (defined as projects of less than 40,000 square feet and projects of more than 400,000 square feet, respectively). The $16.51 estimate is based on the actual cost of construction, as opposed to the bid cost, which is the initial price for a project reported by the successful bidder. The study concluded that PLAs raised the bid cost of 126 construction projects by $18.83 per square foot (or 14%). The study found that the effect of PLAs is smaller on new school construction than on renovations; Paul Bachman, Darlene C. Chisholm, Jonathan Haughton, and David G. Tuerck, *Project Labor Agreements and the Cost of School Construction in Massachusetts*, Beacon Hill Institute, September 2003, pp. 8–11.

[20] The study included 71 projects of more than $1 million from 1996 to 2004; Paul Bachman, Jonathan Haughton, and David G. Tuerck, *Project Labor Agreements and the Cost of Public School Construction in Connecticut*, Beacon Hill Institute, November 2004, pp. 9–11, 14. The Beacon Hill Institute also published a study in 2006 of school construction projects in New York state. The study concluded that PLAs raised the bid cost of construction by $26.98 per square foot (or 18%). The study included 117 projects of more than $1 million from 1996 to 2005. The $26.98 estimate controlled for size, number of stories, and whether the project was an elementary school; Paul Bachman and David G. Tuerck, *Project Labor Agreements and Public Construction Costs in New York State*, Beacon Hill Institute, April 2006, pp. 7–8, 10–11, 18.

projects with PLAs were larger and more expensive than projects that did not use PLAs. The authors concluded that their statistical model may not fully capture the relationship between construction costs and PLAs.[21] If PLAs are more common on larger and more expensive projects, PLAs may not raise the costs of construction. Instead, the size and cost of a project may cause a contractor to use a PLA to take advantage of the benefits it may provide.

A study by the National University System Institute for Policy Research examined the effects of PLAs on the costs of school construction in California. The study collected information on 551 school construction projects, including 65 projects that used a PLA. The projects were built between 1996 and 2008 and were valued at $5 million or more. The study concluded that projects built using a PLA cost 13% to 15% more per square foot than projects not built with a PLA. But, 47 of the 67 projects built with a PLA were in the Los Angeles school district, where construction costs were higher. The overlap of high construction costs and the use of a PLA made it difficult to identify the unique contribution of PLAs to the costs of construction.[22]

A study conducted for the U.S. Department of Veteran Affairs (VA) concluded that the effect of PLAs on construction costs is strongly influenced by the degree of unionization in an area. In highly unionized cities, where most large construction projects use union workers, the study concluded that PLAs can have a beneficial effect. In these areas, a PLA can provide consistent wages and work rules. But, in cities with a low degree of unionization, PLAs can increase construction costs by 5% to 9%.[23]

Another study conducted for the U.S. Department of Veterans Affairs concluded that a PLA could raise the construction costs of a VA project in Pittsburgh, PA, by 3% to 5%.[24]

Qualitative research has been conducted on other aspects of PLAs. For instance, a group of researchers interviewed approximately 40 people experienced with PLAs to identify advantages and disadvantages of the agreements. Results from such a small sample may not be representative of all PLAs. Nevertheless, the researchers concluded that "interviewees seemed most convinced that the greatest benefit of a PLA was in assuring timely completion of a project. Foremost, PLAs nearly guarantee a steady flow of qualified labor."[25] One interviewee said, "Anything above five

[21] Of the 70 projects, 9 used a PLA. The study controlled for several characteristics, including area in square feet, number of stories, whether demolition work was performed, whether the project was an elementary or other type of school, whether the school was public or private, whether the school has a basement, whether athletic fields or tennis courts were built, whether a boiler or central air was installed, the type of roof, whether it was built in the Boston school district or elsewhere, and whether the project included science labs, vocational shops, a gymnasium, swimming pool, auditorium, kitchen, band room, or library. The study's authors found that the PLA variable and the control variable were not independent; there was multicollinearitly. Dale Belman, Russell Ormiston, Richard Kelso, William Schriver, and Kenneth A. Frank, "Project Labor Agreements' Effect on School Construction Costs in Massachusetts, *Industrial Relations*, v. 49, January 2010, pp. 45, 49, 51.

[22] The study controlled for variables such as whether the school was an elementary or high school, the number of stories, square footage, whether the project included a gym or swimming pool, and whether the project involved the demolition of existing structures. Vince Vasquez, Dale Glaser, and W. Erik Bruvold, *Measuring the Cost of Project Labor Agreements on School Construction in California*, National University System Institute for Policy Research, La Jolla, CA, July 25, 2011, pp. 6-15.

[23] The 2009 study examined the potential effect of PLAs on construction costs in five cities where the VA was planning projects. The five cities were Denver, New Orleans, New York, Orlando, and San Francisco. Rider Levett Bucknall, *Project Labor Agreements: Impact Study for the Department of Veterans Affairs*, June 2, 2009, pp. 6, 32-33.

[24] Rider Levett Bucknall, *Project Labor Agreements: Impact Study Pittsburgh, Pennsylvania,* May 17, 2011, p. 22.

[25] Dale Belman, Matthew M. Bodah, and Peter Philips, *Project Labor Agreements*, ELECTRI International, 2007, p. 27. (ELECTRI International is a nonprofit organization that, among other things, funds research on issues important to (continued...)

to eight million dollars we will go to a project labor agreement because we find it a more effective management tool.... Basically it's the labor pool, the supply of labor, [and] the quality of the workmanship." Interviewees were also critical of PLAs, however. The main criticism was that PLAs can increase the bargaining power of construction unions. According to the study, in areas where a large share of jobs are covered by PLAs, construction unions may make greater demands during negotiations over new union contracts. If one union is successful, other unions may make similar demands.[26]

In short, much of the research on the effect of PLAs on the costs of construction is inconclusive. In part, it can be difficult to find similar projects where some use a PLA and the others do not. Instead of comparing similar projects, economists use statistical models that attempt to control for differences in the characteristics of construction projects. It can be difficult, however, to control for all the factors that affect the costs of construction. For example, if the Davis-Bacon locally prevailing wage is the local union wage, contractors may pay workers the union wage whether or not the project is covered by a PLA. In addition, statistical models may not take into account the quality of construction, whether projects are finished on time, or the safety records of different projects. Finally, the relationship between PLAs and construction costs may be interdependent. PLAs may affect construction costs, but the size and cost of construction may also affect the use of PLAs.

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the electrical construction industry; ELECTRI International, *Facing the Future of Our Industry, Report to Stakeholders 2008*, Bethesda, MD, pp. 2, 18, 24.)

[26] Ibid., pp. 27, 31.

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Project Labor Agreements and Bidding Outcomes

The Case of Community College Construction in California

By Emma Waitzman and Peter Philips

Executive Summary

This is a study of the effects of using Project Labor Agreements (PLAs) in the construction of community college projects in California. We divide the study into two parts.

The first part is a case study of seven projects built by the College of Marin, three with PLAs and four without PLAs. The upshot of this case is that the PLAs in comparison to the nonPLAs attracted a similar number of bidders, came in at a slightly lower price point compared to the engineer's estimate, had about the same or fewer construction problems and trained more young, local workers due to the social justice component of the PLAs. We also find that local contractors were eager to bid on both PLA and nonPLA projects while bidders coming from afar preferred to bid on either the PLA or nonPLA projects but not both.

The second part is a statistical study of 88 community college PLAs and 175 community college nonPLAs representing $501 million in PLA work and $206 million in nonPLA work. controlling for when and where these projects were built, and how large each project was, we found that the PLA projects had slightly more bidders compared to nonPLA projects. We also found that PLA low-bids came in slightly lower compared to nonPLA projects. From these results, our conclusion is that PLAs do not reduce the number of bidders nor do they raise costs on California community college projects.

Case Study

In June 2004, bond measure C passed in Marin County, California, providing $249.5 million to modernize the facilities of the local community college, the College of Marin. The modernization of the College included the construction of 7 new buildings, 3 of the projects were completed under a Project Labor Agreement (PLA) and 4 were not. All construction occurred between 2008 to 2015 providing a useful opportunity to compare bidding and construction on similar PLA and non-PLA projects

The PLA included common stipulations including sections outlining grievance procedure, management rights, and work rules. Like many PLAs, the College of Marin PLA included a social justice component encouraging the hiring of local workers, veterans, and disadvantaged workers, such as those with a criminal record. The PLA also stipulated that contractors were to hire students enrolled at the College to work on the project.

All seven new buildings were finished on time. A study of the first two PLA projects by Dannis, Woliver, and Kelley, Attorneys at Law concluded that "the two PSA [Project Stabilization Agreement—a synonym for a PLA] projects had fewer problems than some non-PSA projects." The College's satisfaction with the two PLA projects approved in 2008 led the College to assign a third project to be administered under the PLA in 2013.

Initially, each project was completed under budget. However, alterations following completion of two of the four nonPLA projects imposed cost overruns leading to final amounts that exceeded their original budgets. Nonetheless, it appears the cost overruns were related to architectural design errors rather than faulty construction.

Five College of Marin students were hired on PLA projects. Each student was trained by a different trade—sheet metal, carpenters, electricians, laborers, and plumbers. A recent study of apprenticeship training concluded that apprentices that complete their programs earn about $300,000 more over their work-lives compared to workers without apprenticeship training. One student, Julian Stone stated: "My whole life I've wanted to be a carpenter….The PLA project gave me the opportunity I needed to get my life together and going in the right direction"

In all cases, the lowest bid (excluding subsequent cost-overruns in two cases mentioned above) came in under the engineer's estimate. For the four nonPLA projects, the sum of the lowest bids was $38 million or about $10 million per project. The sum of the engineer's estimates for these four nonPLA projects was $50 million or about $12.25 million per project. The average number of bidders was 9.5 per project, and the average nonPLA project came in at 79% of the engineer's estimate.

In the case of the 3 PLA projects, the sum of the lowest bids was $66 million or about $22 million per project. The sum of the engineer's estimates for these three PLA projects was $88 million or about $29 million per project. The average number of bidders was 7.3 per project and the average PLA project came in at 75% of the engineer's estimate.

On average, those contractors who bid only on nonPLA projects were located 51 miles from the College of Marin's Kentfield Campus. Those who bid only on the College's PLA projects were located 63 miles from Kentfield. However, those contractors who bid on both PLA and nonPLA projects at the College of Marin were located much closer to the Kentfield Campus—on average they were found about 25 miles from the College of Marin.

This "U" shaped relationship seems to reflect that those contractors interested only in bidding on nonPLAs or only on PLAs were willing to look far afield for such opportunities. Those interested specifically in College of Marin projects, regardless of whether they were PLAs or not, were located closer to the Kentfield Campus in the first place.

Statistical Study

We supplement our case study of the College of Marin with a statistical analysis of 88 PLA and 175 nonPLA community college projects representing $501 million in PLA work and $206 million in nonPLA work. Built in 10 California community college districts over the period 2007 to 2016, using statistical analysis controlling for when and where these projects were built, and how large each project was, we found that the PLA projects had slightly more bidders compared to nonPLA projects, but that this difference was not statistically significant. Our findings rejected the hypothesis that PLAs reduced the number of bidders compared to nonPLA projects.

In a second statistical analysis of low bids on 105 projects where the engineer's estimate was available, controlling for when and where the project was built, and how large the project was envisioned to be based on the engineer's estimate, we found that PLA low-bids

came in slightly lower compared to nonPLA projects, but that this difference was not statistically significant. Our analysis rejected the hypothesis that PLAs raised the cost of projects relative to the engineer's estimate compared to nonPLA projects.

Errata

An earlier version of this report mistakenly identified the winner of the Main Building Complex PLA project for the College of Marin as Gonsalves and Stronck when it fact, Di Giorgio Contracting won this bid. This mistake has been corrected.

About the Authors

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Introduction

Project labor agreements (PLAs) are pre-hire contracts between project-owner representatives and local construction unions. PLAs account for an ever increasing amount of both public and private construction projects. PLAs become a public policy issue when there are differing views on how best tomanage public works construction. Proponents of PLAs argue that these contracts facilitate both efficient construction and the attainment of related public policy objectives such as local hire or the training of local youth and/or other targeted groups in construction skills. Critics of PLAs contend that these contracts increase the cost of public construction primarily through a hypothesized reduction in the number of bidders on public works. The assertion is that PLAs discourage some contractors from bidding on these projects. This, in turn, reduces competition which in turn raises construction costs. In this study, we will directly address this hypothesis both in a case study and in a statistical analysis of bidding on 263 community college projects.

A 2001 study of California PLAs by the California Research Bureau, California State Library found that

> …private construction projects in California are much more likely to use PLAs than are public projects. Of the 82 project labor agreements reviewed for the content analysis in this report, nearly three-quarters (72 percent) were private sector agreements. In addition, 22 out of 23 private cogeneration electricity plants recently built or under construction in California used PLAs.[i]

Since this study, the use of PLAs has been growing in California. There are no comprehensive data on the growth of private PLAs, but in the California public sector data show clear growth in the use of PLAs. In the 1990s, on average, 3 new public sector PLAs were signed per year; in the 2000s, on average, 11 new government PLAs were signed per year; and between 2010 and 2016, on average 16 new public sector PLAs in California were signed per year. Of the 234 public PLAs signed since 1993, 26 (11%) have been community college PLAs.[ii] Counting up signed project labor agreements gives only a rough measure of the growth and distribution of public sector PLAs in California because a project labor agreement can entail one building project or many separate building projects; and the size of these projects can vary.

PLAs serve many purposes in both the private and public sectors, but a common purpose is to ensure the supply of a trained and qualified labor force. Other purposes sometimes include a process to customize work schedules or work rules to the project's needs, and the channeling of local workers (or workers from a targeted group such as veterans or at-risk youth) into registered apprenticeship or pre-apprenticeship programs and a career in the construction trades.

Despite these potential benefits, PLAs are controversial because critics assert that PLAs raise construction costs. In states such as California where public construction is governed by prevailing wage regulations, PLA critics assert that on public works, PLAs raise costs primarily by restricting the number of contractors willing to bid on PLA projects.

This study is the first to test this hypothesis. We do this in two ways. First we provide a detailed case study of 7 projects, 3 PLA and 4 nonPLA jobs, built by the College of Marin between 2007 and 2015. Then, we test the reduced-number-of-bids hypothesis using data for 88 PLA and 175 nonPLA community college projects in California representing $501 million in PLA work and $206 million in nonPLA work. In both cases, we ask the question, did the use of PLAs raise public construction costs by restricting the number of contractors bidding on these PLA projects compared to their nonPLA counterparts?

We begin this report by describing the distinctive turbulence that characterizes the construction industry and makes the creation and retention of a qualified and safe construction labor force particularly challenging. Understanding the broader challenges of construction and the training of skilled labor contextualizes the issues surrounding project labor agreements. The basic point here is that construction turbulence makes it difficult to train and to retain skilled workers in this industry. PLAs are one mechanism for addressing the challenge of obtaining a skilled and qualified labor force to build a public or private project.

Construction Context[1]

Construction is an extraordinarily turbulent industry which makes it difficult to train and retain a skilled and experienced blue collar workforce. Yet, primarily through obligations enforced by collectively bargained contracts, in California, construction is continually being refreshed by the supply of newly trained workers graduating from registered construction apprenticeship programs. Roughly every five years, 15% of the California construction workforce is newly trained journeyworkers graduating from registered apprenticeship programs. This reflects an annual investment of around $250 million with 97% of the graduating apprentices coming from jointly sponsored contractor/union programs.[iii]

Construction is a dangerous and deadly industry. In California, construction has the third highest injury and fatality rates of any major industry behind only agriculture and transportation.[iv] Training and experience help construction workers be safer. For example, residential construction which has few apprenticeship-trained journeyworkers has twice the industry average injury rate. Nonresidential construction and heavy-and-highway work which have many more apprenticeship-trained journey workers have half the construction-industry average injury rate.[v] Registered apprenticeship training helps create the skills and knowledge that keep construction workers safe.

Registered apprenticeship training also pours the foundation for a lifetime of better earnings. Mathematica estimates that registered-apprentice graduates earn over their

[1] This section may be skipped by readers who are familiar with the unique challenges of the construction industry and how apprenticeship programs address the problems of skill development and worksite safety. The next major section addresses the hypothesis that public PLAs restrict the number of bidders.

work lives $300,000 more than their comparable counterparts who do not attend registered apprenticeship programs.[vi]

But a trained and experienced workforce is also important to owners. While systematic data are not available measuring the effects of the lack of training and experience on delayed work-schedules and workmanship defects, few practitioners in the construction industry would maintain that skill and experience are not important ingredients in construction success.

Construction Volatility Hampers Training and Experience

Constituting, on average, about 4.5% of the California labor force, construction is the most turbulent of the major California industries. At the peak of the last business cycle, in 2006, 933,000 workers were employed in California construction. This was 5.6% of all California workers. (Figure 1) At the trough of the business cycle, in 2010, 560,000 were employed in California construction amounting to 3.5% of the overall workforce. By 2015, construction employment was back up to 725,000 and 4.1% of the total California labor force. From peak in August 2006 to trough in March 2011, California construction lost 45% of all its jobs and by July 2015, California construction jobs were still 20% below the 2006 peak. This means almost 1 out of every 2 workers in construction in 2006 was gone in 2011 while by 2016 half of those who left had to return after an absence of up to 5 years or be replaced by new workers. Construction is like a giant sponge, constantly sucking in and squeezing out workers. This underscores the challenge of retaining trained and experienced workers in construction.

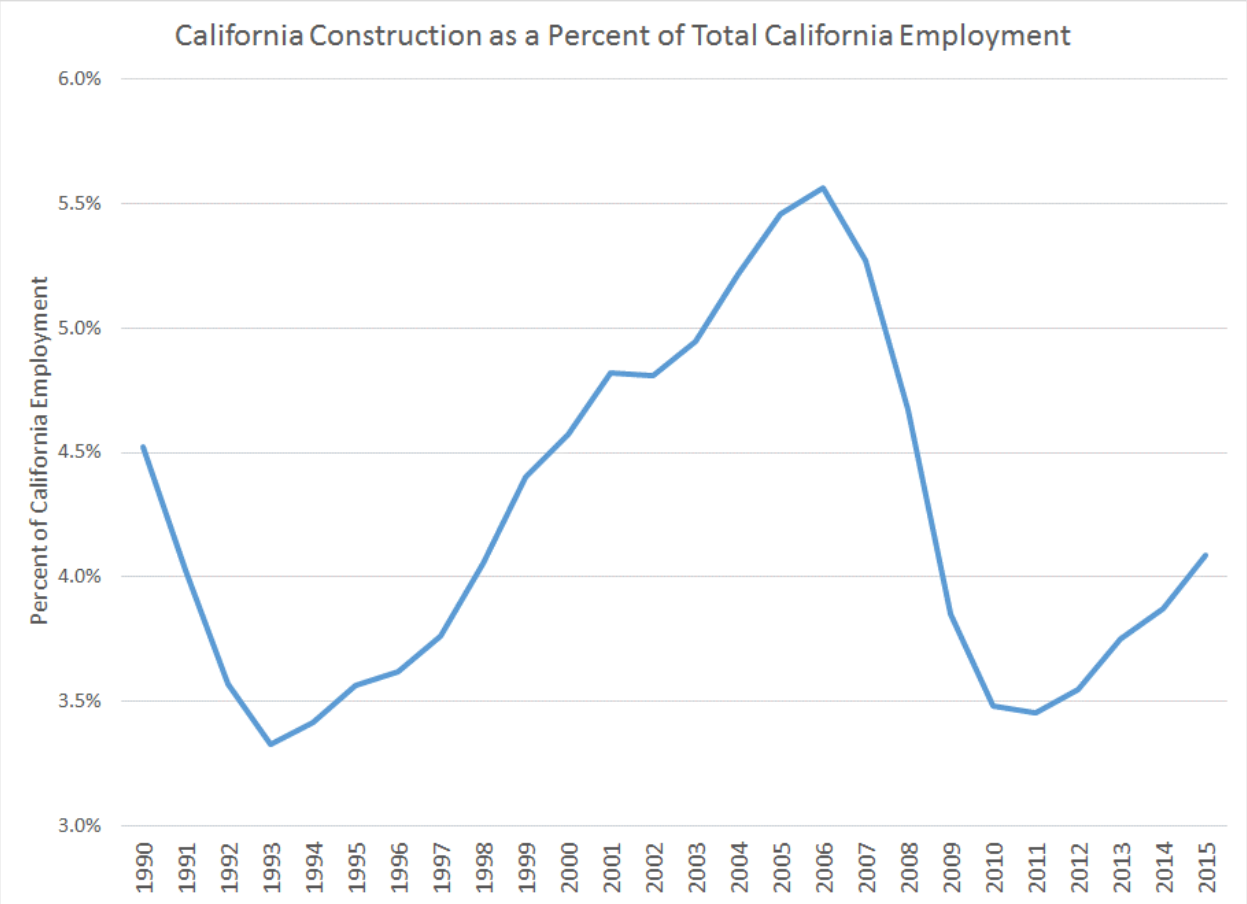


Figure 1: California annual construction employment as a percent of total California employment, 1990 to 2015[vii]

Not all sectors of the California construction industry have recovered from the Great Recession at the same pace. Figure 2 shows that employment in the construction of utility systems has now exceeded its 2006 peak, and employment in the construction of nonresidential buildings is coming close to its 2006 peak. In contrast, employment in residential building construction still lags at 65% of its 2006 peak, and overall construction employment in 2015 was only 78% of construction employment at the peak in 2006. When some sectors recover faster than others, the recovering sectors bear the heaviest burden finding ways either to induce experienced workers to return to the construction industry or to train a new generation of construction workers.

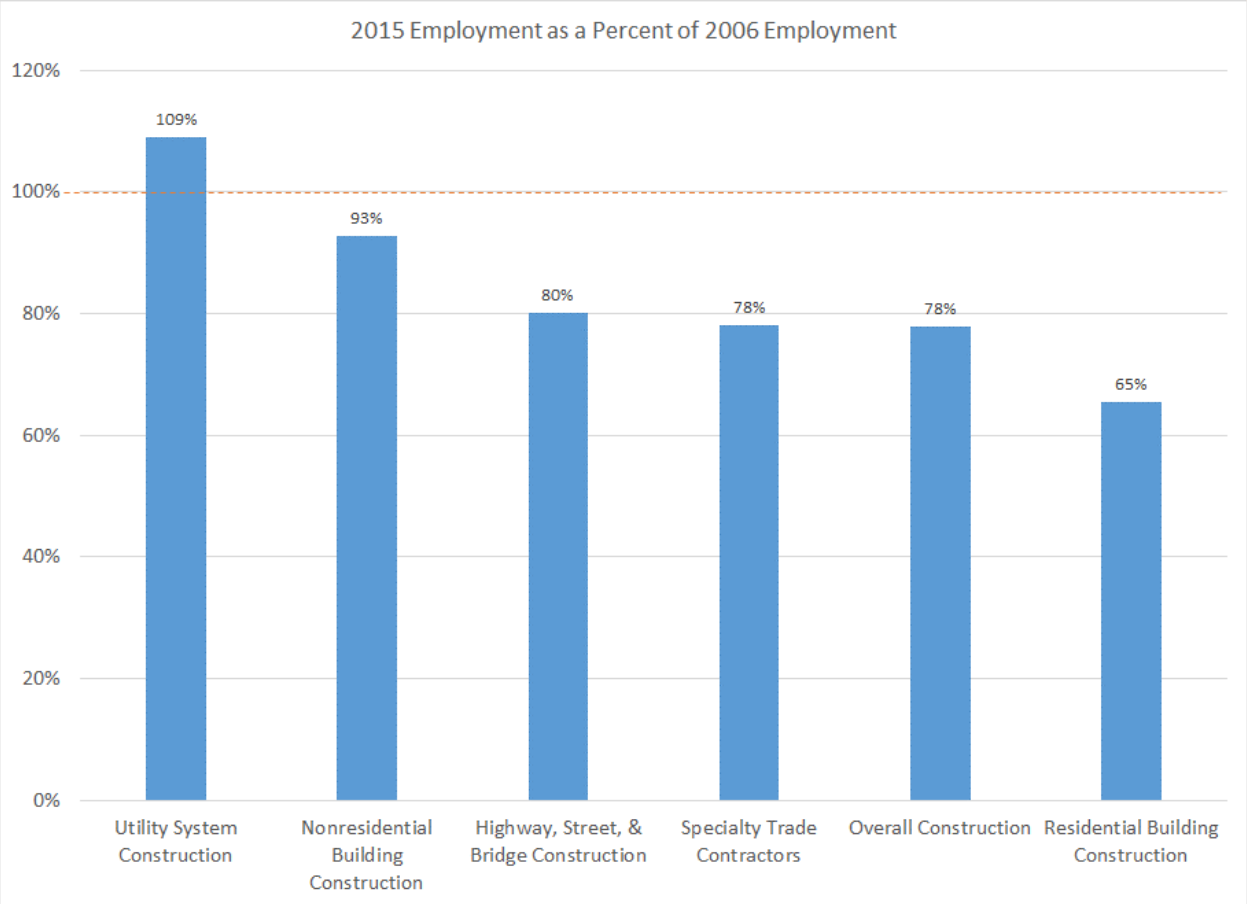


Figure 2: 2015 California construction employment by sectors as a percent of peak California construction employment in 2006[viii]

However, the challenge of training and retaining skilled and qualified workers combines the acute trauma of business cycles like the Great Recession with the chronic strain of seasonal employment volatility. Figure 3 compares California's construction employment turbulence to the relatively mild seasonality of the overall California labor market looking at 2000 to 2016 using monthly employment data. Overall employment is shown on the left vertical axis and construction employment is shown on the right vertical axis. The axes are calibrated to allow for a comparison of the relative volatility in both cyclical and seasonal employment. The amplitude of the business cycle in construction combines with the persistent volatility of seasonal work to create much less certain employment prospects for construction workers compared to workers in the overall California employment. Again, construction is like a giant sponge cyclically and seasonally sucking in and squeezing out workers with no guarantee that the worker that was squeezed out last time will be the worker who gets sucked in this time. As a consequence, skills and experience get lost at each turn of the cycle.

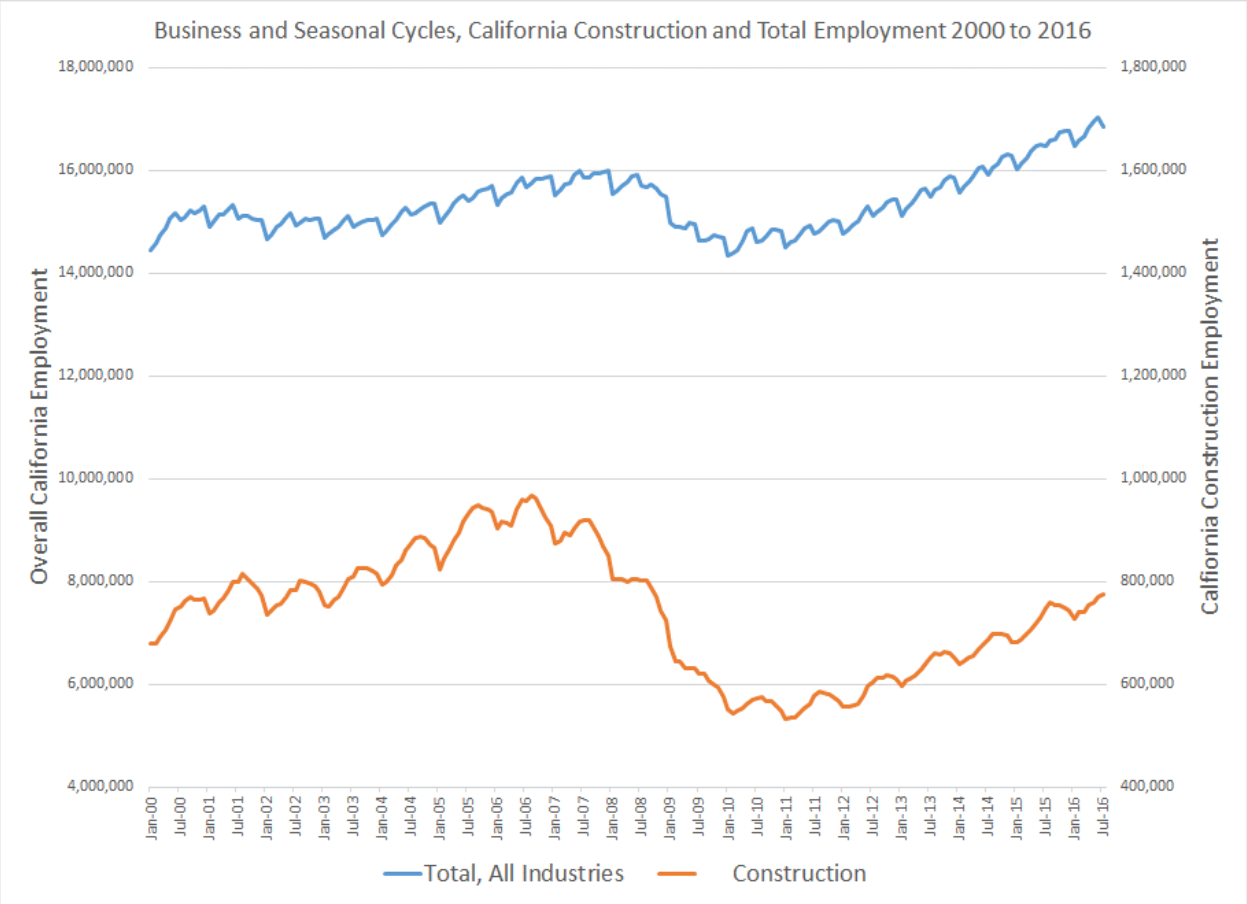


Figure 3: Comparing California's construction business and seasonal employment cycles to overall California employment, 2000 to 2016[ix]

Training a Safe and Qualified Labor Force in the Face of Turbulence

The problem of retaining construction workers in an industry that can toss out 10% of its workforce across the seasons and 45% of its workforce across the business cycle, makes it difficult to finance the training of construction workers. Why train a worker if the job is going to disappear and the worker with it? Yet because construction depends upon craft skills to insure the quality of construction along with trained and experienced workers to fend off the inherent dangers of construction work, training does in fact take place.

In the unionized sector of construction, collective bargaining creates a framework for financing the accumulation of human capital in construction. Contractors signing collectively bargained agreements are bound by those agreements to contribute a set amount of money for each hour of work they win in order to finance the training of the next generation of construction workers. Because of this contractual agreement, California union contractors invest substantial sums of money each year to build and run extensive registered apprenticeship training systems. In 2012, California union contractors invested $230 million in apprenticeship training and graduated 15,200 apprentices.

Nonunion contractors, facing the same skilled labor challenges, also invested in registered apprenticeship training. In 2012, nonunion contractors spent $28 million on registered apprenticeship training and graduated 420 construction apprentices.[x]

Over the five-year period, 2011 through 2015, California's joint contractor/union apprenticeship programs graduated 72,400 construction apprentices. Their nonunion counterparts graduated an additional 2050. Together this added more than 74,000 newly skilled construction workers to the California construction labor force. Over this 5-year period, an average of 640,000 employees worked in California construction three-fourths of whom were blue collar workers.

So, in California, over a five-year period, newly graduated apprentices represented 15% of the construction labor force while joint labor-management (union) programs accounted for 97% of the new Journeyworkers and the unilateral (nonunion) programs contributed an additional 3% of the newly skilled labor force. This constant refreshing of the California labor force with newly trained workers is the essential ingredient in maintaining effective and qualified construction manpower in the face of chronic yet unpredictable construction turbulence.

The Importance of Training to Workers

Safety

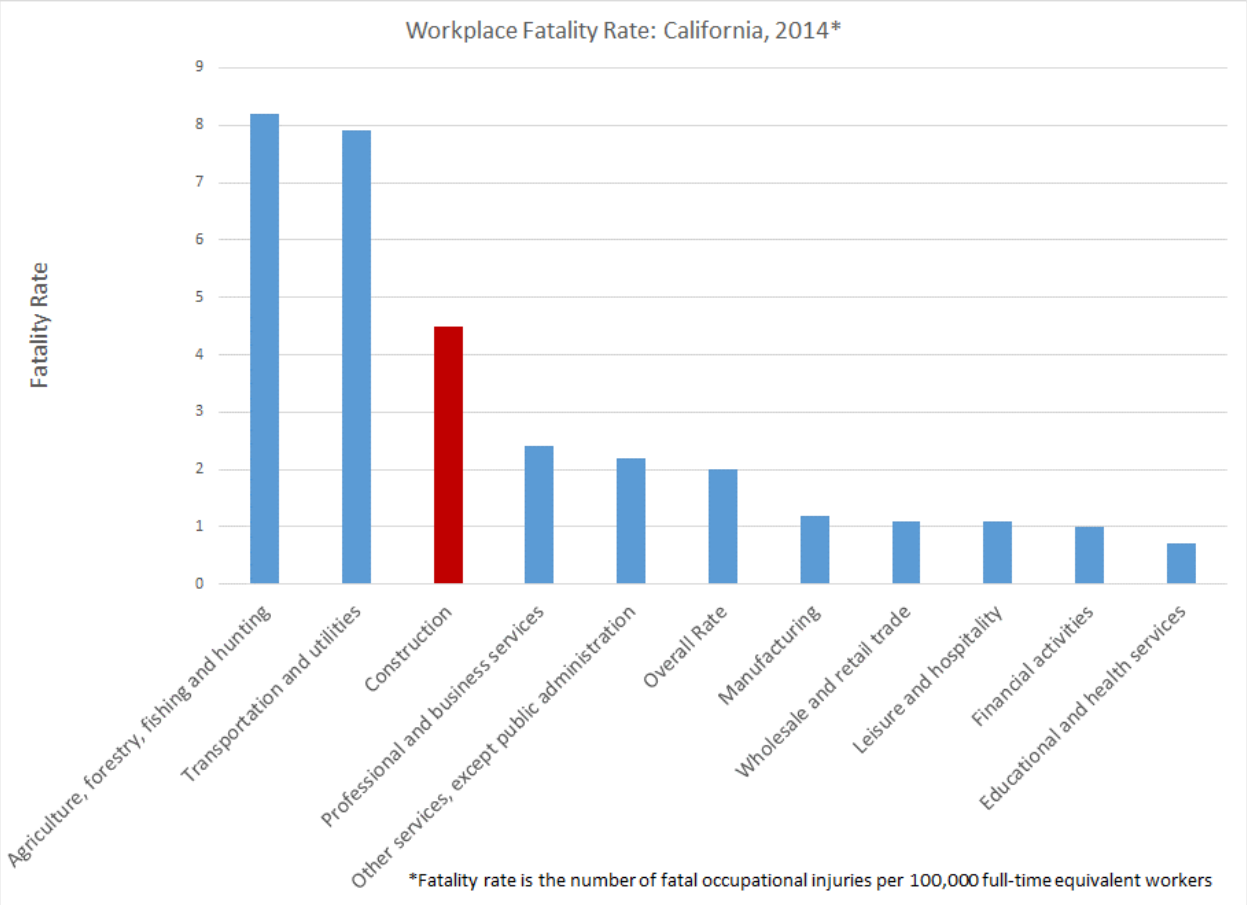


Figure 4: California workplace fatality rate by industry, 2014[xi]

Construction is among the deadliest of major industries. Figure 4 shows that the occupational fatal injury rate in construction is more than twice the national average and third behind only agriculture/forestry/fishing and transportation in the risk of death.

