



# CITY OF MORRO BAY SPECIAL HARBOR ADVISORY BOARD NOTICE OF SPECIAL MEETING

*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.*

## **SPECIAL MEETING AGENDA** **Thursday, June 25, 2020 – 5:30 P.M.** **Held Via Teleconference**

Ron Reisner, Chair	Marine Oriented Business
Mark Blackford, Vice Chair	Member at Large
Lynn Meissen,	Member at Large
Gene Doughty	South Bay/Los Osos
Cherise Hansson	Waterfront Leaseholders
Dana McClish	Recreational Boating
Jeremiah O'Brien	Morro Bay Commercial Fishermen's Organization
Peter Griffin	Alternate to Jeremiah O'Brien (MBCFO)
Owen Hackleman	Alternate to Jeremiah O'Brien (MBCFO)

### ESTABLISH QUORUM AND CALL TO ORDER

### PUBLIC COMMENT FOR ITEMS ON THE AGENDA

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this Meeting will be conducted telephonically through Zoom and broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view). Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Veterans' Hall will not be open for the meeting.*

### **Public Participation:**

*In order to prevent and mitigate the effects of the COVID-19 pandemic, and limit potential spread within the City of Morro Bay, in accordance with Executive Order N-29-20, the City will not make available a physical location from which members of the public may observe the meeting and offer public comment. Remote public participation is allowed in the following ways:*

- *Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the Harbor office at [lstilts@morrobayca.gov](mailto:lstilts@morrobayca.gov) prior to the meeting and will be published on the City website with a final update one hour prior to the meeting start time. Agenda correspondence received less than an hour before the meeting start time may not be posted until after the meeting.*
- *Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).*
- *Alternatively, members of the public may watch the meeting and speak on a specific agenda item by logging in to the Zoom webinar at the **beginning** of the meeting using the information provided below. Please use the "**raise hand**" feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.*

*Please click the link below to join the webinar:*

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHIRtK9xaTImWVNWRWFUQT09>

Password: 135692

- Or Telephone Attendee: (408) 638-0968 or (669) 900 6833 or (346) 248 7799;  
Webinar ID: 827 2274 7698; Password: 135692; Press \* 9 to "Raise Hand" for  
Public Comment

SPECIAL MEETING AGENDA ITEM

- I. UPDATE FROM THE FINANCE & BUDGET AD-HOC COMMITTEE ON COMMITTEE'S RECENT ACTIVITIES, INCLUDING REVIEW AND INPUT ON HARBOR CAPITAL AND OPERATIONAL NEEDS

**RECOMMENDATION:**

**Receive and file committee and staff report, and provide staff input on capital and operational budget prioritization as-indicated.**

- II. REPORT ON THE STATUS OF THE FY 19/20 AND CURRENT DRAFT FY 20/21 HARBOR DEPARTMENT BUDGETS, ECONOMIC IMPACTS OF THE COVID-19 PANDEMIC SOCIAL AND BUSINESS SHUTDOWNS TO THE HARBOR DEPARTMENT BUDGETS, AND CURRENT INITIATIVES AND PROGRAMS TO ASSIST WATERFRONT LEASEHOLDERS EXPERIENCING RENT PAYMENT ISSUES

**RECOMMENDATION:**

**Receive and file report.**

- III. UPDATE ON HARBOR DEPARTMENT LEASE MANAGEMENT POLICY UPDATE PROCESS, AND DISCUSSION OF NEXT STEPS IN THE LEASE POLICY UPDATE PROCESS

**RECOMMENDATION:**

**Receive and file update, and provide staff input on Lease Management Policy next steps as-indicated.**

A. ADJOURNMENT

DATED: June 18, 2020



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Ron Reisner, Chair

This agenda is subject to amendment up to 24 hours prior to the date and time set for the meeting. Please refer to the agenda posted at the Morro Bay Harbor Department, 1275 Embarcadero, for any revisions or call the department at 772-6254 for further information.

Materials related to an item on this Agenda are available for public inspection upon request by Calling the Harbor Department during normal business hours 805-772-6254.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a city meeting, please contact the Harbor Department at least 24 hours prior to the meeting to insure that reasonable arrangements can be made to provide accessibility to the meeting.



AGENDA NO: I

MEETING DATE: June 25, 2020

# Staff Report

**TO:** Harbor Advisory Board

**DATE:** June 18, 2020

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Update from the Finance & Budget Ad-Hoc Committee on Committee's Recent Activities, Including Review and Input on Harbor Capital and Operational Needs

## **RECOMMENDATION**

Receive and file committee and staff report, and provide staff input on capital and operational budget prioritization as-indicated.

## **BACKGROUND, DISCUSSION & CONCLUSION**

The committee will be presenting an oral update on their activities, if any. This is a standing committee report agenda item.

In addition, department staff will be seeking input from the Harbor Advisory Board on the current Harbor Department Capital Replacement, Major Maintenance and Equipment spreadsheets and priorities, included with this staff report in Attachment #1.

Finally, staff will be seeking input on Harbor Department operational needs as they relate to budgeting prioritization. Operational need general categories include, but are not limited to (in no particular order):

- A. Lease and property management
- B. Public safety – Harbor Patrol and Lifeguards
- C. Public property and facilities (for example restrooms/showers, parking lots, open spaces, trash services, vessel sewage pumpout)
- D. Business and administrative management
- E. Front office/public interface management
- F. Environmental management
- G. Training and professional development
- H. Industry participation (for example association membership, conferences, boards of directors)
- I. IT
- J. General equipment/gear maintenance and repair
- K. Supplies and services

## **ATTACHMENT**

1. Harbor Department Capital Replacement, Major Maintenance and Equipment spreadsheets

Prepared By: EE

Dept Review: EE

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

**CITY OF MORRO BAY - HARBOR DEPT.**  
**SCHEDULE OF 5-YEAR CAPITAL EQUIPMENT REQ'MTS**  
**UPDATED 6/18/20**

DESCRIPTION	YEAR ACQ'RD OR PLACED IN SVC	LIFE IN YEARS	Priority <sup>5</sup>	Est. Repl. Cost (rounded)	FISCAL YEAR REQUIREMENTS <sup>1,2,3,4</sup>					NOTES	
					\$ Approved or proposed in current FY	19/20	20/21	21/22	22/23		23/24
<b>Harbor</b>											
VEHICLES - REPLACEMENT (see Note 3):											
Truck, 2013 Ford F150 Pickup	09/01/13	10	3	\$ 40,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000		Replacement 2023.	
Truck, 2006 Ford Ranger Pickup	10/01/06	15	2	\$ 20,000	\$ 10,000	\$ 10,000				Replacement 2021.	
Vehicle, 2006 Ford Escape 4x4 Hybrid	10/16/06	20	2	\$ 25,000	\$ 4,170	\$ 4,170	\$ 4,170	\$ 4,170	\$ 4,170	Replacement 2026	
Truck, 2013 Ford F250 Pickup	07/01/13	10	3	\$ 40,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000		Replacement 2023.	
Truck, 2010 Ford F350 Flatbed	02/01/10	20	4	\$ 50,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$50k replacement 2030.	
VESSELS - MAINT. & REPAIR - Major (see Note 3):											
Boat, Rescue #64	03/01/14		2		\$ 8,300	\$ 8,300	\$ 8,300	\$ 8,300		\$25k refit at 5-year mark.	
Boat, Rescue #68	06/30/84		n/a							Retire Standard maint. & repair for ~two more years service.	
Boat, Rescue #66	01/01/95		1		\$ 10,000					Retire Major maint. & repair for ~two more years service.	
VESSELS - REPLACEMENT:											
Boat, Rescue #64	03/01/14	30	5	\$ 500,000	\$ 20,800	\$ 20,800	\$ 20,800	\$ 20,800	\$ 20,800	Replacement 2044.	
Boat, Rescue #68	06/30/84	30	1	\$ 500,000	\$ 150,000	\$ 150,000	\$ 200,000			Replacement 2022; seek partial grant funding.	
Boat, Rescue #66	01/01/95	20	n/a							Retire Not to be replaced; going to a two dual-engine vessel fleet.	
Honda Personal Watercraft 1	08/01/18	5 to 7	3							Replaced w/grant funding.	
Honda Personal Watercraft 2	08/01/18	5 to 7	3							Replaced w/grant funding.	
EQUIPMENT - MAINT. & REPAIR - Major (see Note 3):											
Parking Kiosk at Launch Ramp	05/01/10		3								
Sandspit Emergency Telephone	08/21/03		n/a							Unit replaced early 2020 w Friends of the HD funding.	
Tidelands Vessel Sewage Pumpout	01/01/11		2		\$ 3,000					Rebuild pump at 5-year mark, grant funding secured.	
EQUIPMENT - REPLACEMENT:											
Parking Kiosk at Launch Ramp	05/01/10	Indef.	5							Funded, purchased and to be replaced summer 2020.	
Sandspit Emergency Telephone	08/21/03	15	1							Unit replaced early 2020 w Friends of the HD funding	
Tidelands Vessel Sewage Pumpout	01/01/11	10	3				\$ 15,000			Replace 2021 w/grant funding, \$15k.	
TOTAL					\$ -	\$ 231,270	\$ 218,270	\$ 258,270	\$ 73,270	\$ 29,970	Five-year funding need per year
GRANT-FUNDED						\$ 3,000			\$ 15,000		\$ 162,210

**CITY OF MORRO BAY - HARBOR DEPT.**  
**SCHEDULE OF 5-YEAR CAPITAL EQUIPMENT REQ'MTS**  
**UPDATED 6/18/20**

DESCRIPTION	YEAR ACQ'RD OR PLACED IN SVC	LIFE IN YEARS	Priority <sup>5</sup>	Est. Repl. Cost (rounded)	FISCAL YEAR REQUIREMENTS <sup>1,2,3,4</sup>					23/24	NOTES
					\$ Approved	19/20	20/21	21/22	22/23		
<p><u>Note 1:</u> dollar figures in <i>italics</i> are earmark set-aside requirements toward a total amortized cost as-noted.</p> <p><u>Note 2:</u> dollar figures in <b>green bold</b> are Department budget recommendations in current FY.</p> <p><u>Note 3:</u> routine and standard maintenance and repair funded in annual Operating budget.</p> <p><u>Note 4:</u> grant-funding is listed in <b>blue</b>.</p> <p><u>Note 5:</u> Prioritization Categories            1 - Has reached or exceeded its useful life.            2 - End of useful life in 2-3 years.            3 - End of useful life in 4-6 years.            4 - End of useful life in 7-10 years.            5 - End of useful life is beyond 10 years.</p>											
<b>Sorted by Priority</b>											
<u>VEHICLE, VESSEL &amp; EQUIPMENT REPLACEMENT:</u>											
Boat, Rescue #68	06/30/84	30	1		\$ 100,000	\$ 200,000	Retire				\$300k replacement 2018/19, seek partial grant funding.
Sandspit Emergency Telephone	08/21/03	15	1								Unit replaced early 2020 w Friends of the HD funding
<b>Priority 1 Subtotals</b>					<b>#####</b>	<b>\$ 200,000</b>					<b>\$300,000</b>
Truck, 2006 Ford Ranger Pickup	10/01/06	15	2		\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000			\$20k replacement 2021.
Vehicle, 2006 Ford Escape 4x4 Hybrid	10/16/06	~15	2								
Honda Personal Watercraft 1	08/01/12	5 to 7	2			\$ 12,000					Replace w/grant funding.
Honda Personal Watercraft 2	08/01/12	5 to 7	2			\$ 12,000					Replace w/grant funding.
<b>Priority 2 Subtotals</b>					<b>\$ 4,000</b>	<b>\$ 28,000</b>	<b>\$ 4,000</b>	<b>\$ 4,000</b>			<b>\$40,000</b>
Truck, 2013 Ford F150 Pickup	09/01/13	10	3		\$ 5,700	\$ 5,700	\$ 5,700	\$ 5,700			2023, \$40k replacement 2023.
Truck, 2013 Ford F250 Pickup	07/01/13	10	3		\$ 5,700	\$ 5,700	\$ 5,700	\$ 5,700			\$40k replacement 2023.
Tidelands Vessel Sewage Pumpout	01/01/11	10	3					\$ 15,000			Replace 2021 w/grant funding, \$15k.
<b>Priority 3 Subtotals</b>					<b>\$ 11,400</b>	<b>\$ 11,400</b>	<b>\$ 11,400</b>	<b>\$ 26,400</b>			<b>\$60,600</b>
Truck, 2010 Ford F350 Flatbed	02/01/10	20	4		\$ 3,800	\$ 3,800	\$ 3,800	\$ 3,800			\$50k replacement 2030.
<b>Priority 4 Subtotals</b>					<b>\$ 3,800</b>	<b>\$ 3,800</b>	<b>\$ 3,800</b>	<b>\$ 3,800</b>			<b>\$15,200</b>

**CITY OF MORRO BAY - HARBOR DEPT.**  
**SCHEDULE OF 5-YEAR CAPITAL EQUIPMENT REQ'MTS**  
**UPDATED 6/18/20**

DESCRIPTION	YEAR ACQ'RD OR PLACED IN SVC	LIFE IN YEARS	Priority <sup>5</sup>	Est. Repl. Cost (rounded)	FISCAL YEAR REQUIREMENTS <sup>1,2,3,4</sup>					23/24	NOTES
					\$ Approved	19/20	20/21	21/22	22/23		
Boat, Rescue #64	03/01/14	30	5		\$ 14,300	\$ 14,300	\$ 14,300	\$ 14,300			
Parking Kiosk at Launch Ramp	05/01/10	Indef.	5							\$400k replacement 2044. Funded, purchased and to be replaced summer 2020	
<b>Priority 5 Subtotals</b>					<b>\$ 14,300</b>	<b>\$ 14,300</b>	<b>\$ 14,300</b>	<b>\$ 14,300</b>		<b>\$57,200</b>	
<u>VEHICLE, VESSEL &amp; EQUIPMENT MAJ. MAINT. &amp; REPAIR</u>											
Boat, Rescue #66	01/01/95		1		\$ 10,000					Retire	
<b>Priority 1 Subtotals</b>					<b>\$ 10,000</b>					<b>\$10,000</b>	
Boat, Rescue #64	03/01/14		2		\$ 8,300	\$ 8,300	\$ 8,300	\$ 8,300			
Tidelands Vessel Sewage Pumpout	01/01/11		2		\$ 3,000						
<b>Priority 2 Subtotals</b>					<b>\$ 11,300</b>	<b>\$ 8,300</b>	<b>\$ 8,300</b>	<b>\$ 8,300</b>		\$25k refit at 5-year mark. Rebuild pump at 5-year mark, grant funding secured.	
Parking Kiosk at Launch Ramp	05/01/10		3								

