



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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*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.*

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## **Regular Meeting Tuesday, December 8, 2020 – 5:30 P.M. Held Via Teleconference**

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

- **Service Pin Presentation to employees who were recognized for their years of service:**  
Dale Cullum, 10 years, Police Department  
Cindy Jacinth, 10 years, Community Development Department  
Clemente Galamay, 15 years, Public Works Department  
Angelica Gallardo, 15 years, Recreation Services Division  
John Gunderlock, 20 years, Public Works Department  
Bonnie Johnson, 20 years, Police Department  
Brandon Kato, 20 years, Fire Department  
Becka Kelly, 20 years, Harbor Department  
Jeff Simpson, 25 years, Fire Department  
Steve Aschenbrener, 30 years, Public Works Department
- **Recreation Team “Kids Club” Recognition**

### PUBLIC COMMENT

*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 City Council at [council@morrobayca.gov](mailto:council@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 during general Public Comment or on a specific agenda item by logging in to the Zoom webinar 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=aWZpTzcwTHlRTk9xaTlmWVNWRFWFUQT09>  
Password: 135692
- Or Telephone Attendee: 1 (408) 638-0968 or 1 (669) 900 6833 or 1 (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press \*9 to “Raise Hand” for Public Comment

#### A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE OCTOBER 27, 2020, CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE NOVEMBER 10, 2020, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE NOVEMBER 10, 2020, CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF MINUTES FOR THE NOVEMBER 12, 2020, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-5 ADOPTION OF ORDINANCE NO. 641; AMENDING TITLE 14 (BUILDING AND CONSTRUCTION) OF THE MORRO BAY MUNICIPAL CODE ADDING CHAPTER 14.43 (ELECTRIC VEHICLE CHARGING SYSTEMS), PROVIDING A STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING SYSTEMS AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; (COMMUNITY DEVELOPMENT DEPARTMENT)

**RECOMMENDATION: Staff recommends Council consider adopting, by second reading and by title only with further reading waived, Ordinance No. 641 entitled “An Ordinance of the City Council of the City of Morro Bay, California, Amending Title 14 (Building and Construction) to add Chapter 14.43 (Electric Vehicle Charging Systems) to the Morro Bay Municipal Code establishing an expedited permitting process for electric vehicle charging systems.”**

- A-6 ADOPT RESOLUTION NO. 102-20 AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION FOR INMATE WORK CREWS; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION: Staff recommends the Council adopt Resolution No. 102-20 authorizing the City Manager to execute an agreement with the California Department of Corrections and Rehabilitation for inmate work crews.**

- A-7 AUTHORIZATION TO SUBMIT A GRANT APPLICATION FOR CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT LOCAL GOVERNMENT PLANNING SUPPORT GRANT PROGRAM FUNDS; REGIONAL EARLY ACTION PLANNING GRANT (REAP); (COMMUNITY DEVELOPMENT DEPARTMENT)

**RECOMMENDATION: Adopt Resolution No. 103-20 authorizing staff to submit a grant application to the Association of Monterey Bay Area Governments (AMBAG) for Regional Early Action Planning grant (REAP) Program Funds authorized under provisions stated in the Health and Safety Code Section 50515 to 50515.05. The grant funding is available to use for technical assistance, preparation and adoption of planning documents and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing needs allocation. Funding in the amount of \$78,643 is available to the City of Morro Bay.**

- A-8 PROCLAMATION COMMENDING THE GRADUATES OF THE 2020 SLO MULTI-CRAFT CORE CURRICULUM (MC3) PROGRAM AND RECOGNIZING APPRENTICESHIP WEEK IN THE CITY OF MORRO BAY; (CITY CLERK)

**RECOMMENDATION: Approved as submitted**

- B. PUBLIC HEARINGS - NONE

- C. BUSINESS ITEMS

- C-1 RESOLUTION DECLARING RESULTS OF THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION; AND, THE SECOND READING AND ADOPTION OF ORDINANCE NO. 635, REPEALING CHAPTER 3.22 AND ADOPTING CHAPTER 3.26 OF THE MORRO BAY MUNICIPAL CODE TO INCREASE THE CITY'S TRANSACTIONS AND USE TAX RATE FROM .5% TO 1.5%; (CITY CLERK)

**RECOMMENDATION: Staff recommends the City Council:**

**1) Adopt Resolution No. 104-20 declaring the results of the November 3, 2020 General Municipal Election, and 2) Adopt, by second reading and by title only with further reading waived, Ordinance No. 635, entitled "An Ordinance of the City Council of the City of Morro Bay, California, Repealing Chapter 3.22 And Adopting Chapter 3.26 Of The Morro Bay Municipal Code to Increase the City's Transactions and Use Tax Rate from .5% To 1.5%"**

- C-2 ADOPTION OF RESOLUTION NO. 105-20 AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX; ADOPTION OF RESOLUTION NO. 106-20 AUTHORIZING THE EXAMINATION OF TRANSACTIONS (SALES) AND USE TAX RECORDS; AND, AUTHORIZE CITY MANAGER TO EXECUTE AND FILE ADDITIONAL AGREEMENTS, LETTERS AND FORMS WITH CDFTA AND OTHER APPROPRIATE STATE AGENCIES AS REQUIRED FOR IMPLEMENTATION OF THE LOCAL TRANSACTIONS AND USE TAX; (CITY ATTORNEY)

**RECOMMENDATION: Staff recommends the City Council:**

**1) Adopt Resolution No. 105-20 authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration (CDFTA) for implementation of a local transactions and use tax; and 2) Adopt Resolution No. 106-20 authorizing the examination of transactions (sales) and use tax records; and 3) Authorize the City Manager to execute and file additional agreements, letters and forms with CDFTA and other appropriate state agencies as required for implementation of the local transactions and use tax.**

- C-3 COMMENTS BY CURRENT MAYOR AND COUNCIL MEMBERS
- C-4 OATH OF OFFICE FOR MAYOR-ELECT, JOHN HEADING, AND COUNCIL MEMBERS-ELECT, LAUREL BARTON AND ROBERT DAVIS
- C-5 COMMENTS BY NEWLY ELECTED MAYOR AND COUNCIL MEMBERS
- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
- E. ADJOURNMENT

The Regular Meeting for **Tuesday, December 22, 2020** has been canceled per adopted Resolution No. 01-20

The next Regular Meeting will be held on **Tuesday, January 12, 2021 at 5:30 p.m.** via teleconference.

**THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 805-772-6205 FOR FURTHER INFORMATION.**

**MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION UPON REQUEST BY CALLING THE CITY CLERK'S OFFICE AT 805-772-6205.**

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

*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Robert Davis	Council Member
	Jeff Heller	Council Member
	Marlys McPherson	Council Member
ABSENT:	None	
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Dana Swanson	City Clerk
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Jody Cox	Police Chief
	Eric Endersby	Harbor Director

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 5:30 p.m., with all members present.

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

RECOGNITION – None

**CLOSED SESSION REPORT** – City Attorney Neumeyer stated no reportable action was taken by the City Council in accordance with the Brown Act.

**MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS**

<https://youtu.be/409bLfYYq2E?t=172>

**CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS** - None

**PRESENTATIONS** – NONE

**PUBLIC COMMENT**

<https://youtu.be/409bLfYYq2E?t=892>

Sean Green, Morro Bay, offered his thanks to Morro Bay in Bloom for its beautification efforts.

Betty Winholtz, Morro Bay, was disappointed people continue to take down campaign signs, noting in some cases they were trespassing onto private property to do so.

Linda Winters, Morro Bay, shared an update on her efforts to improve communication among mobile home park residents and thanked the City for approving the utility rebate program.

Robert Piatti, spoke representing the Salinan Tribe of San Luis Obispo and Monterey Counties, expressing his concern about the change in plans for cultural resource monitoring at the WRF site.

Mayor Heading closed public comment.

The Council and staff responded to issues raised during public comment.

A. CONSENT AGENDA  
<https://youtu.be/409bLfYYq2E?t=1455>

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

A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 22, 2020, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE OCTOBER 13, 2020, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 REVIEW OF FOURTH QUARTER INVESTMENT REPORT (PERIOD ENDING JUNE 30, 2020) FOR FISCAL YEAR 2019/20; (CITY MANAGER)

**RECOMMENDATION: Receive the Fourth Quarter Investment Report (period ending June 30, 2020) for Fiscal Year 2019/20 and provide comments and suggestions as appropriate.**

A-4 ADOPTION OF RESOLUTION NO. 92-20 APPROVING THE ASSIGNMENT AND ASSUMPTION AND CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY FOR THE ASSIGNMENT AND ASSUMPTION AT LEASE SITE 91-92/91W-92W AND ACCEPTING DEEDS OF TRUST RELATED THERETO (ANDERSON INN, 897 EMBARCADERO), AND RESCINDING RESOLUTION NOS. 17-20 AND 76-20 THAT CONDITIONALLY APPROVED PREVIOUS ASSIGNMENTS AND ASSUMPTIONS OF LEASE SITE 91-92/91W-92W, BECAUSE THOSE ASSOCIATED SALES WERE NOT CONSUMMATED; (HARBOR DEPARTMENT)

**RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 92-20 allowing the Mayor to authorize the assignment and assumption, and authorizing the Mayor to execute necessary documents, and accepting deeds of trust related thereto regarding sale of the leasehold interest of Lease Site 91-92/91W-92W to a yet to be officially formed and registered limited liability company owned by Christopher and Cynthia Kosticka, with documents subject to approval of the City Attorney.**

**In addition, staff recommend the City Council rescind Resolution Nos. 17-20 and 76-20, which approved previous assignments and assumptions, because those associated lease site sales fell out of escrow and were not consummated.**

Mayor Headding opened the public comment for the Consent Agenda; seeing none, the public comment period was closed.

MOTION: Council Member Addis moved approval of all items on the Consent Agenda. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 ADOPTION OF ORDINANCE NO. 640; AMENDMENTS TO MORRO BAY MUNICIPAL CODE TO REPEAL CHAPTER 5.47 (SHORT-TERM VACATION RENTAL PERMIT) AND ADDING CHAPTER 17.41 (SHORT-TERM VACATION RENTALS) SO AS TO PROVIDE REGULATIONS TO PROTECT THE QUALITY AND CHARACTER OF OUR RESIDENTIAL NEIGHBORHOODS THROUGH APPLICATION OF DENSITY LIMITATIONS, EXPANDED PERMIT REQUIREMENTS AND OPERATIONAL REQUIREMENTS; (CITY ATTORNEY/COMMUNITY DEVELOPMENT)  
<https://youtu.be/409bLfYYq2E?t=1534>

City Attorney Neumeyer provided the report and, along with City Manager Collins and Community Development Director Graham, responded to Council inquires.

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

Nick Juren, Beach N Bay Getaways, stated his support for the proposed ordinance and, with regard to the 10-occupant limitation, asked for protection for those contracts for more than 10 occupants that were entered into prior to the effective date of the ordinance.

Maggie Juren, Beach N Bay Getaways, expressed concern regarding the 175' radius buffer and urged the Council to revisit the issue to consider the unintended consequences. She also requested the City publish a list of licensed vacation rentals with the associated phone number.

Betty Winholtz, Morro Bay, asked if agenda correspondence submitted to the Planning Commission and City Council would be forwarded to the Coastal Commission, commented the need for an accurate decimal reader to monitor noise complaints, requested clarification on the anticipated timeline for attrition to bring the number of STR's under the 175 limit, and added her support for a 175' radius buffer.

Robert Elzer, Morro Bay, stated his belief there was a misunderstanding regarding the Planning Commission's discussion regarding buffer requirements and asked the Council to apply a 3-home or 175 ft. linear buffer requirement, rather than 175' radius.

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

MOTION: Council Member McPherson moved to adopt, by second reading and by title only with further reading waived, Ordinance No. 640 entitled "An Ordinance of the City Council of the City of Morro Bay, California, repealing Chapter 5.47 (Short-Term Vacation Rental Permit) of Title 5 (Business Tax Certificates and Regulations), and adding Chapter 17.41 (Short-Term Vacation Rentals) of Title 17 (Zoning) of the Morro Bay Municipal Code relating to the Permitting and Operation of Short-Term Vacation Rentals." The motion was seconded by Council Member Davis for discussion.

The Mayor and City Council members provided individual input, all stating their appreciation for the vigorous discussion and significant community input received throughout the process. Council Member Heller stated the ordinance did not do enough to improve the quality and character of neighborhoods.

Following discussion, the motion carried 4-1 by roll call vote with Council Member Heller opposed.

- C-2 REVIEW MORRO BAY EMERGENCY PLAN AND ADOPT RESOLUTION NO. 94-20 CITY OF MORRO BAY EMERGENCY MANAGEMENT PLAN ADDING PANDEMIC CONTINUITY OF OPERATIONS ANNEX L; (FIRE DEPARTMENT)  
<https://youtu.be/409bLfYYq2E?t=5036>

Fire Chief Knuckles provided the report and responded to Council inquires.

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

MOTION: Mayor Headding moved to adopt Resolution No. 94-20, accepting the revised City of Morro Bay Emergency Management Plan (EMP), adding Annex L Pandemic Continuity of Operations Plan. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

- C-3 CONSIDERATION OF RESOLUTION FOR 180-DAY WAIT PERIOD EXCEPTION FOR CALPERS RETIRED ANNUITANT / INTERIM FINANCE DIRECTOR APPOINTMENT AND INTERIM FINANCE DIRECTOR AGREEMENT – KATIE LICHTIG; (CITY MANAGER)  
<https://youtu.be/409bLfYYq2E?t=6860>

City Manager Collins provided the report and responded to Council inquires.

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

MOTION: Council Member Davis moved to 1) Adopt Resolution No. 95-20 approving an exception to the 180-day waiting period for the position of Interim Finance Director; and 2) Approve the Interim Finance Director employment agreement between the City and Ms. Lichtig. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

None

E. ADJOURNMENT

The meeting adjourned at 7:33 p.m.

Recorded by:

Dana Swanson  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
NOVEMBER 10, 2020 – 3:00 P.M.  
TELECONFERENCE

AGENDA NO: A-2  
MEETING DATE: December 8, 2020

*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom’s Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:            John Headding                    Mayor  
                         Dawn Addis                        Council Member  
                         Robert Davis                      Council Member  
                         Jeff Heller                        Council Member  
                         Marlys McPherson              Council Member

ABSENT:            None

STAFF:              Scott Collins                      City Manager  
                         Chris Neumeyer                 City Attorney  
                         Colin Tanner                     Special Labor Counsel  
                         Katie Lichtig                    Interim Finance Director  
                         Scot Graham                     Community Development Director  
                         Eric Endersby                  Harbor Director  
                         Rob Livick                        City Engineer  
                         Dana Swanson                  City Clerk/Human Resources Manager

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 3:00 p.m. with all members present.

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

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

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

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

Property:                    Lease Sites 69-70/69W-70W, 595 Embarcadero  
Property Negotiators: Chuck Nettnin, Three Stacks and a Rock Brewing Co. LLC  
Agency Negotiators: Eric Endersby, Harbor Director; Scott Collins, City Manager; and Chris Neumeyer, City Attorney; Joseph Pannone, Special Counsel  
Under Negotiation:    Price and Terms of Payment

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

Property:                    Assessor Parcel No. 066-331-046  
Property Negotiators: Vistra Energy  
Agency Negotiators: Scott Collins, City Manager; Rob Livick, City Engineer; Eric Casares, WRF Program Manager and Chris Neumeyer, City Attorney  
Under Negotiation:    Price and Terms of Payment – Easement Acquisition

**CS-3 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

- Paragraph (1) of subdivision (d) Government Code Section 54956.9
- Name of Case: City of Morro Bay vs. Vistra Energy Corp., Case No. 20CV-0127, San Luis Obispo County Superior Court

**CS-4 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8**

Property: 307 Morro Bay Blvd., APN 006-062-006 (Grandma’s Frozen Yogurt)

Property Negotiators: John and Pia Morales

Agency Negotiators: Scott Collins, City Manager, Scot Graham, Community Development Director and Chris Neumeyer, City Attorney

Under Negotiation: Price and Terms of Payment

**CS-5 CONFERENCE WITH LABOR NEGOTIATORS**

A closed session will be held, pursuant to Government Code § 54957.6, with City negotiator and designated labor representative Colin Tanner, special labor counsel, regarding labor negotiations with employee organizations: 1) Morro Bay Firefighters’ Association, 2) Morro Bay Peace Officers’ Association, 3) Service Employee’s International Union - SEIU Local 620; and, regarding labor negotiations with 4) unrepresented management employees; 5) unrepresented confidential employees; and 6) unrepresented executive employees.