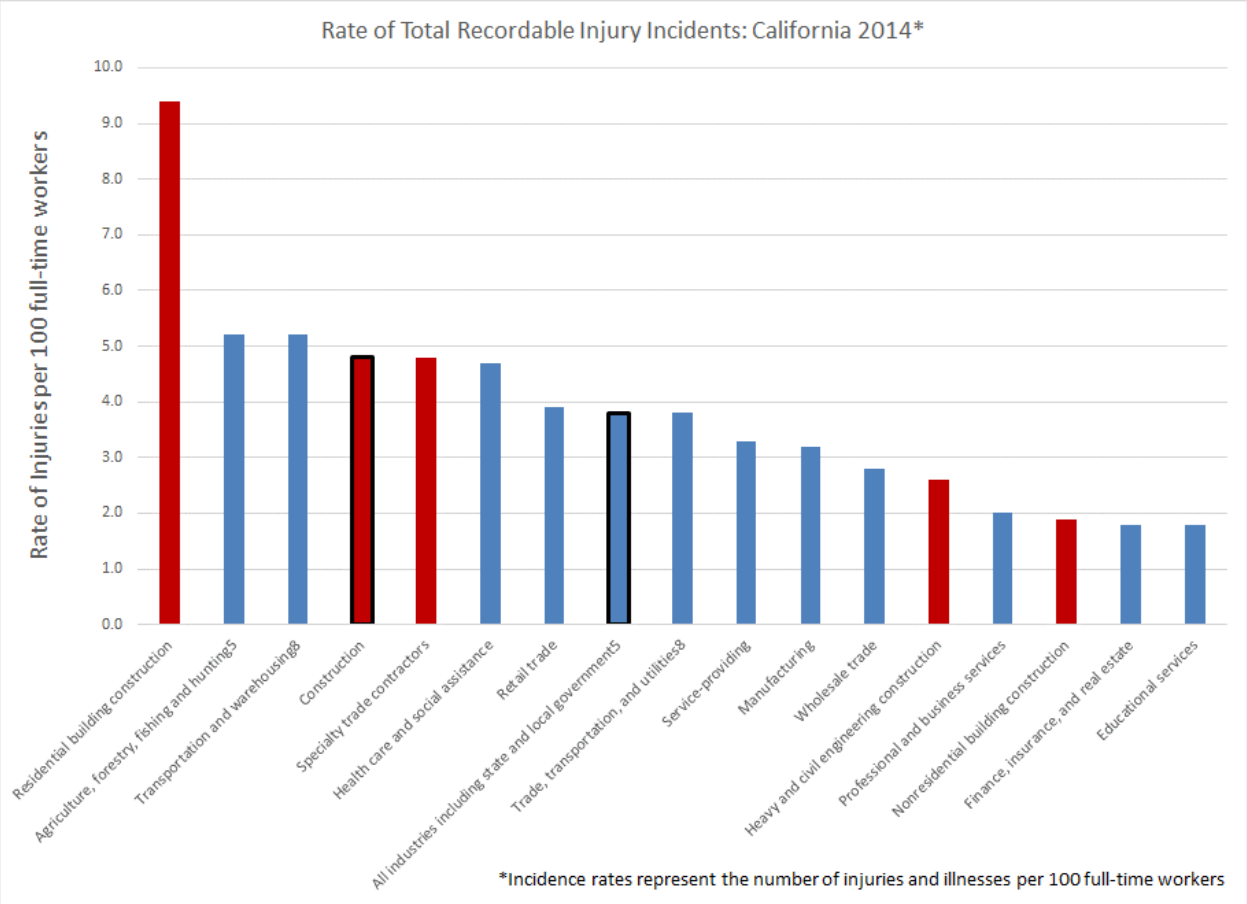


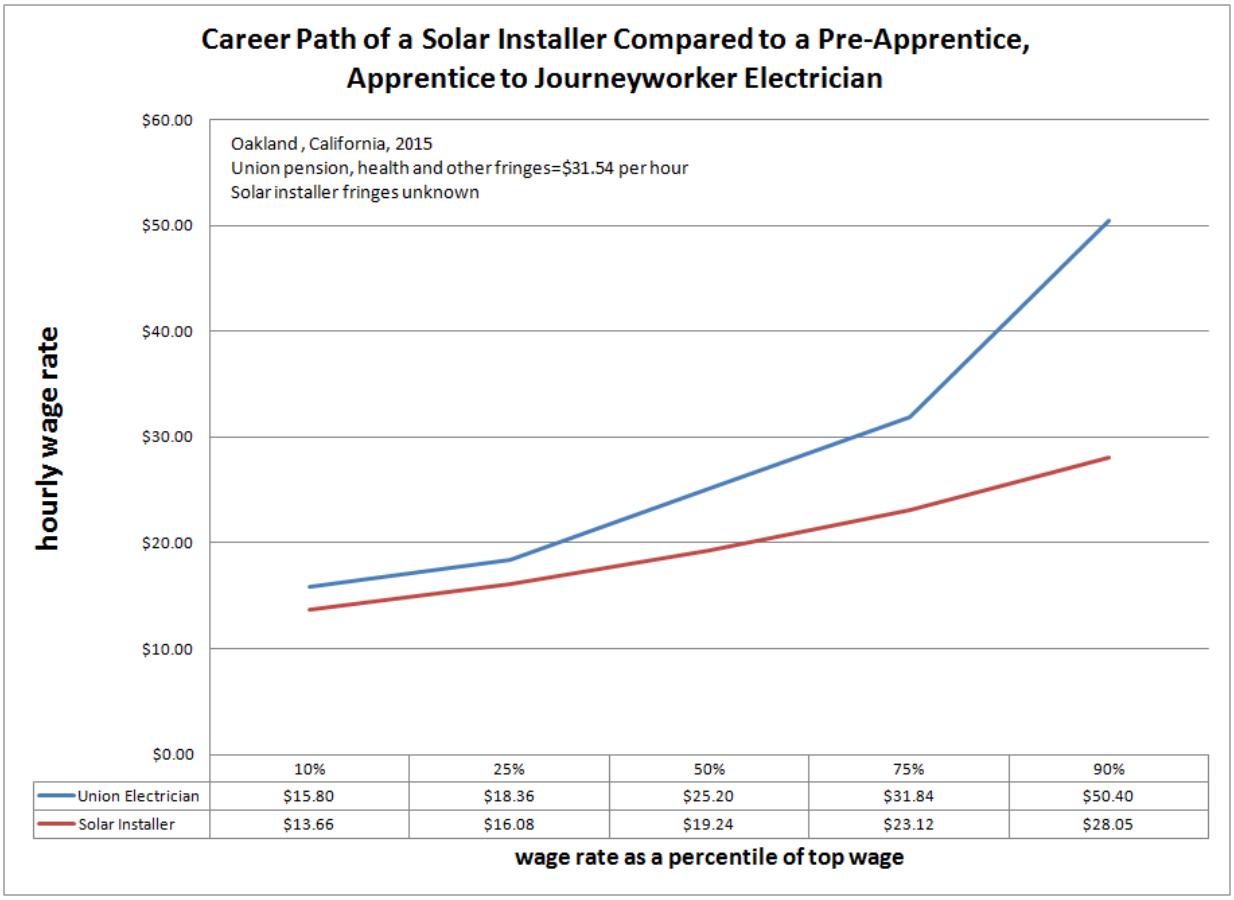
Figure 5: California workplace total recordable injury rate for selected industries and construction sub-industries[xii]

Figure 5 shows that in terms of injuries, again construction, as a whole, is almost as dangerous as agriculture and transportation and has about a 20% higher overall injury rate compared to the economy as a whole. But there is a wide difference in the risks of injury across construction segments. Residential construction has almost twice the injury rate compared to construction as a whole while nonresidential building construction has less than half the injury rate compared to construction as a whole. This reflects the fact that very few graduates of registered apprenticeship programs go into residential construction. Even heavy and highway construction, which involves roughly the same exposure to roads and heavy equipment as found in transportation, nonetheless has an injury rate that is roughly half the injury rate of overall construction and overall transportation. Heavy civil construction has a high percentage of apprentice-trained Journeyworkers because this is a predominately unionized sector of California construction and much of this work falls under prevailing wage regulations which either require or encourage apprenticeship training.

Construction work is inherently dangerous. Construction volatility, by constantly churning experienced workers out of the industry and pulling inexperienced workers into construction, exacerbates the inherent dangers of this work. Training, in general, and apprenticeship training, in particular, is key to mitigating these dangers. That is one reason why training is important to construction workers.

Income

As will be discussed below, apprenticeship training substantially raises the current and lifetime incomes of construction workers. An example of the effects of registered apprenticeship training on earnings can be seen comparing the earnings profiles of solar installers to electricians. Figure 6 shows the earnings career paths of solar installers in California's Bay Area compared to electrician pre-apprentices moving into apprentice status and then graduating to becoming journeyworker electricians.



	10%	25%	50%	75%	90%
Union Electrician	$15.80	$18.36	$25.20	$31.84	$50.40
Solar Installer	$13.66	$16.08	$19.24	$23.12	$28.05

Figure 6: Comparing the career paths of rooftop solar installer to union electrician pre-apprentice, apprentice, Journeyworker

In the case of solar[xiii] installers, we do not have a regulated career path. Rather, on a more informal basis, solar installer earnings rise with more experience either through raises from their employer or by moving to higher paying employers. The paths of solar installers

and pre-apprentice electricians[2] begin close to each other in terms of entry level wages. As pre-apprentices gain experience, their wages rise, but only slightly faster than solar installers. Once the pre-apprentice enters the apprenticeship program, his/her earnings grow much more quickly and significantly compared to solar installers. This difference widens substantially once the apprentice graduates to journeyworker status.[3]
This more advantageous earnings profile of the electrician career path compared to the solar installer path is due to the fact that apprenticeship training for electricians does not focus exclusively on the skills needed for photovoltaic construction jobs. The pre-apprentice/apprentice path steadily broadens the apprentice's training to encompass the entire electrician craft. The young worker eventually gains knowledge of a wide range of skills, qualifying him/her for a wide range of projects—and this broad occupational skill set is essential not only for higher hourly wage rates but also for staying employed in a turbulent construction market. The solar installer learns only the specific tasks associated with solar installation jobs, which limits the worker's job opportunities and potential earnings.

When benefits are also considered, the difference in the electrician and solar installer occupations are even more dramatic. Figure 6 does not show the differences in benefits between the electrician path and the solar installer path because government data on solar installation earnings do not include benefits. Nonetheless, in general, one would expect that the benefit advantages of apprenticeship training are probably even greater than the wage advantage.

The Importance of Training to Owners

Design flaws, unexpected weather, unforeseen worksite conditions, change orders, faulty workmanship, inferior materials, delays in supplies, labor shortages, worksite disorganization and a host of other problems can plague construction activity and lead to costly delays in finishing the project. Insurance for the project, the contractor and subcontractors can help mitigate the costs of construction delays and construction defects; but like anything else, an ounce of prevention is usually worth a pound of cure.
Blue collar workforce training is one key element in providing that ounce of prevention. A skilled and knowledgeable crew of craft workers is the final link in the chain from initial design to the final completion of a project. Workers who know what they are doing can judge the quality of most of the materials going into the project providing a final assessment against material defects. Experienced craftsmen who know how to work

[2] Also known within the electrician's union as "construction electricians".
[3] The comparison of these wage profiles is only approximate because in the case of pre-apprentices and apprentices, their wages rise in lockstep with their experience on-the-job and classroom training. In the case of solar installers, the data reflect the distribution of solar-installer wages, but there is no guarantee that any one solar installer will necessarily rise up that profile from bottom to top with increased experience and training. With some companies that will be the case, and others not. Some installers will have to rely upon market mobility and opportunity to harvest a payoff from increased experience and training.

together provide the final piece needed to translate a potentially chaotic system of layered subcontracting into an organized and smoothly running system of construction. Skilled workers who know their craft provide an immediate judge of the quality of their own work. Skilled construction workers provide the checks and balances that make the anthill of a major construction site a coordinated effort. Without a doubt engineering, planning and supervision are also keys to a successful construction project; but in the craft work that entails most construction, making sure that those who are actually doing the construction are skilled and experienced is necessary to insure a timely completion of a quality project.

The Role of PLAs in Obtaining a Trained and Qualified Labor Force

Project labor agreements insure that most of the blue collar workers on the project come from the local union halls of the crafts on the project. As will be shown below, in California, the overwhelming majority of construction Journeyworkers who have received formal, registered apprenticeship training come from the union sector of construction. Also typically union hiring halls confer priority in call-outs to local union members. Thus, PLA requirements tend to insure that most workers on a project are sourced locally and are either the products of registered apprenticeship training or are currently enrolled in a registered apprenticeship program or are in line to enter a registered apprenticeship program through a pre-apprenticeship program.

Nonunion contractors can and do bid on PLA projects. On public works in California, PLA provisions sometimes allow for nonunion contractors to bring a fixed number of key workers onto the project without going through the union hall. This allows the nonunion contractor to use that contractor's best workers in concert with union workers coming from the hall.

So a primary selling point that advocates of PLAs present is that PLAs provide a trained and qualified labor force without excluding key nonunion workers who may have firm-specific skills that the nonunion contractor wants to have to tackle the project effectively.

The Hypothesis that Public PLAs Restrict the Number of Bidders

On public projects not governed by prevailing wages, PLA critics may argue that PLAs raise costs by raising wages relative to what might be obtained without PLAs. This issue is in dispute because PLA advocates argue that by insuring a more productive workforce, PLAs in these situations offset potentially higher wages with higher productivity. Regardless of the outcome of these disputes, in the context of public works governed by prevailing wage regulations such as those in California, the wage-differential argument is largely irrelevant.

The essence of the argument has been summarized in a study that was critical of the use of PLAs:

> Opponents argue that PLAs increase costs. They claim that the requirements imposed by PLAs discourage nonunion contractors from bidding on projects and subcontractors from participating. This reduced competition, it is claimed, results in overall higher bids.[xiv]

This study did not seek to measure the effect of PLAs on the number of bids. Rather, it attempted to measure the cost differences between PLA and nonPLA projects and then attributed these differences to an assumed difference in bid competition plus possible differences in work rules across PLA and nonPLA projects.

Here we address the hypothesis that PLAs restrict competition head on by directly testing whether PLAs encourage, discourage or have a neutral effect on the number of bidders on PLA projects compared to nonPLA projects. In testing this hypothesis, we control for other factors that influence the number of bidders on a project such as the size of the project and when during the construction business cycle, the project was let.

Project Labor Agreements

What Is a Project Labor Agreement?

Project labor agreements are pre-hire labor agreements between construction unions, as a group, and representatives of an owner intending to build a project or set of related projects. If we think of a "project" as a construction activity for which there is a bid opening, one project labor agreement can cover either one project or multiple projects. In the multiple project case, these separate projects would be gathered under a unifying umbrella such as a bond issue financing a set of projects. While the requirements of PLAs can vary dramatically depending on the needs of the parties entering into the agreement, almost universally, PLAs promise two things: first, most (but in the public sector, not all) of the blue collar workers on the project will be dispatched through local union hiring halls. Second, during the life of the agreement there will be no work stoppage regardless of whether there are either strikes or lockouts elsewhere within the local construction labor market.

In addition to these universal aspects of PLAs, project labor agreements become customized to the desires and intentions of the signatory parties—the owner and the local unions (bargaining as a group). Customized aspects of PLAs may include unique provisions regarding scheduling and overtime, specific regulations regarding work rules and craft jurisdictions, quota provisions regarding local hire or local participation in apprenticeship programs, distinctive safety programs or project-specific worker compensation procedures.

From the unions' perspective, PLAs are concessionary contracts where specific owners controlling important work obtain a set of concessions or sweeteners in exchange for most or all blue collar workers coming from the hiring hall. In the public sector, PLAs almost always contain a provision allowing contractors to obtain some key blue collar workers outside the hiring hall system. The amount and flexibility of the key worker provision is subject to bargaining as are all the other provisions of a PLA.

Many PLA projects are large. After all, the incentive that induces separate craft unions to bargain as a group and provide concessions to an owner relative to local collective bargaining agreements is that the owner has a good deal of work on offer. However, when a PLA covers multiple projects under the umbrella of a construction bond or other unifying element, specific projects within the larger set need not be themselves large projects. So while many specific PLA worksites are large—such as airport construction or a sports stadium or a large civil engineering project—many other specific PLA worksites are smaller but encased within a larger construction agenda which allowed the owner to lure the unions to the bargaining table.

PLAs are used in both the private and the public sector. This study focuses on public community college construction in California some of which was governed by PLAs and some not. Public sector PLAs are controversial because they involve public procurement policy. Some nonunion contractor associations oppose the use of PLAs in public construction procurement.

In our case study and statistical sample, all the community college construction was governed by California's prevailing wage law. Prevailing wage laws set the wage rates and benefit packages by craft that are to be paid on public works. While these regulations are not always obeyed, nonetheless, in general, in California, wages on public works tend to reflect wage rates established in local collective bargaining agreements.

Critics of Project Labor Agreements

Critics of public project labor agreements in prevailing wage law states argue that PLAs increase construction costs on public works by restricting the number of contractors willing to bid on these projects compared to comparable public projects without PLAs.[xv] They argue that some nonunion contractors are unwilling to bid on PLA projects because these contractors do not wish to obtain the majority of their blue collar labor from the local union hall. They also may be deterred from bidding if the PLA requires that they pay into the collectively bargained health and retirement funds for their key workers, especially if they are already paying privately for these workers' health insurance or 401ks.

Proponents of PLAs argue that many nonunion contractors do bid on PLAs and that the alleged deterrence effect of PLAs are exaggerated. They further suggest that PLAs may attract (primarily union) contractors that otherwise would not bid on those projects.

PLA critics call attention to a 2004 renovation project at the, Burckhalter Elementary School in East Oakland, California. The case was summarized in an article in SF Gate:

> A call for bids went out, and a San Rafael firm that specializes in school construction -- M.A. Davies Builders -- came in with the low estimate of $1.8 million, beating out seven competitors….Before a final deal was signed, the school district announced that -- after years of on-again, off again talks -- it had signed a breakthrough labor pact with Alameda County's trade unions. The pact is supposed to ensure labor peace in future school construction projects. It sets local hiring goals, encourages job apprenticeships and requires that a percentage of workers be hired out of the local union halls….But as a result of the labor pact, the school district decided to rebid the Burckhalter contract…. This time, there were only three companies in the running, and the lowest bid, from Albay Construction of Contra Costa County, was just over $2.2 million….[A] a project manager for Albay, whose own bid went up nearly $167,000 the second time around, discounted the idea of additional paperwork [causing the bid increase] -- saying it's pretty routine for any public works project. Instead, the manager cited the reduced number of bids the second time (because many contractors had already lined up summer work) and the increased costs of materials.[xvi]

From the perspective of PLA critics, the Burckhalter Elementary School case provides an example of how PLAs increase costs (from $1.8 to $2.2 million) due to a reduction in bidders (from 7 to 3). The fact that the PLA promised labor peace, set local hiring goals, and encouraged apprenticeship

training were potential (and not necessarily inevitable) future benefits that had to be weighed against the immediate 22% increase in costs.

Questions to Be Asked

In this study, we do two things. First, we examine in detail the case of seven construction projects built by the College of Marin over the period 2008 to 2015, three under project labor agreements and four absent PLA requirements. This detailed case allows for a nuanced assessment of the two questions—do PLAs restrict competition and do PLAs deliver on promised construction and community benefits?

Second, we statistically examine 263 community college construction projects in California built between 2007 and 2016. One-third (88) of these projects was built under PLAs while two-thirds (175) were not. In terms of construction costs, of the total $707 million of work in our sample, a little more than two-thirds ($501 million) were built with PLAs while a little less than one-third was not. With this large sample, we are able to control for confounding factors such as in what month a project was bid in order to test the hypothesis that PLAs restrict the number of bidders on public works. This is an important question because the assertion that PLAs restrict the number of bidders on projects is the central, untested proposition leading to the contention that PLAs in prevailing wage law states raise public sector construction costs.

College of Marin Case Study

In this section, the modernization projects at a community college in Marin County, California, the College of Marin, serve as a case study to analyze the effect of project labor agreements on contractor bid participation, and the relation of bidding to prior engineer's estimates of costs.

Marin County is part of the Northern Bay Area in California, near San Francisco. The PLA adopted by the College of Marin was the first PLA to be used on a public works project in Marin County and the ninth to be used by a college district in the Bay Area.

The modernization of the College of Marin provides a useful case study because the college used both PLA and nonPLA arrangements for its projects. Modernization at the college included the construction of 7 new buildings. Three of the projects were completed under a PLA and 4 were not. Variables such as location, source of funding, and project ownership, were held constant while project cost, size, and contractors varied across the 7 projects. All construction occurred within a time-span of seven years, from 2008 to 2015. These circumstances allow for a useful opportunity to compare PLA and non-PLA projects. In the second section of this study, we will extend our analysis to 263 California community college projects, 88 of which were built under PLAs.

The Decision to Modernize Marin

The College of Marin is a two-year community college in Marin County. It was established in 1926, under the name Marin Junior College. The original school consisted of a single campus in central Marin, now called the Kentfield Campus. In 1975, a separate college was built in Northern Marin, the Indian Valley College. When the Indian Valley College was under threat of closure in 1985, it merged with the College of Marin as a second campus for the college, the Indian Valley Campus. The College of Marin offers two-year training in vocational and career programs, programs leading to an associate's degree, and community education courses. The College primarily serves students from

the surrounding area; there are approximately 250,000 residents in Marin County.[xvii] From 2010 to 2015 an average of 6,985 students were enrolled in classes for credit each year. About 77% were enrolled part-time, with the remaining 23% enrolled full-time.[xviii]

In 2002, outside consultants surveyed the physical structures on the College of Marin campus. They reported the facilities were worse than over 90% of community college districts across California, 108 schools at the time. The report, using a Facility Condition Index (FCI) metric, concluded, "The overall FCI of the facilities [...] is considerably worse than what we find for facilities of similar age and function across the nation."[xix]

Two years earlier, shoddy infrastructure of school districts across California was receiving attention in the state legislature with Proposition 39, also known as the "school facilities local vote act of 2000." A core aim of the proposition was to address the poor condition of school buildings. The initiative instituted more oversight of tax dollar use and made it easier for schools to acquire funds for repairs and modernization. Proposition 39 reduced the voter approval required to pass bond measures from two-thirds approval to 55% if the institution agreed to convene an oversight committee. "This initiative helps fix classroom overcrowding and provides much needed repairs of unsafe and outdated schools," said Gail D. Dryden, President of the League of Women Voters of California.[xx] For facilities at the College of Marin to be determined among the worst of campuses across California during a time when the deterioration of facilities statewide was sparking legislative action is an indication of the extent to which the physical structures at Marin had depreciated.

This finding may be surprising given the affluence of the surrounding county of Marin. The median income in Marin in 2014 was $95,749, 55% higher than the statewide median.[xxi] Officials suggested one explanation for the disrepair was under-enrollment at the college.[xxii] Below-capacity enrollment at the College of Marin contributed to underutilization and neglected maintenance of already aging college facilities. The lack of upkeep was especially damaging at the Indian Valley Campus due to the environmental exposure of the rural location of the campus.[xxiii]

The decision by the College of Marin to merge with the Indian Valley College in 1985 was partly justified by widely publicized projections of population increase in the county. However, the population increase did not occur as predicted and the number of students the College of Marin was tasked to serve did not grow at the expected rate. The college was built to serve a full-time enrollment of 5000 students. It hit an all-time high in 1992 of 2,653 students.[xxiv] Following 1992, the college experienced a downward trend in enrollment. By 2004, full-time enrollment at the College of Marin had shrunk by 39%, totaling just 1,613 students for the Fall semester. Part-time enrollees similarly decreased.[xxv]

Due to below-capacity enrollment, campus buildings were underutilized and infrequently maintained. By 2000, most buildings were over 60 years old and had received little to no updating. The latest major renovation to have occurred at either the Kentfield Campus or the Indian Valley Campus was in 1976.[xxvi] The lag in new construction, coupled with the neglect of facilities, gave rise to the shabby state of campus buildings highlighted in the 2002 assessment.

In 2004, a reporter from the *Marin Independent Journal* interviewed Don Flowers and Bob Thompson, two maintenance officials at the College of Marin. The article described the conditions of the Fine Arts Center:

> Thompson and Flowers pointed out a slew of problems with the Center, ranging from rusted air conditioning pipes on the roof patched with duct tape to buckled roofs that had caused water to leak through the classroom ceilings, […] officials said parts of the building contain asbestos or lead paint [and] parts of the building were inaccessible to disabled students, including the women's restroom, the elevator and the theater. The building had no air-conditioning in key areas - including the computer lab and in art rooms containing welding machinery and pottery kilns.

Similar shortcomings were noted at the Science Center.

Many officials supported the belief that renovation was key for preserving the College of Marin and changing the direction of enrollment numbers.[xxvii] Yet the decision to modernize the campus was not inevitable. A series of community meetings was initiated in 2002 to discuss various courses of action. Among the proposed scenarios were: doing nothing, selling one or both campuses, and redeveloping the campuses. A report by the Marin County Grand Jury described the attendance of community members at the meetings as "significant," noting participants' dedication to maintaining the school and their support for updating college buildings.[xxviii] In June 2004, bond measure C was placed on the ballot for $249.5 million to modernize College of Marin facilities. The commitment by locals to revitalize the College of Marin was expressed formally by a 63% vote of approval. The timing of the vote was important. Just four years earlier, before the passage of Proposition 39, the vote would have been a defeat.

Slow Start to Construction

Though the bond measure was approved in 2004, the construction of major projects at the College of Marin did not begin until 2008. A few issues contributed to the delay. The College of Marin president resigned in 2003 after an 80% vote of no confidence by faculty.[xxix] In 2004, the Board was still finalizing the hiring of a new administrative team. Furthermore, in 2005 the College received an accreditation warning from the Western Association of School and Colleges (WASC). The WASC evaluates schools in the Western region to ensure the quality of the school's programs and recommend areas of improvement. Five areas for improvement were identified at the College of Marin. Issues ranged from revising the school's mission statement, to educational planning, to determining the college's health care liability. Resources designated to the modernization process were refocused to addressing the WASC review.

The educational planning component mentioned in the WASC warning was directly related to the modernization planning process. The state required a detailed "educational master plan" in order for the college to move forward with modernization. The plan, an overview of current and desired educational programs at the college, was intended to inform facilities planning. At the time of the bond approval, the College of Marin had not completed an educational master plan and the facilities master plan "lacked sufficient detail….to determine project design and cost."[xxx]

The final master plan was not submitted until early 2006. The drafting process was lengthy in part due to the school's prioritization of community inclusion and input. Holding public forums and community meetings was time consuming. Determining a list of prioritized projects and incorporating alterations into the designs, such as the inclusion of a "green" aspect, worked to further extend the process. Thus, initial projections for breaking ground in 2006 were overly optimistic.

The lag in construction was damaging on multiple levels. For one, the reputation of the college was already on shaky ground following media coverage of the enrollment drop, the accreditation warning, and the resignation of the college president. The construction delays were covered in local news. The changing public view regarding the delays can be seen in the titles of two editorials published in the *Marin Independent Journal*. "Prudent approach by [College of Marin] trustees" was published in 2005.[xxxi] In 2007 the *Journal* published, "[College of Marin] deserves public scrutiny."[xxxii] But, by 2008 construction was underway and the tone of news coverage turned favorable. An editorial entitled, "Groundbreaking a sign of progress at College of Marin" read, "the 'rebuilding' of the county's community college is hitting full stride."

While the reputation of the College of Marin could be restored, there was no repair for the cost impacts of the construction delays. Between the bond passage in 2004 and the start of construction in 2008, there was a sharp increase in the price of construction materials. The price of products across all manufacturing industries rose 21% from January 2004 to January 2008.[xxxiv] In particular, College of Marin officials noted the rise in the price of steel as particularly problematic.[xxxv] From January 2004 to January 2008, the price of steel rose 56%.[xxxvi] Initial plans to modernize the College of Marin budgeted for nine new buildings. As a result of higher material costs, two buildings were dropped and a third was downsized. The price increases also had environmental implications. The level of intended LEED (Leadership in Energy and Environmental Design) certification was lowered for some buildings, and the extent of desired solar panel installation was cost prohibitive. The board discussed strategies for organization and efficiency going forward, including use of a project labor agreement

Adopting a PLA at Marin

In part due to the slow start of construction, the College of Marin opted to consider using a Project Labor Agreement as a potential organizational tool to expedite construction. Discussions of a PLA had occurred prior to the delay. In 2005, the College's consulting firm, Swinerton Management & Consulting, presented information to the board on PLAs and on using a contractor prequalification process. [xxxvii]In order to use a PLA, the College of Marin was required to gain approval from the Board of Trustees. A vote by the Board was scheduled for June 2007.

In May, one month before the College of Marin Board was to vote, another PLA vote occurred in Marin County. The Central Marin Sanitation Agency Commissioners met to vote on the use of a PLA for a 30-month sewage project in Marin County. At the time of that meeting, no PLAs had been used on public works projects in Marin County. Only private projects in Marin had used PLAs, the first being The Buck Institute for Research on Aging, which began construction in 1996[xxxviii]. The Sanitation Agency Commissioners voted unanimously against the use of a PLA on the sewage project. A trustee from the College of Marin, Greg Brockbank, attended that meeting. He told a reporter the College of Marin Board had not yet taken a position on a PLA. [xxxix]

Despite the vote by the Sanitation Agency, PLAs were becoming increasingly prevalent on public works projects in California school districts. By the time of the College of Marin vote in 2007, 30 PLAs had been entered into by California school districts, 11 of which were by community college districts. All 30 PLAs had been adopted after 1998. PLA use was particularly concentrated in the "Bay 10," the ten school districts in the San Francisco Bay Area. There were 21 community colleges within the Bay 10 in 2007, including the College of Marin. Eight of the 11 community college PLAs had been passed in the Bay 10 districts.[xl] The eighth was passed by Foothill De-Anza College, just two months before the June 2007 vote at the College of Marin.

The increasing use of PLAs by Bay 10 colleges may have been a contributing factor to the decision at Marin. Swinerton Management & Consulting presented the data on the Bay 10 schools to the board. Furthermore, the week before the College of Marin meeting, the decision at Foothill De-Anza College was mentioned in local news. An article in the *Marin Independent Journal* noted, "the unanimous vote by the [Foothill De-Anza] district's board in April came on the heals [sic] of testimony from workers that nonunion contractors underpaid them or didn't pay benefits."[xli] The article also quoted interviews with College of Marin officials regarding their motives for considering a PLA.

Administrators highlighted a stipulation of the proposed PLA requiring contractors to hire College of Marin students, thereby offering hands-on training for students on construction-related vocational tracks. College of Marin president Frances White told reporters, "the value of having a program where students could train in the construction industry is my biggest interest in the whole thing ... that is important because, in Marin, the No. 1 fastest-growing industry is construction." Board of Trustees President, Wanden Treanor, reiterated the value of the educational component, focusing on the "green" aspects of the training. She said, "my understanding is that the unions put together a curriculum dealing with solar and thermal issues. I think there is some great potential."[xlii]

The selection of the use of PLAs on some of the College's projects was also based on the desire for efficiency and the belief that a PLA would guarantee availability of large workforce necessary to complete the larger projects on time. The College of Marin proposed the use of a PLA on the two largest modernization projects, the Science/Math/Central Plant Building on the Kentfield Campus and the Main Building Complex on the Indian Valley Campus. A third project would eventually be added to the PLA in 2013, the New Academic Center on the Kentfield Campus.

The original division of projects was such that the bond money funding PLA and non-PLA construction would be about equal. It was also suggested that the apportionment was beneficial to local firms, as " 'the very cost of the [larger] projects might be prohibitive to smaller companies' " due to bonding requirements, and therefore would "likely be awarded to larger companies elsewhere in the Bay Area."[xliii]

On June 12, 2007, the College of Marin Board of Trustees met to vote on the use of a PLA. Seven publicly elected members convened in front of a 125-person audience.[xliv] Representatives from both sides of the debate over the use of PLAs testified in front of the Board. Four individuals argued against the use of a PLA and ten individuals spoke in favor of the Agreement.

Only two oral testimonies were submitted in writing for inclusion in the Board of Trustees meeting minutes. Those speaking in opposition of the PLA did not provide written testimony. However, quotes recorded by local news sources give a sense of the discourse.

Frank Tallarida, a resident of Novato, spoke in opposition of the PLA. He had attended the meeting for the sewage project in Marin a month early. His comments to the Sanitation Agency Commissioners were quoted by the *Marin Independent Journal*, "you have an obligation to spend tax dollars prudently….a PLA is going to increase the cost[xlv]"

Another opponent of the PLA was quoted following the College of Marin meeting. Eric Christen, co-director of the Coalition for Fair Employment in Construction, called the PLA and non-PLA division

of college projects "inherently discriminatory." He said, "Fifty percent discrimination is 100 percent wrong."[xlvi]

A representative of the building and construction trades council, Secretary-treasurer Jack Buckhorn, spoke in favor of the PLA. He also provided his testimony in writing. In his testimony, Buckhorn summarized his view of the benefits and uses of PLAs. He concluded:

> Please remember, a PSA [Project Stabilization Agreement—another name for a PLA] is a construction risk management tool being used to protect the district and the taxpayers' investment. … They also encourage higher quality contractors & subcontractors to bid the district's projects, use local skilled workers,… prevents work stoppages, keeps the money in the local economy, and increase worksite safety[xlvii]

The Board also heard testimony from officials at other California community college districts that used PLAs. Richard Holober, vice president of the San Mateo County Community College District's Board of Trustees, told the Board at Marin, "we believe a project labor agreement is integral to a successful work project [...]we have no work stoppages."[xlviii]

Anita Grier, president of the board of trustees at City College of San Francisco also testified. She said, "We believe the project labor agreement was very successful. There are no strikes. There is no work stoppage allowed." A trustee on the Board for the West Contra Costa School District, Charles Ramsey, also spoke positively about the experience with the PLA at his school.[xlix]

Finally, the report by Swinerton Management and Consulting summarized the use of PLAs by the San Mateo school district and the Peralta school district. They wrote, "all projects had multiple bidders and the bids were at or below the estimates. The contractors performing the work on the projects were a mix of union and non-union contractors. The construction projects were completed on schedule."[l]

A member of the College of Marin Board of Trustees also spoke and submitted written testimony. In his testimony, Greg Brockbank described the course of the PLA debate in Marin and decried the tactics used by the Association of Builders and Contractors:

> This has been an unprecedented issue at College of Marin that has generated…dozens of e-mails, a dozen snail-mailed packets…articles and studies, two mailers to tens of thousands of Marin households, and our two major political parties pitted against each other. In summary, I'm dismayed that clearly inaccurate and misleading charges of anti-competitiveness, increased costs, and bait-and-switch by the ABC [Associated Builders and Contractors] has resulted in so much unjustified furor and worry in the public….One can only wonder at the blatantly anti-union political agenda of ABC….Do they fear having their contractors and workers working alongside well-trained union workers and fear operating under a system which will make it harder for anyone -union or non-union - to cut corners?[li]

Trustee Brockbank ended with an opinion regarding PLA use, "PLAs work,… make it more likely that a project will come in on time, within budget, with high quality work, under safe working conditions, without undue disruption, delays, or labor strife."[lii] The board voted 6 to 1 to approve the PLA. Trustee Barbara Dolan was the single "nay" vote, explaining she saw the PLA as discrimination against non-union firms.[liii] One year later, on June 10, 2008, the College of Marin PLA was officially enacted.

On April 16, 2013 the College of Marin Board of Trustees considered the addition of a third project to the PLA, the New Academic Center on the Kentfield campus. The law firm Dannis Woliver Kelley gave a presentation to the board. Presenters stated, "Assurance of quality workers under PSA could come into play as the construction market (and skilled labor supply) tightens over the years."[liv] Board meeting minutes read, "Trustees expressed support and appreciation of the presentation noting that our PSA projects have been successful and positive experiences and have provided local hiring and student training."[lv] The Board approved the expansion of the PLA to cover the Academic Center.