A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	<b>CITY OF MORRO BAY - HARBOR DEPT.</b>												
2	<b>SCHEDULE OF 5-YEAR CAPITAL MAJOR MAINTENANCE REQ'MTS</b>												
3	<b>UPDATED 6/18/20</b>												
4		YEAR											
5		ACQ'RD			Est. Repl.								
6		OR PLACED	LIFE IN		Cost	FISCAL YEAR REQUIREMENTS <sup>1</sup>					Cost/year		
7	DESCRIPTION	IN SVC	YEARS	Priority <sup>2</sup>	(rounded)	\$ Approved	19/20	20/21	21/22	22/23	23/24	NOTES	over life
8						or proposed							
9	Harbor					in current FY							
10													
11													
12	BUILDINGS:												
13	Harbor Maint. Bldg, Front St. (Oil Yard)	01/01/15	25	3									
14	Harbor Maint/Storage Bldg. (Gear Storage)	01/01/93	30	2								Leased to Coast Guard.	
15	Harbor Maint/Storage Bldg. (Boat Shed)	01/01/93	30	2								Budgeted for elec & restroom improvements; replace roof instead?	
16	Harbor Office	06/01/64	40	n/a			(Replace)					Depending on Coast Guard building project.	
17													
18	FACILITIES:												
19	North T-Pier <sup>3</sup>	06/01/64	Indef.	1	\$3.7M	\$ 10,000	\$ 200,000	\$ 200,000			\$ 15,000	\$10,000 minor needed structural work. \$400k major maint/repair phase 2. Structural inspection in 2024.	\$500K/20y
20	North T-Pier HP Slips	06/01/93	30+	3									
21	Ice Machine	06/01/07	30+ ?	1		\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000		Annual maintenance requirements. \$100K Cable grant acquired to replace reefer system completed.	
22	South T-Pier <sup>3</sup>	06/30/92	Indef.	1	\$3.7M	\$ 42,000	\$ 20,000	\$ 15,000				Major maint/repair identified in 2016 structural inspection. Structural inspection due in 2021.	\$500K/20y
23	Beach Street Slips - North	01/01/83	30	n/a			(Replace)					Const. contracting u/w.	\$ 500
24	Beach Street Slips - South	06/01/80	30	n/a			(Replace)					Const. contracting u/w.	\$ 500
25	Dune Street Slips	01/01/95	30	1			\$ 15,000					General major maintenance/repair requirements. Replace 2030.	\$ 500
26	Anchor Memorial Park Pier	01/01/85	Ind.	3A			\$ 5,000					Pier structural inspection. Major maint/repair completed 2013.	
27	Floating Dock	?	25-30	n/a								Sea lion dock. Replaced 2018.	
28	Harbor Street End Dock (Galley Rest.)	?	25	n/a								Replace 2022.	
29	Harbor Street End Pier		Indef.	1A			\$ 5,000					Pier structural inspection.	
30	MBB Street End Dock (Rose's)	?	25	n/a								Replace 2022.	
31	MBB Street End Pier		Indef.	1A			\$ 5,000					Pier structural inspection.	
32	Marina Street End Pier (Marina Square)	?	Indef.	1A			\$ 5,000					Pier structural inspection.	
33	Mariner Park Dock (Estero Inn)	?	25	n/a								Replace 2022.	
34	Mariner Park Pier		Indef.	1A			\$ 5,000					Pier structural inspection.	
35	Tidelands Park Side Tie Dock	06/01/97	30	2					\$ 10,000			General major maintenance/repair requirements. Replace 2027.	\$ 350
36	Tidelands Park Fish Cleaning Station			1								Enclose station, dumpster.	
37	Launch Ramp Slips North	06/01/95	30	1			\$ 15,000					General major maintenance/repair requirements. Replace 2030.	\$ 500
38	Launch Ramp Slips South	~01/01/00	25	1			\$ 5,000					General major maintenance/repair requirements. Replace 2030.	\$ 500

A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	<b>CITY OF MORRO BAY - HARBOR DEPT.</b>												
2	<b>SCHEDULE OF 5-YEAR CAPITAL MAJOR MAINTENANCE REQ'MTS</b>												
3	<b>UPDATED 6/18/20</b>												
4		<b>YEAR</b>											
5		<b>ACQ'RD</b>			<b>Est. Repl.</b>								
6		<b>OR PLACED</b>	<b>LIFE IN</b>		<b>Cost</b>	<b>FISCAL YEAR REQUIREMENTS<sup>1</sup></b>						<b>Cost/year</b>	
7	<b>DESCRIPTION</b>	<b>IN SVC</b>	<b>YEARS</b>	<b>Priority<sup>2</sup></b>	<b>(rounded)</b>	<b>\$ Approved</b>	<b>19/20</b>	<b>20/21</b>	<b>21/22</b>	<b>22/23</b>	<b>23/24</b>	<b>NOTES</b>	<b>over life</b>
39	Boat Launch Boarding Floats (N & S) & L/R Facility	01/01/93	20	1		<b>\$ 60,000</b>						Complete upgrade to entire L/R facility including concrete ramp, floats, parking lot, restroom, fish cleaning station. 100% DBW grant funds applied for; \$250k approved in FY 16/17. Remainder in follow-on years. \$1,900,000 total estimated project cost.	
40													
41	TOTALS					\$ 122,000	\$ 290,000	\$ 225,000	\$ 20,000	\$ 10,000	\$ 25,000	Five-year funding need per year	\$ 114,000
42													
43	Note 1: dollar figures in <b>green bold</b> are Department budget recommendations in current FY.												
44													
45	Note 2: Prioritization Categories												
46	1 - Requires immediate attention.												
47	2 - Requires attention in 2-3 years.												
48	3 - Requires attention in 4-10 years.												
49	4 - Attention required beyond 10 years.												
50	A - Structural/Condition Assessment required.												
51													
52	Note 3: Blended costs for the two piers are												
53	approximately \$500K every 20 years per pier.												

A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	<b>CITY OF MORRO BAY - HARBOR DEPT.</b>												
2	<b>SCHEDULE OF 10-YEAR CAPITAL REPLACEMENT REQ'MTS</b>												
3	<b>UPDATED 6/18/20</b>												
4		YEAR											
5		ACQ'RD			Est. Repl.								
6		OR PLACED	LIFE IN		Cost	FISCAL YEAR FOR REQUIREMENTS <sup>1,2</sup>						Cost/year	
7	DESCRIPTION	IN SVC	YEARS <sup>3</sup>	Priority <sup>5</sup>	(rounded)	\$ Approved	19/20	20/21	21/22	22/23	23/24	NOTES <sup>4</sup>	over life
8						or proposed							
9	Harbor					in current FY							
10													
11													
12	BUILDINGS:												
13	Harbor Maint. Bldg, Front St. (Oil Yard)	01/01/15	25	5			\$ 2,100	\$ 2,100	\$ 2,100	\$ 2,100		\$50k replacement 2040.	\$ 2,000
14	Harbor Maint/Storage Bldg. (Gear Storage)	01/01/93	30	4								Leased to Coast Guard.	
15	Harbor Maint/Storage Bldg. (Boat Shed)	01/01/93	30	4									
16	Harbor Office	06/01/64	40	1	\$ 1,100,000		\$ 220,000	\$ 220,000	\$ 220,000	\$ 220,000	\$ 220,000	Replacement 2025; \$220K/year.	\$ 27,500
17													
18	FACILITIES:												
19	North T-Pier	06/01/64	Indef.	2A	n/a							Not to be replaced; ~20-year major maintenance cycles.	
20	North T-Pier HP Slips (2,300 SF @ \$155/SF)	06/01/93	35+	4	\$ 360,000		\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000	Replacement 2030; \$36K/year.	\$ 9,800
21	Ice Machine	06/01/07	30+ ?	5									
22	South T-Pier	06/30/92	Indef.	5A								Not to be replaced; ~20-year major maintenance cycles.	
23	Beach Street Slips - North (2,224 SF)	01/01/83	30	1	\$ 445,000	\$ 370,000	\$ 370,000					\$75,000 previously approved and expended.	\$ 14,840
24	Beach Street Slips - South (1,488 SF)	06/01/80	30	1	\$ 300,000		\$ 300,000					Const. contracting u/w.	\$ 10,000
25	Dune Street Slips (2,960 SF)	01/01/95	30	4	\$ 595,000		\$ 59,500	\$ 59,500	\$ 59,500	\$ 59,500	\$ 59,500	Replacement 2030; \$59.5K/year.	\$ 19,800
26	Anchor Memorial Park Pier	01/01/85	Indef.	1A									
27	Floating Dock	?	30	5	\$ 20,000							Replaced 2018 w/donated funding.	\$ 670
28	Harbor Street End Dock (Galley Rest.)	?	25	2	\$ 35,000		\$ 11,700	\$ 11,700	\$ 11,700			Replacement 2022. \$20k dock, \$15k gangway.	\$ 1,400
29	Harbor Street End Pier		Indef.	1A									
30	MBB Street End Dock (Rose's)	?	25	2	\$ 35,000		\$ 11,700	\$ 11,700	\$ 11,700			Replacement 2022. \$20k dock, \$15k gangway.	\$ 1,400
31	MBB Street End Pier		Indef.	1A									
32	Marina Street End Pier (Marina Square)	?	Indef.	1A									
33	Mariner Park Dock (Estero Inn)	?	25	2	\$ 20,000		\$ 6,700	\$ 6,700	\$ 6,700			Replacement 2022. Gangway replaced ~2012.	\$ 1,400
34	Mariner Park Pier		Indef.	1A									
35	Tidelands Park Side Tie Dock (1,200 SF)	06/01/97	30	2	\$ 240,000		\$ 34,285	\$ 34,285	\$ 34,285	\$ 34,285	\$ 34,285	Replacement 2027; \$34.3K/year.	\$ 8,000
36	Launch Ramp Slips North (3,400 SF)	06/01/95	30	3	\$ 680,000		\$ 68,000	\$ 68,000	\$ 68,000	\$ 68,000	\$ 68,000	Replacement 2030; \$68K/year.	\$ 22,700
37	Launch Ramp Slips South (1,426 SF)	~01/01/00	30	3	\$ 285,000		28,500	\$ 28,500	\$ 28,500	\$ 28,500	\$ 28,500	Replacement 2030; \$28.5K/year. Slips renovated ~2000.	\$ 9,500
38	Launch Ramp Boarding Floats			1								Currently grant-funded for planning and permitting.	
39	Launch Ramp Concrete Ramp			1								Currently grant-funded for planning and permitting.	
40	TOTALS					\$ 370,000	\$ 1,148,485	\$ 478,485	\$ 478,485	\$ 448,385	\$ 446,285		
41												Slip costs/year total	\$ 76,840
42												Five-year funding need per year	\$ 600,025
43	Note 1: dollar figures in <i>italics</i> are "earmark" set-aside requirements toward a total amortized replacement cost as-noted.												
44													
45	Note 2: dollar figures in <b>green bold</b> are Department budget recommendations in current FY.												





AGENDA NO: II

MEETING DATE: June 25, 2020

# Staff Report

**TO:** Harbor Advisory Board

**DATE:** June 18, 2020

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Report on the Status of the FY 19/20 and Current Draft FY 20/21 Harbor Department Budgets, Economic Impacts of the COVID-19 Pandemic Social and Business Shutdowns to the Harbor Department Budgets, and Current Initiatives and Programs to Assist Waterfront Leaseholders Experiencing Rent Payment Issues

## **RECOMMENDATION**

Receive and file report.

## **BACKGROUND, DISCUSSION & CONCLUSION**

Department staff will be providing a report and answering questions on the following:

- A. The status of the FY 19/20 Harbor Department budget to-date and projected economic impacts due to the COVID-19 pandemic.
- B. FY 19/20 budget measures being taken in response to the pandemic's economic impacts.
- C. The current draft FY 20/21 Harbor Department budget and projected economic impacts due to the pandemic.
- D. FY 20/21 budget measures being taken in response to the pandemic's economic impacts.
- E. Current initiatives or programs taken or being contemplated to assist waterfront leaseholders experiencing rent payment issues.
- F. Other City economic/financial initiatives and measures being taken in response to the pandemic's economic impacts.

The draft FY 20/21 Harbor Department budget is included with this staff report in Attachment #1. This budget is scheduled for Council approval, along with the entirety of the City's budget, on June 23, 2020.

This is an informational/Q&A item only.

## **ATTACHMENT**

1. Draft FY 20/21 Harbor Department Operating Budget

Prepared By: EE

Dept Review: EE

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

# Harbor

## DEPARTMENT PURPOSE

The Harbor Department was established to manage the City's Tidelands Trust stewardship of the State-granted tidelands in Morro Bay, providing for waterfront property and lease management, public service, public safety, and municipal code enforcement on the waterfront, waters and beaches of Morro Bay, for facility maintenance, repair and capital improvement and replacement. The department oversees the Harbor Operating Fund, Harbor Equipment Replacement Fund and Harbor Accumulation Fund. The Funds were established to account for all revenues and expenses connected with the operation of the Morro Bay Harbor in accordance with the Tidelands Trust granting statutes from the State of California.



