CITY OF MORRO BAY
CITY COUNCIL
AGENDA

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

Regular Meeting
Tuesday, November 9, 2021 – 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
- Family Court Awareness Month Proclamation

PUBLIC COMMENT
Pursuant to Executive Order N-08-21, issued by Governor Newsom on June 11, 2021, 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-08-21, 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 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=aWZpTzcwTHlRTk9xaTlmWVNWRWFUQT09*
  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 12, 2021, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE OCTOBER 25, 2021, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 ADOPTION OF RESOLUTION NO. 77-21 APPROVING AMENDMENT NO. 3 TO THE MORRO BAY TRANSIT AND TROLLEY OPERATIONS AND MANAGEMENT AGREEMENT WITH MV TRANSPORTATION, INC.; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 77-21, approving Amendment No. 3 to the Morro Bay Transit and Trolly Operations and Management Agreement with MV Transportation, Inc.

A-4 RESOLUTION MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council consider adoption of Resolution No. 78-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

A-5 UPDATE ON THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL DRAFT REVISED STATEMENT OF BASIS DOCUMENT FOR THE MORRO BAY POWER PLANT AND COUNCIL AUTHORIZATION OF LETTER FROM MAYOR CONCURRING WITH PROPOSED REVISED REMEDY; (CITY MANAGER/COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council receive the report from staff and authorize the Mayor to sign a letter concurring with the Proposed Revised Remedy identified in the Draft Revised Statement of Basis for the Morro Bay Power Plant as noted below and further described in Attachments 1 and 2 to the staff report.

A-6 APPROVAL OF FISCAL YEAR 2020-21 YEAR-END BUDGET ADJUSTMENTS, PART 2 OF 2; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 74-21 approving Fiscal Year (FY) 2020-21 Year-End Budget Adjustments, Part 2 of 2.

A-7 AUTHORIZATION FOR MAYOR TO SEND LETTER TO SAN LUIS OBISPO BOARD OF SUPERVISORS (BOARD) REGARDING PROPOSED REDISTRICTING OF BOARD OF SUPERVISORS DISTRICT 2.; (CITY MANAGER)

RECOMMENDATION: City Council authorize the Mayor to send a letter on behalf of the City Council to the Board recommending it maintain existing Supervisorial boundaries.

A-8 AGREEMENT WITH VISIT MORRO BAY FOR TOURISM BUSINESS IMPROVEMENT DISTRICT CONTRACTOR SERVICES, AND LEASE AGREEMENT FOR 695 HARBOR STREET, SUITES C AND G; (CITY MANAGER)

RECOMMENDATION: *The City Council approves agreement* with Visit Morro Bay for Tourism Business Improvement District contractor services, and Lease Agreement for 695 Harbor Street, Suites C and G, subject to approval as to form by City Attorney.

A-9 PROCLAMATION DECLARING NOVEMBER 2021 AS "NATIONAL HOSPICE AND PALLIATIVE CARE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

A-10 PROCLAMATION RECOGNIZING NOVEMBER AS "FAMILY COURT AWARENESS MONTH"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

B. PUBLIC HEARINGS

B-1 APPEAL OF PLANNING COMMISSION APPROVAL ON SEPTEMBER 7, 2021 OF THE COASTAL DEVELOPMENT PERMIT #CDP21-019 AND CONDITIONAL USE PERMIT #CUP21-05 FOR CONSTRUCTION OF A NEW 6-UNIT 5,042 SQUARE FOOT (SF) BLUFFTOP HOTEL AT 205 HARBOR STREET IN THE C-VS/PD ZONING DISTRICT. THIS PROPERTY IS ALSO LOCATED IN THE COASTAL APPEALS JURISDICTION. (APPELLANT: BETTY WINHOLTZ); (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 75-21, making the necessary findings to deny the appeal and uphold the Planning Commission (PC) approval of Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP2-05, for the site at 205 Harbor Street to allow construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets and removal of major vegetation and seven on-site parking spaces.

B-2 ADOPTION OF RESOLUTION NO. 76-21 APPROVING MAJOR AMENDMENT #MAJ20-004 LOCATED AT 715 EMBARCADERO, FOR THE CONVERSION OF COMMERCIAL FISHING WHARF TO HARBORWALK COASTAL PUBLIC ACCESS, CONVERSION OF EXISTING INTERIOR 470-SQUARE FOOT (SF) FISH PROCESSING AREA TO NEW RETAIL SPACE, REMOVAL OF A 580-SF OUTDOOR COVERED PATIO AND CONVERSION OF THE AREA TO NEW HARBORWALK, REPAIR OF 3 EXISTING PILINGS TO REMAIN FOR SUPPORT OF THE NEW HARBORWALK. THE PROJECT ALSO PROPOSES A NEW 461-SF STREET-FACING PUBLIC OUTDOOR DINING AND RELATED COMMERCIAL FAÇADE IMPROVEMENTS. THE PROJECT IS LOCATED IN THE WF/PD/S.4 ZONING DISTRICT AND IS WITHIN THE COASTAL COMMISSION ORIGINAL JURISDICTION; (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the Council adopt Resolution No. 76-21, making the necessary findings for approval of Major Amendment #MAJ20-004 as Concept/Precise Plan approval, located at 715 Embarcadero.

C. BUSINESS ITEMS

C-1 REVIEW MORRO BAY PUBLIC PARKING MANAGEMENT STUDY CONDUCTED BY WALKER CONSULTANTS AND CONSIDER RECOMMENDED NEXT STEPS REGARDING PARKING MANAGEMENT; (CITY MANAGER)

RECOMMENDATION: City Council review the Walker Consultants' (Walker) parking management study of Morro Bay's Waterfront, Morro Rock and Downtown parking areas and authorize staff to take initial steps to develop a plan to implement parking management recommendations, including development of a pilot paid parking program in the most impacted areas of the Embarcadero, and bring this back to City Council for review. It is further recommended Council direct staff to continue to seek input from key waterfront parking users and engage with California Coastal Commission staff in developing this plan.

C-2 ADOPT RESOLUTION NO. 79-21 PLEDGING A FUNDING COMMITMENT FOR INTERSECTION IMPROVEMENTS AT SR1/SR41 AND MAIN STREET; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 79-21 pledging a funding commitment for project costs for intersection improvements for the intersection at SR1/SR41 and Main Street based on the roundabout alternative.

C-3 APPROVE A MASTER SERVICES AGREEMENT WITH HINDERLITER DE LLAMAS AND ASSOCIATES (HDL) TO PROVIDE TAX AND FEE ADMINISTRATION SERVICES; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Approve Resolution No. 80-21 authorizing the City Manager to execute a Master Services Agreement with HdL to provide Tax and Fee Administration Services in the areas of Business Tax Certificates and Transient Occupancy Tax, subject to City Attorney approval of Agreement language.

C-4 INTRODUCTION (FIRST READING) OF ORDINANCE NO. 645 ADDING CHAPTER 8.18, "SPECIFIC REGULATIONS FOR COLLECTION, AND DISPOSAL REDUCTION, OF ORGANIC WASTE, RECYCLABLES AND SOLID WASTE," TO TITLE 8 ("HEALTH AND SAFETY") OF THE MORRO BAY MUNICIPAL CODE; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council introduce, by title only, and waive further reading of Ordinance No. 645: "An Ordinance of the City Council of the City of Morro Bay, California, Adding Chapter 8.18 to Title 8 ("Health And Safety") of the Morro Bay Municipal Code, entitled "Specific Regulations For Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste," to enact regulations in compliance with Senate Bill (SB) 1383 for the implementation of Mandatory Food and Organics Recycling, and related Solid Waste and Recycling Processing and Reporting."

C-5 KINGS AND BLANCA TANKS REHABILITATION PROJECT CONTRACT AWARD IN THE AMOUNT OF $2,039,268 TO SUPERIOR TANK SOLUTIONS, INC.; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council waive minor irregularities in the bids received by the City, reject the bid protest filed by Paso Robles Tank, Inc., and authorize the City Manager to execute a contract with Superior Tank Solutions, Inc. (STS) in the amount of $2,039,268 for recoating and rehabilitation of six water storage tanks after approved as to form by the City Attorney.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, December 14, 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.

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MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 12, 2021
TELECONFERENCE – 5:30 P.M.

AGENDA NO: A-1

MEETING DATE: November 9, 2021

City Council conducted this meeting in accordance with California Governor Newson's Executive Order N-08-21 issued on June 11, 2021 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
	Laurel Barton	Council Member
	Jennifer Ford	Council Member
	Jeff Heller	Council Member
ABSENT:	None	
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Heather Goodwin	Deputy City Clerk
	Sarah Johnson-Rios	Assistant City Manager/Admin Services Dir.
	Greg Kwolek	Public Works Director
	Scot Graham	Community Development Director
	Daniel McCrain	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.
None

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/1bjCjDl0qrE?t=204

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
https://youtu.be/1bjCjDl0qrE?t=743

PRESENTATIONS
https://youtu.be/1bjCjDl0qrE?t=999

- Resolution commemorating the landing of the First Filipinos in US presented to Jessica Gillette, Rosalie Marquez and Rose Sagisi.
- Domestic Violence Action Month Proclamation presented to Hollie West, Communications & Events Coordinator with Lumina Alliance.
- Hispanic Heritage Month Proclamation presented to Rita Casaverde, Board Member and Assistant to Congressman Carbajal.

PUBLIC COMMENT
https://youtu.be/1bjCjDl0qrE?t=2192
Shana Paulson, Community Action Partnership, spoke on behalf of We Are the Care Initiative, expressed the importance of childcare our community and shared results from a recent study conducted by BW Research on the economic impacts of the childcare industry in San Luis Obispo County. For more information, contact First 5 of San Luis Obispo County or www.first5slo.org.

Michael Wood, introduced himself as the new principal at Del Mar Elementary shared students are excited to be back in school and thanked parents and families for working hard to make that happen. He expressed appreciation to all the community organizations who helped provide various essentials to the students and thanked Council Members Addis and Ford for their participation in Walk to School Week.

Betty Winholtz, Morro Bay, stated that she is saving her public comment for the consent calendar.

Mayor Headding closed public comment.

A. CONSENT AGENDA
https://youtu.be/1bjCjDl0qrE?t=2780

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 AUGUST 24, 2021, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SEPTEMBER 14, 2021, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 PROCLAMATION RECOGNIZING "OCTOBER 2021" AS DOMESTIC VIOLENCE ACTION MONTH"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

A-4 PROCLAMATION RECOGNIZING SEPTEMBER 15 – OCTOBER 15, 2021 AS "NATIONAL HISPANIC HERITAGE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

A-5 APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (MAYOR HEADDING)

RECOMMENDATION: Review and approve the revised list of appointed representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for the remainder of calendar year 2021.

A-6 ADOPTION OF RESOLUTION NO. 64-21 APPROVING A LEASE AMENDMENT 1 EXTENDING FOR 3 YEARS THE LEASE AGREEMENT WITH CIANO REAL ESTATE, INC. FOR PROPERTY LOCATED AT 781 MARKET AVENUE; (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the Council adopt Resolution No. 64-21, approving Amendment 1 of the Ciano Real Estate lease, extending the lease for 3 years for a portion of the City owned property located at 781 Market Avenue (APN: 066-321-027).

A-7 ADOPTION OF RESOLUTION NO. 65-21, HONORING THE HISTORICAL AND CULTURAL SIGNIFICANCE OF MORRO BAY FOR THE FILIPINO AMERICAN COMMUNITY; (CITY MANAGER)

RECOMMENDATION: Staff recommends the Council adopt Resolution No. 65-21, recognizing the historical and cultural connection between Morro Bay and the Filipino American community, and committing the City to honor this significance through a variety of methods, including, but not limited to, placing the existing historical monument recognizing their arrival to North America in a more prominent location.

Mayor Headding opened public comment for the Consent Agenda.
https://youtu.be/1bjCjDl0qrE?t=2783

Betty Winholtz, Morro Bay, spoke regarding Item A-6, asked why the City used Long Beach CPI for the lease agreement instead of San Francisco CPI which is what the City used in the past for fees.

The public comment period was closed.

Mayor Headding pulled Item A-6 to allow staff to address public comment and to allow Council Member Ford to recuse herself from this item.

MOTION: Council Member Addis moved approval of all items on Consent except Item A-6. The motion was seconded by Council Member Heller for discussion.

Following discussion, the motion carried 5-0 by roll call vote.

Council Member Ford announced she was recusing herself from A-6 due to a potential conflict of interest with the Ciano Real Estate Inc. Council Member Ford left the zoom meeting at 6:22 pm

A-6 ADOPTION OF RESOLUTION NO. 64-21 APPROVING A LEASE AMENDMENT 1 EXTENDING FOR 3 YEARS THE LEASE AGREEMENT WITH CIANO REAL ESTATE, INC. FOR PROPERTY LOCATED AT 781 MARKET AVENUE; (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the Council adopt Resolution No. 64-21, approving Amendment 1 of the Ciano Real Estate lease, extending the lease for 3 years for a portion of the City owned property located at 781 Market Avenue (APN: 066-321-027).

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

MOTION: Mayor Headding moved approval of Item A-6 on Consent. The motion was seconded by Council Member Addis and carried 4-0-1 with Council Member Ford having recused herself due to a potential conflict of interest.

Council Member Ford rejoined the zoom meeting at 6:28 p.m.

B. PUBLIC HEARINGS

B-1 ADOPT RESOLUTIONS APPROVING 2020 URBAN WATER MANAGEMENT PLAN, WATER SHORTAGE CONTINGENCY PLAN, AND 2015 URBAN WATER MANAGEMENT PLAN APPENDIX G; (PUBLIC WORKS DEPARTMENT)
https://youtu.be/1bjCjDl0qrE?t=3433

Public Works Director Kwolek introduced the item and turned to WSC Consultants Daniel Heilmel and Spencer Waterman who provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

Mike Taylor, inquired about where state water is stored as referenced in the staff presentation.

Betty Winholtz, Morro Bay, restated comments submitted as agenda correspondence and raised questions on how to the City can improve their noticing requirements to renters. She also raised concerns on why there is no dust control at the WRF project site and inquired why the indirect potable reuse (IPR) reported for the year is so low.

The Public Hearing was closed.

Staff responded to issues raised during public comment.

MOTION: Mayor Headding moved to: 1) Adopt Resolution No. 66-21 approving the 2020 Urban Water Management Plan and authorizing its submittal to the Department of Water Resources; 2) Adopt Resolution No. 67-21 approving the 2020 Water Shortage Contingency Plan and authorizing its submittal to the Department of Water Resources; and 3) Adopt Resolution No. 68-21 approving the 2015 Urban Water Management Plan Appendix G (Reduced Reliance on the Delta) and authorizing its submittal to the Department of Water Resources. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

C-1 1) APPROVAL OF AMENDMENT TO CONTRACT WITH COGSTONE RESOURCES MANAGEMENT FOR CULTURAL RESOURCES MONITORING FOR THE WATER RECLAMATION FACILITY (WRF) LIFT STATION AND OFFSITE PIPELINES CONSTRUCTION PROJECT; 2) AMENDMENT TO CONTRACT WITH FAR WESTERN ANTHROPOLOGICAL RESEARCH GROUP, INC. FOR DATA RECOVERY EXCAVATIONS AT SITE CA-SLO-16 FOR THE WRF LIFT STATION AND OFFSITE PIPELINES CONSTRUCTION PROJECT, AND 3) APPROVAL OF CHANGE ORDER NO. 1 TO CONTRACT WITH ANVIL BUILDERS, INC FOR CONSTRUCTION SERVICES FOR THE WATER RECLAMATION FACILITY (WRF) LIFT STATION AND OFFSITE PIPELINES; (PUBLIC WORKS DEPARTMENT)
https://youtu.be/1bjCjDl0qrE?t=6381

Public Works Director Kwolek introduced the item and turned to Carollo Project Manager Paul Amico who provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, restated comments and questions submitted as agenda correspondence and raised questions on how to the City can improve publishing related documents on the city's website. She also opined on ways the City could have saved money on the project.

Mike Taylor raised questions about the archeological and cultural investigations and inquired if they were in the original specification for the project. He also asked if Anvil provided details on the costs associated with labor, materials, overhead and profit.

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

MOTION: Mayor Headding moved to authorize the City Manager to execute the following:
1) Amendment No. 1 to the agreement with Cogstone Resource Management (Cogstone) for cultural resources monitoring services during construction of the WRF Lift Station and Offsite Pipelines for a total amount of $740,803.22, which includes $155,970 of optional, as-needed services for cultural resources monitoring, as directed by the City's Public Works Director, resulting in a total not to exceed amount of $1,005,721.22.
2) Amendment No. 6 to the agreement with Far Western Anthropological Research Group, Inc. (Far Western) for data recovery excavations at cultural resources site CA-SLO-16, as identified in the Project EIR, and also known as construction Phase 2B of the Conveyance Facilities Project as outlined in the Programmatic Agreement between Environmental Protection Agency (EPA) and the State Historic Preservation Office (SHPO) regarding the City of Morro Bay WRF Project for the amount of $463,086, which includes $146,824 of optional as-needed services for the Phase 2B data recovery excavations, as directed by the City's Public Works Director, resulting in a total not to exceed amount of $806,165.01.
3) Authorize the City Manager to execute contract change order (CCO) No. 1 to the agreement with Anvil Builders, Inc. (Anvil) for construction of the WRF Conveyance Facilities for the amount of $674,485.00, resulting in a total not to exceed amount of $32,168,160.
The motion was seconded by Council Member Barton and carried 4-1 by roll call vote with Council Member Heller opposed.

C-2 RECEIVE SB 1383 SHORT-LIVED CLIMATE POLLUTANTS: ORGANICS WASTE REDUCTIONS UPDATE AND ADOPT RESOLUTION NO. 69-21 REAFFIRMING COMMITMENT TO REMAIN A MEMBER OF THE SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY;(PUBLIC WORKS DEPARTMENT)

https://youtu.be/1bjCjDl0qrE?t=9322

Public Works Director Kwolek and IWMA Interim Executive Director Patti Toews 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 Heller moved to: 1) Receive the SB 1383 update and provide comments or direction to staff as appropriate; 2) Direct staff to analyze the cost impact to the City to implement SB 1383 and bring forward a recommendation to fund these additional costs and 3) Adopt Resolution No. 69-21 reaffirming

commitment to remain a member of the San Luis Obispo County Integrated Waste Management Authority. The motion was seconded by Council Member Addis for discussion.

Following discussion, the motion carried 5-0 by roll call vote.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/1bjCjDl0qrE?t=11311

Council Member Heller requested an agenda item to discuss an update on the Natural Healing Center due to the litigation that took place in San Luis Obispo as well as an update on the vetting process that the City went through and where the City stands currently. City Attorney Neumeyer informed Council that staff is in the process of doing an internal review and not to comment until the review is complete. Following discussion, City Attorney advised if results are reportable, a general update will be made available to Council and public as appropriate. The Mayor supported the request.

E. ADJOURNMENT

The meeting adjourned at 8:43 p.m.

Recorded by:

Heather Goodwin
Deputy City Clerk

AGENDA NO: A-2

MEETING DATE: November 9, 2021

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – OCTOBER 26, 2021
TELECONFERENCE – 3:30 P.M.

City Council conducted this meeting in accordance with California Governor Newson's Executive Order N-08-21 issued on June 11, 2021 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
	Laurel Barton	Council Member
	Jennifer Ford	Council Member
ABSENT:	Jeff Heller	Council Member
STAFF:	Scott Collins	City Manager
	Dana Swanson	City Clerk

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding established a quorum and called the meeting to order at 3:30 p.m. with all but Council Member Heller present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA
https://youtu.be/BHCvfzX1Ubk?t=182
Mayor Headding opened comment; seeing none, the public comment period was closed.

SPECIAL MEETING AGENDA ITEM:

I. ADVISORY BODY INTERVIEWS
https://youtu.be/BHCvfzX1Ubk?t=201
Planning Commission

- One (1) vacancy for the remainder of a term ending January 31, 2023

Mayor Headding announced one applicant had withdrawn his application, Dr. Ryan Garcia.

Chris Dent announced he wished to withdraw his application for consideration of appointment to the Planning Commission but would like to be considered for the Public Works Advisory Board.

The following applicants were interviewed for the Planning Commission position: Matthew Davis, Asia King, Malcolm (Moe) McEwen and Eric Vincent.

MOTION: Council Member Addis moved to appoint Asia King to fill the current vacancy on the Planning Commission for the remainder of a term ending January 31, 2023. The motion was seconded by Council Member Barton and carried 4-0-1 with Council Member Heller absent.

Public Works Advisory Board
https://youtu.be/BHCvfzX1Ubk?t=3504

- One (1) vacancy for the remainder of a term ending January 31, 2025

The following applicants were interviewed for the Public Works Advisory Board position: Chris Dent, Eric Riddiough and Eric Vincent.

MOTION: Council Member Barton moved to appoint Eric Riddiough to fill the current vacancy on the Public Works Advisory Board for the remainder of a term ending January 31, 2025. The motion was seconded by Council Member Addis and carried 4-0-1 with Council Member Heller absent.

ADJOURNMENT
The meeting adjourned at 4:56 p.m.

Recorded by:

Dana Swanson
City Clerk

AGENDA NO: A-3

MEETING DATE: November 9, 2021

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 28, 2021**

FROM: **Greg Kwolek, Public Works Director**
Janeen Burlingame, Management Analyst

SUBJECT: **Adoption of Resolution No. 77-21 Approving Amendment No. 3 to the Morro Bay Transit and Trolley Operations and Management Agreement with MV Transportation, Inc.**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 77-21, approving Amendment No. 3 to the Morro Bay Transit and Trolly Operations and Management Agreement with MV Transportation, Inc.

FISCAL IMPACT

A one-year extension to the Morro Bay Transit and Trolley Operations and Management Agreement (Agreement) has no fiscal impact on the General Fund as transit and trolley services are paid for by the Transit Fund. The increase of the compensation rates contained in the agreement is not known at this time as it will be based upon 80% of the annual percentage difference in the All Urban Consumers Price Index (CPI) San Francisco-Oakland-Hayward for December 2021. This increase will be paid for with Transportation Development Act funds received from the State for transit operations.

DISCUSSION

The City and MV Transportation, Inc. (MV) originally entered into a five-year agreement effective January 1, 2015, for provision of year-round deviated fixed route and seasonal trolley services for the City. The Agreement was then extended through December 31, 2020, and extended a second time through December 31, 2021, due to impacts to the transit industry resulting from the pandemic. The City is requesting to extend the Agreement a third time because transit companies' struggles in recruiting and retaining drivers continue to create a difficult bidding environment. If this amendment is approved, staff plans to release a Request for Proposals for these services in one year.

A one-year extension to the current Agreement is prudent in that it provides financial certainty for City's Transit Fund, MV, and its local employees. It also provides driver security, which enables existing levels of service to transit riders to continue during a driver shortage. During the pandemic, driver recruitment became very difficult across the transit industry, including in San Luis Obispo County, with many transit agencies having to cut back on some services due to a lack of drivers available to drive. In Morro Bay, a decrease in ridership, mask mandates, and funding cuts together resulted in ceasing Saturday Transit service in FY 2020-21 and decreases in Trolley service days, hours, and routing in the 2020 and 2021 summer seasons.

Transit ridership decreased by more than 65% during the height of the pandemic as people began

Prepared By: J Burlingame	Dept Review: GK
City Manager Review: SC	City Attorney Review: BWB

to self-quarantine and then as the shelter at home order took effect, only using transit services for essential travel. Beginning in July 2020, the State issued an order requiring face coverings be worn when riding the bus or waiting for public transportation that remained in effect until President Biden issued an Executive Order on January 21, 2021, promoting measures to prevent the spread of COVID-19 and requiring masks be worn on public transit. The expiration date for the Order has been extended several times, with the latest extension ending January 18, 2022. The requirement of masking while riding public transit has impacted trolley ridership over the past two summer seasons with some visitors choosing not to ride rather than put on a mask. It is expected to take several years for ridership to make a steadier recovery to pre-pandemic levels.

Transportation Development Act funding from the State, used for local transit operations, experienced decreases in the City's FY 2019-20 and FY 2020-21 allocations as it was based on sales and fuel taxes. The impact of additional decreases will not be known for several more months.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 77-21, approving Amendment No. 3 to the Morro Bay Transit and Trolly Operations and Management Agreement with MV Transportation, Inc.

ATTACHMENT

1. Resolution No. 77-21

RESOLUTION NO. 77-21

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THIRD AMENDMENT TO MORRO BAY TRANSIT AND TROLLEY
OPERATIONS AND MANAGEMENT AGREEMENT WITH MV TRANSPORTATION, INC.**

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

WHEREAS, effective January 1, 2015, the City of Morro Bay (City) and MV Transportation, Inc. (MV) entered into an agreement for MV to provide year-round deviated fixed route and seasonal trolley services for the City (the "Agreement"); and

WHEREAS, the Agreement is in effect through December 31, 2021 after a one-year extension was approved July 14, 2020 (Amendment No. 2); and

WHEREAS, in March 2020, local, state, and national leaders declared a state of emergency regarding the Coronavirus (COVID-19) global pandemic, including local a shelter at home order issued and effective March 19, 2020; and

WHEREAS, the region began a phased reopening of businesses per the conditions of the State's Blueprint for a Safer Economy in Spring 2020 and by June of 2021, due to significant progress in vaccinating individuals and reducing community transmission, the State moved beyond the Blueprint tier system and began to fully reopen, lifting capacity and physical distancing restrictions for most businesses and activities.; and

WHEREAS, by the end of June 2021, the Delta variant was reported in San Luis Obispo County, outbreaks and cases increased, and by the end of August 2021, with surges in cases and hospitalizations stretching the local health care system too close to the breaking point, the County of San Luis Obispo Public Health Department issued a Health Officer Order requiring masking in all indoor public places that remains in effect today; and

WHEREAS, beginning in July 2020, the State issued an Order requiring face coverings be worn when riding the bus or waiting for public transportation that remained in effect until President Biden issued an Executive Order on January 21, 2021 promoting measures to prevent the spread of COVID-19 that required masks be worn on public transit and whose expiration date for the Order has been extended several times until January 18, 2022; and

WHEREAS, on October 20, 2021, the County Public Health Department issued criteria for lifting the current Health Officer Order requiring masking in all indoor public places that is similar to those adopted by other California counties; however, there is still uncertainty surrounding when the County and City would ultimately emerge from this Order and continue the long road of operational and economic recovery from COVID-19; and

WHEREAS, transit ridership decreased by more than 65% during the height of the pandemic as people began to self-quarantine and then as the shelter at home order took effect, only using service for essential travel; and

WHEREAS, transit ridership recovery, while increasing to almost 50% of pre-COVID-19 levels, is very slow as the Delta variant began spreading and cases in the region increased over the Summer into Fall, and it will take several years for ridership to make a steadier recovery to near pre-pandemic levels; and

WHEREAS, during the pandemic, driver recruitment has become very difficult across the transit industry, including in San Luis Obispo County, with many transit agencies having to cut back on some service due to a lack of drivers available to drive; and it is uncertain when this situation may improve; and

WHEREAS, Transportation Development Act funding from the State, used for local transit operations, experienced decreases in the City's FY 19/20 and FY 20/21 allocations as it was based on sales and fuel taxes, and the impact of additional decreases will not be known for several more months; and

WHEREAS, funding decreases combined with ridership decreases, the region phased reopening in the Summer of 2020 while also still being under a shelter at home order, and the County Public Health Department Health Officer Order in August 2021 requiring masking in all indoor public places, resulted in ceasing Saturday Transit service in FY 20/21 and decreases in Trolley service days, hours, and routing in the 2020 and 2021 summer seasons; and

WHEREAS, there is uncertainty as to what type of bidding environment there would be should a Request for Proposals for transit operations and management be released at this time, let alone whether transit companies would be interested in expanding during the extremely difficult financial and driver recruitment times they have been, and will continue to be faced, as well as the increased costs of dealing with how to make working environments safe for employees and riders; and

WHEREAS, as such, a one-year extension of this Agreement is prudent and would provide financial stability for both MV, its local employees, and the City's Transit Fund during these unprecedented and difficult times; and

WHEREAS, City and MV staff are in support of a one-year extension of the current Agreement effective January 1, 2022 through December 31, 2022; and

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Morro Bay approval of the Third Amendment to the Amended Agreement, attached hereto.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of November 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

CITY OF MORRO BAY
THIRD AMENDMENT TO CONTRACT FOR MORRO BAY TRANSIT AND TROLLEY OPERATIONS AND MANAGEMENT

This Amendment No. 3 to that certain agreement for Transit and Trolley operations and management services ("this Amendment") is made and entered into this 9th day of November, 2021 by and between the City of Morro Bay, a municipal corporation ("City") and MV Transportation Inc., a California corporation ("MV") (sometimes collectively the "Parties").