The Marin PLA

The College of Marin PLA was signed by 22 local trade unions representing over 65,000 Northern California members.[4][lvi] When it was signed in 2008, the College of Marin was the ninth community college to sign a PLA in the Bay 10 Districts. The Agreement included common stipulations of a PLA including sections outlining grievance procedure, management rights, and work rules. The College of Marin Agreement borrowed language from the Solano Community College Agreement and the Chabot-Las Positas Agreement signed in 2004 and 2007, respectively. Under the section "Purposes" all three agreements read, "the purposes of this Agreement are to promote efficient construction operations on the Project, to insure an adequate supply of skilled craftspeople and to provide for peaceful, efficient and binding procedure for settling labor disputes."[lvii][lviii][lix]

Like many PLAs, the College of Marin PLA included a "social justice" component. PLAs often promote the hiring of local workers, veterans, and disadvantaged workers, such as those with a criminal record. The College of Marin PLA encouraged all three. PLAs on community college projects often include an additional social justice component, which reflects the unique population they serve, students. The stipulation requires contractors to hire students enrolled at the college to work on the project. The section on student hire in the College of Marin PLA reads:

> Each contractor or subcontractor performing work covered by this Agreement shall employ on its regular workforce at least one (1) eligible College of Marin student or graduate who is enrolled and participating in an approved construction training course, program, pre-apprenticeship and/or Joint Apprenticeship program….In recognition of the College of Marin's desire to have District-trained students employed on its Project(s), a subcommittee of the Labor Management Committee…shall be established…to establish appropriate criteria and procedures…[lx]

Student-hire had been incorporated into community college PLAs in California since 2001 when the Los Angeles Community Colleges district enacted the first community college PLA in the state.[lxi] When the College of Marin PLA was signed, 7 out of the 11 community college PLAs in the state included student hire programs.

Bidding, Construction, Results

Between 2008 and 2015 seven new buildings were constructed at the College of Marin. The Performing Arts Building, the Fine Arts Building, Diamond Physical Education Center, and the

[4] The figure 65,000 union members comes from a compilation of data on the website Unionfacts.com. For some union locals, we could not find a membership number.

Transportation Technology Complex were built first. These were the smallest of the seven projects, and these did not use a PLA. Construction followed on the Main Building Complex, the Science/Math/Central Plant Project, and the Academic Center, all of which were built under the PLA. All projects achieved LEED Gold Certification except for the Physical Education Center, which achieved LEED Silver Certification.[lxii]

All seven new buildings were finished on time. Common delays, unrelated to labor, occurred on all projects during construction. Environmental testing was time-consuming. Indian artifacts were found on some sites requiring site survey. In winter months, weather issues in other states delayed arrival of materials. On one project, a labor dispute occurred. The project, the Science/Math/Central Plant Project, was being built under a PLA. The grievance procedure laid out in the PLA was triggered, and the dispute was promptly resolved. The dispute was not an indication of broader unrest on the project. A study of the first two PLA projects by Dannis Woliver Kelley Attorneys at Law concluded, "the two PSA projects had fewer problems than some non-PSA projects."[lxiii]

Initially, each project was also completed under budget. However, alterations following completion of two projects imposed cost overruns leading to final amounts that exceeded their original budgets. These two projects were the Performing Arts building and the Fine Arts building. These were nonPLA projects built by non-union contractors. However, it appears the cost overruns were unrelated to construction. Rather, architectural design errors caused costly building alterations. These two facilities had a number of issues. For one, an outdoor walkway pooled excessive rainwater during wet months. In addition, these two buildings had issues with ventilation, fire code compliance, and mold. The College of Marin filed two lawsuits against the firm Marcy Wong Donn Logan Architects for design flaws, which the College alleged cost close to $2million in repairs.[lxiv]

In addition to time and budget matters, the PLA projects delivered on their aim to offer College of Marin students construction training opportunities. Five College of Marin students were hired on PLA projects to participate in construction. Each student was hired and trained by a different trade. Sheet metal workers, carpenters, electrical workers, laborers, and plumbers each hired a College of Marin student to participate in modernizing the College. One student, Julian Stone, wrote a letter to the Board of Trustees encouraging continued PLA use. In his letter he wrote:

> "The PLA that was a part of the new math and science building at the College of Marin changed my life in the best way possible…. My whole life I've wanted to be a carpenter, and after trying countless times to get my foot in the door I was quite discouraged. The PLA project gave me the opportunity I needed to get my life together and going in the right direction"[lxv]

The value of registered apprenticeship training to young people such as Julian Stone is substantial. A 2012 Mathematica study for the US Labor Department concluded:

> RA [registered apprenticeship] is designed to improve the productivity of apprentices through on-the-job training and related technical instruction. We assessed RA effectiveness by comparing the earnings of RA participants to those of nonparticipants, adjusting for differences in pre-enrollment earnings and demographic characteristics. We found that RA participation was associated with substantially higher annual earnings in every state studied….For RA participants who completed their program, the estimated career earnings are an average of $240,037 more than similar nonparticipants.[lxvi]

In addition to hiring student workers, the PLA projects also complied with the stipulation encouraging the hire of local workers. The Marin County Building Trades unions that signed the PLA gave preference to members who lived in Marin for dispatch on the College of Marin projects.

Bidding on College of Marin Projects

The Pattern of Bidding.

Twenty-nine contractors bid on College of Marin projects. We have been able to determine the company location of 27 of those contractors. Table 1 shows summary information on how contractors bid on College of Marin projects.

Table 1: Summary bid information by contractor for College of Marin projects

Contractor	Project			Percent Won		Contractor Location
	nonPLA	PLA	Total	nonPLA	PLA	
Alten Construction	4	2	6	75%	0%	Richmond
Arntz Builders	3	1	4	0%	0%	Novato
Di Giorgio Contracting	3	1	4	0%	100%	Novato
Jeff Luchetti Construction	3	1	4	0%	0%	Santa Rosa
Midstate Construction	3	1	4	33%	0%	Petaluma
Lathrop Construction	1	2	3	0%	50%	Benicia
Roebbelen Construction	.	3	3	.	0%	El Dorado Hills
SJ Amoroso	.	3	3	.	0%	Redwood Shores
West Bay Builders	3	.	3	0%	.	Novato
Wright Contracting	1	2	3	0%	50%	Santa Rosa
Bobo Construction	2	.	2	0%	.	Elk Grove
C Overaa Construction	1	1	2	0%	0%	Richmond
Gonsalves & Stronck	1	1	2	0%	0%	San Carlos
JW & Sons	1	1	2	0%	0%	Petaluma
Biltwell Dev	1	.	1	0%	.	San Francisco
Codding Construction	1	.	1	0%	.	Santa Rosa
Howard S Wright Constructors	.	1	1	.	0%	Emeryville
McCarthy Building Companies	.	1	1	.	0%	San Francisco
McCrary Construction	1	.	1	0%	.	Belmont
Menghetti Construction	1	.	1	0%	.	Modesto
NBC General Contractors Corp.	1	.	1	0%	.	Oakland
PAGE Construction	1	.	1	0%	.	Novato
ProWest Construction	.	1	1	.	0%	
R Debbelen	1	.	1	0%	.	
Ralph Larsen & Sons	1	.	1	0%	.	San Mateo
West Coast Contractors	1	.	1	0%	.	Fairfield
Younger General Contractors	1	.	1	0%	.	Rancho Cordova

ZCON Builders	1	.	1	0%	.	Roseville
Zolman Construction	1	.	1	0%	.	San Carlos
Total	**38**	**22**	**60**	**11%**	**14%**	

Fifteen contractors bid only once on the College of Marin projects in our study. Of all the nonPLA projects, 32% of the bids came from one-time-bidders while 14% of the PLA project bids came from one-time-bidders. None of the one-time bidders won a project.

Four contractors bid on two College of Marin projects. Three of these two-time-bidders bid both on a PLA and a nonPLA project; one two-time-contractor just bid on nonPLA projects. All the two-time-bidders failed to win any of the projects.

Five contractors bid three times on College of Marin projects. Two of these three-time-bidders bid on both PLA and nonPLA projects while two just bid on PLA projects and one just bid on nonPLA projects. Wright Contracting and Lathrop Construction were the two that bid on both PLA and nonPLA projects in this group, and both won one of the PLA projects. The other three contractors all lost on all three of their bids.

Four contractors bid four times on College of Marin projects. They all bid on both types of projects. Midstate Construction won one of the nonPLA projects while Di Giorgio won one of the PLA projects.

Alten Construction bid on 6 of the 7 College of Marin projects and won three of the four nonPLA projects. Alten bid on two of the three PLA projects, coming in sixth (out of 8) on the Indian Valley Complex and third (out of 6) on the Gateway Center.

Contractors had an 11% chance of winning a nonPLA project (4/38) and a 14% chance of winning a PLA project (3/22). The winning contractors on the nonPLA projects came from Richmond and Petaluma while the winning PLA contractors came from Benecia, Santa Rosa and San Carlos.

With this pattern in mind, we ask two questions: where did the bidding contractors come from and what was the relationship between the winning bids and the engineer's estimates on the projects they won?

Where Bidders Came From

Table 2 shows that four contractors bidding on 10 nonPLA projects and 2 PLA projects came from Novato winning one PLA bid. Three contractors came from Santa Rosa, providing 5 nonPLA and 3 PLA bids and winning one PLA project. Two contractors came from Petaluma providing 4 nonPLA and 2 PLA bids and winning one nonPLA project. Two contractors came from Richmond providing 5 nonPLA and 3 PLA bids and winning 3 of their 5 nonPLA bids. Two contractors came from San Carlos providing 2 nonPLA and 1 PLA bid but winning no bids. Two contractors came from San Francisco providing I nonPLA and 1 PLA bid, but these two contractors lost their bids. Twelve additional contractors from 12 different cities also provided bids—10 nonPLA bids and 9 PLA bids. Only 1 of these 19 bids won—Lathrop Construction from Benecia won one of the PLA projects.

Table 2: Towns from which bidding contractors came, bids by town and percent won by town and PLA/nonPLA

Location	Contractors	Bids			Percent Bids Won		
		nonPLA	PLA	Total	nonPLA	PLA	Total
Novato	4	10	2	12	0%	50%	8%
Santa Rosa	3	5	3	8	0%	33%	13%
Petaluma	2	4	2	6	25%	0%	17%
Richmond	2	5	3	8	60%	0%	38%
San Carlos	2	2	1	3	0%	0%	0%
San Francisco	2	1	1	2	0%	0%	0%
Belmont	1	1	.	1	0%	.	0%
Benicia	1	1	2	3	0%	50%	33%
El Dorado Hills	1	.	3	3	.	0%	0%
Elk Grove	1	2	.	2	0%	.	0%
Emeryville	1	.	1	1	.	0%	0%
Fairfield	1	1	.	1	0%	.	0%
Modesto	1	1	.	1	0%	.	0%
Oakland	1	1	.	1	0%	.	0%
Rancho Cordova	1	1	.	1	0%	.	0%
Redwood Shores	1	.	3	3	.	0%	0%
Roseville	1	1	.	1	0%	.	0%
San Mateo	1	1	.	1	0%	.	0%
Total	**27**	**37**	**21**	**58**	11%	14%	12%

Figure 7 shows how far, on average, contractors were located from the College of Marin Kentfield Campus by the percent of the contractor's bids that were allocated to PLA projects. Also each bar in Figure 7 at bottom shows the number of bids for each category. On average, those contractors who bid only on nonPLA projects were 51 miles from the College of Marin Kentfield Campus. But those contractors that bid one-quarter of the time on PLA projects and three-quarters of the time on nonPLA projects were, on average, located 24 miles from the Kentfield Campus. Those contractors who bid one-third of the time on PLA projects were located in Richmond, 13 miles from the PLA campus. These were the closest contractors to the project. Those contractors that bid half the time on PLA projects were, on average, located 26 miles from the Kentfield Campus. Those who bid two-thirds of the time on PLAs were located 35 miles from Kentfield and those who bid only on PLA were 63 miles from Kentfield.

This "U" shaped relationship seems to reflect that those contractors interested only in bidding on nonPLAs or PLAs were willing to look far off for such projects while those interested in College of Marin projects, regardless of whether they were PLAs or not, were located closer to the Kentfield Campus in the first place.

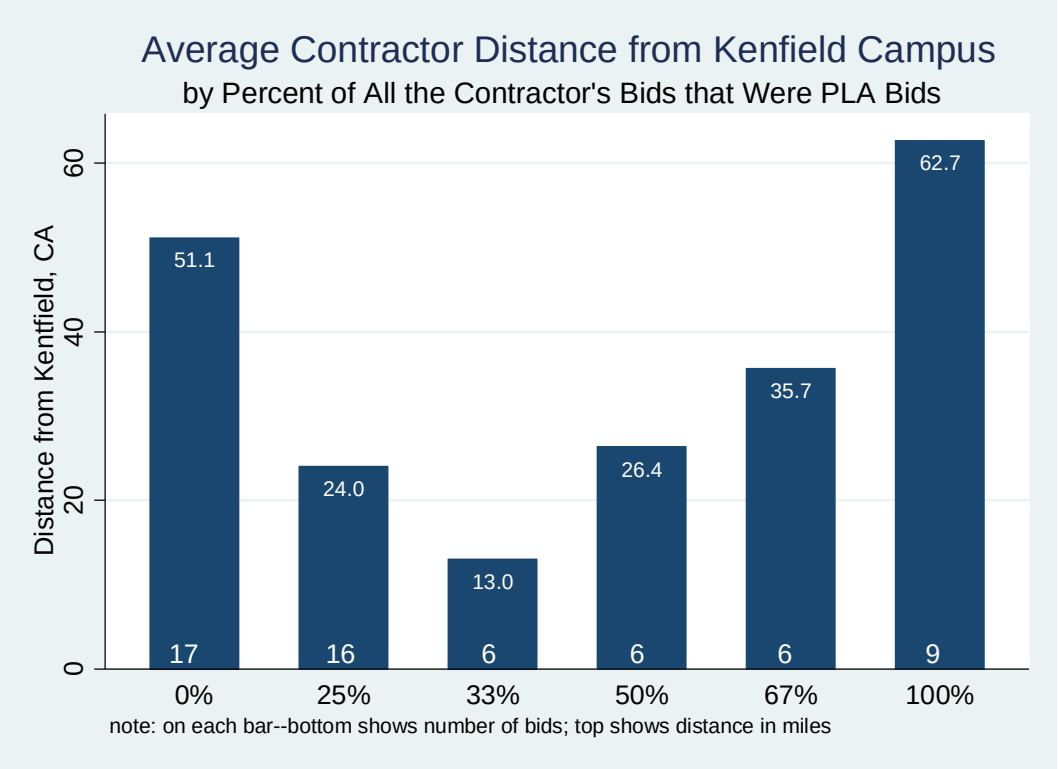


Figure 7: Contractor distance from Kentfield Campus by percent of all of that contractor's bids that were PLA bids

This conclusion is supported in Figure 8 which shows that those contractors that bid on four or more of the College of Marin projects, on average, were located, on average, about 21 miles from the Kentfield Campus regardless of whether they bid on PLA or nonPLA projects. Those contractors who bid on 3 or fewer projects were located 46 to 48 mile from the Campus regardless of whether it was a PLA or not. Our conclusion is that nearby contractors interested in College of Marin projects were neither attracted nor repelled by PLA provisions.

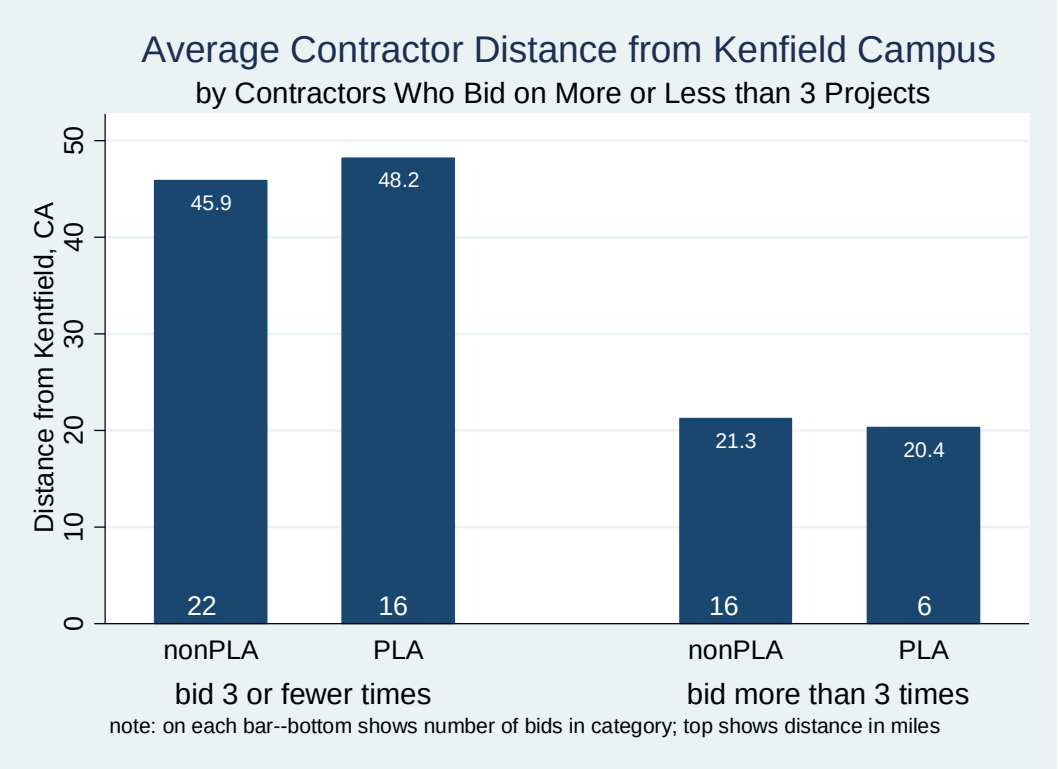


Figure 8: Contractor distance from Kentfield Campus by whether the contractor bid on 3 or fewer projects or more than three projects by PLA and nonPLA projectsRelationship between Bids and Engineer's Estimate

Table 3 shows each College of Marin bid result for the four nonPLA and three PLA projects.

Table 3: Each bid result by nonPLA and PLA projects

nonPLA Projects	**Diamond PE Complex**	**Fine Arts Center at Kentfield**	**Performing Arts Center**	**Transportation Technology Center**
year	2008	2009	2011	2009
bids	9	12	9	8
lowest bid	$10,396,307	$11,872,601	$10,217,000	$6,895,000
engineer's estimate	$15,500,000	$13,400,000	$11,700,000	$9,285,000
lowest bid as a percent of Eng. Est.	67%	89%	87%	74%
PLA Projects	**Gateway/New Academic Center**	**Indian Valley Campus Main Complex**	**Science Mathematics Central Plant Complex**	
year	2013	2008	2010	
bids	7	8	7	
lowest bid	$18,995,000	$13,350,000	$34,040,000	
engineer's estimate	$24,000,000	$15,700,000	$48,341,000	
lowest bid as a percent of Eng. Est.	79%	85%	70%	

In all cases, the lowest bid came in under the engineer's estimate. This may, in part, be due to some of the bidding held in 2008 and particularly in 2009 when the US and California construction industries were in the grip of the Great Recession. We will explore this issue below in the statistical analysis section of this study. Also, engineer's estimates typically are somewhat above the eventual lowest bid, due, in part, to price inflation between the time the engineer's estimate is calculated and the time the project is bid. Also, engineer estimates tend to be more conservative relative to the eventual low-bid with engineers not wanting a project to go ahead based on an unrealistically low estimate. Low-bids, almost by definition, tend to be more aggressive being the lowest among estimates from a set contractors bidding on the project. So while an engineer's estimate certainly can come in lower than all the bids on a project, typically the engineer's estimate is above the low-bid.

Table 4 shows that for the four nonPLA College of Marin projects, the sum of the lowest bids was $38 million or about $10 million per project. The sum of the engineer's estimates for these four projects was $50 million or about $12.25 million per project. The average number of bidders was 9.5 per project, and the average project came in at 79% of the engineer's estimate.

In the case of the 3 PLA projects, the sum of the lowest bids was $66 million or about $22 million per project. The sum of the engineer's estimates for these three projects was $88 million or about $29 million per project. The average number of bidders was 7.3 per project and the average project came in at 75% of the engineer's estimate.

Note that while the PLA projects, on average, received 2 fewer bidder on each project, the lowest bid on the PLA projects was a bit lower relative to the engineer's estimate compared to the nonPLA projects. The PLA projects were, on average, a bit more than twice as large as the nonPLA projects. Larger projects tend to eliminate some contractors who do not have the scale of business to bond and manage larger projects. The larger size of the PLA projects may help account for the fact that on these projects fewer bids did not mean a higher price relative to the engineer's estimate.

Larger projects with fewer bidders can be very competitive bidding environments. When contractors bid on a project, they consider not only the number of competing bidders, but also the opportunity cost to them of losing the bid. They greater value of a larger project justifies contractors investing more in the estimation of their bids which helps them shave their bids towards the true cost of the project. A larger project, being worth more than a smaller project, motivates contractors to reduce their percentage markups for the sake of the absolute value of profit derived from a large project. Larger projects also last longer which allows contractors to reduce their price based on the benefits to them of staying busy for a longer period of time. Finally, the difference between 7 and 9 bidders on a project is not as important as say the difference between 2 and 4 bidders. An old saying in the construction industry is that for the sake of competition, the most important contractor is the second bidder. The additional competitive impact of additional bidding contractors diminishes with each new contractor that enters the bidding. So, it appears that in the case of the College of Marin, the average loss of 2 bidders form 9 on their nonPLA projects to 7 on their PLA projects did not adversely affect the PLA bid competition compared to the nonPLA bidding.

Table 4: College of Marin summary statistics for 4 nonPLA and 3 PLA

	4 nonPLA	**3 PLA Projects**

	Projects	
sum of lowest bids	$39,380,908	$66,385,000
sum of engineer's estimate	$49,885,000	$88,041,000
average number of bidders	9.5	7.3
lowest bid as a percent of Eng. Est.	79%	75%

The Relationship Between the Engineer's Estimate and The Lowest Bid

Figure 9 shows the engineer's estimate relative to the eventual lowest bid for the 7 College of Marin projects. The straight line in the Figure marks the hypothetical points where the engineer's estimate would be exactly equal to the lowest bid. In every case, the actual lowest bid comes in below the engineer's estimate as measured by the vertical distance between each project marker and the straight line.

For each project, the number of bids on that project is shown next to the project marker. The largest nonPLA project and the smallest PLA project had 9 and 8 bidders respectively. The two larger PLA projects had 7 bidders each and the three smaller nonPLA projects had 8, 9 and 12 bidders.

There is no evidence here of insufficient bidders for these projects. In dollar terms, the lowest bid comes in ever lower than the engineer's estimate as the project size rises while in percentage terms, the smallest nonPLA project and the largest PLA project came in the furthest from the engineer's estimate, 67% and 70% respectively (see Table 3).

Thus, in general, the beneficial effects of the slightly higher number of bidders found on the 4 College of Marin nonPLA projects were offset by the beneficial effects of the PLA projects being larger and more valuable to potential bidders. The result was similar competitive results comparing the 4 nonPLA projects to the 3 PLA projects using the engineer's estimate for each project as a benchmark.

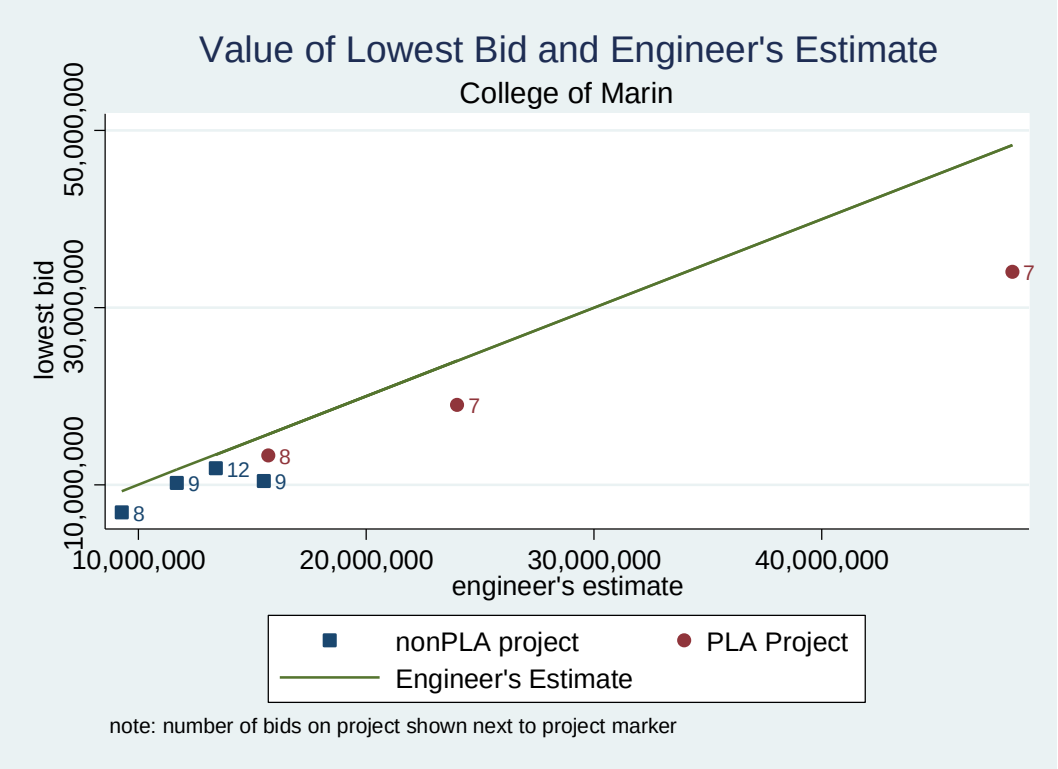


Figure 9: Engineer's estimate and lowest bid on 4 nonPLA and 3 PLA projects with straight line showing where engineer's estimate would exactly equal the lowest bid (number of bids shown beside the project market)

Aftermath and Future Course

Following the use of a PLA at the College of Marin, a second public works PLA was passed in Marin County. In June 2013, the Marin Healthcare District adopted a PLA for the Marin General Hospital Replacement Building Project. Construction on the $394million renovation project began in 2015.[lxvii]

The College of Marin completed the major renovation projects funded by the Bond measure passed in 2004. In 2016, voters approved a second bond measure for $265million to continue modernizing the campus. Bond Measure B received 62.9% approval.[lxviii]

While the college continues to address the issue of outdated facilities, the issue of enrollment still stands. Enrollment at the College of Marin was on the rise between 2007 and 2010, the same years the first modernization projects were completed.[lxix] However, numbers swiftly returned to their downward trend. One factor may have been the expansion of the Santa Rosa Jr. College campus in nearby Petaluma in 2008. As such, many College of Marin facilities, particularly on the Indian Valley Campus, continue to be underutilized. A recent report concluded Marin should downsize the Campus. The report reads, "Although the campus was designed for an enrollment of 5,000, the Spring 2015 enrollment was 1,142…. Failing planned productive use, IVC facilities should be considered for demolition to avoid unproductive use of maintenance funds."[lxx] Nevertheless, the college plans to use a portion of the recently approved measure B funds for continued renovation at the Indian Valley Campus. An Organic Farm and a Pool Building are just a couple projects in the works.[lxxi]

Statistical Analysis of 263 Community College Construction Projects

We supplement our case study of the College of Marin with a statistical analysis of 263 bid openings for community college projects built in California, primarily Northern California, from 2007 to 2016. We will ask two questions of the data: first, did the one-third of our sample which were bid openings governed by PLAs attract fewer bidders than the two-thirds of the bid openings in our sample that were not covered by PLAs? In asking this question, we will control for how large the project was, and when and where it was put out to bid. Second, in a subset of our sample (105 projects) for which engineer's estimates were available, controlling for when and where the project was built, and how large the project was, did PLAs mean that the low bid came in higher relative to the engineer's estimate compared to nonPLA projects? These two questions speak to the contention that PLAs limit competition and increase costs.

Description of Data

We obtained public records for 15 of the 26 community college PLAs signed since 2001 covering projects bid between 2007 and the first half of 2016. The 11 missing PLAs either had insufficient or no public bidding data available for analysis. We also collected information from these community colleges for projects built at the same time but not under PLAs.

We examined 263 projects. Figure 10 shows that one third or 88 of these projects were governed by project labor agreements while two thirds or 175 of these projects were not PLAs.

Figure 10: Distribution of projects by PLA and nonPLA status

Figure 11 (left panel) shows the distribution of the lowest bid on each project by PLA/nonPLA status. In this "box-and-whiskers" graph, the box contains 50% of all the projects. The "whiskers" contain almost all the remaining projects. However, a handful of extremely large projects are omitted from the graph to enhance visual comparisons. These excluded projects are included in our subsequent statistical analysis.

In general, PLA projects were larger than nonPLA projects as measured by the lowest bid. There are several reasons for this. The primary reason is that PLAs are concessionary contracts with no-strike pledges, modified grievance procedures, potential concessions on work rules and potential sweeteners such as student-hire. In order for unions to be willing to 1) bargain as a group and 2) provide concessions, the work on offer to be governed by a

PLA needs to be substantial. Thus, larger projects are more attractive to unions when considering a PLA. From an owner's perspective, larger projects may motivate them to consider a PLA in order to assure themselves of a reliable supply of qualified labor.

However, not all PLA projects are large. If smaller projects are part of a set that add up to an attractive bundle, this may motivate unions to engage in the concessionary bargaining inherent in a PLA. (It should be noted, though that on prevailing wage jobs, wages and benefits including overtime provisions are governed by wage proclamations, and are not subject of concessionary bargaining.)

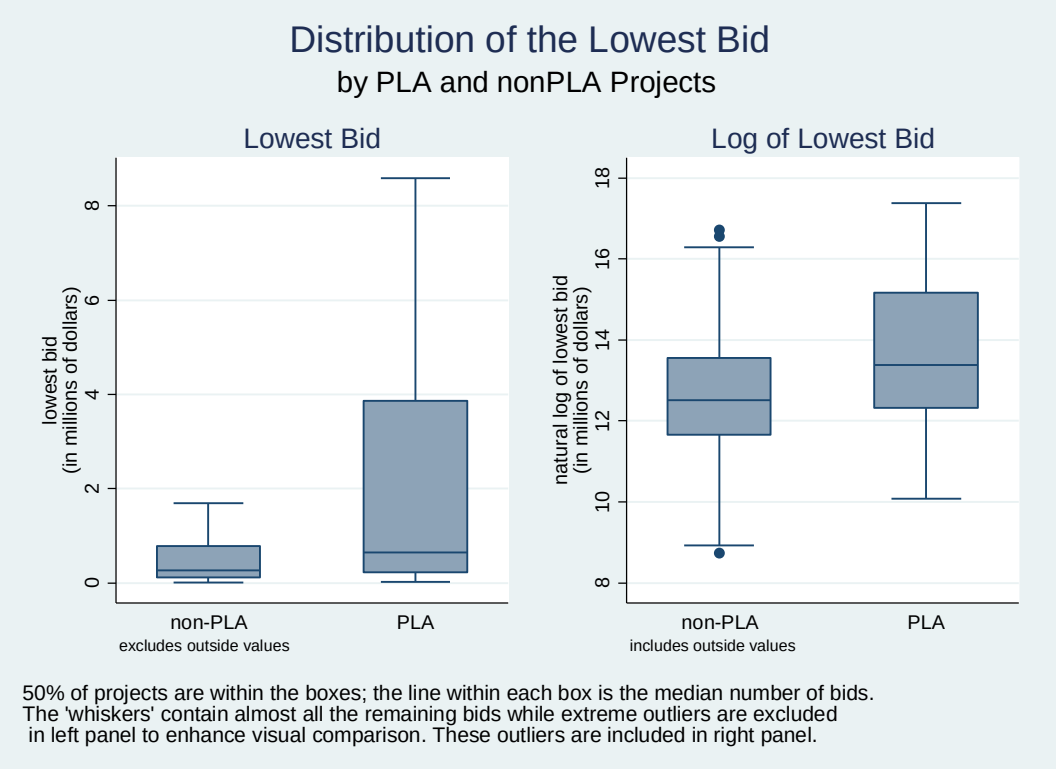


Figure 11: Distribution of lowest bid on projects by PLA and nonPLA status

In the right-hand panel of Figure 11, we transform the value of the lowest bid into its natural log. This arithmetical transformation allows for a more balanced picture of the highs and lows of each distribution and permits viewing the extreme values. Because these more "balanced" distributions have some convenient statistical properties, in some analysis, we will use not only the value of the lowest bid to measure the size of projects, but also the log of the value of the lowest bid.

The horizontal line within each box is the median value of the lowest bid (or log of the lowest bid). The median is the midpoint low-bid with 50% of the projects being larger and 50% of the projects being smaller than the median project price. In our sample, the median nonPLA project received a low bid of $273,740 while the median PLA project received a low bid of $669,165. In the right-hand panels, the horizontal lines represent the log of $273,740 or 12.52 and the log of $669,165 or 13.41.

Because PLA projects, on average, are larger than nonPLA projects, the relative importance of project labor agreements in dollar terms shown in Figure 12, reverses what we saw in Figure 10 when we simply counted up projects by PLA and nonPLA status. While PLAs in our sample account for one-third of all projects (Figure 10), PLAs account for more than two-thirds of the value all projects in our sample. (Figure 12) The 88 PLAs in our project had a sum value of $501 million while the 175 nonPLA projects had a sum value of $206 million.

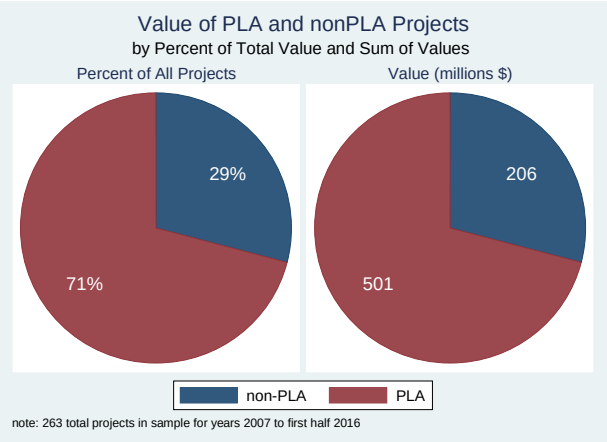


Figure 12: Value of PLA and nonPLA projects in sample by percentage of total value and sum of value (in millions of dollars)

The construction of community college projects within our sample vary by year. There is a general increase in projects over time with a dip in 2011 and 2012. Figure 13 shows that 6% of all the projects in our sample were bid in 2007 compared to 20% in 2014 and 20% in 2015. While there was a steady increase in work bid from 2007 to 2010 from 6% of all projects to 10% of all projects, in 2011 and 2012, just 3% of the projects in our sample were put to bid. However, the pace of expansion resumed in 2013 with 15% of all projects let out to bid in that year. Our data for 2016 are incomplete and cover just the first half of this last year in our sample.

Figure 14 shows the percent distribution of projects among the 10 community college districts in our sample. In terms of the number of projects put to bid, half of the bid openings were in Peralta and Chabot-Las Positas community college districts.