## BUDGET OVERVIEW

The sole sources of revenue for the Harbor Department are lease site minimum annual and percent gross of sales rents on the Embarcadero and south Main Street and boating and boating facility-related fees. Lease site revenues represent approximately 94% of the total departmental revenues received. The department receives no revenues from sales, transient occupancy, TBID or property taxes. The Harbor Operating Fund is established as a self-supporting enterprise fund, and per the stipulations in the Tidelands Trust, all revenues generated in the Trust are to be expended for Trust purposes and on Trust properties and facilities, with a Cost Allocation payment of approximately \$300,000 to the General Fund for services received from that fund's personnel and related expenses to support the Harbor Department.

The Harbor Department generates a balanced budget of recurring expenses met by recurring revenues, with any excess revenues going to the Harbor Accumulation Fund for capital asset and major equipment needs. In addition, grant acquisition from several sources continues to be a consistent method of funding

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for numerous important departmental needs and initiatives. In the years immediately following the Great Recession of 2008, production of a balanced budget was seriously challenged, however, beginning with FY 2012/13, lease and other revenues began to significantly rebound, and revenues are now generally leveled-off at pre-recession levels. The cessation of the \$275,000 power plant outfall lease payments in ~2012, however, placed an additional financial burden on the department.

In estimating revenues, department staff generally take a very conservative approach, using Management Partner's 10-Year Budget Forecast model, coupled with a "look back" of previous years' actual performance and a look forward to future needs and priorities, and including such factors as CPI, sales, property and transient occupancy tax trends and forecasts.

In FY 2019/20 the Department's Administrative Technician position was defunded and reduced to part-time office assistant hours, which position was further reduced when the part-time person in it moved on and no replacement sought. The FY 2020/21 budget has been heavily impacted by COVID-19, with all of the retail establishments closed and restaurants only able to offer take-out food service. Overall, department expenditures have been reduced by approximately \$130,000 with minimal funding for the part-time beach lifeguard and reserve programs. It is significant to realize, however, over the foreseeable future, Harbor-related operational service, capital asset/equipment improvement and replacement funding needs cannot be adequately met with current revenue streams, fee structures or lack of economic development or enhancement. Retirement in ~two years of the ~\$135,000 payments on the 1990's South T-Pier loan from the Division of Boating and Waterways after that pier burned will have the greatest positive fiscal impact in the near mid-term.



New Hires

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Objective	FY 2019/20 Accomplishments
<p style="text-align: center;"><b>Efficient Administration of the Tidelands Trust</b></p>	<ul style="list-style-type: none"> <li>• Former Kayak Horizons lease site request for proposals (RFP) issued and site under short-term lease while sole remaining proposal under consideration is processed</li> <li>• RFP for lease site 34W issued, awarded and site now under long-term lease and site renewal plan</li> <li>• Boatyard seawall failure repair project completed</li> <li>• Major redevelopment projects completed at Boatyard, Otter Rock and Morro Bay Landing lease sites; moderate redevelopment projects completed at Harbor Hut and Gray’s Inn lease sites</li> <li>• Major redevelopment projects underway at Rose’s Landing and House of JuJu lease sites</li> <li>• Lease Site Management Policy update nearing completion: work underway to create a license agreement policy and RFP process to implement it</li> <li>• Coast Guard building expansion project under planning and permitting review, slated to start construction Fall 2020. Supplemental Lease Agreement to memorialize project completed and approved</li> <li>• Approved license agreement for local microbrewery to occupy the former Morro Bay Aquarium lease site on an interim basis</li> </ul>
<p style="text-align: center;"><b>Public Safety</b></p>	<ul style="list-style-type: none"> <li>• 1,112 calls for service, 93 emergency responses and 199 enforcement actions to date 7-1/19 to 3/15/20</li> <li>• All full-time Harbor Patrol personnel have obtained Coast Guard Captain’s licensing</li> <li>• ~20-year old sandspit emergency contact phone replaced with a new unit using Friends of the Morro Bay Harbor Department funding</li> <li>• One Lifeguard tower completely refurbished and repainted</li> <li>• Integrated Harbor and Fire personnel together for fire, medical aid and water rescue response</li> </ul>

HARBOR

Objective	Accomplishments
<p style="text-align: center;"><b>Providing Necessary Facilities &amp; Services to the Commercial &amp; Recreational Boating Public</b></p>	<ul style="list-style-type: none"> <li>• Began Beach Street slips replacement project design and engineering phases</li> <li>• \$100,000 Cable Committee grant to Santa Monica Seafood for major ice machine renovation project completed</li> <li>• Assisted Army Corps of Engineers with scope and oversight of annual harbor dredging project</li> <li>• Refurbished weather warning flag and rough bar warning light mast at the North T-Pier</li> <li>• Trailer boat storage established in the Triangle Parking Lot and maintained at full capacity</li> <li>• Public showers at Tidelands Park restroom reconfigured to provide secured (keyed) access for the Liveaboard community only</li> </ul>
<p style="text-align: center;"><b>Resource Management &amp; Environmental Stewardship</b></p>	<ul style="list-style-type: none"> <li>• Continued mentoring of several lease sites to “Clean Marina” certification; Yacht Club inspected and certified</li> <li>• Maintained seat on Morro Bay National Estuary Program Executive Committee to help guide projects to protect Morro Bay waters and resources</li> <li>• Assisted local marine animal/conservation groups with training and/or logistical support (Sea Life Stewards, Marine Mammal Center, Pacific Wildlife Care, Cal Poly, National Estuary Program)</li> <li>• Collaborated with State Parks on installation of new Sea Otter awareness signage at Coleman Beach and Target Rock</li> <li>• Significant hazards to navigation and pollution abated with removal of five derelict vessels using \$15,000 in Division of Boating and Waterways grant funding</li> </ul>



Boatyard Seawall Repair



Morro Bay Landing Redevelopment

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**Departmental Summary of FTEs**

	2018/19	2019/20	2020/21
	Funded	Funded	Funded
<b><i>Harbor Department</i></b>			
Harbor Director	1.0	1.0	1.0
Harbor Business Coordinator	1.0	1.0	1.0
Harbor Patrol Supervisor	1.0	1.0	1.0
Harbor Patrol Officer	3.0	3.0	3.0
Administrative Technican	1.0	0.0	0.0
<b>Total Department FTEs</b>	<b>7.00</b>	<b>6.00</b>	<b>6.00</b>

<b><i>Part-Time Staff Hours</i></b>			
Harbor Maintenance	1,075	1,100	-
Reserve Harbor Patrol Officer	3,025	3,225	2,400
Lifeguard Supervisor	500	500	-
Head Lifeguard	500	500	155
Beach Lifeguard	1,950	1,950	2,325
Administrative Assistant	-	1,040	-
<b>Total Annual Hours</b>	<b>7,050</b>	<b>8,315</b>	<b>4,880</b>



Blessing of the Fleet

# Harbor

## OPERATING FUND

### Fund 331

#### PROGRAM PURPOSE

The Harbor Operating Fund provides for the overall operation of the department's various functions, including general department operations, lease, property and facility management, development and redevelopment, accounts receivable, public safety (Harbor Patrol and Beach Lifeguards) and maintenance and repair.

#### BUDGET OVERVIEW

Not including grants, this fund's revenues and expenses are approximately \$1.9M annually. At the bottom on the Great Recession, they were approximately \$1.6M - \$1.7M. Major revenue streams are harbor leases, slip, pier, and mooring fees, liveaboard services, miscellaneous services and boat launch ramp parking. Primary expense categories are personnel (full and part time), services, supplies and debt service. Grant acquisition varies from year to year, but generally averages at least \$40K - \$50K annually and can be as high as \$300K. The FY 2020/21 budget includes expenditure reductions of \$130,000 to help off set losses related to COVID-19. These expenditure reductions come almost entirely in the form of salary and benefits, with 8 to 5% salary concessions for full-time staff and significant reduction in part-time staff hours.



Harbor Patrol

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Operating**

**Harbor Operating**

**Fund 331**

**SUMMARY OF REVENUES AND EXPENDITURES**

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Actuals</b>	<b>Actuals</b>	<b>Actuals</b>	<b>Amended</b>	<b>Estimated</b>	<b>Proposed</b>
<b>SOURCES OF FUNDS</b>						
Beginning Cash Balance	\$ (15,867)	\$ (595,864)	\$ (491,070)	\$ (467,793)	\$ (467,793)	\$ (501,279)
<b>REVENUES</b>						
<i>Intergovernmental</i>	\$ 48,122	\$ 67,376	\$ 8,800	\$ 44,000	\$ 16,868	\$ 28,000
<i>Charges for Service</i>	1,846,299	1,970,290	2,033,174	\$ 2,000,800	\$ 1,825,800	1,819,300
<i>Charges for Service - Boat Launch Ramp</i>	24,204	30,613	29,590	30,000	27,590	24,000
<i>Fines &amp; Forfeitures</i>	8,855	7,826	2,543	1,200	4,610	3,360
<i>Use of Money &amp; Property</i>	2,980	4,920	1,230	-	-	-
<i>Other Revenues</i>	9,293	3,153	14,059	1,000	4,858	-
<i>Other Revenues - Lifeguards</i>	-	-	1,150	-	-	500
<i>Interfund Transfers In</i>	399	45,000	5,300	25,000	-	60,000
<b>TOTAL REVENUES</b>	<b>\$ 1,940,152</b>	<b>\$ 2,129,178</b>	<b>\$ 2,095,846</b>	<b>\$ 2,102,000</b>	<b>\$ 1,879,726</b>	<b>\$ 1,935,160</b>
<b>EXPENDITURES</b>						
<i>Salaries and Benefits</i>	\$ 1,320,736	\$ 988,269	\$ 1,060,237	\$ 1,091,796	\$ 1,046,642	\$ 958,372
<i>Supplies</i>	155,191	88,444	56,379	72,735	54,545	62,835
<i>Services</i>	389,660	368,628	374,906	438,897	352,408	468,395
<i>Capital Outlay</i>	35,399	89,450	19,940	15,000	15,000	-
<i>Other</i>	174,500	14,570	828	500	-	-
<i>Debt Service</i>	134,859	134,859	134,859	134,859	134,859	134,859
<b>TOTAL EXPENDITURES</b>	<b>\$ 2,210,345</b>	<b>\$ 1,684,220</b>	<b>\$ 1,647,149</b>	<b>\$ 1,753,787</b>	<b>\$ 1,603,454</b>	<b>\$ 1,624,461</b>
<i>Transfers Out</i>	309,804	340,164	425,420	309,758	309,758	286,633
<i>Transfer to Accum</i>						
<b>Total Expenditures &amp; Transfers</b>	<b>\$ 2,520,149</b>	<b>\$ 2,024,384</b>	<b>\$ 2,072,569</b>	<b>\$ 2,063,545</b>	<b>\$ 1,913,212</b>	<b>\$ 1,911,094</b>
Ending Cash Balance	(595,864)	(491,070)	(467,793)	(429,338)	(501,279)	(477,213)

\*negative cash balances are due to accrual of revenues.

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**Operating**

**FY 2020/21 KEY PROJECTS**

Objective	Key Projects
<b>Efficient Administration of the Tidelands Trust</b>	<ul style="list-style-type: none"> <li>• Effectively implement the new Harbor Department lease management policy, including embarking on comprehensive percent gross payment auditing and site condition and compliance inspection programs for all City lease sites</li> <li>• Continue working with lessor at former Kayak Horizons lease site on their site redevelopment proposal</li> <li>• Complete harbor rules and regulations and municipal code Ch. 15 updates for Council approval</li> <li>• Continue marshalling several expired leases on holdover into redevelopment/lease renegotiation phases</li> <li>• Continue collaboration with Castle Wind on offshore wind farm power generation project</li> <li>• Continue partnering with Central Coast Aquarium on redevelopment of former Morro Bay Aquarium lease site</li> <li>• Continue working with Harbor Advisory Board and other stakeholders on new/improved revenue sources for the Harbor Fund to address capital and reserve fund needs</li> <li>• Support Coast Guard with completion of their building expansion project</li> <li>• In conjunction with the Coast Guard project, internally and externally reconfigure Harbor Department office to provide public ADA parking and access to the Harbor Department building</li> </ul>
<b>Public Safety</b>	<ul style="list-style-type: none"> <li>• Continue planning and begin applying for grants and/or securing other funding for Harbor Patrol vessel replacement due in next ~18 months</li> <li>• Bring management of the seasonal lifeguard program back under the purview of a full-time Harbor Patrol Officer, as opposed to current part-time seasonal management</li> </ul>

**HARBOR**  
Operating

**FY 2020/21 KEY PROJECTS**

Objective	Key Projects
<p>Providing Necessary Facilities &amp; Services to the Commercial &amp; Recreational Boating Public</p>	<ul style="list-style-type: none"> <li>• If the Harbor Advisory Board’s Boatyard Ad-Hoc Committee can identify and/or secure grant or other funding for a financial feasibility study, definitively determine if a boatyard/marine services facility is a project the City might continue to pursue or not depending on the results of the study</li> <li>• To the maximum extent financially feasible with available funds, replace the Beach Street commercial fishing vessel slips and complete necessary structural repairs on the North and South T-Piers</li> <li>• Complete concept design and cost estimation to apply for a new Launch Ramp renovation project grant from the Division of Boating and Waterways</li> <li>• Ensure Army Corps of Engineers prioritizes and funds annual harbor entrance dredging, and lobby for Congressional support of the necessary funding</li> </ul>



National Safe Boating Day

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**Operating**

**FY 2020/21 KEY PROJECTS**

Objective	Key Projects
<b>Resource Management &amp; Environmental Stewardship</b>	<ul style="list-style-type: none"> <li>• Continue assisting leaseholders to obtain Clean Marina certification</li> <li>• Apply for and obtain another derelict vessel abatement “SAVE” grant from the Division of Boating and Waterways</li> <li>• Maintain seat on Morro Bay National Estuary Program Executive Committee to help guide projects to protect Morro Bay waters and resources</li> <li>• Continue assisting local marine animal/conservation groups with training and/or logistical support (Sea Life Stewards, Marine Mammal Center, Pacific Wildlife Care, Cal Poly, National Estuary Program)</li> </ul>