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

ADJOURNMENT - The meeting adjourned at 4:38 p.m.

Recorded by:

Dana Swanson  
City Clerk

*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:            John Headding                            Mayor  
                          Dawn Addis                                Council Member  
                          Robert Davis                             Council Member  
                          Jeff Heller                                Council Member  
                          Marlys McPherson                      Council Member

ABSENT:            None

STAFF:             Scott Collins                              City Manager  
                          Chris Neumeyer                         City Attorney  
                          Dana Swanson                          City Clerk  
                          Katie Lichtig                            Interim Finance Director  
                          Joe Mueller                              Acting Public Works Director  
                          Scot Graham                             Community Development Director  
                          Steve Knuckles                         Fire Chief  
                          Jody Cox                                 Police Chief  
                          Eric Endersby                          Harbor Director  
                          Matt Vierra                               Fire Marshal  
                          Rob Livick                                City Engineer  
                          Eric Casares                             WRF Program Manager

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 5:30 p.m., with all members present.

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

RECOGNITION – None

**CLOSED SESSION REPORT** – City Attorney Neumeyer stated no reportable action was taken by the City Council in accordance with the Brown Act.

**MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS**

<https://youtu.be/n-VTVuH70SQ?t=155>

**CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS**

<https://youtu.be/n-VTVuH70SQ?t=761>

PRESENTATIONS - None

**PUBLIC COMMENT**

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

**A. CONSENT AGENDA**

<https://youtu.be/n-VTVuH70SQ?t=971>

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

- A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 22, 2020, CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE OCTOBER 13, 2020, CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-3 ADOPTION OF RESOLUTION NO. 93-20 APPROVING A 1-YEAR LEASE AGREEMENT WITH TRAVIS FORD (ROCK HARBOR MARKETING) FOR PROPERTY LOCATED AT 781 MARKET STREET; (COMMUNITY DEVELOPMENT DIRECTOR)

**RECOMMENDATION: Staff recommends the Council adopt Resolution No. 93-20, approving a 1-year Lease Agreement for the City property located at 781 Market Street (APN: 066-321-027).**

- A-4 MEMORANDUM OF UNDERSTANDING WITH THE CITIES OF SAN LUIS OBISPO AND PASO ROBLES FOR SHARING POLICY BOARD, OPERATIONS BOARD, AND COMMUNITY ADVISORY COMMITTEE SEATS ON CENTRAL COAST COMMUNITY ENERGY (FORMERLY KNOWN AS MONTEREY BAY COMMUNITY POWER); (CITY MANAGER)

**RECOMMENDATION: Staff recommends the City Council:**  
**1) Approve Memorandum of Understanding (MOU) with the Cities of San Luis Obispo and Paso Robles for sharing Policy Board, Operations Board, and Community Advisory Committee seats on Central Coast Community Energy (Attachment A) in a form substantially similar to Attachment A; and 2) Authorize the City Manager to execute the MOU in a form substantially similar to the form presented in Attachment A and subject to approval as to form by the City Attorney's Office.**

- A-5 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND PG&E FOR CONTINUED ACCESS AND USE OF PG&E PROPERTY FOR THE MORRO BAY BIKE PARK; (CITY MANAGER)

**RECOMMENDATION: Staff recommends the City Council approve the License Agreement with PG&E related to continued access and use of PG&E property for the existing Morro Bay Bike Park located on Little Morro Creek Road.**

- A-6 ADOPTION OF RESOLUTION NO. 97-20 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A 2020/2021 SURRENDERED AND ABANDONED VESSEL EXCHANGE GRANT CONTRACT WITH THE STATE OF CALIFORNIA DIVISION OF BOATING AND WATERWAYS IN THE AMOUNT OF \$18,200.00 FOR REMOVAL OF ABANDONED/SURRENDERED VESSELS AND HAZARDS TO NAVIGATION; (HARBOR DEPARTMENT)

**RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 97-20 authorizing the Harbor Director to execute the attached 2020/2021 Surrendered**

**and Abandoned Vessel Exchange (SAVE) Grant Contract Agreement #C20S0604 with the California Division of Boating and Waterways (DBW) for \$18,200.00 for the funding of removal of abandoned/surrendered vessels and hazards to navigation.**

- A-7 REVIEW AND ADOPT RESOLUTION NO. 98-20 ACCEPTING THE MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN AND APPROVING MORRO BAY LOCAL HAZARD MITIGATION PLAN ANNEX D; (FIRE DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council adopt Resolution 98-20 approving the San Luis Obispo County Multi-Jurisdictional Hazard Mitigation Plan update and City of Morro Bay Local Hazard Mitigation Plan Annex D.**

Mayor Headling opened public comment for the Consent Agenda; seeing none, the public comment period was closed.

Council Member Davis pulled Item A-5 for comment. Council Member Heller pulled Items A-3, A-6 and A-7.

MOTION: Council Member Addis moved approval of all items on Consent except Items A-3, A-5, A-6 and A-7. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- A-3 ADOPTION OF RESOLUTION NO. 93-20 APPROVING A 1-YEAR LEASE AGREEMENT WITH TRAVIS FORD (ROCK HARBOR MARKETING) FOR PROPERTY LOCATED AT 781 MARKET STREET; (COMMUNITY DEVELOPMENT DIRECTOR)  
<https://youtu.be/n-VTVuH70SQ?t=1093>

- A-6 ADOPTION OF RESOLUTION NO. 97-20 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A 2020/2021 SURRENDERED AND ABANDONED VESSEL EXCHANGE GRANT CONTRACT WITH THE STATE OF CALIFORNIA DIVISION OF BOATING AND WATERWAYS IN THE AMOUNT OF \$18,200.00 FOR REMOVAL OF ABANDONED/SURRENDERED VESSELS AND HAZARDS TO NAVIGATION; (HARBOR DEPARTMENT)  
<https://youtu.be/n-VTVuH70SQ?t=1143>

- A-7 REVIEW AND ADOPT RESOLUTION NO. 98-20 ACCEPTING THE MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN AND APPROVING MORRO BAY LOCAL HAZARD MITIGATION PLAN ANNEX D; (FIRE DEPARTMENT)  
<https://youtu.be/n-VTVuH70SQ?t=1192>

Staff responded to Council questions regarding Items A-3, A-6 and A-7.

MOTION: Council Member Heller moved approval of Items A-3, A-6 and A-7. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

- A-5 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND PG&E FOR CONTINUED ACCESS AND USE OF PG&E PROPERTY FOR THE MORRO BAY BIKE PARK; (CITY MANAGER)  
<https://youtu.be/n-VTVuH70SQ?t=1318>

In addition to CCCMB the City's partner in maintaining the Bike Park, Council Member Davis recognized Morro Bay in Bloom for their efforts to beautify and maintain the surrounding area.

MOTION: Council Member Davis moved approval of Item A-5. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

B. PUBLIC HEARINGS

- B-1 ADOPTION OF RESOLUTION NO. 96-20, WHICH RESCINDS RESOLUTION NO. 60-20 AND AMENDS THE FY 2020/21 MASTER FEE SCHEDULE REVISING BUILDING PERMIT AND FIRE PLAN REVIEW FEES AND ADDS A NEW FEE FOR COMMERCIAL CANNABIS BACKGROUND INVESTIGATIONS; (COMMUNITY DEVELOPMENT DEPARTMENT)  
<https://youtu.be/n-VTVuH70SQ?t=1394>

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

Mayor Headding opened the Public Hearing and public comment for Item B-1.

Angelica Sanchez, Director of Government Affairs for Perfect Union, spoke in support of Item B-1, stating her appreciation for establishing a fixed cost for background investigations.

The Public Hearing was closed.

MOTION: Council Member McPherson moved to adopt Resolution No. 96-20, which rescinds Resolution No. 60-20 and amends the City's Master Fee Schedule for Fiscal Year (FY) 2020/21 to include revised Building Permit and Fire Plan Review fees and adds a new fee for the Police Department to cover commercial cannabis business employee background investigations. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 WATER RECLAMATION FACILITY (WRF) PROJECT CONVEYANCE FACILITIES CONSTRUCTION CONTRACT AWARD IN THE AMOUNT OF \$31,493,675, HYDROGEOLOGICAL WORK CONTRACT AMENDMENT IN THE AMOUNT OF \$530,000 FOR THE NEXT PHASE OF HYDROGEOLOGICAL WORK (PHASE 3), REJECTING A BID PROTEST AND REVIEW OF THE WRF QUARTERLY REPORT AND RECOMMENDED SCHEDULE OF REPORTING; (PUBLIC WORKS DEPARTMENT)  
<https://youtu.be/n-VTVuH70SQ?t=2758>

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

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

Betty Winholtz, Morro Bay, stated her concerns regarding the west side alignment and overall cost of the WRF project.

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

MOTION: Council Member McPherson moved to reject the bid protest filed by W.A. Rasic and authorize the City Manager to execute a contract with Anvil

Builders in the amount of \$31,493,675 for construction of the Conveyance Facilities component of the Water Reclamation Facility Project; and authorize the City Manager to execute a contract amendment with GSI Water Solutions Inc. (GSI) in the amount of \$530,000 to provide Phase 3 hydrogeological services for the Project; and approve the proposed modified schedule for WRF Monthly and Quarterly reporting. The motion was seconded by Council Member Addis for discussion.

AMENDED MOTION Council Member Addis requested the motion be amended to also eliminate the WRF Project monthly reports and receive quarterly reports as a business item. Council Member McPherson accepted the friendly amendment. Following discussion, the motion carried 5-0 by roll call vote.

- C-2 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 641; AMENDING TITLE 14 (BUILDING AND CONSTRUCTION) OF THE MORRO BAY MUNICIPAL CODE ADDING CHAPTER 14.43 (ELECTRIC VEHICLE CHARGING SYSTEMS), PROVIDING A STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING SYSTEMS AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; (COMMUNITY DEVELOPMENT)  
<https://youtu.be/n-VTVuH70SQ?t=10696>

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

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

MOTION: Council Member Addis moved to introduce, by title only, and waive further reading of Ordinance No. 641 amending Title 14 (Building and Construction) of the Morro Bay Municipal Code by addition of Chapter 14.43 (Electric Vehicle Charging Systems) providing a streamlined permitting process for electric vehicle charging systems and finding the project exempt from the California Environmental Quality Act (CEQA). The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
<https://youtu.be/n-VTVuH70SQ?t=11054>

Mayor Heading requested the Council review political contribution limits for Morro Bay elections, noting Assembly Bill (AB) 571 sets campaign contribution limits from any individual starting January 1, 2021, which will be enforced by the FPPC. There was full support for this item.

Council Member Addis commented on a resident request for a 4-way stop at Dunes and Main Streets, asking whether there was a need to agendaize for Council discussion. It was agreed staff would prepare a report on the process and criteria used to implement 4-way stops.

Council Member Addis requested Council discussion into a recent complaint regarding street sweeping services. Staff agreed to research the issue and provide a memo to Council regarding the effectiveness of the current contract and cost for improved services.

Council Member Heller commented the City of San Luis Obispo hired an additional consultant to analyze and manage processes in the City. It was noted this issue is calendared for discussion at the November 17, 2020 Special Meeting.

E. ADJOURNMENT

The meeting adjourned at 8:51 p.m.

Recorded by:

Dana Swanson  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
NOVEMBER 12, 2020 – 2:00 P.M.  
TELECONFERENCE

AGENDA NO: A-4  
MEETING DATE: December 8, 2020

*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:            John Headding            Mayor  
                         Dawn Addis                Council Member  
                         Robert Davis              Council Member  
                         Jeff Heller                Council Member  
                         Marlys McPherson       Council Member

ABSENT:            None

STAFF:             Scott Collins              City Manager  
                         Chris Neumeyer          City Attorney

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 2:00 p.m. with all members present.

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

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

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

**CS-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Conduct an employee evaluation of City Manager pursuant to Government Code section 54957

**CS-2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Conduct an employee evaluation of City Attorney pursuant to Government Code section 54957

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

**ADJOURNMENT** - The meeting adjourned at 2:53 p.m.

Recorded by:

Dana Swanson  
City Clerk

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AGENDA NO: A-5

MEETING DATE: December 8, 2020

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** December 2, 2020

**FROM:** Scot Graham, Community Development Director

**SUBJECT:** Adoption of Ordinance No. 641; Amending Title 14 (Building and Construction) of the Morro Bay Municipal Code Adding Chapter 14.43 (Electric Vehicle Charging Systems), Providing a Streamlined Permitting Process for Electric Vehicle Charging Systems and Finding the Ordinance Exempt From the California Environmental Quality Act

## **RECOMMENDATION**

Staff recommends Council consider adopting, by second reading and by title only with further reading waived, Ordinance No. 641 entitled "An Ordinance of the City Council of the City of Morro Bay, California, Amending Title 14 (Building and Construction) to add Chapter 14.43 (Electric Vehicle Charging Systems) to the Morro Bay Municipal Code establishing an expedited permitting process for electric vehicle charging systems."

## **ALTERNATIVES**

No alternatives are being recommended.

## **FISCAL IMPACT**

None, other than for staff time spent preparing the Ordinance for adoption.

## **BACKGROUND**

Ordinance No. 641 was introduced for a first reading at the November 10, 2020 City Council meeting.

Assembly Bill 1236, was signed by the Governor in October 2015, adding Government Code Section 65850.7 to require jurisdictions with a population of less than 200,000 to establish procedures for expedited, streamlined processes for permitting of electric vehicle charging stations before September 20, 2017. The ordinance must include the requirement that a jurisdiction adopt a checklist of requirements with which a permit application for an electric vehicle charging station will be eligible for expedited review. The intent of AB 1236 is to remove unreasonable barriers to the installation of electric vehicle charging stations and to facilitate and encourage installation of these facilities by homeowners and businesses.

An electric vehicle charging station is any level of Electric Vehicle Supply Equipment (EVSE) station which delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

Prepared By: SG Dept Review: \_\_\_\_\_  
City Manager Review: SC City Attorney Review: CFN

Assembly Bill 1236 suggests that the City's checklist may be based on the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" published by the Governor's Office of Planning and Research.

## **DISCUSSION**

The City did not adopt an ordinance in compliance with AB 1236 back in 2017 because staffing in the Building Division was in transition and lacked capacity to bring forward the ordinance. Also, the City receives very few applications for these types of facilities and the City provides an expedited review of residential electric vehicle charging station applications through over-the-counter review and by issuing over-the-counter electrical permits. This same process would also apply to small commercial EV charging projects, although we have not received any applications for these type of facilities since the adoption of AB 1236. Larger commercial EV charging projects, with multiple charging stations that may require electrical service upgrades are more complex and would be reviewed on a submittal basis which requires they be distributed to the various departments for a standard review process. We have not received any applications for larger commercial EV charging projects since adoption of AB 1236.