RECITALS

A. Effective January 1, 2015, the Parties entered into an agreement for MV to provide year-round deviated fixed route and seasonal trolley services for City (the "Agreement").

B. The Agreement is in effect through December 31, 2021 after a one-year extension was approved July 14, 2020 (Amendment No. 2).

C. In March 2020, local, state, and national leaders declared a state of emergency regarding the Coronavirus (COVID-19) global pandemic, including local a shelter at home order issued and effective March 19, 2020.

D. The region began a phased reopening of businesses per the conditions of the State's Blueprint for a Safer Economy in Spring 2020 and by June of 2021, due to significant progress in vaccinating individuals and reducing community transmission, the State moved beyond the Blueprint tier system and began to fully reopen, lifting capacity and physical distancing restrictions for most businesses and activities.

E. However, by the end of June 2021, the Delta variant was reported in San Luis Obispo County, outbreaks and cases increased, and by the end of August 2021, with surges in cases and hospitalizations stretching the local health care system too close to the breaking point, the County of San Luis Obispo Public Health Department issued a Health Officer Order requiring masking in all indoor public places that remains in effect today.

F. Beginning in July 2020, the State issued an Order requiring face coverings be worn when riding the bus or waiting for public transportation that remained in effect until President Biden issued an Executive Order on January 21, 2021 promoting measures to prevent the spread of COVID-19 that required masks be worn on public transit and whose expiration date for the Order has been extended several times until January 18, 2022.

G. On October 20, 2021, the County Public Health Department issued criteria for lifting the current Health Officer Order requiring masking in all indoor public places that is similar to those adopted by other California counties; however, there is still uncertainty surrounding when the County and City would ultimately emerge from this Order and continue the long road of operational and economic recovery from COVID-19.

H. Transit ridership decreased by more than 65% during the height of the pandemic as people began to self-quarantine and then as the shelter at home order took effect, only using service for essential travel.

I. Transit ridership recovery, while increasing to almost 50% of pre-COVID-19 levels, is very slow as the Delta variant began spreading and cases in the region increased over the Summer into Fall, and it will take several years for ridership to make a steadier recovery to near pre-pandemic levels.

J. During the pandemic, driver recruitment has become very difficult across the transit industry, including in San Luis Obispo County, with many transit agencies having to cut back on some service due to a lack of drivers available to drive; and it is uncertain when this situation may improve.

K. Transportation Development Act funding from the State, used for local transit operations, experienced decreases in the City's FY 19/20 and FY 20/21 allocations as it was based on sales and fuel taxes, and the impact of additional decreases will not be known for several more months.

L. Funding decreases combined with ridership decreases, the region phased reopening in the Summer of 2020 while also still being under a shelter at home order, and the County Public Health Department Health Officer Order requiring masking in all indoor public places in August 2021, resulted in ceasing Saturday Transit service in FY 20/21 and decreases in Trolley service days, hours, and routing in the 2020 and 2021 summer seasons.

M. There is uncertainty as to what type of bidding environment there would be should a Request for Proposals for transit operations and management be released at this time, let alone whether transit companies would be interested in expanding during the extremely difficult financial and driver recruitment times they have been, and will continue to be faced, as well as the increased costs of dealing with how to make working environments safe for employees and riders.

N. As such, a one-year extension of this Agreement is prudent and would provide financial stability for both MV, its local employees, and the City during these continuing unprecedented and difficult times.

O. City and MV staff are in support of a one-year extension of the current Agreement effective January 1, 2022 through December 31, 2022.

Now, therefore, the Parties agree as follows:

1. The term of the Agreement is extended by one year and shall expire on December 31, 2022.

2. The terms and conditions of the Agreement are applicable to this extension.

3. The compensation rates applicable for calendar year 2022 shall be established based upon eighty percent (80%) of the annual percentage difference in the All Urban Consumers Price Index (CPI) San Francisco-Oakland-Hayward for December 2021.

4. All other terms of the Agreement shall remain in full force and effect.

5. The effective date of this Amendment No. 3 shall be January 1, 2022.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 3 to be executed.

CITY OF MORRO BAY

By: _____
John Headding, Mayor

Attest:

_____
Dana Swanson, City Clerk

MV TRANSPORTATION

By: _____

By: _____

AGENDA NO: A-4

MEETING DATE: November 9, 2021

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 1, 2021**

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

SUBJECT: **Resolution Making Findings Related to the Continued Existence of a State of Emergency Due to COVID-19 and Re-Authorizing for Public Health and Safety the Conduct of Public Meetings of the Legislative Bodies of the City via Remote Teleconferencing for a Continued 30-Day Period Pursuant to the Ralph M. Brown Act as Amended by Assembly Bill No. 361**

RECOMMENDATION

Staff recommends Council consider adoption of attached Resolution No. 78-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

ALTERNATIVES

Do not consider adoption of the attached resolution and/or provide further direction to staff.

FISCAL IMPACT

No immediate fiscal impact.

BACKGROUND

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California because of the spread of COVID-19. Beginning in March, 2020 the Governor also issued a number of Executive Orders (e.g., N-25-20, N-29-20, N-35-20) (the "Brown Act Orders) for the public health and safety that waived requirements in the Brown Act that expressly or impliedly required the physical presence of City Councilmembers, staff, or the public at meetings of the City Council, Planning Commission and other City boards, commissions and committees ("legislative bodies") that are subject to the Brown Act. The Brown Act Orders allowed City legislative bodies that are subject to the Brown Act to modify how meetings were conducted to protect the health and safety of staff and the public while ensuring transparency and accessibility for open and public meetings. The most recent Brown Act Order expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 ("AB 361") into law. AB 361 was made effective on October 1, 2021, on an urgency basis, to correspond to the timing of expiration of the Brown Act Orders. AB 361 provides for the ability to continue teleconferencing Brown Act meetings of City legislative bodies for public health and safety reasons under certain conditions, akin to the authority to do so under the Brown Act Orders.

Prepared By: __CFN ___ **Dept Review: _____**

City Manager Review: _ _ _ **City Attorney Review: CFN_ _____**

DISCUSSION

Assembly Bill 361 allows City legislative bodies to continue to utilize remote/virtual platforms for public meetings (consistent with certain statutory requirements) during a state of emergency proclaimed by the Governor that includes the City if certain conditions are met.

On October 26, 2021, the City Council adopted Resolution No. 70-21 making findings related to the continued existence of a state of emergency due to COVID-19 and re-authorizing for public health and safety the conduct of public meetings of City's legislative bodies via remote teleconferencing for an initial 30-day period pursuant to the Ralph M. Brown Act as amended by Assembly Bill No. 361

If a state of emergency remains active, or State or local officials have imposed or recommended measures to promote social distancing, AB 361 imposes certain requirements to continue use of its provisions after the initial 30-day period has elapsed.

Government Code section 54953(e)(3) provides that "not later than 30 days after teleconferencing for the first time pursuant" to AB 361, "and every 30 days thereafter," the City Council shall make the following findings by majority vote for the City to continue using the teleconferencing provisions of AB 361:

1. The City Council has reconsidered the circumstances of the state of emergency; ***and***
2. Either of the following circumstances exist:
    a. The state of emergency continues to directly impact the ability of the members to meet safely in person, ***or***
    b. State or local officials continue to impose or recommend measures to promote social distancing.

CONCLUSION

Staff recommends Council consider adoption of the proposed Resolution No. 78-21 making the findings required to re-authorize use of AB 361. Doing so will allow meetings of the City Council, City boards and City commissions to continue to occur by teleconference for the public health and safety. Continued reliance on AB 361 will require adoption of a new resolution making the required findings every 30 days thereafter.

ATTACHMENT

1. Resolution No. 78-21

RESOLUTION NO. 78-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361

T H E C I T Y C O U N C I L

City of Morro Bay, California

WHEREAS, the City Council of the City of Morro Bay ("City") is committed to preserving and nurturing public access and participation in meetings of the Legislative Bodies (as that term is defined in Government Code §54952, including the City Council, commissions, boards and committees subject to the Brown Act) of the City; and

WHEREAS, all meetings of the Legislative Bodies are open and public as required by the Ralph M. Brown Act, codified as Government Code §§ 54950 *et seq.*, so that any member of the public may attend, participate, and observe the Legislative Bodies conduct their business; and

WHEREAS, the Brown Act, at Government Code § 54953(e), as amended by Assembly Bill (AB) 361 effective October 1, 2021, makes provision for remote teleconferencing participation in public meetings by members of a Legislative Body without compliance with the provisions of Government Code § 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition under Government Code § 54953(e) for its initial use is that the meeting is held during a state of emergency that has been declared by the Governor pursuant to Government Code § 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code § 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City's boundaries, caused by natural, technological, or human-caused disasters

WHEREAS, a required condition under Government Code § 54953(e) for its initial use is that state or local officials have imposed or recommended measures to promote social distancing, or that the legislative body is meeting to determine or has previously determined that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor proclaimed a state of emergency for the State of California and thereafter issued a number of executive orders aimed at containing COVID-19; and

WHEREAS, on March 19, 2020, the City Council adopted Resolution No. 23-20, proclaiming and affirming the existence of a local emergency, and confirming and ratifying proclamation by City's Director of Emergency Services of Existence of a Local Emergency, in response to COVID-19 (Coronavirus). The Legislative Bodies have since conducted meetings via remote teleconferencing consistent with the declaration of local emergency and executive orders issued by the Governor; and

WHEREAS, the executive orders issued by the Governor, among other things, for the public health and safety waived requirements of the Brown Act expressly or impliedly requiring the physical presence of members of the legislative body, the clerk or other personnel of the body, or of the public as a condition of participation in or for the purpose of establishing a quorum for a public meeting; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which rescinded the modifications made by the aforementioned executive orders, effective September 30, 2021. On September 16, 2021, the Governor signed AB 361, creating a modified set of provisions for local agencies for compliance with the Brown Act relative to remote meetings. AB 361 was made effective on October 1, 2021; and

WHEREAS, on October 26, 2021, the City Council adopted Resolution No. 70-21 making findings related to the continued existence of a state of emergency due to COVID-19 and re-authorizing for public health and safety the conduct of public meetings of City's legislative bodies via remote teleconferencing for an initial 30-day period pursuant to the Ralph M. Brown Act as amended by Assembly Bill No. 361; and

WHEREAS, the Governor's proclaimed state of emergency and the City's proclaimed local emergency related to COVID-19 remain in effect and encompass the jurisdictional boundaries of the City; and

WHEREAS, the California Department of Public Health and the San Luis Obispo County Health Officer continue to impose or recommend measures to promote social distancing, and the Centers for Disease Control and Prevention ("CDC") continue to recommend physical distancing; and

WHEREAS, Government Code Section 54953(e)(3) requires that the City Council review the need and make findings for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing as authorized by AB 361 at least once every thirty days until the Governor terminates the state of emergency; and

WHEREAS, for the public health and safety the Council wishes to affirm the need and findings necessary for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing as authorized by AB 361; and

WHEREAS, the City Council does hereby intend that, as a consequence of the persisting state of emergency and the imposed or recommended social distancing measures, the Legislative Bodies shall be authorized to continue to conduct their meetings without compliance with

paragraph (3) of subdivision (b) of Government Code § 54953, as authorized by subdivision (e) of Government Code § 54953, and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Government Code § 54953; and

WHEREAS, consistent with AB 361, during the effectiveness of this Resolution, the Legislative Bodies meeting pursuant to the requirements of Government Code § 54953(e)(2) and their staff will give notice of the manner by which members of the public may access the Legislative Bodies' meetings and offer public comment; identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option; and allow members of the public to access the meeting, and the agenda shall include an opportunity for members of the public to address the Legislative Body directly.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby acknowledges and affirms the continued effectiveness of the Governor's proclaimed state of emergency and the City's proclaimed local emergency (as may have been amended since their initial proclamation) which encompass their jurisdictional boundaries.

SECTION 3. The City Council finds as follows: 1) they have reconsidered the circumstances of the state of emergency; 2) the state of emergency remains active within their jurisdictional boundaries; 3) the state of emergency continues to directly impact the ability of the City Council, the City's Legislative Bodies, City staff and the public to meet safely in person; and 4) State and local officials continue to impose or recommend measures to promote social distancing.

SECTION 4. The Legislative Bodies and staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting all open and public meetings of the Legislative Bodies in accordance with Government Code § 54953(e) and other applicable provisions of the Brown Act.

SECTION 5. This Resolution shall take effect immediately upon its adoption by the City Council and shall be effective for until the earlier of (i) December 9, 2021, or (ii) such time as the City Council adopts a subsequent resolution in accordance with Government Code § 54953(e)(3) to extend the time during which the Legislative Bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Government Code § 54953.

SECTION 6. Should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections,

paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution and 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 9th day of November 2021 by the following vote:

AYES:
NOES:
ABSENT:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

AGENDA NO:	**A-5**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 2, 2021**

FROM: **Scott Collins, City Manager**
Scot Graham, Community Development Director

SUBJECT: **Update on the Department of Toxic Substances Control Draft Revised Statement of Basis Document for the Morro Bay Power Plant and Council Authorization of Letter from Mayor Concurring with Proposed Revised Remedy**

RECOMMENDATION

Staff recommends the City Council receive the report from staff and authorize the Mayor to sign a letter concurring with the Proposed Revised Remedy identified in the Draft Revised Statement of Basis for the Morro Bay Power Plant as noted below and further described in Attachments 1 and 2 to the staff report.

ALTERNATIVES

The Council could choose not to provide comment on the Draft Revised Statement of Basis document, the Council could direct a more specific response beyond simple concurrence with the proposed remedy identified in the Draft Revised Statement of Basis, or the Council could authorize an objection to the proposal.

FISCAL IMPACT

None.

BACKGROUND/DISCUSSION

The City recently received an October 2021 notice from the Department of Toxic Substance Control (DTSC) of an opportunity to review and provide comment on the Draft Revised Statement of Basis for the Morro Bay Power Company (MBPC) portion of the Morro Bay Power Plant (MBPP), located at 1290 Embarcadero in the City of Morro Bay. The notice also identifies a public meeting opportunity that will be held by DTSC via zoom on November 16, 2021, from 6pm to 8pm, where information on the Draft Revised Statement of Basis will be provided and where public questions will be answered, and public comment received. DTSC will accept public comment through December 9, 2021.

The Council previously reviewed the original draft Statement of Basis prepared by DTSC on the MBPP on May 12, 2020. Both the DTSC 2020 Previously Proposed Remedy and the 2021 Proposed Revised Remedy are provided below. The full October 2021 DTSC Revised Statement of Basis document is provided as Attachment 2 to the staff report.

There are eight Areas of Concern (AOC's) identified on the MBPP site for environmental investigation and potential cleanup. Land Use restrictions have been identified for a portion of AOC 1. AOC's 2 –

Prepared By: ___SG_____	**Dept Review:** _____
City Manager Review: ___SC_____	**City Attorney Review:** __CFN____

6 are not proposed to have any soil or groundwater restrictions placed on them. The Draft Revised Statement of Basis does not address AOC's 7 (Power Building) and 8 (Metal Waste Cleaning Ponds). The area under the Power Building cannot be evaluated until the building is removed and the Metal Waste Cleaning Ponds were evaluated and cleared for clean closure in 2008 by DTSC. The AOC locations are identified on a map provided in Attachments 1 & 2 of the staff report.

Previously Proposed Remedy (2020)

The proposed remedy in the original Statement of Basis was for the property owner to record a Land Use Covenant (LUC) on AOCs 1 through 4 and 6. AOCs 5 and 7 were not fully accessible, and AOC 8 has already been clean closed through DTSC. The LUC would not allow residential use on any of these AOCs and would require a soil management plan to verify that future soil use complies with commercial/industrial use at these AOCs. Also, groundwater would be restricted, not allowing potable or drinking uses. These restrictions require annual inspection and reporting that this remedy is still protective of human health and the environment.

Proposed Revised Remedy (2021)

MBPC submitted documents demonstrating that most of the Site's soil does not require a LUC and that Site groundwater is appropriate for unrestricted use. As such, the proposed remedy in the Revised Statement of Basis restricts only a portion of AOC 1 soil to commercial/industrial use through a LUC and allows for unrestricted land use at AOCs 2 through 6. Also, the revised proposed remedy allows full unrestricted use of groundwater at all AOCs at the site. The restriction on a portion of AOC 1 soil still requires annual inspection and reporting that this remedy is still protective of human health and the environment. For more details, please review the Revised Statement of Basis provided as Attachment 2 to the staff report.

Following the public comment period, DTSC will review and consider all public comments before making a final decision on the draft Revised Statement of Basis. DTSC is proposing to manage contamination found in a portion of AOC 1 on the MBPP site by implementing a land use covenant (LUC) that restricts the area to future commercial/industrial uses. Annual site inspections by the property owner, subject to review by DTSC, will occur in this area to ensure that land use complies with the LUC.

CONCLUSION

This matter is being brought to the Council as an informational update on the status of the Revised Statement of Basis for the MBPP, and Council is also being asked to authorize the Mayor's signature on a letter supporting the remedies identified in the October 2021 Draft Revised Statement of Basis.

ATTACHMENTS

1. October 2021 DTSC Public Notice
2. October 2021 DTSC Revised Statement of Basis

LINKS

1. May 12, 2020 Council Information Item on DTSC Statement of Basis: http://ca-morrobay2.civicplus.com/ArchiveCenter/ViewFile/Item/5330

COMMUNITY UPDATE

Department of Toxic Substances Control – Our mission is to protect the people, communities, and environment of California from harmful chemicals by cleaning up contaminated sites, enforcing hazardous waste laws, and compelling the development of safer products.

Morro Bay Power Company Portion of the Morro Bay Power Plant Public Comment for Draft Revised Statement of Basis

The Department of Toxic Substances Control (DTSC) invites you to review and comment on the draft Revised Statement of Basis for the Morro Bay Power Company portion of the Morro Bay Power Plant (Site), located at 1290 Embarcadero in Morro Bay, California. The draft Revised Statement of Basis explains the proposed remedy for contamination at eight Areas of Concern (AOCs) at the Site. The proposed remedy addresses chemicals of concern found in soil and groundwater mostly from past power generating activities, including total petroleum hydrocarbons (TPH), polycyclic aromatic hydrocarbons (PAHs), metals, pesticides, and volatile organic compounds (VOCs).

Site Location and History

The 131-acre Site is on the northern shore of Morro Bay near the southern part of Estero Bay. Starting in 1941, the Site was owned by the US Navy as an amphibious training base. Pacific Gas and Electric Company (PG&E) purchased the property in 1951 and began constructing the former power plant in 1953. The plant began generating electricity in 1955, using natural gas and oil as fuel. Fuel was stored in six aboveground storage tanks until 1995, when the plant switched to using only natural gas. In 1998, Duke Energy purchased the Site. In 2006, LS Power acquired the Site, then merged with Dynegy in April 2007. In 2020, Dynegy changed its name to the Morro Bay Power Company (MBPC). The power plant closed in 2014. PG&E remains responsible for investigating and addressing Site contamination from historical power generation activities.

PUBLIC COMMENT PERIOD & MEETING October 14, 2021 to December 9, 2021

DTSC invites you to review and comment on the draft Statement of Basis for the Morro Bay Power Plant. All comments must be mailed or emailed by **December 9, 2021** to:

John Bystra
DTSC Project Manager
8800 Cal Center Drive
Sacramento, CA 95826
John.Bystra@dtsc.ca.gov

Public Meeting: DTSC will host a virtual public meeting to provide information on the draft Statement of Basis, answer questions and receive public comments:
Date: November 16, 2021
Time: 6:00 to 8:00 PM
Please register for the meeting in advance at: https://tinyurl.com/MorroBayPlant

Areas of Concern Environmental Investigations

In 2006, DTSC and PG&E entered into a Resource Conservation and Recovery Act (RCRA) Corrective Action Consent Agreement that identified eight AOCs for environmental investigation and potential cleanup. As shown in Figure 1, these include:

AOC 1 – Former Tank Farm Area	AOC 2 – Beach Valve Area
AOC 3 – Fire House #1	AOC 4 – Storage Area
AOC 5 – The Switchyard	AOC 6 – Multi-Use Area
AOC 7 – Power Building	AOC 8 – the Waste Metal Cleaning Ponds

Investigations identified contaminants above levels for unrestricted use in soil in a portion of AOC 1. AOC 7 is currently inaccessible due to existing buildings and/or active operations and will be addressed in the future. AOC 8 was addressed by the facility in accordance with the RCRA closure process in 2008.

Previously Proposed Remedy

The proposed remedy in the original Statement of Basis was for the property owner to record a Land Use Covenant (LUC) on AOCs 1 through 4 and 6. AOCs 5 and 7 were not fully accessible, and AOC 8 has already been clean closed through DTSC. The LUC would not allow residential use on any of these AOCs and would require a soil management plan to verify that future soil use complies with commercial/industrial use at these AOCs. Also, groundwater would be restricted, not allowing potable or drinking uses . These restrictions require annual inspection and reporting that this remedy is still protective of human health and the environment.

Proposed Revised Remedy

MBPC submitted documents demonstrating that most of the Site's soil does not require a LUC and that Site groundwater is appropriate for unrestricted use. As such, the proposed remedy in the Revised Statement of Basis restricts only a portion of AOC 1 soil to commercial/industrial use through a LUC and allows for unrestricted land use at AOCs 2 through 6. Also, the revised proposed remedy allows full unrestricted use of groundwater at all AOCs at the site. The restriction on a portion of AOC 1 soil still requires annual inspection and reporting that this remedy is still protective of human health and the environment. For more details, please review the Revised Statement of Basis.

If the Revised Statement of Basis is approved in early 2022, then DTSC will work with MBPC to record the LUC with San Luis Obispo County later that year.

California Environmental Quality Act (CEQA)

The remedy will not require construction or implementation of a physical remedy and therefore is exempt from CEQA.

Next Steps

At the end of the public comment period, DTSC will review and consider all public comments and make any necessary changes before making a final decision on the draft Revised Statement of Basis. DTSC will send a Responsiveness Summary document addressing all comments received to all those who commented and provided contact information.

Information Repositories

The Draft Revised Statement of Basis and other Site-related documents are available to review at the following locations:

- Morro Bay Public Library, 625 Harbor Street, Morro Bay, CA 93442, (805) 772-6394; call for hours

- DTSC – File Room, 8800 Cal Center Drive, Sacramento, CA 95826, (916) 255-3758; call for an appointment

- You can also view Site-related information on DTSC's EnviroStor at: https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=80001832

For more information about the cleanup process or related documents, contact:

- John Bystra, Project Manager at (916) 255-3669 or John.Bystra@dtsc.ca.gov

- Kerry Rasmussen, Public Participation Specialist at (916) 255-3650, toll-free at (866) 495-5651 or Kerry.Rasmussen@dtsc.ca.gov

- For media requests, please contact: Sandford Nax, Public Information Officer at (916) 327-6114 or Sandford.Nax@dtsc.ca.gov

AOC 1
Former Tank Farm
AOC 2
AOC 3
AOC 4
AOC 5
AOC 6
AOC 7
AOC 8
Legend
Property Boundary
Tank Farm Boundary
AOC Boundary
Note
AOC = Area of Concern
0 200 400 600 800 Feet
1 inch = 400 feet
N
SAFETY FIRST
terraphase engineering
CLIENT: Vista Energy Corporation
PROJECT: Morro Bay Power Plant
PROJECT NUMBER: 0323.001.001
Former Morro Bay Power Plant and Location of Former Tank Farm
FIGURE 1

REVISED STATEMENT OF BASIS

Prepared by
California Department of Toxic Substances Control

PROPOSED REMEDY FOR AREAS OF CONCERN 1 THROUGH 6

MORRO BAY POWER COMPANY PORTION OF THE MORRO BAY POWER PLANT

Morro Bay, California
Environmental Protection Agency Identification Number CAT080011646

October 2021

Facility/Unit Type:	Contaminated soil at the Morro Bay Power Plant
Contaminants:	Petroleum hydrocarbons
Media:	Soil and Groundwater
Remedy:	A Land Use Covenant to restrict soil use at a portion of Area of Concern 1, and to perform annual inspections

List of Acronyms

AOC	Area of Concern
CACA	Corrective Action Consent Agreement
CEQA	California Environmental Quality Act
COPC	Chemical of Potential Concern
CSM Report	Conceptual Site Model Report
DTSC	Department of Toxic Substances Control
Dynegy	Dynegy Morro Bay LLC
ESA	Environmental Site Assessment
FIRST	Facilities Investigation Remedy Selection Track
HHRA	Human Health Risk Assessment
LUC	Land Use Covenant
MBPP	Morro Bay Power Plant
PG&E	Pacific Gas and Electric Company
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
SLERA	Screening-Level Ecological Risk Assessment
SLHHRAR	Screening-Level Human Health Risk Assessment Report
SLRARGW	Screening-Level Risk Assessment Report for Groundwater
USEPA	United States Environmental Protection Agency

Morro Bay Power Plant Areas of Concern (AOCs) and property boundary of MBPC-owned portion

Figure 1 - Aerial Photograph of the Morro Bay Power Plant Facility AOCs

1. INTRODUCTION

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has prepared this Revised Statement of Basis to identify and explain the proposed remedy, including changes to the proposed remedy identified in the Draft Statement of Basis – Proposed Remedy for Areas of Concern (AOCs) 1 through 4 and 6 (DTSC, 2020a) at the Morro Bay Power Company, LLC (MBPC) portion of the Morro Bay Power Plant (MBPP). While Pacific Gas and Electric (Company (PG&E) still retains portions of the MBPP, this Revised Statement of Basis does not address the PG&E owned portion of the MBPP. The narrative that follows, and any reference to MBPP, will assume that the MBPC portion of MBPP is being discussed, unless otherwise specified. The AOCs are further described as follows: AOC 1 (Former Tank Farm soil and groundwater), AOC 2 (Beach Valve Area soil and groundwater), AOC 3 (Firehouse No. 1 soil), AOC 4 (Storage Area soil), and AOC 6 (Multi-use Area soil). Some of the planned or potential changes to the Draft Statement of Basis were also described as part of the document titled Responsiveness Summary - Draft Statement of Basis: Areas of Concerns 1 through 4 and 6, Morro Bay Power Plant (DTSC, 2020b), emailed out to all parties who commented during the Draft Statement of Basis' public comment period. The MBPP is located at 1290 Embarcadero, in Morro Bay, San Luis Obispo County, California (Figure 1).

This Revised Statement of Basis does not address two other AOCs within the property boundary depicted on Figure 1, as follows:

- AOC 7 (Power Building), and
- AOC 8 (Metal Waste Cleaning Ponds).

The Power Building has not yet been removed, thus the soil and groundwater beneath it cannot be addressed until the property owner removes it and it is investigated. The Metal Waste Cleaning Ponds were previously permitted through DTSC, went through the closure process, and were approved for clean closure in 2008.

AOC 5 (the Switchyard) is made up of two portions: the larger portion of the Switchyard is still owned by PG&E and not on the MBPC portion of the former power plant property (i.e., outside the blue 'Property Boundary' line on Figure 1), and the smaller portion of the Switchyard is owned by MBPC. Thus, for simplicity, when discussing the Switchyard below, DTSC will identify it as the Switchyard (the complete AOC), the PG&E Switchyard, or the MBPC Switchyard, as appropriate. As described in Section 3 below, there are soil sampling data from locations within the MBPC Switchyard, thus a determination will be made as part of this Revised Statement of Basis for the MBPC Switchyard.