Life jacket Loaner Program located at the Morro Bay Boat Launch

**HARBOR**  
**Operating**

**KEY PROGRAM SERVICES**

- Lease Management
  - Lease oversight
  - Lease marketing, promotion and economic development
  - Lease negotiation
  - Lease/sublease compliance
  - Rent calculation and tracking
  - Insurance tracking and compliance
  - Appraisals and audits
- Harbor Patrol
  - Boater assistance
  - Search & Rescue
  - Lifeguarding/Surf Rescue
  - Law/Code Enforcement
  - Marine/Waterfront Firefighting
  - Medical Aid
  - Pollution Response
  - Slip, mooring, pier and public facility management
  - Vessel, vehicle and facility maintenance and repair
  - Animal Rescue/Environmental
  - Education & Prevention



Harbor Vessel Repair

Pacific Wildlife Care Bird Release



- Administration
  - Public office front counter/public assist
  - General departmental operations and administration
  - Website/Facebook/public outreach
  - Assisting/coordinating with other departments and agencies
  - Liveaboard, slip, mooring and pier administration
  - Weather monitoring and reporting
  - Capital projects planning, funding and execution

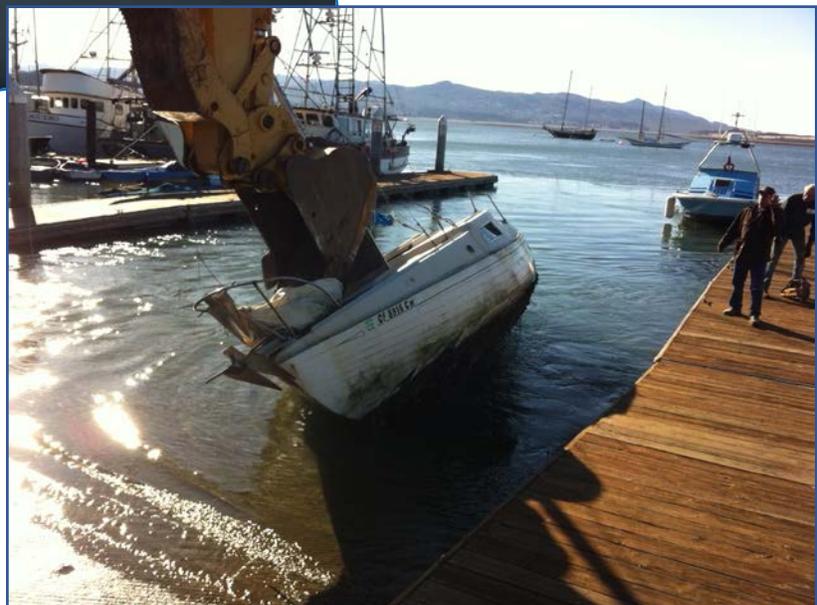
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Operating

KEY PROGRAM SERVICES

- Finance
  - Accounts Receivable
  - Departmental budget development and management
  - Grant acquisition and management
  - Capital Expenditures
  - Purchasing
  - Vessel liens and collections
- Maintenance, Repair & Upkeep
  - Vessels
  - Vehicles
  - Equipment
  - Facilities
  - Public spaces/beach



Pollution Response



Derelict Vessel Demolition

**HARBOR**  
Operating

Activity and Workload Highlights	2017/18 Actuals	2018/19 Actuals	2019/20 Estimates	2020/21 Budget
Major lease actions (new leases, amendments, etc.)	16	17	11-12	5-6
Lease Site RFP's issued/processed	2	2	2	1
Lease Site redevelopment projects begun	1	4	5-6	4
Lease auditing/inspecting actions	0	0	0	35
Annual Harbor Patrol calls for service	1448	1,084	1,500	1,600
Emergency responses	153	109	150	150
Assisting other agencies	464	287	400	450
Training actions	196	188	250	275
Minor maintenance actions	1,753	1,368	1,800	1,850
Major maintenance actions	unknown	2	3	3



Otter Rescue 2020



# HARBOR

## EQUIPMENT REPLACEMENT FUND

### Fund 055

#### PROGRAM PURPOSE

The Harbor Equipment Replacement Fund is a savings fund for equipment, vehicle, watercraft and vessel replacements.

#### BUDGET OVERVIEW

There currently exists \$58,000 in this fund. Based on the remaining useful life of the department's various vessels, vehicles and major equipment, projected needs over the next ten years for replacement are approximately \$650,000, or \$65,000 per year if spread evenly over the ten-year period.

While some grant funding will be acquired to help meet the funding needs, a significant shortfall will continue to exist and major replacements will only be completed on an as-needed and as-funding is available basis.



New Rescue Watercraft

**☪ HARBOR ☪**  
**Equipment Replacement**

**Harbor Equipment Replacement**

**Fund 055**

**SUMMARY OF REVENUES AND EXPENDITURES**

	2016/17 Actuals	2017/18 Actuals	2018/19 Actuals	2019/20 Amended	2019/20 Estimated	2020/21 Proposed
<b>SOURCES OF FUNDS</b>						
Beginning Fund Balance	\$ 55,231	\$ 55,672	\$ 56,290	\$ 57,101	\$ 57,101	\$ 57,706
<b>REVENUES</b>						
Other Revenues	-	-	-	-	-	-
Grants	-	-	25,584	-	-	85,000
Interest	441	618	811	-	605	-
<b>TOTAL REVENUES</b>	<b>\$ 441</b>	<b>\$ 618</b>	<b>\$ 26,395</b>	<b>\$ -</b>	<b>\$ 605</b>	<b>\$ 85,000</b>
<b>Transfers In</b>						
Intrafund Transfer	-	-	2,002	-	-	10,486
<b>TOTAL TRANSFERS IN</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,002</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 10,486</b>
<b>TOTAL REVENUES AND TRANSFERS IN</b>	<b>\$ 441</b>	<b>\$ 618</b>	<b>\$ 28,397</b>	<b>\$ -</b>	<b>\$ 605</b>	<b>\$ 95,486</b>
<b>EXPENDITURES</b>						
Salaries and Benefits	-	-	-	-	-	-
Operating Expenditures	-	-	-	-	-	-
Fixed Assets	-	-	27,586	100	-	85,000
Internal Service Charges	-	-	-	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 27,586</b>	<b>\$ 100</b>	<b>\$ -</b>	<b>\$ 85,000</b>
Ending Fund Balance	55,672	56,290	57,101	57,001	57,706	57,706



Polar Bear Plunge

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**Equipment Replacement**

**FY 2020/21 KEY PROJECTS**

Core Goals	Key Projects
<b>Public Safety</b>	<ul style="list-style-type: none"><li>• Continue planning and secure funding for 33-year-old Patrol Boat #68 replacement or refurbishment</li></ul>



New Solar Emergency Phone on the Sandspit

# Harbor

## ACCUMULATION FUND

### FUND 953

#### PROGRAM PURPOSE

The Harbor Accumulation Fund is the department's "catch-all" excess revenue savings fund for capital projects, major maintenance/refurbishment needs and emergency reserves.

#### BUDGET OVERVIEW

There currently exists approximately \$456,000 in this fund. From an amortization standpoint over the projected life of the department's various pieces of infrastructure and facilities, projected needs over the next ten years for capital projects are estimated at approximately \$5,000,000, or \$500,000 per year if spread evenly over the ten-year period.

While some grant funding has been and will continue to be acquired to help meet the funding needs, a critical shortfall of funding will continue to exist, and capital projects will only be completed on an as-needed and as-funding is available basis. With the department's currently approved Capital Improvement Projects list, this fund's current balance will be completely exhausted. All capital projects, with the exceptions of repairs that may be needed for the ice machine, are on hold at this point, as the accumulation fund may be needed to help offset losses to the fund due to COVID-19 and lower than anticipated revenues being received.



Launch Ramp

**Harbor Accumulation Fund**

**Fund 953**

**SUMMARY OF REVENUES AND EXPENDITURES**

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Actuals</b>	<b>Actuals</b>	<b>Actuals</b>	<b>Amended</b>	<b>Estimated</b>	<b>Proposed</b>
<b>SOURCES OF FUNDS</b>						
Beginning Fund Balance	\$ 444,907	\$ 482,337	\$ 84,648	\$ 381,006	\$ 381,006	\$ 456,006
<b>REVENUES</b>						
<i>Interest</i>	\$ 3,134	\$ 2,424	\$ 1,435	\$ -	\$ -	\$ -
<i>Grant Funds</i>			\$ -	\$ -	\$ -	\$ -
<b>TOTAL REVENUES</b>	<b>\$ 3,134</b>	<b>\$ 2,424</b>	<b>\$ 1,435</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Transfers In</b>						
<i>Launch Ramp</i>	\$ 19,518	\$ 28,080	\$ 26,718	\$ -	\$ -	\$ -
<i>Operating/Capital Fund</i>	14,778		287,912	-	75,000	-
<b>TOTAL TRANSFERS IN</b>	<b>\$ 34,296</b>	<b>\$ 28,080</b>	<b>\$ 314,630</b>	<b>\$ -</b>	<b>\$ 75,000</b>	<b>\$ -</b>
<b>TOTAL REVENUES AND TRANSFERS IN</b>	<b>\$ 37,430</b>	<b>\$ 30,504</b>	<b>\$ 316,065</b>	<b>\$ -</b>	<b>\$ 75,000</b>	<b>\$ -</b>
<b>EXPENDITURES</b>						
<i>Capital Improvements (outlay)</i>	\$ -	\$ -	\$ 14,407	\$ 452,052	\$ -	\$ 10,000
<b>TOTAL EXPENDITURES</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 14,407</b>	<b>\$ 452,052</b>	<b>\$ -</b>	<b>\$ 10,000</b>
<b>Transfers Out</b>						
<i>Operating Fund</i>	\$ -	\$ 428,193	\$ 5,300	\$ -	\$ -	\$ 60,000
<i>Equipment Replacement Fund</i>	-	-	-	-	-	-
<b>TOTAL TRANSFERS OUT</b>	<b>\$ -</b>	<b>\$ 428,193</b>	<b>\$ 5,300</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 60,000</b>
<b>TOTAL EXPENDITURES AND TRANSFERS OUT</b>	<b>\$ -</b>	<b>\$ 428,193</b>	<b>\$ 19,707</b>	<b>\$ 452,052</b>	<b>\$ -</b>	<b>\$ 70,000</b>
Ending Fund Balance	482,337	84,648	381,006	(71,046)	456,006	386,006

**∞ HARBOR ∞  
Accumulation**

**FY 2020/21 KEY PROJECTS**

Core Goals	Key Projects
<p style="text-align: center;"><b>Providing Necessary Facilities &amp; Services to the Commercial &amp; Recreational Boating Public</b></p>	<ul style="list-style-type: none"><li>• To the maximum extent financially feasible with available funding, replace the Beach Street commercial fishing vessel slips and complete necessary structural repairs on the North and South T-Piers</li><li>• Complete concept design and cost estimation to apply for a new Launch Ramp renovation project grant from the Division of Boating and Waterways</li><li>•</li></ul>



Crab Pot Christmas Tree



AGENDA NO: III

MEETING DATE: June 25, 2020

## Staff Report

**TO:** Harbor Advisory Board

**DATE:** June 18, 2020

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Update on Harbor Department Lease Management Policy Update Process, and Discussion of Next Steps in the Lease Policy Update Process

### **RECOMMENDATION**

Receive and file update, and provide staff input on Lease Management Policy next steps as indicated.

### **BACKGROUND**

The Harbor Advisory Board (HAB) representatives to the Lease Management Policy (LMP) Update Group will be presenting an oral update on the status of their progress.

This is a standing report agenda item.

The final draft LMP document was brought to the City Council on May 12, 2020 for input and direction. Based on five recommendations to the Council from the Lease Policy Update Group, staff brought those recommendations to Council on May 12 for direction. The conveyance memo from the update group is included with this staff report as Attachment #1. The final LMP as presented to the City Council is included as Attachment #2.

The five recommendations from the update group were concerned with:

1. Policy Implementation and Future Lease Management
2. Formula for Determining Lease Term (duration)
3. Lease Site Financing
4. City Control of Future Lease Site Development and Redevelopment
5. Financial Auditing

While the Council was quite pleased with the work product and had very little specific input on the actual policy language itself per se, they did provide direction to bring back to Council research and recommendations regarding the five recommendations and broke them down into three general areas: "vision, money and management."

Knowing staff is quite limited in its ability to take on new or additional initiatives, these three areas were subsequently discussed by staff with the Council subcommittee handling the lease policy, Councilmembers McPherson and Davis, to determine achievable next steps, discussed below.

Prepared By: EE

Dept Review: EE

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

## **DISCUSSION**

Staff is seeking HAB input and recommendations on the three areas and subcategories of the LMP discussed as-follows:

### **Vision**

- A. General Plan/Local Coastal Program and other City planning and policy documents; ensuring the LMP is in harmony with those documents and they are working together.  
*Does the HAB concur with this?*
- B. Use the Council Goal-setting process (which will begin next spring) to identify and implement major policy initiatives.  
*Does the HAB concur with this?*
- C. The new policy document endeavors to better “put the City in the driver’s seat” with regard to lease site development and redevelopment. This concept is exemplified in several locations in the policy document, including V(K), V(L) and V(M).  
*Does the HAB have any input or recommendations regarding measures the City might implement in order to better steer the future development/redevelopment of the waterfront and lease sites?*

### **Money**

- A. The Council unanimously agreed that the long-term financial health of the Harbor Department is paramount and in jeopardy if its operational *and* capital funding needs are to be adequately met.
- B. Based in part on Council discussion and input at their June 3, 2020 budget workshop, staff are currently at various stages in pursuing the following possible new revenue-generating initiatives:
  - A pilot waterfront RV camping program
  - Paid parking along the Embarcadero and associated waterfront areas
  - Local relief and recovery ballot measure*Does the HAB support and/or have any input and/or recommendations regarding these initiatives?*

### **Management**

- A. Completing the final-final policy document, its exhibits and the new master lease template to go along with the policy is a high priority.  
*Does the HAB concur with this prioritization?*
- B. Lease site financial and physical auditing; develop process and metrics over the next ~8-10 months and enact in 2021.  
*Does the HAB concur with this approach?*
- C. Continued in-house (Harbor Department) versus contracted private management of the lease sites and leasing program?  
*Does the HAB have any input regarding in-house vs. contracted management?*

## **CONCLUSION**

Input and/or recommendations received from the HAB will be taken into consideration for incorporation into next steps and implementation of the LMP update. A. The policy is currently slated for approval at the July 14, 2020 City Council meeting.