As specified by AB 1236, local jurisdictions are required to adopt a local ordinance that outlines the parameters and requirements for streamlined processes. As contained in the proposed ordinance, these provisions include:

- Implementation of an expedited permit and review process including electronic submittal and electronic signature for application authorization
- Only a single inspection can be required
- Creation of a checklist of all requirements necessary to be eligible for expedited review
- Publication of checklist on a publicly accessible website
- Prohibition of HOA approval requirements

## **ENVIRONMENTAL**

The ordinance is exempt from environmental review pursuant to CEQA guidelines Section 15061(b)(3) as there is no possibility that this Ordinance may have a significant effect on the environment. The Ordinance involves updates to the City's regulations as required by the mandates of California law, specifically AB 1236 including Government Code Section 65850.7. The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The project involves updates and revisions to existing regulation and the code amendments consistent with California State Law, specifically Government Code Section 65850.7. Additionally, the ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) as the ordinance would assure the enhancement of the environment, including climate action goals, and would not allow environmental degradation. Further, none of the exceptions to the exemptions under CEQA Guidelines Section 15300.2 are applicable.

## **CONCLUSION**

Staff recommends that the City Council consider adopting Ordinance No. 641 by second reading and by title only, with further reading waived.

## **ATTACHMENT**

1. Ordinance No. 641

**ORDINANCE NO. 641**

**AN ORDINANCE OF THE CITY OF CITY COUNCIL  
OF THE CITY OF MORRO BAY CALIFORNIA  
AMENDING TITLE 14 (BUILDING AND CONSTRUCTION) TO ADD  
CHAPTER 14.43 (ELECTRIC VEHICLE CHARGING SYSTEMS) TO  
THE MORRO BAY MUNICIPAL CODE ESTABLISHING AN  
EXPEDITED PERMITTING PROCESS FOR ELECTRIC VEHICLE  
CHARGING SYSTEMS**

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

**WHEREAS**, the City Council of Morro Bay seeks to implement AB 1236 (Chapter 598, Statutes 2015) through the creation of an expedited, streamlined permitting process for electric vehicle charging systems; and

**WHEREAS**, the City of Morro Bay wishes to advance, promote and encourage the use of fuel-efficient electrical vehicles; and

**WHEREAS**, the State of California adopted Assembly Bill 1236 in 2015, which requires local agencies to adopt an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging systems; and

**WHEREAS**, creation of an expedited, streamlined permitting process for electric vehicle charging systems would facilitate convenient charging of electric vehicles and help reduce the City's reliance on environmentally damaging fossil fuels.

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

**SECTION 1:** The City Council has performed a preliminary environmental assessment of this project and, pursuant to CEQA Guidelines Section 15061(b)(3), has determined with certainty that there is no possibility that this Ordinance may have a significant effect on the environment. The Ordinance involves updates to the City's regulations as required by the mandates of California law, specifically AB 1236 including Government Code Section 65850.7. Additionally, the City Council has determined pursuant to CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) the adoption of the Ordinance, which had been directed by the State, would assure the enhancement of the environment, including climate action goals, and would not allow environmental degradation. Further, none of the exceptions to the exemptions under CEQA Guidelines Section 15300.2 are applicable.

**SECTION 2:** Chapter 14.43 (Electric Vehicle Charging Systems) of Title 14 (Building and Construction) is added to the City of Morro Bay Municipal Code, as follows:

## **Chapter 14.43 Electric Vehicle Charging Systems**

### **14.43.010 Purpose**

The purpose of this chapter is to adopt an expedited, streamlined permitting process for electric vehicle charging stations that complies with Government Code Section 65850.7 to achieve timely and cost-effective installations. This chapter is designed to encourage the use of electric vehicles by removing what the State Legislature considers to be unreasonable barriers, thus minimizing costs to property owners and the city, and expanding the ability of property owners to install electric vehicle charging systems and electric vehicle charging spaces. This chapter allows the city to achieve these goals while protecting the public health and safety.

### **14.43.020 Definitions.**

As used in this chapter, the following terms, phrases and words shall have the following definitions, which are intended to be consistent with the definitions in Government Code Section 65850.7, and shall be automatically deemed to be amended to reflect any amendments to the definitions in state law.

**A.** “Electric vehicle charging station” or “charging station” means any level of electric vehicle supply equipment station that is designed and built in compliance with California Electrical Code Article 625, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

**B.** “Feasible method to satisfactorily mitigate or avoid the specific, adverse impact” includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the city on another similarly situated application in a prior successful application for a permit.

**C.** “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

### **14.43.030 Applicability**

This chapter applies to the permitting of all electric vehicle charging stations in the city. Electric vehicle charging stations legally established or permitted prior to the effective date of this chapter are not subject to its requirements unless physical modifications or alterations are undertaken that materially change the size, type, or components of an electric vehicle charging station in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements with no structural alterations shall not require a permit.

### **14.43.040 Technical Review**

**A.** An application for an electric vehicle charging station shall take into consideration electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; and areas of charging station equipment and vehicle parking.

**B.** Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy,

and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

#### **14.43.050 Application Documents**

**A.** All documents required for the submission of an electric vehicle charging station application shall be made available on the city website. The building official shall adopt, and post on the city's website, a standard plan and checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review.

**B.** Electronic submittal of the required permit application, plans and documents by email or the internet shall be made available to all electric vehicle charging station permit applicants.

**C.** The city will accept an electronic signature on all forms, applications and other documents in lieu of a wet signature by an applicant.

**D.** The electric vehicle charging station permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" published by the Office of Planning and Research.

#### **15.15.060 Permit Review and Inspection Requirements**

**A.** The building official shall implement an administrative, nondiscretionary review process to expedite approval of electric vehicle charging stations.

**B.** If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

**C.** Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.

**D.** The building and safety division shall issue a building permit, the issuance of which is nondiscretionary within five business days for residential installations, and ten business days for commercial installations upon receipt of a complete application that meets the requirements of the approved checklist and standard plan.

**E.** The building official may require an applicant to apply for an administrative use permit/coastal development permit if the official finds, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health and safety.

**F.** If an administrative use permit/coastal development permit is required, the city may deny such application if it makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the city planning commission.

**G.** Any condition imposed on an application shall be a feasible method to satisfactorily mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

H. Approval of a permit for any electric vehicle charging station shall not be conditioned on the approval of an electric vehicle charging station by an association, as that term is defined in Civil Code Section 4080.

I. Only one inspection shall be required and performed by the building division for electric vehicle charging stations eligible for expedited review.

1.The inspection shall be done in a timely manner and should include consolidated inspections.

2. If an electric vehicle charging station fails inspection, a subsequent inspection is authorized.

**SECTION 3.** Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Morro Bay hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 4.** This Ordinance shall be in full force and effect thirty (30) days after its adoption following second reading.

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**SECTION 5.** The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code Section 36933.

**INTRODUCED** at a regular meeting of the City Council of Morro Bay, held on the 10<sup>th</sup> day of November, 2020, by motion of Council Member Addis, seconded by Council Member Heller.

**PASSED AND ADOPTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, MAYOR

ATTEST:

\_\_\_\_\_  
DANA SWANSON, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS F. NEUMEYER, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF SAN LUIS OBISPO )  
CITY OF MORRO BAY )

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance 641 was duly adopted by the City Council of the City of Morro Bay at the regular meeting of said Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

DANA SWANSON, City Clerk



AGENDA NO: A-6

MEETING DATE: December 8, 2020

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** November 25, 2020

**FROM:** Joe Mueller, Acting Public Work Director  
Matt Bishop, Consolidated Maintenance Supervisor

**SUBJECT:** Adopt Resolution No. 102-20 Authorizing the City Manager to Execute an Agreement with the California Department of Corrections and Rehabilitation for Inmate Work Crews

## RECOMMENDATION

Staff recommends the Council adopt Resolution No. 102-20 authorizing the City Manager to execute an agreement with the California Department of Corrections and Rehabilitation for inmate work crews.

## FISCAL IMPACT

CDCR work crews are currently unavailable due to the COVID-19 pandemic, therefore no funds are currently budgeted for these services in FY 20/21. At such time these services become available, staff will bring forward a requested budget amendment for Council approval.

## BACKGROUND

The City has contracted with the California Department of Corrections and Rehabilitation (CDCR) for inmate work crews for the past thirty years. Inmate work crews from the California Men’s Colony provide general clean-up, and other activities mutually agreed upon, such as graffiti and litter removal, painting, weed abatement, miscellaneous landscaping work, etc. The City would like to continue that practice and has been offered a new agreement for those services. This agreement would start upon execution by the City Manager and CDCR, and end on June 30, 2024, for an approximately 3 year 7- month term. CDCR has implemented a more formal process to secure those services. A standard agreement has been issued to the City, which requires a Council resolution authorizing the City Manager to enter into the agreement. That agreement is provided as Attachment No 2, and note that Exhibit C to that agreement is provided as Attachment No 3.

Prepared By: <u>AM</u>	Dept Review: _____
City Manager Review: _____	City Attorney Review: <u>CFN</u>

CC 2020-12-08 Page 27 of 112

**DISCUSSION**

The attached Resolution No. 102-20 has been prepared to authorize execution of the agreement with CDCR for inmate work crews.

**CONCLUSION**

Staff recommends the Council adopt Resolution No. 102-20.

**ATTACHMENTS**

1. Resolution No. 102-20
2. Agreement CDCR Mens Colony
3. Exhibit C to Agreement CDCR Men's Colony

**RESOLUTION NO. 102-20**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AUTHORIZING THE CITY MANAGER TO EXECUTE  
AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND  
REHABILITATION FOR INMATE WORK CREWS**

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

**WHEREAS**, the City of Morro Bay has, for the past thirty years, utilized work crews from the California Men's Colony to provide general clean-up and other activities mutually agreed upon; and

**WHEREAS**, the City of Morro Bay desires to continue to contract for such services; and

**WHEREAS**, to continue those services, the City of Morro Bay and the California Department of Corrections and Rehabilitation wish to enter into a new three year 7 month term agreement.

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

1. The City Council approves entering into of a new agreement (the "Agreement") effective, December 9, 2020 through June 30, 2024 with the California Department of Corrections and Rehabilitation for Inmate Community Service Work Crews in an annual amount not to exceed the annual allocation of funds approved by the City Council for this activity in each fiscal year during the term of the Agreement.
2. The City Manager, or his or her designee, is authorized to execute the Agreement and any related documents on behalf of the City.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8th day of December 2020 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

JOHN HEADDING, Mayor

ATTEST:

---

DANA SWANSON, City Clerk

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

C5609456

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Department of Corrections and Rehabilitation (CDCR)

CONTRACTOR NAME

City of Morro Bay

2. The term of this Agreement is:

START DATE

July 1, 2020 or Upon Approval, Whichever Occurs Later

THROUGH END DATE

June 30, 2024

3. The maximum amount of this Agreement is:

\$0.00 (REIMBURSEMENT) Zero Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	6
Exhibit B	Budget Details and Payment Provisions for Reimbursements	1
Exhibit B-1	Rate Sheet	1
Exhibit C*	General Terms and Conditions	GTC 04/2017
Exhibit D	Special Terms and Conditions for Public Entity Agreements	13
Exhibit E	Prison Rape Elimination Policy - Volunteer/Contractor Information Sheet	2

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Morro Bay

CONTRACTOR BUSINESS ADDRESS

595 Harbor Street

CITY

Morro Bay

STATE

CA

ZIP

93442

PRINTED NAME OF PERSON SIGNING

Scott Collins

TITLE

City Manager

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

C5609456

PURCHASING AUTHORITY NUMBER (If Applicable)

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Department of Corrections and Rehabilitation (CDCR)

CONTRACTING AGENCY ADDRESS

9838 Old Placerville Road, Suite B-2

CITY

Sacramento

STATE

CA

ZIP

95827

PRINTED NAME OF PERSON SIGNING

Kevin Arredondo

TITLE

Manager, Institution Service Contracts Unit #2

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

C5609456

PURCHASING AUTHORITY NUMBER (If Applicable)

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CONTRACTOR NAME

City of Morro Bay

2. The term of this Agreement is:

START DATE

July 1, 2020 or Upon Approval, Whichever Occurs Later

THROUGH END DATE

June 30, 2024

3. The maximum amount of this Agreement is:

\$0.00 (REIMBURSEMENT) Zero Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

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Exhibit D	Special Terms and Conditions for Public Entity Agreements	13
Exhibit E	Prison Rape Elimination Policy - Volunteer/Contractor Information Sheet	2

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Morro Bay

CONTRACTOR BUSINESS ADDRESS

595 Harbor Street

CITY

Morro Bay

STATE

CA

ZIP

93442

PRINTED NAME OF PERSON SIGNING

Scott Collins

TITLE

City Manager

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

C5609456

PURCHASING AUTHORITY NUMBER (If Applicable)

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Department of Corrections and Rehabilitation (CDCR)

CONTRACTING AGENCY ADDRESS

9838 Old Placerville Road, Suite B-2

CITY

Sacramento

STATE

CA

ZIP

95827

PRINTED NAME OF PERSON SIGNING

Kevin Arredondo

TITLE

Manager, Institution Service Contracts Unit #2

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

## **INMATE COMMUNITY SERVICE WORK CREWS (Reimbursement)**

### **1. INTRODUCTION/SERVICES**

The California Department of Corrections and Rehabilitation (CDCR), California Men's Colony (CMC) located at Highway #1, San Luis Obispo, CA 93409 shall provide Inmate Community Service Work Crews to perform community crew services for the City of Morro Bay's owned properties. The City of Morro Bay, located at 595 Harbor St, Morro Bay, California 93442, is the recipient of the services and is herein referred to as the "Contractor".

This agreement shall provide a meaningful, useful, and manageable work program as part of the work incentive of inmates at CMC to render a public service. Under no circumstances are inmates or CDCR employees to be considered employees or agents of the Contractor during the term of their assignment to community service projects.

Services to be provided by CDCR inmate work crews shall consist of the following but not limited to:

- Graffiti removal
- Litter removal
- Painting
- Streambed maintenance
- Community event clean-up
- Weed abatement
- Miscellaneous landscaping work
- Pruning trees and shrubs
- General clean-up, and other activities mutually agreed upon

### **2. CONTRACTOR RESPONSIBILITIES**

- a. Designate a Project Coordinator (PC) representative for each assignment project who will assist and give instructions and technical supervision for each project performed by inmates, as well as deadlines for projects, if applicable.
- b. Ensure inmate work crews are not utilized in lieu of paid staff or in violation of the Public Contract Code(s).
- c. Ensure that there is no commingling of inmate crews with the public or Contractor staff other than the immediate technical direction by Contractor to ensure quality control of the work to be performed.
- d. Provide training to inmate crews in all safety procedures and a safe working environment. CDCR realizes and acknowledges that the performance of work in and around the work sites can be hazardous and that injuries to workers can occur

which cannot be reasonably avoided by any of the parties hereto. However, the Contractor agrees not to assign any inmate work crews to work in any area which the Contractor knows to be unsafe or in a dangerous condition.

- e. Provide assignments and necessary equipment, materials, plans, technical guidance, and supplies as necessary for all projects to be completed except when agreed upon in advance that CDCR will furnish all or part. Provide any special clothing and/or safety equipment required in addition to what CDCR provides.
- f. Provide any heavy equipment necessary for the completion of projects and personnel to operate the heavy equipment.
- g. Maintain all equipment in good working condition. The cost of equipment, materials, and supplies will be at the sole expense of the Contractor.
- h. Ensure that all equipment necessary to complete project is delivered to the worksite.
- i. Provide traffic control and adequate equipment/materials (i.e. barricades, cones and signs, etc.) to ensure safety of all workers.
- j. Provide portable toilets on or adjacent to the worksite.
- k. Report all disputes/concerns from the community, labor unions and contractor staff. Contractor shall inform the Contract Manager within seven (7) days in writing.
- l. Contractor staff working in and around inmates will be familiar with the laws, rules and regulations governing conduct in associating with prison inmates. Contractor is responsible for ensuring employees adhere to the laws, rules and regulations relating to inmates.
- m. Contractor will provide an area within their jurisdiction, wherein equipment, tools and supplies are stored for use by the Off Reservation Work Detail (ORWD) work crews. These areas will provide reasonable security from public intrusion and/or access by unauthorized persons. These areas will be available for routine search and inspection by CDCR during business hours and with reasonable notification to the Contractor, during non-business hours.