The Revised Statement of Basis is included in the administrative record for the site to solicit additional public involvement in the selection of the revised remedy pursuant to Chapter 6.5 of the California Health and Safety Code. DTSC will select a final remedy after reviewing and considering all public comments submitted during the public comment period and the public meeting, as described in Section 7 below.

The corrective action activities at the MBPP facility were performed to address releases of hazardous waste and hazardous constituents at the site in accordance with the Corrective Action Consent Agreement (CACA) executed between DTSC and PG&E in 2006 (Docket

HWCA: P1-06/07-001 [DTSC, 2006]). This Revised Statement of Basis summarizes information that is presented in greater detail in the Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI) Reports (Jacobson James & Associates, Inc., 2013 and 2015), Revised Conceptual Site Model Report for AOCs 1, 2, 3, 4, and 6 (CSM Report), dated February 20, 2018 (CH2M, 2018a), the Final Human Health Risk Assessment Report (HHRA) dated November 20, 2018 (RPS, 2018), the Screening Level Ecological Risk Assessment for Areas of Concern 1, 2 and 6 (SLERA) dated November 20, 2018 (CH2M, 2018b), the Draft Statement of Basis – Proposed Remedy for Areas of Concern 1 through 4 and 6 (Draft Statement of Basis), the Screening-Level Human-Health Risk Assessment Report (SLHHRAR) for the Dynegy-owned portion of the Former Morro Bay Power Plant (Terraphase, 2020), the Responsiveness Summary – Draft Statement of Basis: Areas of Concerns 1 through 4 and 6, Morro Bay Power Plant (Responsiveness Summary) and the Screening-Level Risk Assessment Report for Groundwater for the MBPC-owned portion of the former Morro Bay Power Plant (SLRARGW) (Terraphase, 2021) . DTSC encourages the public to review these documents to gain a more comprehensive understanding of the corrective action activities that have occurred at the facility. These documents are available on DTSC's Envirostor website at http://www.envirostor.dtsc.ca.gov/public.

Document Organization

This Statement of Basis is divided into ten sections as follows:

1. INTRODUCTION
2. FACILITY DESCRIPTION
3. MEDIA OF CONCERN AND EXPOSURE PATHWAYS
4. CORRECTIVE ACTION GOALS
5. PROPOSED REMEDY
6. CALIFORNIA ENVIRONMENTAL QUALITY ACT
7. PUBLIC PARTICIPATION
8. NEXT STEPS
9. CONTACT INFORMATION
10. REFERENCES

2. FACILITY DESCRIPTION

Location and Operations

The MBPP site is located at 1290 Embarcadero in the City of Morro Bay, California (Figure 1). Prior to PG&E's purchase of the MBPP site in 1951, the site was owned and occupied by the United States Navy and used as an amphibious training base. PG&E purchased the MBPP site in 1951 and construction of the power plant began in 1953. The MBPP first began producing electricity in 1955 and PG&E continued to use the MBPP as a power generation facility until 1998. In 1998, PG&E sold the power plant (except the PG&E Switchyard, for which PG&E retains ownership) to Duke Energy Morro Bay LLC, which subsequently sold it to Dynegy Morro Bay LLC (Dynegy). Dynegy permanently closed the power plant in early 2014. Interest in ownership was transferred from Dynegy to Vistra Energy in April 2018, and the site owner underwent an administrative name change to MBPC in November 2020.

The current use of the Site is industrial with limited decommissioning/maintenance activities. The PG&E Switchyard will remain operational for the foreseeable future, but the MBPC Switchyard has been investigated for soil, as described in Section 3 below. As the original owner of the power plant, PG&E investigated and addressed its environmental responsibilities in accordance with the Corrective Action Consent Agreement (CACA) between PG&E and DTSC for AOCs 1 through 4, the MBPC Switchyard, and AOC 6.

During PG&E's ownership of the MBPP, chemical storage and handling, as well as solid and hazardous waste disposal, were managed in accordance with applicable regulatory requirements. Occasional small spills and leaks that occurred as a result of routine operation were addressed as they arose.

To support the sale of the power plant in the late 1990s, PG&E completed a Phase I Environmental Site Assessment (ESA) in 1997 (Camp Dresser and McKee, 1997) to identify recognized environmental conditions at the site. The Phase I ESA identified various recognized environmental conditions, which became the primary basis for the Phase II ESA completed later in 1997 (Fluor Daniel GTI, 1997). The purpose of the Phase II ESA was to investigate and evaluate the recognized environmental conditions identified in the Phase I ESA. Environmental conditions included both onsite and offsite areas, such as the landfills, the Marine Terminal Pipeline, and the Upper Tank Farm. Based on the Phase II ESA findings, eight areas of the site warranted further evaluation and became AOCs as described below.

Corrective Action Activities

In 2006, PG&E and the DTSC formally entered into a RCRA CACA to address the eight AOCs identified prior to PG&E's sale of the property. The focus of the corrective action activities is on AOCs 1 through 4, the MBPC Switchyard, and AOC 6, as AOC 7 (Power Building) will be addressed in the future when accessible, and AOC 8 (Metal Cleaning Waste Ponds) previously received DTSC-approved clean closure.

PG&E performed environmental investigations before and after execution of the CACA. PG&E has also performed and completed the HHRA and SLERA in accordance with DTSC-approved technical approaches and received approval from DTSC for both documents. The main site investigations consist of the following:

- RCRA Facility Assessment (RFA) and prior RCRA Corrective Action Activities: 1986 to 1998
- Compliance Water Quality Monitoring: 1994 to 2008
- Phase I ESA: 1997
- Phase II ESA: 1997 (accepted as a Current Conditions Report in the Consent Agreement)
- RFI Soil and Groundwater Sampling: 2011
- Groundwater Monitoring Program: 2011 through 2018
- RFI Data Gap Investigation: 2014 to 2016
- HHRA: 2015 to 2018
- SLERA: 2015 to 2018

The results of the site investigation work were used to develop the CSM, which was presented in the CSM Report. The same data was used to calculate potential risks for human and ecological receptors in the HHRA and SLERA, respectively, as described in Section 3 below.

3. MEDIA OF CONCERN AND EXPOSURE PATHWAYS

The media of concern are soil and groundwater. These media have detections of chemicals used historically at the facility for operations and maintenance including petroleum hydrocarbons, metals, polycyclic aromatic hydrocarbons, pesticides, and volatile organic compounds, which were identified as chemicals of potential concern (COPCs) in the risk assessments.

Human health risks, ecological risks, and soil and water quality data were evaluated to identify exposure pathways and assess the need for corrective measures at each of the subject AOCs based on anticipated commercial/industrial land use. The HHRA did not evaluate on-site residential risks as the HHRA and SLERA anticipated a Land Use Covenant (LUC) would be the primary component of the remedy. The LUC would not allow permanent or temporary lodging, a hospital or other health-care facility, school, day care center for adults/children, park, playground, or other recreational use at the site.

The HHRA evaluated potential human health risks from COPCs for the commercial/industrial land use as follows:

- AOCs 1 and 2: current on-site workers and current off-site commercial/industrial workers, residents, and recreational users
- AOCs 1 through 4 and 6: hypothetical future on-site commercial/industrial workers and construction workers, and hypothetical future off-Site residents, recreational users, and commercial/industrial workers

In addition, the HHRA evaluated Site-wide groundwater quality.

The HHRA identified that there was no- to low-risk to the receptors listed above in all the evaluated AOCs, assuming the industrial/commercial uses evaluated and an associated Land Use Covenant in place to prohibit groundwater as a drinking water source. The low-risk scenario was for AOC 1 soil, and only in one location with an exceedance of total petroleum hydrocarbons in the middle distillate range. Because this exceedance could be easily mitigated and is spatially bound in a small area, the net result was determined to be reasonably addressed by the industrial/commercial scenario evaluated, and no additional remedial action was recommended for any of the media in any of the AOCs.

The SLERA evaluated potential ecological receptor exposures to chemicals of potential ecological concern in groundwater at AOCs 1 and 2 and in soil at AOCs 2 and 6. The SLERA did not evaluate AOCs 3 and 4, as there is no habitat or complete exposure pathway at these locations. The ecological receptors evaluated in the SLERA include plants, invertebrates, birds and mammals. The SLERA identified there was no- to low-risk for potential ecological receptors in all the evaluated AOCs. The low-risk scenario was determined to be unlikely due to the low-quality habitat at the site and the size of the home range compared to the available habitat there.

As identified in Section 1 above, MBPC performed additional analysis using existing site data acquired by PG&E during their environmental investigations. This was done because MBPC did not want to assume that the whole of the MBPC-owned portion of the MBPP would need a Land Use Covenant (LUC) recorded for all soil to protect human health based on the HHRA. Thus the SLHHRAR was prepared to determine what portions of site soil needed a LUC, by screening the existing data for each AOC against residential use criteria. Using this approach, the SLHHRAR documented that the only contamination above residential land use levels was

in AOC 1, the Former Tank Farm. Also, the lateral extent of the contamination above these levels was within the historical boundaries of the tank farm portion, rather than including the berms which were part of the secondary containment for the Former Tank Farm. DTSC concurred with the determinations made in the SLHHRAR. MBPC submitted a survey to DTSC for the portion of AOC 1 that requires a LUC. The LUC will require management of the soil through a Soil Management Plan (SMP) and restrict this portion of the Former Tank Farm to commercial/industrial use. The survey, with a figure depicting the area addressed by the LUC and SMP, will be incorporated into the LUC.

Additionally, once the SLHHRAR evaluation for soil was complete, MBPC agreed to perform a similar analysis for groundwater and submit the report to DTSC for review and approval: the SLRARGW is the result of this work. After the Draft Statement of Basis was public-noticed and before DTSC finalized the Responsiveness Summary, MBPC submitted the draft SLRARGW to DTSC. While DTSC asked for clarifications to the document, the evaluation identified that MBPP groundwater would be below the screening criteria and meets DTSC's unrestricted use and unlimited exposure requirements. DTSC identified in the Responsiveness Summary that review of the SLRARGW was occurring during submittal of the Responsiveness Summary to interested parties. DTSC recently approved the SLRARGW. DTSC's determination is that groundwater at the MBPC-portion of the MBPP site is appropriate for unrestricted use. Thus, groundwater will not be incorporated into the LUC for the portion of AOC 1 soil that requires a LUC to be protective of human health.

4. CORRECTIVE ACTION GOALS

The HHRA concluded that current conditions are protective of human health for the current industrial/commercial land use. In addition, the SLERA concluded the current conditions are protective of ecological receptors. The SLHHRAR refined these conclusions by clarifying that only a portion of AOC 1 soil contains concentrations of chemicals that exceed standards for residential land use. The SLRARGW further clarified that site groundwater does not exceed screening levels for unrestricted use. Thus, the corrective action goal for the MBPP site is to prevent residential exposure to soil in the Tank Farm portion of AOC 1.

5. PROPOSED REMEDY

The HHRA, SLERA, and soil and water quality evaluation results identified that the Site conditions did not warrant remediation for the MBPP's planned commercial/industrial land use. The SLHHRAR and SLRARGW refined this conclusion by identifying that only soil in a portion of the Former Tank Farm does not meet residential use criteria for soil, and that groundwater at the Site meets criteria for potable and non-potable use. However, because there are chemicals present at the Site in soil in a portion of AOC 1 at concentrations greater than residential levels, the entire Site does not meet the conditions for unrestricted land use. The "No Action" alternative is, therefore, not viable.

DTSC is proposing the following remedy for the MBPP to address the soil at a portion of AOC 1 that has concentrations of chemicals greater than residential use levels:

1. Land Use Restrictions for soil at a portion of AOC 1: A LUC will restrict future land use at the Tank Farm area in AOC 1 to commercial/industrial uses with prohibitions on the type of commercial uses to exclude development of the property for permanent or

temporary lodging, school, day care centers for adults/children, recreational, or hospital uses. This portion of the Former Tank Farm has been professionally surveyed, and this survey will be incorporated into the LUC to clearly define the spatial boundaries of the soil area contaminated above residential use levels.

2. The LUC will require identification and implementation of Best Management Practices for site operations such as construction and storm water management, described and documented within a SMP. This SMP has already been approved by DTSC. The LUC will also require an annual site inspection to ensure that land use in the surveyed portion of AOC 1 is in compliance with land use restrictions. The inspections will be conducted by the property owner and submitted to DTSC.

The MBPP remedy evaluation and selection was performed consistent with the United States Environmental Protection Agency (USEPA) RCRA process including the RCRA Facilities Investigation Remedy Selection Track (FIRST) Toolbox for Corrective Action (RCRA FIRST; USEPA, 2016). The following table summarizes the evaluation of the proposed remedy relative to the standards published by the USEPA for consideration in selection of appropriate remedies.

5.1 EVALUATION OF LAND USE CONTROLS CORRECTIVE MEASURE

CORRECTIVE MEASURE	LAND USE RESTRICTIONS
Protective of human health and the environment	Protection of human health and the environment is maintained by restricting land use in the surveyed portion of AOC 1 and limiting exposure to impacted soil through a LUC. Annual site inspections by the property owner will occur to ensure that land use in this area complies with the LUC.
Attainment of media cleanup standards	No corrective actions are necessary for soil outside of the surveyed area of AOC 1 based on the DTSC-approved SLHHRAR, which evaluated soil potential human health exposures, and the DTSC-approved SLERA, which evaluated potential ecological receptor exposures. No corrective measures are required for groundwater, as the SLRARGW documented that groundwater is appropriate for potable and non-potable use.
Control of the source of release	No sources were identified warranting control measures.
Compliance with applicable standards for management of waste	No waste will be generated through implementation of the institutional controls.
Short-term and long-term effectiveness	Short-term and long-term effectiveness for soil is maintained by institutional controls for the surveyed portion of AOC 1. Groundwater does not require any remedy and is appropriate for potable and non-potable use.

Reduction of toxicity, mobility, and/or volume	No reduction of toxicity, mobility, or volume. The HHRA, SLHHRAR, SLRARGW and SLERA identified that reduction was not necessary to be protective of human health and the environment.
Long-term reliability	Reliable as long as the LUC is maintained for the soil in the surveyed portion of AOC 1.
Implementability	Technically and administratively feasible, with minimal environmental and social impacts.
Cost	There will be minor administrative and transactional costs associated with preparation of a LUC for the surveyed portion of AOC 1. There will also be minor related costs for required periodic maintenance of the LUC site inspections to confirm compliance with institutional controls for soil in the surveyed portion of AOC 1.

The proposed remedy meets the RCRA performance criteria and will be effective in the short-term and the long-term. Effectiveness of the proposed remedy will be monitored by the LUC inspections conducted by the property owner and reviewed by DTSC. The proposed remedy would protect human health and the environment by limiting the use of the soil in the surveyed portion of AOC 1 through the LUC and ensuring appropriate use of it through the LUC inspections.

6. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The remedy approach is not considered a “project” under the California Environmental Quality Act (CEQA). Therefore, this project is exempt from CEQA. No additional CEQA compliance evaluation will need to be made upon the final decision.

7. PUBLIC PARTICIPATION

DTSC is currently soliciting public comments on the revised proposed remedy during a 45-day comment period. DTSC is accepting comments for only the subject AOCs 1 through 6 at this time. AOC 7 (Power Building) will be subject to public notice at a later date and public comments will be solicited separately during its public comment period.

Due to significant public interest during the original Statement of Basis, DTSC will be holding a public meeting during the public comment period for the Revised Statement of Basis: the public meeting is scheduled to take place November 16, from 6 to 8 PM. This meeting will be a virtual meeting through Zoom. Please register for the meeting in advance at: https://tinyurl.com/MorroBayPlant.

Public input on the proposed final remedies and on the information that supports the selection of the remedies is an important contribution to the selection process. After DTSC receives the public comments, DTSC will consider all comments before making a final remedy determination.

The complete project record, including the RFI Reports, Revised CSM Report, HHRA, SLERA, SLHHRAR and SLRARGW used as the source of information for this Revised Statement of Basis and other project documents, are available for review at:

Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826
(916) 255-3758

The documents are also available on DTSC's website at http://www.envirostor.dtsc.ca.gov/public.

The public comment period begins October 14, 2021, and ends December 9, 2021. To be considered in the decision making, public comments must be received or postmarked by the end of the public comment period and can be emailed or mailed to the addresses in Section 9 below.

8. NEXT STEPS

If the proposed remedy is implemented, then DTSC would issue a determination that corrective action is complete with controls for the soil in the surveyed portion of AOC 1, complete without controls for the soils in the remainder of AOC 1 and in AOCs 2 through 6, and complete without controls for groundwater in AOCs 1 through 6. The soil in the surveyed portion of AOC 1 will be legally described in the LUC restricting the uses for that portion of the property. Current and future owners of the property described in the LUC would be responsible for maintaining the institutional controls.

9. CONTACT INFORMATION

John Bystra
Project Manager
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8800 Cal Center Drive
Sacramento, California 95826

Phone: (916) 255-3669
Email: John.Bystra@dtsc.ca.gov

10. REFERENCES

Camp Dresser and McKee. 1997. Phase I Environmental Site Assessment, Morro Bay Power Plant, Morro Bay, California. April.

CH2M HILL Engineers Inc. (CH2M). 2018a. Revised Conceptual Site Model Report for AOCs 1, 2, 3, 4, and 6, Morro Bay Power Plant, Morro Bay, California. February 20.

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Terraphase Engineering Inc. (Terraphase). 2020. Screening-Level Human-Health Risk Assessment Report for the Dynegy-Owned Portion of the Former Morro Bay Power Plant, Morro Bay, California. March 12.

Terraphase. 2021. Screening-Level Risk Assessment Report for Groundwater for the MBPC-Owned portion of the former Morro Bay Power Plant, Morro Bay, California. June 21.

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AGENDA NO: A-6
MEETING DATE: November 9, 2021

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 9, 2021**

FROM: **Sarah Johnson-Rios, Assistant City Manager / Admin Services Director**

SUBJECT: **Approval of Fiscal Year 2020-21 Year-End Budget Adjustments, Part 2 of 2**

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 74-21 approving Fiscal Year (FY) 2020-21 Year-End Budget Adjustments, Part 2 of 2.

DISCUSSION

As staff is preparing year-end entries to close out FY 2020-21 books, as budget variances were identified. Council approved Part 1 of Year-End Budget Adjustments on October 26, 2021 in Resolution 73-21. Staff has continued year-end close work since, and recommends that the City Council adopt Resolution No. 74-21 authorizing staff to proceed with FY 2020-21 Fourth Quarter year-end budget adjustments, part 2. With approval of staff's recommendation, the year-end close and audit process can continue. Due to timing, this report was not presented to the Citizen's Finance Advisory Committee (CFAC) for prior review and comment to Council.

The proposed budget adjustments are generally minor, truing up revenues and expenditures to actual expenses. A more comprehensive view of the City's finances will be provided with the Annual Comprehensive Financial Report (ACFR) and Fiscal Forecast in the coming months.

The Part 2 proposed year-end budget adjustments are relatively small in scale in the context of the Citywide budget, and are summarized below:

General Fund:

While final numbers are pending, the General Fund ended the year in a much more favorable position than projected at budget time last year, and even at midyear adjustments in February. The General Fund will not need the transfer that was budgeted from the General Fund Emergency Reserve. The General Fund ended the year with an operating surplus and will not need any infusion of reserves.

- Increase the General Fund Revenue budget by $165,793 to recognize the receipt of $125,793 in CARES Act Coronavirus Relief funds in FY 2020-21 and to recognize an additional $40,000 in reimbursement received for firefighter time spend delivering mutual aid to other jurisdictions.
- Increase the General Fund Expenditure budget by $136,226 to fully cover the actual cost of property damage insurance to the General Fund, to fully fund the City's contribution to County-provided animal services, and to recognize increased firefighter time spent delivering mutual aid.

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

Enterprise Fund (preliminary):

- Increase budget in the Water Discount/Rebates Fund by $112,295 for increased utilization of the Utility Discount Program. Council approved increasing the Utility Discount Program from a 10% discount to a 25% discount through December 2021. The City suspended penalties during COVID as well and has not yet reinstated those. Staff has applied to receive State funding for past due bills, and will be returning to Council soon with options for future action on utility discounts.
- Increase the budget in the Sewer Accumulation fund by $23,295 to account for higher than budgeted transfers to the Sewer CIP fund based on actual expenditures.

Other Funds:

- Increase budget in the Government Impact Fees Fund by $4,222 to account for interfund transfers.
- Increase budget in the Economic Development Fund by $54,757 to account for consultant services that were higher than budgeted and for increased maintenance work on the Embarcadero consistent with Council direction on March 23, 2021.

Capital Projects:

- Increase the General CIP Fund budget by $32,850 so that the expenditure budget for the Stormdrain Repairs Project matches the revenue budget; the transfer into the fund was budgeted as revenue in the FY 2020-21 Adopted Budget, but the expenditure was not.

CONCLUSION

Staff recommends that the City Council adopt Resolution No. 74-21 approving Fiscal Year 2020-21 Year-End Budget adjustments part 2 of 2, allowing staff to continue preparing for the annual year-end audit and closure of FY 2020-21 financial records.

ATTACHMENT

1. Resolution No. 74-21 Approving Fiscal Year 2020-21 Year-End Budget Adjustments, Part 2 of 2

RESOLUTION NO. 74-21

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING FISCAL YEAR 2020-21 YEAR-END BUDGET ADJUSTMENTS, PART II OF II**

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

WHEREAS, City staff is preparing year-end accounting entries to close out the City's Fiscal Year 2020-21 financial records; and

WHEREAS, in preparing year-end accounting entries staff have identified budget adjustments needed to ensure that the City ends the year consistent with Council's fiscal direction; and

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

1. The operating budgets of the City are amended by the additional revenues and expenditures, as shown on the attached Exhibit A, to finalize Fiscal Year 2020-21 accounting records.
2. The changes in Exhibit A are Part 2 of 2 of year-end adjustments; Resolution 73-21 with Part 1 of the changes was approved at the October 26, 2021 Council meeting.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of November 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

Exhibit A - FY 2020-21 Year-End Budget Adjustments, Part 2

General Fund Revenues					
Fund	Prog	Acct	Description	Purpose	Adjustment
001	4220	3992	Coronavirus Relief Income (CARES Act)	Budget for revenues received	125,793.00
001	4210	3472	Fire Department Revenue - Other Fire Services	Mutual Aid Reimbursement received	40,000.00
Total General Fund					**165,793.00**

General Fund Expenditures					
Fund	Prog	Acct	Description	Purpose	Adjustment
001	1111	6411	Property Damage Insurance	Budget to reflect costs	63,226.00
001	3115	6770	Animal Services	Budget capital component	33,000.00
001	4210	4120	Fire Department Overtime Pay - COVID/Mutual Aid	Recognize amount offset by revenue	40,000.00
Total General Fund					**136,226.00**

Enterprise Funds Revenues					
Fund	Prog	Acct	Description	Purpose	Adjustment
Total Other Funds					**0.00**

Enterprise Funds Expenditures					
Fund	Prog	Acct	Description	Purpose	Adjustment
315	5240	5940	Water Customer Discount	Usage exceeded budget	108,194.69
315	5240	5950	Utility Rebate Program	Usage exceeded budget	3,150.00
315	5240	5969	Water Conservation Rebate	Usage exceeded budget	950.00
952	7710	8540	Sewer Accumulation Fund - Transfer to CIP Fund	Transfer exceeded budget	23,295.06
Total Other Funds					**135,589.75**

Other Funds Revenues					
Fund	Prog	Acct	Description	Purpose	Adjustment
907	7410	3227	Diablo Closure Funds-SB1090 Settlement	Recognize July 2020 Revenue	117,806.58
Total Other Funds					**117,806.58**

Other Funds Expenditures					
Fund	Prog	Acct	Description	Purpose	Adjustment
900	7710	8501	Government Impact Fees - Interfund Transactions	Recognize transfer out based on actuals	4,222.88
907	7105	6105	Economic Dev. Fund-Community Development-Consulting Services	Fund consulting services Economic	12,224.02
907	7410	Various	Diablo Closure Funds-SB1090, Salaries and Benefits	Fund salary and benefits expenses for janitorial staff (Per 3-23-21 SR)	42,432.76
Total Other Funds					**63,102.54**

Capital Projects Revenues					
Fund	Prog	Acct	Description	Purpose	Adjustment
Total Other Funds					**0.00**

Capital Projects Expenditures					
Fund	Prog	Acct	Description	Purpose	Adjustment
915	9949	6106	Emergency Stormdrain repairs	Adopted budget included revenue transfer	32,850.00
Total Other Funds					**32,850.00**

Grand Total: Revenues and Transfers In **283,599.58**

Grand Total: Expenditures and Transfers Out **367,768.29**

AGENDA NO:	**A-7**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and Council Members** **DATE: November 3, 2021**

FROM: **Scott Collins, City Manager**

SUBJECT: **Authorization for Mayor to send letter to San Luis Obispo Board of Supervisors (Board) regarding Proposed Redistricting of Board of Supervisors District 2.**

RECOMMENDATION

City Council authorize the Mayor to send a letter on behalf of the City Council to the Board recommending it maintain existing Supervisorial boundaries.

ALTERNATIVE

The Council could:

1. Choose not to provide direct comments or input into the supervisorial process, or
2. Request additional information and return for future direction prior to the next scheduled Board meeting and map submission deadline.

These alternatives are not recommended as the compressed timing and deadline for establishing new Districts is approaching.

FISCAL IMPACT

There is no fiscal impact associated with this item.

BACKGROUND/DISCUSSION

Every 10 years, the U.S. Census Bureau conducts a count of the United States population. The decennial census is used to determine how many seats each state will have in the U.S. House of Representatives and for redistricting state legislatures, county boards of supervisors and, if applicable, city council districts. For 2020, the COVID-19 pandemic delayed the results of the census and results were not transmitted to states, counties and cities until September 20, 2021. Typically, results are shared by April 1st of the following year. The result of the COVID-19 impacts is that the timeframe for engagement and input on redistricting, etc. has been compressed into a shorter time period.

As stated in the County staff report for a Redistricting Hearing on October 26, 2021 (Attachment A), the Board met five previous times to discuss redistricting which covered the following five areas: 1) Redistricting Methodologies 2) Census Data Schedule Updates 3) Hiring a Redistricting Consultant 4) Setting Redistricting Hearings and Establishing a Public Info Portal and 5) Conducting a Redistricting Hearing and Input on Communities of Interest.

On October 26, 2021, the Board held a Redistricting Hearing to evaluate five options, known as “initial draft maps” and maps submitted by the public. There was no formal action and none of the publicly

Prepared By: ___SC_____	**Dept Review:**
City Manager Review: _SC___	**City Attorney Review: _CFN___**

submitted or consultant generated maps included with the staff report were identified as preferred or excluded by a majority of the Board. The Board will continue to accept maps and comments for the next two Redistricting Hearings on November 19th and 30th. The deadline for submitting new maps is November 5th for November 19th hearing and the deadline to submit comments on or to modify previously submitted maps is November 21st for the November 30th hearing.

Elections Code section 21500 broadly covers the process and Elections Code Section 21500 (2) (C) establishes five criteria in order of priority for adopting supervisorial district boundaries.

21500

(a) Following a county's decision to elect its board using district-based elections, or following each federal decennial census for a county whose board is already elected using district-based elections, the board shall, by ordinance or resolution, adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts shall be substantially equal in population as required by the United States Constitution.

(1) Population equality shall be based on the total population of residents of the county as determined by the most recent federal decennial census for which the redistricting data described in Public Law 94-171 are available.
(2) Notwithstanding paragraph (1), an incarcerated person, as that term is used in Section 21003, shall not be counted towards a county's population, except for an incarcerated person whose last known place of residence may be assigned to a census block in the county, if information about the last known place of residence for incarcerated persons is included in the computerized database for redistricting that is developed in accordance with subdivision (b) of Section 8253 of the Government Code, and that database is made publicly available.