## **ATTACHMENTS**

1. Lease Policy Update Group conveyance memo to the City Council
2. Final draft Harbor Department Lease Management Policy document

May 5, 2020

TO: Morro Bay City Council  
FROM: Harbor Department Lease Management Policy Update Group  
COPY TO: City Manager, City Attorney, Harbor Director  
SUBJECT: Conveyance of Updated Draft Harbor Department Lease Management Policy from the Policy Working Group

Honorable Mayor Headding and City Councilmembers,

At the direction of the Morro Bay City Council, the Harbor Department Lease Management Policy Update Group was formed in the Fall of 2018. Beginning in January 2019 and through February 2020, this group met consistently once or twice a month for two to four hours. In addition, significant work was conducted via email, especially after the Corona virus shelter at home orders went into effect, that took place well into the first week of May. We began by diligently researching available waterfront lease management policies from numerous California jurisdictions, large and small. In addition, some of us paid personal visits to other jurisdictions during personal travels to research and gather policy information. Between group meetings, we shared information and developed language for consideration of inclusion in the draft updated policy document, being put forth for your consideration and adoption. We collaborated with staff to discuss, review and write or rewrite every section in this draft policy presented to you. Some sections were discussed at great length, and often repeatedly, until we were satisfied the draft was ready for Council consideration.

Our research found that lease policy documents vary greatly based on the size, nature and complexity of the jurisdiction in question. Our draft policy was written using the existing Morro Bay policy as a starting point, and revised as deemed appropriate. Many elements of the existing policy were retained and/or modified, many new elements added and some elements eliminated. Key findings resulting from the process are:

- A. This policy, properly implemented, will help drive the near-, mid- and long-term future of the Morro Bay waterfront.
- B. Morro Bay's lease rents and percentage gross formulas were found to be currently reasonable and in the norm, when compared to other municipal lessors.
- C. Lease terms are equally as important as minimum and percentage rents are to effective fiscal management of the waterfront.
- D. The City's planning, vision and guidance documents should create a framework for all lease negotiations and lease site improvements, and the City should more proactively dictate what it envisions for the development, redevelopment and replacement process on all lease sites – in harmony with those documents. In short, "put the City in the driver's seat" more, with regard to guiding what the City wants in lease site redevelopment.

E. The updated policy:

- Establishes the margins for lease parameters and negotiations.
- Better defines the City's fiscal and management responsibilities, and how to pursue those responsibilities through improved fiscal and lease site auditing policies.
- Improves the definition of a "tenant in good standing" - a critical lease concept.
- Frames increased responsibility for master leaseholders relative to maintenance and upkeep of public and common spaces that abut lease sites.
- Clarifies the process for treatment of Tidelands lease sites whose leases are nearing expiration.
- Strives to be an economic development tool by making the Tidelands lease sites more attractive to investment through clarification of policy, process and practice.
- Will in the long term provide a more attractive and vibrant waterfront, thereby enhancing the public's use and enjoyment.

The draft policy strengthens the financial auditing sections for lease site revenues, as well as for lease site condition monitoring and compliance with the law. We strongly recommend such audits and monitoring take place regularly to maximize lease compliance, to create fiscal transparency, and to improve and maintain the quality of the Embarcadero facilities and infrastructure.

In the process of researching and writing this policy document we learned there are no standard rate structures that jurisdictions of our size and complexity have adopted. Policies vary tremendously throughout the State. Attached is a chart we developed that compares Morro Bay Tidelands Trust lease site percent rent rates to 17 other jurisdictions. Relatively speaking, Morro Bay is competitive, and in most instances sets percent rates appropriately by types of sales.

With regard to equating a lease's term in years to the amount of investment on the lease site, there is no widespread "magic formula" that equates dollars invested in developing or redeveloping a site with establishing the lease term. One jurisdiction researched (the Unified Port of San Diego) does utilize a formulaic approach that is based on the magnitude of capital investment in the property to be made by the tenant and the life expectancy of the development. In this methodology, a "standard" lifespan of a given building type is assumed (when a single type of use), as well as the new replacement cost of that building/development. Then that cost number is equated to the leaseholder's proposed investment dollar amount as a percentage. That percentage is then multiplied by the standard lifespan to derive the maximum length of the lease in years.

For example, if the building/development proposed by the leaseholder has a “standard” life of 40 years, and the new replacement cost of that building/development is a million dollars, if the leaseholder is proposing to spend \$750,000 on the lease site (75% of a million dollars), the lease length will at a maximum be 75% of 40 years, or 30 years. While this may appear a simple methodology to emulate, such methodology relies on employment of sophisticated valuation services, cost estimators and a potentially complex lease management system and structure. This group felt that adopting such a formulaic approach could hamper negotiations by limiting flexibility and options.

One of the major policy issues we considered was the concept of refinancing a leasehold interest, with the loan proceeds not being restricted to use only on the lease site in question (as is required in the current lease management policy). We were interested in conditionally allowing leaseholders to use loan proceeds on a leasehold interest for other than leasehold purposes, because it could make investment in the Embarcadero more competitive and attractive for future leaseholders. The City must be competitive in the investor marketplace in order to obtain the best possible development opportunities for the Embarcadero, and to maximize revenues.

Unfortunately, we learned through the City Attorney that the State Lands Commission would not support such financing, and the City Attorney has provided a memorandum to the Council of his opinion and recommendations on the subject. This memo will be included with the policy staff report. This Lease Management Policy Update Group remains strongly in favor of maximum flexibility being provided leaseholders when financing or refinancing their leasehold interests.

It is crucial that the final version of this draft policy be effectively administered, and that the City develop a plan to implement and administer the policy. This may entail hiring an in-house property or lease manager, or contracting with a third-party commercial property management firm to manage various aspects of the draft policy. Our research found three public jurisdictions (Vallejo, Redwood City and Pittsburg) that have a contracted third-party property manager. This approach could be studied by staff and presented for Council consideration as part of the annual budget process. While third-party management may cost incrementally more, it could pay off in the long run through better lease site accountability and facility maintenance, leading to an enhanced Embarcadero and increased revenues. Development of fees to recover some of the associated cost could be an option.

It should be noted that because of much larger revenue bases and multiple levels of institutional complexity, many of the other entities researched and referenced in this policy update have sophisticated internal independent real estate or property management departments or divisions that handle all aspects of lease and property management because their income streams and staffing can support it.

In addition to providing input on the new draft policy document itself, the City Council may want to consider the following:

1. Direct staff to develop and bring back to Council options to implement and administer this policy, which would include consideration of contracted or “outside” lease management versus continued “in-house” management on the waterfront. And if “in-house” management is retained, whether or not to consider establishing a position whose primary duties are lease and property management. Whichever approach is chosen, we strongly recommend the Harbor Department retain overall oversight of the waterfront leasing program.
2. Direct staff to research and bring back to Council costs and administrative issues relative to adopting a Port of San Diego-like lease term formulaic approach as previously described.
3. Provide staff direction on the previously described lease financing issue relative to whether or not to change our policy to allow lease site financing loan proceeds to be used for other than Tidelands purposes.
4. Provide staff input and/or direction on the recommendation the City be more proactive or “in the driver’s seat” with regard to charting a lease site’s future in terms of City development and vision.
5. Provide staff input and/or direction on making the financial auditing process more efficient and effective by researching and bringing back to Council options for including more directly the Finance Department and/or outside resources in lease financial auditing measures.

Finally, we are developing a new draft for the standard lease agreement template which will reflect and implement the changes made to this policy. It will be brought to Council at a later date, once the final lease management policy is established, and perhaps when the final draft policy is brought to Council for final approval and adoption. We are also in the process of developing a license agreement process and policy for the Tidelands area of the City, which will be presented for Council consideration at a later date.

We would like to acknowledge the work of Eric Endersby and Lori Stilts in working with us on this important draft policy update. Their leadership and guidance were essential to our mission.

Respectfully submitted,

Erica Crawford, Morro Bay Chamber Executive Director  
Bob Fowler, Embarcadero Leaseholder  
Cherise Hansson, HAB representative and Embarcadero Leaseholder  
Ron Reisner, HAB representative  
Joan Solu, Morro Bay Citizen  
Marty Lomeli, Facilitator and Morro Bay Citizen

	MORRO BAY	PORT SAN LUIS District	MARINA DEL REY COUNTY OF LOS ANGELES	VENTURA PORT District	SANTA BARBARA Harbor	SANTA CRUZ District	SAN DIEGO PORT	MOSS LANDING District	MONTEREY HARBOR	SAN FRANCISCO	NEWPORT BEACH	PORT of LA	LONG BEACH	DANA POINT	OCEANSIDE HARBOR District	CITY of SAN DIEGO	SAN DIEGO Port Authority	Chanel Islands	Median % Paid	Average % Paid	
<b>Ground or Building Lease</b>	Ground	Building						1 ground						Operating Leases	Ground					-	-
			not tidelands											Tidelands	only tidelands						
<b>TYPE OF SALES</b>																					
<b>FOOD SERVICE</b>																					
RESTAURANT/DINING ROOM	3%		4%	3%	10%	5%-8%	4.50%	3%	3%-6%		3%	3%		9%		3%	3%		6%	4.95%	
SNACK BAR/FAST FOOD/DELI	5%	4.5%-5%	3.50%			5%-8%		3%	3%-6%										4.75%	5%	
BAR/LOUNGE	5%-10%	5.5%-7%	10%	0.05%	10%	5%-8%	7.50%	3%			5%	5%		9%		5%	5%		7%	6.11%	
GROCERY												3%	5%		6%		3%				
OFF-SITE BEVERAGE														9%	6%		3%				
<b>RETAIL SALES / SERVICE</b>																					
RETAIL SALES / SERVICE	3%-5%	5%	5%	3%-5%	10%	6.50%	5%-6%		4%-6%		5%	3.50%		3%	6%	6%	4%		5%	4.95%	
<b>HOTEL/MOTEL</b>																					
HOTEL FULL SERVICE	5%	none	8%	n/a	n/a	n/a	8%-12%	n/a	n/a										9.50%	9%	
MOTEL	5%	12%	8%																8%	8.33%	
<b>FISH AND SEAFOOD</b>																					
RETAIL SALES	3%-5%	4.50%	5%	0.01%				2%	0%												
WHOLESALE	0								0%												
<b>MOORINGS, TIES &amp; SLIPS</b>																					
PIER FIXED PILES	10%																				
PIER FLOATING	10%																				
<b>BOAT REPAIR &amp; SALES</b>																					
BOAT & MARINE REPAIR	3%		4%-5%											4%	6%	4%	5%		4.50%	4.42%	
NEW BOAT SALES	1%		6%																5.50%	3.50%	
USED BOAT SALES	2%		6%																4%	4%	
<b>FUEL</b>																					
GASOLINE	\$0.02/GAL		0.15%																		
DISEL	\$0.015/GA		0.06%																		
<b>OTHER</b>	5%										10%		5%	1%-9%	6%	10%			5.50%	5.78%	
CRUISE/CHARTER					15%	0	6%TOURS - 3%FOOD - 5%BEV - 5%RET	\$1 PER VESSEL PASSENGER CAPACITY PER MON	4%-4.5%												
KAYAK RENTAL/PADDLESPORTS	5%	15%	6%			0	10%														
SPORT FISHING	3%	6%					6%		4%										5%	5.33%	
YACHT CLUB	52% discount		10%-15% OF MEMBERSHIP FEES +% OF ALL OTHER SALES AND				10% MEMBERSHIP DUES - 10% RENTAL		0%												
MEETING/BANQUET ROOM SPACE			10%																		
Coin-op														20%	20%	25%-50%	5%				



**CITY OF MORRO BAY  
HARBOR DEPARTMENT LEASE MANAGEMENT POLICY**

**Adopted by the City Council  
\_\_\_\_\_ , 2020**

**CITY OF MORRO BAY**  
**HARBOR DEPARTMENT LEASE MANAGEMENT POLICY (*Policy*)**

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## I. VISION STATEMENT

The long-term vision of the City of Morro Bay is to manage and maintain the City's Tidelands Trust Land (TTL) lease sites along the western side of Embarcadero Road as a vibrant working waterfront, incorporating tourism and various commercial and recreational uses. Positive cash flow to the Harbor Fund is crucial to maintain the integrity of the waterfront and environmental health of the bay and its resources. In order to provide a quality experience for the public, tourism and other recreational uses of the Embarcadero are encouraged and considered in lease management decisions. The waterfront will be pedestrian-friendly with ample access and view corridors to coastal resources.

The principal tenets in the State Tidelands Grant will be followed and future development or redevelopment of the TTL will conform with the City's General Plan, Downtown and Waterfront Master Plan, Local Coastal Program and the voter-approved initiative known as Measure D that protects commercial and recreational fishing uses, while remaining true to the historic fishing heritage of the harbor and community.

This Policy is intended as an advisory tool to provide guidance for current and future lease site management, development, and redevelopment decisions considered by the City, with the ultimate dual goals of maintaining the vitality of the City's waterfront, as well as the fiscal health of the department charged with managing it.