### **3. CDCR RESPONSIBILITIES**

- a. Assign qualified custodial qualified inmate workers to perform general labor on the properties under the jurisdiction of the Contractor. Under no circumstances will work crew be used on public works projects requiring skilled labor or projects requiring public bidding.

- b. Reject any project that could jeopardize the use of inmate laborers or bring undue criticism to the use of this resource.
- c. Maintain, through proper classification procedures, a list of approved inmates to be utilized as off-reservation work detail workers.
- d. Determine the quantity of inmates that will be committed to a specific work site based on safety/security factors. Inmate work crew size will be determined by CDCR.
- e. Be responsible for maintaining a daily log and control of all tools, equipment and fuel assigned to the inmate work crew. All tools must be accounted for at the end of each day.
- f. Provide custody supervision for the discipline, security, control, welfare and safety of inmates, contractor staff and the general public.
- g. Bear any obligations to provide worker's compensation insurance to the assigned inmate workers and custody staff to the extent that such obligations may apply, except as specified by law (Section 3370-3371, Labor Code).
- h. Perform all necessary paperwork including but not limited to, hours worked, department served, travel logs, and invoicing for services.
- i. Provide transportation of inmate work crews to the worksite and for their return to CMC at the end of each workday.
- j. Provide gloves and protection coveralls for the inmate work crews. Provide inmates with all personal protective equipment and/or safety gear for each project as necessary. The CDCR will provide first aid kits as required by CAL OSHA.
- k. Ensure the inmate work crew wears all safety equipment provided at all times. The Contractor is responsible for instructing which safety item must be worn at the worksite.
- l. To provide sack lunches for inmates at the work project.
- m. Temporarily suspend work on any project without prior notification based on unforeseen custodial or situational circumstances. Written notification will be given if suspension will exceed 24 hours. Contractor agrees that scheduled work crew activities may be delayed and/or cancelled as a result of CMC security issues such as lockdowns and/or inclement weather that poses a security hazard such as fog. The CDCR shall not be liable for any delay.

- n. Ensure that inmate work crews shall not be assigned project work on or adjacent to private or public school grounds, day care centers, etc. while in session.
- o. Ensure that inmate work crews shall not operate any tools, equipment, or motorized vehicles that they have not been trained or authorized to use.
- p. Ensure inmate workers are not allowed to operate any mobile equipment on a public road, except in extreme emergency, and must report such instance to the inmate work crew supervisor immediately following the emergency as outlined in the California Code of Regulations, Title 15, and Section 3408, VEHICLES.

#### **4. LIABILITY**

- a. Neither Contractor, nor any officer or employee thereof, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CDCR under or in connection with any work, authority or jurisdiction not delegated to Contractor under this Agreement. It is also agreed that, pursuant to Government Code Section 895.4, CDCR will fully indemnify and hold Contractor harmless for any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CDCR under or in connection with any work not delegated to Contractor under this Agreement.
- b. Neither CDCR, nor any officer or employee thereof will be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Contractor under this Agreement. It is also agreed that, pursuant to Government Code Section 895.4, Contractor shall fully indemnify and hold CDCR harmless for any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Contractor under or in connection with any work not delegated to CDCR under this Agreement.
- c. Nothing in this Agreement is intended to, nor shall operate so as to abrogate any legal immunity afforded either CDCR or Contractor, including, but not limited to, immunities provided by Government Code sections 844.6, 845.8, or similar such immunities afforded under law.
- d. It is understood that the contractual relationship of CDCR and City is that of independent Contractor. The agents and employees of CDCR on assignment to Contractor are not, and shall not be considered employees or agents of Contractor.

#### **5. WORK SCHEDULE**

Upon mutual agreement by both parties, inmate crews and custodial staff shall be provided to the Contractor between the hours of 7:30 AM through 3:30 PM up to four (4) days per week, Monday through Thursday. Except in cases of emergency, there

shall be no project work on Friday, Saturday, Sunday or those holidays defined in Section 6700 through 6705 of the California Government Code as designated holidays for state employees. Work schedule shall commence and end at CMC. The maximum hours allowed per day for custody staff and inmate workers is nine (9) hours.

## 6. **DISCIPLINE**

Discipline of the inmate workers is the sole responsibility of CDCR staff. Contractor, whenever possible, assists Correctional Officers in control of inmate in emergency situations on work locations under the guidance of custody staff. Contractor personnel shall report through established channels all acts of inmate workers contrary to law, regulations, or City rules.

## 7. **ACCIDENT/DAMAGES**

Damage caused to the Contractor's equipment due to abuse, unauthorized alterations, misuse, use of unauthorized agents, vandalism or negligence by the State or its officers, agents, employees, or CDCR inmates, shall be paid for by CDCR except on a time and material basis. Such repairs will be performed by the Contractor.

## 8. **NOTICES**

Notices (correspondence) to be given between the parties shall be in writing. Addresses are as follows:

- **Public Information Officer**  
**Lieutenant Monica Ayon**  
California Men's Colony  
P.O. Box 8101  
San Luis Obispo, CA 93409  
Phone Number: (805) 547-7948  
[Monica.ayon@cdcr.ca.gov](mailto:Monica.ayon@cdcr.ca.gov)
- **California Men's Colony Contract Manager**  
**Lisa Tackett, Correctional Business Manager II**  
California Men's Colony  
P.O. Box 8101  
San Luis Obispo, CA 93409  
Phone Number: (805) 547-7927  
Fax Number: (805) 547-7520  
[lisa.tackett@cdcr.ca.gov](mailto:lisa.tackett@cdcr.ca.gov)

- **Correspondence Contact:**  
**City of Morro Bay**  
**Matt Bishop, Maintenance Supervisor**  
955 Shasta Avenue  
Morro Bay, CA 93442  
Phone Number: (805) 441-3299  
Fax: (805) 772-6268  
[mbishop@morrobayca.gov](mailto:mbishop@morrobayca.gov)

## **9. DEPARTMENT OF CORRECTIONS AND REHABILITATION CONTACT INFORMATION**

Should questions or problems arise during the term of this contract, the Contractor should contact the following offices:

- **Reimbursement/Payment Issues:**  
Accounting Services Branch-Rancho Cucamonga  
Phone Number: (909) 483-1545  
[role-invoices.scrao@cdcr.ca.gov](mailto:role-invoices.scrao@cdcr.ca.gov)
- **Scope of Service/Performance Issues:**  
Public Information, Contract Manager  
Phone Number: (805) 547-7927  
[lisa.tackett@cdcr.ca.gov](mailto:lisa.tackett@cdcr.ca.gov)
- **General Contract Issues:**  
Office of Contract Services  
Phone Number: (916) 255-6180  
FAX Number: (916) 255-6184

**1. Invoicing and Payment (reimbursement contracts)**

- a. The CDCR will submit an Invoice to the Contractor, by the 10<sup>th</sup> day of each month for the preceding month's services; based on the rates specified in Exhibit B-1, Rate Sheet, which is attached hereto and made part of this Agreement.
- b. Invoices will be due within thirty (30) days of the statement date and shall be remitted to the appropriate CDCR Accounting office below:

California Department of Corrections and Rehabilitation (CDCR)  
ASB – Rancho Cucamonga  
Attention: Accounts Receivable  
PO Box 6000  
Rancho Cucamonga, CA 91729-6000

**INMATE COMMUNITY SERVICE WORK CREWS  
(Reimbursement)**

Contractor shall reimburse CDCR monthly in arrears, as follows:

Correctional Officer Reimbursement*	\$560.00	Per day
Correctional Officer Reimbursement (3hr or less)*	\$250.00	Per day
Crew Inmate	\$2.25	Per day
Lead-Man Inmate	\$3.00	Per day
Mileage Reimbursement	\$1.20	Per mile

\*This amount may increase per contract negotiations at any time during the agreement term.\*  
Any changes to the Correctional Officer reimbursement rate as a result of the contract negotiations will require a formal amendment to the contract.

Effective September 1, 2020, the reimbursement authority for guarding costs will be based upon actual salary (including pay differentials) plus benefits incurred for the officer providing this assignment. If the officer providing this assignment is performing an overtime shift, then the officer's overtime pay will be reimbursed. This will ensure appropriate reimbursement, thereby assisting with accountability and cost-containment measures.

CMC will submit a detailed statement to Contractor each month which sets forth days, hours per day worked, miles traveled to and from CMC and number of inmates in the workforce assigned to Contractor in the month immediately preceding. CMC will add 30% to the monthly statement to the Contractor (10% to be placed in the Inmate Welfare Fund plus 20% for administrative costs). Contractor shall pay said statement within 20 days after receipt thereof.

CMC shall have sole responsibility for disbursement of these payments to the personnel involved.

**1. Contract Disputes with Public Entities** (Supersedes provision number 6, Disputes, of Exhibit C)

As a condition precedent to Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, Contractor agrees that all disputes and/or claims of Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.

Pending the final resolution of any such disputes and/or claims, Contractor agrees to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. Contractor's failure to diligently proceed shall constitute a material breach of the Agreement.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Sacramento, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

A county, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with CDCR, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

**2. Confidentiality of Data**

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.

If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the Contractor's possession that is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

### **3. Accounting Principles**

The Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

### **4. Taxes**

Unless required by law, the State of California is exempt from federal excise taxes.

### **5. Right to Terminate** (Supersedes provision number 7, Termination for Cause, of Exhibit C)

The parties hereto agree that either party may cancel this Agreement by giving the other party written notice thirty (30) days in advance of the effective date of such cancellation. In the event of such termination, the State agrees to pay Contractor for actual services rendered up to and including the date of termination.

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

### **6. Contract Suspension**

Notwithstanding any other provisions of this Agreement, pursuant to a Governor's Executive Order or equivalent directive, such as a court order or an order from a federal or state regulatory agency, mandating the suspension of state contracts, the State may issue a Suspension of Work Notice. The Notice shall identify the specific Executive Order or directive and the Agreement number(s) subject to suspension. Unless specifically stated otherwise, all performance under the Agreement(s) must stop immediately upon receipt of the Notice. During the period of contract suspension, Contractor is not entitled to any payment for the suspended work. Once the order suspending state contracts has been lifted, a formal letter from the Department will be issued to the Contractor to resume work.

### **7. Extension of Term**

If it is determined to be in the best interest of the State, this Agreement may be amended to extend the term at the rates agreed upon by CDCR and the Contractor.

### **8. Contractor Employee Misconduct**

During the performance of this Agreement, it shall be the responsibility of the Contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting inmate and/or parolee rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to inmates/parolees and the associated staff; c) access to employee personnel records; d) that information reasonably

necessary to assure CDCR that inmates and/or parolees are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the Contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with inmates and/or parolees, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the Contractor fails to so assure CDCR, CDCR may require that any implicated Contractor staff be denied access to and the supervision of CDCR inmates and/or parolees at the facility and access to inmate and/or parolee records. Notwithstanding the foregoing, and without waiving any obligation of the Contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the Contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

#### **9. Subcontracting**

Services provided are to be performed primarily with the staff of the public entity or, in the case of educational institutions, auxiliaries or foundations, by the faculty, staff or students associated with the particular institution. Agreements are not to be used by state agencies to circumvent the competitive bidding requirements of Public Contract Code Section 10340.

If more than twenty-five (25) percent of the total contract amount or \$50,000.00, whichever is less, is subcontracted, non-competitive bid approval must be obtained from the Secretary of CDCR and the Department of General Services prior to the commencement of services, unless the subcontract was competitively bid or the subcontractor(s) also qualifies as a state agency, governmental agency, or joint power.

#### **10. Subcontractor/Consultant Information**

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the Contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

#### **11. Liability for Nonconforming Work**

The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CDCR, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CDCR for any additional expenses incurred to cure such defects.

#### **12. Temporary Nonperformance**

If, because of mechanical failure or for any other reason, the Contractor shall be temporarily unable to perform the work as required, the State, during the period of the Contractor's inability to perform, reserves the right to accomplish the work by other means and shall be

reimbursed by the Contractor for any additional costs above the Agreement price.

### **13. Contract Violations**

The Contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

### **14. Employment of Ex-Offenders**

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation, who have been on active parole or probation during the last three years preceding their employment;
  1. Contractor shall only employ ex-offenders who can provide written evidence of having satisfactorily completed parole or probation, and who have remained off parole or probation, and have had no arrests or convictions within the past three years.
- b. Ex-offenders convicted of drug trafficking in a prison/jail; escape or aiding/abetting escape; battery on a Peace Officer or Public Official; arson offenses; or, any violations of Penal Code Sections 4570-4574 (unauthorized Communications with Prisons and Prisoners Offenses).
- c. Ex-Offenders are required to register as a sex offender pursuant to Penal Code Section 290.
- d. Any ex-offender who has an offense history involving a "violent felony" as defined in subparagraph (c) of Penal Code Section 667.5; or
- e. Any ex-offender in a position which provides direct supervision of parolees.

An ex-offender whose assigned duties involve administrative or policy decision-making, accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State or contractor. Evidence of such bond shall be supplied to CDCR prior to employment of the ex-offender.

### **15. Conflict of Interest**

The Contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

#### **a. Contractors and Their Employees**

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after

the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;
- (2) The Contractor and/or Contractor's employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The Contractor and/or Contractor's employee(s) serves in a staff capacity with the CDCR and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the CDCR's Conflict of Interest Code.

**b. Current State Employees**

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, CDCR officials and employees shall also avoid actions resulting in or creating an appearance of:
  - (a) Using an official position for private gain;
  - (b) Giving preferential treatment to any particular person;
  - (c) Losing independence or impartiality;
  - (d) Making a decision outside of official channels; and
  - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

**c. Former State Employees**

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the Contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The Contractor shall not itself employ or offer to employ inmates or parolees either directly or indirectly through an affiliated company, person or business unless specifically authorized in writing by CDCR. In addition, the Contractor shall not (either

directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by CDCR. For the purposes of this paragraph, “affiliated company, person or business” means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has any ownership or control interest whatsoever in the Contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the Contractor or by the Contractor’s owners, officers, principals, directors and/or shareholders, either directly or indirectly. “Affiliated companies, persons or businesses” include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the Contractor or by the Contractor’s owners, officers, principals, directors and/or shareholders.

The Contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the Contractor’s business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the Contractor’s business status or structure that could affect the performance of the Contractor’s duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

## **16. Travel**

Contractor’s rates shall include all travel expenses required to perform services in accordance with this contract.

## **17. Notification of Personnel Changes**

Contractor must notify the State, in writing, of any changes of those personnel allowed access to State premises for the purpose of providing services under this Agreement. In addition, Contractor must recover and return any State-issued identification card provided to Contractor’s employee(s) upon their departure or termination.

## **18. Security Clearance/Fingerprinting**

The State reserves the right to conduct fingerprinting and/or security clearance—through the

Department of Justice, Bureau of Criminal Identification and Information (BCII)—prior to award and at any time during the term of the Agreement, in order to permit Contractor (and/or Contractor employee) access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

### **19. Computer Software**

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

### **20. Expendable Equipment**

Expendable equipment is defined as expendable items which change with use and have a unit acquisition cost of less than \$5,000 per unit (i.e. fax machines, computers, printers, etc.). Title to any expendable equipment purchased or built with State funds as part of this agreement will vest in the State. The Contractor must retain a listing of expendable equipment purchases that are considered “theft-sensitive” items, such as cameras, calculators, two-way radios, computer equipment, etc., for audit purposes. Upon completion or termination of the agreement, Contractors are required to leave all expendable equipment for use by subsequent contractors or for the State to dispose of accordingly. The State may authorize the continued use of such equipment for work to be performed under a different agreement.

The cost of expendable equipment purchased should be comparable to the prevailing price for similar items in the surrounding area.

### **21. Electronic Waste Recycling**

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

### **22. Liability for Loss and Damages**

Any damages by the Contractor to the State’s facility including equipment, furniture, materials or other State property, will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

### **23. Disclosure**

Neither the State nor any State employee will be liable to the Contractor or its staff for injuries inflicted by inmates or parolees of the State. The State agrees to disclose to the Contractor any statement(s) known made by any inmate or parolee which indicate violence may result in any specific situation, and the same responsibility will be shared by the Contractor in disclosing such statement(s) to the State.