Figure 13: Percent of all projects in sample bid by year

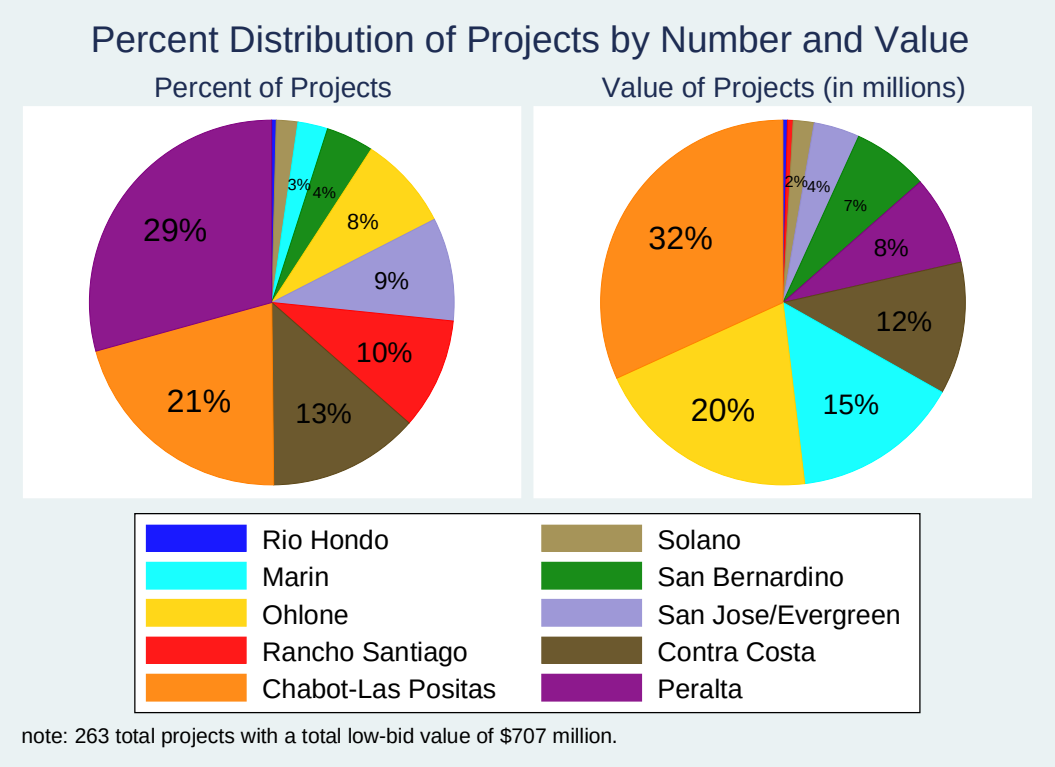


Figure 14: Percent distribution of number and value of community college projects

However, while Peralta had the largest number of projects—accounting for 29% of all bid openings—these projects were relatively small accounting for 8% of the total value of construction in our sample. In contrast, Chabot-Las Positas had 21% of all projects and these relatively larger projects accounted for 32% of the value of work bid. Marin Community College's 7 projects accounted for just 3% of the projects by number but 15% by value. Rancho Santiago accounted for 10% by number of projects but just 2% of the total value of projects. In our statistical regression models, we will try to control for these and other differences among the community college districts in our sample.

Regression Model Predicting the Number of Bids on a Project

In the Appendix, in Table 5, we present the results of two linear regression models predicting the number of bids on a project (in model 1), and the log of the number of bids on a project (in model 2).[5] In both models, our focus variable is an indicator for whether the project is a project labor agreement or not. Our hypothesis is that controlling for other factors, PLAs will have fewer bidders compared to nonPLA projects.

[5] We report linear regression results because this statistical technique is widely understood. We also provide our model using poisson regressions for those preferring to treat the number of bidders as a count variable. The poisson results are technically superior to linear regression for count variables and the poisson results shown as a supplementary table in Appendix I are comparable to the linear regression results discussed here in the text.

We control for four sets of issues that also may affect the number of bidders on a project. These control factors include: 1) the size of the project, 2) the year the project was put out for bid, 3) the month the project was put out for bid, and 4) the community college district that let the project. The year variables control for both the effects of inflation/deflation in general and the Great Recession specifically. We will discuss each of these control variables first, and then look at whether the PLA status of the project also affects the number of bidders.

Size of Project

In general, larger projects are more attractive to contractors compared to ones for at least three reasons. First, there are both fixed and variable estimation costs that must be invested in order to bid on a project. The fixed estimation costs can be more easily spread across a larger project compared to a smaller one. Second, contractor downtime is a major risk in the turbulent construction industry. Idle equipment and idle workers impose costs that can be avoided, at least temporarily, on larger projects which promise to provide work for the contractor over a longer period of time. Third, for a fixed markup, larger projects provide a larger absolute profit. While contractors may shave their markups more to win larger projects, even discounted markups on a larger project is likely to yield a higher absolute profit.

Despite the attraction of larger projects, very large projects discourage bidders for at least two reasons. First, many contractors do not have bonding capacity to handle larger projects, and thus cannot bid. Second, the risk of failure-to-perform on a large project can put the contractor's entire business at risk. Thus, when a project is large enough to put a contractor's business on-the-line, some contractors will shy away from that opportunity. So we expect that as projects go from smaller to larger, more contractors will bid on these larger projects. But as projects get even larger, we expect fewer contractors will bid on these very large projects. We need to control for this factor, in part, because PLA projects sometimes are quite large, and in our sample, PLA projects tend to be larger than nonPLA projects. (See Figure 11) We will want to separate out the potential PLA effect on the number of bidders from the project size effect.

We do this by entering into the models the value of the lowest bid and the value of the lowest bid squared. Our expectation is that in the regressions the value of the lowest bid will be positive reflecting the hypothesis that larger projects attract more bidders. But we also expect the square of the value of the lowest bid will be negative reflecting the hypothesis that ever larger projects eventually will discourage contractors from bidding. So we expect there will be a tug-of-war between the value of the lowest bid and the value of the lowest bid squared in predicting the number of bidders on a project.[6]

[6] This is a flexible method for modeling the project size effect allowing for the squared term to be small and statistically insignificant if the size effect is linear and permitting the squared to capture the size effect if it is nonlinear.

Figure 15 shows what we found in model 1 in Table 5. From projects with a low-bid of less than $1 to up to $50 million, holding other factors constant, the model predicts that the typical number of bidders will rise from around 5 to 7 contractors. But as the projects get really large, up to $100 million, the number of bidders falls back down to about 5.5 contractors. In model 2 (not graphically shown) we get similar results where the predicted number of bidders on small projects is about 4, it rises to a peak of about 6 and then for really large projects falls back down again to about 4.2 contractors.

This is an important first step in testing whether PLAs restrict the number of bidders because now the models have an understanding of how many bidders to expect just based on the size of the project.

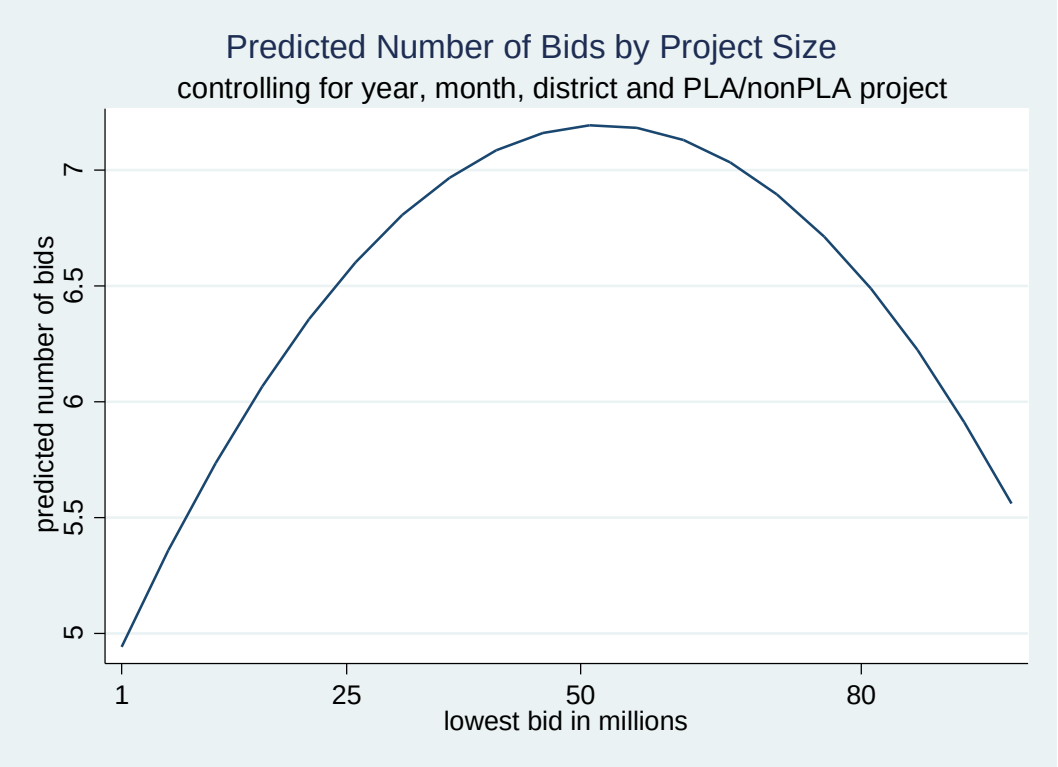


Figure 15: Predicting the number of bidders based on the size of the project

Year Project Was Let to Bid

But project size is not the only determinant of how many contractors will be willing to bid on a project. It also depends upon how busy contractors are on other projects and what alternatives contractors have compared to the project at hand. This is partly determined by the construction business cycle.

The construction industry is notoriously turbulent. For instance, at the depth of the Great Recession in 2009, while the overall economy had lost 6% of all jobs, the US construction industry lost 30% of all its jobs. These booms and busts of the construction business cycle affect contractor interest in specific bid openings.

During the downturn, when prospective project opportunities are scarce, contractors crowd into the limited available opportunities increasing the number of bidders on these relatively few projects. On the other hand, during the boom, when most contractors are busy, fewer contractors will be available for any specific new project that comes on-line decreasing the number of bidders on that project.

Our sample of projects hit bottom after the overall crash in California construction during the Great Recession. Figure 13 (above) shows that new community college projects in our sample collapsed 2011 and 2012. But the overall construction market hit bottom in 2009. This was when alternatives to the available community college projects were slim. So, all other things being equal, 2009 is when we would expect there to be more bidders crowding into these public works opportunities.

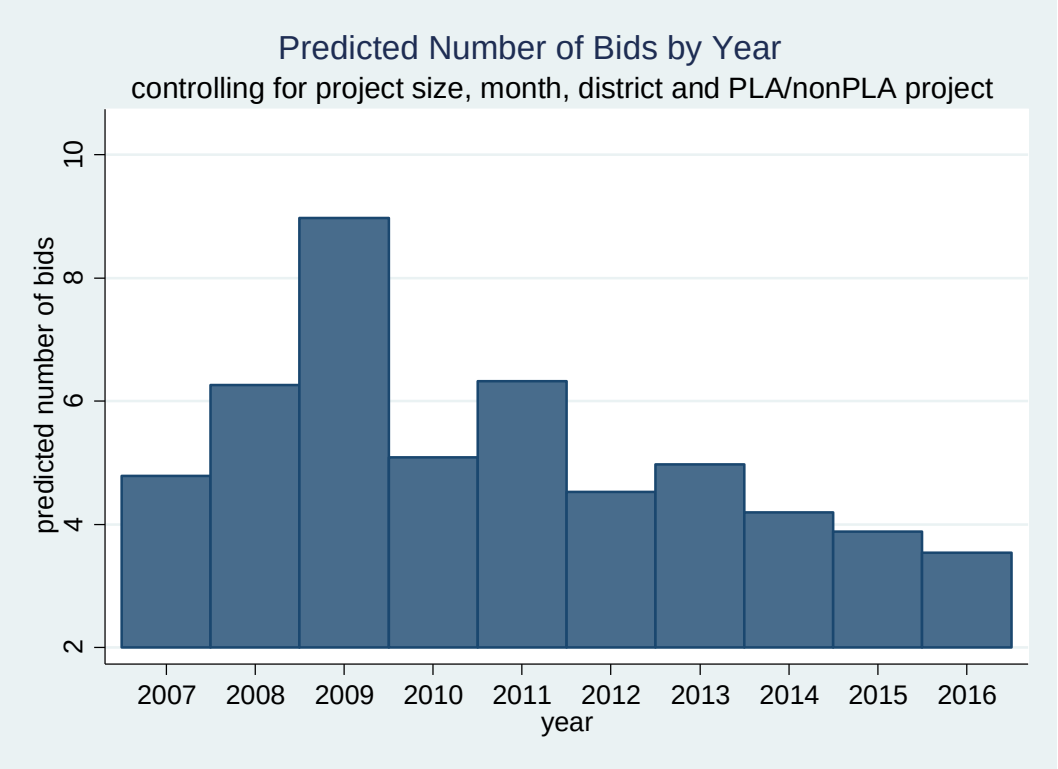


Figure 16: Predicted number of bidders based on the year when the project was let

Figure 16 shows the model 1 predictions for the number of contractors by year when the project was put out for bid. California construction employment peaked in 2006 and began declining in 2007 with the downturn bottoming out in 2009. The California construction economy, particularly in the Bay Area has improved since 2009 and in some areas has surpassed its previous peak.[lxxii] The model predicts that at the business cycle bottom, the number of bidders on projects rises substantially. Compared to 2014-15 where the model expects, all other things being equal, for there to be about 4 bidders on each project, in 2009, model 1 expects almost 9 contractors bidding on each community college project.

Model 2 has similar results for 2009 expect 9.2 contractors per bid opening compared to only about 3 contractors bidding on each project in 2014-15.

Thus, the year in which a project is let is an important consideration to keep in mind when analyzing the effect of PLA provisions on bid participation.

Month the Project Was Let to Bid

Construction is a chronically turbulent industry in the grip of seasonal as well as cyclical ups and downs. The seasonal cycle is primarily driven by weather but also driven by owner requirements such as schools trying to focus their construction work in the summer educational down season. Knowing this, contractors seek to bid on projects in the spring in order to line up work in the summer. In the slack season of winter, contractors may be idle and more willing to bid on whatever projects become available. Thus, we hypothesize in the model that there will be a seasonal pattern with more bidders in the slack season lining up work and fewer bidders in the summer season when contractors are already busy.

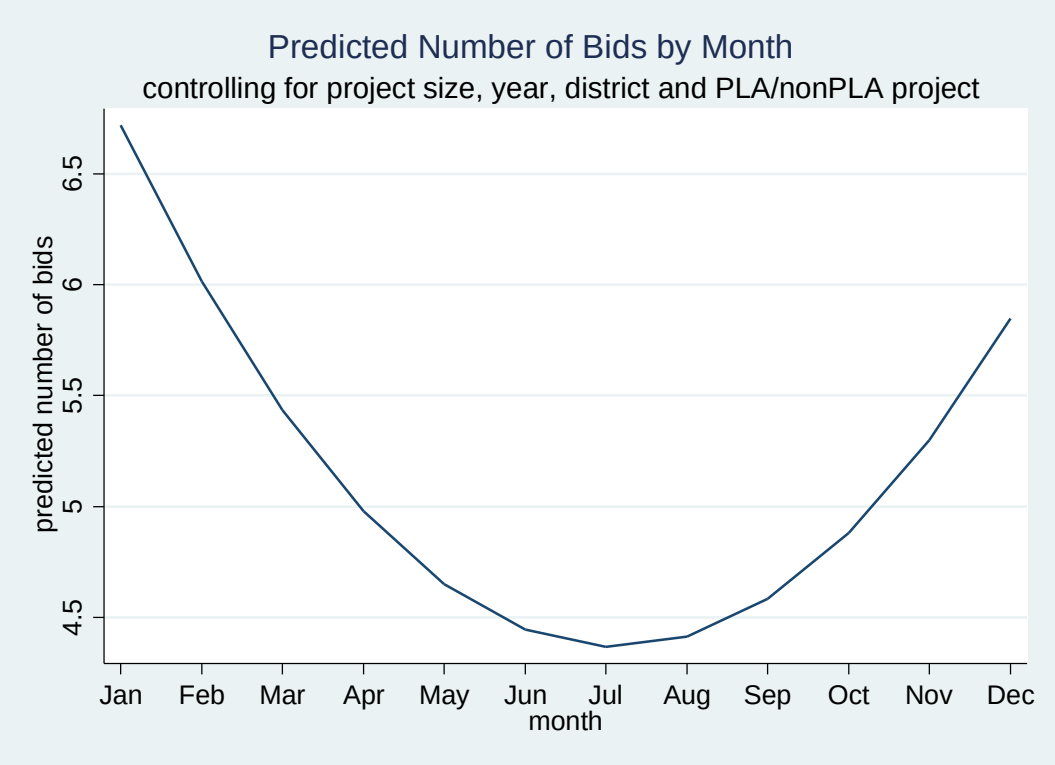


Figure 17: Predicted number of bidders based on the month the bid was opened

Figure 17 shows the results from model 1 in Table 5. These is a clear seasonal swing in the expected number of bidders based on the month the bid was let. In January, all other things being equal, owners can expect about 6.5 contractors bidding on their projects. In July, this expectation falls to 4.5 contractors only to rise back up to about 6 contractors per bid opening in December. Model 2 (not graphically shown) shows a similar swing from 5 expected bidders in January to 3.7 in July to 4.6 in December.

So again, keeping in mind the seasonal and cyclical patterns of bidding is an important precondition for testing the effects of PLAs on bidding behavior.[7]

The Effect of Location on Bids

Bidding behavior is influenced by the location of a project for at least two reasons. First, like politics, all construction is local with some areas having a dense community of contractors and other areas having a sparse population of contractors. Construction workers may travel long distances for work and contractors may even willingly go farther. But when you do not have to travel and there are plenty of contractors in your area, all other things being equal, you will have more contractors bidding on a project.
Second, owners affect the number of bidders on a project in at least two ways. First, some owners pre-qualify contractors in order to allow them to bid on a project. The goal of pre-qualification is to insure that contractors bidding on a project can do the work. Prequalification may reduce the number of bidders on a project simply by excluding less qualified or unqualified contractors. Second, while some owners issue single prime contracts for their projects, others break up their projects into components and issue multiple prime contracts. In the latter case, subcontractors who would bid to a general now bid to the owner. This alters the community of contractors that will consider bidding on a project and may alter the number of bidders one can expect to participate.

In both models 1 and 2, we enter variables indicating in which community college district the project is built. We have no apriori expectation regarding where there would be more bidders, all other things being equal. Relative to Chabor Las-Positas, our reference district in the models, the striking result is that model 2 expects that Rio Hondo will have 3.4 more contractors bidding on their project while model 1 expects a whopping 8 more bidders on Rio Hondo projects. This result is probably an artifact of small sample size. Figure 14 shows that Rio Hondo has the fewest projects (3) of any district within our sample.

Contractor community density, owner bidding policies and other location specific factors can influence contractor bid participation. The joint effect of these locational variables are captured in variables indicating the location of the project. In Table 5, as long as these location factors are relatively constant within each community college district over the period 2007 to 2016, then our indicator variables for the community college districts will absorb those effects allowing us to isolate the specific effect of PLA practices on contractor bid participation.

Project Labor Agreement Effect on Bid Participation

[7] Substituting quarters for months and repeating the test yields similar results to those reported in both linear and poisson regressions.

Critics of PLAs argue that PLAs reduce contractor bid participation while PLA proponents argue that PLAs may encourage contractors to bid on a project. Thus, statistically we are asking what is called a "two-tailed" test—do PLAs raise bid participation or lower it?

Figure 18 shows the results of model 1 in Table 5. All other things being equal, model 1 expects that there will be almost 5 contractors bidding on nonPLA projects and about 5.3 contractors bidding on PLA projects.

But Figure 18 also includes a plus-or-minus 95% confidence interval around these point estimates. A 95% confidence interval means that if we had 100 randomly drawn samples of data, and we ran this same test again 100 times over these different data sets, we would expect that 95 of the 100 times, our test would find results within the confidence interval shown.

Notice that these two confidence intervals in Figure 18 overlap. So if we redid our sample and derived new estimates, some of the time, the model would expect more bidders on nonPLA projects compared to the PLA projects. What this basically means is that PLA practices do not affect contractor bid participation either way. PLAs neither raise nor lower contractor bid participation, at least in the case of public community college construction in California. Whether this remains true for private sector PLAs or PLAs in non-prevailing-wage-law jurisdictions remains an open question. But we can say, for this type of public construction in this regulatory environment, controlling for other factors that influence contractor bid participation, we find no evidence supporting the assertion that in general, project labor agreements either hinder or encourage contractor bid participation. Similar results are found in model 2 in Table 5.

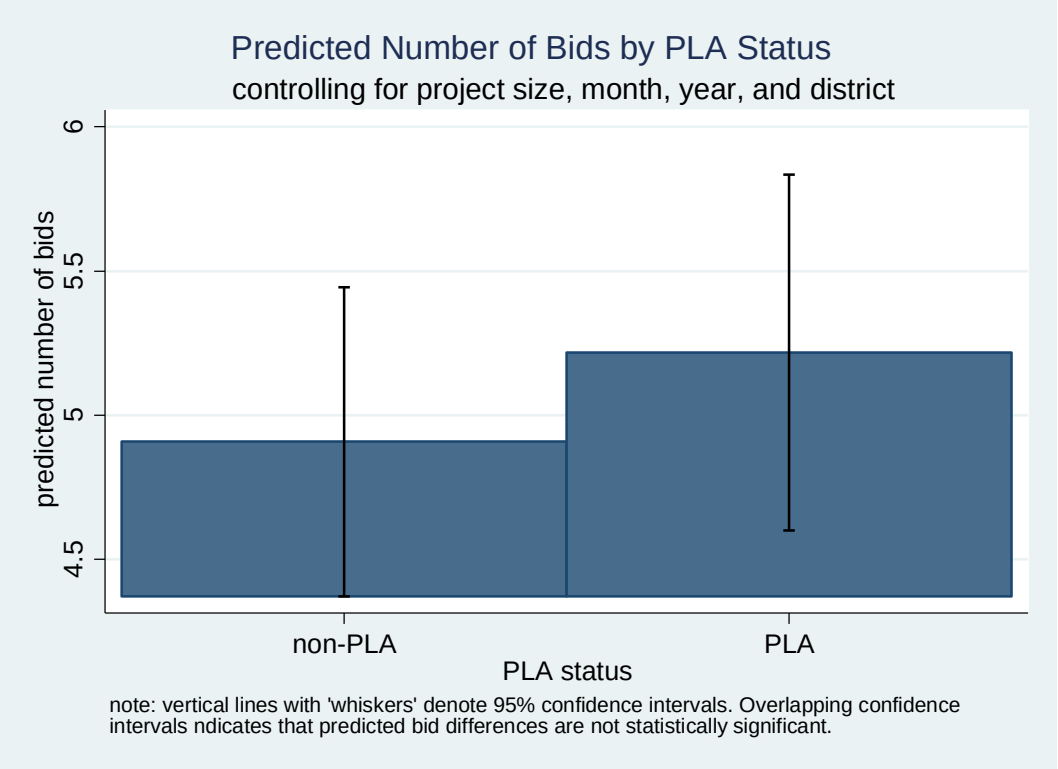


Figure 18: Predicting the effect of PLA provisions on the number of bidders

Regression Model Predicting the PLA Effect on the Lowest Bid

Critics of PLAs argue that project labor agreements may raise costs, primarily because they may reduce the number of bidders and secondarily because they may raise nonunion contractor key-worker benefit costs. Here we test these hypotheses with three nested regression models all of which predict the log of the low bid on a project based on the engineer's estimate and whether or not the project had a PLA. All nesting means here is

that models 1 and 2 in Table 6 are subsets of model 3 using some, but not all, of model 3's control variables.

We have incomplete information in our sample regarding engineer's estimates. This is partly because some projects did not have engineer's estimates and partly because we were unable to find the engineer's estimate for other projects. So out of the 263 projects in the sample, Table 6 reflects tests on a subsample of 105 projects that did have engineer's estimates. We limited the sample to districts that provided engineer's estimates for both PLA and nonPLA projects. (This eliminated 7 projects in districts which had engineer's estimates but only for either PLA projects or nonPLA projects but not both. In unreported models we included these 7 projects deriving results similar to those in Table 6.)

Recall that the left panel in Figure 11 showed that the distribution of lowest bids was "unbalanced" with lots of bids at the low end of the distribution and then a minority of low-bids trailing off toward the high end of the distribution. This skewed distribution became more balanced in the right-hand panel of Figure 11 when the log of the lowest bid was graphed. Having a balanced or more normal distribution for the lowest bid has statistical properties that make for a better test of the effect of various factors including PLAs on the low-bid outcome.

Model 1 in Table 6 is simple. It predicts the log of the lowest bid with the engineer's estimate and whether or not the project was a PLA. We expect the engineer's estimate to be a very good but not perfect predictor of what the low bid will eventually be. In model 1 we actually use the log of the engineer's estimate. Put in this form, the estimated effect of the engineer's estimate is an economy-of-scale effect (or what economists like to call an "elasticity"). In Table 6, model 1, the estimated effect of the log of the engineer's estimate on the log of the lowest bid is .98. what this means is—double the size of the engineer's estimate of the cost of a project, and subsequently the lowest bid will almost but not quite double. It will go up not by 98%. Double the engineer's estimate and the eventual low bid will go up by another 98%. If the engineer's estimate goes up by 10%, you can expect the eventual low bid to go up by 9.8%. This estimate is strongly statistically significant and in unreported experiments with other possible forms of the relationship of the engineer's estimate to the low bid, we found that this economy-of-scale or elasticity relationship was the strongest.

In model 1, the estimate of the effect of PLAs on the lowest bid was .03. This means that controlling for the engineer's estimate, PLAs raised the price of the lowest bid by 3%. This is in line with but at the low-end of what PLA critics argue. However, this effect is not statistically significant. This means that at all standard levels, we must reject the hypothesis that there is a real PLA effect on the low bid. This is in line with the results in Table 5 which failed to find a PLA effect on bidder participation.

But model 1 is a simple model. In model 2, Table 6, we add in the year the project was bid. When we do this, the accuracy of the engineer's estimate improves slightly rising from .98 to .99—raise the engineer's estimate by 10% and the lowest bid will rise by 9.9%. Most of the years were statistically insignificant (the asterisks indicate statistical significance with

more asterisks indicating stronger statistical significance). But one year does stand out—2009. At the bottom of the great recession, controlling for the engineer's estimate and whether or not the project was a PLA, projects were coming in roughly 25% lower than in 2007—the base or reference year in the model. (The year variables also capture inflationary and deflationary construction cost effects associated with time in general and the Great Recession in particular.)

In model 2, the PLA effect switched from positive to negative—a minus .03. This means that controlling for the engineer's estimate, PLAs lowered the price of the lowest bid by 3%. But again—no asterisks and no statistical significance for the estimate. This again means that at all standard levels, we must reject the hypothesis that there is a real PLA effect on the low bid.

In model 3, we include location effects: the engineer's estimate becomes a little more accurate, the 2009 Great Recession effect becomes slightly smaller and the PLA effect is still a minus 3% with no associated statistical significance.

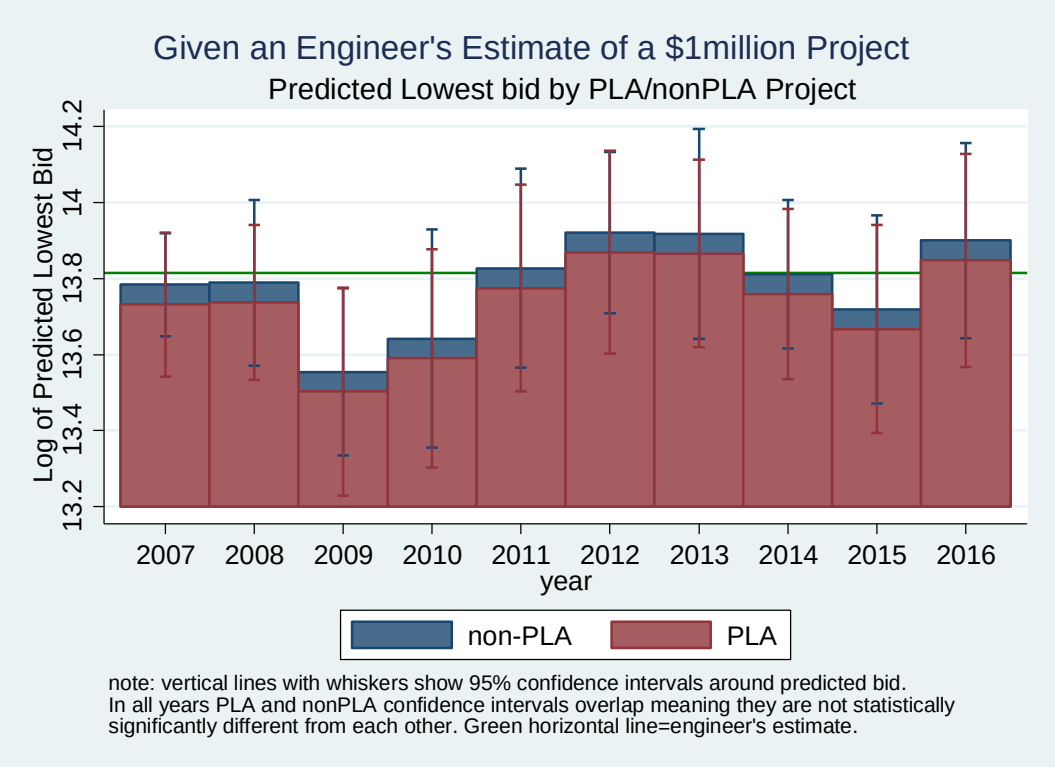


Figure 19: Predicting the value of the lowest bid: model 3

Figure 19 provides a graphical representation of the results in model 3 of Table 6. The horizontal axis shows years and the vertical axis shows the log of the predicted value of the lowest bid. The red bars show the predicted value of the lowest bid by year for PLA projects while the blue bars (which are behind the red bars) show the predicted value of the lowest bid by year for nonPLA projects. The vertical lines with caps show the 95% confidence intervals for the PLA and non PLA projects. These lines overlap in every case

indicating that the PLA and nonPLA project effects on the lowest bid are essentially the same. This set of predictions in Figure 19 are for an engineer's estimate of $1 million or its equivalent log value of 13.82 shown on the vertical axis as a green horizontal line. In all years except 2009, the 95% confidence interval vertical lines with caps cross the green line. This means for these years we cannot say that bids were coming in statistically significantly below the engineer's estimate. However, in 2009, the 95% confidence intervals for both PLA and nonPLA projects are below the engineer's estimate indicating that in that year bids were coming in significantly (and substantially) below what one would expect from an engineer's estimate of $1 million for the project.

We conclude that in the case of project labor agreements on community college projects in prevailing wage jurisdictions such as California, there is no statistically significant PLA effect on the lowest bid either raising or lowering the price of the project. This then simplifies the public construction procurement policy issue for construction projects similar to ones found at community colleges and in jurisdictions similar to California. PLAs should only be agreed to by public agencies if the PLA has attractive provisions and/or provides attractive construction services relative to prevailing wage jobs not covered by PLAs. However, it is neither indicated nor necessary to assume that PLAs will restrict bid competition or raise (or indeed lower) the lowest bid relative to the engineer's estimate.

Conclusions and Limitations

The College of Marin project labor agreement helped manage the construction of three large projects built on-time and within budget. Local Marin County construction workers were given preference in dispatching to the job sites and five College of Marin students worked on the PLA projects, a first step towards entering into a system of registered apprenticeship training that, if completed, can lead to about a $300,000 increase in lifetime earnings.

Nearby contractors who bid on the three Marin PLA projects and also tended to bid on the four smaller nonPLA projects. However, contractors who came from long distances tended to bid either on the PLA projects or the nonPLA projects but not both. Both the PLA and nonPLA projects came in at about the same percentage amount below the engineer's estimate although in dollar terms, because the PLA projects were larger, the low bids were much below the dollar discounts relative to the engineer's estimates found on the smaller nonPLA projects. While two of the nonPLA projects had cost overruns, these appear to be associated with design and engineering issues and not problems with onsite construction.

Our analysis of 263 California community college projects built between 2007 and 2016, 88 of which were built under PLA arrangements, found results similar to our College of Marin case study. In comparison to nonPLA projects, controlling for the size of the project and when it was put out for bid, PLAs did not decrease the number of bidders nor did PLAs raise prices relative to the engineer's estimates.

Both case studies and statistical analyses have limitations. Case studies are rich in detail, context and nuance, but raise the question of the extent to which a limited number of specific cases can be extended to other circumstances. Statistical analysis is limited by simplification inherent in reducing complex human activity into numbers. We have sought to balance these contrasting limitations by presenting together a case study with a broader statistical view of many more similar projects.

However, partly because this is the first study of the effects of PLAs on the number of bidders, and the relation of bidding to engineer's estimates, and partly because this study focused on community college construction in California, more research needs to be done on this topic. We would like to know whether these results would replicate in other states with prevailing wage laws, in states without prevailing wage laws, in states with greater or lesser construction union density, and on civil engineering or residential projects that may differ from construction activity typical at community colleges.

While we await this research, we provisionally conclude that project labor agreements may be a useful risk-management tool on some construction sites; and PLAs may be a useful means whereby owners can harvest greater advantages from their control of significant amounts of construction work. Evidence does not support the contention that PLAs reduce the number of bidders or raise low-bid prices on community colleges in California.