This Policy will follow guiding principles that are designed to serve as a bridge between the Harbor's goals, purpose, and regulatory environment, and management and leasing needs. These guiding principles are:

- A. The City shall foster a spirit of partnership with its tenants in the application of this Policy, while fulfilling its duties as a steward of vital public enterprise, assets and resources.
- B. The City will make TTL lease sites available on fair and reasonable terms without discrimination.
- C. The City, in its role as a TTL trustee, may consider more than just the maximum revenue that can be generated by a new lease. The City will also consider what is in the best interests to ensure the public's enjoyment of the TTL, as well as to serve the City of Morro Bay, including the essential role all parties and businesses play in maintaining growth and job creation, as well as the need to maintain a diversified mix of water dependent uses.
- D. The City shall retain effective management controls over the use of TTL assets and will structure management controls in all leases and rental agreements in order to:
  - E. Achieve highest and best use of TTL assets;
  - F. Ensure timely development as-needed; and
  - G. Foster open and competitive access for new entrant and incumbent TTL tenants.
- H. The City will establish and maintain a level and structure of rents, fees, and charges that are fair and equitable for all tenants, and which are based on current appraised lease site values.
- I. The City will establish minimum operational maintenance standards for users of TTL lease sites in order to promote safety and maintain appropriate levels and quality of service.
- J. The City and its leaseholders will at a minimum follow good environmental practices, including but not limited to all applicable environmental laws, regulations, established guidelines and best management practices.

- K. The City will actively monitor compliance with provisions of lease agreements, file timely notice of non-compliance and employ available remedies to enforce compliance when appropriate.
- L. The City shall be open and transparent in its selection of new tenants and in lease negotiations per State law, including exercising the City's right to negotiate confidentially under Government Code Section 54956.8.

## II. HISTORY

Tracing back to English Common Law, the Public Trust Doctrine establishes navigable water or lands subject to tidal influence are "sovereign," held open to the public for commerce, fisheries or navigation. As cited in the Doctrine, "by the law of nature these things are common to mankind, the air, running water, the sea, and consequently the shores of the sea."

In order to establish a Navy amphibious training base to aid the war effort, in 1942-44 the federal government constructed a revetment along the Morro Bay waterfront and filled most of the area now known as the commercial strip along the Embarcadero. After the war, the State of California claimed ownership of the newly created land as at least a portion of it had previously been below the high tide line. In 1947, the State of California granted those public trust lands in Morro Bay to the County of San Luis Obispo (Chapter 1076 of the California Statutes of 1947, and amended by Chapter 1874 of the California Statutes of 1957). After many years of dispute with private property owners, who also claimed an interest in the land, most title issues were settled in the 1950s-1960s by designating those lands west of Embarcadero Road as public trust lands owned by the State, and those lands east of Embarcadero Road as privately owned. The City of Morro Bay assumed trusteeship of the granted lands upon incorporation in 1964-1965. The Tidelands Grant in Morro Bay is in perpetuity; provided, that the City conforms to the terms of the legislative grant. Exhibit B is a map of the Tidelands Grant in Morro Bay.

The granted lands must be used for commerce, fisheries, navigation, recreational purposes, parklands, public access, public parking and environmental protection or enhancement. Residential use of these public lands is specifically prohibited. The City will lease out these lands to private businesses, government entities or non-profit organizations for a period up to 50 years and all revenues from such leases must be expended within the area of the granted lands for the purposes of the public trust.

Over the years, the City has changed its leasing practices and policies to better protect the public interest by adopting modern lease formats and standards for fair market rent and periodic rental adjustments. Prior to the mid 1980's, the City's leasing process included the active participation of a ten-member Harbor Commission. In addition to leasing activity, the Commission set policies and had an active role in managing the business of the harbor. In 1985, the City created the Harbor Department to focus property management efforts in the TTL and to assure the State TTL revenues were properly accounted for; and, in 1987, the City Council reorganized the Harbor Commission into a seven-member Harbor Advisory Board whose role became advisory-only in nature. The result of those changes was a streamlined process, more responsive to the business environment and improved lease management because Harbor Department familiarity on each lease site's history, operator and lease terms allows for smoother lease negotiations and hastened resolution on contract interpretation and other issues. The Harbor Department has multiple, and often

competing, roles in both aiding in the success of its leaseholders, while at the same time carrying out the policies, planning, zoning, land use, legal and insurance issues of the City. As the most informed entity, the Harbor Department will take all those factors into account when managing and administering the City's waterfront leases.

The Harbor Department is operated through a City enterprise fund known as the Harbor Fund. Similar to the Water and Wastewater enterprise funds, all Harbor services are funded with either user fees or property management income (no sale, property or transient occupancy tax revenues). The Harbor Fund is the sole-source for management of the TTL leases, Harbor Patrol and various public and other facility management including maintenance, repair and capital improvements.

### **III. GENERAL POLICY, PURPOSE AND BENEFITS**

The City of Morro Bay shall manage the TTL to provide, support and enhance harbor facilities, and must act in accordance with the stipulations of the Tidelands Grant and granting statutes as interpreted and managed by the State Lands Commission. With those obligations fully in mind, the primary goal of this Policy will be to maximize the City's financial return from valuable public real estate assets in a manner, which:

- A. Is consistent with the City's General Plan, Local Coastal Program, Downtown and Waterfront Strategic Plan, zoning ordinances and all other adopted plans and policies, consistent with the City's goals of maintaining a small commercial and recreational fishing harbor, a working waterfront and visitor-serving environment,
- B. Provides for, supports and enhances harbor facilities and services in a manner which its residents can be proud of,
- C. Protects and enhances the environment, while serving the broader economic and recreational needs of the community,
- D. Allows tenants to earn a fair return on their investments in a predictable business climate,
- E. Appropriately accounts for TTL revenues and expenses in compliance with State law and the Tidelands Grant, and
- F. Promotes and enhances economic development to serve the Morro Bay community's present and future generations.

### **IV. BACKGROUND**

#### **A. General Lease Management**

Under the supervision of the Harbor Director, the Harbor Department is responsible for the negotiation of leases, the Request for Proposals (RFP) process for lease site development and redevelopment and for the day-to-day administration of the leases under this Policy. The Harbor Director has the authority to interpret the provisions of the Leases and Subleases and where appropriate, in the Harbor Director's discretion, to seek counsel from the City Attorney, City Manager or the City Council.

The Harbor Department is also tasked with the collection of rents and fees, property inspections, financial audits communications with Master Tenant and subtenants and

coordinating lease activity with the administrative, community development, legal and governance (City Council) functions of the City.

The Harbor Director, with oversight by the City Manager and guidance/direction from the City Council, will conduct negotiations with Master Tenants for new and existing leases, and manage the process for marketing vacant lease sites and sites subject to redevelopment. The terms and conditions of the leases and/or the processes for negotiation, as adopted in this Policy, shall be observed and applied consistently throughout the TTL area. All leases, and unless otherwise provided in a lease, all amendments to leases, all license agreements and requests for proposals to develop/redevelop lease sites must be approved by a majority vote of the City Council, and the Harbor Director shall keep the City Manager and/or the City Council informed of progress, as well as to seek direction from them on specific lease issues. In the event of a dispute between the leaseholder and the Harbor Director as to the application of policies and procedures, the parties may submit the dispute to the City Manager and/or City Council for resolution.

The Harbor Director will confer and coordinate with the Community Development Department on specific development, permitting, land use and zoning issues concerning the development, redevelopment or management of lease sites subject to this Policy. Master Tenants must work directly with the Community Development Department for use permit applications for development or redevelopment. The Harbor Director will coordinate insurance issues with the City's Risk Manager, and legal issues with the City Attorney.

The Harbor Director approves subleases under the Consent to Sublease process providing subleases conform to the terms and conditions of the Master Lease under which they are being approved, including compliance with the uses allowed in the site's Conditional Use and other permits, as-applicable.

B. Leasing Areas

The City recognizes there are three distinct zoning areas on the waterfront that require different considerations in leasing and lease issues; in managing waterfront development and redevelopment, the City's leasing practices shall recognize and implement the City's vision for the leased properties as reflected in the City's General Plan, Local Coastal Program, Zoning Code and applicable Master Plans. The three areas from north to south are as follows:

1. Embarcadero Road from Beach Street North. This area is designated with specific voter-approved zoning known as "Measure D" to preserve commercial and non-commercial recreational fishing-dependent uses. Measure D stipulates all TTL subject to City lease between Beach Street and Target Rock be primarily for the purposes of serving or facilitating licensed commercial fishing activities, or non-commercial recreational fishing activities, or is clearly incidental thereto. Measure D further stipulates existing non-conforming restaurants or retail uses are allowed but cannot be expanded or enlarged. The City will strongly encourage Master Tenants who propose enhancements of commercial fishing uses or marine dependent uses by considering new long-term leases that facilitate those types of projects. Leases for existing restaurant/retail sites may be amended to provide a longer term, or a new lease executed, if the Master Tenant can develop plans to maintain the lease site and improve public benefits and access, enhancing the general business environment and marine-related uses in the TTL. Within the general outlines of this Policy the City Council will provide specific direction to the City's designated negotiator on the Morro Bay Power Plant outfall lease.

2. Embarcadero Road from Beach Street to Tidelands Park/Public Boat Launch. In this core commercial area of the waterfront, the City controls and manages the public property on the west side of Embarcadero Road, where land and water area leases exist for commercial development. In this area, Master Tenants are encouraged to propose redevelopment of lease sites to improve public benefits, enhance the business and working waterfront environment in the TTL and renegotiate leases to modern terms.
3. Tidelands Park South Water Area Only Leases. In this area the City leases only the water areas, as the upland property and access to the water is owned and controlled by private parties. The City will encourage continuation/enhancement of marine dependent uses such as boat slips and boat repair facilities where feasible; however, this area is not suitable for large redevelopment projects.

## V. LEASE ADMINISTRATION

### A. Master Lease Format

The City has developed a master lease format based on modern leasing practices and similar formats used by other public agencies. The Master Lease Template attached to this Policy in Exhibit F, will be the template for all future master leases, until such time as modified by the City Council. Terms such as rental amount, term of the lease and other data or circumstances particular to an individual lease or lease site may be altered within the text of the Master Lease Template to suit a particular leasing situation. Section 13 of the Master Lease Template is for special provisions peculiar to a particular lease such as redevelopment or improvement provisions, special circumstances or other provisions not common to all Master Leases.

### B. License Agreements

A License Agreement format will be used for temporary, interim or non-exclusive use of TTL property, or for regulating non lease site-based businesses operating in the TTL areas when appropriate. A separate License Agreement Policy will be used to manage License Agreements.

### C. Building Leases

If a City lease site reverts to City ownership for any reason and recognizing there is a potential conflict of interest if the City is both landlord to Master Tenants and a building lease landlord competing with Master Lessees to fill vacancies on the waterfront, then the City will only enter into building leases for those sites under one or more of the following circumstances:

1. When it becomes absolutely necessary,
2. To maintain the improvements,
3. For business continuity or
4. To take advantage of an unusual opportunity.

Such building leases will be only on a short-term basis (generally three years or less), provide for fair market value terms and conditions and be in compliance with the Tidelands Trust Act.

### D. Approved Uses

Only those uses as-described in Article 3 Use of Premises section of the master lease and as-provided in a City-approved applicable Conditional Use Permit or other entitlement for the lease site, all in conformance with the Tidelands Trust, will be allowed. Those uses must

conform with the applicable City land use entitlement regulations and policies. Master Tenants proposing new uses for a lease site shall be referred to the Community Development Department of the City for review and approval through the applicable land use entitlement process; and, upon such approval, the new permitted uses of the subject lease will be incorporated into the lease by amendment.

E. Fair Market Rent

State Law requires fair market rent be charged for use of the TTL and City leases and licenses thereon. Fair market rent will be determined by the City through the use of an independent appraiser to appraise the fair market value of the leased property, and the City will set an annual rent minimum of 8% of the appraised value of the land and/or improvements if the improvements have reverted to the City. The lease will be structured to provide for a minimum annual fair market rent or a percentage of gross sales rent, whichever is greater, per the City's adopted percent gross rent schedules included in Exhibit E.

In order maintain fair market percent rent rates, the City will periodically conduct or have conducted a percent rent rate study of then-current percent rents of other similar coast-wide public agencies on an as-needed basis, and all new leases and/or applicable lease amendments will incorporate the most current percent rent rates, unless the City Council determines the public interest can be better served by a different rate.

In cases where the Master Tenant is proposing complete site redevelopment or an improvement project involving remodeling or replacement of 50% or more of the existing improvements, or of a lease site requiring significant private investment costing 50% or more of the appraised value of the property, the City may allow both temporary reductions in the outlined minimum rent to offset the Master Tenant's period of reduced revenues during construction, as well as a reduction in the standard percentage of gross sales requirements as negotiated with the Master Tenant, on a case-by-case basis.

1. Non-Profits/Public Benefit

It is recognized both community-based non-profit organizations and public benefit entities, because of their purpose and function, provide intrinsic benefits to the City at large. Those organizations, however, must pay market lease rates on all operations/uses to provide needed revenue for the Harbor Fund, unless they provide direct or indirect benefits to the TTL areas, waterfront, or harbor community, which are sufficient to justify a reduction in rent based on the following criteria;

- a) An independent fiscal and/or cost-benefit analysis is conducted, at the cost of the non-profit or public benefit organization, to quantify the direct or indirect economic or other impacts (positive and/or negative) to other businesses in the TTL, and determine if there are other (positive and/or negative) fiscal or other impacts associated with the use, including those of potential unfair competitive advantages over the private sector. Lease rates can be negotiated at less than market rate if it is determined other quantifiable direct or indirect financial, public or other benefits, as determined by the City Council.

- b) Other revenue options may be considered in establishing leases with revenue-generating non-profit entities, such as an admission tax or fee, a lease payment based on a percentage of membership fees or dues, an in-lieu sales tax fee, or any other alternative measures developed through negotiation with the City, as approved by the City Council.

2. Government

Government Master Lessees that provide coastal or marine-dependent services to the City, the bay or boating community, and enhance the quality of life of in the City should be allowed to lease space on the Embarcadero. Governmental uses may pay reduced rent based upon the limitations and restrictions of the agency and the value of the services provided by it to the City.