#### **24. Workers' Compensation**

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expense, or that it is self-insured through a policy acceptable to CDCR, for all of its employees who will be engaged in the performance of this agreement. Such coverage will be a condition of CDCR's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to CDCR before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

#### **25. Insurance Requirements**

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractors are insured at the minimum levels required by the State of California.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor shall provide the State within five (5) business days of receipt by contractor a copy of any notice of cancellation or non-renewal of insurance required by the contract. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

Contractor hereby represents and warrants they (and any subcontractors) are currently and shall for the duration of this Agreement be insured. Contractor shall provide proof of self-insurance against:

Commercial General Liability - \$1,000,000 per occurrence for bodily injury and property damage liability combined.

## **26. Tuberculosis (TB) Testing**

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community-based program, Contractors and their employees who are assigned to work with, near, or around inmates/parolees shall be required to be examined and tested or medically evaluated by a licensed healthcare provider for TB in an infectious or contagious stage prior to the performance of contracted duties, and at least once a year thereafter (within 12 months of their initial or previous TB test under this contract), or more often as directed by CDCR.

Contractors and their employees who have any contact (physical or nonphysical) with inmates/parolees, shall be required to furnish to the CDCR Program/Institution Contract Manager, at no cost to CDCR, a documented Tuberculosis (TB) evaluation/test for TB infection (Tuberculin Skin Test (TST) or a blood test Interferon Gamma Release Assay (IGRA) completed within (30) thirty days of the start date of the services and be certified to be free of TB in an infectious or contagious stage by a licensed healthcare provider prior to assuming their contracted duties and annually thereafter.

***The following provisions apply to services provided on departmental and/or institution grounds:***

## **27. Blood borne Pathogens**

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to blood borne pathogens.

## **28. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates and Division of Juvenile Justice Wards**

Individuals who are not employees of the California Department of Corrections and Rehabilitation (CDCR), but who are working in and around inmates who are incarcerated, or wards who are housed within California's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates or wards. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates or wards.

By signing this contract, the Contractor agrees that if the provisions of the contract require the Contractor to enter an institution/facility or camp, the Contractor and any employee(s) and/or subcontractor(s) shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates or wards:

- a. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations

governing the conduct of their behavior in associating with prison inmates or wards. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415, and California Welfare and Institutions Code (WIC) Section 1712.

- b. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, wards, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304 and 4603; WIC Section 1712.

- c. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173, 3177, 3288, 4696, and 4697; WIC 1712.

- d. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176 (a) and 4696; WIC Section 1712.

- e. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR adult institutions/facilities or camps, or youth institutions/facilities or camps in the nighttime, without the prior approval of the Warden or officer in charge. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289; WIC Section 1001.7.

- f. Encouraging and/or assisting prison inmates to escape, is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates or wards firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana. It is illegal to give wards sex oriented objects or devices, and written materials and pictures whose sale is prohibited to minors.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574; WIC Section 1152, CRR, Title 15, sections 4681 and 4710; WIC Section 1001.5.

- g. It is illegal to give or take letters from inmates or wards without the authorization of the Warden or officer in charge. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates or wards.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424, 3425 and 4045; WIC Section 1712.

- h. In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383, 4002.5 and 4696.

- i. For security reasons, visitors must not wear clothing that in any way resembles state issued prison inmate or ward clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3174 (b) (1) and 4696.

- j. Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action. Interviews with individual wards are permitted with written consent of each ward if he is 18 years of age or older, or with written consent of a parent, legal guardian, or committing court, if 17 years of age or younger.

SOURCE: CCR, Title 15, Sections 3261.5, 3315 (a) (3) (X), and 3177 and 4700(a)(1).

### **29. Clothing Restrictions**

While on institution grounds, Contractor and all its agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. Contractor should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure the Contractor and their employees are in compliance.

### **30. Tobacco-Free Environment**

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.

### **31. Prison Rape Elimination Policy**

CDCR maintains a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim.

All Contractors and their employees are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

If you are providing services for the confinement of our inmates, you and your staff are required to adopt and comply with the PREA standards, 28 Code of Federal Regulations (CFR) Part 115 and with CDCR's Department Operations Manual, Chapter 5, Article 44, including updates to this policy. This will include CDCR staff and outside audit personnel (who also conduct PREA audits of state prisons) conducting audits to ensure compliance with the standards.

As a Contractor with CDCR, you shall not assign an employee to a CDCR facility or assign an employee to duties if that employee will have contact with CDCR inmates, if that employee has 1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) has been civilly or administratively adjudicated to have engaged in the activity described in this section.

The Contractor shall conduct a criminal background records check for each contract employee who will have contact with CDCR inmates and retain the results for audit purposes. By signing this contract the Contractor agrees to ensure that all of the mandates of this Section 5: Prison Rape Elimination Policy are complied with. Material omissions, by the contract employee, regarding such misconduct or the provision of materially false information, shall be grounds for removal from institutional grounds.

Contract employees, who have contact with inmates, shall be provided training via the Exhibit titled; "PRISON RAPE ELIMINATION POLICY, Volunteer/Contractor Informational Sheet" to learn their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. A copy of this signed informational sheet will be provided to the institution before a contract employee may have contact with inmates.

Any contract employee who appears to have engaged in sexual misconduct of an inmate shall be prohibited from contact with inmates and shall be subject to administrative and/or criminal investigation. Referral shall be made to the District Attorney unless the activity was clearly not criminal. Reportable information shall be sent to relevant licensing bodies.

### **32. Security Regulations**

- a. Unless otherwise directed by the entrance gate officer and/or Contract Manager, the Contractor, Contractor's employees and subcontractors shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Contractor, Contractor's employees and subcontractors shall remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.
- b. Any State- and Contractor-owned equipment used by the Contractor for the provision of contract services, shall be rendered temporarily inoperative by the Contractor when not in use, by locking or other means unless specified otherwise.
- c. In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Contractor must furnish keys to institutional authorities to access all locked areas on the worksite. The State shall in no

way be responsible for Contractor's loss due to fire.

- d. Due to security procedures, the Contractor, Contractor's employees and subcontractors may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Contractor.
- e. Contractor, Contractor's employees and subcontractors shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- f. Electronic and communicative devices such as pagers, cell phones and cameras/microcameras are not permitted on institution grounds.
- g. Contractor, Contractor's employees and subcontractors shall not cause undue interference with the operations of the institution.
- h. No picketing is allowed on State property.

### **33. Gate Clearance**

Contractor and Contractor's employee(s) and/or subcontractor(s) must be cleared prior to providing services. The Contractor will be required to complete a Request for Gate Clearance for all persons entering the facility a minimum of ten (10) working days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.

Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

All persons entering the facilities must have a valid state driver's license or photo identification card on their person.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
PRISON RAPE ELIMINATION POLICY  
Volunteer/Contractor Informational Sheet

The Prison Rape Elimination Policy for the California Department of Corrections and Rehabilitation (CDCR) is explained on this informational sheet. As a volunteer or private contractor who has contact with CDCR offenders, it is your responsibility to do what you can, within the parameters of your current assignment, to reduce incidents of sexual violence, staff sexual misconduct, and sexual harassment and to report information appropriately when they are reported to you or when you observe such an incident.

Historical Information

Both the Congress and State Legislature passed laws, the Federal Prison Rape Elimination Act (PREA) of 2003, the Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005, and most recently the United States, Department of Justice Final Rule; National Standards of 2012 to help prevent, detect and respond to sexual violence, staff sexual misconduct and sexual harassment behind bars. It is important that we, as professionals, understand all aspects of these laws and our responsibilities to help prevent, detect, and respond to instances by offenders and staff.

The CDCR policy is found in Department Operations Manual (DOM), Chapter 5, Article 44. PREA addresses five types of sexual offenses. Sexual violence committed by offenders will encompass: Abusive Sexual Contact, Nonconsensual Sex Acts, or Sexual Harassment by an Offender (towards an offender). The two remaining types of sexual offenses covered by PREA are Staff Sexual Misconduct and Staff Sexual Harassment (towards an offender).

CDCR's policy provides for the following:

- CDCR is committed to continuing to provide a safe, humane, secure environment, free from offender on offender sexual violence, staff sexual misconduct, and sexual harassment.
- CDCR maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, conservation camps, and for all offenders under its jurisdiction.
- All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited.
- This policy applies to all offenders and persons employed by the CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

Retaliatory measures against employees or offenders who report incidents of sexual violence, staff sexual misconduct, or sexual harassment as well as retaliatory measures taken against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and/or criminal prosecution.

Retaliatory measures include, but are not limited to:

- Coercion.
- Threats of punishment.
- Any other activities intended to discourage or prevent staff or offenders from reporting incident(s).

Professional Behavior

Staff, including volunteers and private contractors are expected to act in a professional manner while on the grounds of a CDCR institution and while interacting with other staff and offenders. Key elements of professional behavior include:

- Treating everyone, staff and offenders alike, with respect
- Speaking without judging, blaming, or being demeaning
- Listening to others with an objective ear and trying to understand their point of view
- Avoiding gossip, name calling, and what may be perceived as offensive or “off-color” humor
- Taking responsibility for your own behavior

Preventative Measures

You can help reduce sexual violence, staff sexual misconduct, and sexual harassment by taking various actions during the performance of your duties as a volunteer or private contractor.

The following are ways in which you can help:

- Know and enforce the rules regarding the sexual conduct of offenders.
- Be professional at all times.
- Make it clear that sexual activity is not acceptable.
- Treat any suggestion or allegation of sexual violence, staff sexual misconduct, and sexual harassment as serious.
- Follow appropriate reporting procedures and assure that the alleged victim is separated from the alleged predator.
- Never advise an offender to use force to repel sexual advances.

Detection

All staff, including volunteers and private contractors, is responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being, or has been, the victim of sexual violence, staff sexual misconduct, or sexual harassment.

After immediately reporting to the appropriate supervisor, you are required to document the information you reported. You will be instructed by the supervisor regarding the appropriate form to be used for documentation.

You will take necessary action (i.e., give direction or press your alarm) to prevent further harm to the victim.

*I have read the information above and understand my responsibility to immediately report any information that indicates an offender is being, or has been, the victim of sexual violence, staff sexual misconduct, or sexual harassment.*

\_\_\_\_\_  
Volunteer/Contractor Name (Printed)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature of Volunteer/Contractor

\_\_\_\_\_  
Current Assignment within Institution

\_\_\_\_\_  
Contact Telephone Number

\_\_\_\_\_  
Supervisor in Current Assignment

# General Terms and Conditions (GTC 04/2017)

## EXHIBIT C

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR**: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION**: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE**: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

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

11. **CERTIFICATION CLAUSES**: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS**: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - a. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
  - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
  - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
  - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
  - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

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

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AGENDA NO: A-7

MEETING DATE: December 8, 2020

# Staff Report

TO: Honorable Mayor and City Council DATE: December 2, 2020

FROM: Scot Graham, Community Development Director  
Nancy Hubbard, Contract Planner

SUBJECT: Authorization to Submit a Grant Application for California Department of Housing and Community Development Local Government Planning Support Grant Program Funds; Regional Early Action Planning Grant (REAP)

## RECOMMENDATION

Adopt Resolution No. 103-20 authorizing staff to submit a grant application to the Association of Monterey Bay Area Governments (AMBAG) for Regional Early Action Planning grant (REAP) Program Funds authorized under provisions stated in the Health and Safety Code Section 50515 to 50515.05. The grant funding is available to use for technical assistance, preparation and adoption of planning documents and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing needs allocation. Funding in the amount of \$78,643 is available to the City of Morro Bay.

## ALTERNATIVES

- A. Direct staff to discontinue application for the AMBAG REAP Planning Grant
- B. Decrease amount of grant request.

## FISCAL IMPACT

No proposed impact. Grant funding is based on reimbursement of qualified costs for system improvements and implementation policies to facilitate processes and production of housing in Morro Bay. Funding is available through December 31, 2023.

## BACKGROUND/DISCUSSION

The Housing Element 2020-2028 has been certified by the Housing and Community Development Department and *The Regional Early Action Planning Grants Program* provides non-competitive, one-time funding to reimburse the costs incurred for the implementation programs and related technical improvements to permit processing systems that will facilitate accelerated housing production. This program is very similar to the *SB2 Planning Grants Program (City of Morro Bay*

Prepared By: \_\_\_NH\_\_\_ Dept Review: \_\_\_SG\_\_\_  
City Manager Review: \_\_\_SC\_\_\_ City Attorney Review: \_\_\_CFN\_\_\_

was awarded \$160,000 for the SB2 grant, contracted on and effective March 5, 2020). Applications for the REAP grant are due on or before December 9, 2020. Eligible activities may be part of a larger planning effort (e.g., a comprehensive zoning code update) and qualify for reimbursement if the proposed activities are distinct and demonstrate a nexus to accelerating housing production. Staff is working on an eligible projects list that currently includes:

1. Acquisition of new software application to work in conjunction with Cityworks (City's project tracking, workorder and asset management application) to intake project submittal electronically and to plan check projects electronically. New system will shorten turnaround times for planning and building permit applications.
2. Investigate revisions to City's inclusionary housing provisions to incentivize production of new accessory dwelling units and increase the number of affordable housing unit provided in multifamily housing projects.

### **CONCLUSION**

Staff recommends the Council adopt Resolution No. 103-20 authorizing Staff to submit a REAP grant application in the amount of \$78,643.00 to the AMBAG in support of the ongoing effort to create and adopt planning documents and process improvements that accelerate the production of housing in the city of Morro Bay.

### **ATTACHMENT**

1. Resolution No. 103-20

**RESOLUTION NO. 103-20**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AUTHORIZING SUBMITTAL OF AN APPLICATION FOR, AND RECEIPT OF,  
REGIONAL EARLY ACTION PLANNING SUPPORT GRANT PROGRAM FUNDS**

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

**WHEREAS**, Governor Gavin Newsom signed Assembly Bill 101 in September 2019, which established the Local Government Planning Support Grants Program which allocates \$125 million in housing planning funds to regional entities throughout the state; and

**WHEREAS**, the California Department of Housing and Community Development (HCD) has been assigned as the state agency overseeing this program; and

**WHEREAS**, the provisions of AB 101 require the California Central Coast's Councils of Government form a multiagency group comprising three representatives from each of the region's five counties to administer approximately \$8 million in housing planning funds dedicated to the Central Coast region; and

**WHEREAS**, the Central Coast Housing Working Group has been established as the multiagency working group to administer these funds pursuant to AB 101; and

**WHEREAS**, the Association of Monterey Bay Area Governments (AMBAG) will serve as the fiscal agent of the Central Coast Housing Working Group and will staff the group; and

**WHEREAS**, AMBAG will use three percent of the AB 101 Central Coast regional funding to administer the mega regional grant program, staff the Central Coast Housing Working Group, provide required reporting, and provide oversight of the grant program from 2020 to 2024; and

**WHEREAS**, AMBAG will allocate AB 101 housing planning funds to the four COGs in the Central Coast area: AMBAG, the San Luis Obispo Council of Governments, the Santa Barbara County Association of Governments, and the Council of San Benito County Governments; and

**WHEREAS**, the City of Morro Bay is eligible to submit a request for allocation for a portion of the Central California AB 101 housing planning funds from AMBAG; and

**WHEREAS**, the amounts allocated to the Association of Monterey Bay Area Governments (AMBAG) are based on the allocation method approved by the Central Coast Housing Working Group; and

**WHEREAS**, the amount allocated to the City of Morro Bay will be based on the allocation method approved by AMBAG; and

**WHEREAS**, AMBAG shall approve allocation requests subject to the terms and conditions of eligibility, guidelines, Notices of Funding Availability, and program requirements.