Appendix I: REGRESSION PREDICTING NUMBER OF BIDS

Table 5: Predicting number of bids by project size, year, month, college district and PLA/non-PLA status

Predicting Number of Bids by Project Size, Year, Month, College District and PLA/non-PLA

	(1) number of bids (linear regression)	t-statistic	(2) log of number of bids (linear regression)	t-statistic
PLA Project	0.309	(0.64)	0.189	(1.62)
Lowest Bid (in millions $)	0.0895	(1.63)	0.0174*	(1.68)
Lowest Bid squared (in millions $)	-0.000856*	(-1.91)	-0.000172**	(-2.02)
month	-0.891***	(-2.72)	-0.119**	(-2.07)
month squared	0.0625***	(2.73)	0.00857**	(1.98)
year=2007	-4.187***	(-4.84)	-0.706***	(-4.14)
year=2008	-2.717**	(-2.57)	-0.455***	(-2.71)
year=2009	0	(.)	0	(.)
year=2010	-3.883***	(-3.75)	-0.736***	(-4.00)
year=2011	-2.653*	(-1.93)	-0.543*	(-1.68)
year=2012	-4.451***	(-3.91)	-1.020***	(-3.32)
year=2013	-4.000***	(-3.76)	-0.925***	(-4.97)
year=2014	-4.785***	(-5.33)	-1.015***	(-5.93)
year=2015	-5.094***	(-5.78)	-1.139***	(-6.48)
year=2016	-5.433***	(-5.41)	-1.073***	(-4.72)
Chabot-Las Positas	0	(.)	0	(.)
Marin	-0.0730	(-0.08)	0.0746	(0.48)
Contra Costa	-1.080	(-1.28)	0.0673	(0.37)
Ohlone	-1.864*	(-1.88)	-0.315	(-1.41)
Peralta	-2.244***	(-3.27)	-0.374***	(-2.89)
Rancho Santiago	-0.00808	(-0.01)	0.176	(0.79)
Rio Hondo	7.911***	(7.69)	1.244***	(5.76)
San Bernardino	1.665	(1.25)	0.575**	(2.53)
San Jose/Evergreen	-1.867**	(-2.00)	-0.168	(-0.92)
Solano	-2.030**	(-2.01)	-0.410	(-1.23)
Constant	12.32***	(8.61)	2.551***	(11.84)
Observations	263		263	
R^2	0.367		0.320	

t statistics in parentheses
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Predicting Number of Bids by Project Size, Year, Month, College District and PLA/non-PLA (Supplementary Poisson Regression)

	(1) number of bids (poisson regression)	t-statistic	(2) log of number of bids (poisson regression)	t-statistic
PLA Project	0.0471	(0.48)	0.135	(1.54)
Lowest Bid (in millions $)	0.0146*	(1.87)	0.00955	(1.64)
Lowest Bid squared (in millions $)	-0.000168**	(-2.44)	-0.000114**	(-2.21)
month	-0.173***	(-3.15)	-0.0836**	(-2.17)
month squared	0.0123***	(3.14)	0.00604**	(2.09)
year=2007	-0.719***	(-5.43)	-0.444***	(-4.12)
year=2008	-0.457***	(-3.10)	-0.294***	(-3.11)
year=2009	0	(.)	0	(.)
year=2010	-0.614***	(-4.06)	-0.452***	(-4.13)
year=2011	-0.417**	(-2.28)	-0.340*	(-1.93)
year=2012	-0.779***	(-3.51)	-0.703***	(-2.79)
year=2013	-0.680***	(-3.82)	-0.623***	(-4.75)
year=2014	-0.855***	(-5.54)	-0.701***	(-5.57)
year=2015	-0.940***	(-6.19)	-0.807***	(-6.00)
year=2016	-0.982***	(-5.30)	-0.744***	(-4.28)
Chabot-Las Positas	0	(.)	0	(.)
Marin	-0.0414	(-0.37)	0.0308	(0.36)
Contra Costa	-0.156	(-0.92)	0.105	(0.73)
Ohlone	-0.334*	(-1.66)	-0.210	(-1.19)
Peralta	-0.405***	(-3.62)	-0.254***	(-3.00)
Rancho Santiago	0.0826	(0.40)	0.183	(1.08)
Rio Hondo	0.898***	(4.41)	0.702***	(4.28)
San Bernardino	0.331	(1.53)	0.421***	(2.75)
San Jose/Evergreen	-0.319*	(-1.78)	-0.0731	(-0.54)
Solano	-0.435	(-1.56)	-0.339	(-0.91)
Constant	2.860***	(14.40)	1.075***	(8.30)
Observations	263		263	

t statistics in parentheses
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Appendix II: REGRESSION PREDICTING LOW BID

Table 6: Predicting log of lowest bid with engineer's estimate PLAs/non-PLAs, year and college district

	(1)	(2)	(3)
Log of engineer's estimate	0.9817***	0.9930***	0.9978***
	(55.10)	(42.00)	(38.78)
PLA Project	0.0309	-0.0315	-0.0287
	(0.37)	(-0.36)	(-0.31)
year=2007		0.0000	0.0000
		(.)	(.)
year=2008		0.0008	0.0051
		(0.01)	(0.06)
year=2009		-0.2520***	-0.2294**
		(-2.94)	(-2.42)
year=2010		-0.1442	-0.1418
		(-1.11)	(-1.06)
year=2011		0.0383	0.0433
		(0.32)	(0.37)
year=2012		0.2118	0.1373
		(1.39)	(1.05)
year=2013		0.1565	0.1338
		(1.20)	(0.97)
year=2014		0.0713	0.0274
		(0.81)	(0.25)
year=2015		0.0350	-0.0647
		(0.34)	(-0.40)
year=2016		0.2223*	0.1160
		(1.82)	(0.71)
Chabot-Las Positas Community College District			0.0000
			(.)
College of Marin Community College District			-0.0875
			(-1.04)
Contra Costa Community College District			0.1256
			(0.84)
Ohlone Community College District			0.0383
			(0.30)
Solano Community College District			0.1136
			(0.67)
Constant	0.1806	0.0157	-0.0485
	(0.74)	(0.05)	(-0.14)
Observations	105	105	105
R^2	0.966	0.969	0.970

note: includes only districts with engineers estimates and both PLAs/nonPLAs
t-statistics in parentheses
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Appendix III: COLLEGE OF MARIN BID DATA

PLA	Project	Bidding Contractors	Result	Bid	Con. Home
yes	Science Math Complex	Lathrop Construction	won	34,040,000	Benicia
yes	Science Math Complex	Roebbelen Construction	lost	35,380,000	El Dorado Hills
yes	Science Math Complex	SJ Amoroso	lost	35,817,000	Redwood Shores
yes	Science Math Complex	C Overaa Construction	lost	36,347,000	Richmond
yes	Science Math Complex	McCarthy Building Companies	lost	37,050,000	San Francisco
yes	Science Math Complex	Howard S Wright Constructors	lost	37,794,912	Emeryville
yes	Science Math Complex	Wright Contracting	lost	38,847,000	Santa Rosa
yes	Indian Valley Complex	Gonsalves & Stronck	lost	13,288,000	San Carlos
yes	Indian Valley Complex	Di Giorgio Contracting	won	13,350,000	Novato
yes	Indian Valley Complex	Arntz Builders	lost	13,460,342	Novato
yes	Indian Valley Complex	JW & Sons	lost	13,632,000	Petaluma
yes	Indian Valley Complex	Roebbelen Construction	lost	13,743,000	El Dorado Hills
yes	Indian Valley Complex	Alten Construction	lost	13,768,246	Richmond
yes	Indian Valley Complex	SJ Amoroso	lost	13,897,000	Redwood Shores
yes	Indian Valley Complex	Jeff Luchetti Construction	lost	14,031,000	Santa Rosa
yes	Gateway Center	Wright Contracting	won	18,995,000	Santa Rosa
yes	Gateway Center	Lathrop Construction	lost	19,112,000	Benicia
yes	Gateway Center	Alten Construction	lost	19,246,000	Richmond
yes	Gateway Center	SJ Amoroso	lost	19,327,000	Redwood Shores
yes	Gateway Center	Midstate Construction	lost	19,803,040	Petaluma
yes	Gateway Center	Roebbelen Construction	lost	20,780,000	El Dorado Hills
yes	Trans. Tech. Center	ProWest Construction	lost	21,150,000	
no	Trans. Tech. Center	Alten Construction	won	6,895,000	Richmond
no	Trans. Tech. Center	West Bay Builders	lost	6,897,000	Novato
no	Trans. Tech. Center	JW & Sons	lost	6,999,000	Petaluma
no	Trans. Tech. Center	Jeff Luchetti Construction	lost	7,047,000	Santa Rosa
no	Trans. Tech. Center	Gonsalves & Stronck	lost	7,104,000	San Carlos
no	Trans. Tech. Center	Arntz Builders	lost	7,228,248	Novato
no	Trans. Tech. Center	Di Giorgio Contracting	lost	7,465,000	Novato
no	Trans. Tech. Center	PAGE Construction	lost	7,641,000	Novato
no	Performing Arts Center	Midstate Construction	won	10,217,000	Petaluma
no	Performing Arts Center	Arntz Builders	lost	10,786,465	Novato
no	Performing Arts Center	Alten Construction	lost	10,915,000	Richmond
no	Performing Arts	Jeff Luchetti Construction	lost	11,090,000	Santa Rosa

	Center				
no	Performing Arts Center	Lathrop Construction	lost	11,230,000	Benicia
no	Performing Arts Center	Menghetti Construction	lost	11,275,000	Modesto
no	Performing Arts Center	Bobo Construction	lost	11,831,000	Elk Grove
no	Performing Arts Center	Younger General Contractors	lost	11,935,000	Rancho Cordova
no	Performing Arts Center	Biltwell Dev	lost	12,189,000	San Francisco
no	Fine Arts Kentfield	Alten Construction	won	11,872,601	Richmond
no	Fine Arts Kentfield	Jeff Luchetti Construction	lost	12,290,615	Santa Rosa
no	Fine Arts Kentfield	Wright Contracting	lost	12,305,000	Santa Rosa
no	Fine Arts Kentfield	West Coast Contractors	lost	12,446,000	Fairfield
no	Fine Arts Kentfield	Midstate Construction	lost	12,526,000	Petaluma
no	Fine Arts Kentfield	West Bay Builders	lost	12,580,000	Novato
no	Fine Arts Kentfield	C Overaa Construction	lost	12,999,000	Richmond
no	Fine Arts Kentfield	McCrary Construction	lost	13,198,801	Belmont
no	Fine Arts Kentfield	Di Giorgio Contracting	lost	13,725,000	Novato
no	Fine Arts Kentfield	ZCON Builders	lost	13,829,000	Roseville
no	Fine Arts Kentfield	Codding Construction Co	lost	14,765,800	Santa rosa
no	Fine Arts Kentfield	Ralph Larsen & Sons	lost	14,890,000	San Mateo
no	Diamond PE Complex	Alten Construction	won	10,396,307	Richmond
no	Diamond PE Complex	West Bay Builders	lost	11,385,000	Novato
no	Diamond PE Complex	Di Giorgio Contracting	lost	11,492,000	Novato
no	Diamond PE Complex	NBC General Contractors Corp.	lost	11,865,000	Oakland
no	Diamond PE Complex	Arntz Builders	lost	11,944,202	Novato
no	Diamond PE Complex	Bobo Construction	lost	12,396,000	Elk Grove
no	Diamond PE Complex	R Debbelen	lost	12,510,000	
no	Diamond PE Complex	Midstate Construction	lost	13,065,000	Petaluma
no	Diamond PE Complex	Zolman Construction	lost	13,865,000	San Carlos

APPENDIX IV: DATA COLLECTION METHODS

We began data collection for this report with a list of California community colleges districts that have enacted PLAs.[lxxiii] Colleges with extensive bid information posted online were prioritized for review.[8] Some community colleges posted bid information on a purchasing webpage or a webpage with information for contractors.[lxxiv] Information for other districts was accessible through online bid management software.[lxxv] For a few colleges, we found bid tabulation information interspersed within Board of Trustees meeting minute archives.[lxxvi]

We used bid tabulation sheets to record the title of each project, the total number of bidders on a project, the amount of each bid, the date of the bid, and the name and location of each contractor that submitted a bid. Bid advertisements and project information documents were sources for engineer's estimates and whether or not a PLA was used on the project. We also gathered sign-in sheets for pre-bid meetings and job walks. We used these sheets to record the names and locations of contractors that attended pre-bid meetings, the total number of attendees, and the dates of the meetings.

There was various missing information for all community colleges. One resource for filling in missing information was the California Department of Industrial Relations Public Works website.[9] The site provided information on the winning contractor of each project and whether or not the project fell under a PLA. However, this online database did not go back prior to 2015, excluding a large portion of our sample. As a final resource for missing information, we contacted the colleges themselves. In some cases, we used Public Records Act requests to formalize the process of data retrieval. Officials at every college we contacted were helpful and attentive to our requests for project information.

A vital component of our research could not be addressed through the channels mentioned above: the union status of contractors. We gathered union status information through a patchwork of sources. For many contractors, we simply called the firm and asked if they identified as union or non-union. This method was not only time-consuming, but also impractical for contractors that had ceased conducting business or did not have a working phone number.

Another method of identifying the union status of contractors was through a web search of member lists. We collected lists of signatory contractors posted on local trade union websites.[lxxvii,lxxviii,lxxix] We designated listed contractors as "union." Similarly, we used member lists from the California chapters of the anti-union group Associated Builders and Contractors (ABC) to designate contractors as "non-union." The current ABC member lists are not publicly available. Nevertheless, some archived membership directories could be

[8] Chabot-Las Positas Community College, Community College of Marin, Hartnell Community College, Ohlone Community College District, Peralta Community College, San Bernardino Community College, San Jose/Evergreen Community College, Solano Community College, Contra Costa Community College District, Rio Hondo Community College, Rancho Santiago Community College
[9] http://www.dir.ca.gov/public-works/publicworks.html

found online.[lxxx, lxxxi,] In addition, some ABC chapters posted a snapshot of members on their homepages. [lxxxii, lxxxiii]

The Blue Book Building and Construction Network[10] was also used to fill-in the union status of contractors. The database of companies and manufacturers includes information pages on specific contractors, including their union status. While the site provided a significant amount of information, many contractors were either not on the site, or left their union status information blank. Finally, we reached out to local union officials to review our list of contractors and fill-in the status of those they knew. In some cases, the unions also provided more expansive member lists than what was attainable through an online search.

All lists and sources functioned as a crosscheck of the information we collected. In some cases the information was contradictory, with a contractor listed as union by one source and non-union by another. For these contractors it often appeared the contractor was signatory to a trade union for some categories of construction labor, but not others. We designated such contractors as "union."

The data were compiled in Microsoft Excel and analyzed in Stata: Data Analysis and Statistical Software.

[10] http://www.thebluebook.com/

[i] Kimberly Johnston-Dodds, *Constructing California: A Review of Project Labor Agreements*, California Research Bureau, California State Library, OCTOBER 2001 CRB 01-010 https://www.library.ca.gov/crb/01/10/01-010.pdf (accessed September 30, 2016)

[ii] Kevin Dayton, "Copies of All Project Labor Agreements on California Government Projects, 1993-Present," Labor Issues Solutions, LLC. September 29, 2016 http://laborissuessolutions.com/list-of-all-project-labor-agreements-imposed-on-government-projects-california-1993-2012/ (accessed September 30, 2016)

[iii] State of California Department of Industrial Relations Division of Apprenticeship Standards 2015 Legislative Report https://www.dir.ca.gov/DAS/reports/2015LegReport.pdf ; U.S. Internal Revenue Service Exempt organizations business master file extract (eo bmf) https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf (accessed October 21, 2016); US Bureau of Labor Statistics, State and Metro Area Employment, Hours, & Earnings, SAE Databases http://www.bls.gov/sae/data.htm (accessed October 21, 2016)

[iv] US Bureau of labor Statistics, State Occupational Injuries, Illnesses, and Fatalities http://www.bls.gov/iif/oshstate.htm (accessed October 21, 2016)

[v] US Bureau of labor Statistics, State Occupational Injuries, Illnesses, and Fatalities, Table 6. Incidence rates1 of nonfatal occupational injuries and illnesses by industry and case types, California, 2014 http://www.bls.gov/iif/oshwc/osh/os/pr146ca.pdf

[vi] Reed, Debbie, et al. (2012). An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States. Oakland, CA: Mathematica Policy Research. https://www.mathematica-mpr.com/our-publications-and-findings/publications/an-effectiveness-assessment-and-costbenefit-analysis-of-registered-apprenticeship-in-10-states (accessed October 21, 2016)

[vii] California, Employment Development Department, Employment by Industry Data, "Historical Annual Average Data," California, 1990-2015 http://www.labormarketinfo.edd.ca.gov/data/employment-by-industry.html (accessed October 21, 2016)
(accessed September 11 2016)

[viii] California, Employment Development Department, Employment by Industry Data, "Historical Annual Average Data," California, 1990-2015 http://www.labormarketinfo.edd.ca.gov/data/employment-by-industry.html
(accessed September 11 2016)

[ix] California, Employment Development Department, Employment by Industry Data, "Historical Monthly Data," California, 2000-current, http://www.labormarketinfo.edd.ca.gov/data/employment-by-industry.html (accessed September 11 2016)

[x] California Department of Industrial Relations, The Division of Apprenticeship Standards (DAS), Program sponsors and Contractors, Reports, "Completion counts for building trade programs last 5 years," http://www.dir.ca.gov/das/programsponsor.htm and http://www.dir.ca.gov/DAS/reports/CompPast5yr.pdf ; Form 990s, Internal Revenue Service, Search for Forms 990-N Filed by Small Tax-Exempt Organizations, https://www.irs.gov/charities-non-profits/search-for-forms-990-n-filed-by-small-tax-exempt-organizations ; Mike Tigas and Sisi Wei, ProPublica, Updated August 18, 201, Nonprofit Explorer, Research Tax-Exempt Organizations, https://projects.propublica.org/nonprofits/advanced_search ; IRS, SOI Tax Stats - Annual Extract of Tax-Exempt Organization Financial Data https://www.irs.gov/uac/soi-tax-stats-annual-extract-of-tax-exempt-organization-financial-data (accessed September 11, 2016)

[xi] US Bureau of labor Statistics, State Occupational Injuries, Illnesses, and Fatalities, Census of Fatal Occupational Injuries (CFOI), California, http://www.bls.gov/iif/oshwc/cfoi/rate2014ca.htm http://www.bls.gov/iif/oshstate.htm#CA http://www.bls.gov/iif/home.htm (accessed September 11, 2016)

[xii] US Bureau of labor Statistics, State Occupational Injuries, Illnesses, and Fatalities, Survey of Occupational Injuries and Illnesses (SOII), Table 6. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, California, 2014, http://www.bls.gov/iif/oshwc/osh/os/pr146ca.pdf http://www.bls.gov/iif/oshstate.htm

[xiii] US Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2014, 47-2231 Solar Photovoltaic Installers, http://www.bls.gov/oes/current/oes472231.htm#%282%29 (accessed March 17, 2016); Construction

Electrician/Construction Wireman Wage and Fringe Benefits, California Bay Area Region For Locals 6, 180, 234, 302, 332, 551, 595W, and 617 Effective January 1, 2015 to May 31, 2015. http://www.ibew234.org/filemanager/UserFiles/File/CECW/CECWforCABayAreaJanuary2015.pdf (accessed March 29, 2016) Note: while the solar installer data are national and the electrician data are for the Bay Area, the solar installer data are 65% from California.

[xiv] Vince Vasquez, Dr. Dale Glaser, and W. Erik Bruvold, "Measuring the Cost of Project Labor Agreements on School Construction in California," National University System Institute for Policy Research, 2010, p. 1 http://www.nusinstitute.org/assets/resources/pageResources/Measuring-the-Cost-of-Project-Labor-Agreements-on-School-Construction-in-California.pdf (accessed September 12, 2016)

[xv] " 'What a PLA does is limit a whole lot of competition, and when you have fewer contractors bidding, the price goes up,' said Lawrence C. Allen, executive director of Merit Construction Alliance of Massachusetts." Found in Larson, Todd (November 4, 2002). "Building Barriers". *Boston Business Journal*. http://www.bizjournals.com/boston/stories/2002/11/04/focus1.html (accessed July 16, 2016)

[xvi] Phillip Matier, Andrew Ross, "School's costs skyrocket after labor pact," SF Gate.com Wednesday, April 28, 2004 cited by The Truth About Project Labor Agreements at http://thetruthaboutplas.com/wp-content/uploads/2013/04/Oakland-Burckhalter-Schools-costs-skyrocket-after-PLA-added-SFgate-042804.pdf (accessed July 16, 2016) Original article found at http://www.sfgate.com/bayarea/matier-ross/article/School-s-costs-skyrocket-after-labor-pact-3313713.php (accessed July 16, 2016)

[xvii] Marin Community College District "About College of Marin" http://www.marin.edu/com/about.htm (Accessed July 06, 2016)

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Local Hire Preference Discussion for WRF Project

City Manager, Scott Collins

August 13, 2019

Background

- Council approved 2019-2020 City goals included action item to review options to include local hire preference on major City Capital Improvement Projects, starting with the WRF project.
- Staff has reviewed options, literature, discussed with agencies that have pursued local hire programs, and engaged with labor representatives.
- Staff prepared review of options, and outlined various pros and cons.
- Local hire provisions would only apply to the pipeline conveyance and injection well system components of the WRF (approx. $30M in construction).

Options to Consider

1) Project Labor Agreement/Community Workforce Agreement
- Agreement btwn project owner and labor groups
- Can include local hire and apprenticeship preference (in terms of % of hours of construction work to be performed by local workers)
- No work stoppage
- Local labor hall conducts outreach, construction management ensures contractor(s)/sub-contractor(s) compliance with agreement
- $45,000 - $90,000 added costs (negotiations and compliance)
- Additional costs uncertain.

Options to Consider (Continued)

2) Contract Provision for Local Hire
- Contracts for WRF Project include local hire program requirement
- Can include local hire and apprenticeship preference ((in terms of % of hours of construction work to be performed by local workers)
- Work stoppage could occur
- Contractor conducts outreach for local hire, construction management ensures compliance
- $10,000 - $20,000 added costs (negotiations and compliance)
- Additional costs uncertain.

3) Status quo, rely on Market to obtain local hire preference

Option	Pros	Cons
Community Workforce Agreement (known as PLA or CWA)	Can include local hire/apprentice goals No work stoppage Higher rigor to achieve local hire goals	Additional cost for negotiation and compliance ($45K to $90k) May discourage non-union local contractors/sub-contractors from bidding on project Higher classifications may be used for work that lower classifications could otherwise do
Contract Provision for Local Hire	Can include local hire/apprenticeship goals	Additional cost for negotiation and compliance ($10k to $20K) Less rigor to achieve local hire goals Potential for work stoppage
Status Quo	No additional costs	No formalized mechanism to encourage and attain local hire goals Potential for work stoppage

Additional Considerations

- City of SLO and other agencies in SLO County are pursuing or considering CWA for similar projects.
- Local hire preference goals cannot be required to be achieved by contractor/subs and union halls, but rather, require that good faith efforts are made to achieve the goals.
- Reports and studies mixed on whether CWAs add or reduce costs for projects and if they increase/decrease local worker participation on projects.
- Council could consider a resolution/ordinance that creates a general statement of encouragement for local hire preference on all CIPs.
- Neither option will impact the WRF project schedule.

Questions for Council

1) Interest in pursuing one of the options?
2) What are Council's broad priorities for local hiring on those remaining components of the WRF project?
3) What are Council's specific goals with regard to local workers (in terms of percentage of hours of total work to be performed by local workers and apprentices)?
4) What other specific goals should be considered, if any?
5) Is additional information needed or are there any unanswered questions requiring answers prior to making any decision?

Recommendations

City Council could elect to:

1) Direct staff to initiate negotiations with local labor representatives to develop a local community workforce agreement for the pipeline conveyance and injection well components of the Water Reclamation Facility (WRF) project, or
2) Direct staff to add a local hire provision to contracts with the firms selected to construct and complete the pipeline conveyance and injection well components of the WRF project, or
3) City Council could choose not to not pursue a mechanism to encourage local hiring on the identified portions of the WRF project.

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AGENDA NO: C-2

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor & City Council** **DATE: August 6, 2019**

FROM: **Rob Livick, PE/PLS – Public Works Director/City Engineer**
Eric Casares, PE – Water Reclamation Facility (WRF) Program Manager

SUBJECT: **Receive, Review, and Provide Direction on the WRF Capital Project Quarterly Update Report**

RECOMMENDATION

Receive WRF Capital Project Quarterly Update Report (Q4 Fiscal Year 2018/2019) and review and provide direction, if any, as Council may deem appropriate.

DISCUSSION

Provided as Attachment 1 is the Quarterly Report for June 2019.

ATTACHMENT

1. City of Morro Bay Water Reclamation Facility Project Quarterly Report June 2019
2. Staff Presentation for 8/13/19 City Council Meeting



City of Morro Bay
Water Reclamation Facility Project

QUARTERLY REPORT JUNE 2019

FINAL | July 2019

City of Morro Bay
Water Reclamation Facility Project

QUARTERLY REPORT JUNE 2019

FINAL | July 2019

This document is released for the purpose of information exchange review and planning only under the authority of
Eric T. Casares,
July 2019,
State of California, PE.73351

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Abbreviations

APE	Area of Potential Effect
BDR	Basis of Design Report
BOD	Biochemical Oxygen Demand
CCC	California Coastal Commission
CDP	Coastal Development Permit
CDR	Concept Design Report
CEQA	California Environmental Quality Act
CPT	Cone Penetration Test
CWSRF	Clean Water State Revolving Fund
DDW	Division of Drinking Water
EPA	Environmental Protection Agency
ESCP	Enhanced Source Control Program
FEIR	Final Environmental Impact Report
GMP	Guaranteed Maximum Price
IPR	Indirect Potable Reuse
IUP	Intended Use Plan
IWS	Industrial Waste Survey
KPI	Key Performance Indicator
MBPFC	Morro Bay Public Facilities Corporation
MBR	Membrane Bioreactor
NEPA	National Environmental Policy Act
NPDES	National Pollution Discharge Elimination System
PCO	Potential Change Order
PPP	Pollution Prevention Program
RWQCB	Regional Water Quality Control Board
SHPO	State Historic Preservation Office
SPI	Schedule Performance Index
TSO	Time Schedule Order
TSS	Total Suspended Solids
USACE	United States Army Corps of Engineers
USBR	United States Bureau of Reclamation
UVAOP	Ultraviolet Advanced Oxidation Process
WRF	Water Reclamation Facility
WRFCAC	Water Reclamation Facility Citizens Advisory Committee
WWE	Water Works Engineers

Section 1

PROJECT OVERVIEW

1.1 General Project Status Update

All components of the Water Reclamation Facility Project (Project) are currently in progress. City staff and Carollo (Program Manager) are actively working with the design-build team and the pipeline designer to advance the design of the Water Reclamation Facility (WRF) and Conveyance Facilities, respectively.

City staff and the Program Manager have been working closely with the Environmental Protection Agency's (EPA's) Water Infrastructure Finance and Innovation Act (WIFIA) and Clean Water State Revolving Fund (CWSRF) staff to meet the requirements necessary to begin construction of the WRF. For WIFIA, the City must have a signed loan agreement and purchase the Tri-W property prior to starting construction. In order to meet WIFIA's requirements, the City has been required to create a corporation that can manage the funding of the Project, finalize the loan terms, and facilitate completion of the environmental and technical reviews. To satisfy CWSRF, their environmental review must be completed. The City made great strides in reaching these milestones in June. Resolution No. 56-19 was adopted by the City Council on June 25th, which includes the articles of incorporation for the Morro Bay Public Facilities Corporation (MBPFC). The City received word from the State Historic Preservation Office (SHPO) that they concurred with the City's proposed approach to utilize a programmatic agreement. The City also received word from the United States Army Corps of Engineers (USACE) regarding impacts to jurisdictional waterways near the WRF site. The City will continue to coordinate with the SHPO to complete the programmatic agreement and is awaiting confirmation from the USACE that the construction methods being employed for the crossing of Morro Creek and Willow Camp Creek will not impact those jurisdictional waterways.

The City and Program Manager began reviewing the draft procurement documents from the design-build team for the membrane bioreactor (MBR), headworks, reverse osmosis (RO), and ultraviolet advanced oxidation process (UVAOP) equipment in June. Both the MBR and headworks equipment packages are currently being advertised, and proposals from the listed manufacturers will be received on July 22nd and July 31st, respectively. The design-build team will also be delivering the 60 percent design submittal to the City and Program Manager for review at the end of July.

This past month, the City's hydrogeological consultant, GSI Water Solutions, Inc. (GSI), constructed a piezometer and performed pump testing on an inactive well on Errol Street near the Silver City Resort. The pump test provided vital information on the Lower Morro Groundwater Basin, and is necessary for GSI to refine their model and determine the optimal injection location for indirect potable reuse (IPR). For the past several months, the City and Program Manager along with GSI have been working with Vistra Energy (Vistra) to conduct similar tests on the west side of Highway 1 on either an existing inactive Morro Bay Mutual Water Company well or construct a new test well near the City's bike path. The City delivered a work plan to Vistra in May, and will likely be able to begin performing this testing after it receives a Coastal Development Permit (CDP) for the Project.

On June 18th, the State Water Resources Control Board (State Board) adopted the Draft Intended Use Plan (IUP) for the CWSRF. This IUP included funding for the Project up to $105 million including $5 million in grants. With adoption of the IUP, the City anticipates it could be using a combination of cash on hand, WIFIA low-interest loans, and CWSRF low-interest loans and grants to fund the Project. In order to develop the most favorable combination of funding sources balancing funding availability, construction schedule, and the goal of minimizing the financial impacts on the community, the City is executing an amendment with Bartle Wells Associates (Bartle Wells). This amendment will extend their scope of work from development of the rate study (July 2018) to analyzing various funding scenarios to help the City finalize funding agreements with WIFIA and CWSRF.

Table 1 summarizes some of the key accomplishments and critical challenges identified for the Project in June 2019.

Table 1 Project Accomplishments and Challenges

Project Component	Key Accomplishments	Critical Challenges	Actions to Overcome Challenges	Likely Outcomes
General Project	Nearing completion of the Draft Final Environmental Impact Report (FEIR) Addendum for circulation			
	Continued working with California Coastal Commission (CCC) staff to complete the CDP application			
	Added to the fundable list in the adopted IUP for CWSRF			
Water Reclamation Facility	Continued development of the 60 Percent Design Submittal			
	Continued development of the Grading Design Submittal			
		Meeting WIFIA and CWSRF requirements in order to start construction	Expedite the development of necessary materials for consultation with the SHPO	Delivery of documentation to WIFIA and CWSRF in early July 2019 should allow construction to start in September 2019
Conveyance Facilities	Continued development of the 60 Percent Design Submittal			
		Schedule recovery due to issues access Vistra and PG&E property	Work with WWE to expedite the final design schedule (options could include eliminating some intermediate deliverables)	Without expediting the schedule, delayed construction completion could impact the schedule for start-up of the WRF
Recycled Water Facilities		Schedule recovery due to issues access Vistra and PG&E property	Work with GSI to expedite the completion of the Phase 2 hydrogeology work	The completion of the injection wells could be delayed (does not impact compliance with the time schedule order [TSO])

1.2 Quarterly Budget Revision

The budget for the Project is reconciled on a quarterly basis and is re-baselined on an annual basis. The original $126 million baseline budget was developed in June 2018 and was used as the basis for the rate study prepared by Bartle Wells. The annual re-baselined budget will become the new baseline budget used during the upcoming fiscal year 2019/2020. A summary of the baseline, quarterly reconciled, and annual re-baselined budgets are summarized in Table 2. Subsequent budget reconciliations (quarterly) and re-baselined budgets (annual) will also be presented in this table.

Table 2 Budget Revision Summary

Project Component	Baseline (Q4 FY 17/18)	Quarterly Reconciliation (Q3 FY 18/19)	Annual Re-Baselined (Q4 FY 18/19)
Water Reclamation Facility	$62,414,000	$74,059,000	$72,891,000
Conveyance Facilities	$21,087,000	$27,108,000	$28,864,000
Recycled Water Facilities	$8,593,000	$5,366,000	$5,250,000
General Program	$24,403,000	$11,614,000	$11,801,000
Construction Contingency(1)	$9,444,000	$6,450,000	$7,132,000
Total	**$125,941,000**	**$124,597,000**	**$125,938,000**

Notes:

(1) Increase in construction contingency due to use of only $1.9 million of the budgeted $2.5 million (budgeted in the Q3 FY 18/19 budget reconciliation) intended to be used for the initial round of potential changes orders (PCOs) for the WRF.

Increases to the Project budget since the budget reconciliation in Q3 Fiscal Year 2018/2019 can be attributed to the following:

- Addition of a trenchless crossing to the design of the Conveyance Facilities along the bike path at Willow Camp Creek following completion of the wetland delineation as part of the supplementary biological report prepared by Kevin Merk (approximately $1 million)
- Additional potholing for design of the Conveyance Facilities necessary to identify utility locations and avoid construction change orders (approximately $150,000)
- Additional land acquisition costs for purchase of the Tri-W property following initial estimates from the appraiser (approximately $300,000).

Section 2

PROJECT COSTS

2.1 Performance Measures

A set of five (5) Key Performance Indicators (KPIs) were established to readily measure the progress of the Project. These KPIs represent various success factors associated with the WRF project management and delivery that were established by the Program Manager and City staff and are summarized as Table 3. The Project's performance is also illustrated graphically in Figures 1 and Figure 2.

Table 3 WRF Project Performance Measures

Performance Measure	Data	Baseline (Q4FY 17/18)	Current (Q4 FY 18/19)	Delta	Status	G	Y	R
1: Total Project Costs	Total Project Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$125.9 M	$125.9 M	0.0%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.1: WRF Costs	On Site WRF Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$77.1 M	$77.3 M	0.0%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.2: Conveyance Facilities Costs(1), (2)	Conveyance Facilities Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$26.3 M	$31.3 M	19.0%	R	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.3: Recycled Water Facilities Costs(1)	Off Site Injection Facilities Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$12.1 M	$5.6 M	-116%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.4: General Project Costs(2)	General Project Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$10.5 M	$11.8 M	12.4%	R	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
2: Program Manager Earned Value	Ratio of Program Manager Earned Value to Actual Invoiced Cost-to-Date (as of 6/30/19)	1.00	1.01	0.01	G	>= 1.00	0.99 to 0.90	< 0.90
3: Schedule Performance Index(3)	Ratio of Planned Percent Complete to Actual Percent Complete (as of 6/30/19)	1.00	0.86	-0.14	Y	>=1.00	0.99 to 0.80	<0.80
4: Conveyance Pipeline Installed	Feet of conveyance pipeline installed (thru 6/30/19)	18,500 LF	0.0 LF	0.0%	G	<= 5%	> 5% and <=7.5%	> 7.5%
5: Compliance Date Countdown	Days Remaining to Compliance Date (as of 6/30/19)	1,339 days	884 days	-455 days	G	<= 365 days	364 days and 180 days	> 179 days

Notes:

(1) The cost of the potable reuse pipeline (assumed East injection location) was moved from the Recycled Water Facilities Project to the Conveyance Facilities Project following completion of the baseline cost estimate in May 2018.

(2) The cost for a new trenchless crossing to avoid a jurisdictional waterway (i.e., wetland) at Willow Camp Creek was added to this project component.

(3) Delays associated with access to Vistra and PG&E property have resulted in schedule delays impacting hydrogeology work and completion of the Conveyance Facilities final design.

Section 3

PROJECT COSTS

3.1 Project Budget

The overall budget status for the Project is summarized in Table 4. The top half of the table provides a summary of total estimated Project costs, including original and current estimated costs for the entire Project. The bottom half of Table 4 shows the total amount of work currently under contract and provides a summary of total charges.

Table 4 WRF Project Overall Budget Status (thru June 2019)

Summary of Total WRF Project Cost	
Baseline WRF Project Budget(1)	$125,938,000
Current WRF Project Budget (as of 6/30/19)	$125,900,000
Budget Percent Change (Current versus Re-Baseline)	0.0%
Total Expenditures for June 2019	$962,742
Total Expenditures to Date (thru 6/30/19 invoices)	$11,067,630
Percent of Current WRF Project Budget Expended	8.8%
Summary of Contracted Work	
Total Contracted Amount	$77,239,207
Percent of Current WRF Project Budget Contracted	62.1%
Total Contracted Amount Expended	$9,357,455
Percent of Contracted Amount Expended	12.1%
Remaining WRF Project Contracted Amount	$67,881,751

Notes:
(1) Developed in the spring of 2018 as the basis of the approved rate surcharge that will take effect in July 2019.

3.2 Project Cash Flow

Figure 1 presents the projected and actual expenditures for the Project through June 2019 compared to the baseline budget developed in 2018 as the basis for the rate surcharge. The line graph shows the cumulative values for the Project and the bars show the discrete monthly values. Actual and budgeted expenditures from 2013 to the end of Fiscal Year 2017/2018 have been combined to improve readability. Milestones have been added to the cumulative baseline budget and cumulative forecasted expenditures to show changes in the Project schedule that have occurred between development of the baseline budget in May 2018 and the re-baselined budget developed at the end of March 2019. The milestone corresponds to the substantial completion of the WRF, which coincides with the City being in compliance with the TSO issued by the Regional Water Quality Control Board (RWQCB) in June 2018.