(b) The board shall adopt supervisorial district boundaries that comply with the United States Constitution, the California Constitution, and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).
(c) The board shall adopt supervisorial district boundaries using the following criteria as set forth in the following order of priority:

(1) To the extent practicable, supervisorial districts shall be geographically contiguous. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.
(2) To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A "community of interest" is a population that shares common social or economic interests that should be included within a single supervisorial district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
(3) To the extent practicable, the geographic integrity of a city or census designated place shall be respected in a manner that minimizes its division.
(4) Supervisorial district boundaries should be easily identifiable and understandable by residents. To the extent practicable, supervisorial districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the county.

(5) To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, supervisorial districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.
   a. The board shall not adopt supervisorial district boundaries for the purpose of favoring or discriminating against a political party.
   b. For purposes of this chapter, "adopt" or "adoption" in regard to supervisorial district boundaries means the passage of an ordinance or resolution specifying those boundaries.

Five different themes emerged from public input received as of the October 16, 2021 Redistricting Hearing and were presented to the Board that evening:

1) Maintain existing Supervisorial boundaries
2) Maintain Oceano in the same District as Arroyo Grande and Nipomo and maintain existing District 4 boundaries
3) Place Cal Poly in one District or place Cal Poly and City of San Luis Obispo in the same District
4) Maintain North Coast towns in one District and
5) Maintain and place the City of San Luis Obispo in multiple districts.

Based on these themes, four drafts maps were developed and are included as Plans A-D to this staff report and are described in more details below. Given the themes of public comment and submitted maps and with a focus on compliance with the required priority considerations under the Fair Maps Act of the California Election Code, County consultants and staff have developed four initial draft maps for the publics and Board's consideration:

1. Plan A – Status Quo (Attachment Plan A). As noted above, because the County's current districts have a total population deviation of 9.3%, the County is not required to redraw district lines in order to avoid a presumption of an equal protection violation. Plan A essentially preserves the existing supervisorial districts, with minor adjustments to account for updated Census block boundaries. (See Attachment Plan A Initial Map). Existing supervisorial boundaries largely recognize the unique communities of interest in the City of San Luis Obispo and with slight changes could be modified to reflect updated Census block boundaries and achieve compliance with the law and reflect the broad and diverse communities of interest in the City of San Luis Obispo.
2. Plan B – Cal Poly COI (Attachment Plan B). Plan B works from existing supervisorial districts, with adjustments to account for updated Census block boundaries, and includes the entire campus of Cal Poly within one District (District 2) in response to public comment and makes other changes to balance populations and to provide ease in determining legal metes and bounds in Districts 3 and 4. (See Plan B Initial Draft Map).
3. Plan C – (Attachment Plan C) Remove Cal Poly/City of San Luis Obispo from District 5. Plan C works from existing supervisorial districts, with adjustments to remove the Cal Poly campus and the City of San Luis Obispo from District 5 in response to public comment on communities of interest. The map also makes resulting necessary changes to expand District 5 into existing Districts 1, 3 and 4 to regain population in that District and to expand District 1 into District 2 to further balance populations. (See Attachment C – Initial Draft Map).
4. Plan D – (Attachment Plan D) Consideration of School Districts. Plan D works to align, to the extent possible, with proposed school districts within the County (pending State approval). (See Attachment Plan D – Initial Draft Map).

Options for City Council
Staff recommends that, if the City Council provides input for supervisorial redistricting, that it consider the following principles and common goals that favor maintaining the existing Supervisorial boundaries:

1. Maintaining North Coast consistency – Morro Bay has more in common with those towns than with the City of San Luis Obispo,
2. Open space, wildlife, and clean oceans protection interests that can benefit the local economy,
3. Economic opportunities and challenges along the Highway 1 corridor
4. Unique effects of climate change on the economy and infrastructure of the coast, including Highway 1,
5. Continued coordination with California Coastal Commission to balance community needs with coastal protection,
6. Long time work on the bike connector that could create contiguous access from Montana de Oro to Big Sur, and
7. Potential impact of offshore wind that benefits the coastal region.

Due the nature of the issue and the compressed timetable to provide input, if Council decides to provide comments, staff recommends that the Council authorize the Mayor to submit comments on behalf of the City Council of the City of Morro Bay consistent with the statements above.

Next Steps
The next steps and dates in the County process are described below:

1. November 19 - Redistricting Hearing #3
2. November 30 - Redistricting Hearing #4
3. December 7 - Redistricting Ordinance Introduced
4. December 14 - Redistricting Ordinance Adopted

Given the schedule, should the City Council decide to provide comments, it is recommended that comments be provided in time for the November 19, 2021, Redistricting Hearing. Any comments on maps can be submitted until November 21st for the last and final Redistricting Hearing.

ATTACHMENTS

1. 10/26/21 Board of Supervisor Agenda Report
2. Initial Draft Map A
3. Initial Draft Map B
4. Initial Draft Map C
5. Initial Draft Map D

COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Administrative Office	10/26/2021	Kristin Eriksson; 805-781-5014

(4) SUBJECT

Hearing to consider initial draft maps for the County's 2021 redistricting of supervisorial districts and give staff formal direction for any modifications, as necessary. All Districts.

(5) RECOMMENDED ACTION

It is recommended that the Board conduct a public hearing to consider initial draft maps for the County's 2021 redistricting of supervisorial districts and provide staff direction for any modifications, as necessary.

(6) FUNDING SOURCE(S)	(7) CURRENT YEAR FINANCIAL IMPACT	(8) ANNUAL FINANCIAL IMPACT	(9) BUDGETED?
N/A	$0	$0	yes

(10) AGENDA PLACEMENT

{ } Consent **{ }** Presentation **{X}** Hearing (Time Est. 3 hours) **{ }** Board Business (Time Est._____)

(11) EXECUTED DOCUMENTS

{ } Resolutions **{ }** Contracts **{ }** Ordinances **{X}** N/A

(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)	(13) BUDGET ADJUSTMENT REQUIRED?
N/A	BAR ID Number: **{ }** 4/5th's Vote Required **{X}** N/A

(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT?	(16) AGENDA ITEM HISTORY
N/A	No	**{ }** N/A Date 1/5/2021, #38; 3/16/2021, #3; 4/20/2021, #33; 6/22/2021, #39; 7/20/2021, Item #1

(17) ADMINISTRATIVE OFFICE REVIEW

This item was prepared by the Administrative Office

(18) SUPERVISOR DISTRICT(S)

All Districts.

COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Administrative Office / Kristin Eriksson; 805-781-5014

DATE: 10/26/2021

SUBJECT: Hearing to consider initial draft maps for the County's 2021 redistricting of supervisorial districts and give staff formal direction for any modifications, as necessary. All Districts.

RECOMMENDATION

It is recommended that the Board conduct a public hearing to consider initial draft maps for the County's 2021 redistricting of supervisorial districts and provide staff direction for any modifications, as necessary.

DISCUSSION

Introduction

The U.S. Census Bureau (Bureau) is required by Article I, Section 2 of the U.S. Constitution to conduct an accurate count of the population every ten years. Census data is used to determine how many seats each state will have in the U.S. House of Representatives and in redistricting of state legislatures, county boards of supervisors and city councils. In 2020, the Bureau conducted the decennial census, extending the deadline for responses through October 15, 2020 in response to the COVID-19 pandemic. Normally, the Bureau is required to report final data to the U.S. President on or before December 31 of the Census year and to States and Counties on April 1 of the following year. However, due to the extended timeline to complete the Census count, along with complications in ensuring the accuracy of data arising from the Bureau's use of predominantly electronic responses for the first time, the County did not receive final, State-adjusted data until September 20, 2021.[1]

[1] Per Elections Code section 21508(d)(3), the County cannot publish draft maps until 21 days after State-adjusted data is made available to the public.

Prior Board Action

Previously, the Board took the following actions on redistricting:

1) January 5, 2021 (Item #38) – Staff presented options for redistricting methodologies including using a Citizen Advisory Committee, using a County Staff Advisory Committee, or allowing a consultant to redraw maps. The Board directed staff to use a County Staff Advisory Committee to develop and redraw supervisorial districts and set a Special Meeting for April 23, 2021 to serve as the first hearing regarding redistricting.

2) March 16, 2021 (Item #3) – the Board received an update providing information about the delays in receipt of 2020 Census data from April to September of 2021 and canceled the Special Meeting scheduled for April 23, 2021 pending more information.

3) April 20, 2021 (Item #33) – the Board received an update on the County's redistricting effort and approved a budget adjustment in the amount of $150,139 from General Fund Contingencies to fund a consulting contract to assist staff, Public Works labor costs and a contingency amount for the County's effort in Fund Center 104 – Administrative Office.

4) June 22, 2021 (Item #39) – the Board received an update on the County's redistricting public webpage and set Special Meetings to serve as official redistricting hearings, pursuant to the Fair Maps Act, in October and November.

5) July 20, 2021 (Item #25) – the Board conducted its first official Redistricting Hearing to hear and consider public comment and input regarding communities of interest in the County.

Redistricting Hearing #2 – Consideration of Initial Draft Maps

Under the California Elections Code[2], new supervisorial districts must be redrawn using the following criteria, in order of priority:

1) To the extent practicable, districts must be geographically contiguous

2) To the extent practicable, districts must maintain the geographic integrity of neighborhoods and communities of interest

3) To the extent practicable, districts must minimize division of cities or census designated places

4) Boundaries must be easily identifiable and, if possible, bound by natural/artificial barriers

5) To the extent practicable, districts must not favor or discriminate against any political party

[2] See Elections Code section 21500(2)(c).

With assistance from the County's consultant, Redistricting Partners, staff analyzed population changes in each existing supervisorial district between the 2010 Census and the 2020 Census. A comparison of the population of current supervisorial districts between the 2010 Census and the 2020 Census is below.

Estimated Populations and Growth (2010 Census to 2020 Census)

District	2020	2010	Change	
1	57,982	53,814	4,168	7.7%
2	52,753	57,733	-4,980	-8.6%
3	54,826	52,660	2,166	4.1%
4	57,646	52,797	4,849	9.2%
5	56,000	52,571	3,429	6.5%
Total	279,207	269,576	9,631	3.6%

With an estimated total County population of 279,207, the ideal population for any district would be 55,841. In order to avoid a presumption of an Equal Protection violation, new districts must have a total population deviation of less than 10%.[3] Total population deviation is determined by adding the absolute value of the population deviation between the largest and smallest districts. The district with the largest population is District 1 at 57,982 (+3.8%) and the smallest is District 2 at 52,753 (-5.5%), placing the County's total population deviation at 9.3%, which is within the required deviation range. The chart below shows each district's population deviation.

2020 Population and Deviations

District	Population	Deviation	
1	57,982	2,141	3.8%
2	52,753	-3,088	-5.5%
3	54,826	-1,015	-1.8%
4	57,646	1,805	3.2%
5	56,000	159	0.3%
Total Deviation			***9.3%***

Themes of Public Comment/Input Regarding Communities of Interest

Staff have been compiling and considering public comment and input regarding communities of interest (COIs) in the County, as well as suggestions for redrawing supervisorial districts while creating draft maps. From this public input, several major themes developed:

1) Keep the town of Oceano in the same District as Arroyo Grande and Nipomo as a community of interest/Keep District 4 the same as existing
2) Keep Cal Poly within one District and/or keep Cal Poly and City of San Luis Obispo out of "North County" COI
3) Keep the North Coast towns within one District
4) Keep the City of San Luis Obispo in multiple Districts

[3] See *Harris v. Arizona Independent Redistricting Commission,* 576 U.S. 787 (2015).

Additionally, there were numerous comments encouraging transparency, community input and fairness in the redistricting process. Public comment submitted via the County's webpage or email can be viewed on the County's webpage: www.slocounty.ca.gov/redistricting.

In addition to public comments, six draft maps were submitted in the County's District-R website or via email. These maps were considered by staff and incorporated into the analysis for the Initial Draft Maps. Although one map was submitted as an image only and was difficult to analyze population and demographic data, it was considered. Draft maps submitted by the public on the County's District-R mapping tool can be viewed on the County's District-R mapping tool website: https://districtr.org/tag/slo_county. Maps submitted via email are viewable on the County's webpage: https://www.slocounty.ca.gov/Departments/Administrative-Office/Countywide-Projects-Programs/Redistricting/Other-Submitted-Maps.aspx.

Summary of Initial Draft Maps

Given the themes of public comment and submitted maps and with a focus on compliance with the required priority considerations under the Fair Maps Act of the California Election Code, staff has developed four initial draft maps for the public's and Board's consideration:

1) Plan A – Status Quo. As noted above, because the County's current districts have a total population deviation of 9.3%, the County is not required to redraw district lines in order to avoid a presumption of an equal protection violation. Plan A essentially preserves the existing supervisorial districts, with minor adjustments to account for updated Census block boundaries. (See Attachment 1 – Initial Draft Map – Plan A).

2) Plan B – Cal Poly COI. Plan B works from existing supervisorial districts, with adjustments to account for updated Census block boundaries, and includes the entire campus of Cal Poly within one District (District 2) in response to public comment and makes other changes to balance populations and to provide ease in determining legal metes and bounds in Districts 3 and 4. (See Attachment 2 – Initial Draft Map – Plan B).

3) Plan C – Remove Cal Poly/City of San Luis Obispo from District 5. Plan C works from existing supervisorial districts, with adjustments to remove the Cal Poly campus and the City of San Luis Obispo from District 5 in response to public comment on communities of interest. The map also makes resulting necessary changes to expand District 5 into existing Districts 1, 3 and 4 to regain population in that District and to expand District 1 into District 2 to further balance populations. (See Attachment 3 – Initial Draft Map – Plan C).

4) Plan D – Consideration of School Districts. Plan D works to align, to the extent possible, with proposed school districts within the County (pending State approval). (See Attachment 4 – Initial Draft Map – Plan D).

For information about the County's redistricting process or to provide input, the public may go to www.slocounty.ca.gov/redistricting.

OTHER AGENCY INVOLVEMENT/IMPACT

The departments of Clerk Recorder, Planning and Building, Public Works, Information Technology and County Counsel were consulted on this item.

Initial Draft Maps were reviewed by Redistricting Partners, who concluded that each map is compliant with legal requirements and in line with best practices for redrawing districts.

FINANCIAL CONSIDERATIONS

There are no financial impacts from this action.

RESULTS

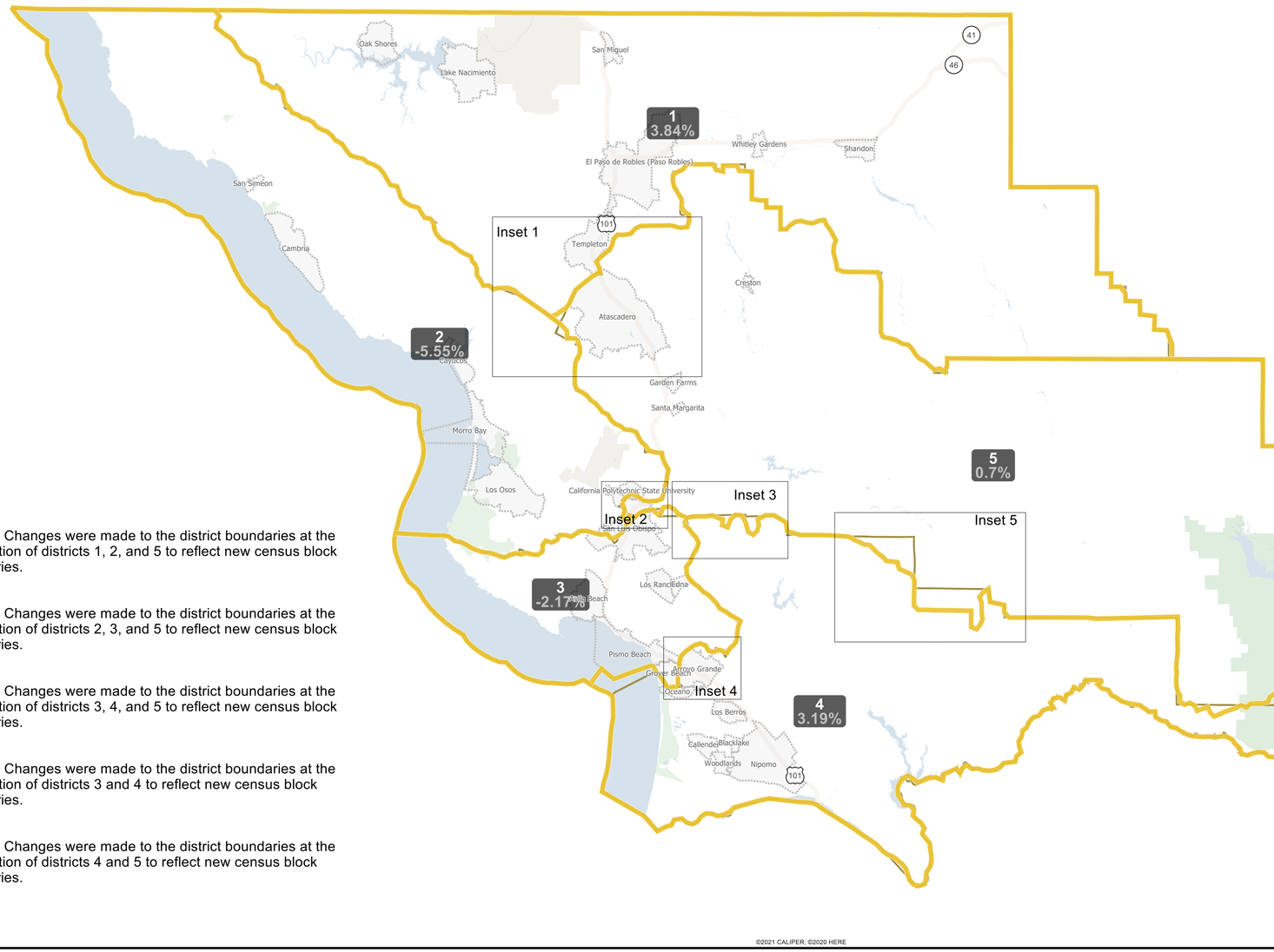
Conducting the second redistricting hearing, in compliance with the Fair Maps Act, will allow for public input regarding initial draft maps to inform the redrawing of supervisorial district maps, resulting in a well-governed community.

ATTACHMENTS

1 Initial Draft Map - Plan A
2 Initial Draft Map - Plan B
3 Initial Draft Map - Plan C
4 Initial Draft Map - Plan D
5 Redistricting Partners District Analysis
6 Presentation

Initial Draft Map A

- Original district boundaries were used as a framework;
- Only changes made to adhere to P.L. 94-171 census block boundary lines where they deviate from current district boundaries.



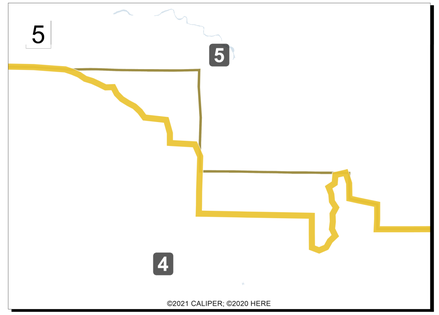
Inset 1 - Changes were made to the district boundaries at the intersection of districts 1, 2, and 5 to reflect new census block boundaries.

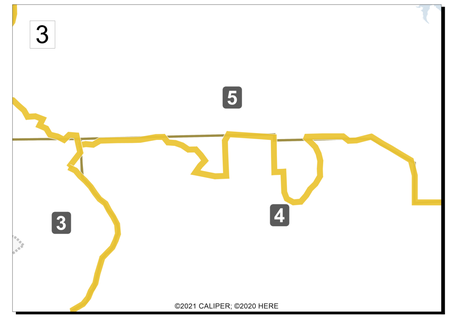
Inset 2 - Changes were made to the district boundaries at the intersection of districts 2, 3, and 5 to reflect new census block boundaries.

Inset 3 - Changes were made to the district boundaries at the intersection of districts 3, 4, and 5 to reflect new census block boundaries.

Inset 4 - Changes were made to the district boundaries at the intersection of districts 3 and 4 to reflect new census block boundaries.

Inset 5 - Changes were made to the district boundaries at the intersection of districts 4 and 5 to reflect new census block boundaries.



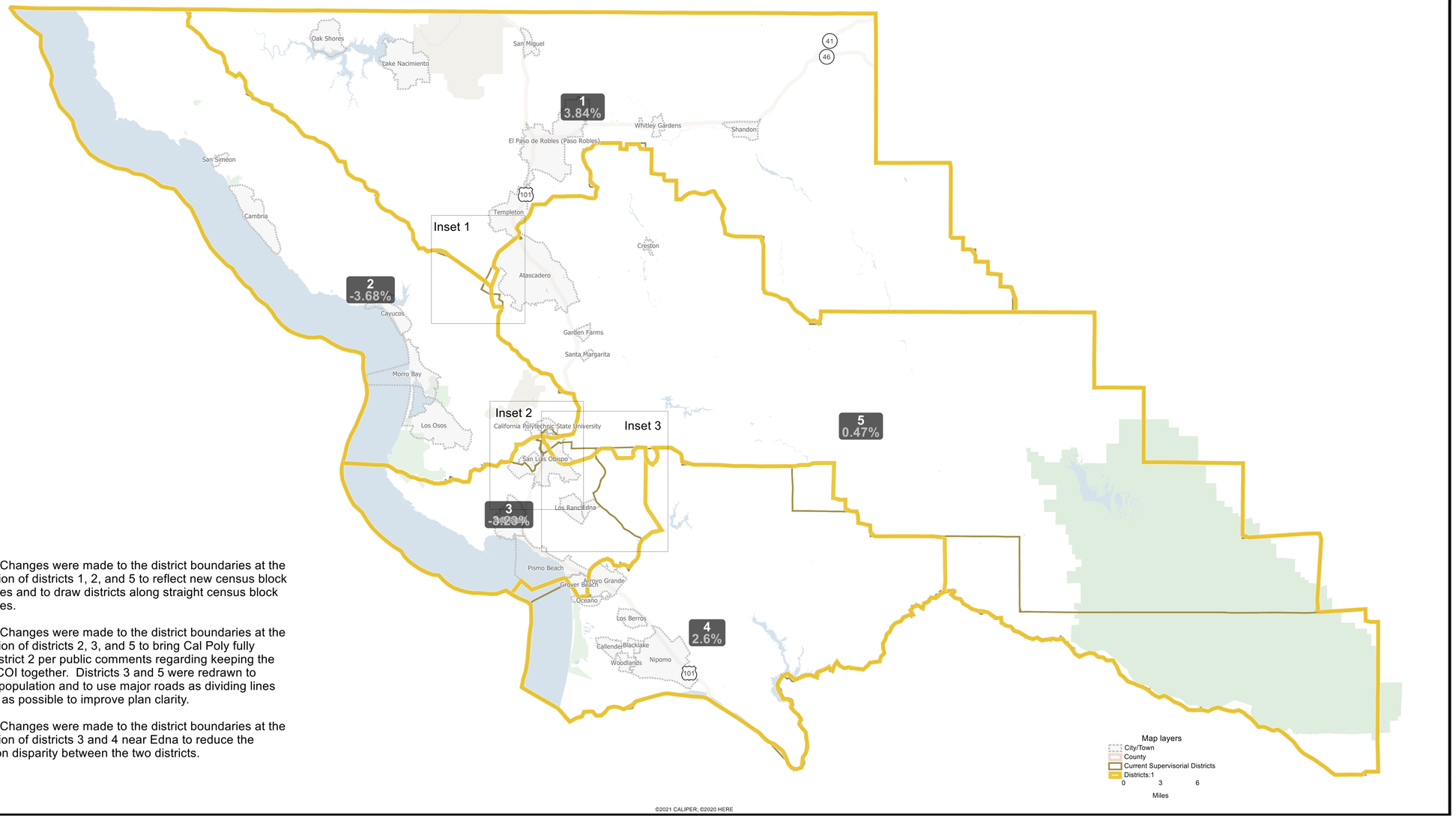


District	adj_Population P2	% Deviation	adj_18+_Population P4	% adj_18+_Population P4	% adj_Hispanic Origin	% adj_NH_Wht	% adj_NH_Blk	% adj_NH_Ind	% adj_NH_Asn	% adj_NH_Hwn	% adj_NH_Oth
1	57,985	3.84%	44,291	76%	33%	59%	1%	0%	2%	0%	0%
2	52,744	-5.55%	45,917	87%	17%	71%	1%	0%	5%	0%	1%
3	54,632	-2.17%	45,438	83%	20%	68%	1%	0%	4%	0%	1%
4	57,622	3.19%	46,200	80%	30%	60%	1%	0%	3%	0%	0%
5	56,233	0.7%	46,693	83%	18%	71%	1%	0%	4%	0%	1%

COUNTY of SAN LUIS OBISPO
Department of Planning & Building

Initial Draft Map B

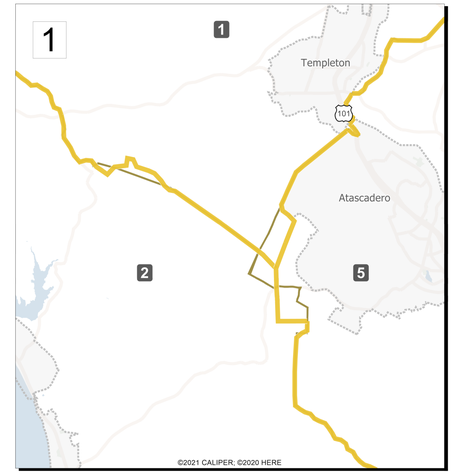
- Original district boundaries were used as a framework;
- Further changes were made to balance population and respond to comments from the public;
- Efforts were also made to draw boundaries to provide ease of writing legal description given short time frame.

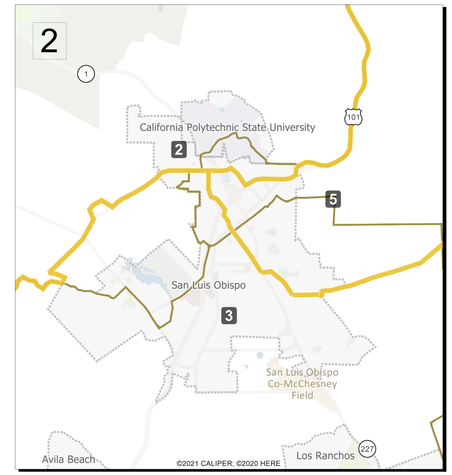


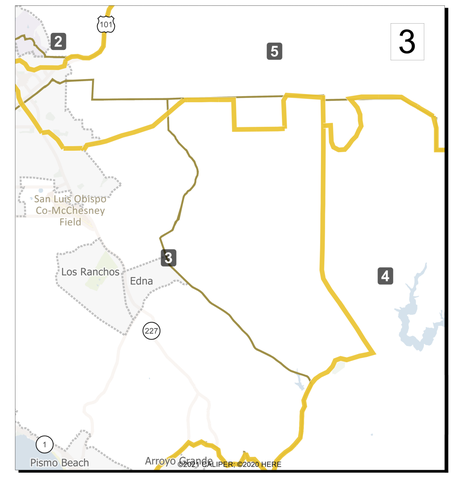
Inset 1 - Changes were made to the district boundaries at the intersection of districts 1, 2, and 5 to reflect new census block boundaries and to draw districts along straight census block boundaries.

Inset 2 - Changes were made to the district boundaries at the intersection of districts 2, 3, and 5 to bring Cal Poly fully within District 2 per public comments regarding keeping the student COI together. Districts 3 and 5 were redrawn to balance population and to use major roads as dividing lines as much as possible to improve plan clarity.

Inset 3 - Changes were made to the district boundaries at the intersection of districts 3 and 4 near Edna to reduce the population disparity between the two districts.