- F. Lease Term (duration)

The appropriate term for a new lease will be determined by the City Council based generally on the size of lease site and the level of private investment proposed for the site and TTL public property. The term of a lease is primarily related to the dollar amount of the investment in improvements made on the site and TTL, and relative to the size of the lease site in relation to its revenue-generating capacity. Because of the differing values and revenue-generating potentials of the different leaseholds, the relationship of the investment to the term of the lease needs to be assessed on a case-by-case basis, and can be difficult to define in a centralized numerical formula.

Because lease and property negotiations are a fluid and dynamic environment, in negotiating the lease term the City Council may take into consideration recent past negotiations as examples of appropriate term-to-investment ratios. In addition, the City Council may also consider other relevant information in determining if a longer lease term is warranted in approving a term of the lease, such as:

1. The desirability or marketability of the leasehold in question,
2. Business or revenue-generating potential of the site and improvements,
3. Useful life of the improvements,
4. Jobs potentially created by the business mix of the facility,
5. Challenges or other limitations inherent in a particular leasehold (such as land use entitlement limitations or physical conditions or obstacles to development),
6. The extent of the capital investment being expended by the potential Master Tenant,
7. If the capital investment is expected to generate above average returns to the City, and
8. The investment/redevelopment will reposition the lease site to a higher aesthetic, increase the site's property value or inherent revenue-generating potential or increase/improve public benefits.

Capital investment can take the form of: purchase of leasehold interest and improvements; cost of remodeling and refurbishing existing improvements; the cost of new improvements/site redevelopment; the cost of public benefits; or other public improvements, provided that personal property and Tenant Improvements (or "TI's") will not qualify as capital investment toward measuring lease term.

#### G. Lease Negotiation

Negotiations relative to leasing public tidelands shall commence and remain at the appropriate staff levels and follow appropriate chains of command, with the Harbor Director serving as the main point of contact with the prospective Master Tenant. Participation from the Administration, Community Development, Legal or Public Works departments may be necessary when issues relative to their respective departments arise.

The City Council may exercise its authority under California Government Code Section 54956.8 to meet in Closed Session to give instructions to the City's negotiator(s) regarding negotiations for lease of real property. During the Closed Session, the City's negotiators will be properly instructed and authorized to finalize negotiations and the lease with the prospective Master Tenant/Subtenant. Negotiations are to be conducted to the maximum extent possible in private at the staff level, prior to City Council consideration of the lease in regular open session, to avoid the City Council negotiating a lease in public.

In some cases, parties who are considering buying a Tidelands Master leasehold interest may desire to renegotiate portions of the existing lease prior to completing the sale/assignment of the lease. Normally, City staff will not negotiate with prospective Master Tenants due to the fact the City does not have a leasehold relationship with a prospective Master Tenant, and the potential impact on the "sale" price of a lease. Prospective buyers of leasehold interest are buying the existing lease agreement only.

All lease sites eventually need to be reconstructed or significantly remodeled. In general, the City desires such reconstruction to bring improvements up to then current modern building codes, design criteria, and market conditions. The City acknowledges Leaseholders will need to renegotiate leases in those instances. The normal stage for lease negotiation to commence in a reconstruction redevelopment situation is when the Master Lessee has received City Council approval of a Concept Plan for a land use entitlement (many times a Conditional Use Permit (CUP)) for the site. The project will then be at a stage when the land use entitlement approval can be attached to a lease, and the Master Tenant can be required to construct the improvements in compliance with the land use entitlement in a given period of time.

Upon execution of any new Master Lease, as a matter of course a Memorandum of Lease will be recorded with the County Clerk-Recorder for the leased property to ensure the public and any interested parties can be made aware of the existence of the lease.

#### H. Lease Amendment, Renewal and Extension

##### 1. Amendment

Lease amendments may be used for various functions where the existing lease agreement is retained, including, but not limited to, the addition of time to the lease term. Master Tenant-desired amendments may be contingent on updating other sections of the lease, or a rent adjustment desired by the City, depending on the nature of the Master Tenant amendment.

Lease amendments must be consistent with the City's then applicable land use entitlement regulations and vision for the lease site, and conform to then-current standard lease language in effect at the time, and will only be made with Master Lessees in Good Standing, as-defined herein.

A lease amendment process flow chart is included in Exhibit B.

2. Renewal

Leases will not be renewed, as-defined herein, because automatically renewing a lease with an existing Master Lessee can lead to a false sense of private ownership of the lease site, with the consequence some Master Lessees may not maintain or reconstruct the improvements prior to the expiration of a given lease term.

3. Extension

Leases will not be extended, as-defined herein. Any additional lease term (duration) to a lease must be by lease amendment, and generally only in exchange for additional consideration from the Master Tenant. Lease “extension” is not to be confused with lease “holdover,” as defined in the individual lease agreements.

I. Lease Expiration and Termination

In general, there are three options for leases that are nearing their expiration or are terminated:

1. Advertise the lease site is available through a Request for Proposals (RFP) process. The RFP process is addressed in Section K.
2. Keep the site in a short-term interim lease arrangement until the City Council determines its intent for lease site’s future, including but not limited to consolidation with another lease site or site redevelopment.
3. Work with the existing Master Tenant on a new, replacement lease.

In the case of an expiring lease when an existing Master Tenant proposes to continue occupancy and they desire to make additional or new capital improvements, or when the Master Tenant proposes to completely redevelop the site, they must make their intentions known to the City no less than five years prior to the expiration of their existing lease. Such a proposal must be consistent with the City’s vision for the lease site in terms of business mix, amenities and public benefits and improvements, as such vision is previously determined by the City Council. In the absence of such a proposal from the existing Master Tenant, or if such a proposal is rejected by the City Council, the City may utilize an RFP process to solicit the lease site opportunity, with the intent that such solicitation will be initiated not less than four years prior to the expiration of the existing lease, at the City’s discretion.

For a new lease request not involving significant new capital investment, other consideration, such as higher rents to the City or additional public benefits, may be employed. Additionally, the City may, with the assistance of professional property inspectors and/or the City’s Building Inspector, Fire Marshall and Code Enforcement Officer, evaluate existing facility conditions, and propose additional site capital investments that would justify a new lease with an existing Master Tenant.

Proposals for a new lease will be evaluated on a case-by-case basis upon, but not necessarily limited to, the following:

- a. Master Tenant is in Good Standing, as-defined herein.
- b. The City desires to continue a proven, mutually beneficial leasing relationship.
- c. Master Tenant’s proposal is desirable, their plan is acceptable, it matches the City’s vision and plan for the site, and is in compliance with the City’s land use entitlement regulations.

- d. Proposed capital or other improvements (including public benefits) justify amortizing the Master Tenant's investment over a longer period of time than is available in the existing lease.
- e. An older lease is to be replaced with a new lease incorporating then current modern leasing terms and fair market rates, and be consistent with the City's vision.
- f. Competitiveness or desirability of proposed lease terms.

A new lease establishment process (with an existing Master Tenant) flow chart is included in Exhibit B.

J. Rent Collection

Master Tenants must pay to the City minimum guaranteed annual rent as-stipulated in their individual lease agreements.

Additional percentage rents for the twelve-month periods ending June 30 are due by July 31 for that prior fiscal year. In order to calculate percent gross rents due, Master Tenants are required to provide records of their gross sales and/or the gross sales from their subtenants and slip tenants, with percent rents calculated per the requirements in their individual lease agreements. The calculated total dollar value of all percentage rents, minus the minimum guaranteed annual rent (but no refund if less than zero) is the amount of the percentage rent due to the City.

Acceptable payment methods are to be made by check, money order, cashier's check, credit card or cash, received by mail or hand delivered to the Harbor Department.

Receipts will be available if payment is hand delivered to the Harbor Department.

If rent is not received within ten days following the date on which the rent first become due, then the Master Tenant must pay a late fee of ten percent of the amount of the rent, or as stipulated in the lease agreement, as well as the full rental amount due. In addition to the late fee, the Master Tenant must pay interest at the rate of one percent per month or fraction thereof, the amount stipulated in the lease agreement or the maximum amount permitted by law as of the date the lease is signed, whichever is greater, on the amount of the rent, exclusive of the late fee, from the date on which rent first became delinquent until paid.

Returned checks shall be handled by the terms of the City's current Return Check Policy.

K. Putting Lease Sites up for a Competitive RFP Process

Where it is desired to solicit competitive proposals from the public for a given lease site, a RFP process will be employed. That process can be done "in-house" with City staff or be done in conjunction with or by a real estate development broker or other qualified private party, as determined by the City Council. In general, putting a site out for public proposals shall have the following top four priorities:

1. Ensuring lease sites match the City's plans and vision for the sites in terms of business mix, amenities and public benefits.
2. Redeveloping or upgrading lease site improvements to then current modern designs, codes and market conditions,
3. Enhance and/or maximize revenues to the City, and
4. Improved public benefits.

A lease site RFP process flow chart is included in Exhibit B.

- L. Lease Site Redevelopment and Coordination with Community Development Department  
When lease site remodels or redevelopments are being considered, close coordination with the Community Development Department is necessary to ensure consistency with the City's policies, plans, zoning and economic development goals and objectives, especially where multiple site consolidation is under consideration.

In addition, past land use entitlements and history on a given site will be consistently interpreted and applied to future development and use, which can only be established with close inter-departmental coordination.

- M. Lease Site Consolidation  
Lease expiration dates may be established to coincide where adjoining sites might have mutual planning benefits. In some cases, the City may not add time to the term of an existing lease, either for the purpose of consolidating sites or to pursue other extenuating public benefit.

Lease site consolidation may be considered in instances where:

1. Opportunities exist for financial economies of scale not otherwise achievable with smaller sites,
2. Achieving long-term planning goals as identified in the City's General Plan, Local Coastal Program and various master plans,
3. Policy implementation, or
4. Realizing desired public amenities or benefits.

- N. Lease Site Monitoring, Inspection and Maintenance

1. Lease Site Monitoring and Inspection  
The City has a paramount interest in ensuring the improvements on the City's lease sites are being properly maintained and are in a safe and secure condition. The City shall have the lease sites inspected and a report made on such inspections at least every five years, or as often as the Harbor Director or City Manager deems necessary, with approximately one-fifth of the lease sites inspected every year on a rotating basis. A checklist for lease site criteria is included in this Policy under Exhibit G. In conducting lease site inspections, the City may utilize any or all of the following:
  - a. Harbor Department staff,
  - b. Fire Marshall,
  - c. Building Inspectors,
  - d. Code Enforcement Officers, including reports from agencies such as County Health and others,
  - e. Private Contractors, and
  - f. Other resources as-identified

City staff will require deficiencies noted in the lease site inspection reports to be repaired or cured by Master Tenants in a timely manner, depending on the nature and urgency of the deficiencies identified. Any deficiencies that pose, in the sole determination of the Harbor Director, in consultation with the Building Official and/or Fire Marshall, a public or life-safety issue must be cured immediately.

Ultimate disposition of any uncured deficiency will be handled according to the provisions in the individual lease agreements.

As long-term leases draw close to expiration, there can be a tendency for maintenance deferment. The City must carefully monitor and strictly enforce lease maintenance provisions to protect the reversionary interest in the lease site improvements. Site inspections shall be conducted with appropriate and reasonable advanced notification.

2. Maintenance of Improvements and Leased Premises

Unless otherwise provided in individual lease agreements, Master Tenants are solely responsible for the upkeep and maintenance of the leased premises and improvements, including any seawalls and/or revetments, and must, at the Master Tenant's sole cost and expense, repair, replace, restore and otherwise maintain the leased premises and all improvements thereon in a fully functional, safe and secure condition per the terms of their leases.

In addition, Master Tenants must, at all times during the term of their leases, repair, keep and maintain the interior and exterior appearance of their premises and improvements in good, clean, vermin-free and sanitary order. Such repair and maintenance will include, but not necessarily be limited to, removing all obstructions, trash, debris, vermin and refuse, and maintaining improvement appearance and landscaping in an attractive manner.

For all maintenance and repair performed under the provisions of a lease agreement, Master Tenants must comply with all applicable laws, codes, ordinances, regulations and requirements of any governmental agency having jurisdiction over the leased premises. Ultimate disposition of uncured deficiencies will be handled according to the provisions in the individual lease agreements.

3. Maintenance of Public Spaces, Common Areas, Rights-of-Way and Sidewalks

Public spaces, common areas, rights-of-way, sidewalks and other areas or spaces not necessarily on a given lease site's premises, but utilized as part of a lease site's business operations (the path of travel for a site's dumpsters to the roadway for collection, for example) will be cleaned and kept free of litter, debris and contamination, and maintained without surface contamination in a "broom clean" condition at all times by the Master Tenants utilizing those areas.

O. Environmental Considerations

Lease negotiations shall be consistent with the City of Morro Bay's intent to be protective of natural and human resources in and around Morro Bay Harbor. Leases should specifically include or incorporate by reference applicable environmental regulations that may include, but not be limited to, boater and/or marina Best Management Practices, the Clean Marina Program, or similar programs and initiatives of the Morro Bay National Estuary Program.

P. Lease Terms and Site Entitlement Compliance

The City will monitor compliance with, inspect for and ensure compliance with all lease terms, conditions and provisions on an ongoing basis. In addition, as part of the five-year site inspections, the City will inspect for and ensure compliance with Master Lessee adherence to all entitlements (permits and permit conditions, including sign permits) associated with the premises and improvements.

Deficiencies noted in the lease terms or entitlements must be repaired or cured by Master Tenants in a timely manner, depending on the nature and urgency of the deficiencies identified. Ultimate disposition of uncured deficiencies will be handled according to the provisions in the individual lease agreements.

Q. Percentage of Gross Sales Audits

Without limiting the City's right of audit and oversight contained in its individual lease agreements, it will be the City's policy to require the annual submission to the City of all applicable business sales tax records as-submitted to the State of California, in addition to the hotel room night sales and transient occupancy tax ("TOT") payments as-submitted to the City, with the Master Tenant's annual percent gross sales reports each year. Harbor Department staff, with the assistance from the Finance Department and/or other resources, will annually audit the submitted documents for accuracy against each other, and with the sales tax records received by the City from the State and the City's sales tax reporting service. The disposition of any amounts owed or owing will be handled in accordance with the terms in the individual leases themselves.