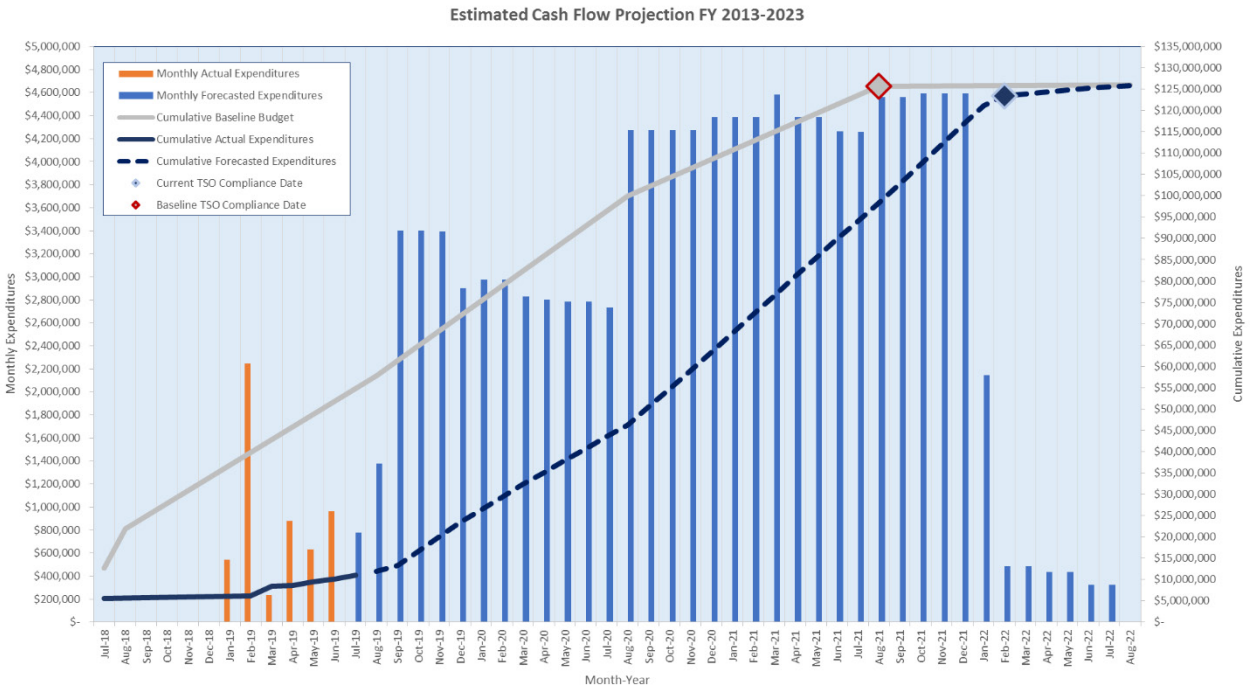


Figure 1 Project Cash Flow Projections and Actual Expenditures

3.3 Project Cost Summary

Table 5 summarizes the cost-to-date and contracted amounts for each of the elements of the Project. This table also provides the current cost estimate for each project. Detailed information on the individual elements of the Project is provided in Section 7 of this Report.

Table 5 WRF Project Cost Summary (through June 2019)

Project	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)	Total Project Cost (Est.)(1)	Cost Expended to Date (%)
General Project	$5,274,586	$6,425,172	82.1%	$11,800,000	44.7%
WRF	$3,163,060	$69,102,470	4.5%	$77,300,000	4.1%
Conveyance Facilities	$744,502	$1,360,564	54.7%	$31,300,000	2.4%
Recycled Water Facilities	$175,307	$351,000	50.0%	$5,500,000	3.2%
Total	**$9,357,455**	**$77,239,207**	**12.1%**	**$125,900,000**	**7.4%**

Notes:
(1) Cost includes the total anticipated cost for each element of the Project.

3.4 Detailed Project Costs

The following tables show the detailed costs to date for active contracts for each element of the Project.

Table 6 General Project Activities Cost Summary (through June 2019)

Consultant / Contractor	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)
ESA	$383,260	$408,858	93.7%
Far Western	$100,220	$124,644	80.4%
Kestrel	$181,497	$219,872	82.5%
JoAnn Head Land Surveying	$96,568	$102,644	94.1%
JSP Automation	$21,777	$63,500	34.3%
Carollo Engineers, Inc.	$1,127,157	$1,898,844	59.4%
Total	**$1,910,479**	**$2,818,362**	**67.8%**

Notes:
(1) Cost includes planned or anticipated amendments to active consultant agreements.

Table 7 WRF Cost Summary (through June 2019)

Consultant / Contractor	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)
Overland Contracting	$3,163,060	$69,102,470	4.6%
Total	**$3,163,060**	**$69,102,470**	**4.6%**

Notes:
(1) Cost includes planned or anticipated amendments to active consultant agreements.

Table 8 Conveyance Facilities Cost Summary (through June 2019)

Consultant / Contractor	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)
Water Works Engineers (WWE)	$744,502	$1,360,565	54.7%
Total	**$744,502**	**$1,360,565**	**54.7%**

Notes:
(1) Cost includes planned or anticipated amendments to active consultant agreements.

Table 9 Recycled Water Facilities Cost Summary (through June 2019)

Consultant / Contractor	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)
GSI	$175,307	$351,000	49.9%
Total	**$175,307**	**$351,000**	**49.9%**

Notes:
(1) Cost includes planned or anticipated amendments to active consultant agreements.

3.5 Change Orders

In May 2019, City staff and the Program Manager presented seventeen (17) potential change orders (PCOs) with a total value of $1.9 million for the WRF to the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) and the City Council. The City Council approved these PCOs and authorized City staff to update the design-build team's contract and associated guaranteed maximum price (GMP). The seventeen (17) change orders are summarized in Table 10.

Table 10 Summary of Approved Change Orders

Contract	Change Order No.	Description	Value
WRF	01	New Sodium Hypochlorite Feed for Plant Water	$78,576
WRF	02	Change Architecture of Operations Building	$(21,623)
WRF	03	Headworks Odor Control	$18,422
WRF	04	Remove Canopy and Monorail at MBR	$(185,434)
WRF	05	Consolidate Chemical Facilities	$218,978
WRF	06	Modify Chemical Piping	$(15,856)
WRF	07	Remove Solids Dumpster Lid	$14,543
WRF	08	Add SAFE Equalization Tank	$504,116
WRF	09	Instrumentation and Control Changes	$75,266
WRF	10	Revise Maintenance Building Layout and Size	$748,431
WRF	11	Influent Piping and Metering	$411,766
WRF	12	Install Outdoor-Rated Positive Displacement Blowers at BNR Facility	$(58,210)
WRF	13	Remove Bypass of Coarse Screens	$(37,137)
WRF	14	SAFE Diversion Box Additions	$58,304
WRF	15	Size Dewatering as a Building in the Future	$30,983
WRF	16	Stairs for the Coarse Screens and Grit Basins (total of 4)	$52,870
WRF	17	IPR Product Water Tank Bypass	$(26,087)
Total			**$1,867,907**

3.6 Reimbursement from Funding Agencies

In 2017, the City was awarded a $10.3 million planning loan from the CWSRF. To date, the City has only applied for a single reimbursement request. A summary of these requests are summarized in Table 11.

Table 11 Summary of Reimbursement Requests

Agency	Description	Date	Value
State	CWSRF Planning Loan	December 2018	$217,441
Total			**$217,441**

Section 4

PROJECT SCHEDULE

A summary of the Project schedule is presented in Figure 2. The light blue bars for each major task represent the planned progress based on the re-baselined schedule developed at the end of March 2019. The dark blue bars represent the current actual progress as of June 2019. For each major line item, the schedule performance index (SPI) has been provided as well as an overall SPI for the entire Project. The SPI is a ratio of the planned percent complete versus the current actual percent complete. A SPI of greater than 1.00 indicates that the Project is on or ahead of schedule and a SPI of less than 1.00 indicates the Project is running behind the planned schedule.

4.1 Project Milestones

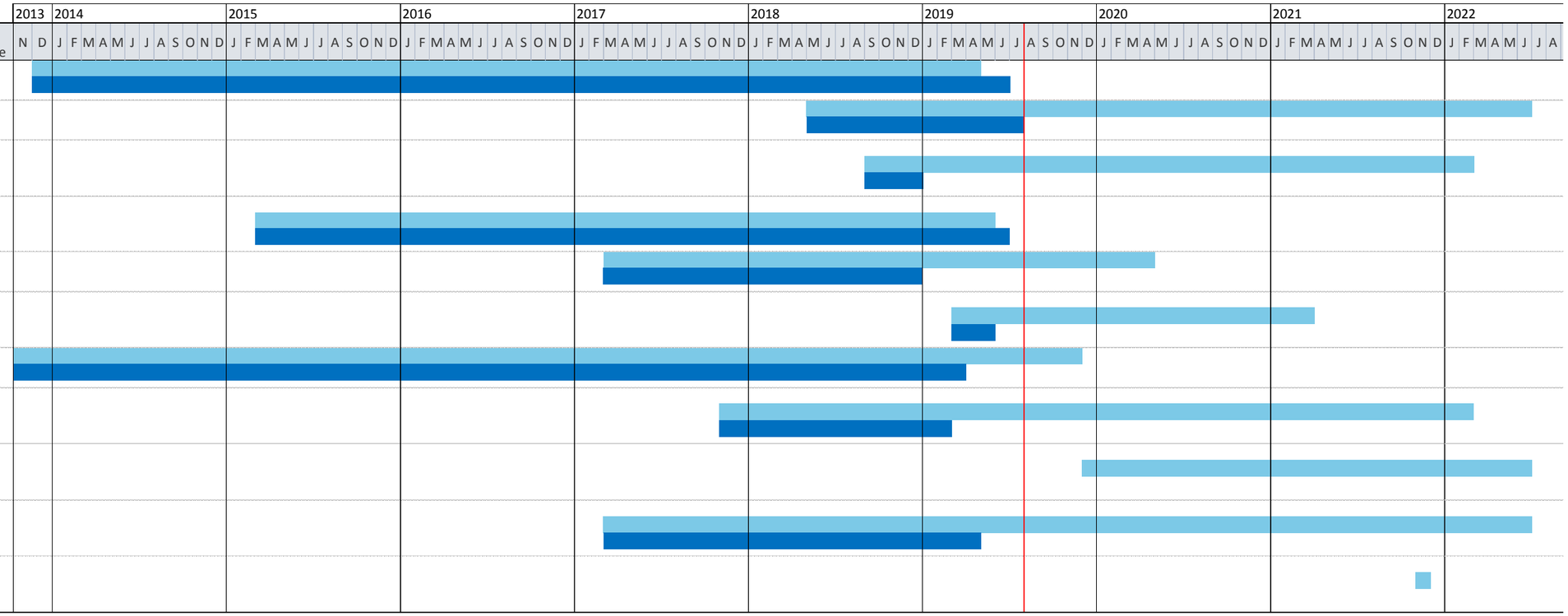
In June 2018, the City received a TSO from the RWQCB. The TSO requires the City to comply with a time schedule that will, within five years of adoption, allow the City to achieve full compliance with biochemical oxygen demand (BOD) and total suspended solids (TSS) final effluent limitations established in Order No. R3-2017-0050. In addition to the final compliance date, a number of intermediate milestones are provided in Table 3 (Compliance Schedule) of the TSO. Presented in Table 12 are the milestones in the TSO.

Table 12 Project Construction Milestones

Required Actions	Compliance Due Date	Planned Compliance Date	Actual Compliance Date
Release of Public Draft EIR	March 30, 2018	-	March 30, 2018
Release of Updated Rate Study	June 30, 2018	-	July 05, 2018
Proposition 218 Hearing	August 30, 2018	-	September 11, 2018
Certification of Final EIR	June 30, 2018	-	August 14, 2018
Award of Contract for WRF	September 30, 2018	-	October 23, 2018
Develop, Implement, and Submit Pollution Prevention Plan (PPP) for BOD and TSS	December 01, 2018	TBD(1)	-
Award of Contract for Construction of Conveyance Facilities	November 30, 2019	July 22, 2020	-
Completion of WRF Improvements with Completion Report	December 30, 2022	November 30, 2021	-
Full compliance with final effluent limitations	February 29, 2023	November 30, 2021	-

Notes:
(1) The City and Program Manager have noted this requirement in the previous quarterly progress reports sent to the RWQCB (as required by the TSO). The City has requested that the Enhanced Source Control Program required as part of the Title 22 Engineer's Report be considered acceptable for this requirement in lieu of the PPP identified in the TSO.

Task No.	Task Name	SPI	% Complete
1	Program Planning		
	Current Progress	0.99	*99%*
2	Project Controls		
	Current Progress	1.00	*28%*
3	Hydrogeological Support		
	Current Progress	0.40	*9%*
4	Environmental Documentation		
	Current Progress	0.93	*93%*
5	General Permitting		
	Current Progress	0.38	*29%*
6	Potable Reuse Permitting		
	Current Progress	0.85	*12%*
7	Funding		
	Current Progress	0.88	*82%*
9	Conveyance Facilities Project		
	Current Progress	1.36	*52%*
9	Recycled Water Facilities		
	Current Progress	1.00	*0%*
10	WRF Onsite Improvements		
	Current Progress	1.15	*51%*
11	Conformance with Time Schedule Order		
	Current Progress	1.00	*0%*



Project SPI: 0.86
Program % Complete: 56%

Figure 2 Project Milestone Summary

Section 5

DESIGN AND PROCUREMENT

5.1 Design Status

No new design contracts for the Project were executed in Q4 Fiscal Year 2018/2019. A summary of the existing design contracts is included in Table 13 below.

Table 13 Procurement Status (through June 2019)

Project Name	Initial Contract Amount	Amount Expended	30%	60%	90%	Final
WRF	$4,821,229	$3,163,060	✓			
Conveyance Facilities	$1,170,894	$744,502	✓			
Recycled Water Facilities	$0	$0				

5.2 Procurement

No design or design-build contract procurements were performed in Q4 FY 18/19. Table 14 presents a summary of the procurement activity for the Project.

Table 14 Procurement Status (through June 2019)

Project Name	Circulate Request for Proposals	Proposal Opening Date	Council Award Date	Notice to Proceed Date	Consultant
WRF	January 24, 2018	May 08, 2018	October 23, 2018	November 01, 2018	Overland Contracting (Filanc-Black & Veatch)
Conveyance Facilities	January 31, 2017	March 08, 2017	November 14, 2017	November 15, 2017	Water Works Engineers
Recycled Water Facilities	Design Engineer to be Selected in Winter 2019				

Section 6

CONSTRUCTION STATUS

6.1 Construction Summary

During Q4 Fiscal Year 2018/2019, design activities were started for the design-build component of the Project. However, construction for the WR is not anticipated until August/September 2019. Table 15 presents a summary of project construction progress and costs through June 2019.

Table 15 Project Construction Costs

Project Name	Amount Expended	Initial Contract Amount	Current Contract Amount	% Change in Contract Amount
WRF	$0	$62,413,335	$64,281,242	3.0%
Conveyance Facilities	$0	$0	$0	0%
Recycled Water Facilities	$0	$0	$0	0%
Construction Total	**$0**	**$62,413,335**	**$64,281,242**	**3.0%**

6.2 Upcoming Traffic Control

6.2.1 Planned Impacted Areas

6.2.2 Hours of Planned Lane/Road Closures

6.3 Construction Safety

The Project safety goal is zero reportable incidents. There have been a total of zero reported incidents through June 2019.

Section 7

OTHER PROGRAM ACTIVITIES

7.1 Public Outreach

Current public outreach activities include:

- Continued re-branding activities.
- Prepared material to accompany the June and July water and wastewater utilities bills prior to the rate increases taking affect for July usage (receipt in early August).
- Developed a rate calculator to allow both residential and commercial customers to evaluate their new water and wastewater rates.
- Completed miscellaneous updates to the Project website.

7.2 Permitting Activities

Permit compliance is an important aspect of the Project. The current permitting activities include:

- Began developing the Enhanced Source Control Program (ESCP) required by the Division of Drinking Water (DDW) for potable reuse projects.
  - Completed the Industrial Waste Survey (IWS) and sent it to approximately 200 local businesses.
- Consultation with SHPO is needed for compliance with the National Environmental Policy Act (NEPA) required to secure WIFIA and CWSRF funding.
  - Completed the necessary additional architectural and archeological field work within the area of potential effect (APE) are currently being planned.
- In order to capture changes to the project identified since the certification of the FEIR, ESA continued development of the addendum.
  - While not required by the California Environmental Quality Act (CEQA), the FEIR Addendum will be circulated, per direction from CWSRF staff, and will go to City Council in August 2019.
- The Project CDP is on the July 11, 2019 CCC meeting agenda in San Luis Obispo.

7.3 Funding Status

- Coordination with WIFIA staff to facilitate the environmental review and finalize loan terms.
- Continued coordination with Kestrel and the United States Bureau of Reclamation (USBR) regarding the draft crosswalk document for the Title XVI Grant Program previously delivered in early 2018.

7.4 City Operations Activity

The current City Operations activities include:

- Significant City Operations activities are not anticipated until start-up of the WRF begins in June 2021.

Section 8

PROJECT DETAILS

8.1 Water Reclamation Facility

8.1.1 Design/Build

In October 2018, the City executed a contract with Overland Contracting consisting of a joint venture of Filanc and Black & Veatch (i.e., design-build team) for design and construction of the WRF located at the South Bay Boulevard site. The WRF will be delivered using the design-build process.

8.1.2 Project Scope

The scope of this element of the Project includes a preliminary, secondary, and advanced treatment facilities. The secondary treatment processes will consist of a MBR and have the ability to exceed the anticipated discharge requirements for the City's new National Pollution Discharge Elimination System (NPDES) permit. The advanced treatment facilities include RO and UVAOP. Purified water from the advanced treatment facilities will be injected into the Lower Morro Groundwater Basin.

8.1.3 Current Progress

The design-build team delivered an internal draft of the Basis of Design Report (BDR) in February 2019. The Draft BDR was presented to the WRFCAC and City Council in May 2019. In addition to the Draft BDR review, City staff and the Program Manager presented seventeen (17) PCOs to WRFCAC and City Council that increased the GMP by approximately $1.9 million.

8.1.4 Upcoming Activities

The next step in the design-build process is procurement and the start of construction. In addition to these items, the design-build team is continuing to advance the design and is planning to deliver the 60 percent submittal in late July 2019.

8.1.5 Project Challenges

The goal is to move this element of the Project into construction as soon as possible. At this time, two items are on the critical path for WRF construction. These include issuance of a CDP by the CCC (anticipated July 2019) and completion of the SHPO consultation process.

Table 16 WRF Performance Measures

Performance Measures	Target	Current	Status
Construction Cost (1)	$62.4M	$64.3M	
Change Order Cost	$6.2M	$4.3M	

Notes:
(1) Project budget and current contract amount (≤5% over target = Yellow, >5% over target = Red).

Table 17 WRF Construction Summary

Schedule					
Request for Bid / Bid Advertisement					January 24, 2018
Bid Opening Date					May 08, 2018
Contract Award / Council Award Date					October 23, 2018
Notice to Proceed for Construction					NA
Original Final Completion Date					June 09, 2022
Original Duration (Non-Working Days)					1,316
Days Changed by Change Order					0
Actual Final Completion Date (including Non-Working Days)					June 28, 2022
Schedule Percent Complete					19%
Budget					
Engineer's Estimate (Construction Cost + 10% Construction Contingency)					$68,654,668
Award Amount (excludes Design Cost)					$62,413,335
Change Order Total					$1,867,907
Current Contract Value					$64,281,242
Percent Change					3.0%
Work Completed					
Actual Cost -to-Date					$0
Percent Complete (Percent Expended)					0%
Construction Management Statistics					
	RFIs	Submittals	PCOs	COs	NOPCs
Total Received	0	0	30	17	0
Total Responded To	0	0	17	17	0
Total Pending	0	0	1	0	0
Average Turnaround (calendar days)	0	0	N/A	N/A	N/A

Acronym List:
(1) RFI – Request for Information
(2) PCO – Proposed Change Order
(3) CO – Change Order
(4) NOPC – Notice of Potential Claim

8.2 Conveyance Facilities

8.2.1 Designer

In November 2017, the City executed a contract with Water Works Engineers (WWE) for design and engineering support for the facilities necessary to connect the existing WWTP and the new WRF.

8.2.2 Contractor

This element of the Project is being delivered via a conventional design-bid-build procurement process. The Conveyance Facilities are currently under design and will begin construction in the summer of 2020.

8.2.3 Project Scope

The Conveyance Facilities originally included the design of approximately 3.5 miles of pipelines and a lift station located near the existing WWTP. The pipelines include two raw wastewater forcemains and a wet weather/brine discharge forcemain. Several changes to the Conveyance Facilities have occurred since the contract was executed with WWE including the addition of a second, smaller lift station near the intersection of Main Street and Highway 1 and the addition of the potable reuse forcemain to either the east or west injection site.

8.2.4 Current Progress

WWE, City staff, and Carollo presented the preferred lift station orientation (dual) and the recommended pipeline alignment (west of Highway 1 along Quintana Road) to WRFCAC and the City Council in December 2018 and January 2019, respectively. An internal draft of the Concept Design Report (CDR) was also delivered to staff in February 2019. In June 2019, WWE, City staff, and the Program Manager presented the Final-Draft CDR to both WRFCAC and City Council. WWE has started the development of the 60 percent design submittal at this time.

8.2.5 Upcoming Activities

WWE has been working to complete the field work necessary to complete the 60 percent design submittal over the last several months. These activities include surveying and geotechnical investigations. These activities must be completed before the 60 percent design submittal can be completed in late August 2019.

8.2.6 Project Challenges

Access to private property has caused delays in this element of the property. Over the past several months, access to the PG&E and Vistra properties has been possible and much of the field work needed to advance the design of the Conveyance Facilities has been completed.

Table 18 Conveyance Facilities Performance Measures

Performance Measures	Target	Current	Status
Construction Cost (1)	$0.0M	$0.0M	
Change Order Cost	$0.0M	$0.0M	
Number of Feet of Pipelines Constructed	18,500 LF	0 LF	
Number of Days of Full Road Closures	0 Days	0 Days	
Number of Hours of Night Work	0 Hours	0 Hours	

Notes:
(1) Project budget and current contract amount - (≤5% over target = Yellow, >5% over target = Red)

Table 19 Conveyance Facilities Summary

Schedule					
Request for Bid / Bid Advertisement				NA	
Bid Opening Date				NA	
Contract Award / Council Award Date				NA	
Notice to Proceed for Construction				NA	
Original Final Completion Date				NA	
Original Duration (Non-Working Days)				NA	
Days Changed by Change Order				0	
Actual Final Completion Date (including Non-Working Days)				NA	
Schedule Percent Complete				0%	
Budget					
Engineer's Estimate (Construction Cost + 10% Construction Contingency)				$27,036,635	
Award Amount				$0	
Change Order Total				$0	
Current Contract Value				$0	
Percent Change				0%	
Work Completed					
Actual Cost -to-Date				$0	
Percent Complete (Percent Expended)				0%	
Length of Pipe Installed (actual to date / planned total)				0 LF / 18,500 LF	
Construction Management Statistics					
	RFIs	Submittals	PCOs	COs	NOPCs
Total Received	0	0	0	0	0
Total Responded To	0	0	0	0	0
Total Pending	0	0	0	0	0
Average Turnaround (calendar days)	0	0	N/A	N/A	N/A

Acronym List:
(1) RFI – Request for Information
(2) PCO – Proposed Change Order
(3) CO – Change Order
(4) NOPC – Notice of Potential Claim

8.3 Recycled Water Facilities

8.3.1 Designer

Procurement activities for the designer for the Recycled Water Facilities have not yet been started, but it is anticipated that design will begin in early 2020 following completion of the Phase 1, Phase 2, and Phase 3 hydrogeological work by GSI.

8.3.2 Contractor

This element of the Project is being delivered via a conventional design-bid-build procurement process. The Recycled Water Facilities are currently under design and will begin construction in the spring of 2020.

8.3.3 Project Scope

Since the potable reuse pipeline from the WRF to the selected injection site was moved into WWE's scope for design of the Conveyance Facilities, this element of the Project consists primarily of full-scale injection wells at either the west or east injection sites.

8.3.4 Current Progress

Phase 1 of GSI's hydrogeological was completed and presented to WRFCAC and City Council in May 2019. GSI is in the process of completing the Phase 2 work which consists of identifying the preferred injection location (west and/or east) and refining the groundwater travel time to the existing Morro wellfield. During the last several months, GSI completed the cone penetration tests (CPTs) at Silver City Resort and pump testing at an existing well on Errol Street in order to characterize the east injection location.

8.3.5 Upcoming Activities

GSI is currently working on Phase 2 and City staff and the Program Manager are working to provide access to the Vistra property to facilitate siting of the pilot injection wells or using the existing Morro Bay Mutual Water Company wells for pump testing.

8.3.6 Project Challenges

As mentioned previously, access challenges for the Vistra property are also preventing the Recycled Water Facilities from advancing through Phase 3. A work plan was submitted to Vistra in May 2019, and it is anticipated that characterization of the west injection area will begin shortly after receipt of the CDP for the Project.

Table 20 Recycled Water Facilities Performance Measures

Performance Measures	Target	Current	Status
Construction Cost (1)	$0.0M	$0.0M	
Change Order Cost	$0.0M	$0.0M	
Selection of the Injection Site	October 15, 2019	NA	

Notes:
(1) Project budget and current contract amount - (≤5% over target = Yellow, >5% over target = Red)

Table 21 Recycled Water Facilities Summary

Schedule					
Request for Bid / Bid Advertisement				NA	
Bid Opening Date				NA	
Contract Award / Council Award Date				NA	
Notice to Proceed for Construction				NA	
Original Final Completion Date				NA	
Original Duration (Non-Working Days)				NA	
Days Changed by Change Order				0	
Actual Final Completion Date (including Non-Working Days)				NA	
Schedule Percent Complete				0%	
Budget					
Engineer's Estimate (Construction Cost + 10% Construction Contingency)				$3,300,000	
Award Amount				$0	
Change Order Total				$0	
Current Contract Value				$0	
Percent Change				0%	
Work Completed					
Actual Cost -to-Date				$0	
Percent Complete (Percent Expended)				0%	
Work Completed					
	RFIs	Submittals	PCOs	COs	NOPCs
Total Received	0	0	0	0	0
Total Responded To	0	0	0	0	0
Total Pending	0	0	0	0	0
Average Turnaround (calendar days)	0	0	N/A	N/A	N/A

Acronym List:
(1) RFI – Request for Information
(2) PCO – Proposed Change Order
(3) CO – Change Order
(4) NOPC - Notice of Potential Claim



Item C-2

Receive, Review, and Provide Direction on the WRF Capital Project Quarterly Update Report

Morro Bay, CA
August 13, 2019

CITY OF MORRO BAY
WATER RECLAMATION FACILITY PROJECT

Recommendations

- Receive WRF Capital Project Quarterly Update Report (Q4 Fiscal Year 2018/2019) and review and provide direction, if any, as Council may deem appropriate.



Quarterly Report Overview

CITY OF MORRO BAY
WATER RECLAMATION FACILITY PROJECT

Reporting process overview

- Single report for CFAC, WRFCAC, and City Council produced each month
  - Tracking of actual expenditures
- Monthly report expanded every third month (close of each quarter)
  - Budget reconciliation
- Budget is re-baselined annually

Summary of Project status

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT

- Project is on budget
  - New budget inline with original $126 million budget (2018 Rate Study)
- Several major elements of the Project are behind schedule
- Overall Project is on schedule
  - TSO Compliance – February 28, 2023
  - Substantial Completion – November 30, 2021

Budget history

Project Component	Baseline (Q4 FY 17/18)	Quarterly Reconciliation (Q3 FY 18/19)	Annual Re-Baselined (Q4 FY 18/19)
Water Reclamation Facility	$62,414,000	$74,059,000	$72,891,000
Conveyance Facilities	$21,087,000	$27,108,000	$28,864,000
Recycled Water Facilities	$8,593,000	$5,366,000	$5,250,000
General Program	$24,403,000	$11,614,000	$11,801,000
Construction Contingency(1)	$9,444,000	$6,450,000	$7,132,000
Total	**$125,941,000**	**$124,597,000**	**$125,938,000**

2018 Rate Study

First Budget Review

FY 19/20 Baseline

New baseline budget summary

- Water Reclamation Facility
  - Reduction in soft cost elements (i.e., construction management, etc.)
  - Reallocation of costs into contingency
  - Increase in budget for Tri-W site purchase
- Conveyance Facilities
  - Addition of Willow Camp Creek trenchless crossing
  - Additional potholing effort during design
- Recycled Water Facilities
  - Minimal changes
- General Project
  - Addition of Outfall Management Plan
  - Additional forecasted budget for routine meetings, etc.

Key accomplishments and challenges

Project Component	Key Accomplishments	Critical Challenges	Actions to Overcome Challenges	Likely Outcomes
General Project	Nearing completion of the Draft Final Environmental Impact Report (FEIR) Addendum for circulation			
	Continued working with California Coastal Commission (CCC) staff to complete the CDP application			Update – Commission approved CDP for WRF Project.
	Added to the fundable list in the adopted IUP for CWSRF			
Water Reclamation Facility	Continued development of the 60 Percent Design Submittal			
	Continued development of the Grading Design Submittal			
		Meeting WIFIA and CWSRF requirements in order to start construction	Expedite the development of necessary materials for consultation with the SHPO	Delivery of documentation to WIFIA and CWSRF in early July 2019 should allow construction to start in September/October 2019
Conveyance Facilities	Continued development of the 60 Percent Design Submittal			
		Schedule recovery due to issues access Vistra and PG&E property	Work with WWE to expedite the final design schedule (options could include eliminating some intermediate deliverables)	Without expediting the schedule, delayed construction completion could impact the schedule for start-up of the WRF
Recycled Water Facilities		Schedule recovery due to issues access Vistra and PG&E property	Work with GSI to expedite the completion of the Phase 2 hydrogeology work	The completion of the injection wells could be delayed (does not impact compliance with the time schedule order [TSO])

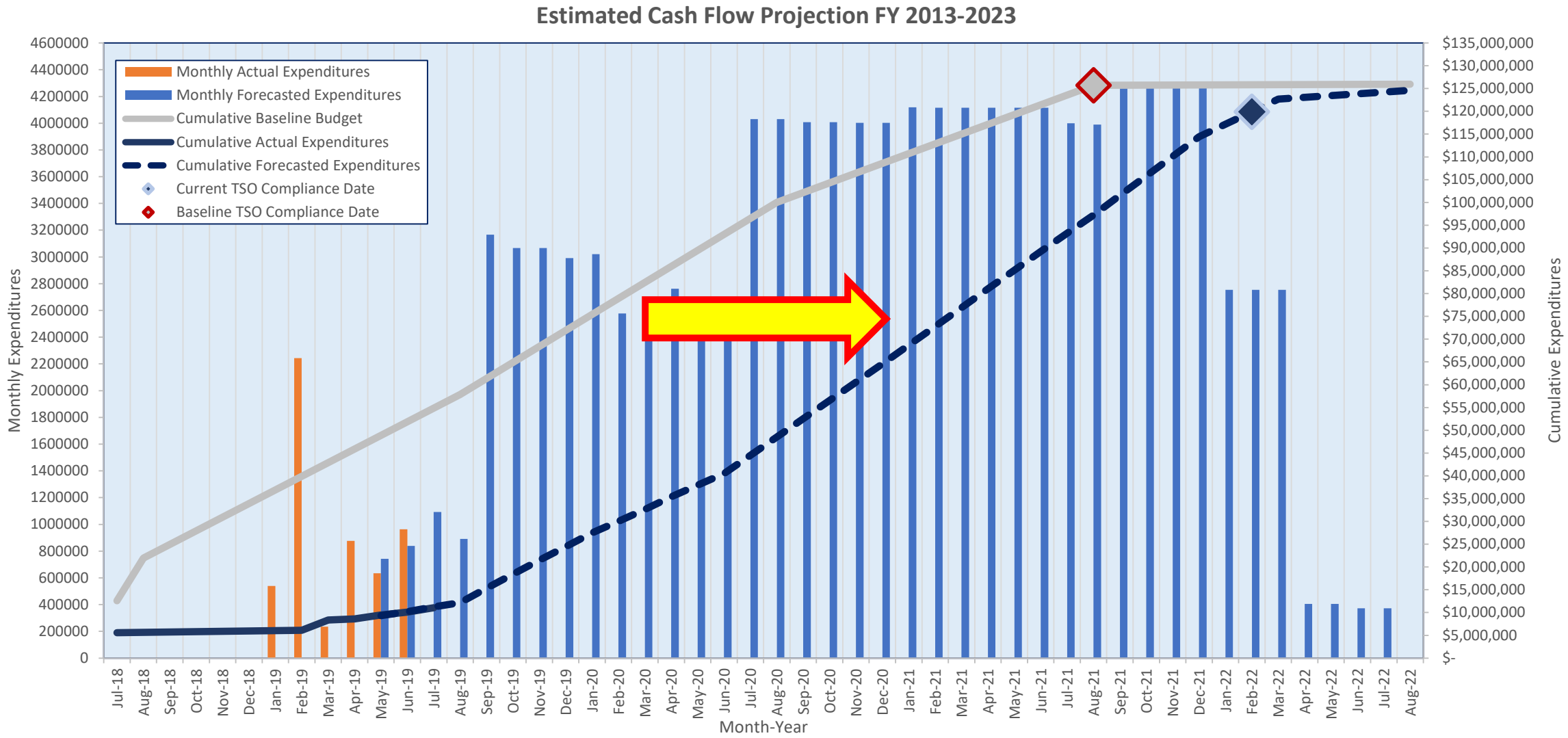
Project dashboard

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT

Performance Measure	Data	Baseline (Q4FY 17/18)	Current (Q4 FY 18/19)	Delta	Status	G	Y	R
1: Total Project Costs	Total Project Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$125.9 M	$125.9 M	0.0%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.1: WRF Costs	On Site WRF Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$77.1 M	$77.3 M	0.0%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.2: Conveyance Facilities Costs(1), (2)	Conveyance Facilities Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$26.3 M	$31.3 M	19.0%	R	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.3: Recycled Water Facilities Costs(1)	Off Site Injection Facilities Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$12.1 M	$5.6 M	-116%	G	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
1.4: General Project Costs(2)	General Project Projected Cost at Completion versus the Baseline Budget (budget as of 6/30/19)	$10.5 M	$11.8 M	12.4%	R	Estimated cost within 5% of target budget	Estimated cost > 5% above target budget	Estimated cost > 10% above target budget
2: Program Manager Earned Value	Ratio of Program Manager Earned Value to Actual Invoiced Cost-to-Date (as of 6/30/19)	1.00	1.01	0.01	G	>= 1.00	0.99 to 0.90	< 0.90
3: Schedule Performance Index(3)	Ratio of Planned Percent Complete to Actual Percent Complete (as of 6/30/19)	1.00	0.86	-0.14	Y	>=1.00	0.99 to 0.80	<0.80
4: Conveyance Pipeline Installed	Feet of conveyance pipeline installed (thru 6/30/19)	18,500 LF	0.0 LF	0.0%	G	<= 5%	> 5% and <=7.5%	> 7.5%
5: Compliance Date Countdown	Days Remaining to Compliance Date (as of 6/30/19)	1,339 days	884 days	-455 days	G	<= 365 days	364 days and 180 days	> 179 days