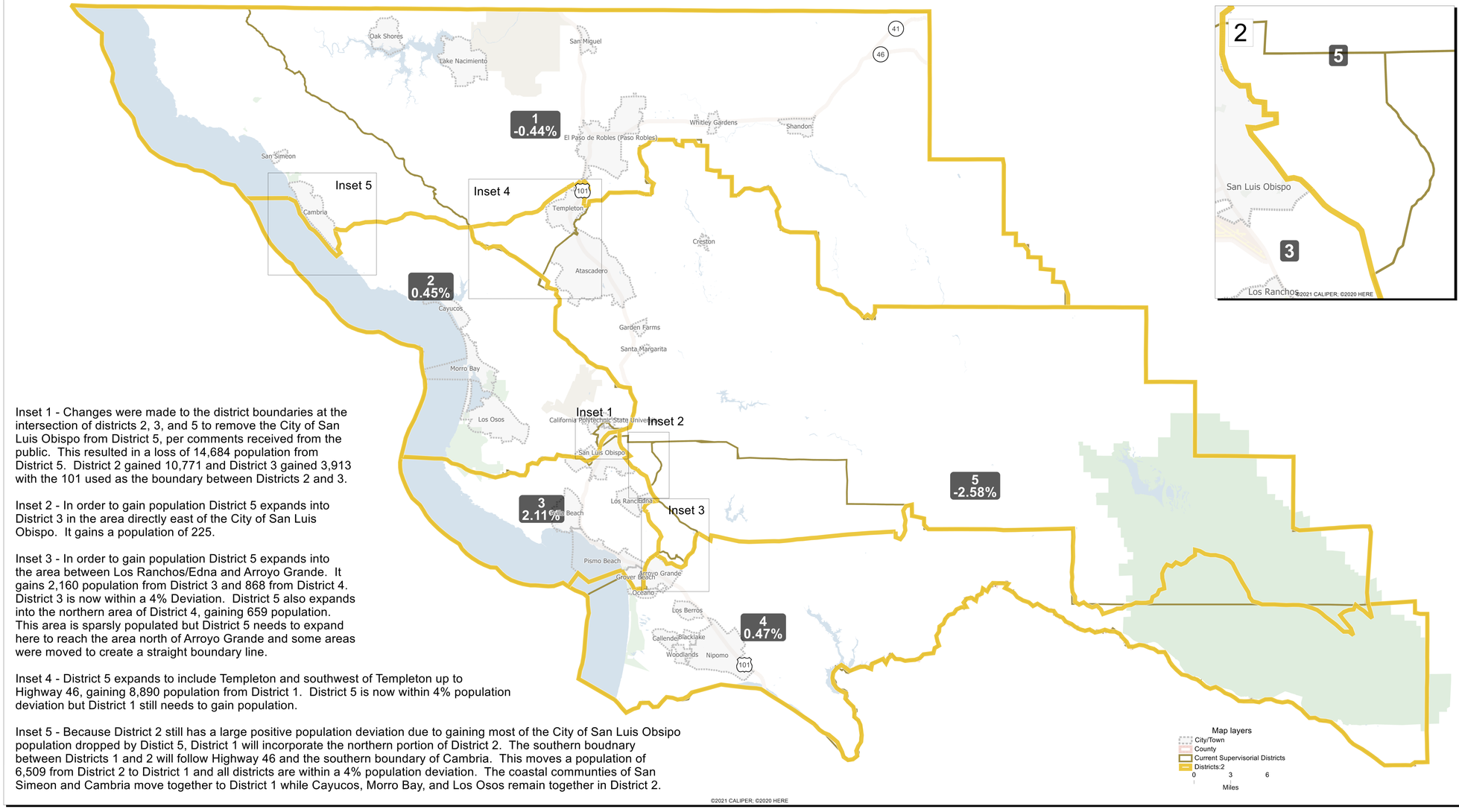


District	adj_Population P2	% Deviation	adj_18+_Population P4	% adj_18+_Population P4	% adj_Hispanic Origin	% adj_NH_Wht	% adj_NH_Blk	% adj_NH_Ind	% adj_NH_Asn	% adj_NH_Hwn	% adj_NH_Oth
1	57,987	3.84%	44,293	76%	33%	59%	1%	0%	2%	0%	0%
2	53,789	-3.68%	47,551	88%	17%	71%	1%	0%	6%	0%	1%
3	54,039	-3.23%	45,100	83%	20%	68%	1%	0%	5%	0%	1%
4	57,297	2.6%	45,941	80%	31%	60%	1%	0%	3%	0%	0%
5	56,104	0.47%	45,654	81%	18%	71%	1%	0%	3%	0%	1%

Department of Planning & Building

Initial Draft Map C

- Original district boundaries were used as a framework but significant changes have been made;
- The objective was to remove District 5 from San Luis Obispo, per direction from public comments;
- This necessitated expanding District 5 into portions of 1, 3, and 4 to regain the loss of population;
- This in turn necessitated expanding District 1 into the northern portion of District 2.



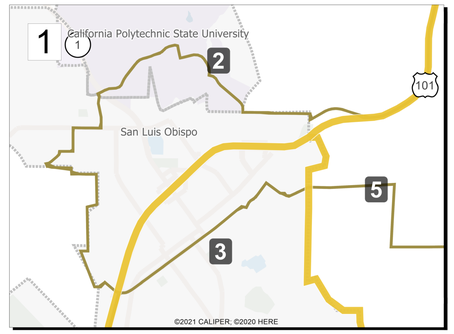
Inset 1 - Changes were made to the district boundaries at the intersection of districts 2, 3, and 5 to remove the City of San Luis Obispo from District 5, per comments received from the public. This resulted in a loss of 14,684 population from District 5. District 2 gained 10,771 and District 3 gained 3,913 with the 101 used as the boundary between Districts 2 and 3.

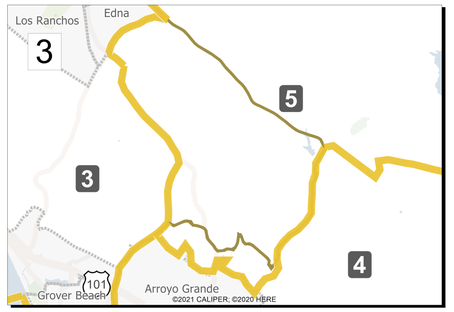
Inset 2 - In order to gain population District 5 expands into District 3 in the area directly east of the City of San Luis Obispo. It gains a population of 225.

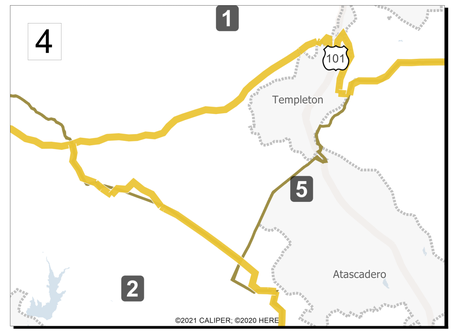
Inset 3 - In order to gain population District 5 expands into the area between Los Ranchos/Edna and Arroyo Grande. It gains 2,160 population from District 3 and 868 from District 4. District 3 is now within a 4% Deviation. District 5 also expands into the northern area of District 4, gaining 659 population. This area is sparsly populated but District 5 needs to expand here to reach the area north of Arroyo Grande and some areas were moved to create a straight boundary line.

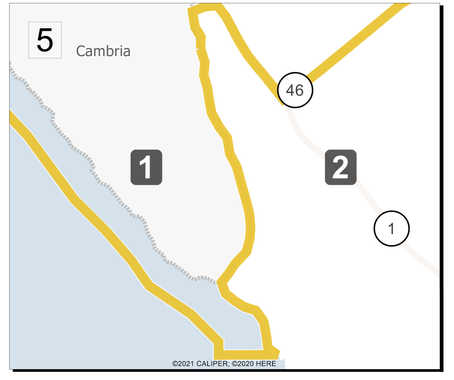
Inset 4 - District 5 expands to include Templeton and southwest of Templeton up to Highway 46, gaining 8,890 population from District 1. District 5 is now within 4% population deviation but District 1 still needs to gain population.

Inset 5 - Because District 2 still has a large positive population deviation due to gaining most of the City of San Luis Obsipo population dropped by Distict 5, District 1 will incorporate the northern portion of District 2. The southern boudnary between Districts 1 and 2 will follow Highway 46 and the southern boundary of Cambria. This moves a population of 6,509 from District 2 to District 1 and all districts are within a 4% population deviation. The coastal communties of San Simeon and Cambria move together to District 1 while Cayucos, Morro Bay, and Los Osos remain together in District 2.







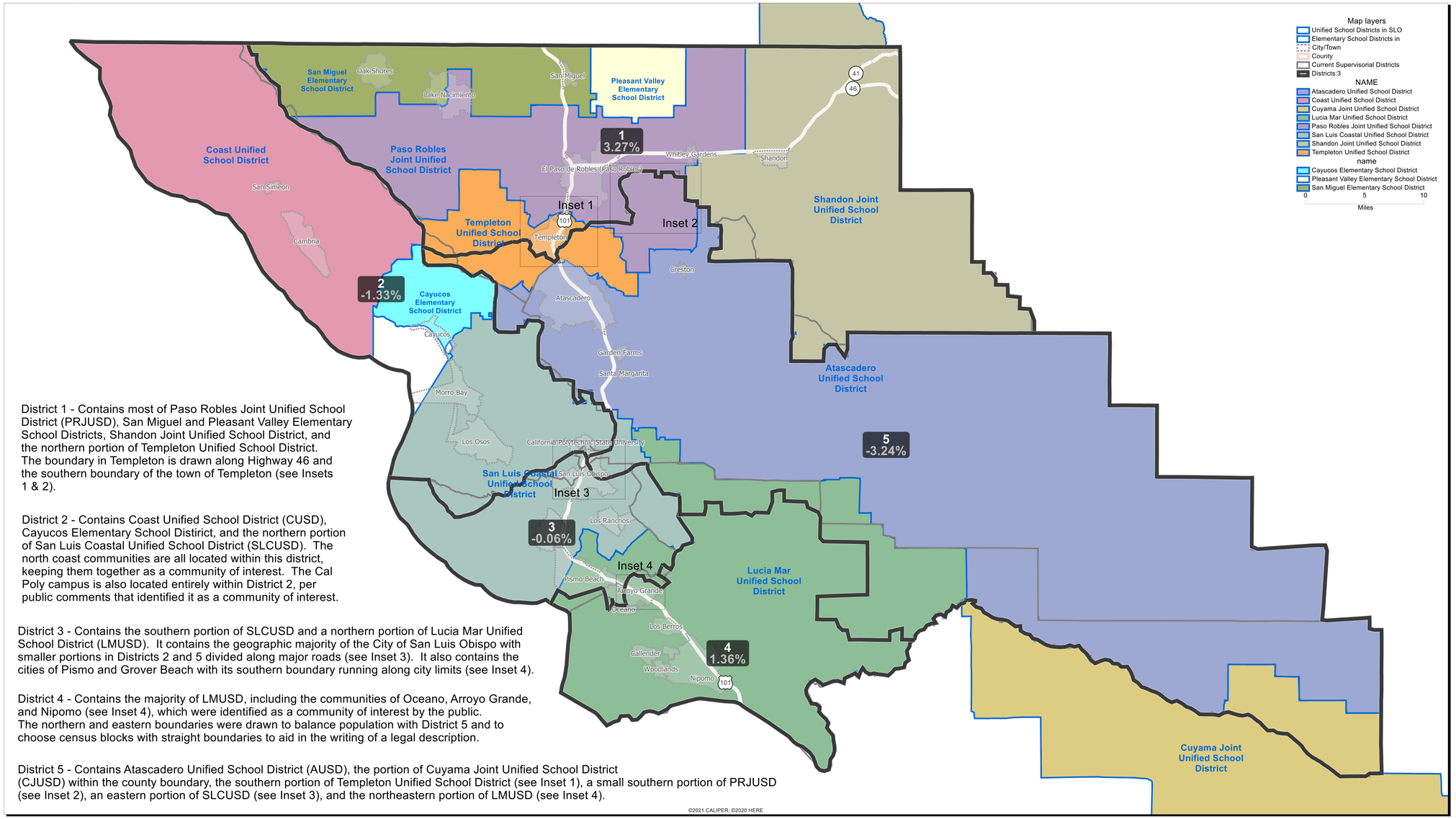


District	adj_Population P2	% Deviation	adj_18+_Population P4	% adj_18+_Population P4	% adj_Hispanic Origin	% adj_NH_Wht	% adj_NH_Blk	% adj_NH_Ind	% adj_NH_Asn	% adj_NH_Hwn	% adj_NH_Oth
1	55,599	-0.44%	43,220	78%	34%	58%	1%	0%	2%	0%	1%
2	56,094	0.45%	49,549	88%	16%	71%	1%	0%	6%	0%	1%
3	57,020	2.11%	47,724	84%	21%	68%	1%	0%	4%	0%	1%
4	56,103	0.47%	44,940	80%	31%	60%	1%	0%	3%	0%	0%
5	54,400	-2.58%	43,106	79%	18%	72%	1%	1%	2%	0%	1%

COUNTY of SAN LUIS OBISPO
Department of Planning & Building

Initial Draft Map D

- School district boundaries were used as a framework with divisions made along city boundaries and major roads as needed;
- The objective was to keep school districts together as communities of interest but some were split to achieve population balance and to prevent the splitting of Cities/Towns;
- Paso Robles Joint Unified School District and Templeton Unified School District have been divided along major roads and City/Town boundaries;
- San Luis Coastal Unified School District and Lucia Mar Unified School District are each too large to be contained within one supervisorial district and have been divided along major roads and City/Town boundaries.



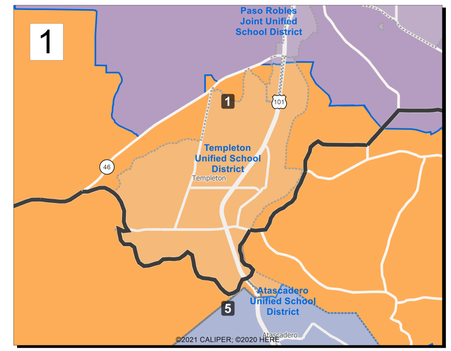
District 1 - Contains most of Paso Robles Joint Unified School District (PRJUSD), San Miguel and Pleasant Valley Elementary School Districts, Shandon Joint Unified School District, and the northern portion of Templeton Unified School District. The boundary in Templeton is drawn along Highway 46 and the southern boundary of the town of Templeton (see Insets 1 & 2).

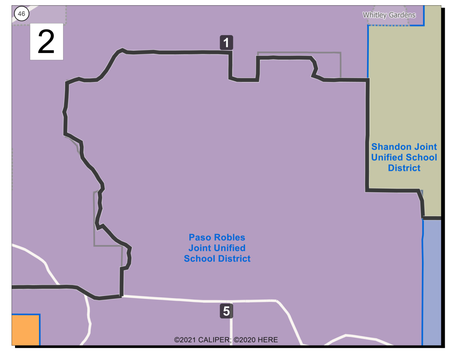
District 2 - Contains Coast Unified School District (CUSD), Cayucos Elementary School Distirict, and the northern portion of San Luis Coastal Unified School District (SLCUSD). The north coast communities are all located within this district, keeping them together as a community of interest. The Cal Poly campus is also located entirely within District 2, per public comments that identified it as a community of interest.

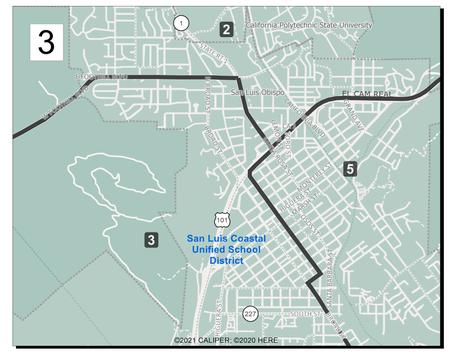
District 3 - Contains the southern portion of SLCUSD and a northern portion of Lucia Mar Unified School District (LMUSD). It contains the geographic majority of the City of San Luis Obispo with smaller portions in Districts 2 and 5 divided along major roads (see Inset 3). It also contains the cities of Pismo and Grover Beach with its southern boundary running along city limits (see Inset 4).

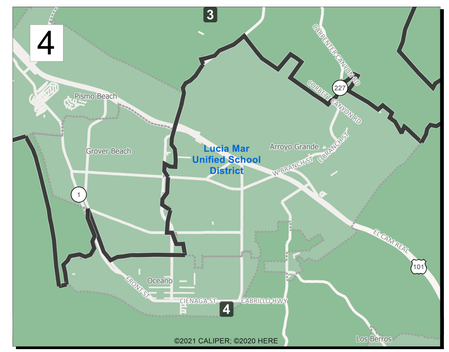
District 4 - Contains the majority of LMUSD, including the communities of Oceano, Arroyo Grande, and Nipomo (see Inset 4), which were identified as a community of interest by the public. The northern and eastern boundaries were drawn to balance population with District 5 and to choose census blocks with straight boundaries to aid in the writing of a legal description.

District 5 - Contains Atascadero Unified School District (AUSD), the portion of Cuyama Joint Unified School District (CJUSD) within the county boundary, the southern portion of Templeton Unified School District (see Inset 1), a small southern portion of PRJUSD (see Inset 2), an eastern portion of SLCUSD (see Inset 3), and the northeastern portion of LMUSD (see Inset 4).









District	adj_Population P2	% Deviation	adj_18+_Population P4	% adj_18+_Population P4	% adj_Hispanic Origin	% adj_NH_Wht	% adj_NH_Blk	% adj_NH_Ind	% adj_NH_Asn	% adj_NH_Hwn	% adj_NH_Oth
1	57,670	3.27%	44,013	76%	33%	58%	1%	0%	2%	0%	0%
2	55,100	-1.33%	48,800	89%	17%	70%	1%	0%	6%	0%	1%
3	55,808	-0.06%	46,629	84%	20%	68%	1%	0%	5%	0%	1%
4	56,605	1.36%	45,366	80%	31%	60%	1%	0%	3%	0%	0%
5	54,033	-3.24%	43,731	81%	18%	71%	1%	0%	3%	0%	1%

COUNTY of SAN LUIS OBISPO
Department of Planning & Building

AGENDA NO:	**A-8**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 3, 2021**

FROM: **Scott Collins, City Manager**

SUBJECT: **Agreement with Visit Morro Bay for Tourism Business Improvement District contractor services, and Lease Agreement for 695 Harbor Street, Suites C and G**

RECOMMENDATION

The City Council approves agreement with Visit Morro Bay for Tourism Business Improvement District contractor services, and Lease Agreement for 695 Harbor Street, Suites C and G, subject to approval as to form by City Attorney.

ALTERNATIVES

The Council could choose to not approve the agreements or modify the agreements.

FISCAL IMPACT

There is no impact on the current budget with approval of this recommendation. However, approval of the rental agreement will result in the City collecting rents less than market rate. Market rate rent for the offices at the 695 Harbor Street would garner the City additional revenues for the remainder of the fiscal year, compared to the proposed amount. However, with the new MBTBID non-profit just getting off the ground, staff recommends the proposed term through the end of fiscal year. Following this adjustment period, staff will come back to Council with an analysis of options to consider regarding lease terms.

BACKGROUND

The MBTBID is a business improvement district designed to help fund sales, marketing, and communication programs for Morro Bay lodging businesses and vacation rental businesses. The MBTBID levies assessments to be used in accordance with the MBTIBD mandate. This approach has been used successfully in Morro Bay and in other destination areas throughout the state to improve tourism and drive additional room nights to assessed businesses.

In July 2021, the Morro Bay Tourism Business Improvement District (MBTBID) was converted from the Parking and Business Improvement Area Law of 1989 (89 Law) (Streets and Highways Code sections 36500 et seq.) to the Property and Business Improvement District Law of 1994 (94 Law) (Streets and Highways Code sections 36600

Prepared By: SC	**Dept Review:** _____
City Manager Review: SC	**City Attorney Review:** CFN

et seq.). In addition, at the same time, management of the TBID was shifted from the City to a non-profit board, known as Visit Morro Bay. The 94 Law provides for a more stream-lined approach - than the 89 Law - that many cities find more efficient and practical. And placing the MBTBID in the hands of the experts, hoteliers and vacation rental owners vis a vis a non-profit board should help ensure the funds collected on behalf the local tourist industry are spent efficiently and effectively. Visit Morro Bay, which also has two non-industry members on its board, utilizes the efficiencies of private sector operation in the market-based promotion of tourism.

However, the City still plays an important role in overseeing the newly revised MBTBID, and a contract between the City and Visit Morro Bay is necessary to ensure that the relationship functions smoothly. The next section outlines that proposed contract in addition to the lease agreement for Visit Morro Bay to use City facilities for their operations.

DISCUSSION

Contract between City and Visit Morro Bay

The MBTBID is currently under a five (5) year term, beginning July 1, 2021 through June 30, 2026. The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days.

The City of Morro Bay (City) is responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business and vacation rental business located in the boundaries of the MBTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business and vacation rental business.

The City then provides the assessment revenue to Visit Morro Bay to operate the MBTBID. The attached proposed contract outlines the responsibilities Visit Morro Bay must undertake:

1. Timely perform all owners' association services detailed in the MBTBID Management District Plan ("Plan"), (which is Exhibit C to attachment number 1).

2. Diligently adhere to all requirements for the MBTBID Owners' Association in the Plan.

3. Provide projects, programs and activities that benefit businesses within the MBTBID in accordance with the Plan.

4. Perform all responsibilities of an Owners' Association under the Property and Business Improvement District Law of 1994, Streets and Highways Code sections 36600 et seq. (the "1994 Law"), including, but not limited to:

    a. Preparation of an annual report pursuant to Streets & Highways Code section 36650 ("Annual Report") as required by the 1994 Law, to include, but not be limited to:
        i. Any recommended changes to boundaries;
        ii. The improvements and activities to be provided for that fiscal year;

iii. An estimate of cost for providing the improvements and activities for that fiscal year;
iv. The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his/her business for that fiscal year;
v. The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year; and
vi. The estimated amount of any contributions to be made from sources other than the assessments levied pursuant to the 1994 Law.

b. Delivering to the Morro Bay City Council the Annual Report at least thirty (30) days preceding the fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities.

c. Management of the assessments levied pursuant to the 1994 Law for the benefit of the MBTBID in accordance with the City Council approved Annual Report.

d. Provision of all services for improvements and activities called for in the City Council approved Annual Report.

5. Develop and maintain financial records related to receipt and/or expenditure of all funds received from City to the full satisfaction of City staff in accordance with this Agreement.

The term for this proposed agreement shall, if approved, commence on July 1, 2021 and continue through June 30, 2026, or, if the MBTBID is disestablished prior to June 30, 2026, through the effective date of MBTBID disestablishment, unless sooner terminated pursuant to the provisions of this Agreement.

Staff recommends approval of this proposed agreement.

Lease Agreement

The second agreement is for Visit Morro Bay to rent office space from the City at the 695 Harbor Street building. Under the agreement, Visit Morro Bay will rent two small offices from the City through the end of June 30, 2021. Staff recommend rent $1 for the year, similar to the term with the Morro Bay Chamber for renting space from the City in the same facility.

As the non-profit just launched this year, staff believes there is a benefit in collocating them with the Chamber staff who work closely together on economic development initiatives. Staff proposes coming back to City Council prior to the end of this contract term to discuss potential for raising rent closer to market rate. Council had made a similar request for the Chamber, which pays the same $1 per year rent. Chamber pays that reduced amount, because they provide important economic development services to the City and business community out of that office.

ATTACHMENTS

1. Agreement
2. Lease Agreement for 695 Harbor Street (Suites G and C)

AGREEMENT FOR CONTRACTOR SERVICES
BETWEEN THE CITY OF MORRO BAY
AND VISIT MORRO BAY

THIS AGREEMENT FOR CONTRACTOR SERVICES ("Agreement") is made, by and between, the CITY OF MORRO BAY, a California municipal corporation ("City") and VISIT MORRO BAY, a California non-profit corporation, ("Contractor"), and is entered into and effective as of July 1, 2021. In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

RECITALS

1. The Property and Business Improvement District Law of 1994, Streets and Highways Code sections 36600 *et seq.*, ("1994 Law"), authorizes the City to establish a business improvement district upon petition by a weighted majority of the lodging business owners and vacation rental business owners located within the boundaries of the district, and such a petition consistent with law was presented to the City Council.

2. On June 8, 2021, the City Council adopted Resolution No. 28-21("Resolution"), (re)forming a new Morro Bay Tourism Business Improvement District ("MBTBID"), in accordance with the provisions of the 1994 Law, for a five (5) year term, beginning July 1, 2021 through June 30, 2026, and to include within its boundaries all lodging business and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay.

3. This new MBTBID was formed under the 1994 Law to replace the previous Morro Bay Tourism Business Improvement District established on April 27, 2009, pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code sections 36500 *et seq.*, ("1989 Law").

4. The Resolution was adopted to modernize the MBTBID by allowing the MBTBID created via the 1989 Law to expire and re-establishing the MBTBID pursuant to the 1994 Law.

5. The new MBTBID established under the 1994 Law provides for a more stream-lined approach than the provisions provided by the 1989 Law. Many cities find the 1994 Law more efficient and practical than the 1989 Law for establishment and operation of tourism business improvement districts.

6. A MBTBID Management District Plan ("Plan") was proposed by the lodging business and vacation rental business owners who petitioned the City Council for the formation of the new MBTBID pursuant to the 1994 Law, and the Plan was approved by the City Council.

7. Contractor is designated in the Plan as the Owners' Association in accordance with Streets and Highways Code section 36612. Contractor was also designated in the Resolution of

Formation as the Owners' Association in accordance with Streets and Highways Code section 36612.

8. Streets and Highways Code section 36651 states if the Plan "designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services."

9. Pursuant to the Plan and Resolution, there is an assessment of three percent (3%) of gross short-term room rental revenue, to be levied on lodging businesses and vacation rental businesses within the MBTBID, to pay for sales, marketing, and communications programs to market assessed businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

10. Pursuant to the Plan and Resolution, the activities of the MBTBID will be funded by that assessment, the business owners are solely responsible for payment of such assessment when due, and such assessment will be collected by the City in accordance with Streets and Highways Code section 36631. Pursuant to the Plan, the City shall retain a fee equal to three percent (3%) of the amount of the assessment collected, to cover their costs of collection and administration.

11. Section V(A) of the Plan states that "Consistent with law, and for good cause as reasonably demonstrated to the satisfaction of the City Council, the City Council at a noticed public hearing may designate a different qualified private nonprofit entity as the Owners' Association of the MBTBID, to replace either Visit Morro Bay, or any subsequent designated Owners' Association."

12. Section V(A) of the Plan further provides that the "City reserves the right to conduct regular financial and/or operational audits, as reasonably determined to be appropriate by City in City's sole discretion, of the Owners' Association. Any such City audits will receive the full and unqualified cooperation and assistance of the Owners' Association, and upon request by City will be paid for in whole or part with MBTBID funds."

13. Contractor is willing to provide services to the City on the terms and conditions set forth in this Agreement.

14. The City and Contractor desire that this Agreement be deemed approved, executed and operative as of July 1, 2021.

AGREEMENT

1. TERM

This Agreement shall commence on July 1, 2021 and continue through June 30, 2026, or, if the MBTBID is disestablished prior to June 30, 2026, through the effective date of MBTBID disestablishment, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Contractor shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full.

3. PERFORMANCE

Contractor shall at all times faithfully, competently and to the best of their ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement. Contractor warrants that it has the ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner as reasonably determined by both parties.

4. CITY MANAGEMENT

City's City Manager, or his/her designee, shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Contractor.

5. PAYMENT

City shall forward to Contractor all MBTBID assessment funds collected within thirty (30) days of completion of the monthly collection process, less any City administrative fees and costs as authorized in the MBTBID Management District Plan.

6. SUSPENSION OR TERMINATION OF AGREEMENT

a) The City has and reserves the right, consistent with the 1994 Law, to suspend or terminate this Agreement at any time, consistent with applicable law, with or without cause, upon written notice to Contractor, except that where termination is due to the default of the Contractor, the period of notice may be the cure period set forth in Section 7. Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7 of this Agreement, however the Council will hold a noticed public hearing on the matter before taking any such action, unless the Owner's Association at issue requests in writing no such public hearing be noticed.

b) City Council, pursuant to Section V(A) of the Plan, consistent with applicable law, and for good cause as reasonably demonstrated to the satisfaction of the City Council, may at a noticed public hearing designate a different qualified private nonprofit entity as the Owners' Association of the MBTBID, thereby replacing Visit Morro Bay as the Owners' Association of the MBTBID, and upon such City Council action this Agreement will be terminated upon reasonable terms approved by City Council.

c) The City has and reserves the right to suspend, terminate or abandon the execution of any work by Contractor upon adoption of a resolution disestablishing the MBTBID pursuant to the 1994 Law. Per the 1994 Law, such a resolution may be adopted if (1) the Morro Bay City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district and a noticed hearing on disestablishment is held, or (2) in the thirty-day period following the anniversary of the district's formation, business owners paying fifty percent (50%) or more of the assessment file a written protest with the City and a hearing on disestablishment is held. Any retention of MBTBID revenues by Contractor shall comply with the 1994 Law.