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

**SECTION 1:** The Community Development Director, on behalf of the City of Morro Bay, is hereby authorized to submit an application requesting an allocation not to exceed Seventy-Eight Thousand, Six Hundred Forty-three Dollars (\$78,643.00) from the Association of Monterey Area Governments which acts on behalf of the Central Coastal Housing Working Group; and

**SECTION 2:** In connection with the REAP grant, if the Application is approved by AMBAG, on behalf of the City of Morro Bay, the Community Development Director is authorized to, enter into agreement and take further actions as may be necessary to give effect to this resolution, such as executing amendments and approving funding applications with the Association of Monterey Bay Area Governments and the San Luis Obispo Council of Governments for the REAP grant funding.

**PASSED AND ADOPTED** by the Morro Bay City Council, at a regular meeting held on this 8th day of December 2020 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
COMMENDING THE GRADUATES OF THE 2020 SLO MC3 PROGRAM  
AND RECOGNIZING APPRENTICESHIP WEEK IN THE CITY OF MORRO BAY**

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

**WHEREAS**, the San Luis Obispo County Board of Education and the Tri-Counties Building & Construction Trades Council partnered to implement the Multi-Craft Core Curriculum (MC3) Pre-Apprenticeship Readiness Program in San Luis Obispo County; and

**WHEREAS**, the advancement and well-being of the City of Morro Bay, San Luis Obispo County, State of California and United States of America depends upon the continued development of a skilled and trained workforce in the building & construction trades; and

**WHEREAS**, an ever growing number of job creators and career seekers are discovering the benefits of apprenticeship's unique learn-while-your-earn model; and

**WHEREAS**, the City of Morro Bay recognizes that robust apprenticeship program provide tangible value to both job creators and apprentices, with the potential to increase productivity, improve diversity and inclusion, and reduce recruitment and training costs while providing a pathway to prosperous careers for job seekers.

**WHEREAS**, the 2020 SLO County MC3 Cohort Graduated in November during National Apprenticeship Week which is celebrating its 6th anniversary of raising awareness of the vital role apprenticeships provide in creating a qualified and highly-skilled workforce in the building & construction trades in the City of Morro Bay, the County of San Luis Obispo and across the nation; and

**NOW, THEREFORE BE IT RESOLVED**, that the Morro Bay City Council commends the graduates of the 2020 SLO MC3 Program and recognize National Apprenticeship Week in the City of Morro Bay.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 8th day of December, 2020

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**JOHN HEADDING, MAYOR**  
City of Morro Bay, California

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AGENDA NO: C-1

MEETING DATE: December 8, 2020

## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** December 2, 2020

**FROM:** Dana Swanson, City Clerk/Human Resources Manager

**SUBJECT:** Resolution Declaring Results of the November 3, 2020 General Municipal Election; and, the Second Reading and Adoption of Ordinance No. 635, Repealing Chapter 3.22 and Adopting Chapter 3.26 of the Morro Bay Municipal Code to Increase the City's Transactions and Use Tax Rate from .5% to 1.5%

### RECOMMENDATIONS

Staff recommends the City Council:

1. Adopt Resolution No. 104-20 declaring the results of the November 3, 2020 General Municipal Election, and
2. Adopt, by second reading and by title only with further reading waived, Ordinance No. 635, entitled "An Ordinance of the City Council of the City of Morro Bay, California, Repealing Chapter 3.22 And Adopting Chapter 3.26 Of The Morro Bay Municipal Code to Increase the City's Transactions and Use Tax Rate from .5% To 1.5%"

### ALTERNATIVES

No alternatives are being recommended.

### FISCAL IMPACT

There is no fiscal impact associated with this action.

### BACKGROUND/DISCUSSION

On November 3, 2020, a General Municipal Election was conducted in the City of Morro Bay for the purpose of electing a Mayor and two (2) Members of the City Council, and for the submission to the voters of a question whether to establish a Transaction (Sales) and Use Tax (Measure E-20). In accordance with Resolutions 51-20, 52-20 and 69-20, the City's election was consolidated with the Statewide General Election that was conducted on the same day by the County of San Luis Obispo. The County Clerk-Recorder was responsible for canvassing all votes cast and certifying the election results.

Total voter registration for the City of Morro Bay was 8,174 and the number of total ballots cast was 7,398 resulting in a 90.51% voter turnout. Results of the election are as follows:

#### Mayor (Vote for 1):

John Heading received 3,476 votes (50.83%)

John R. Weiss received 3,362 votes (49.17%)

Based on these results, John Heading received the highest number of votes and is the candidate elected to the office of Mayor.

Prepared By: DS

City Manager Review: SC City Attorney Review: CFN

City Council (Vote for 2):

Laurel Barton received 3,100 votes (26.74%)  
Richard E.T. Sadowski received 2,597 votes (22.40%)  
Robert “Red” Davis received 3,197 votes (27.57%)  
Betty Winholtz received 2,700 votes (23.29%)

Based on these results, Robert “Red” Davis and Laurel Barton received the highest number of votes and are the candidates elected as Members of the City Council.

Measure E-20 – Morro Bay’s Local Recovery/Emergency Preparedness Measure

The following question was submitted to Morro Bay’s registered voters at the November 3, 2020 General Municipal Election:

To protect City of Morro Bay’s financial stability, local property values and City services, such as maintaining Morro Bay’s local Fire/Police Departments, 24/7 paramedics, 911 emergency response, health emergency/disaster preparedness; keeping beaches, public areas safe/clean; retaining/attracting businesses; and other general City services, shall the measure establishing 1¢ sales tax providing approximately \$2,000,000 annually until ended by voters be adopted, requiring independent audits, public oversight, all funds used locally?	YES
	NO

<u>Answer</u>	<u>Votes Received</u>	<u>Vote Percentage</u>
Yes	4,113	58.55%
No	2,912	41.45%

Measure E-20 is a general tax measure, which requires a simple majority (50% plus one) of the total votes cast to be in favor in order to pass. Because the number of votes in support of Measure E-20 was greater (equating to 58.55% of votes cast) than the number of votes in opposition (equating to 41.45% of votes cast) to Measure E-20, the measure passes and Ordinance No. 635 entitled “An Ordinance of the City Council of the City of Morro Bay, California, Repealing Chapter 3.22 And Adopting Chapter 3.26 Of The Morro Bay Municipal Code To Increase The City’s Transactions And Use Tax Rate From .5% To 1.5%” shall go into effect.

The County Clerk-Recorder has conducted the official canvass of the returns of the votes cast in the election and has certified the results. In accordance with California Elections Code Section 10262, the City Council is requested to adopt a Resolution declaring the results of the General Municipal Election and the final Certificates of the Canvas, as shown in Exhibit A, and Ordinance No. 635 is provided as Exhibit B.

The City Council is also asked to conduct a second reading and adoption of Ordinance No. 635, consistent with statutory requirements for this voter approved tax measure.

**ATTACHMENTS**

- 1) Resolution No. 104-20 and
  - a) Exhibit A – Certified Election Results
  - b) Exhibit B - Ordinance No. 635

**RESOLUTION NO. 104-20**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION  
HELD IN THE CITY OF MORRO BAY ON THE 3<sup>rd</sup> DAY OF NOVEMBER 2020,  
DECLARING THE RESULTS THEREOF,  
AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

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

**WHEREAS**, a General Municipal Election was held and conducted in the City of Morro Bay (City), County of San Luis Obispo, State of California, on Tuesday, November 3, 2020, as required by law (the "Election"); and

**WHEREAS**, notice of the Election was duly and regularly given in time, form and manner as provided by law; voting precincts were properly established; election officers were appointed; and in all respects the Election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for holding elections in general law cities; and

**WHEREAS**, the San Luis Obispo County Elections Division canvassed the returns of the election and the County Clerk has certified the results to this City Council, and the results are received, attached and made part hereof as Exhibit "A."

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

1. The whole number of votes (ballots) cast in the precincts was 431 and the whole number of vote by mail voter ballots cast in the City was 6,967, making a total of 7,398 votes (ballots) cast in the City.
2. The names of the persons voted for at the Election for Mayor are as follows:

John Headding  
John Weiss

The names of the persons voted for at the Election for Council Member are as follows:

Laurel Barton  
Robert "Red" Davis  
Richard Sadowski  
Betty Winholtz

The measure voted upon at the election is as follows:

CITY OF MORRO BAY  
MEASURE E-20

<p style="text-align: center;"><b>MORRO BAY'S LOCAL RECOVERY/EMERGENCY PREPAREDNESS MEASURE</b></p> <p>To protect City of Morro Bay's financial stability, local property values and City services, such as maintaining Morro Bay's local Fire/Police Departments, 24/7 paramedics, 911 emergency response, health emergency/disaster preparedness; keeping beaches, public areas safe/clean; retaining/attracting businesses; and other general City services, shall the measure establishing 1¢ sales tax providing approximately \$2,000,000 annually until ended by voters be adopted, requiring independent audits, public oversight, all funds used locally?</p>	YES
	NO

3. The number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates, and for and against the measure, were as listed in Exhibit "A," attached.
4. The City Council does declare and determine:
  - a. **JOHN HEADING** was elected as Mayor of the City for the full term of two years; and
  - b. **ROBERT "RED" DAVIS** was elected as Council Member of the City for a full term of four years; and
  - c. **LAUREL BARTON** was elected as Council Member of the City for a full term of four years; and
  - d. As a result of the election, a majority of the voters voting on Measure E-20 relating to a Local Recovery/Emergency Preparedness tax did vote in favor of it; and the measure was carried, and shall be deemed adopted upon the date the vote is declared by the City Council of the City of Morro Bay, and go into effect ten days after the date the vote is declared by the City Council of the City of Morro Bay, pursuant to Election Code section 9217. Measure E-20 (Ordinance No. 635) is attached hereto as Exhibit B.
5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the Election, showing: (1) the whole number of votes (ballots) cast in the City, (2) the names of the persons voted for, (3) the measure

voted upon, (4) for what office each person was voted for, (5) the number of votes given at each precinct to each person, and for and against the measure, and (6) the total number of votes given to each person, and for and against the measure.

6. The City Clerk shall make and deliver to each of such persons so elected a Certificate of Election signed by the City Clerk and authenticated; and the City Clerk shall administer to each person elected, the Oath of Office prescribed in the State Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.
7. The City Clerk shall cause Ordinance No. 635 to be codified as part of the Morro Bay Municipal Code.
8. The City Clerk shall certify to the passage and adoption of this Resolution and shall enter it into the book of original resolutions.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8<sup>th</sup> day of December 2020 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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JOHN HEADDING, Mayor

ATTEST:

---

DANA SWANSON, City Clerk

**CERTIFICATE OF THE COUNTY CLERK  
RESULTS OF CANVASS OF ALL VOTES CAST  
NOVEMBER 3, 2020 CONSOLIDATED PRESIDENTIAL GENERAL ELECTION  
CITY OF MORRO BAY**

I, **TOMMY GONG**, County Clerk-Recorder of the County of San Luis Obispo, do hereby certify that pursuant to law I did canvass the returns of the votes cast at the above referenced election in the City of Morro Bay on November 3, 2020, and that a copy of the Statement of Votes Cast to which this certificate is attached, shows the number of votes cast in said city for each candidate for the office of Mayor and Member of the City Council and that the totals shown for each candidate for the office of Mayor and Member of the City Council in said City in each of the respective precincts therein, are full, true and correct.

WITNESS, my hand and Official Seal this 1<sup>st</sup> Day of December 2020.



TOMMY GONG, County Clerk-Recorder



**CERTIFICATE OF THE COUNTY CLERK  
RESULTS OF CANVASS OF ALL VOTES CAST  
CITY OF MORRO BAY MEASURE E-20  
CONSOLIDATED PRESIDENTIAL GENERAL ELECTION  
NOVEMBER 3, 2020**

I, **TOMMY GONG**, County Clerk-Recorder of the County of San Luis Obispo, do hereby certify that pursuant to law I did canvass the returns of the votes cast at the above referenced election in the City of Morro Bay on November 3, 2020, and that a copy of the Statement of Votes Cast to which this certificate is attached, shows the number of votes cast in said city for and against said measure, and that the totals shown for and against said measure in said city, and in each of the respective precincts therein, are full, true and correct.

**MEASURE E-20**

MORRO BAY'S LOCAL RECOVERY/EMERGENCY PREPAREDNESS MEASURE. To protect City of Morro Bay's financial stability, local property values and City services, such as maintaining Morro Bay's local Fire/Police Departments, 24/7 paramedics, 911 emergency response, health emergency/disaster preparedness; keeping beaches, public areas safe/clean; retaining/attracting businesses; and other general City services, shall the measure establishing 1¢ sales tax providing approximately \$2,000,000 annually until ended by voters be adopted, requiring independent audits, public oversight, all funds used locally?

WITNESS, my hand and Official Seal this 1<sup>st</sup> Day of December 2020.



TOMMY GONG, County Clerk-Recorder



**STATEMENT OF VOTES CAST**  
**NOVEMBER 3, 2020 CONSOLIDATED PRESIDENTIAL GENERAL ELECTION**  
**COUNTY OF SAN LUIS OBISPO**  
**FINAL OFFICIAL ELECTION RESULTS - SPLIT BY PRECINCTS - CITY OF MORRO BAY**  
**CONTESTS**

Precinct	Registered Voters	Voters Cast	% Turnout
<b>Countywide</b>			
<b>Electionwide</b>			
206			
Polling	2,230	122	5.47%
Vote by Mail	2,230	1,896	85.02%
Total	2,230	2,018	90.49%
207			
Polling	1,900	95	5.00%
Vote by Mail	1,900	1,593	83.84%
Total	1,900	1,688	88.84%
208			
Polling	2,640	141	5.34%
Vote by Mail	2,640	2,262	85.68%
Total	2,640	2,403	91.02%
209			
Polling	1,404	73	5.20%
Vote by Mail	1,404	1,216	86.61%
Total	1,404	1,289	91.81%
Electionwide - Total	8,174	7,398	90.51%
Countywide - Total	8,174	7,398	90.51%
Polling	8,174	431	5.27%
Vote by Mail	8,174	6,967	85.23%

### City Of Morro Bay MAYOR (Vote for 1)

Precinct		Times Cast	Registered Voters	Undervotes	Overvotes
<b>Countywide</b>					
<b>Electionwide</b>					
206					
	Polling	122	2,230	15	0
	Vote by Mail	1,896	2,230	128	0
	<b>Total</b>	<b>2,018</b>	<b>2,230</b>	<b>143</b>	<b>0</b>
207					
	Polling	95	1,900	11	0
	Vote by Mail	1,593	1,900	136	0
	<b>Total</b>	<b>1,688</b>	<b>1,900</b>	<b>147</b>	<b>0</b>
208					
	Polling	141	2,640	18	0
	Vote by Mail	2,262	2,640	174	0
	<b>Total</b>	<b>2,403</b>	<b>2,640</b>	<b>192</b>	<b>0</b>
209					
	Polling	73	1,404	8	0
	Vote by Mail	1,216	1,404	70	0
	<b>Total</b>	<b>1,289</b>	<b>1,404</b>	<b>78</b>	<b>0</b>
	<b>Electionwide - Total</b>	<b>7,398</b>	<b>8,174</b>	<b>560</b>	<b>0</b>
	<b>Countywide - Total</b>	<b>7,398</b>	<b>8,174</b>	<b>560</b>	<b>0</b>

Precinct		JOHN HEADDING		JOHN R. WEISS	
<b>Countywide</b>					
<b>Electionwide</b>					
206					
	Polling	42	39.25%	65	60.75%
	Vote by Mail	888	50.23%	880	49.77%
	<b>Total</b>	<b>930</b>	<b>49.60%</b>	<b>945</b>	<b>50.40%</b>
207					
	Polling	38	45.24%	46	54.76%
	Vote by Mail	755	51.82%	702	48.18%
	<b>Total</b>	<b>793</b>	<b>51.46%</b>	<b>748</b>	<b>48.54%</b>
208					
	Polling	47	38.21%	76	61.79%
	Vote by Mail	1,055	50.53%	1,033	49.47%
	<b>Total</b>	<b>1,102</b>	<b>49.84%</b>	<b>1,109</b>	<b>50.16%</b>
209					
	Polling	33	50.77%	32	49.23%
	Vote by Mail	618	53.93%	528	46.07%
	<b>Total</b>	<b>651</b>	<b>53.76%</b>	<b>560</b>	<b>46.24%</b>
	<b>Electionwide - Total</b>	<b>3,476</b>	<b>50.83%</b>	<b>3,362</b>	<b>49.17%</b>
	<b>Countywide - Total</b>	<b>3,476</b>	<b>50.83%</b>	<b>3,362</b>	<b>49.17%</b>