While sales tax reporting, TOT reporting and percent gross reporting should match in terms of sales numbers reported, discrepancies between the reporting will be handled as follows:

1. Any discrepancy that constitutes a difference in gross receipt reporting versus sales tax and/or TOT reporting of less than 5% will result in no further auditing action.
2. Any discrepancy that constitutes a difference in gross receipt reporting versus sales tax and/or TOT reporting of 5% or more will result in City taking whatever further auditing action is necessary to satisfy City the amounts reported are correct, including but not limited to conducting a full traditional financial audit.

For lease sites that have sales or revenues that are not subject to sales tax or TOT, those sales will be subject to traditional financial auditing every three years as-follows:

1. The non-taxable sales of one-third of the sites with such sales will be audited each year on a rotating basis, with sites chosen to reflect approximately one-third of the total non-taxable sales in the TTL, and
2. Each audit will select any one or more of the immediate past three years to review.

In any event, the City reserves the right to conduct a full traditional financial audit of any lease site, within the limits of any lease agreement's terms, should, in the City's sole determination, such an audit be justified.

R. Lease Sale, Assignment and Assumption

All City leases require City Council approval for the sale or assignment and assumption of a lease agreement. Any Master Lessee requesting such approval will be required to:

1. Pay the appropriate fees noted in the City's Master Fee Schedule,
2. Complete the appropriate forms,
3. Submit financial and other documentation to indicate the qualifications and experience of the proposed Leaseholder to the satisfaction of the Finance Director, Harbor Director and City Attorney,
4. Be a Master Lessee in Good Standing, as defined herein, in full compliance with the terms and conditions of their lease agreement, and

5. Provide proof of proposed Master Tenant's City of Morro Bay current valid business license/tax certificate, general liability insurance and all applicable governmental licenses.

If the proposed assignment or sale includes a change in use of the site, then the change in use shall be reviewed by the Community Development Department for conformance with planning and zoning regulations. Proposed changes in uses for lease sites must comply with the City's land use entitlement regulations, including, but not limited to, the adopted General Plan, Local Coastal Program, and Measure D's limitations for properties north of Beach Street. Where zoning allows a variety of uses, whenever possible preference will be given to coastal-related uses.

S. Sublease Approval

All leases require City approval of subtenant/sublease agreements. Any Master Lessee requesting subtenant approval will be required to:

1. Pay the appropriate fees noted in the City's Master Fee Schedule,
2. Complete the appropriate forms,
3. Submit documentation to indicate the qualifications and experience of the proposed subtenant to the satisfaction of the Harbor Director,
4. Submit a properly executed copy of the City's standard Consent to Sublease/ Subtenant Agreement,
5. Submit a copy of the proposed subtenant/sublease agreement between the Master Lessee and subtenant, and
6. Obtain proposed subtenant's City of Morro Bay current valid business license/tax certificate, general liability insurance and all applicable governmental licenses.

T. Financial Criteria and Financing Considerations

In making a determination of whether or not a Master Tenant, proposed Master Tenant or Subtenant is a financially acceptable partner the City wishes to do business with, the City may use any or all of the following criteria:

1. Experience and history in commercial leasing situations, property management and development/redevelopment,
2. Demonstrated financial capacity and capitalization,
3. Financial strength and current relationships with financing sources, including credit scores,
4. History, if any, of defaults, bankruptcies or litigation that indicates a bad partnership risk, and
5. Properly and professionally-prepared business plans and/or financial proformas with industry-standard elements expected of such documents.

While there is the need to foster financing, refinancing and investment on the waterfront, while protecting the City's interests and fiduciary responsibility, the City will not approve financing related to or using the lease site, or leasehold interest as collateral, unless such financing is for sole investment upon the TTL, for City-requested public improvements or benefits in the TTL or to reduce the interest rate of existing debt secured by the lease.



## VI. Exhibits to Policy (under construction)

### A. Definitions and Acronyms

1. **Annual Minimum Rent:** Also known as “Minimum Rent” or “Base Rent.” The minimum rent charged a Master Tenant on an annual basis for use of the premises. The Annual Minimum Rent is established as a percentage of the Appraised Value of the property, as-defined, and established in individual lease agreements.
2. **Appraised Value:** the estimated fair market value of a subject property as-determined by a qualified commercial property appraiser. Assumptions made for appraising a leasehold property are:
  - a. “Fair market value” is the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgably and assuming the price is not affected by undue stimulus.
  - b. The property rights appraised are those of the fee simple interest in the subject property as if free of all liens, leases and encumbrances.
  - c. The subject property is vacant and available for development to its highest and best use.
3. **Base Rent:** also known as “Annual Minimum Rent” or “Base Rent.” See “Annual Minimum Rent.”
4. **Building Lease:** a lease in which the City owns and maintains the building and improvements, and tenants lease space on a monthly or annual basis and perform their own Tenant Improvements.
5. **City Council, Departments and Staff:** all references in this document to City Council, Departments or Staff refer to the Council, Departments and Staff of the City of Morro Bay, California.
6. **Closed Session:** A meeting of the City Council to discuss confidential matters, as-allowed by law, such as litigation, employee relations or property/lease negotiations, conducted in private without the attendance of the public to avoid revealing information that could jeopardize the public interest and City’s position on those matters.
7. **Coastal Development Permit:** a permit for any development within the Coastal Zone that is required pursuant to subdivision (a) of Section 30600 of the California Public Resources Code.
8. **Concept Plan:** a basic conceptual development plan for a property requiring approval from the Planning Commission and City Council to move forward to full permitting approval and construction.
9. **Conditional Use Permit or “CUP”:** a use that is generally compatible with other uses permitted in a zoning district, but that requires individual review of its location, design, configuration, and intensity and density of use and structures, and may require the imposition of conditions pertinent thereto to ensure the appropriateness of the use at that particular location.
10. **Downtown Waterfront Strategic Plan:** the purpose of this Strategic Plan is to connect and enhance Morro Bay’s downtown and waterfront areas and provide a more uniform feel to each district. The Strategic Plan summarizes the outcomes of a community-based visioning process and will serve as a guide for private development and public investment and decision-making over the downtown and waterfront areas.
11. **Fair Market Rent:** the rent charged a tenant (through negotiation) based on the Appraised Value of the leased property and including Percent Gross Sales Rent in the case of a Ground Lease. Ground Lease Annual Minimum Rent is typically set at

8% of the Appraised Value of the leased premises. In the case of a Building Lease, the rent charged a tenant will be based on current average waterfront per-square-foot space rent rates.

12. **Fair Market Value:** see “Appraised Value.”
13. **General Plan or “GP”:** the City’s comprehensive, long-term plan for the physical development of the City.
14. **Ground Lease:** a long-term lease of land only, with improvements that are built by the lessee that usually revert to the City at the termination of the lease.
15. **Harbor Fund:** a fund of the City of Morro Bay with revenues and expenditures separate from the City’s General Fund, managed by the Harbor Department as an enterprise fund to account for all revenues and expenses connected with the operation of the harbor in accordance with the Tidelands Trust Land granting statutes. The sole sources for all Harbor Fund revenues are lease site minimum and percent gross of sales rents and boating and boating facility-related fees.
16. **Holdover:** occupancy of the leased premises after the lease term has expired, in accordance with the terms of the individual lease agreements.
17. **Interim Lease:** a short-term lease, typically five years or less, executed for an intervening period of time while a lease site’s future is being contemplated or developed.
18. **Internet Sales:** sales physically conducted on the internet, although conducted as part of a business entity on a lease site.
19. **Lease Amendment:** any formal revision or change to an existing lease by adding, deleting or changing a provision, or by modifying the wording.
20. **Lease Assignment:** transfer by sale or other arrangement of a leasehold interest from a Master Lessee to a new owner. All such assignments must be approved by the City Council. Also referred to as “Assignment and Assumption.”
21. **Leases Assumption:** see “Lease Assignment.”
22. **Lease Extension:** the continuation of an existing lease with no changes in its terms and conditions other than providing a longer period of time (term) for which the lease is valid. “Extension” is not to be confused with nor affect lease “holdover,” as defined in individual leases.
23. **Lease Renewal:** the exact re-creation of an existing lease that is expiring with no changes to that lease, including duplication of the original term.
24. **Lease Term:** the period of time in which a lease agreement is valid.
25. **License Agreement:** an agreement for use of public property that does not convey the typical exclusive use or rights as in a lease agreement.
26. **Local Coastal Program or “LCP”:** the documents included in the LCP implement the California Coastal Act at the local level in Morro Bay. This includes addressing all major policy topics of the Coastal Act, incorporating analysis needed to support coastal policies and incorporating local context in conjunction with the legal requirements of the Coastal Act.
27. **Master Lease:** the ground lease agreement or contract held by a Master Tenant for rightful possession of the City’s Tidelands Trust Land lease sites along the Embarcadero.
28. **Master Lease Template:** the City Council-approved “standard” lease agreement from which all lease negotiations for new leases are to be initially based.
29. **Master Tenant:** the tenant or lessee named in a lease agreement who holds or possesses a given leasehold.
30. **Master Tenant in Good Standing:** The Master Tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining “good history” of Master Tenant performance are:

- a. The Master Tenant’s record with respect to the prompt and accurate payment of rent and related fees due the City, and cures any audit discrepancies in a timely and appropriate manner;
  - b. Master Tenant maintains accurate and complete financial records in accordance with the lease agreement that are made accessible to the City and/or City’s auditors when requested;
  - c. The Master Tenant’s record of compliance with existing lease conditions, and corrective measures for any non-compliance issues taken in a timely manner;
  - d. The appropriateness of the proposed Master Tenant business and/or subtenants with respect to the long-term planning and vision goals of the City;
  - e. The Master Tenant’s financial and personal investment in the leasehold improvements, Master Tenant business and overall management of the site;
  - f. Master Tenant has proven investment and maintained accurate financial records for the amounts committed in the lease for redevelopment, remodeling and/or improvements;
  - g. The contribution to the surrounding business community made by the Master Tenant’s business;
  - h. The quality and value of goods and services provided to the public by the Master Tenant, their tenant and/or its subtenant(s);
  - i. The Master Tenant has obtained, maintained and remained in compliance with all required permits and entitlements;
  - j. The total financial return (revenue) to City from the leasehold is maximized and within industry norms;
  - k. Other pertinent considerations as may be appropriate as determined by the City Council.
31. **Measure D:** a 1981 land use ordinance of the City of Morro Bay restricting lease site development and use between Beach Street and Target Rock to those uses “primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational activities.”
32. **Minimum Rent:** also known as “Annual Minimum Rent” or “Base Rent.” See “Annual Minimum Rent.”
33. **Minor Use Permit or “MUP”:** a discretionary permit which may be granted by the appropriate City of Morro Bay authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted by right, but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval.
34. **Percent Gross Sales Rent:** rent based on a percentage of a tenant’s gross sales according to Exhibit E. Percent gross rent is typically only owed in the amount the percent gross rent exceeds the annual minimum rent.
35. **Sublease:** a lease to a third party, commonly known as a subtenant, by a Master Tenant, conveying some or all of the Master Tenant’s leased property.
36. **Subtenant:** a third-party tenant or lessor that enjoys a sublease.
37. **Temporary Use Permit of “TUP”:** a discretionary permit which may be granted by the appropriate City of Morro Bay authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted by right, but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval.

38. **Tenant Improvements or "TI's"**: removeable personal or business property or trade fixtures affixed to leased premises for business purposes that the tenant can detach and take away.
39. **Tidelands Trust Land or "TTL"**: those properties on Morro Bay's waterfront and surrounding areas, in some cases formerly underwater and filled, owned by the public and held in trust by the City for the people of the State of California. Per the California Constitution and State Law, those properties are to be used in furtherance of navigation, commerce, fisheries, environmental protection, recreation and open space.

B. Flow Charts (TBD)

- I. RFP Process
- II. Development/Redevelopment/Lease Extension
- III. Assignment and Assumption (lease sale)
- IV. Lease Amendment

C. Maps/Surveys (TBD)

D. Zoning Chart (TBD)

E. Percent Gross Schedules

**SCHEDULE A**

**PERCENTAGE RENT FOR GROUND LEASES**

		<b>% GROSS</b>
<b>SALES</b>		
FOOD SERVICE:	Restaurant, Dining Room	3
	Snack Bar, Delicatessen,	5
	Fast Food, Convenience Food	5
	Bar/Lounge, Beer & Wine Sales	5
RETAIL SALES & SERVICE:	Tenant	3-5
FISH & SEAFOOD:	Retail Sales	3-5
	Wholesale Sales	0
MOORINGS, TIES & SLIPS:	Pier/Fixed Piles	10
	Pier/Floating	10
BOAT REPAIR & SALES:	Boat & Marine Repair	3
	New Boat Sales	1
	Used Boat Sales	2
FUEL:	Gasoline	\$0.02/gal.
	Diesel	
	\$0.015/gal.	
MOTEL:		5
ALL OTHER USES:		5

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.

**SCHEDULE B**

**PERCENTAGE RENT FOR BUILDING LEASES**

		<b>% GROSS</b>
<b>SALES</b>		
<b>FOOD SERVICE:</b>	Restaurant, Dining Room	5
	Snack Bar, Delicatessen,	7
	Fast Food, Convenience Food	7
	Bar/Lounge, Beer & Wine Sales	10
<b>RETAIL SALES &amp; SERVICE:</b>	Tenant	7
	Sublease	7
<b>FISH &amp; SEAFOOD:</b>	Retail Sales	5
	Wholesale Sales	0.5
<b>MOORINGS, TIES &amp; SLIPS:</b>	Pier/Fixed Piles	20
	Pier/Floating	20
<b>BOAT REPAIR &amp; SALES:</b>	Boat & Marine Repair	5
	New & Used Boat Sales	2
<b>FUEL:</b>	Gasoline	.02/gal.
	Diesel	
	\$0.015/gal.	
<b>MOTEL:</b>		10
<b>RV PARK:</b>		25
<b>ALL OTHER USES:</b>		10

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.