7. DISPUTES AND DEFAULT OF AGREEMENT

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to forward any assessment monies collected to the Contractor. Instead, the City may give written notice to the Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days. During the period of time that Contractor is in default, the City shall hold all assessment monies collected and shall, when the default is cured, proceed with forwarding the assessment monies to the Contractor. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding assessment monies during the period of default. If the Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under Section 6 of this Agreement. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

8. TAXES

Payment of all applicable federal, state and local taxes shall be Contractor's sole responsibility.

9. DOCUMENTS AND RECORDS

a) Ownership of Documents. The work product prepared or acquired by Contractor pursuant to this Agreement including, but not limited to, any and all data, documents, memoranda, sketches, drawings, photographs, audio tapes, video tapes, computer disks, designs, plans, reports, investigations and materials (collectively and individually, the "Work Product") shall be and shall remain property of City and the MBTBID for the exclusive use of the MBTBID. With respect to any Work Product that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such Work Product is hereby deemed "works made for hire" for the City and the MBTBID. Contractor shall have the right to retain copies of the Work Product. Contractor acknowledges the Work Product shall be and shall remain confidential, to the extent permitted by law, and shall not be made available to any individual or organization without the prior written consent of City. Contractor shall maintain all Work Product in accordance with the California Public Records Act, Government Code section 6250 *et seq.* The Work Product shall, upon both demand of City as well as upon termination of this Agreement, be delivered to City without additional cost or expense to City.

b) Record Keeping. Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to disbursements of funds and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the City to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The City shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

10. INDEMNIFICATION

a) To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

i. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

ii. Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

iii. In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

b) Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof.

This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

11. INSURANCE

Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and part of this agreement.

12. INDEPENDENT CONTRACTOR

No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the City in any capacity whatsoever, and the City shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth or as provided for by law. Contractor shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

a) Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, unemployment insurance benefits, civil service protection, or employee benefits of any kind.

b) Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold City harmless from any and all liability which City may incur because of Contractor's failure to pay such amounts.

c) In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state Workers' Compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of City.

d) Contractor agrees to perform its work and functions at all times in strict accordance with all applicable federal, state, City and City laws, resolutions, regulations, titles, departmental procedures and currently approved methods and practices in the field; and that the sole interest of City is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with standards required by the City.

e) Notwithstanding the foregoing, if the City determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, City may upon two (2) week's written notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

f) Contractor represents and warrants that the personnel used to provide services to the City pursuant to this Agreement are classified by Contractor as employees. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a federal or state agency, a court of competent jurisdiction, or the California Public Employees' Retirement System ("CalPERS") to be classified as other than an independent contractor for the City, then Contractor shall indemnify, defend, and hold harmless the City for the payment of any and all assessed fines, penalties, judgments, employee and/or employer contributions, and any other damages and costs assessed to the City as a consequence of, or in any way attributable to, the assertion that Contractor or any staff Contractor used to provide services under this Agreement are employees of the City.

13. LEGAL RESPONSIBILITIES

Contractor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Contractor to comply with this Section.

14. UNDUE INFLUENCE

Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Contractor, or from any officer, employee or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or inequity.

15. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or

sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

16. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

a) All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents, or sub-contractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within City. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena. If Contractor provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

b) Contractor shall promptly notify City if Contractor, or any of its officers, employees, agents, or sub-contractors are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within City. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing, or similar proceeding. Contractor agrees to cooperate with City by providing the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

17. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, (iii) electronic mail when the recipient, by an email sent to the email address for the sender stated in this section, acknowledges having received that email, with an automatic "read receipt" constituting acknowledgment of an email for purposes of this section, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attention: City Clerk

Email Address:

To Contractor: 695 Harbor Street
Morro Bay, CA 93442

Email Address:

18. ASSIGNMENT

Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City.

19. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS

Contractor certifies that it is in compliance with the Equal Employment Opportunity Requirement of Executive Order 11246, as amended by Executive Order 11375 and supplemented I 45CFR, Part 60, Title VII of the Civil Rights Act and any other federal or state laws pertaining to equal employment opportunity and that it shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, age, sex, national origin, ancestry, marital status, political affiliation or physical or mental condition, in matters pertaining to recruitment, hiring, training, upgrading, transfer, compensation or termination.

20. LICENSES AND PERMITS

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses and permits required of it by law for the performance of the services described in this Agreement, and Contractor shall obtain at its sole cost and expense all such licenses and permits. Contractor shall comply with all necessary licensing and permitting requirements and shall obtain appropriate licenses and permits, and display the same in a location that is reasonably conspicuous, and file copies of same with the City.

21. GOVERNING LAW

City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall be instituted in a court of competent jurisdiction with venue in County of San Luis Obispo, State of California.

22. AMENDMENTS

a) General. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

b) Services. The services to be provided hereunder shall be subject to any changes in the Plan. Such changes, which are mutually agreed upon by and between City and Visit Morro Bay, after a hearing process pursuant to the 1994 Law, and pursuant to all other provisions of the 1994 Law, shall be incorporated in written amendments to this Agreement.

23. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

24. ASSETS OF MBTBID

In the event the MBTBID is disestablished or otherwise discontinued, the existing assets of the MBTBID shall only be used, and will be refunded, in accordance with the 1994 Law. In the event the City terminates or suspends this Agreement with Visit Morro Bay, and the City designates a replacement Owners' Association, Visit Morro Bay shall transfer all existing assets of the MBTBID in a timely manner to such replacement Owners' Association consistent with the 1994 Law.

25. ATTORNEY FEES

If any action is brought in law or equity to enforce or interpret the provisions of the Agreement, then the prevailing party shall be entitled to reasonable attorney fees in addition to any other relief to which it may be entitled.

26. SEVERABILITY

If any clause, provision, or section of the Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

27. WAIVER

Waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

28. SECTION HEADINGS

The section headings of the Agreement are for convenience and reference only, and shall in no way be deemed to define, limit or add to the meaning of any provision of the Agreement.

29. INTERPRETATION

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

30. COUNTERPARTS

The Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

31. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

32. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Contractor warrants and represents he/she has the authority to execute this Agreement on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

CITY:
CITY OF MORRO BAY, a California municipal corporation

By: _____
Scott Collins, City Manager

Date: _____

Attest:

_____
Dana Swanson, City Clerk

Date: _____

Approved As To Form:

_____
Chris F. Neumeyer, City Attorney

Date: _____

CONTRACTOR:
VISIT MORRO BAY, a California non-profit corporation

*By: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

Date: _____

*By: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

Date: _____

***Two corporate officer signatures required from Contractor, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

On _____, 2021 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER
_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER_____
_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))
_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

On _____, 2021 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

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☐ INDIVIDUAL
☐ CORPORATE OFFICER
_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER_____
_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))
_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT A
Scope of Services

Contractor shall fully and timely cooperate with City and City staff in the performance of all work hereunder, and Contractor shall provide the following services:

1. Timely perform all owners' association services detailed in the MBTBID Management District Plan ("Plan"), attached as Exhibit C and incorporated herein as if set forth in full.

2. Diligently adhere to all requirements for the MBTBID Owners' Association in the Plan.

3. Provide projects, programs and activities that benefit businesses within the MBTBID in accordance with the Plan.

4. Perform all responsibilities of an Owners' Association under the Property and Business Improvement District Law of 1994, Streets and Highways Code sections 36600 *et seq.* (the "1994 Law"), including, but not limited to:

    a. Preparation of an annual report pursuant to Streets & Highways Code section 36650 ("Annual Report") as required by the 1994 Law, to include, but not be limited to:
        i. Any recommended changes to boundaries;
        ii. The improvements and activities to be provided for that fiscal year;
        iii. An estimate of cost for providing the improvements and activities for that fiscal year;
        iv. The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his/her business for that fiscal year;
        v. The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year; and
        vi. The estimated amount of any contributions to be made from sources other than the assessments levied pursuant to the 1994 Law.

    b. Delivering to the Morro Bay City Council the Annual Report at least thirty (30) days preceding the fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities.

    c. Management of the assessments levied pursuant to the 1994 Law for the benefit of the MBTBID in accordance with the City Council approved Annual Report.

    d. Provision of all services for improvements and activities called for in the City Council approved Annual Report.

5. Develop and maintain financial records related to receipt and/or expenditure of all funds received from City to the full satisfaction of City staff in accordance with this Agreement.

EXHIBIT B
INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Agreement, Contractor will maintain insurance in conformance with the requirements set forth below. Contractor will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy from CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than $1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than $1,000,000 per accident. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way to perform the Scope of Services, then Contractor shall provide evidence of personal auto liability coverage for each such person.

Property Damage Insurance in an amount of not less than $1,000,000 for damage to the property of each person on account of any one occurrence.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum $25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Contractor, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than $1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of Contractor and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than $2,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Best's rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Contractor. Contractor and City agree to the following with respect to insurance provided by Contractor:

1. Contractor agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City of Morro Bay, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Contractor also agrees to require all Contractors, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Contractors and subcontractors to do likewise.

3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Contractor or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by City, as the need arises. Contractor shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to

Contractor's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at City's option.

8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Contractor or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self-insurance available to City.

9. Contractor agrees to ensure that subcontractors, and any other party involved with the Scope of Services who is brought onto or involved in the Scope of Services by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Scope of Services will be submitted to City for review.

10. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Contractor, Subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of the Scope of Services to self-insure its obligations to City. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to City. At the time City shall review options with Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

11. City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving Contractor ninety (90) days advance written notice of such change. If such change results in substantial additional cost to Contractor, the City will negotiate additional compensation proportional to the increase benefit to City.

12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

13. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any insurance requirements in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

14. Contractor will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason.

Termination of this obligation is not effective until City executes a written statement to that effect.

15. Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Contractor's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

16. The provisions of any workers' compensation or similar act will not limit the obligations of Contractor under this agreement. Contractor expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

18. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.

19. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

20. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the Scope of Services reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

21. Contractor agrees to provide immediate notice to City of any claim or loss against Contractor arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

EXHIBIT C
MBTBID Management District Plan
Adopted by Morro Bay City Council on June 8, 2021 through Resolution No. 28-21

LEASE AGREEMENT

AGREEMENT

This lease agreement ("Lease") is made and entered by and between the CITY OF MORRO BAY, a California municipal corporation, and hereinafter referred to as "LESSOR" and/or "City," and VISIT MORRO BAY, a California non-profit corporation, hereinafter referred to as "LESSEE." and/or "VMB."

RECITALS

WHEREAS, LESSOR is the owner of a 2,400-squarefoot office building located at 695 Harbor Street, Morro Bay, CA (the "Premises"); and

WHEREAS, LESSEE is organized to encourage a strong local economy and quality of life by promoting the Morro Bay community as a top coastal destination; and

WHEREAS, LESSEE has special knowledge and experience to effectively promote overnight visitation to the community, for the benefit of LESSOR; and

WHEREAS, LESSOR and LESSEE have mutual interests in enhancing the economic growth and vitality of the community and have entered into an agreement for the provisions of tourism marketing services for Fiscal Years 2021/2022; and.

WHEREAS, LESSOR and LESSEE desire to enter into a new lease agreement for Suites C and G of Premises comprising a combined area of 300 square feet, equal to twelve and one-half percent (12.5%) of the gross leasable area of the Premises (the “Leased Premises”).

NOW, THERFORE, IT IS AGREED AS FOLLOWS:

1. LEASE: LESSOR hereby leases to LESSEE and LESSEE agrees to accept from LESSOR the lease of the portions of the Leased Premises as described in Section 4., below.

2. RENT: During the term on this Lease, LESSEE agrees to pay the sum of $1.00, payable in advance on July 1st of each fiscal year covered under this agreement (the “Rent”) for the use of the Leased Premises and the Additional Access Areas, define below. The Rent has been determined to be the fair market value of the Leased Premises considering the fair market rent for the Leased Premises, the direct economic benefits of LESSEE’s services to City, and LESSEE’s agreement to provide services to the lodging community in general. LESSEE and LESSOR agree the Rent and terms and conditions specified herein are and continue to be material considerations in establishing the terms and conditions of the agreement for economic development services agreement and the LESSOR’s agreement to provide services to the general business community.

3. TERM: The term of this Lease shall commence on July 1, 2021 and terminate without notice on June 30, 2022, unless sooner terminated as a herein provided. Any holdover of possession of the Leased Premises by LESSEE beyond this Term shall constitute a month-to-month tendency on the same terms and conditions of this Lease and LESSEE agrees to vacate the Leased Premises upon thirty-days’ prior written notice from LESSOR; provided, that the Rent shall be increased to $1.00 per calendar month due and payable on the first day of each month, commencing with July 1, 2022.

4. LEASED PREMISES: The Leased Premises for purpose of this Lease shall include Suite G and Suite C of Premises that, combined, total approximately 300 square feet. LESSEE shall have access to and use of, but not control of, common areas of the Premises, including both bathrooms, the foyer, the conference room, hallways, entranceways, and the kitchen (the "Additional Access Areas").

5. USE OF LEASED PREMISES AND THE ADDITIONAL ACCESS AREAS: LESSEE shall use the Leased Premises and the Additional Access Areas solely for the purpose of operation of VMB business, including, but not limited to, (i) promoting Morro Bay as a top coastal destination,(ii) providing services described under the Agreement for Contractor Services, or other agreements City and VMB may enter into from time to time and (iii) coordinating with the Morro Bay Chamber (who currently leases a portion of the Premises) on mutually beneficial economic development activities.

6. FIXTURES AND ALTERATIONS: LESSEE shall not make, or cause to be made, any alterations, additions or improvements, of a substantial nature, or make any structural changes in the building (the "Improvements") without first notifying LESSOR and obtaining prior written approval from LESSOR for the Improvements. In the event the Improvements include any structural change, LESSEE shall supply to LESSOR plans and specifications for such work, and obtain prior written approval. LESSEE shall be responsible for all costs associated with any of the Improvements. All permits necessary for the Improvements, shall be at LESSEE'S expense and obtained prior to any work on any of the Improvements.

7. ITEMS INSTALLED BY LESSEE: All decorations and additions and any of the Improvements in the Lease Premises, except for structural changes, made by LESSEE shall remain the property of LESSEE for the term of this Lease or any extension or renewal thereof. Upon expiration of this Lease, or any renewal term thereof, LESSEE shall remove all decorations and additions and those portions of the Improvements that are LESSEE property, and restore the Leased Premises, ordinary wear and tear excepted, to its condition at the time of original occupancy, unless written approval is obtained by LESSOR to allow such decorations, additions or the Improvements to remain.

8. SECURITY: LESSOR agrees to provide locks on doors of the Premises and the Leased Premises, the latter of which is to be used exclusively by LESSEE for the uses described herein, and to provide keys for access to Premises and Leased Premises. LESSOR shall also provide access to the Premises at the rear entrance for others to access the Premises without access to Leased Premises.

9. MAINTENANCE: LESSOR shall be responsible for the overall interior and exterior maintenance of the Premises and Leased Premises, and for the maintenance and repair of major building systems, including HVAC, mechanical, plumbing, and electrical systems and access to telephone, cable, and internet services. LESSOR shall have no duty, obligation, or liability whatever to rebuild and portion of the Premises or surrounding grounds, if any or all of them are destroyed, except at its sole discretion. LESSEE shall be responsible for cable, phone and internet service to the Leased Premises.

10. SURRENDER OF LEASED PREMISES AND ADDITIONAL ACCESS AREAS: At the expiration of the tenancy hereby created, LESSEE shall surrender the Leased Premises in the same condition as the Leased Premises were upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and damage by unavoidable casualty not within the reasonable control of LESSEE excepted. LESSEE shall thereupon remove all its fixtures, and any alterations or improvements as provided above before surrendering the Leased Premises and shall repair any damage to the Leased Premises caused thereby, and shall

surrender all keys for the Premises and Leased Premises to LESSOR. LESSEE's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease.

11. INSURANCE: LESSEE shall, during the full term of this Lease, keep in full force and effect an appropriate policy of liability and property damage insurance with respect to the Leased Premises in the minimum amounts of $1,000,000 each. The policies shall name LESSOR and its officers, employees and representatives as additional insureds and shall contain a clause the insurer will not cancel or change the insurance without first giving LESSOR 10-days' prior written notice. LESSEE shall exhibit to LESSOR, at any time upon demand, a certificate of insurance, or other evidence of insurance, and shall keep such policies in effect during the full term of this Lease or any extensions thereof.

12. FIRE, EXTENDED COVERAGE: LESSEE agrees to purchase and maintain, during the full term of this Lease or any extensions thereof, a policy of fire, extended coverage, insurance, which policy shall not be less than 100% of the replacement value of the Leased Premises. The cost of such insurance shall be at the sole cost of LESSEE.

13. INDEMNIFICATION: LESSEE agrees to indemnify, defend and hold harmless LESSOR, its offices, directors and agents, from and against any and all claims, actions, damages, liability, expenses, costs and reasonable attorney's fees resulting or related to any loss of life, personal injury or damage to property, or any other liability, arising out of any occurrence related to the Leased Premises, or the occupancy or use by LESSEE of the Leased Premises, occasioned wholly or in part by any act or omission of LESSEE, its agents, contractors, employees, servants, lessees or concessionaires, or for any act or omission by LESSOR in furtherance of the interests of LESSEE for any reason in connection with this Lease.

14. UTILITIES, COMMON AREA MAINTENANCE & TAXES: LESSEE shall be responsible for and promptly pay twelve and one-half percent (12.5%) of all charges for heat, water, gas, electricity or any other utility used or consumed on the Premises, including any deposits demanded by any utility, based on the previous Fiscal Year average monthly cost for all identified utilities, but not to exceed $75.00 per month. LESSEE shall pay the aforementioned rate plus an annual Cost of Living Adjustment to the maximum monthly cost, based on the July CPI-U from the Los Angeles-Riverside-Orange County area beginning with the City's FY 20-21 Budget Year. LESSEE agrees to pay, at its sole cost and expense, any possessory interest tax that may be assessed as a result of this Lease.

15. ASSIGNMENT AND SUB-LETTING: LESSEE will not assign this Lease, in whole or in part, nor sublet all or any part of the Leased Premises without the prior written consent of LESSOR, which may be withheld at LESSOR'S sole discretion.

16. GOVERNMENTAL REGULATIONS: LESSEE shall at LESSEE's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable government authorities, now in force, or which may hereafter be in force, pertaining to the Leased Premises, and shall faithfully observe in the use of the Leased Premises all municipal and county ordinances, and all state and federal statutes now, or which may hereafter be, in force.

17. DESTRUCTION OF LEASED PREMISES: If the Leased Premises shall be damaged or destroyed by fire, the elements, unavoidable accidents, or other casualty, then insurance proceeds payable by reason thereof shall first be applied to the repair, reconstruction, and renovation of Leased Premises before any other payments, including the repair, reconstruction or replacement of LESSEE'S property.

18. CONDEMNATION: In the event any or all of the Premises are taken, in whole or in part, through the exercise of any power of eminent domain exercised by any state, federal or local agency (including LESSOR) having the power thereof, any sums paid by such condemning authority shall be paid to LESSOR. LESSEE hereby waives any and all of its rights and benefits payable under applicable federal or state relocation assistance laws if the City is the condemning authority.

19. DEFAULT: In the event of any failure of LESSEE to perform any of the terms, conditions or covenants of this Lease to be observed or performed by LESSEE for more than 30 days after written notice of such default shall have been given to LESSEE, or if LESSEE shall abandon the Leased Premises, then LESSOR, besides other rights or remedies it may have, shall have the immediate right of reentry and may remove all persons and properties from the Leased Premises without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

20. ENTIRE AGREEMENT: This Lease, and any exhibits attached hereto and forming a part hereof set forth all the covenants, promises, agreements, conditions and understanding between the parties concerning the Leased Premises, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them, other than or herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon either party unless reduced to writing and signed by both.

21. NOTICE: Any notice, demand, request or other instrument which may be required to be given under this Lease shall be deemed delivered when sent by ordinary United States Mail, postage prepaid, addressed to LESSOR care of its City Manager, or LESSEE care of its then acting President.

22. PARTIAL INVALIDITY/SEVERABILITY: If any term, covenant or condition of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid, or unenforceable, shall not be affected thereby; and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. If the length, term or duration or this Lease, in any way is in violation of any statute, law or Constitution or is invalid for any reason whatsoever, then this Lease shall be deemed a Lease from year to year, and all other provisions hereunder shall remain the same.

23. CALIFORNIA LAW: This Lease shall be interpreted, construed, and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Lease shall be instituted in the Superior Court of the County of San Luis Obispo, State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of San Luis Obispo, State of California.

24. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES: No officer or employee of the City shall be personally liable to the LESSEE, or any successor in interest, in the event of any default or breach by the LESSOR or for any amount, which may become due to the LESSEE or to its successor, or for breach of any obligation of the terms of this Lease.

25. INTERPRETATION: The terms of this Lease shall be construed in accordance with the meaning of the

language used and shall not be construed for or against either party by reason of the authorship of this Lease or any other rule of construction which might otherwise apply.

26. COUNTERPARTS: This Lease may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of November, 2021, at Morro Bay, California

CITY OF MORRO BAY

By: _____
Scott Collins,
City Manager

VISIT MORRO BAY, INC.

By: _____
Michael Wambolt, Chief Executive Officer

By: _____
Chairman, "VMB" Visit Morro Bay, Inc. Board of Directors

VM

Approved as to Form:

_____
CHRIS F. NEUMEYER
City Attorney

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AGENDA NO: A-9

MEETING DATE: November 9, 2021

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DECLARING NOVEMBER 2021 AS "NATIONAL HOSPICE AND PALLIATIVE CARE MONTH"

CITY COUNCIL
City of Morro Bay, California

WHEREAS, for more than 40 years, hospice has helped provide comfort and dignity to millions of people, allowing them to spend their final months at home, surrounded by the people important to them; and

WHEREAS, the hospice model is built on an interdisciplinary, team-oriented approach to treatment and support, including expert medical care, quality symptom control, and comprehensive pain management as a foundation of care; and

WHEREAS, beyond providing clinical treatment, hospice attends to the patient's emotional, spiritual and social needs, and provides family services like caregiver training, respite care, and bereavement support; and

WHEREAS, community-based palliative care, which delivers expertise to improve quality of life through pain and symptom control and other support, can be provided at any time during a serious illness, and given that hospice organizations are some of the best providers of community-based palliative care; and

WHEREAS, in an increasingly fragmented and broken health care system, hospice is one of the few sectors that demonstrates how health care can – and should – work at its best for the people it serves;

WHEREAS, 1.61 million Medicare beneficiaries living with life-limiting illness and their families received care from the nation's hospice programs in communities throughout the United States in 2019;

WHEREAS, over the course of the last two decades, we have seen increasing access of hospice care by Black and Hispanic Medicare beneficiaries, yet National Hospice and Palliative Care Organization (NHPCO) recognizes that continued efforts to improve care to diverse communities is essential;

WHEREAS, data shows significant changes in patient diagnoses, calling for innovation in how hospices provide care to those in need;

WHEREAS, hospice and palliative care organizations are advocates and educators about advance care planning that help individuals make decisions about the care they want;

NOW, THEREFORE, BE IT RESOLVED that Morro Bay City Council does hereby proclaim November 2021 as **National Hospice and Palliative Care Month** and encourage all Americans to increase their knowledge about person-centered, holistic care for all individuals facing serious and life-limiting illness, discuss their health care wishes with those they care about, and mark this month with appropriate learning and sharing.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 9th day of November 2021

_____
JOHN HEADDING, Mayor
City of Morro Bay, California

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AGENDA NO: A-10

MEETING DATE: November 9, 2021

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY RECOGNIZING NOVEMBER AS "FAMILY COURT AWARENESS MONTH"

CITY COUNCIL
City of Morro Bay, California

WHEREAS, the mission at One Mom's Battle (OMB) and the Family Court Awareness Month Committee (FCAMC) is to increase awareness on the importance of a family court system that prioritizes child safety and acts in the best interest of children; and

WHEREAS, the mission at the FCAMC is to increase awareness on the importance of education and training on domestic violence, childhood trauma and post separation abuse for all professionals working within the family court system; and

WHEREAS, the mission at the FCAMC is to educate judges and other family court professionals on the empirical data and research that is currently available. Such research is a critical component to making decisions that are truly in the best interest of children. This research includes The Adverse Childhood Experiences (ACE) Study (CDC-Kaiser Permanente), Saunder's Study (US Department of Justice), The Meier Study: Child Custody Outcomes in Cases Involving Abuse Allegations, and the Santa Clara Law Study (Confronting the Challenge of High-Conflict Personality in Family Court); and

WHEREAS, the mission at the FCAMC is fueled by the desire for awareness and change in the family court system while honoring the 100(+) children in the United States who have been murdered by a parent after a custody court rejected the other parent's plea for protection (Source: Center for Judicial Excellence).

NOW, THEREFORE, BE IT RESOLVED that Morro Bay City Council does hereby recognize the important work done by FCAMC and OMB, and hereby proclaims the month of November to be Family Court Awareness Month.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 9th day of November 2021

_____

JOHN HEADDING, Mayor
City of Morro Bay, California

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AGENDA NO:	**B-1**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 29, 2021**

FROM: **Cindy Jacinth, Senior Planner**

SUBJECT: **Appeal of Planning Commission Approval on September 7, 2021 of the Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP21-05 for construction of a new 6-unit 5,042 square foot (sf) blufftop hotel at 205 Harbor Street in the C-VS/PD zoning district. This property is also located in the coastal appeals jurisdiction. (Appellant: Betty Winholtz)**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 75-21, making the necessary findings to deny the appeal and uphold the Planning Commission (PC) approval of Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP2-05, for the site at 205 Harbor Street to allow construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets and removal of major vegetation and seven on-site parking spaces.

ALTERNATIVE

The City Council could move to uphold the appeal and remand the project back to the Planning Commission for review of revised project as directed by Council.

FISCAL IMPACT

The project is in the Coastal Appeals Jurisdiction and, therefore, there is no fee required to file an appeal for land use decisions. Cost for staff time necessary to evaluate the appeal, coordinate with the Appellant, prepare the staff report, conduct noticing, and attend Council hearing are paid by the City's General Fund. Those unreimbursed costs create a negligible fiscal impact to the overall City budget. If the project is approved, as a commercial use, then the hotel will contribute transient occupancy taxes to the City's General Fund.