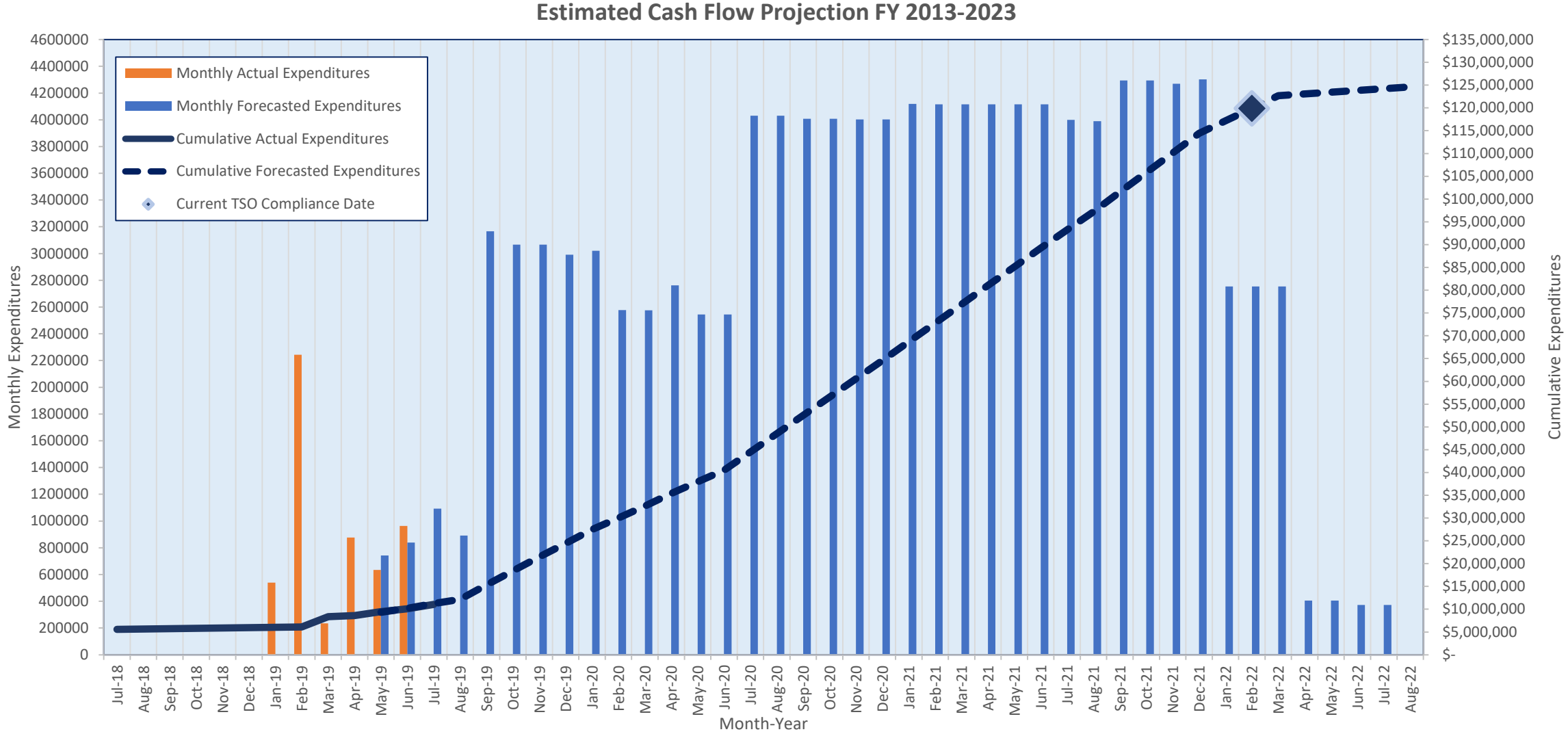
Current vs. planned expenditures

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT



Current vs. planned expenditures

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT



Expenditures to date

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT

Project	Actual Expenditures to Date	Total Contracted Cost	Contract Expended to Date (%)	Total Project Cost (Est.)	Cost Expended to Date (%)
General Project	$5,274,586	$6,425,172	82.1%	$11,800,000	44.7%
WRF	$3,163,060	$69,102,470	4.5%	$77,300,000	4.1%
Conveyance Facilities	$744,502	$1,360,564	54.7%	$31,300,000	2.4%
Recycled Water Facilities				500,000	3.2%
Total	**$9,357,455**	**$77,239,207**	**12.1%**	**$125,900,000**	**7.4%**

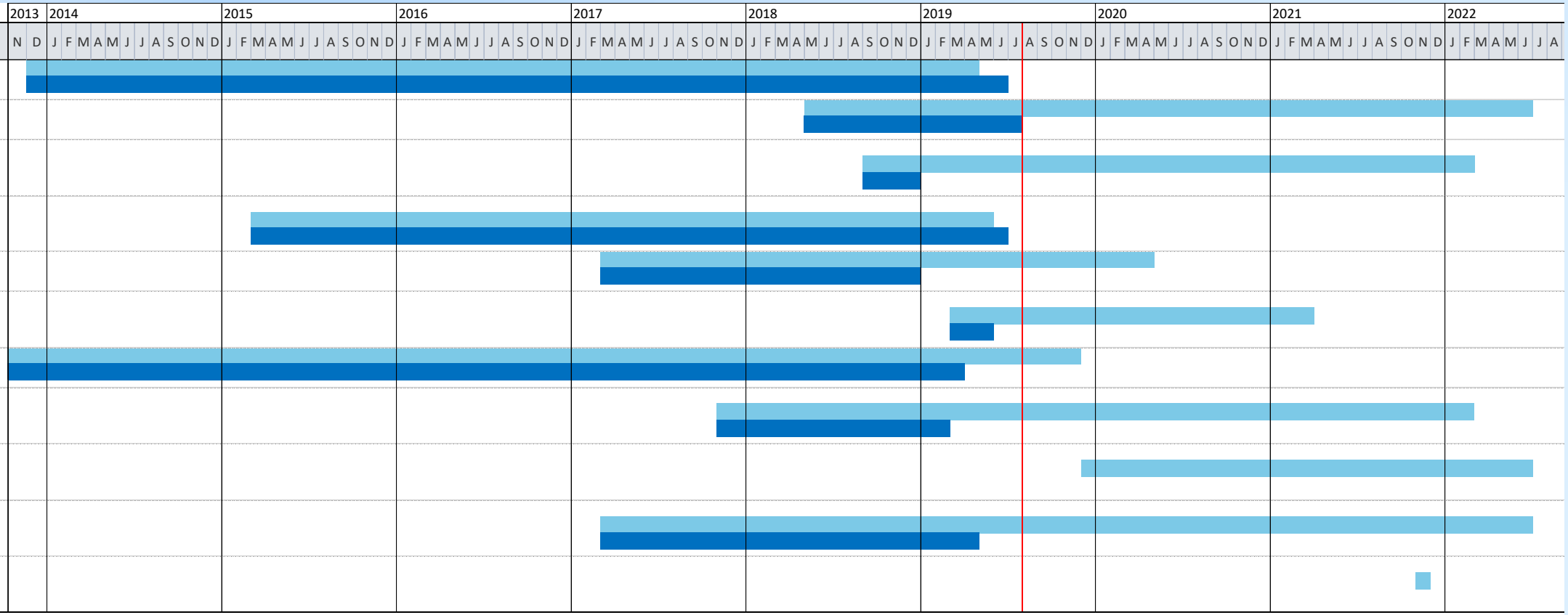
Total Expenditures = $11,067,630

DRAFT

Schedule overview

CITY OF MORRO BAY WATER RECLAMATION FACILITY PROJECT

Task No.	Task Name	SPI	% Complete
1	Program Planning		
	Current Progress	0.99	*99%*
2	Project Controls		
	Current Progress	1.00	*28%*
3	Hydrogeological Support		
	Current Progress	0.40	*9%*
4	Environmental Documentation		
	Current Progress	0.93	*93%*
5	General Permitting		
	Current Progress	0.38	*29%*
6	Potable Reuse Permitting		
	Current Progress	0.85	*12%*
7	Funding		
	Current Progress	0.88	*82%*
9	Conveyance Facilities Project		
	Current Progress	1.36	*52%*
9	Recycled Water Facilities		
	Current Progress	1.00	*0%*
10	WRF Onsite Improvements		
	Current Progress	1.15	*51%*
11	Conformance with Time Schedule Order		
	Current Progress	1.00	*0%*



Project SPI: 0.86

Program % Complete: 56%

DRAFT 4-25-18 Pub

Schedule recovery strategies

- Task 3 – Hydrogeological Support
  - Continue dicussions with Vistra to complete the necessary pump testing to characterize the west injection area
- Task 5 – General Permitting
  - Expedite design of the Conveyance Facilities to complete the CDFW permit application (i.e., Morro Creek)
  - Confirm the need for a Caltrans encroachment permit on Teresa Road
- Task 6 – Potable Reuse Permitting
  - Expedite completion of the Enhanced Source Control Plan
- Task 7 – Funding
  - Expedite signing of the WIFIA loan agreement

Recommendations

- Receive WRF Capital Project Quarterly Update Report (Q4 Fiscal Year 2018/2019) and review and provide direction, if any, as Council may deem appropriate.



Questions and Discussion

CITY OF MORRO BAY
WATER RECLAMATION FACILITY PROJECT

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AGENDA NO: C-3

MEETING DATE: August 13, 2019

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 6, 2019**

FROM: **Dana Swanson, City Clerk / Human Resources Manager**

SUBJECT: **Adoption of Resolution No. 73-19 Declaring the City's Intention to Approve CalPERS Contract Amendment and Introduction and First Reading of Ordinance No. 624 Authorizing an Amendment to the CalPERS Contract to Implement an additional 1% Cost Sharing for Local Police Members in the Morro Bay Peace Officers Association**

RECOMMENDATION

Staff recommends the City Council take the following separate actions:

1) Adopt Resolution No. 73-19 giving notice of the City's intention to approve an amendment to the contract between the City and the Board of Administration of the California Public Employees' Retirement System (CalPERS), and
2) Introduce for first reading by title only, with further reading waived, Ordinance No. 624 Authorizing an Amendment to the Contract between the City of Morro Bay and the Board of Administration of the California Public Employees' Retirement System (CalPERS) Implementing Section 20516 (Employees Sharing Additional Cost) to provide additional employee cost sharing of 1% for local police members in the Morro Bay Peace Officers Association (MB POA) for Fiscal Year 2019/20 (FY2019/20).

ALTERNATIVES

The Council may choose not to approve the proposed Resolution and Ordinance and direct staff accordingly.

FISCAL IMPACT

The estimated fiscal impact for a full fiscal year is $7,000 for benefits that are calculated on total salary.

BACKGROUND

Until very recently, the City's contract with CalPERS provided that all employees pay the full employee share toward their retirement benefit. That contribution percentage differed based on whether they are classic unit members (Tier 1 and Tier 2) or PEPRA unit members (Tier 3).

During the most recent contract negotiations between the City and the MB POA, an agreement was reached whereby its police members received a 1% Cost of Living Adjustment (COLA) increase to base salaries for FY 2018/19 and began contributing 1% of salary toward the City's share of their retirement benefits effective the first full payroll period after City Council approval of a CalPERS contract amendment. This agreement is memorialized in the MB POA MOU 2018-2020. Pursuant to this MOU, the Council adopted Ordinance No. 622 at its May 14, 2019 meeting and the 1% cost sharing for FY 2018/19 took effect June 15, 2019.

Additionally, the City and MB POA agreed to provide an additional 1% COLA increase to base salaries for all unit classifications in FY 2019/20 effective the first full payroll period after City Council approval of a second CalPERS contract amendment implementing the following additional cost sharing as specified in the MB POA 2018-2020:

> "Effective the first full payroll period in FY 2019/20 after City Council approval of a CalPERS Contract Amendment pursuant to Government Code section 20516, cost sharing shall take place as follows for classic members (Tier 1 & Tier 2) and PEPRA members (Tier 3), respectively:
>
> a. CalPERS classic Unit members (Tier 1 & Tier 2) shall pay 9% as employee contribution, plus an additional 2% as employee cost sharing, for a total employee contribution of 11%.
> b. CalPERS PEPRA Unit members (Tier 3: also referred to as CalPERS "new members") shall pay one half of total normal cost as an employee contribution, which CalPERS considers to be 13%, plus an additional 1% as employee cost sharing, for a total employee contribution of 14%."

DISCUSSION

The cost sharing arrangement for FY 2019/20 has already been agreed upon by the City and the MB POA through the MOU approved by the City Council on September 11, 2018 (Attachment 1). CalPERS required the City to provide more specificity on the agreed-to cost sharing arrangement, which the City did through the Side Letter Agreement with MB POA for Fiscal Year 2019/20 (Attachment 2). In order to proceed with amending the City's contract with CalPERS for cost sharing, CalPERS requires a Resolution of Intention and adoption of an ordinance amending the City's contract with CalPERS. This contract amendment would ultimately bring the CalPERS contract in alignment with the current adopted MOU.

As CalPERS does not allow multi-year or formula amendments for cost sharing, the City is processing this second amendment to the CalPERS contract for changes agreed to for FY 2019/20. For FY 2019/20, classic members (Tier 1 & Tier 2) agreed to pay an additional 1% to CalPERS as cost sharing, for a total classic employee contribution of 11%. PEPRA members (Tier 3) agreed to pay the statutorily mandated employee contribution rate of one half of the total normal cost or 14% of the employer cost, whichever is higher (Ref. Sections 14.1.3 and 18.5-18.6 the current MB POA MOU, provided as Attachment 1). The Side Letter Agreement with MB POA clarified that PEPRA members would pay 14%.

CONCLUSION

Staff recommends the Council adopt Resolution No. 73-19 and introduce for first reading, Ordinance No. 624 authorizing an amendment to the contract between the City and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to provide employee sharing additional cost of 1% for local police members in the Morro Bay Peace Officers Association (MB POA) for FY 2019/20 as agreed in the Successor Memorandum of Understanding approved by the City Council on September 11, 2018.

ATTACHMENTS

1) MB POA MOU 2018-2020
2) Side Letter Agreement between the City and MB POA for Fiscal Year 2019/20
3) Proposed Resolution No. 73-19
4) Proposed Ordinance No. 624

RESOLUTION NO. 70-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, APPROVING THE SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MORRO BAY AND THE MORRO BAY PEACE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1, 2018 THROUGH JUNE 30, 2020

THE CITY COUNCIL
Morro Bay, California

WHEREAS, the City of Morro Bay ("City") has, and continues to, recognize the Morro Bay Peace Officers' Association ("POA") as the sole exclusive bargaining agent for those City employees designated as being in the Law Enforcement Unit, including the classifications of Police Officer, Senior Officer, Corporal and Sergeant, for all matters concerning wages, hours and working conditions; and

WHEREAS, the most current Memorandum of Understanding ("MOU") between the City and the POA expired on June 30, 2018; and

WHEREAS, City labor relations representatives and POA representatives successfully met and conferred to negotiate a tentative agreement and successor MOU between the parties, pursuant to both the Meyers-Milias-Brown Act ("MMBA") (Government Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 08-17, and jointly prepared and executed a tentative agreement which was approved by the City Council on July 10, 2018; and

WHEREAS, Government Code Section 3505.1 provides: "If a tentative agreement is reached by the authorized representatives of the public agency and a recognized employee organization, or recognized employee organizations, the governing body shall vote to accept or reject the tentative agreement, within 30 days of the date it is first considered, at a duly noticed public meeting. If the governing body adopts the tentative agreement, the parties shall jointly prepare a written memorandum of understanding;" and

WHEREAS, City labor relations representatives and POA representatives have jointly prepared and executed the attached successor MOU between the City and the POA, for the period of July 1, 2018 through, and including, June 30, 2020 ("MBPOA MOU 2018-2020"), subject to City Council acceptance and approval, which is made a part hereof by this reference; and

WHEREAS, once approved by the City Council, the MBPOA MOU 2018-2020 will become a binding agreement between the City and the POA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AS FOLLOWS:

Section 1. The City Council hereby approves the successor MOU between the City and the POA for the period of July 1, 2018 through, and including, June 30, 2020, a copy of which is attached hereto as Exhibit A.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 11th day of September 2018, by the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson
NOES: None
ABSENT: None
ABSTAIN: None

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MORRO BAY PEACE OFFICERS ASSOCIATION

AND

THE CITY OF MORRO BAY

JULY 1, 2018 – JUNE 30, 2020

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE MORRO BAY PEACE OFFICERS' ASSOCIATION
AND THE CITY OF MORRO BAY
2018 - 2020

ARTICLE 1 - PURPOSE

WHEREAS, the City of Morro Bay is a municipal corporation, existing under the laws of the State of California as a general law city; and

WHEREAS, the City of Morro Bay is limited, insofar as funds are concerned, because of a fixed tax rate, and in structure because it is a public entity, rather than a profit-making business; and

WHEREAS, the Morro Bay Peace Officers' Association, Inc, is a California corporation, existing under the laws of the state of California; and

WHEREAS, the Morro Bay Peace Officers' Association, Inc., and the City of Morro Bay recognize that the mission and the purpose of the City is to provide high-quality and economical municipal services and facilities to the residents of the City of Morro Bay;

THEREFORE, this Memorandum of Understanding, referred to as "MOU", is entered into as of July 1, 2018, between the City of Morro Bay, referred to as "CITY," and the Morro Bay Peace Officers' Association, referred to as "ASSOCIATION."

It is the intent and purpose of this MOU to assure sound and mutually beneficial working and economic relations and conditions between the parties hereto, to provide for an orderly and peaceable method and manner of resolving any differences, which may arise, to negotiate any misunderstanding, which could arise, and to set forth herein the basic and full agreement between the parties, concerning the pay, wages, hours of employment, and other terms and conditions of employment.

ARTICLE 2 - MANAGEMENT

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

2.1.1 To manage the Police Department, and determine policies and procedures and the right to manage the affairs of the Department.

2.1.2 To determine the existence, or nonexistence, of facts which are the basis of the management decision in compliance with State law.

2.1.3 To determine the necessity, organization, implementation, and termination of any service or activity conducted by the CITY or other government jurisdiction, and to expand or diminish police services.

2.1.4 To direct, supervise, recruit, select, hire, evaluate, promote, transfer, discipline, discharge, terminate, demote, reduce, suspend, reprimand, withhold salary increases and benefits for disciplinary reasons, or otherwise discipline employees, in accordance with Department or CITY Rules, Regulations, or Ordinances.

2.1.5 To determine the nature, manner, means, extent, type, time, quantity, quality, technology, standard, and level of police services to be provided to the public.

2.1.6 To require the performance of other public safety services, not specifically stated herein, in the event of an emergency or disaster, as deemed necessary by the CITY.

2.1.7. To lay off employees of the Police Department because of lack of work or funds or under conditions where continued work would be inefficient or nonproductive or not cost effective, as determined by the CITY.

2.1.8. To determine and/or change the police facilities, methods, technology, equipment, operations to be performed, organization structure, and allocate or assign work by which the CITY police operations and services are to be conducted.

2.1.9. To determine methods of financing.

2.1.10 To plan, determine, and manage the Department's budget, which includes, but is not limited to, changes in the number of locations and types of operations, processes and materials to be used in carrying out all Police Department functions, and the right to contract or subcontract any work or operations of the Police Department.

2.1.11 To determine the size and composition of the Police Department work force, assign work to employees of the Police Department, in accordance with requirements determined by the Police Department, and to establish and require compliance to work hours and changes to work hours, work schedules, including

call back, standby, and overtime, and other work assignments, except as otherwise limited by this MOU, or subsequent MOUs.

2.1.12 To establish and modify goals and objectives, related to productivity and performance programs and standards, including, but not limited to, quality and quantity, and required compliance therewith.

2.1.13 To determine qualifications, skills, abilities, knowledge, selection procedures and standards, job classification, job specifications, and to reallocate and reclassify employees, in accordance with division and/or CITY Rules and Regulations.

2.1.14 To determine the issues of public policy and the overall goals and objectives of the Police Department, and to take necessary action to achieve the goals and objectives of the Police Department.

2.1.15 To hire, transfer intra- or inter-Department, promote, reduce in rank, demote, reallocate, terminate, and take other personnel action for non-disciplinary reasons, in accordance with Department and/or CITY Rules, Regulations and Ordinances.

2.1.16 To determine policies, procedures, and standards for recruiting, selecting, training, and promoting employees.

2.1.17 To establish, implement, and/or modify rules and regulations, policies, and procedures related to productivity, performance, efficiency, personal appearance standards, code of ethics and conduct, safety, health, and order, and to require compliance therewith.

2.1.18 To maintain order and efficiency in police facilities and operation.

2.1.19 To restrict the activity of an employee organization on CITY facilities, except as set forth in this MOU.

2.1.20 To take any and all necessary steps and actions to carry out the service requirements and mission of the CITY in emergencies or any other time deemed necessary by the CITY, and not specified above.

2.2 Nothing herein is meant to diminish CITY rights provided by the Government Code.

2.3 Nothing herein is meant to diminish the Public Safety Officers Procedural Bill of Rights Act, as set forth in the Government Code Sections 3300-3313.

2.4 AUTHORITY IF THIRD PARTY NEUTRAL - MANAGEMENT RIGHTS

All management rights, powers, authority, and functions, whether heretofore or hereinafter exercised, shall remain vested exclusively with the CITY. No third party neutral shall have the authority to diminish any of the management rights, which are included in this MOU.

ARTICLE 3 - RECOGNITION

3.1 Pursuant to Resolution No. 74-69, the Employer-Employee Relations Resolution of the City of Morro Bay and applicable State law, ASSOCIATION was designated by CITY as the representative of CITY employees in the Law Enforcement Unit (hereafter "UNIT"). The UNIT is comprised of the following classifications:

Sergeant
Corporal
Senior Officer
Police Officer

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

3.2 Employees working on a regular basis in a classified position, but less than full-time, shall receive vacation and sick leave accruals on a pro-rated basis, commensurate with hours worked. All benefits for new hires, including insurance benefits, will be allocated on a pro-rated basis commensurate with hours worked.

3.3 ELECTRONIC DEPOSIT:

All employees, hired after July 1, 1999, shall receive their pay by electronic methods. New hires must present account information for a checking or a savings account with an ACH member financial institution.

ARTICLE 4 - ASSOCIATION BUSINESS

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

It is understood that this time-off provision shall only apply to a maximum of three (3) employees attending any one meeting between the CITY and the ASSOCIATION. Where exceptional circumstances warrant, the City Manager may approve the attendance at such meetings of additional employee representatives. The ASSOCIATION shall, whenever practicable, submit the names of all employee representatives to the City Manager, or designee, at least two working days in advance of such meetings. Provided further: (1) no employee representative shall leave his or her duty or work station or assignment, without specific approval of the department head or other authorized CITY management official; and (2) any such meeting is subject to scheduling by CITY management, in a manner consistent with operating needs and work schedules.

4.2 Nothing provided herein shall limit or restrict CITY management from scheduling such meetings before or after regular CITY or work hours.

4.3 Off-duty employees will not be paid for attending meet and confer sessions, nor will over-time be paid for same.

ARTICLE 5 - AUTHORIZED AGENTS

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

5.1 The CITY's principal authorized agent shall be the City Manager, or his/her duly authorized representative (address: 595 Harbor Street, Morro Bay, CA 93442; telephone (805) 772-6201), except where a particular management representative is specifically designated in the MOU.

5.2 The ASSOCIATION's principal authorized representative shall be the President of the Association, or his/her duly authorized representative (address P. O. Box 276, Morro Bay, CA 93443).

ARTICLE 6 - ASSOCIATION DUES AND DEDUCTIONS

6.1 The ASSOCIATION may request that the CITY deduct membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the ASSOCIATION, from the wages and salaries of ASSOCIATION members. The ASSOCIATION hereby certifies that ASSOCIATION has and shall maintain all such deduction authorizations signed by the individual from whose salary or wages the deduction is to be made and shall not be required to provide a copy of an individual authorization to the CITY unless a dispute arises about the existence or terms of the authorization. Accordingly, ASSOCIATION membership dues shall be deducted each pay period in accordance with CITY procedures and provisions of applicable law from the salary of each employee whose name is provided by the ASSOCIATION. Any changes in ASSOCIATION dues must be given to the CITY a minimum of thirty (30) days prior to

change to accommodate changes to payroll. ASSOCIATION will pay the costs incurred by the CITY in order to set up the employee's deductions. After initial set up, ASSOCIATION may be charged $5 per employee to make changes to requested dues deductions.

6.2 The ASSOCIATION shall defend and indemnify, and hold harmless, the CITY, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses, or liability arising out of this Article.

6.3 DEPOSIT OF DEDUCTIONS
It is agreed that the CITY will deposit payroll deductions, made payable to credit unions in which the CITY participates, providing the ASSOCIATION makes arrangements for such services that are acceptable to both members and the CITY under the same conditions as prevails for deductions as set forth above.

ARTICLE 7 – TERM

Except as otherwise provided herein, the term of this MOU commences on July 1, 2018, and expires, and is otherwise fully terminated, on June 30, 2020.

ARTICLE 8 - RENEGOTIATIONS

The parties agree to commence renegotiations for a successor MOU for the period beginning July 1, 2020, by serving their initial written proposals by January 1, 2020, with negotiations meetings to commence no later than March 1, 2020. Should the parties be unable to reach agreement on a new contract before the current contract expires, all applicable provisions of this MOU shall remain in full force and effect until such time as a new MOU is reached, or September 30, 2020, whichever first occurs.

ARTICLE 9 - ANTI-DISCRIMINATION

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

ARTICLE 10 - WORK SCHEDULE

10.1 Alternative work schedules, in compliance with the federal Fair Labor Standards Act ("FLSA"), may be implemented upon approval of the Chief of Police. No guarantee of work, per day or per week, or of days of work per week, is implied.

The implementation of an alternate work schedule shall not incur any CITY obligation to allocate additional sworn personnel, vehicles or equipment. All deployment of sworn personnel shall ensure effective and efficient delivery of police protection to the community, sufficient to continue during times of vacation, sick leave, and Department-approved training.

10.2 OVERTIME

10.2.1 Sworn Personnel

Overtime shall be all work, authorized by management and actually worked by the employee, in excess of eighty (80) hours worked in a work period. For the purpose of defining hours worked, vacation leave and holiday leave taken shall count towards time worked, for the purpose of overtime. All overtime, as defined herein, shall be paid at one and one-half (1.5) times the employee's regular rate of pay.

NOTE: Hours spent in court under what used to be termed "Court Appearance Pay" shall be considered and paid as part of this article; except for the "minimum pay," which is now covered under Special Pay Practices.

10.2.2 Compensatory Time Off

Effective with the ratification of this MOU, Compensatory Time Off (hereinafter "CTO") shall be earned at the overtime rate of one and one-half (1.5) times the number of overtime hours, worked as defined in Articles 10.2.1 and 10.2.2. CTO may be accrued up to a maximum of 140 hours. Overtime earned, in excess of the CTO maximum accrual, shall be compensated in cash.

10.2.3 Compensatory Time Payoff

Employees may elect a payoff of up to a maximum total of 60 hours per fiscal year of accrued compensatory time. Upon 30 days' advance notice, partial or full payment will be made on the second paycheck received in March and/or on the second paycheck in September, as elected by the employee.

10.3 EMERGENCIES

10.3.1 Nothing herein shall be construed to limit or restrict the authority of management to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting an emergency.

10.3.2 Such emergency assignments shall not extend beyond the period of said emergency.

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

10.4 SHIFT ROTATION

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

ARTICLE 11 - VACATION/HOLIDAY LEAVE

NOTE: ALL LEAVE TIME (VACATION, SICK LEAVE, HOLIDAY, ETC.), WILL BE TAKEN OFF ON AN HOUR FOR HOUR BASIS EQUALING EMPLOYEE ACTUAL TIME OFF, REGARDLESS OF ACCUMULATION RATES.

11.1 VACATION

11.1.1 The following is a list of vacation annual accrual schedule by years of employment, effective retroactive to July 1, 2016 for those employees still employed by the CITY upon City Council adoption of this successor MOU:

SERVICE YEARS	VACATION ACCRUAL
1-2	88 hrs
3-4	96 hrs
5	104 hrs
6-7	112 hrs
8-9	120 hrs
10	128 hrs
11-12	136 hrs
13-14	144 hrs
15 or more	160 hrs

UNIT members hired after July 1, 2016 may be credited with years of service based upon prior law enforcement service at other agencies as determined within the sole discretion of the Police Chief and as approved by the City Manager and to be documented in both the recruit's conditional offer and the City's initial hire Personnel Action Form. Retroactive application shall be applied to those employees hired on or before the City Council's adoption of this MOU, but there shall be no increased retroactive accrual of vacation. Rather the increased accrual only applies starting July 2, 2016.

11.1.2 Employees' vacation accrual will be credited to employee on a pro-rated basis over twenty-six (26) pay periods per year.

11.1.3 In determining priority of individual members for assignment of vacation periods, "seniority within rank" shall be the primary criteria. During the month of January of each year, each employee shall submit his/her preferences for vacation time off during that calendar year. It is agreed that every effort will be made to permit UNIT members to take vacation at a time and for periods as close to members' preference as possible, consistent with the necessity for maintaining adequate manning to assure performance of police department functions. It is further agreed that every effort will be made to schedule individual vacation periods so as to maximize consecutive vacation days off, consistent with annual vacation entitlement.

11.1.4 Effective retroactive to the pay period including July 1, 2016, the maximum amount of vacation accrual will be 280 hours. When an employee reaches the maximum accrual limit of 280 hours, the employee shall cease to accrue vacation leave until the usage of vacation causes the balance to be less than 280 hours. Employees, who have a requested vacation denied or canceled within 60 days prior to reaching the 280 hour accrual maximum, shall, upon request, be given an additional 60 days following reaching the maximum to utilize vacation, prior to ceasing to accrue.

11.1.5 A UNIT employee may exercise an option to convert into cash a maximum of forty (40) hours of accrued vacation leave each fiscal year, upon 30 days' notice to payroll. Such conversion shall be computed at the employee's current base hourly rate, on an hour-per-hour basis.

11.2 HOLIDAYS

11.2.1 For the purpose of this MOU, the following days are the holidays for the employees in this UNIT:

New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veterans Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving Day	Friday after Thanksgiving
Christmas Day	December 25th
Day after Christmas	December 26th
Floating Holiday	Varies

11.2.2 Effective upon City Council adoption of this MOU, employees who work a holiday listed in 11.2.1, shall be paid one and one-half (1.5) times their base hourly rate. An employee is eligible for the one and one-half time pay only for the hours actually worked during the actual calendar holiday date as set forth in 11.2.1 above regardless of any change in City observation of same based upon the actual day of the week of the holiday. Each employee will be credited eight (8) hours Holiday leave for each holiday listed in 11.2.1 or recognized under 11.2.3, in addition to pay for time worked on that holiday. Holiday Leave hours shall be pro-rated annually and credited to employees at the rate of four hours per pay period. (For example, if a listed holiday is Sunday, and the City recognizes the holiday on Monday, the employee working the actual holiday on Sunday shall receive credit

under the code Police Holiday Worked for working the actual holiday).

11.2.3 Holidays Proclaimed by Government Officials: It is agreed that when a holiday is proclaimed by the Mayor of the CITY, then each regular member of the UNIT shall be granted compensation in the same number of hours as equivalent to the time-off granted other employees of the CITY. Such time-off shall be selected by the Police Chief.

11.2.4 Accumulated Holiday Leave may be scheduled and taken upon approval of the Police Chief, or his/her designee.

11.2.5 Employees may accumulate up to a maximum of 116 hours Holiday Leave per year. All Holiday Leave, not taken by the pay period containing December 1, shall be paid off at the employee's current rate of pay. By request only, employees may be paid for a designated amount of accumulated Holiday Leave with the pay period including June 1, upon 30 days' advance notice to Payroll. When an employee terminates employment with the CITY, employee shall receive pay for employee's current holiday balance at employee's current base hourly rate.

NOTE: Subject to maximum accrual limits, employee specified amounts of Holiday Leave may be transferred to Compensatory Time Off, upon request in December only. Payroll must be notified by November 1st.

11.3 MILITARY LEAVE

11.3.1 Military Leave will be provided pursuant to City Resolution 65-01 and Military and Veterans Code 395.03

11.4 ASSOCIATION LEAVE

11.4.1 UNIT members will be allowed to contribute accumulated compensatory, holiday, or vacation time off to a special compensatory time account for the use of ASSOCIATION executive officers. ASSOCIATION officers, or their designee(s), may, subject to all normal approvals and restrictions for time off requirements, receive up to a total of forty (40) hours per fiscal year off for attendance at meetings, seminars, etc., on behalf of the ASSOCIATION.

At no time may the ASSOCIATION compensatory time account contain more than one hundred (100) accrued hours.

The parties agree herewith to retain the option to re-open collective bargaining, with respect to this section 11.4.1, regarding the specific issue of initiating a process in which the UNIT members can donate to a time bank for ASSOCIATION business.

ARTICLE 12 - SICK LEAVE

12.1 Sick leave shall be earned at the rate of eight hours each calendar month of service. There is no limit on the amount of sick leave that may be accumulated by members of this UNIT.

12.2 Based on individual utilization of paid sick leave in the preceding calendar year, rolling backwards 365 days from the date of requested conversion, employee may convert unused accumulated sick leave into paid vacation leave once per fiscal year, pursuant to the formula below:

8 Hour Schedule	10 Hour Schedule	12 Hour Schedule	Maximum Conversion To Vacation Leave
0	0	0	48 hours
.25 to 8	.25 to 10	.25 to 12	36 hours
8.25 to 16	10.25 to 20	12.25 to 24	24 hours
16.25 to 25	20.25 to 30	24.25 to 36	12 hours
over 25	over 30	over 36	0 hours

At least 160 accrued hours must remain in employee's sick leave bank for any employee to be eligible for conversion, or for any conversion to be authorized. In addition, the right to convert, along with any conversion hours, does not carry over or rollover from fiscal year to fiscal year; failure to request conversion, in any fiscal year, eliminates the right to do so for that fiscal year, and does not permit employees to aggregate conversion hours in any other fiscal year.

12.3 At termination, unused accumulated sick leave is not compensable; however, upon retirement, may be converted to additional time, as provided by the PERS sick leave option.

ARTICLE 13 - BEREAVEMENT

Employees shall be permitted to utilize three (3) days of paid bereavement leave, per occurrence, in the case of the death of members of the employee's immediate family (as defined in the Personnel Rules), where the funeral service will be held in state and five (5) days paid bereavement leave for funeral services held out-of-state. The three or five days shall be regardless of shift length, subject to a maximum of 12 hours per day. Any necessary extra time shall be taken from the employee's accrued sick leave. In cases where sick leave is exhausted, vacation time shall be charged. Paid leave beyond the initial three or five days is subject to department approval.

ARTICLE 14 - RETIREMENT

14.1 It is the employee's obligation to contribute the employee's contribution to CalPERS. The employee shall pay his/her own contribution by payroll deduction, consistent with the provisions of 414 (h) 2 of the Internal Revenue Code.

14.1.1 For Sworn members, the current contribution rates are 9% CalPERS Safety for classic members (Tier 1 & Tier 2), 11.5% for new members (Tier 3).

14.1.2 Effective the first full payroll period after City Council approval of a CalPERS Contract Amendment pursuant to Government Code section 20516 providing for payment by classic members (Tier 1 & Tier 2) of an additional 1% to CalPERS as cost sharing for a total classic employee contribution of 10% and PEPRA members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost or 13% of the employer cost, whichever is higher.

14.1.3 Effective the first full payroll period FY 2019/20 and subject to the same conditions precedent being that the CITY meets the economic thresholds in subsection E above, and only after City Council approval of an additional CalPERS Contract Amendment pursuant to Government Code section 20516 providing for payment by classic members (Tier 1 & Tier 2) of another additional 1% to CalPERS as cost sharing for a total classic employee contribution of 11% and PEPRA members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost or 14% of the employer cost, whichever is higher

14.2 The ASSOCIATION understands and agrees that employees bear the risk of payment of any increases in the employee contribution, above the current percentage, made by action of CalPERS or the state legislature.

14.3 Parties agree that CITY payment of CalPERS contributions are made based upon tax treatment currently permitted by the State Franchise Tax Board and the IRS.

14.4 Should current tax treatment change, the ASSOCIATION and the employee shall hold harmless the CITY, its officers and agents, from any and all claims or costs of any type, including, but not limited to, liability for back taxes, arising out of this MOU, to pay part of the employee's CalPERS contribution. Should current tax treatment change, the ASSOCIATION shall have the opportunity to meet and confer, regarding any such changes.