Precinct	Write-in		Total Votes	Unresolved Write-In
<b>Countywide</b>				
<b>Electionwide</b>				
206				
Polling	0	0.00%	107	0
Vote by Mail	0	0.00%	1,768	0
Total	0	0.00%	1,875	0
207				
Polling	0	0.00%	84	0
Vote by Mail	0	0.00%	1,457	0
Total	0	0.00%	1,541	0
208				
Polling	0	0.00%	123	0
Vote by Mail	0	0.00%	2,088	0
Total	0	0.00%	2,211	0
209				
Polling	0	0.00%	65	0
Vote by Mail	0	0.00%	1,146	0
Total	0	0.00%	1,211	0
Electionwide - Total	0	0.00%	6,838	0
Countywide - Total	0	0.00%	6,838	0

### City Of Morro Bay COUNCILMEMBER (Vote for 2)

Precinct		Times Cast	Registered Voters	Undervotes	Overvotes
<b>Countywide</b>					
<b>Electionwide</b>					
206					
	Polling	122	2,230	71	0
	Vote by Mail	1,896	2,230	764	0
	<b>Total</b>	<b>2,018</b>	<b>2,230</b>	<b>835</b>	<b>0</b>
207					
	Polling	95	1,900	62	0
	Vote by Mail	1,593	1,900	750	4
	<b>Total</b>	<b>1,688</b>	<b>1,900</b>	<b>812</b>	<b>4</b>
208					
	Polling	141	2,640	95	0
	Vote by Mail	2,262	2,640	938	0
	<b>Total</b>	<b>2,403</b>	<b>2,640</b>	<b>1,033</b>	<b>0</b>
209					
	Polling	73	1,404	41	0
	Vote by Mail	1,216	1,404	477	0
	<b>Total</b>	<b>1,289</b>	<b>1,404</b>	<b>518</b>	<b>0</b>
	<b>Electionwide - Total</b>	<b>7,398</b>	<b>8,174</b>	<b>3,198</b>	<b>4</b>
	<b>Countywide - Total</b>	<b>7,398</b>	<b>8,174</b>	<b>3,198</b>	<b>4</b>

Precinct		LAUREL BARTON		RICHARD E.T. SADOWSKI	
<b>Countywide</b>					
<b>Electionwide</b>					
206					
	Polling	32	18.50%	55	31.79%
	Vote by Mail	781	25.79%	698	23.05%
	<b>Total</b>	<b>813</b>	<b>25.40%</b>	<b>753</b>	<b>23.52%</b>
207					
	Polling	31	24.22%	36	28.13%
	Vote by Mail	662	27.22%	521	21.42%
	<b>Total</b>	<b>693</b>	<b>27.07%</b>	<b>557</b>	<b>21.76%</b>
208					
	Polling	39	20.86%	52	27.81%
	Vote by Mail	979	27.30%	778	21.70%
	<b>Total</b>	<b>1,018</b>	<b>26.98%</b>	<b>830</b>	<b>22.00%</b>
209					
	Polling	25	23.81%	24	22.86%
	Vote by Mail	551	28.18%	433	22.15%
	<b>Total</b>	<b>576</b>	<b>27.96%</b>	<b>457</b>	<b>22.18%</b>
	<b>Electionwide - Total</b>	<b>3,100</b>	<b>26.74%</b>	<b>2,597</b>	<b>22.40%</b>
	<b>Countywide - Total</b>	<b>3,100</b>	<b>26.74%</b>	<b>2,597</b>	<b>22.40%</b>

Precinct	ROBERT "RED" DAVIS		BETTY WINHOLTZ		Write-in		Total Votes	Unresolved Write-In
<b>Countywide</b>								
<b>Electionwide</b>								
206								
Polling	44	25.43%	42	24.28%	0	0.00%	173	0
Vote by Mail	869	28.70%	680	22.46%	0	0.00%	3,028	0
Total	913	28.52%	722	22.56%	0	0.00%	3,201	0
207								
Polling	36	28.13%	25	19.53%	0	0.00%	128	0
Vote by Mail	679	27.92%	570	23.44%	0	0.00%	2,432	0
Total	715	27.93%	595	23.24%	0	0.00%	2,560	0
208								
Polling	42	22.46%	54	28.88%	0	0.00%	187	0
Vote by Mail	967	26.97%	862	24.04%	0	0.00%	3,586	0
Total	1,009	26.74%	916	24.28%	0	0.00%	3,773	0
209								
Polling	26	24.76%	30	28.57%	0	0.00%	105	0
Vote by Mail	534	27.31%	437	22.35%	0	0.00%	1,955	0
Total	560	27.18%	467	22.67%	0	0.00%	2,060	0
Electionwide - Total	3,197	27.57%	2,700	23.29%	0	0.00%	11,594	0
Countywide - Total	3,197	27.57%	2,700	23.29%	0	0.00%	11,594	0

## MEASURE E-20 Morro Bay Sales Tax Measure (50 percent+1) (Vote for 1)

Precinct	Times Cast	Registered Voters	Undervotes	Overvotes
<b>Countywide</b>				
<b>Electionwide</b>				
206				
Polling	122	2,230	7	0
Vote by Mail	1,896	2,230	78	0
Total	2,018	2,230	85	0
207				
Polling	95	1,900	7	0
Vote by Mail	1,593	1,900	89	0
Total	1,688	1,900	96	0
208				
Polling	141	2,640	10	0
Vote by Mail	2,262	2,640	111	0
Total	2,403	2,640	121	0
209				
Polling	73	1,404	5	0
Vote by Mail	1,216	1,404	66	0
Total	1,289	1,404	71	0
Electionwide - Total	7,398	8,174	373	0
Countywide - Total	7,398	8,174	373	0

Precinct	YES		NO		Total Votes
<b>Countywide</b>					
<b>Electionwide</b>					
206					
Polling	53	46.09%	62	53.91%	115
Vote by Mail	1,011	55.61%	807	44.39%	1,818
Total	1,064	55.04%	869	44.96%	1,933
207					
Polling	46	52.27%	42	47.73%	88
Vote by Mail	894	59.44%	610	40.56%	1,504
Total	940	59.05%	652	40.95%	1,592
208					
Polling	67	51.15%	64	48.85%	131
Vote by Mail	1,264	58.76%	887	41.24%	2,151
Total	1,331	58.33%	951	41.67%	2,282
209					
Polling	46	67.65%	22	32.35%	68
Vote by Mail	732	63.65%	418	36.35%	1,150
Total	778	63.88%	440	36.12%	1,218
Electionwide - Total	4,113	58.55%	2,912	41.45%	7,025
Countywide - Total	4,113	58.55%	2,912	41.45%	7,025

Precinct	Unresolved Write-In
<b>Countywide</b>	
<b>Electionwide</b>	
206	
Polling	0
Vote by Mail	0
Total	0
207	
Polling	0
Vote by Mail	0
Total	0
208	
Polling	0
Vote by Mail	0
Total	0
209	
Polling	0
Vote by Mail	0
Total	0
Electionwide - Total	0
Countywide - Total	0

**ORDINANCE NO. 635**

**AN ORDINANCE OF THE PEOPLE  
OF THE CITY OF MORRO BAY, CALIFORNIA  
REPEALING CHAPTER 3.22 AND ADOPTING CHAPTER 3.26 OF THE  
MORRO BAY MUNICIPAL CODE TO INCREASE THE CITY'S  
TRANSACTIONS AND USE TAX RATE FROM .5% TO 1.5%**

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

**WHEREAS**, the City has faced a daunting long-term budget challenge with the closure of the Morro Bay Power Plant in 2013 and increasing costs of doing business that are outside of the City's control; and

**WHEREAS**, City Council responded by making achieving financial and economic sustainability the City's top priority over the past several years; and

**WHEREAS**, many efforts have been made to better project the City's financial picture, control costs, and explore revenue opportunities; and

**WHEREAS**, as part of the annual budget planning process, the City developed a ten-year financial forecast in 2015; and

**WHEREAS**, since that time, in February each year staff updates that forecast as the City begins the budget development cycle for the upcoming fiscal year, and the forecast includes developing assumptions for the City's revenues and expenditures with the goal of identifying expenditure limitations for the forthcoming budget year and future years; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive expenditure impacts, examples including:

1. From FY 2009/10 to FY 2018/19 staff reductions of 2.5 Full Time Equivalents (FTEs);
2. Eliminated Deputy City Manager Position (FY 2017/18) – savings of \$120,000 annually;
3. Eliminated Capital Projects Manager/Senior Engineer position in Public Works;
4. Harbor Department, through restructuring, eliminated a position and reduced a position from full-time to part-time;
5. Reorganized the Utility Division in Public Works, reducing FTE count from 18 to 16;
6. Recreation Services Office Assistant reduced to a part-time position;

7. Outsourced Dispatch service (FY 2014/15) reducing accrual of long-term pension and compensated absences balances;
8. Contracted City Attorney services reducing accrual of long-term pension and compensated absences balances;
9. Layoffs and reductions in workforce due to economic downturn (FY 2010/11);
10. Early payoff of City's Fire Safety Classic Formula pension side fund (FY 2017/18 – saving \$10,000 and reducing future expenditures by \$163,000);
11. Lump Sum payment of unfunded accrued liability in July (FY 2018/19 and 2019/20) – total interest savings of \$139,908;
12. Negotiated Pension participation, i.e. cost sharing, with City's Police Officers Association (FY 2018/19);
13. Negotiated labor agreements that included revenue targets to obtain cost of living allowances (FY 2017/18 – FY 2019/20);
14. Payoff of Pension Tier II and Tier III unfunded accrued liability – interest savings of \$160,000;
15. Partnership Policy implementation, which matches community groups and the City to provide services to the community at lower costs; and

**WHEREAS**, prior to the COVID-19 pandemic, the City has taken action to control its costs, including adopting measures with extensive revenues impacts, examples including:

1. A comprehensive fee study update to determine actual cost to provide services and associated fees to recover those costs;
2. Permitted two medical cannabis shops to open in summer/fall 2020;
3. Partnered with Chamber of Commerce to provide economic development stewardship and ombudsman services to assist with enhancing the City's economic development efforts;
4. In the process of implementing new RV camping;
5. Exploring paid parking; and

**WHEREAS**, the City's already challenging financial situation took on an entirely new depth in the wake of the COVID-19 pandemic and resulting shelter at home orders; and

**WHEREAS**, the adopted FY 2020/21 Budget was developed under the umbrella of the City's Economic and Financial Recovery Plan entitled "Rock Solid Together," in which the Council's identified goals are balanced against the economic realities associated with the COVID-

19 pandemic, and it begins to position the City for what will likely be the nation's first recession since 2008; and

**WHEREAS**, the health and well-being of our residents remains our utmost concern and residents can rest assured, the City is taking all necessary action to maintain essential City services and provide resources to our most vulnerable residents; and

**WHEREAS**, on April 28, 2020, the City Council convened a special meeting to discuss the City's economic and financial recovery plan referred to as "Rock Solid Together"; and

**WHEREAS**, with budget deficit projections ranging between \$4M to \$5M or nearly a 27% to 34% loss of overall General Fund revenues, the City customized a comprehensive approach to stem the financial fallout from COVID-19 and begin the long road to fiscal health; and

**WHEREAS**, "Rock Solid Together" is built on the foundation that the City wishes to retain local control over core, essential government services and work towards being locally self-sufficient in the event of a future catastrophic emergency rather than awaiting aid that may never come from the state or federal governments; and

**WHEREAS**, with this foundation, Rock Solid Together is comprehensive and attempts to assist the local business community where feasible and administer fiscal first aide to City finances in light of the significant economic wound inflicted by the pandemic; and

**WHEREAS**, to offset this deficit and present a balanced budget for Council consideration, staff defunded contributions to the City's internal service funds (to later be supplanted with new revenues expected to be derived from cannabis tax revenue per Resolution 19-19); and

**WHEREAS**, in addition, significant reductions to salary and benefits were made, mostly due to defunding of vacant positions and staff layoffs (8 full-time employees and 70 part-time employees); and

**WHEREAS**, these measures, combined with salary concessions from most employees, will save the City over \$1.4 million (net of the CalPERS Tier II and Tier III UAL payoffs and lump sum payments to employees) for FY 2020/21; and

**WHEREAS**, in addition, staff has significantly reduced non-personnel operating expenditures by over \$600,000; and

**WHEREAS**, the budget was prepared with a concentrated focus on maintaining front line services where possible, with reduced staffing and expenditures. However, there will be service impacts related to these cuts, from response to processing times being delayed and ability to complete any discretionary street, trees and sidewalk work; and

**WHEREAS**, the remainder of the budget was balanced through the use of General Fund emergency reserves. The City is not in a position to use the reserves beyond FY 2020/21, as they are projected to be largely depleted by the end of this fiscal year; and

**WHEREAS**, despite these efforts, the City cannot sustain its current service levels for public safety and other priority services without consideration of additional revenue; and

**WHEREAS**, the City must ensure that we are prepared for any medical or catastrophic emergency including preparing our local Police and Fire Departments by preventing service reductions, updating emergency communication systems and maintaining rapid 911 emergency response times; and

**WHEREAS**, Morro Bay has its own locally controlled Police and Fire Departments and the City strives to maintain these local Police and Fire Departments rather than contract these public safety services with outside agencies; and

**WHEREAS**, an additional source of locally controlled revenue is needed to maintain City services and no money should be taken by Sacramento; and

**WHEREAS**, nearly 70% of calls to the Morro Bay Fire Department are related to emergency rescue and medical emergencies and the pandemic only shows the need to be prepared for any medical crisis; and

**WHEREAS**, the City must continue to prevent significant reduction to service of the local Morro Bay Fire Department so skilled, local firefighter-paramedics can continue to respond to emergencies; and

**WHEREAS**, protecting Morro Bay's character and keeping streets and the waterfront safe and clean and preserving open space will also protect local property values; and

**WHEREAS**, the City of Morro Bay currently has a general transactions and use tax (commonly known as a "sales tax") pursuant to the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251) and Chapter 2.3 of Part 1.7 of Division 2 of the Revenue and Taxation Code (commencing with Section 7285.9), with a rate of one half of one percent (0.5%), as established in Chapter 3.22 of the Morro Bay Municipal Code ("Sales Tax"); and

**WHEREAS**, on July 14, 2020, the City Council of the City of Morro Bay adopted Resolution No. 69-20, submitting the Morro Bay General Transactions and Use Tax Measure ("Sales Tax Measure") to the voters at the General Municipal Election to be held in the City of Morro Bay on November 3, 2020 ("General Municipal Election"), which, if approved, would increase the City's Sales Tax rate to 1.5%; and

**WHEREAS**, as part of Resolution No. 69-20, on July 14, 2020, the City Council also approved this Ordinance, pursuant to Revenue & Taxation Code Section 7285.9, subject to the City voters' approval; and

**WHEREAS**, the General Municipal Election was also a regularly scheduled general election for members of the Morro Bay City Council; and

**WHEREAS**, Article XIII C, Section 2, of the California Constitution requires that an increase in a general tax must be submitted to the electorate and approved by a majority vote of the electorate; and

**WHEREAS**, Article XIII C, Section 2, of the California Constitution requires that the election at which a general tax increase is submitted to the electorate shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

**NOW THEREFORE, ON THE BASIS OF THE FORGOING, THE PEOPLE OF THE CITY OF MORRO BAY, AT THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION, DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Adoption of Chapter 3.26.** Chapter 3.26 of the Morro Bay Municipal Code, attached hereto as Exhibit A, is hereby adopted.