BACKGROUND

March 2, 2021 Conceptual Review meeting

On March 2, 2021, the Planning Commission (PC) considered a conceptual review item for a potential blufftop hotel project at 205 Harbor Street. The purpose of conceptual review agenda items is to solicit PC feedback and input in advance of a full application. The type of requested feedback on conceptual reviews can vary based on project specifics but have previously been found by applicants to be helpful guidance in the discretionary review process. The 205 Harbor St. project was brought forward to the PC to provide input and direction as it related to the architectural design and also due to its visible bluff location one block east of the Embarcadero. At the March 2021 meeting, no action was taken

Prepared By: ___CJ____	**Dept Review: ____SG_____**
City Manager Review: ___SC_____	**City Attorney Review: __JWP_____**

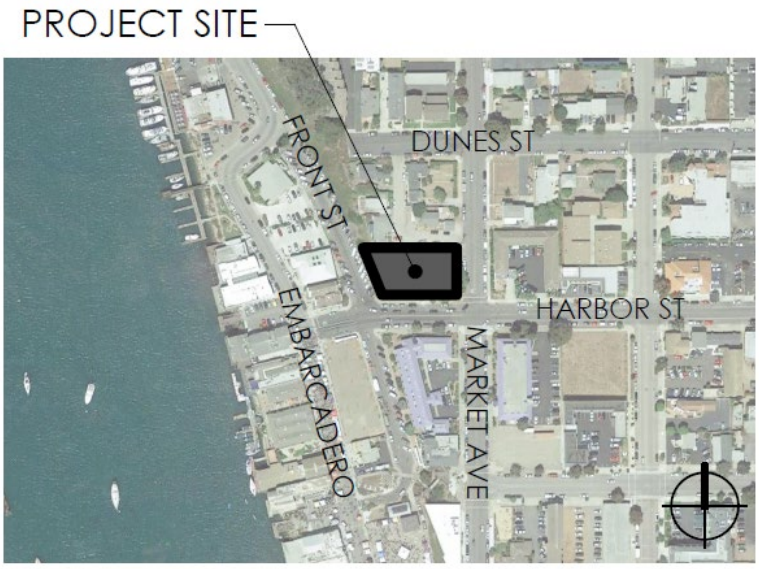
and the PC gave provided the following feedback:

- The discretionary permit application should include expanded visual simulations to determine neighborhood context
- Provide a detailed landscaping plan including with improved landscaping at the south and east elevations
- Liked the building design and choice of materials
- Liked the project's treatment of the bluff and bluff protection through proposed setbacks
- Remove trellis on rooftop deck
- Consider adding an EV charging space.

September 7, 2021 Planning Commission hearing

On September 7, 2021, the PC held a duly noticed public hearing to consider the Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP21-05 for the proposed hotel project. The application received by the City also included the architect's response to the March 2021 PC comments. The PC's review and deliberation considered the proposed project, the blufftop setting, architectural design and articulation, landscaping plan, the bluff setbacks, visual simulations to determine potential impacts and compatibility with adjacent commercial uses to the east and south and residential uses to the north.

At the end of the public hearing, the PC found the project to be consistent with the City's General Plan/LCP and approved the project with conditions. (Attachment C).



APPEAL:

On September 17, 2021, the City received one appeal (Attachment B) of the PC approval filed by Ms. Betty Winholtz, which requests relief or action regarding vegetation, height, parking, retaining wall, and low-cost visitor serving accommodations. The appeal claims and requested relief are paraphrased below with corresponding staff response. Both the appeal and requested relief cover

five main categories, which include vegetation, building height, parking requirements, retaining wall along Harbor Street, and low-cost visitor serving accommodations.

Appeal filed by Betty Winholtz (Appellant):

Appellant Claim #1: Major Public Vegetation Removal: The Appellant claims the March 2, 2021 staff report stated the trees near the corner of Market & Harbor Streets would remain (southeast elevation), which would provide mature landscaping to soften the building design features. However, in the approval hearing on September 7, 2021, the staff report included major vegetation removal of these corner trees and that was in direct contradiction to the previous staff report. The Appellant cites a section of the Urban Forest Management Plan which prescribes protocol for preservation of public trees during construction projects.
Appellant Requested Relief #1: Appellant requests the project be in alignment with the Urban Forest Management Plan and retain the trees as originally proposed in the March 2021 conceptual review meeting in order to soften the building design features.

Staff response: The March 2021 meeting was conceptual review only with preliminary plans shown to the PC with requested input on design and bluff setting. A CDP/CUP application was not applied for until May 25, 2021. No landscaping plan had been developed as of March and this was one of the requested items discussed by the PC at the March 2021 hearing, which was the PC preferred to see articulation changes and a more fully developed landscape plan in lieu of keeping these particular trees. The PC felt the existing trees would hide the architecture and entrance to the hotel lobby and detract from what is an important urban corner. Once the Applicant did apply, the elevations were revised to incorporate the feedback from the PC, including addition of windows, greater articulation, and tree removal at corner to better emphasize the importance of the lobby at the urban corner to create a design that engages with the street. The PC requested more windows to open up the building and a detailed landscaping plan to be included with the eventual application. The Urban Forest Management Plan, as described by the Appellant, does not apply to the project as the quoted section in the appeal form refers to the method of protecting existing trees during construction projects. It does not state that trees cannot be removed as part of a development application. Plans show proposed replacement trees consistent with the City's Major Vegetation Guidelines.

Updated site plan rendering with spa/retaining wall removed per PC condition #13 (southwest elevation)

Requested revised elevation at Harbor & Market depicting urban corner with added lobby window on Harbor, added wood finish and vertical window on Market Avenue and updated landscaping per PC comments regarding engaging with the street and pedestrians (southeast elevation)

Appellant Claim #2: Project is not subordinate to setting: Appellant states the height of the structures changed from the March meeting to the September hearing. Appellant claims the pitched roof design is out of character with the surrounding area and could be lowered, while citing Morro Bay

Municipal Code (MBMC) 17.48.210 regarding corner lot sight lines. In addition, the Appellant states the purpose of bluff development standards is to protect public views and maintain the character of the bluff setting and must mitigate potential adverse visual impacts, and the perspective of the simulations backs up a block or two, which incorrectly makes the height appear to have less impact.
Appellant Requested Relief #2: Appellant requests the project height be lowered to 25-27 feet in the bluff top setback area to more closely maintain the character.

Staff response: At both the March conceptual review meeting and the September hearing, the PC stated they like the design of the project specifically noting the density and site plan suits the site with the staggered structures and the fact it steps up the slope. By providing the lobby at Harbor and Market, it creates an important urban corner with public views opened up as one goes west down Harbor Street. The design as separate structures avoids the project from feeling massive, it reinforces the natural bluff while maintaining a light touch. To underscore this point at the September 7, 2021 hearing, the PC added Condition #13 to revise plans to remove the proposed spa area and associated retaining wall along Harbor Street, finding the height of the retaining wall to be too massive in order to maintain the natural bluff setting and character. Furthermore, the PC specifically requested visual simulations in order to evaluate the compatibility with the neighboring uses across the street from multiple corners. The height is compliant with the bluff top setback and height requirements. The corner lot sight lines, as referenced in MBMC 17.48.210, which states on corner lots, "…there shall be a triangular area at the corner of the property at the intersection of the streets, which shall be kept clear of visual obstructions from the height of thirty-six inches to seven feet. Such triangular area shall have sides which extend a minimum of ten feet along each street…", is intended to address visual obstructions in the right of way for pedestrian and vehicle safety and not buildings for which the project meets the building setbacks.

Appellant Claim #3: **Parking**: The Appellant states Electronic Vehicle (EV) parking was not required and the rooms are actually short-term vacation rentals (STRs) based on the size of rooms, kitchens, and lack of a manager's unit and, therefore, the proposed 7 parking spaces are insufficient. Appellant further states overflow parking will spill onto the adjacent Pelican Place.
Appellant Requested Relief #3; Require EV; recognize these units are short-term vacation rentals so additional parking is required. Or limit guest occupancy of units.

Staff response: At the March conceptual review meeting, the PC requested consideration of adding an EV space. No space was proposed by the Applicant, although they are in favor of including in the future depending on market demand. Staff consulted with Building Division staff and confirmed the 2019 Green Building Standards Code section 5.106.5.3.3 does not require EV parking on a development this small. The project was approved by a PC as a 6-unit hotel project and includes a guest lobby, which was increased in size from the March conceptual plans. Hotels projects are not precluded from having a kitchen nor required to include a manager's unit and the project is compliant with the parking requirements for a hotel of this size with provision of 7 spaces.

Appellant Claim #4: **Retaining Wall:** Appellant states the PC staff report for the September meeting did not note the retaining wall was added to the plans, but the PC removed it.
Appellant Requested Relief #4: Abide by the PC amendment to eliminate the retaining wall.

Staff Response: The staff report included an attachment and project plans, which showed an added spa and retaining wall. The PC Condition #13 requires it to be removed and the plans submitted with this time for the City Council review were updated to reflect removal of the spa and associated retaining wall and are included as Attachment D. This change is also reflected in the site plan image

on the page 3, above.

Appellant Claim #5: **Low Cost Visitor Serving:** Appellant states the size of the hotel rooms and amenities affirms this is not a low-income visitor serving project and a 4-year old survey that does not include the upscale hotels to be built is insufficient to satisfy Section 30213 of the Coastal Act.
Appellant Requested Relief #5: Require one unit to be affordable in compliance with Section 30213 of the Coastal Act.

Staff Response: Grant funding received from the Coastal Commission allowed the City to do an analysis of the Low Cost Accommodation requirement, as specified in the City's Local Coastal Plan (LCP) and also Section 30213 of the Coastal Act. This resulted in a technical memo (See online link below) that informed policy included in Plan Morro Bay. The memo concluded, unlike many other coastal cities, Morro Bay has an adequate supply of lower cost accommodations. When reviewed by Coastal staff, they accepted the memo conclusions, except for the Embarcadero lease sites due to their unique location along the waterfront (Policy LU-6.5). As part of the Plan Morro Bay project, staff will continue to work with Coastal Commission staff on development of the Zoning Code Update (Coastal Implementation Plan – IP) to develop a full affordable accommodations policy that is consistent with the Land Use Plan (LUP) and updates the survey of all hotels and motels as directed by Coastal Commission staff and as noted in Implementation Action LU-12 and LU-14 through LU-17.

Furthermore, the Applicant has submitted proposed room rates which will vary between $250-$350 during non-peak and $350-$600 per night during peak season with the range depending on individual room location. The room sizes for the six units will vary between 651sf to 683sf with maximum occupancy of up to six persons, which has been designed to accommodate families or a small group of visitors. Although the room rates may appear high, in fact the project can be considered to be a moderate cost accommodation option due to several factors. The project proposes a variety of hotel amenities for guests including full kitchen with cooking and eating area, couch/living space, gas fireplaces, patios, common area roof deck and view courtyard with seating, game lawn, guest lobby for check-in guest assistance and information, bikes available for guest use, outdoor fire pit, and on-site parking. Policy LU-6.2 encourages a range of accommodation types where this project with larger hotel rooms and amenities as described including walking proximity to the downtown and waterfront recreational opportunities offers a waterfront-adjacent hotel opportunity that allows a larger accommodation space for guests. By adding a full kitchen and the extra outdoor amenities, the proposed hotel rooms increase the range of accommodation types in this area of town between the downtown and waterfront commercial areas as there are currently a limited number of hotels with similar accommodations and amenity offerings as shown in the table below.

In addition, the project has been designed as an affordable accommodation option to allow a family or group of visitors to take advantage of the higher occupancy allowed for in the proposed accommodations with no increase in the room rate. The hotel amenities contribute to the affordability by also offering lower cost alternatives such as saving money by cooking meals in the hotel room, and recreationally by utilizing the roof deck, enjoying the view courtyard, BBQ, outdoor firepit, playing games on the game lawn, and wifi connections. These are amenities that make the hotel more accessible to the general public. It does not displace existing visitor serving accommodations because the site is currently mostly vacant. The demolition of the existing building structures are not short term vacation rentals nor protected as deed restricted affordable housing. It would also be infeasible to provide on-site affordable rooms due to the small size of the development and reduced development footprint associated with the bluff development overlay requirements and setback restrictions.

Policy LU-6.4 requires accommodation inventory be regularly updated. Although the survey has not yet been updated since the LUP was just certified in August 2021. An informal survey of room rates in Morro Bay was prepared for this project along with consultation with Visit Morro Bay, the local tourism agency. This survey determined what the room rates would be for a family of four persons who are seeking a one-week hotel reservation for mid-January or mid-June (to reflect seasonal differences). Data tabulated by Visit SLOCAL, the County tourism organization showed for September 2021, the ADR or average daily rate for Morro Bay hotel was $194, which is the second lowest ADR within the coastal zone for the County. This compares to the 2019 Statewide ADR rate of $172 by Smith Travel Research (STR). Staff has concluded, the 205 Harbor Street proposed room rates are higher than several of the below neighboring hotels. Comparatively, the 205 Harbor Street rates with amenities provides a more affordable accommodation option overall for families and/or visitors.

Phone & Internet Survey of Neighboring Hotel Room Rates for family of 4 for a week				
Hotel Name	**January Room Rate**	**June Room Rate**	**Room Type**	**Amenities**
Blue Sail Inn, 851 Market Ave	$135.67	$166.14	2 Queens	Standard
Bay View Inn, 225 Harbor St	$99.00	$192.50	2 Queens	Microwave & mini-fridge
Beach Bungalows, 1050 Morro Ave	$100.04 or $111.15	$211.41 or $234.90	2 Queens or 2 Br. suite	Mini-fridge & coffee/tea station
Grays Inn, 561 Embarcadero	$220 (approx.)	$292.14	1 bedroom apt size with king bed & living room	Full kitchen with stove & dining amenities
Harbor House Inn, 1095 Main St	$104.00	$183.57	2 Queens	Microwave, mini-fridge, coffeemaker, internet
Salty Sister, 1170 Front St	$570.41	$715.84	2 master bedrooms	Full kitchen with gourmet appliances, and cookware for 12
Rock View Inn, 1080 Market Ave	$83.66	$156.17 average	2 Queens	Microwave & mini-fridge
The Landing, 780 Market Ave	$112.33	$270.25	2 Queens	Patio view, fireplace, microwave, mini-fridge, free wi-fi

The Appellant's requested relief is to require one of the six units be designated as affordable. Project review of this application found it to be unnecessary to provide low-cost rooms on-site, because, based on the above discussion, the policy only applies to Embarcadero lease sites properties and this property is neither on the water nor an Embarcadero lease site, and also because based on the Low-Cost Accommodations Technical Memo, the City currently has an adequate supply of affordable accommodations. Also, because the project, as designed and for the reasons stated, can be characterized as primarily a moderate-cost accommodation option for families and visitors; thus, no mitigation is needed nor is there a requirement to provide one of the six units as affordable.

Aerial map showing Project site and neighboring hotels surveyed 10/29/21:

CONCLUSION:

The PC review, deliberation, and resulting conditional approval of the Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP21-05 for 205 Harbor Street reflected a thoughtful and careful analysis of the proposed project features and consistency with the City's General Plan/Coastal Land Use Plan and Zoning Code.

The PC made adequate findings for approval of the coastal development permit and conditional use permit via PC Resolution No. 17-21 as conditioned (Attachment C) and staff supports this conditional approval. Staff recommends the City Council deny the appeal and adopt Resolution No. 7521.

ATTACHMENTS:

1) Council Resolution No. 75-21
2) Appeal filed by Ms. Betty Winholtz on September 17, 2021
3) Approved CDP/CUP Permit & PC Resolution No. 17-21
4) Updated Project Plans dated October 11, 2021 (indicating compliance with PC condition 13)
5) Powerpoint Presentation
6) Public Correspondence Received

Online documents:

- 3-2-21 Planning Commission conceptual review meeting, staff report, and attachments, Agenda item B-2 https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/5593
- 9-7-21 Planning Commission meeting, staff report & attachments, Agenda Item B-1 https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/5730
- Low Cost Visitor-Serving Accommodations Technical Memo, December 2017 http://www.morro-bay.ca.us/DocumentCenter/View/11734/Final-Low-Cost-Accommodations-Memo-Dec-2017?bidId=

RESOLUTION NO. 75-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, TO DENY THE APPEAL OF THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP21-019 AND CONDITIONAL USE PERMIT CUP21-05 FOR NEW CONSTRUCTION OF A 5,042 SF 6 GUEST-ROOM HOTEL IN THE C-VS/PD ZONE DISTRICT AND LOCATED IN THE COASTAL APPEALS JURISDICTION AT 205 HARBOR STREET

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

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing via video conference on September 7, 2021, for the purpose of considering approval of Coastal Development Permit CDP21-019, Conditional Use Permit CUP21-05 for new construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets. The project includes demolition of three existing single-story residential structures on-site, related accessory structures, and removal of major vegetation along Market Street at the northeast area of the property. The hotel includes the construction of two detached buildings with a view courtyard in the center of the property. The project is proposed as two-story on the east elevation and designed to step down the bluff with single-story on the west elevation. Seven parking spaces are proposed with hotel driveway access to be from Market Street. The property is subject to bluff development standards found in Morro Bay Municipal Code (MBMC) chapter 17.45, is located in the C-VS/PD zoning district and is located in the Coastal appeals jurisdiction ("Project"); and

WHEREAS, the City Council of the City conducted a public hearing via video conference on November 9, 2021, for the purpose of considering an appeal filed on September 17, 2021 of the Planning Commission approval of Coastal Development Pemrit #CDP21-019 and Conditional Use Permit #CUP19-05; and

WHEREAS, pursuant to the Governor's Executive Order N-08-21 issued on June 11, 2021 in response to the present State of Emergency in existence due to the threat of COVID-19, the City's Planning Commission and City Council were authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

WHEREAS, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

Section 1: Findings**.** Based upon all the evidence, the Council makes the following findings:

California Environmental Quality Act (CEQA)

For purposes of the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15303 Class 3c (new construction of small structures) whereas the project is designed as two commercial structures in total of 5,042 which is less than the threshold of under 10,000 feet. The project also submitted an archaeological and historical resources report prepared by CRMS dated April 18, 2019 that concluded the site did not meet the criteria as a historic or archaeological resource and where recommendations for archaeological monitoring during earth moving activities has been incorporated as a project condition.

Coastal Development Permit Findings

A. The project as proposed and conditioned is consistent with the applicable provisions of the certified Local Coastal Program. The Local Coastal Program is consistent with the General Plan and the project is an allowable use in its zoning district.

B. The City Council finds the project is consistent with and in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act in that the project is designed in its site layout to minimize adverse view impacts by complying with the bluff setback requirements in MBMC chapter 17.45, the project minimizes alteration of natural landforms, and preserves the character of the bluff setting by designing the project to step down the bluff as allowed in the Embarcadero area for bluff face and bluff buffer development. The 205 Harbor St hotel project complies with the development standards of the zone and complies with the Bluff development standards and policies for property located in the Embarcadero area as further described in the staff report presented to both the Planning Commission at its September 7, 2021 and the City Council meeting on November 9, 2021.

C. The City Council finds the project is consistent with the requirements for low cost visitor-serving accommodations as required by the Coastal Land Use Plan policies because the hotel as a transient use only is designed to accommodate families or small groups of visitors because the project consists of a 6-unit hotel with room sizes of 651 to 683 square feet allows visitors to take advantage of higher occupancy limits allowed for, provides an alternative type of accommodation consistent with Policy LU-6.2 by providing a range of amenities including kitchenette, roof deck, game lawn that make the hotel more accessible to the general public. It allows visitors staying at the hotel to save on other travel expenses such as food and recreation. It does not displace existing visitor serving accommodations. because the site is currently mostly vacant. The demolition of the existing building structures are not short term vacation rentals nor protected as deed restricted affordable housing. The hotel is also not located on the water or on Tideland properties and is therefore not subject to Policy LU-6.5. The project is also not required to provide mitigation or provide on-site affordable units because consistent with the City's Coastal Land Use Plan, the City has an adequate existing supply of affordable accommodations, and the project's proposed room rates and range of amenities compared to neighboring hotel rates and amenities as described in the staff report have been determined to be characterized as moderate-cost accommodations.

D. The removal of major vegetation, including two Hollywood Juniper trees on Harbor Street and three Fern Pine trees on Market Avenue, as shown on the landscape plan L-1, will not significantly impact any threatened or endangered plant or animal habitat area, and will avoid dangerous soil erosion or instability resulting from the removal and is consistent with the major vegetation policies for removal and replacement for which it meets the replacement requirement; and that the major vegetation removal will not adversely affect the character of the surrounding neighborhood, because the proposed landscaping plan has been designed to select trees and other plantings that are consistent with the City Street Tree list, compatible with the macro/microclimatic conditions of the region, drought tolerant, provide adequate screening and longevity.

Bluff Development Standards

A. The City Council finds the project, as conditioned, is consistent with the Coastal Land Use Plan and Bluff Development Standards specified in MBMC 17.45 for property located in the Embarcadero area between Surf Street and Anchor Street. The project protects public views to and along the ocean and scenic coastal areas, maintains the character of the bluff setting, has been designed to minimize physical alteration of the bluffs, provides restorative work to the bluff by maintain existing bluff face landscaping, provides native drought tolerant landscaping as shown on project plans, and has been designed to step down the bluff face without requiring the construction of protective devices or retaining walls that would alter natural landforms or impede public access.

B. In addition, pursuant to MBMC section 17.45.060, the project geologic reports and bluff study determination prepared by GeoSolutions and discussed in the September 1, 2021 staff report have been reviewed by the City Engineer for technical accuracy and soundness of conclusions drawn.

Conditional Use Permit Findings

A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the new construction of the hotel project has been designed to comply with the bluff setback requirement and two-story portion of the project is sited on the east side of the lot outside of the bluff area. The project is designed to step down the bluff complying with the bluff height requirements in MBMC chapter 17.45. The front setback exceeds the minimum requirement which is set back farther than the existing residential uses to the north. The view courtyard sited in the center of the property opens up a view corridor from Market across the site which minimizes view impacts. The proposed hotel project at 205 Harbor Street is a permitted use within the zoning district and said structures comply with all applicable project conditions and City regulations and is consistent with the City's Local Coastal Program.

B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the proposed hotel use will provide a visitor-serving commercial use consistent with the character of the surrounding area and consistent with the commercial design guidelines of the Downtown Waterfront Strategic Plan (DWSP).

Planned Development Overlay Finding

A. The City Council finds the project as conditioned is consistent with the Planned Development (PD) Overlay and project plans complies with the PD standards as well as concept and precise plan content as specified in MBMC section 17.40.030.

Architectural Consideration

A. As required by Ordinance Section section 17.48.200 the City Council finds the architectural treatment and general appearance of all proposed structures and open areas are in keeping with the character of the surrounding areas, are compatible with the design themes adopted by the city including the Downtown Waterfront Strategic Plan (DWSP), and are not detrimental to the orderly and harmonious development; of the city or to the desirability of investment of occupation in the area.

Section 2: Action. The City Council does hereby approve Coastal Development Permit (CDP21-019) and Conditional Use Permit (CDP21-05) with the following conditions of approval supported by the above findings.

STANDARD CONDITIONS

1. This permit is granted for the land described in the Council staff report dated October 29, 2021 and Planning Commission staff report dated September 1, 2021, for the project at 205 Harbor Street depicted on plans dated October 11, 2021, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on Planning Commission plans submitted for CDP21-019/CUP21-05, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Director. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.

4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees,

from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed herein shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

PLANNING CONDITIONS

1. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

2. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

3. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.

4. Architecture: Building color and materials shall be as shown on plans approved by the Planning Commission and specifically called out on the plans submitted for a Building Permit to the satisfaction of the Community Development Director.

5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Prior to requesting foundation inspection, a licensed land surveyor shall verify lot boundaries and building setbacks to the satisfaction of the Community Development Director. A copy of the surveyor's Form Certification based on a boundary survey shall be submitted with the request for foundation inspection.

6. Building Height Verification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the forms and submit a letter to the Community Development Director certifying that the tops of the forms are in compliance with the finish floor elevations as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structures is in accordance with the approved plans and complies with the maximum height requirements as approved for this project.

7. Inspection: The applicant shall comply with all City conditions of approval and obtain final inspection clearance from the Planning Division at the necessary time in order to ensure all conditions have been met.

8. A sign program including sign design and materials specifications consistent with the City's sign ordinance shall be submitted and approved prior to final occupancy of the project.

9. A complete Lot Merger application shall be approved and recorded prior to issuance of the building permit.

10. All utilities shall be undergrounded pursuant to MBMC 17.48.050.

11. An archaeological monitoring plan shall be submitted for review and approval by the Community Development Director that includes the CRMS April 18, 2019 report recommendation that monitoring during initial ground clearance and earthmoving activities be monitored by a qualified archaeologist and Native American monitor.

12. The recommendations by GeoSolutions in the Engineering Geology Investigation report dated April 29, 2021, the Soils Engineering Report Update by GeoSolutions dated May 10, 2021, and the GeoSolutions Top of Bluff Discussion report dated April 28, 2021, shall be incorporated into the building plans submitted for approval.

13. The project plans dated 8/25/2021 shall be revised to remove the proposed spa area and associated retaining wall along Harbor Street. The plans, just in the area of spa, shall be modified to reflect the original conceptual plan shown to the Planning Commission at their 3/2/2021 meeting. Revised plans shall be submitted for review and approval to the satisfaction of the Community Development Director.

BUILDING DIVISION CONDITIONS

A. CONDITIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:

1.) Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.

2.) The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3.) The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

4.) The owner shall comply with the City Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.

5.) A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.

6.) Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.

7.) BUILDING PERMIT APPLICATION: To apply for building permits, submit three (3) sets of construction plans, fire sprinkler plans, if applicable, and supplemental documents to the Building Division.

The Title sheet of the plans shall include:

a. Street address, lot, block, track and Assessor Parcel Number.
b. Occupancy Classification(s)
c. Type of construction.
d. Maximum height of the building allowed and proposed
e. Floor area of the building(s).
f. Fire sprinklers proposed or existing

g. Minimum building setback allowed and proposed

All construction will conform to the 2019 California Building Code (CBC), 2019 California Residential Code (CRC), 2019 California Fire Code (IFC), 2019 California Mechanical Code (CMC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Energy Code, 2019 California Green Building Code (CGBC), Title 14 and 17 of the Morro Bay Municipal Code.

(Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

1. SITE MAINTENANCE: During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust. A storm water management plan shall be maintained through the duration of the project. The storm water management measures such as fiber rolls, silt fencing, etc. will be enforced by City staff by random site visits.

2. ARCHAEOLOGICAL MATERIALS: In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

3. FOUNDATION SETBACK VERIFICATION: Prior to the placement of concrete and upon completed form installation, a licensed surveyor is required to measure and record the distance from the proposed foundation walls to the established lot lines. The contractor shall submit these findings in letter format to the building inspector upon the request for a foundation inspection. Letter shall specify the findings of front, sides and rear yard setbacks as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some lot types.

4. BUILDING HEIGHT VERIFICATION: Prior to roof sheathing or shear wall inspection, a licensed surveyor is required to measure and record the height of the structure. The contractor shall submit this finding in letter format to the building inspector upon the request for roof sheathing/shear wall inspection. Letter shall specify the recorded height of structure as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some site-specific projects.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF THE CERTIFICATE OF OCCUPANCY:

1. Prior to building division final approval and request for final inspection, all required inspections from the other various divisions and departments must be completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card. This permit card shall then be turned into the building division for scheduling of the final building inspection.

2. Any as-built drawings that were required by the building inspector or plans examiner must be submitted for approval prior to the request for final inspection.

3. If structural observations were required, the final structural observation report shall be submitted to the building division prior to issuance of the certificate of occupancy or final inspection approval.

4. If special inspections were required, the final special inspection report shall be submitted to the building division prior to the issuance of the certificate of occupancy or final inspection approval.

5. Final soils summary report from the geotechnical representative indicating compliance with the required conditions set forth in the soils report.

6. Final T-24 energy reports (Certificates of Installation).

PUBLIC WORKS CONDITIONS:

1. Lot Merger: all existing separate lots being developed must be merged, prior to building permit plan approval.

2. Stormwater Management: The City has adopted Low Impact Development (LID) and Post Construction requirements. All proposed projects must complete the "SFR Performance Requirement Determination Form" to determine if any requirements should be submitted. The requirements can be found in the Stormwater management guidance manual on the City's website www.morro-bay.ca.us/EZmanual (MBMC 14.48.140)

3. Large Peak Flood Control: Submit drainage calculations to show that post development peak runoff flows are reduced to within 5% of the pre-development flows from the 10, 25, 50 and 100-year rainfall events. (See attached Large Peak Flood Control Requirement sheet).