14.5 For Sworn employees, hired prior to September 17, 2011, the CITY agrees to continue to provide CalPERS Safety employees in this UNIT with a retirement benefit program through the California Public Employees Retirement System (CalPERS) as follows:

14.5.1 3% @ 50 formula (21362.2)
14.5.2 Unused Sick Leave Credit (Section 20965)
14.5.3 Military Service Credit (Sections 21023.5, 21024 & 21027)
14.5.4 Final Compensation 1 Year (Section 20042)
14.5.5 1959 Survivor Benefit, Level 4 (Section 21574)
14.5.6 Pre-Retirement Death Benefits (Section 21548 Option 2W & 21551)
14.5.7 Retired Death Benefit $500 (Section 21620)

14.5.8 Prior service (Section 20055)
14.5.9 Public Service Credit for Periods of Layoff (Section 21022)

14.6 For Sworn employees, hired on or after September 17, 2011, and those hired on or after January 1, 2013, who meet the definition of classic member, pursuant to the California Public Employees Pension Reform Act of 2013 (PEPRA), the CITY will provide the following CalPERS formula and optional benefits:

14.6.1 3% @ 55 formula (21363.1)
14.6.2 Unused Sick Leave Credit (Section 20965)
14.6.3 Military Service Credit (Sections 21023.5, 21024 & 21027)
14.6.4 Final Compensation 3 Year (Section 20037)
14.6.5 1959 Survivor Benefit Level 4 (Section 21574)
14.6.6 Pre-Retirement Death Benefits (Section 21548 Option 2W and 21551)
14.6.7 Retired Death Benefit $500 (Section 21620)
14.6.8 Prior Service (Section 20055)
14.6.9 Public Service Credit for Periods of Layoff (Section 21022)

14.7 Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), effective January 1, 2013, Sworn employees hired, who meet the definition of new member under PEPRA and are not eligible for reciprocity, will be provided the following retirement formula and optional benefits:

14.7.1 2.7% @ 57 formula (Section 7522.25(d))
14.7.2 Unused Sick Leave Credit (Section 20965)
14.7.3 Military Service Credit (Sections 21023.5, 21024 & 21027)
14.7.4 Final compensation 3 Year (Section 20037)
14.7.5 1959 Survivor Benefit Level 4 (Section 21574)
14.7.6 Pre-Retirement Death Benefits (Section 21548 Option 2W and 21551)
14.7.7 Retired Death Benefit $500 (Section 21620)
14.7.8 Prior Service (Section 20055)
14.7.9 Public Service Credit for Periods of Layoff (Section 21022)

ARTICLE 15 - HEALTH BENEFITS

15.1 HEALTH INSURANCE

15.1.1 Effective July 1, 2018, UNIT employees shall receive a cafeteria plan contribution, including the amount required by CalPERS, as follows:

Employee only - up to $715/month or cost of insurance, whichever is less
Employee + 1 – up to $1,135/month or cost of insurance, whichever is less
Employee + family - up to $1,460/month or cost of insurance, whichever is less

15.2 DENTAL AND VISION INSURANCE:

15.2.1 During the term of this MOU, the CITY shall offer dental, life and vision insurance, and each employee shall be required to carry both dental, life and vision insurance for self. Life Insurance is provided at $50,000 per employee. The following rates are effective January 1, 2018:

	Vision	Dental	Life	Totals	City pays	EE pays
Employee only	$ 8.73	$ 55.03	$8.15	$ 71.91	$ 68.98	$ 2.93
Employee + 1	$ 16.40	$152.27	$8.15	$ 176.82	$ 165.07	$11.75
Employee + 2+	$ 23.34	$152.27	$8.15	$ 183.76	$ 171.55	$12.21

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

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

15.4 CITY contributions pursuant to this Article 15.0 shall remain effective through June 30, 2019. The CITY and ASSOCIATION agree herewith to retain the option to re-open collective bargaining, with respect to this Article 15, to discuss any health provider rate changes effective in calendar year 2019.

ARTICLE 16 - EDUCATIONAL INCENTIVES

16.1 P.O.S.T. CERTIFICATES

16.1.1 For UNIT members, hired prior to January 1, 1998, and possessing the Intermediate P.O.S.T. Certificate, CITY agrees to pay three percent (3%) over the base salary range and step schedule established for the position classification held by the UNIT member and as specified herein under Article 18, Salaries.

16.1.2 For UNIT members, hired prior to January 1, 1998 and possessing the Advanced P.O.S.T. Certificate, CITY agrees to pay six percent (6%) over the base salary range and step schedule established for the position classification held by the ASSOCIATION member and as specified herein under Article 18, Salaries.

16.1.3 For Sworn UNIT members hired on or after January 1, 1998, CITY agrees to pay $140 per month for P.O.S.T. certificates as follows:

	Intermediate	Advanced
Sergeant	$140	$140
Corporal	$140	$140
Officer	$140	$140

ARTICLE 17 - UNIFORMS

17.1 Uniforms for employees shall be as set forth in Morro Bay Police Department Policy Manual Section 1046, Uniform and Equipment Regulations and Specifications.

17.2 Newly-hired employees shall receive a full uniform issue and will receive full uniform replacement as needed until the following July 1. Effective July 1 after hire, such employees shall commence receiving an annual uniform allowance.

17.3 The following uniform articles are covered by the uniform allowance and must meet the department uniform standards:

a. Uniform pants
b. Uniform shirts - long and short sleeves
c. Dress belt
d. Ties
e. Duty jacket
f. Uniform patches

17.4 All maintenance, tailoring and other alterations will be at the employee's expense.

17.5 All optional equipment will be the responsibility of the employee.

17.6 All safety equipment originally issued and replaced by the department remains the Department's property.

17.7 The annual uniform allowance will be as follows:

Sworn officers: $ 1,150

17.8 The CITY agrees to repair or replace any personal article damaged while on duty, including uniform items as listed above, providing that such article is a reasonable and necessary part of the employee's attire.

ARTICLE 18 - SALARIES

18.1 For UNIT members employed as of July 1, 2018, the CITY will pay a one-time, lump sum signing bonus payment of $600 to be paid the next full pay period after City Council approval and adoption of this MOU. The lump sum payment shall not be PERSable compensation and shall not be treated as off-salary schedule pay as defined under Section 571 of the California Code of Regulations.

18.2 Effective retroactive to the pay period including July 1, 2018 for those employees still employed by the CITY upon City Council adoption of this MOU, Longevity Pay shall be rolled into salary for all UNIT classifications and eliminated as a separate pay item per the attached revised salary schedule.

18.3 Effective retroactive to the pay period including July 1, 2018 for those employees still employed by the CITY upon City Council adoption of this MOU, the CITY shall provide a Cost of Living Adjustment (COLA) increase to base salaries for all UNIT classification by 2% per the attached revised salary schedule.

18.4 Effective the first full payroll period after City Council approval of a CalPERS Contract Amendment ~~pursuant to Government Code section 20516 providing for payment by classic members (Tier 1 & Tier 2) of an additional 1% to CalPERS as cost sharing for a total classic employee contribution of 10% and PEPRA members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost or 13% of the employer cost, whichever is higher~~, the CITY shall provide an additional 1% COLA increase to base salaries for all UNIT classifications.

18.5 Effective July 1, 2019, the CITY shall provide a 2% COLA increase to base salaries for all UNIT classifications with a condition precedent being that the CITY meets the following economic thresholds on three key revenue sources (Property Tax, Sales Tax and TOT) based on 10-year budget forecasts shown below:

- Total major General Fund Revenues (Property Tax, Sales Tax and Transient Occupancy Tax) meet or exceed the combined forecasted amount of $9,395,906 (matches 10-year forecast presented to City Council in February 2017). These figures are based on current tax rates. Increased tax rates would not count towards increased revenue receipts for this purpose (currently 1% Property Tax, 1.0% CITY Sales Tax, 10% TOT). The revenue projections serving as economic thresholds for purposes of this Section 18.5 are depicted in the following table:

COLA Year Affected	FY19-20
Combined Receipts Forecast	FY18-19 Forecast
Property Tax	3,034,754
Property Tax In-Lieu (VLFAA)	1,037,401
Subtotal Property Tax	4,072,155
Sales Tax (local & triple-flip)	1,745,439
Sales Tax (Prop 172-Safety)	123,525
Subtotal Sales Tax	1,868,964
Transient Occupancy Tax	3,454,787
Combined Total Threshold	$9,395,906

- The CalPERS investment rate of return (i.e. "Discount Rate") to take effect in FY18-19 does not drop below the rates announced by CalPERS on December 22, 2016, causing the CITY's contribution to CalPERS to increase more than $100,000 beyond the current budgeted amounts for the General Fund.

- The CITY does not become responsible, during FY17-18, for any state/federally imposed unfunded mandates from any external source(s) that require significant unplanned/ un-forecasted General Fund expenditure(s) of more than $300,000 in a fiscal year, including significant natural disasters affecting the CITY. Any such expenditure will be counted as a reduction in the combined revenue amount discussed in this section on which the various conditions are based, resulting either in a lower employee bonus or reduction in the intended COLA increase to 1% or 0%.

- For timing purposes, the COLA adjustment shall take effect on July 1, 2019 if the CITY determines, based on revenues received as of June 1, 2019, that it is reasonable to assume the combined receipts will meet or exceed the stated thresholds. If meeting the stated threshold is not a reasonable assumption as of June 1, 2019, then the parties agree to wait for actual receipts to be posted which are normally by the end of August. If the thresholds are met at the time actual receipts are received, then the CITY agrees to implement the 2% COLA retroactive to July 1, 2019.

- If total major General Fund Revenues are less than $71,000 below the forecasted amount (i.e. more than $9,322,906), then the COLA will still be 2%, effective July 1, 2019. If total major General Fund Revenues are between $71,000 and $141,000 below the forecasted amount (i.e. between $9,253,907 - $9,335,194), then the COLA will be 1% effective July 1, 2019. If total major General Fund Revenues are $142,000 or more below the forecasted amount (i.e. less than $9,253,906), then there will be no COLA effective July 1, 2019.

- If the conditions precedent described above are satisfied, and total major General Fund Revenues for FY 2018/19 are above forecast, then in addition to the 2% COLA, 20% of the amount above the forecast amount will be divided equally by the number of full-time equivalent (FTE) employees then working at the CITY and paid to UNIT members in the form of a one-time lump sum payment which shall not be PERSable compensation and shall not be treated as off-salary schedule pay as defined under Section 571 of the California Code of Regulations.

18.6 Effective the first full payroll period FY 2019/20 and subject to the same conditions precedent being that the CITY meets the economic thresholds in subsection 18.5 above, and only after City Council approval of an additional CalPERS Contract ~~Amendment pursuant to Government Code section 20516 providing for payment by classic members (Tier 1 & Tier 2) of another additional 1% to CalPERS as cost sharing for a total classic employee contribution of 11% and PEPRA members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost or 14% of the employer cost, whichever is higher~~, the CITY shall provide an additional 1% COLA increase to base salaries for all UNIT classifications.

ARTICLE 19 - SPECIAL PAY PRACTICES

19.1 STANDBY

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

1. Be ready to respond immediately to a call for service;

2. Be readily available at all hours by telephone or other agreed-upon communication equipment; and

3. Refrain from activities which might impair his/her assigned duties upon call.

The parties agree that employees on standby as defined above, are "waiting to be engaged."

19.1.2 Regardless of any hours actually worked, employees on standby shall be compensated for two (2) hours computed at their straight hourly base rate per twenty-four (24) hours of authorized standby time (e.g., 2 hours standby + actual time worked).

The twenty-four (24) hours' time period is defined as 0700 hours to 0659 hours the following day.

Subject to the maximum accrual provisions of Section 10.2.3, employees may elect to receive two (2) straight time compensatory time off hours in lieu of paid standby compensation.

19.1.3 Court standby – Employees on court standby will receive two (2) hours computed at their straight hourly base rate to be available for court callback on off duty days. Subject to the maximum accrual provisions of Section 10.2.3 employees may elect to receive two (2) straight time compensatory time off hours in lieu of court standby compensation.

19.2 CALL BACK

19.2.1 Call back is defined as that circumstance which requires an employee to unexpectedly return to work after the employee has left work at the end of the employee's work shift or work week; except that, an early call in of up to two (2) hours prior to the scheduled start of a work shift shall not constitute a call back; or, employee is required for off-duty court appearance.

19.2.2 Required off-duty court appearance. Employees called back shall receive either a two (2) hour minimum computed at straight hourly base rate or pay for all time

actually worked, whichever is greater. An employee shall not receive overlapping minimums.

19.2.3 An employee shall not receive standby pay for the same hours he/she received callback pay.

19.3 OUT OF CLASS ASSIGNMENT

19.3.1 The term "out-of-class assignment" shall be defined as the full-time performance of the significant duties of a vacant, funded position in one classification by an individual in a classification with a lower compensation range.

19.3.2 If an employee is required to work in an out-of-class assignment for more than fifteen (15) workdays, within a calendar month his/her department head shall, with prior approval of the Administrative Services Director, make an acting appointment. Such acting appointment shall be effective on the sixteenth (16th) workday within a calendar month of the out-of-class assignment.

19.3.3 An employee on an acting appointment shall receive a one (1) step increase within the employee's current classification salary as provided by CITY's Personnel Rules and Regulations. In the absence of available steps within his/her current range, the employee shall be granted a five percent (5%) increase above his/her current base salary.

19.4 BILINGUAL PAY

Qualified employees who possess the necessary ability and who are assigned to perform services as an interpreter in Spanish, shall be eligible for additional stipend depending upon the employee's level of bilingual expertise. Qualifications shall be determined by the CITY.

19.5.1 For those employees who conduct conversational assistance in Spanish on a regular basis, seventy-five dollars ($75) per month stipend is available.

19.5.2 For those employees who interpret and explain legal documents, conduct conversational assistance, and write documents for those persons who speak only Spanish, One Hundred Fifty dollars ($150) per month stipend shall be available.

19.5 FIELD TRAINING OFFICER (FTO) ASSIGNMENT PAY

Individuals, in the classification of Police Officer formally assigned a trainee by the Chief of Police, or his/her designee, shall be compensated at the rate of 5% of base hourly rate. Compensation will be paid only when acting as FTO.

19.6 SENIOR OFFICER ASSIGNMENT PAY

Up to four (4) individuals may be assigned as Senior Police Officers. This assignment is not a permanent promotion to a higher classification. Continuation in the assignment is based on an annual performance evaluation of "Meets Satisfactory Performance Standards," as well as at the discretion of the Chief of Police. Senior Police Officers will be compensated at the rate of 5% above base pay for the term of the assignment. While receiving Senior Officer Assignment pay, employees are not eligible for FTO pay.

Incumbents in the Corporal classification will maintain status in the Corporal class, and maintain the terms and conditions of the classification as they existed at the time of their promotion; however, if the incumbents in the Corporal classification leave the positions (due to promotion, retirement, etc.), the Corporal classification revert to assignments of Senior Officers as provided above.

No individual may be concurrently assigned as both a Senior Officer and Detective.

19.7 DETECTIVE ASSIGNMENT PAY

Up to two individuals may be assigned as Detectives. The Detective assignment is not a permanent promotion to a higher classification. Continuation in the assignment is based on an annual performance evaluation of "Meets Satisfactory Performance Standards" as well as at the discretion of the Chief of Police. Detectives will be compensated at the rate of 5% above base pay for the term of the assignment.

Incumbent Corporals may apply for, and be appointed to the Detective assignment. If appointed, Corporals will maintain status in the Corporal class and maintain the terms and conditions of the classification as they existed at the time of their promotion. When the Detective assignment ends, the Corporal may be placed into a Senior Officer assignment or a regular officer position; still in the Corporal classification with the terms and conditions of the Corporal classification being maintained.

Any individual concurrently assigned as both a Corporal and Detective shall for compensation pay purposes only receive the Corporal salary and no additional compensation for being assigned as a Detective.

19.7.1 SCHOOL RESOURCE OFFICER (SRO) ASSIGNMENT PAY

The SRO assignment is not a permanent promotion to a higher classification. Continuation in the assignment is based on an annual performance evaluation of "Meets Satisfactory Performance Standards," as well as at the discretion of the Chief of Police.

SRO will be compensated at the rate of 5% above base pay for the term of the assignment, and will be responsible for juvenile investigations, as assigned.

19.8 NIGHT SHIFT DIFFERENTIAL

Sworn employees in this UNIT will receive 2.5% of base hourly pay for each hour worked between the hours of 7:00 p.m. and 7:00 a.m.

19.9 CANINE CARE PAY

An employee who is assigned a City canine, as part of a drug detection search program or a service dog program, and who boards the canine at his/her home, shall be paid $13.50 per hour (hereinafter, the "canine care pay rate") for all time the employee spends outside of regular work hours on the care of the assigned canine. Compensable canine care activities include feeding, grooming, exercising, cleaning up, obtaining veterinarian services or caring for any injuries, and shall not include other time spent with the canine (e.g., commute time, as a family pet, etc.). Employees, subject to this provision, shall not receive on-call pay or call back pay for any time spent in the care of the assigned canine. The residence of the employee, assigned a City canine, shall not constitute the employee's work place. Travel (commute) time, from the employee's home to the assigned work site, or from the assigned work site to the employee's home, with the canine, shall not be considered time worked or care of the canine.

It is estimated and agreed that the officers spend one-half hour per day outside of regular work hours on compensable canine care activities. Off duty time spent on compensable canine care tasks shall be considered actual hours worked. These hours will be paid at the rate of 1.5 times the canine care pay rate ($20.25).

ARTICLE 20 - BULLETIN BOARD

20.1 CITY agrees to furnish space for ASSOCIATION-purchased bulletin boards of reasonable size for the posting of ASSOCIATION material. Location of such bulletin boards shall be at the Police Station in an area commonly used for briefings or meetings.

20.2 ASSOCIATION agrees it shall not use bulletin boards to ridicule, defame, or harass any CITY employees, officer or agent.

ARTICLE 21 - PROBATIONARY PERIOD

The probationary period for new officers and lateral hires shall be 12 months.

ARTICLE 22 - DRUG AND ALCOHOL TESTING

ASSOCIATION agrees to the terms of the Substance Abuse and Testing Policy adopted by the Morro Bay City Council pursuant to Resolution No. 14-99.

ARTICLE 23 - GRIEVANCE PROCEDURE

23.1 The ASSOCIATION agrees that whenever investigation or processing of a grievance is to be transacted during working hours, only the amount of time necessary to bring about a prompt disposition of the matter will be utilized. It is further agreed that the time spent on an investigation and processing of grievances will not interfere with the normal operation of the department. CITY agrees to provide every reasonable amount of time for the investigation and the processing of a grievance, but by so agreeing does not imply that the processing or investigation of a grievance shall take priority over normal functions of the department.

CITY further agrees that any payment of overtime arising because of UNIT personnel's involvement in grievance investigation or processing shall not be authorized. Time spent on the investigation and processing of grievances will be recorded on a form provided by CITY. Stewards will be permitted reasonable time-off with pay for the investigation and processing of grievances provided, however, stewards shall first obtain permission from the department head and/or his/her designee and inform him/her of the nature of his/her business. CITY shall grant such permission promptly unless such absence would cause an undue interruption of work or would require the CITY to pay overtime in order to maintain the normal operation of the department.

Upon entering the work location, the steward shall inform the department head and supervisor of the nature of his/her business. Permission to leave a job will be granted to the employee involved unless such absence would cause an interruption of work. If the employee cannot be made available, the steward will seek an alternate time for employee availability with the department head or supervisor.

It is agreed that in some instances the investigation and processing of a grievance may be accomplished on the employee's time. This MOU is in recognition of the mutual sharing of costs involved in the handling of employee-initiated actions.

23.2 PURPOSE

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

23.3 ASSOCIATION REPRESENTATIVE

The CITY agrees that the ASSOCIATION may designate a representative to represent employees in the processing of grievances. The ASSOCIATION shall furnish the City Manager with a written list identifying by name and work location all regular and alternate representatives and the list shall be kept current by the ASSOCIATION at all times. The representatives are to begin investigating grievances only after the employee has tried to resolve the problem with his/her immediate supervisor and the two parties have failed to reach resolution of the problem.

23.4 PROCEDURE

Procedures shall be in accordance with Resolution No. 46-74 and any amendments thereto.

ARTICLE 24 - NO STRIKE, SLOW-DOWN OR OTHER INTERRUPTION TO WORK

24.1 ASSOCIATION agrees not to cause, authorize, advise, encourage or participate in any interruption of work or any other concerted action. The term "interruption of work" shall mean any work stoppage or strike (including economic and unfair labor practice strikes) or any intentional slow-down of work. The term "other concerted action" includes picketing or boycott activities by the ASSOCIATION.

24.2 Participation by any employee in any activity resulting in interruption of work or other concerted action or use of paid or unpaid leave for these purposes shall subject employee to disciplinary action, up to and including, discharge. When the City Manager has reason to believe that such leave is being used as a method of interruption work, the burden of proof of illness is upon the employee. Doctor's statements can be required in accordance with Resolution No. 34-83, Personnel Rules & Regulations, Section 13.B.4.

ARTICLE 25 - FULL UNDERSTANDING, MODIFICATION, WAIVER

25.1 This MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

25.2 It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein.

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

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

ARTICLE 26 - SEVERABILITY

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

ARTICLE 27 – JOINT DRAFTING

Each party has cooperated in the drafting and preparation of this MOU. Hence, in any legal construction or interpretation to be made of this MOU, the same shall not be construed against any party.

ARTICLE 28 – CITY COUNCIL APPROVAL

The CITY's labor relations representatives and the ASSOCIATION's representatives have met and conferred in good faith on wages, hours and other terms and conditions of employment for the unit members represented by the ASSOCIATION and have reached agreements which are set forth in this MOU. This MOU, when executed by the CITY's labor relations representatives and the ASSOCIATION representatives, constitutes a joint recommendation therefrom, after ratification of the ASSOCIATION membership, to be submitted to the City Council for its determination and approval by resolution, as the City Council may deem fit and proper. This MOU is of no force or effect unless or until approved and adopted by a resolution of the City Council.

[SIGNATURES ON NEXT PAGE]

MORRO BAY PEACE OFFICERS' ASSN.

William Marvos, President

Stephen Leonesio, Chief Labor Negotiator

Maria Lomeli, Employee Representative

Gene Stuart, Employee Representative

CITY OF MORRO BAY

Scott Collins, City Manager

Colin Tanner, Labor Negotiator

Dana Swanson, City Clerk/ Risk Manager

Laurie Goforth, Human Resources Analyst

MORRO BAY PEACE OFFICERS' ASSN.	CITY OF MORRO BAY
William Marvos, President	Scott Collins, City Manager
Stephen Leonesio, Chief Labor Negotiator	Colin Tanner, Labor Negotiator
Maria Lomeli, Employee Representative	Dana Swanson, City Clerk/ Risk Manager
Gene Stuart, Employee Representative	Laurie Goforth, Human Resources Analyst

ATTACHMENT A

POLICE SALARY SCHEDULE

POSITION	ANNUAL COMPENSATION RANGE 1	2	3	4	5	6
Sergeant	$ 78,089	$ 81,993	$ 86,093	$ 90,398	$ 94,918	$ 99,664
Corporal	$ 66,357	$ 69,675	$ 73,159	$ 76,817	$ 80,658	$ 84,691
Special Assignments: Detective School Resource Officer Senior Officer	$ 65,747	$ 69,034	$ 72,486	$ 76,111	$ 79,916	$ 83,912
Police Officer	$ 62,616	$ 65,746	$ 69,034	$ 72,485	$ 76,110	$ 79,915

SIDE LETTER AGREEMENT BETWEEN

THE CITY OF MORRO BAY

AND

THE MORRO BAY PEACE OFFICERS' ASSOCIATION

CLARIFYING COST SHARING FOR FISCAL YEAR 2019-20

SIDE LETTER AGREEMENT BETWEEN THE CITY OF MORRO BAY, AND THE MORRO BAY PEACE OFFICERS' ASSOCIATION, CLARIFYING COST SHARING FOR FISCAL YEAR 2019-20

PREAMBLE

The existing Memorandum of Understanding ("MBPOA MOU 2018-2020") between the City of Morro Bay ("City"), a municipal corporation, and the authorized representatives of the Morro Bay Peace Officers' Association ("MBPOA"), the recognized employee organization representing the City's Law Enforcement Unit ("Unit"), provides that the City will initiate a contract amendment with the California Public Employees' Retirement System ("CalPERS") in order to facilitate cost sharing in accordance with Government Code §20516.

The City was previously informed by CalPERS that in order to proceed with cost sharing by CalPERS contract amendment pursuant to Government Code §20516, the cost sharing language of the MBPOA MOU 2018-2020 would require clarification. Accordingly, in order to proceed with cost sharing for fiscal year 2018-2019, the City and MBPOA entered into a side letter agreement on October 17, 2018. Subsequently, by the adoption of Ordinance No. 622 on May 14, 2019, the City amended its CalPERS contract, effective June 15, 2019, to reflect the cost sharing arrangement with the MBPOA for fiscal year 2018-2019.

With respect to cost sharing in fiscal year 2019-20, section 14.1.3 of the MBPOA MOU 2018-2020 provides as follows:

> "Effective the first full payroll period FY 2019/20 and subject to the same conditions precedent being that CITY meets the economic thresholds in subsection E above, and only after City Council approval of an additional CalPERS Contract Amendment pursuant to Government Code section 20516 providing for payment by classic members (Tier 1 & Tier 2) of another additional 1% to CalPERS as cost sharing for a total classic employee contribution of 11% and PEPRA members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost or 14% of the employer cost, whichever is higher."

This Side Letter Agreement is intended facilitate the CalPERS contract amendment process by clarifying the specific cost sharing arrangement that will apply for fiscal year 2019-20 for Unit members, consistent with the terms of the MBPOA MOU 2018-2020. Specifically, with respect to new CalPERS members, as 14% is higher than one half of total normal cost, which CalPERS considers to be 13%, these employees will pay the statutorily mandated employee contribution of 13%, plus 1% as cost sharing, for a total employee contribution of 14%.

In accordance with Chapter 10 (Section 3500 *et seq.*) of Division 4, Title 1 of the Government Code, the parties have met and conferred regarding the issue of cost sharing for fiscal year 2019-20 and have reached the following agreement.

AGREEMENT

1. The City and MPBPOA agree that, effective after the first full payroll period after City Council approval of a CalPERS Contract Amendment pursuant to

Government Code section 20516, cost sharing shall take place as follows for classic members (Tier 1 & Tier 2) and PEPRA members (Tier 3), respectively:

a. CalPERS classic Unit members (Tier 1 & Tier 2) shall pay 9% as employee contribution, plus an additional 2% as employee cost sharing, for a total employee contribution of 11%.

b. CalPERS PEPRA Unit members (Tier 3; also referred to as CalPERS "new members") shall pay one half of total normal cost as an employee contribution, which CalPERS considers to be 13%, plus an additional 1% as employee cost sharing, for a total employee contribution of 14%.

2. This cost sharing arrangement shall only be applicable to members of the City's Law Enforcement Unit, who are covered by the MBPOA MOU 2018-2020 and represented by the Morro Bay Peace Officers' Association.

3. This Side Letter agreement shall expire automatically and shall be of no force or effect upon the adoption of a successor MOU to the MBPOA MOU 2018-2020.

4. All terms and conditions of the expired MBPOA MOU 2018-2020 shall continue in full force and effect and are only supplemented by the terms reached herein.

5. This Side Letter Agreement shall have no force or effect unless or until approved and signed by the represented parties below.

In witness whereof, the parties have caused their signatures to be affixed this 27 day of June, 2019.

MORRO BAY PEACE OFFICERS' ASSN.

William Marvos, President

CITY OF MORRO BAY

Scott Collins, City Manager

RESOLUTION NO. 73-19

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DECLARING THE CITY'S INTENTION TO APPROVE AN AMENDMENT
TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE CITY OF MORRO BAY**

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

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Cost) of an additional 1% for local police members in the Morro Bay Peace Officers Association.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay, California does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of August 2019 by the following vote:

AYES:
NOES:
ABSENT:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the Board of Administration California Public Employees' Retirement System and the City Council City of Morro Bay

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective 7/1/1965, and witnessed June 1, 1965, and as amended effective August 15, 1981, November 19, 1983, January 7, 1989, June 24, 1989, June 22, 1991, June 10, 1994, June 9, 1998, October 17, 1998, April 13, 2000, June 22, 2002, September 13, 2002, June 21, 2003, September 27, 2003, July 1, 2006, June 2, 2007, May 31, 2008, March 19, 2011, September 17, 2011, December 10, 2011, and June 15, 2019 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 19 are hereby stricken from said contract as executed effective June 15, 2019, and hereby replaced by the following paragraphs numbered 1 through 19 inclusive:

PLEASE DO NOT SIGN "EXHIBIT ONLY"

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members entering membership in the miscellaneous classification on or prior December 10, 2011, age 60 for classic local miscellaneous members entering membership in the miscellaneous classification after December 10, 2011, age 62 for new local miscellaneous members, age 50 for classic local fire members entering membership in the fire classification on or prior to March 19, 2011, and for those classic local police members entering membership in the police classification on or prior to September 17, 2011; age 55 for classic local fire members entering membership for the first time in the fire classification after March 19, 2011 and for those classic local police members entering membership for the first time in police classification after September 17, 2011 and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1965 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

(c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

a. Local Fire Fighters (herein referred to as local safety members);

b. Local Police Officers (herein referred to as local safety members);

c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

a. ELECTED OFFICIALS;

b. APPOINTIVE COMMISSIONS ; AND

c. PERSONS COMPENSATED ON AN HOURLY BASIS.

6. This contract shall be a continuation of the benefits of the contract of the Morro Bay Fire District, hereinafter referred to as "Former Agency", pursuant to Section 20508 of the Government Code, Former Agency having ceased to exist and succeeded by Public Agency on July 1, 1965. Public Agency, by this contract, assumes the accumulated contributions and assets derived therefrom and liability for prior and current service under Former Agency's contract with respect to the Former Agency's employees. Legislation repealed Section 20508, Statutes of 1949, effective January 1, 1988.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after September 27, 2003 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after September 27, 2003 and not entering membership for the first time in the miscellaneous classification after December 10, 2011 shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).

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9. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after December 10, 2011 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).

11. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member entering membership in the fire classification on or prior to March 19, 2011 and for those classic local police members entering membership in the police classification on or prior to September 17, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

12. The percentage of final compensation to be provided for each year of credited current service as a classic local fire member entering membership for the first time in the fire classification after March 19, 2011 and for those classic local police members entering membership for the first time in the police classification after September 17, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).

13. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).

14. Public Agency elected and elects to be subject to the following optional provisions:

    a. Section 20965 (Credit for Unused Sick Leave).

    b. Section 20042 (One-Year Final Compensation) for classic local fire members entering membership on or prior to March 19, 2011; those classic local police members entering membership on or prior to September 17, 2011 and for those classic local miscellaneous members entering membership on or prior to December 10, 2011.

    c. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members and local police members only.

    d. Section 21574 (Fourth Level of 1959 Survivor Benefits).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

e. Section 20423 ("Local Safety Member" shall include Harbor or Port Police Officers as described in Government Code Section 20423).

f. Section 21027 (Military Service Credit for Retired Persons) for local police members only.

g. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local fire members entering membership for the first time with this agency in the fire classification after March 19, 2011.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after September 17, 2011.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after December10, 2011.

h. Section 20516 (Employees Sharing Additional Cost):

From and after June 15, 2019 and until the effective date of this amendment to contract, 1% for local police members in the Morro Bay Peace Officers' Association.

From and after the effective date of this amendment to contract, 2% for local police members in the Morro Bay Peace Officers' Association.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

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15. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on August 15, 1981. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

16. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

17. Public Agency shall also contribute to said Retirement System as follows:

    a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safey members.

    b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

    c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

18. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

19. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MORRO BAY

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"
PLEASE DO NOT SIGN "EXHIBIT ONLY"

ORDINANCE NO. 624

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE
CITY OF MORRO BAY AND THE BOARD OF ADMINISTRATION OF THE
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
IMPLEMENTING SECTION 20516 (EMPLOYEES SHARING ADDITIONAL COST) FOR
LOCAL POLICE MEMBERS IN THE MORRO BAY PEACE OFFICERS ASSOCIATION**

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

THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DOES HEREBY FIND AND ORDAIN AS FOLLOWS:

SECTION 1. CONTRACT AMENDMENT. That an amendment to the contract between the City Council of the City of Morro Bay and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

SECTION 2. EXECUTION. The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency, with the effective date of the amendment being October 19, 2019.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and take effect 30 days after the date of its adoption, and prior to the expiration of 10 days from the passage thereof shall be published at least once in the New Times SLO, a newspaper of general circulation, published and circulated in San Luis Obispo County and thenceforth and thereafter the same shall be in full force and effect.

SECTION 4. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

INTRODUCED at a regular meeting of the City Council held on the 13th day of August 2019, by motion of Council Member _____ and seconded by Council Member _____.

PASSED AND ADOPTED on the _____ day of September 2019, by the following vote:

AYES:
NOES:
ABSENT:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

_____
CHRIS F. NEUMEYER, City Attorney

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the Board of Administration California Public Employees' Retirement System and the City Council City of Morro Bay

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective 7/1/1965, and witnessed June 1, 1965, and as amended effective August 15, 1981, November 19, 1983, January 7, 1989, June 24, 1989, June 22, 1991, June 10, 1994, June 9, 1998, October 17, 1998, April 13, 2000, June 22, 2002, September 13, 2002, June 21, 2003, September 27, 2003, July 1, 2006, June 2, 2007, May 31, 2008, March 19, 2011, September 17, 2011, December 10, 2011, and June 15, 2019 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 19 are hereby stricken from said contract as executed effective June 15, 2019, and hereby replaced by the following paragraphs numbered 1 through 19 inclusive:

PLEASE DO NOT SIGN "EXHIBIT ONLY"

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members entering membership in the miscellaneous classification on or prior December 10, 2011, age 60 for classic local miscellaneous members entering membership in the miscellaneous classification after December 10, 2011, age 62 for new local miscellaneous members, age 50 for classic local fire members entering membership in the fire classification on or prior to March 19, 2011, and for those classic local police members entering membership in the police classification on or prior to September 17, 2011; age 55 for classic local fire members entering membership for the first time in the fire classification after March 19, 2011 and for those classic local police members entering membership for the first time in police classification after September 17, 2011 and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1965 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.

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(c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

a. Local Fire Fighters (herein referred to as local safety members);

b. Local Police Officers (herein referred to as local safety members);

c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

a. ELECTED OFFICIALS;

b. APPOINTIVE COMMISSIONS ; AND

c. PERSONS COMPENSATED ON AN HOURLY BASIS.

6. This contract shall be a continuation of the benefits of the contract of the Morro Bay Fire District, hereinafter referred to as "Former Agency", pursuant to Section 20508 of the Government Code, Former Agency having ceased to exist and succeeded by Public Agency on July 1, 1965. Public Agency, by this contract, assumes the accumulated contributions and assets derived therefrom and liability for prior and current service under Former Agency's contract with respect to the Former Agency's employees. Legislation repealed Section 20508, Statutes of 1949, effective January 1, 1988.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after September 27, 2003 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after September 27, 2003 and not entering membership for the first time in the miscellaneous classification after December 10, 2011 shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).

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9. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after December 10, 2011 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).

11. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member entering membership in the fire classification on or prior to March 19, 2011 and for those classic local police members entering membership in the police classification on or prior to September 17, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

12. The percentage of final compensation to be provided for each year of credited current service as a classic local fire member entering membership for the first time in the fire classification after March 19, 2011 and for those classic local police members entering membership for the first time in the police classification after September 17, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).

13. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).

14. Public Agency elected and elects to be subject to the following optional provisions:

    a. Section 20965 (Credit for Unused Sick Leave).

    b. Section 20042 (One-Year Final Compensation) for classic local fire members entering membership on or prior to March 19, 2011; those classic local police members entering membership on or prior to September 17, 2011 and for those classic local miscellaneous members entering membership on or prior to December 10, 2011.

    c. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members and local police members only.

    d. Section 21574 (Fourth Level of 1959 Survivor Benefits).

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e. Section 20423 ("Local Safety Member" shall include Harbor or Port Police Officers as described in Government Code Section 20423).

f. Section 21027 (Military Service Credit for Retired Persons) for local police members only.

g. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local fire members entering membership for the first time with this agency in the fire classification after March 19, 2011.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after September 17, 2011.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after December10, 2011.

h. Section 20516 (Employees Sharing Additional Cost):

From and after June 15, 2019 and until the effective date of this amendment to contract, 1% for local police members in the Morro Bay Peace Officers' Association.

From and after the effective date of this amendment to contract, 2% for local police members in the Morro Bay Peace Officers' Association.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

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15. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on August 15, 1981. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

16. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

17. Public Agency shall also contribute to said Retirement System as follows:

    a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safey members.

    b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

    c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

18. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

19. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MORRO BAY

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

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