**Section 2. Repeal of Chapter 3.22.** Chapter 3.22 of the Morro Bay Municipal Code is hereby repealed, effective on the Operative Date of Chapter 3.26 of the Morro Bay Municipal Code, as defined in Section 3.26.020 of the Morro Bay Municipal Code.

**Section 3. Environmental Review.** The adoption of this Ordinance is not a “project” subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section § 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

**Section 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The People of the City of Morro Bay hereby declared that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

**Section 5. Appropriations Limit.** Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Morro Bay is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

**Section 6. City Council Authority to Amend.** This is a city council sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City of Morro Bay. However, pursuant to Section 9217 of the California Elections Code, the city council expressly reserves the right and authority to amend the Ordinance to further the purposes and intent of the Ordinance (including but not limited to amendment for more efficient administration as determined by the city council) in any manner that does not increase a tax rate, or otherwise

constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

**Section 7. Date of Adoption; Effective Date.** Pursuant to Election Code Section 9217, this Ordinance shall be considered as *adopted* on the date that the City Council declares that the voters of the City of Morro Bay have approved the Ordinance by a vote of no less than a majority of the votes cast by the electors voting on the Sales Tax Measure at the General Municipal Election held on Tuesday, November 3, 2020, and shall go into *effect* ten (10) days thereafter.

**Section 8. Execution.** The Mayor of the City of Morro Bay is hereby authorized and ordered to attest to the adoption of the Ordinance by the voters of the City of Morro Bay by signing where indicated below.

**INTRODUCED** at this regular meeting of the City Council held on the 14th day of July 2020, by motion of Council Member Davis and seconded by Council Member McPherson.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED and ADOPTED** by the People of the City of Morro Bay, California voting on the 3<sup>rd</sup> day of November, 2020.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, California, on \_\_\_\_\_ by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING  
Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS F. NEUMEYER  
City Attorney

STATE OF CALIFORNIA )  
COUNTY OF SAN LUIS OBISPO )  
CITY OF MORRO BAY )

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 635 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the \_\_\_\_ day of \_\_\_\_ 2020, and that it was so adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
DANA SWANSON, City Clerk

## **EXHIBIT A**

### **Chapter 3.26 – Transactions and Use Tax**

#### 3.26.010 – Title.

This chapter shall be known as the Transactions and Use Tax Ordinance. The City of Morro Bay hereinafter shall be called “City.” This chapter shall be applicable in the incorporated territory of the City.

#### 3.26.020 – Operative date.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance codified in this chapter, unless modified pursuant to Section 3.26.040.

#### 3.26.030 – Purpose.

This chapter is intended to achieve the following purposes, among others, and the provisions hereof shall be interpreted in order to accomplish such purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt a tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

#### 3.26.040 – Contract with state.

Prior to the Operative Date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

#### 3.26.050 – Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date.

#### 3.26.060 – Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

#### 3.26.070 – Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

#### 3.26.080 – Adoption of provisions of state law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

#### 3.26.090 – Limitations of adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the City of Morro Bay shall be substituted therefor. However, the substitution shall not be made:

1. When the word “State” is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. When the result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or,

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

1. “A retailer engaged in business in the City” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.26.100 – Permit not required.

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this chapter.

3.26.110 – Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use, or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.26.120 – Citizens oversight committee.

A. Citizens Oversight Committee Established. There shall be a permanent citizens' advisory committee called the "citizens oversight committee" (hereinafter "committee"), which shall semi-annually review revenues and expenditures from the collection of the tax imposed by this chapter.

B. Committee Membership. The committee shall have seven citizen-members appointed by the city council for staggered four-year terms. Appointees shall be residents of the city; however, no member of the committee shall be an elected official. Each unanticipated vacancy shall be filled only for the duration of the unexpired term for that vacancy.

C. Committee Organization Procedures. The committee shall select one of its members as chairperson. The committee shall follow the rules of procedure of the city unless and until, upon the report and recommendation from the committee, the city council adopts a specific set of procedural rules for the committee.

D. Regular Meeting; Provision of Support Services and Information. The committee shall be subject to the provisions of the Brown Act (California Government Code Sections 54950 et seq.) and shall meet at least once each calendar year. A regular meeting schedule shall be determined in accordance with the Brown Act and thereafter meetings shall be noticed by the city clerk. The city manager or his/her designee shall serve as executive staff to the committee. In addition to receiving materials directly related to the functioning of the committee, the committee members shall also receive all agenda material and other primary staff reports (other than those which are confidential) as are provided to the city council.

E. Semi-Annual Report. The committee shall review a semi-annual expense report of the city relative to activities funded with the additional general purpose local sales tax monies. Not later than the last day of the sixth month following the end of the each city fiscal year, the committee will present its findings and conclusions to the city council for its review.

### 3.26.130 – State Law Amendments.

All amendments subsequent to the effective date of the ordinance first adopting this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

### 3.26.135 – City Amendments.

The city council has the right and authority to amend this chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the city council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Section 9217 of the California Elections Code.

3.26.140 – Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.



AGENDA NO: C-2

MEETING DATE: December 8, 2020

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 1, 2020

**FROM:** Chris F. Neumeyer, City Attorney

**SUBJECT:** Adoption of Resolution No. 105-20 Authorizing City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax; Adoption of Resolution No. 106-20 Authorizing the Examination of Transactions (Sales) and Use Tax Records; and, Authorize City Manager to Execute and File Additional Agreements, Letters and Forms with CDFTA and Other Appropriate State Agencies as Required for Implementation of the Local Transactions and Use Tax

## RECOMMENDATION

Staff recommends the City Council:

- 1) Adopt Resolution No. 105-20 authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration (CDFTA) for implementation of a local transactions and use tax (Attachment 1); and
- 2) Adopt Resolution No. 106-20 authorizing the examination of transactions (sales) and use tax records (Attachment 2); and
- 3) Authorize the City Manager to execute and file additional agreements, letters and forms with CDFTA and other appropriate state agencies as required for implementation of the local transactions and use tax.

## ALTERNATIVES

There are no alternatives being offered.

## FISCAL IMPACT

Collection of the new voter-approved sales tax will begin on April 1, 2021 and is estimated to generate approximately \$2,000,000 annually.

The Preparatory Agreement (Exhibit A to Attachment 1) requires the City to pay the costs for CDFTA preparatory work necessary to administer the City's sales tax. Those include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the CDFTA's staff and for taxpayers, and other appropriate and necessary costs to administer a sales tax ordinance. The Preparatory Agreements limits those costs to a not-to-exceed amount of \$175,000, although staff anticipates the costs for Morro Bay will be below that not-to-exceed amount. Staff anticipates this cost will be paid for with new Measure E-20 revenue to the City and will bring forward the necessary budget

01181.0001/684633.1

Prepared By: CFN

Dept Review: \_\_\_\_\_

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

City Attorney Review: CFN

adjustment at a future meeting.

The Administration Agreement (Exhibit B to Attachment 1) requires the City to pay the ongoing costs for CDTFA to administer the City's sales tax. Such amounts are set by law using the calculation method described in Revenue and Taxation Code section 7273 and will be deducted from the taxes collected by CDTFA for the City.

### **BACKGROUND**

On November 3, 2020, the voters of the City of Morro Bay approved Measure E-20, which authorizes an increase from 0.5% to 1.5% of the local transactions and use tax, to become effective April 1, 2021. In order to begin receiving the new voter-approved sales tax, it is necessary for the City to complete several administrative steps, including passage of resolutions and entering into agreements with the CDTFA for the collection and administration of the tax. These resolutions and agreements are provided by CDTFA for approval in the form presented to Council.

### **DISCUSSION**

The CDTFA is the state agency responsible for overseeing the collection and reporting of all sales taxes throughout the state. In its role as administrator, CDTFA collects sales taxes from retailers throughout the state and remits these revenues to cities, counties, and special districts, as applicable.

To that end, in order for the City of Morro Bay to begin receiving Measure E-20 revenues, it is necessary to approve the following documents required by the CDTFA.

1. Resolution No. 105-20. This resolution authorizes the City Manager to execute the following two agreements on behalf of the City of Morro Bay.
  - a. Agreement for the Preparation to Administer and Operate the City's Transactions and Use Tax. This agreement authorizes the CDTFA to do the necessary preparatory work to administer the E-20 sales and use tax. This includes work related to developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the CDTFA's staff and for taxpayers, and any other necessary functions.
  - b. Agreement for State Administration of City Transactions and Use Taxes. This agreement authorizes the CDTFA to administer and implement the Measure E-20 transaction and use tax on an ongoing basis each year. This includes administrative and operational functions, such as ensuring compliance with the guidelines established in the City's Transactions and Use Tax Ordinance, collecting funds from retailers, reviewing payment submissions for appropriateness, and remitting funds to the City.
2. Resolution No. 106-20. This resolution will authorize certain officials to access confidential sales tax data.

CDTFA also requires the completion, execution and filing of additional agreements, letters and forms with CDTFA and other appropriate state agencies as required for implementation of the local transactions and use tax. These include items such as a contact form for notifications and appeals, a media and registration request form, and an EFT authorization agreement. The City Council is asked to authorize the City Manager to complete, execute and file the same as required for implementation of the local transactions and use tax.

City staff also intends to engage HdL, which audits and supports the collection of sales tax revenue on this new source of Revenue. Since 1995, HdL has successfully and professionally represented the City's interests with CDTFA and business entities. The attached agreement also authorizes HdL to have access to confidential sales tax data, which is critical to their success on behalf of the City.

### **CONCLUSION**

In order to begin receiving the new voter-approved sales tax, it is necessary for the City to complete several administrative steps, including passage of resolutions and entering into agreements with the CDTFA for the collection and administration of the tax. Staff recommends City Council take the recommended actions so that the new voter-approved sales tax can be collected by CDTFA.

### **ATTACHMENTS**

1. Resolution No. 105-20, Authorizing City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax
  - a. Exhibit A – Preparatory Agreement with CDTFA
  - b. Exhibit B – Administrative Agreement with CDTFA
2. Resolution No. 106-20, Authorizing the Examination of Transactions (Sales) and Use Tax Records

**RESOLUTION NO. 105-20**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
AUTHORIZING THE MORRO BAY CITY MANAGER TO EXECUTE AGREEMENTS  
WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION  
FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX.**

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

**WHEREAS**, on December 8, 2020, the City Council approved Ordinance No. 635 amending the City Municipal Code and providing for a local transactions and use tax increase from .5% to 1.5%; and

**WHEREAS**, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

**WHEREAS**, the Department will be responsible to administer and collect the transactions and use tax for the City; and

**WHEREAS**, the Department requires that the City enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes, and

**WHEREAS**, the Department requires that the City Council authorize the agreements.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Morro Bay that the "Preparatory Agreement" attached as Exhibit A and the "Administrative Agreement" attached as Exhibit B are hereby approved and the Morro Bay City Manager is hereby authorized to execute each agreements.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of December 2020, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE  
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Morro Bay, a California municipal corporation, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration  
P.O. Box 942879 MIC: 27  
Sacramento, California 94279-0027

Attention: Administrator  
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Morro Bay  
595 Harbor Street  
Morro Bay, California 93442  
Attention: Finance Director

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF MORRO BAY

CALIFORNIA DEPARTMENT OF TAX  
AND FEE ADMINISTRATION

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
Administrator  
Local Revenue Branch

\_\_\_\_\_  
(Typed Name)

\_\_\_\_\_  
(Title)

(Rev. 11/17)

**AGREEMENT FOR STATE ADMINISTRATION  
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Morro Bay has adopted, and the voters of the City of Morro Bay (hereafter called "City" or "District") have approved by the required majority vote, the City of Morro Bay Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California State Department of Tax and Fee Administration, (hereinafter called the "Department") and the City do agree as follows:

**ARTICLE I  
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section \_\_\_\_\_, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 635, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II  
ADMINISTRATION AND COLLECTION  
OF CITY TAXES**

**A. Administration.** The Department and City agree that the Department shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

**B. Other Applicable Laws.** City agrees that all provisions of law applicable to the administration and operation of the Department Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

**C. Transmittal of money.**

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

**D. Rules.** The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

**E. Preference.** Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

**F. Security.** The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Department.

**G. Records of the Department.**

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the City to examine the records of the Department, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Department's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

**H. Annexation.** City agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

**ARTICLE III**

**ALLOCATION OF TAX**

**A. Allocation.** In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion

of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

**B. Vehicles, Vessels, and Aircraft.** For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

#### **ARTICLE IV COMPENSATION**

The City agrees to pay to the Department as the State's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the City.

#### **ARTICLE V MISCELLANEOUS PROVISIONS**

**A. Communications.** Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Department shall be addressed to:

California State Department of Tax and Fee Administration  
P.O. Box 942879  
Sacramento, California 94279-0027

Attention: Administrator  
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City of Morro Bay  
595 Harbor Street  
Morro Bay, California 93442  
Attention: Finance Director

**Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.**

**B. Term.** The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on                     . ~~April 1, 2021.~~ This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

**C. Notice of Repeal of Ordinance.** City shall give the Department written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

**ARTICLE VI**  
ADMINISTRATION OF TAXES IF THE  
ORDINANCE IS CHALLENGED AS BEING INVALID

**A. Impoundment of funds.**

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

**B. Costs of administration.** Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by City to Department to prepare to administer the City Ordinance.

2. City will pay to Department and allow Department to retain Department's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing

the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Department shall bill City on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. City shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

CITY OF MORRO BAY

CALIFORNIA STATE DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
Administrator  
Local Revenue Branch

\_\_\_\_\_  
(Typed Name)

\_\_\_\_\_  
(Title)

**RESOLUTION NO. 106-20**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
AUTHORIZING THE EXAMINATION OF  
TRANSACTIONS (SALES) AND USE TAX RECORDS**

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

**WHEREAS**, pursuant to Ordinance No. 635 of City of Morro Bay, California, hereinafter called City, and Section 7270 of the Revenue and Taxation Code, the City entered into a contract with the California Department of Tax and Fee Administration (CDTFA) to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance; and

**WHEREAS**, the City deems it desirable and necessary for authorized representatives of the City to examine confidential transactions and use tax records of the California Department of Tax and Fee Administration pertaining to transactions and use taxes collected by the Board for the City pursuant to that contract; and

**WHEREAS**, Section 7056 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of California Department of Tax and Fee Administration records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from, the transactions and use tax records of the Board;

**NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:**

**Section 1.** That the City Manager, Finance Director or other officer or employee of the City designated in writing by the City Manager to the California Dept of Tax and Fee Administration (hereafter referred to as the CDTFA) is hereby appointed to represent the City with authority to examine transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA pursuant to the contract between the City and the CDTFA. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of the City's transactions and use taxes by the CDTFA pursuant to the contract.

**Section 2.** That the City Manager, Finance Director or other officer or employee of the City designated in writing by the City Manager to the California Dept of Tax and Fee Administration is hereby appointed to represent the City with authority to examine those transactions and use tax records of the Board for purposes related to the following governmental functions of the City:

- a) Revenue management and budgeting
- b) Community and economic development
- c) City Administration
- d) Business License and Tax administration

The information obtained by examination of CDTFA records shall be used only for those governmental functions of the City listed above.

**Section 3.** That Hinderliter, De Llamas and Associates (HdL Companies) is hereby designated to examine the transactions and use tax records of the California Department of Tax and Fee Administration pertaining to transactions and use taxes collected for the City by the Department. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the City to examine those transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in or derived from those transactions and use tax records after that contract has expired.

**Section 4.** That this resolution supersedes all prior transactions and use tax resolutions of the City of Morro Bay adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

**BE IT FURTHER RESOLVED** that the information obtained by examination of Board records shall be used only for purposes related to the collection of City's transactions and use taxes by the Board pursuant to the contracts between the City and Board.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of December 2020, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

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