4. Frontage Improvements: The installation of frontage improvements is required.
   a. Show the installation of a 10-foot sidewalk along the frontage of Harbor Street and Market Avenue.
   b. Show the installation of two curb ramps, per Caltrans detail A88A. One at the corner of Harbor Street and Market Avenue. The other at the corner of Harbor Street and Front Street.
   c. Show the installation of standard Driveway Approach, per City standard detail B-6 and B-9.
   d. To buffer pedestrian crossing at corner of Harbor Street and Front Street, show

the installation of a bulb-out.
e. Show the installation of one street tree per every 50 foot of property frontage. Locate street trees 3-4' behind sidewalk. Street must be chosen from list of approved City street trees

5. Sewer Lateral: Indicate and label if private sewer lateral pipe will be replaced or to remain in place. If the existing sewer lateral is proposed to remain in place, then perform a video inspection of the lateral (from the clean-out at structure to the connection at the sewer mainline pipe) and submit to Public Works via flash drive, prior to building permit plan approval. Requirements for the sewer video inspection can be located on the City's website at the following location: https://www.morro-bay.ca.us/DocumentCenter/View/13500/Private-Sewer-Line-Video-Requirements. Lateral shall be upgraded, repaired or replaced as required to prohibit inflow/infiltration. All repairs or replacements identified from sewer video, shall be noted on approved set of plans, prior to plan approval. (MBMC 14.07.030)

6. Sewer Backwater Valve: Indicate and label sewer backwater valve on plan. A backwater valve, extended to and accessible from grade for maintenance, shall be installed on every Building sewer. Exception: Installation of backwater valve shall not be required when, to the satisfaction of Building Official, it is determined that the intent and purpose of this section is otherwise met. (MBMC 14.07.010.C).

7. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. Show on plans the control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.

8. Water Meter: Indicate and label new or existing water meter on plans and include size of meter(s). (MBMC 13.04.140)

9. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.

10. Utilities: Show all existing and proposed locations of the sewer lateral, water service, and water and sewer mains on the building plans. Include sizes where appropriate. Note the location of all overhead utilities and construction underground service entrances per the CBC.

11. Water Backflow Prevention Device: Verify and label all new or existing water backflow preventers. Water backflow preventer devices are required for fire water systems, irrigation systems (on a dedicated water meter), systems which may change in character of use (commercial rentals, etc.), gray water systems, or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. Add note to plan that device is required to be an approved domestic water backflow prevention device. (MBMC 13.08.040)

Add the following Notes to the Plans:

1. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be

repaired at no cost to the City of Morro Bay.

2. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permit application and requirements are available on the City's website at the following location: https://www.morro-bay.ca.us/197/Public-Works.
   - A standard encroachment permit shall be required for the proposed driveway; the driveway shall comply with B-9 (Driveway Ramps: Size & Location).
   - A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement.
   - If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by a temporary encroachment permit within the City right-of-way.

FIRE DEPARTMENT CONDITIONS

1. Demolition Site Plan, General Notes. Provide the following notation: Fire Safety During Construction and Demolition shall be in accordance with 2019 California Fire Code (CFC), Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Fire Protection Systems and Equipment. An approved automatic fire sprinkler system shall be provided throughout this project, pursuant to MBMC, section 14.60.200. Submit all plans and specification sheets for the required automatic fire sprinkler system to the Building Department for review and approval prior to installation. Sprinkler plans shall be submitted prior to issuance of a Building Permit. The sprinkler system shall be in accordance with National Fire Protection Association Standard (NFPA) 13.

3. Fire Alarms. Plans and specifications for the automatic fire sprinkler system and fire alarm system shall be submitted to Public Services Division for review and approval. The fire sprinkler and alarm systems shall be supervised by a central station and constructed in accordance with NFPA 72.

4. Fire Department access to equipment. Rooms or areas containing controls for Electrical, FAU, Alarm and Fire Sprinkler Systems shall be identified by approved and appropriate signage for Fire Department use.

5. Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street and shall be operable from inside to provide a full, clear opening without tools (CBC 310.4). Exception 2 may apply when fully sprinklered in accordance with NFPA 13.

6. Fire Extinguishers. A minimum of one 2A-10-BC extinguisher shall be provided for each floor area, so that travel distance does not exceed 75 feet. Extinguishers shall be serviced annually and shall have a current service tag attached.

7. Required water supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into

or within the jurisdiction (CFC 507.1). Provide the required fire-flow requirement as contained in CFC Table B105.1(2).

8. Fire hydrant where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. (CFC 507.5.1)

9. Elevator Car to Accommodate Ambulance Stretcher. Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretched 24-inches by 84- inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3-inches high and shall be placed inside on both sides of the hoist way door frame. (MBMC section 14.08.090)

10. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.

11. Key Boxes. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official. Provide a Knox Key Box for installation to the exterior of the structure. Obtain a Knox Application from Morro Bay Fire Department during business hours.

12. Fire Lanes. Access roads and fire lanes shall be provided and identified by approved signage to read: “Fire Lane, No Parking” stenciled over red-painted curbs and signage

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 9th day of November 2021 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST

_____
DANA SWANSON, City Clerk

Attachment 2

CITY OF MORRO BAY

Community Development Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6261

APPEAL FORM

In CCC Appeals Jurisdiction?

☑ YES – *No Fee*
☐ NO – *Fee Paid:* ☐Yes ☐No

Project Address being appealed:

205 Harbor St.

Appeal from the decision or action of (governing body or City officer):

☐ Administrative Decision ☐ Planning Commission ☐ City Council

Appeal of action or specific condition of approval:

Approval of new construction of a new 6-room two story 5,054sf bluff top hotel located at 205 Harbor Street in the C-VS/PD zoning district.

Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):

Coastal Development Permit (CDP21-019) and Conditional Use Permit (CUP21-05)

Date decision or action rendered:

September 7, 2021

Grounds for the appeal (attach additional sheets as necessary):

See attachment.

Requested relief or action:

See attachment.

Appellant (please print):	Phone:
Betty Winholtz	(805)772-5912

Address:

405 Acacia

Appellant Signature: Betty Winholtz **Date:** September 17,

FOR OFFICE USE ONLY	
Accepted by: Dana Swanson	Date appeal filed: 9/17/2021
Appeal body:	Date of appeal hearing:

GROUNDS FOR THE APPEAL:

1. Major Public Vegetation Removal:

In the Conceptual Staff Report of March 2, 2021, it was repeated 3 times that the "Fern Pine and Hollywood Juniper trees near corner of Market & Harbor Sts. would remain....which would serve to provide mature landscaping to soften the standing metal seam and plank siding features....Existing street trees are proposed to remain which would provide natural relief to this view." (March 2, 2021)

However, in the Approval Hearing on Sept. 7, 2021 the Staff Report 3 times identified "existing major vegetation removed which includes removal of 2 Hollywood Juniper on Harbor Street and 3 Fern Pine to be removed on Market Avenue....the major vegetation removal will not adversely affect the character of the surrounding neighborhood." This is in direct contradiction to the previous report. When asked during the Hearing if the trees were public or private, the trees were identified as public. The removal was not identified as a change.

Morro Bay's Urban Forest Management Plant (pages 105-106) states the protocol for the preservation of trees during construction projects:

"5. Construction Projects

The following guidelines have been developed to protect trees on City property during construction projects:

a. A root protection zone shall be defined by a minimum 42" high barrier constructed around any potentially impacted tree. This barrier shall be at the drip line or at a distance from the trunk equal to 6 inches for each inch of trunk diameter 4.5 feet above the ground if this method defines a larger area.

b. Should it be necessary to install irrigation lines within this area, the line shall be located by boring, or an alternate location for the trench is to be established.

The minimum clearance between an open trench and a street tree shall be one (1) foot or six inches for each inch of trunk diameter measured at 4.5 feet above existing grade if this method defines a larger distance. The maximum clearance shall be ten (10) feet.

c. At no time shall any equipment, materials, supplies or fill be allowed within the prescribed root protection zone unless otherwise directed by the agency.

It is recognized that failure to abide by these provisions will result in substantial root damage to trees that may not be immediately apparent. The City can therefore assess damages according to the International Society of Arboriculture standards and bill the responsible party."

2. Project is not subordinate to setting:

Moving from the Conceptual Review to the Approval Hearing, it was not noted that the height had changed from 25-27 feet height (March 2, 2021) to 30 feet (Sept 7, 2021) outside of the bluff setback area. From the simulation pictures, it is clear that the 30-foot pitched roofs are out of proportion and character with the surrounding area. To raise the roof 3-5 feet makes the 2-story buildings stick out even more "like sore thumbs." The height is not needed for living space, and could be lowered. What is the public benefit in raising the roof line? (MBMC7. 17.48.210 1- Corner lot sight lines.)

The purpose of the bluff development standards is to protect public views and maintain the character of the bluff setting. New development must mitigate potential adverse visual impacts; a tall, steep roof pitch does not minimize view impacts. This is a look for a ski resort, not a beach town. Nor can a "line of sight" or peek-a-boo view from the parking lot be seriously consider an "open view corridor."

The perspective of the simulations always backs up a block or two to make the height appear to have less impact. Maybe story polls are more realistic. While the City does not protect private views, there is no reason not to be neighborly to the hotel behind, when it is not necessary. The hotel to the south figured out how to fit in.

3. Parking:

Though the Planning Commission has the discretion to require EV, they left EV to the discretion of the builder.

During the Conceptual Review it was stated that these "rooms" were actually Short Term Vacation Rentals (STRs). This can be ascertained by the dimensions of the "rooms," presence of kitchens, and lack of a manger's unit (always present in a hotel). Acknowledging this makes a difference in parking requirements. If this was a true hotel: 1 car per room would suffice. As an STR, more parking spaces would be required per number of people. Where will that parking be?

The Staff Report identifies Pelican Place, the adjacent residential street, as "Non-conforming historical residential uses." In other words, this was residential before it was re-zoned commercial. A neighbor testified for the neighborhood that to expect overflow parking on Pelican Place would "be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood." It's a narrow, short street; there is no way it can handle overflow parking. He suggested a solution.

4. Retaining Wall:

From the Conceptual Review to the Approval Hearing, it was not noted in the Staff Report text that a higher, longer retaining wall was added. Fortunately, this was caught by the Planning Commission and removed.

5. Low Cost Visitor Serving:

The Staff Report states the "visitor accommodation [is] adjacent to a desired waterfront area." The size of the rooms/suites and the associated amenities affirms this is not a low income visitor serving project. A 4-year-old survey that noes not include the upscale hotels coming online in Morro Bay is insufficient to satisfy Section 30213 of the Coastal Act.

References: https://pismobeach.org/DocumentCenter/View/53764/LCVSA-Study- page 1, and https://documents.coastal.ca.gov/reports/2014/12/W3-12-2014.pdf page 12

Off point, but for the record, this project is removing 5 long term, low income, housing units, and replacing them with high-end visitor serving facilities.

REQUESTED RELIEF OR ACTION:

1. **Vegetation:** To be in alignment with the Urban Forest Management Plan, retain the public trees as originally proposed in the Conceptual Review to "soften" the features of the 2-story building.

2. **Height:** Retain the original proposed height of 25-27 feet in the bluff top setback area to more closely maintain the character of setting.

3. **Parking:** a) Require EV. b) Recognize that these are Short Term Vacation Rentals (with kitchens and no management unit) so additional parking is required. Or, limit occupancy so on site parking is sufficient. Restrict visitor parking from the residential street, Pelican Place.

4. **Retaining Wall**. Abide by Planning Commission's amendment to eliminate extended retaining wall.

5. **Low Cost Visitor Serving**. Require one unit be affordable. Bring this project into compliance with Section 30213 of the Coastal Act.

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

September 8, 2021

Chung Hsiao
9143 E Fairview Ave
San Gabriel, CA 91775

SUBJECT: Case No.: CDP21-019/CUP21-05 SITE: 205 HARBOR ST, APN #066-291-014, 015,016,017,018, & 019

Dear Mr. Hsiao,

At its regular meeting on September 7, 2021, the City of Morro Bay Planning Commission conditionally approved your request for Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP21-05 for construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets and removal of major vegetation and seven on-site parking spaces. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. ***Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department or the action is null and void.***

The approved Planning Commission Resolution 17-21 is attached and hereby incorporated as part of your Planning Permit # CDP21-019/CUP21-05. After deliberation, the PC added condition # 13 to the project which removed the proposed spa and associated retaining wall along Harbor Street, but did not add conditions related to their discussion on tree locations, electric vehicle charging spaces, or roof deck umbrellas.

Also find enclosed the Notice of Exemption (NOE) for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerks' office located in the County Government Building in San Luis Obispo. The filing fee is $50.00 and the County requires the original Notice of Exemption and at least one copy. Section 15062 (d) of the California Environmental Quality Act (CEQA) provides:

"The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply."

If you have any questions, please let me know at 805-772-6577.

Sincerely,

Scot Graham
Community Development Director

By:_____
Cindy Jacinth, Senior Planner

e-copy: Cathy Novak Consulting

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

COASTAL DEVELOPMENT PERMIT AND CONDITIONAL USE PERMIT

CASE NO: #CDP21-019/CUP21-05

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 205 Harbor Street

APPLICANT: Chung Hsiao

APN/LEGAL: APN #066-291-014, 015,016,017,018, & 019

DATE APPROVED: September 7, 2021 APPROVED BY: Planning Commission(Resolution 17-21)

CEQA DETERMINATION: Categorically Exempt, Section 15303, Class 3c (new construction of small structures) whereas the project is designed as two commercial structures of 5,042sf which is less than the threshold of 10,000 feet and whereas the project submitted an archaeological and historical resources report prepared by CRMS dated 4/18/2019 that concluded the site did not meet the criteria for significance and where recommendations for archaeological monitoring have been incorporated as project conditions.

DESCRIPTION OF APPROVAL: Coastal Development Permit and Conditional Use Permit approval CDP/CUP approval for construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets. The project includes demolition of three existing single-story residential/office structures on-site, related accessory structures, and removal of major vegetation (2 Hollywood Juniper and 3 Fern Pine trees) along Harbor and Market Streets. The hotel includes the construction of two detached buildings with a view courtyard in the center of the property. The project is proposed as two story on the east elevation and designed to step down the bluff with single-story on the west elevation. Seven parking spaces are proposed with hotel driveway access to be from Market Street. The property is subject to bluff development standards found in Morro Bay Municipal Code (MBMC) Chapter 17.45, is located in the C-VS/PD zoning district and is located in the Coastal appeals jurisdiction

THIS APPROVAL IS BASED UPON THE ATTACHED FINDINGS AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Community Development Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

☐ **YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION. THERE IS AN APPEAL PERIOD OF TEN (10) CALENDAR DAYS, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL THIS PROPERTY IS LOCATED WITHIN THE ORIGINAL JURISDICTION OF THE CALIFORNIA COASTAL COMMISSION, WHICH RETAINS AUTHORITY FOR ISSUANCE OF COASTAL DEVELOPMENT PERMITS AND RELATED COMPLIANCE REVIEW.**

☒ **YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION:** THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved

person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste.300, Santa Cruz, CA 95060, 831-427-4863. If you have any questions, please call the City of Morro Bay Community Development Dept, 805-772-6261.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: Subject to appeals period above. Contact City for determination of exact dates.

ATTEST: _____ DATE: 9-8-2021

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

Attachment 3

CITY OF MORRO BAY

COMMUNITY DEVELOPMENT DEPARTMENT
955 Shasta Avenue
Morro Bay, CA 93442

NOTICE OF EXEMPTION

TO: ☒ San Luis Obispo Co. Clerk
County Government Center
San Luis Obispo CA 93401

☐ Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

FROM: City of Morro Bay
Community Development Department
955 Shasta Avenue
Morro Bay, CA 93442

Project Title: 6-unit 5,042sf Blufftop Hotel at 205 Harbor Street

Project Location - Specific: 205 Harbor., Morro Bay, CA 93442 (#066-291-014, 015,016,017,018, & 019)

Project Location - City: MORRO BAY County: SAN LUIS OBISPO

Description of Project: CDP/CUP approval for construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets. The project includes demolition of three existing single-story residential structures on-site, related accessory structures, and removal of major vegetation (2 Hollywood Juniper and 3 Fern Pine trees) along Harbor and Market Streets. The hotel includes the construction of two detached buildings with a view courtyard in the center of the property. The project is proposed as two story on the east elevation and designed to step down the bluff with single-story on the west elevation. Seven parking spaces are proposed with hotel driveway access to be from Market Street. The property is subject to bluff development standards found in Morro Bay Municipal Code (MBMC) Chapter 17.45, is located in the C-VS/PD zoning district and is located in the Coastal appeals jurisdiction.

Name of Public Agency Approving the Project: CITY OF MORRO BAY, 955 SHASTA AVE, MORRO BAY, CA 93442, CONTACT:cjacinth@morrobayca.gov , CINDY JACINTH, SENIOR PLANNER

Name of Person or Agency Carrying Out Project: Chung Hsiao, 9143 E. Fairview Ave, San Gabriel, CA 91775, nikohow@gmail.com

Exempt Status: (Check One)

Reasons why project is exempt: New Construction of 2 small structures not exceeding 10,000sq and where surrounding area is not environmentally sensitive nor will have significant impacts.

☐ Ministerial (Sec. 21080(b)(1); 15268);

☒ Categorical Exemption:
Type and Section Number:15303 Class 3(c)

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a)

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a)

☐ Statuary Exemption Code No.

Lead Agency: City of Morro Bay, 955 Shasta Ave, Morro Bay, CA 93442

Contact Person: Cindy Jacinth, Senior Planner Phone: 805-772-6577 cjacinth@morrobayca.gov

Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☒ No

Certification: I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

Signature: Cindy Jacinth Title: Senior Planner Date: 9/8/2021

Attachment 3

CITY OF MORRO BAY

COMMUNITY DEVELOPMENT DEPARTMENT

955 Shasta Avenue

Morro Bay, CA 93442

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

DATE OF NOTICE: 9/20/2021

NOTICE SENT TO (VIA CERTIFIED MAIL): CALIFORNIA COASTAL COMMISSION, CENTRAL COAST DISTRICT OFFICE

NOTICE OF FINAL CITY ACTION on Coastal Development Permit No. CDP21-019 & CUP21-05

THE FOLLOWING PROJECT IS LOCATED IN THE MORRO BAY COASTAL ZONE AND A COASTAL DEVELOPMENT PERMIT APPLICATION HAS BEEN ACTED ON BY THE CITY.

Applicant: Chung Hsiao

Address: 9143 E Fairview Ave, San Gabriel, CA 91775

Project Description: Coastal Development & Conditional Use Permit (CDP21-019/CUP21-05) approval for construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets. The project includes demolition of three existing single-story residential structures on-site, related accessory structures, and removal of major vegetation (2 Hollywood Juniper and 3 Fern Pine trees) along Harbor and Market Streets. The hotel includes the construction of two detached buildings with a view courtyard in the center of the property. The project is proposed as two story on the east elevation and designed to step down the bluff with single-story on the west elevation. Seven parking spaces are proposed with hotel driveway access to be from Market Street. The property is subject to bluff development standards found in Morro Bay Municipal Code (MBMC) Chapter 17.45, is located in the C-VS/PD zoning district and is located in the Coastal appeals jurisdiction.

Project Location: 205 Harbor Street, Morro Bay, CA 93442

APN: (#066-291-014, 015,016,017,018, & 019)

Zoning: C-VS / PD (Planned Development overlay)

Land Use Plan/General Plan: Visitor-Serving Commercial with Mixed Use Residential Overlay

Lot Area: 0.40 acre

Filing Date: 8/25/2021

Approval Body: Planning Commission

Action Taken: Approve with conditions

Action Date: 9/7/2021

☐ This Site Is Outside of The Coastal Commission Appeal Jurisdiction

☒ This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, #300, Santa Cruz, CA 95060, 831-427-4863.

Copies of this notice have also been sent via first-class mail to:

- *Applicant and Interested parties who arranged for mailing of notice*

APPLICANT'S ACCEPTANCE
OF
CONDITIONS OF APPROVAL

CASE NO. # CDP21-019/CUP21-05

SITE LOCATION: 205 HARBOR STREET, APN #066-291-014, 015,016,017,018, & 019

APPLICANT NAME: Chung Hsiao

APPROVAL BODY:

- ☐ Public Services Director
- ☐ Zoning Administrator
- ☒ Planning Commission
- ☐ City Council

DATE OF ACTION: 9-7-21

I, CHUNG HSIAO the undersigned, have read and
(*APPLICANT'S NAME - PLEASE PRINT*)

reviewed the conditions of approval imposed by the Approval Body in its action

approving Case Number: # CDP21-019/CUP21-05

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

Chung Hsiao
APPLICANT'S SIGNATURE

9-9-2021
DATE:

RESOLUTION NO. PC 17-21

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION TO CONDITIONALLY APPROVE COASTAL DEVELOPMENT PERMIT CDP21-019 AND CONDITIONAL USE PERMIT CUP21-05 FOR NEW CONSTRUCTION OF A 5,042 SF 6 GUEST-ROOM HOTEL IN THE C-VS/PD ZONE DISTRICT AND LOCATED IN THE COASTAL APPEALS JURSIDICTION AT 205 HARBOR STREET

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing via video conference on September 7, 2021, for the purpose of considering approval of Coastal Development Permit CDP21-019, Conditional Use Permit CUP21-05 for new construction of a new 6-room 5,042sf hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets. The project includes demolition of three existing single-story residential structures on-site, related accessory structures, and removal of major vegetation along Market Street at the northeast area of the property. The hotel includes the construction of two detached buildings with a view courtyard in the center of the property. The project is proposed as two story on the east elevation and designed to step down the bluff with single-story on the west elevation. Seven parking spaces are proposed with hotel driveway access to be from Market Street. The property is subject to bluff development standards found in MBMC 17.45, is located in the C-VS/PD zoning district and is located in the Coastal appeals jurisdiction ("Project"); and

WHEREAS, pursuant to the Governor'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, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

WHEREAS, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA)

That for purposes of the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15303 Class 3c (new construction of small structures) whereas the project is designed as two commercial structures in total of 5,042 which is less than the threshold of under 10,000 feet. The project also submitted an archaeological and historical resources report prepared by CRMS dated April 18, 2019 that concluded that the site did not meet the criteria as a historic or archaeological resource and where recommendations for archaeological monitoring during earth moving activities has been incorporated as a project condition.

Coastal Development Permit Findings

A. The project as proposed and conditioned is consistent with the applicable provisions of the certified Local Coastal Program. The Local Coastal Program is consistent with the General Plan and the project is an allowable use in its zoning district.

B. The Planning Commission finds that the project is consistent with and in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act in that the project is designed in its site layout to minimize view impacts by complying with the bluff setback requirements in MBMC 17.45, the project minimizes alteration of natural landforms, and preserves the character of the bluff setting by designing the project to step down the bluff as allowed in the Embarcadero area for bluff face and bluff buffer development. The 205 Harbor St hotel project complies with the development standards of the zone and complies with the Bluff development standards and policies for property located in the Embarcadero area as further described in the staff report presented to the Planning Commission at its September 7, 2021 meeting.

C. The removal of major vegetation, including two Hollywood Juniper trees on Harbor Street and three Fern Pine trees on Market Avenue, as shown on the landscape plan L-1 will not significantly impact any threatened or endangered plant or animal habitat area, and will avoid dangerous soil erosion or instability resulting from the removal and is consistent with the major vegetation policies for removal and replacement for which it meets the replacement requirement; and that the major vegetation removal will not adversely affect the character of the surrounding neighborhood, because the proposed landscaping plan has been designed to select trees and other plantings that are consistent with the City Street Tree list, compatible with the macro/microclimatic conditions of the region, drought tolerant, provide adequate screening and longevity.

Bluff Development Standards

A. The Planning Commission finds that the project as conditioned is consistent with the Coastal Land Use Plan and Bluff Development Standards specified in MBMC 17.45 for property located in the Embarcadero area between Surf Street and Anchor Street. The project protects public views to and along the

ocean and scenic coastal areas, maintains the character of the bluff setting, has been designed to minimize physical alteration of the bluffs, provides restorative work to the bluff by maintain existing bluff face landscaping, provides native drought tolerant landscaping as shown on project plans, and has been designed to step down the bluff face without requiring the construction of protective devices or retaining walls that would alter natural landforms or impede public access.

B. In addition, pursuant to MBMC 17.45.060, the project geologic reports and bluff study determination prepared by GeoSolutions and discussed in the September 1, 2021 staff report have been reviewed by the City Engineer for technical accuracy and soundness of conclusions drawn.

Conditional Use Permit Findings

A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the new construction of the hotel project has been designed to comply with the bluff setback requirement and two-story portion of the project is sited on the east side of the lot outside of the bluff area. The project is designed to step down the bluff complying with the bluff height requirements in MBMC 17.45. The front setback exceeds the minimum requirement which is set back farther than the existing residential uses to the north. The view courtyard sited in the center of the property opens up a view corridor from Market across the site which minimizes view impacts. The proposed hotel project at 205 Harbor Street is a permitted use within the zoning district and said structures comply with all applicable project conditions and City regulations and is consistent with the City's Local Coastal Program.

B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the proposed hotel use will provide a visitor-serving commercial use consistent with the character of the surrounding area and consistent with the commercial design guidelines of the Downtown Waterfront Strategic Plan (DWSP).

Planned Development Overlay Finding

A. The Planning Commission finds that the project as conditioned is consistent with the Planned Development (PD) Overlay and project plans complies with the PD standards as well as concept and precise plan content as specified in MBMC 17.40.030.

Architectural Consideration

A. As required by Ordinance Section 17.48.200 the Planning Commission finds that the architectural treatment and general appearance of all proposed structures and open areas are in keeping with the character of the surrounding areas, are compatible with the design themes adopted by the city including the Downtown Waterfront Strategic Plan (DWSP), and are not detrimental to the orderly and harmonious development; of the city or to the desirability of investment of occupation in the area.

Section 2: Action. The Planning Commission does hereby approve Coastal Development Permit (CDP21-019) and Conditional Use Permit (CDP21-05) with the following conditions of approval supported by the above findings.

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated September 1, 2021, for the project at 205 Harbor Street depicted on plans dated August 24, 2021, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on Planning Commission plans submitted for CDP21-019/CUP21-05, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Director. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.

4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project.

This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

PLANNING CONDITIONS

1. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

2. Construction Hours: Pursuant to MBMC subsection 9.28.030.l, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

3. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.

4. Architecture: Building color and materials shall be as shown on plans approved by the Planning Commission and specifically called out on the

plans submitted for a Building Permit to the satisfaction of the Community Development Director.

5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Prior to requesting foundation inspection, a licensed land surveyor shall verify lot boundaries and building setbacks to the satisfaction of the Community Development Director. A copy of the surveyor's *Form Certification* based on a boundary survey shall be submitted with the request for foundation inspection.

6. Building Height Verification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the forms and submit a letter to the Community Development Director certifying that the tops of the forms are in compliance with the finish floor elevations as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structures is in accordance with the approved plans and complies with the maximum height requirements as approved for this project.

7. Inspection: The applicant shall comply with all City conditions of approval and obtain final inspection clearance from the Planning Division at the necessary time in order to ensure all conditions have been met.

8. A sign program including sign design and materials specifications consistent with the City's sign ordinance shall be submitted and approved prior to final occupancy of the project.

9. A complete Lot Merger application shall be approved and recorded prior to issuance of the building permit.

10. All utilities shall be undergrounded pursuant to MBMC 17.48.050.

11. An archaeological monitoring plan shall be submitted for review and approval by the Community Development Director that includes the CRMS April 18, 2019 report recommendation that monitoring during initial ground clearance and earthmoving activities be monitored by a qualified archaeologist and Native American monitor.

12. The recommendations by GeoSolutions in the Engineering Geology Investigation report dated April 29, 2021, the Soils Engineering Report Update by GeoSolutions dated May 10, 2021, and the GeoSolutions Top of Bluff Discussion report dated April 28, 2021, shall be incorporated into the building plans submitted for approval.

13. The project plans dated 8/25/2021 shall be revised to remove the proposed spa area and associated retaining wall along Harbor Street. The plans, just in the area of spa, shall be modified to reflect the original conceptual plan shown to the Planning Commission at their 3/2/2021 meeting. Revised plans shall be submitted for review and approval to the satisfaction of the Community Development Director.

BUILDING DIVISION CONDITIONS

A. CONDITIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:

1.) Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.

2.) The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3.) The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

4.) The owner shall comply with the City Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.

5.) A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.

6.) Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.

7.) BUILDING PERMIT APPLICATION: To apply for building permits, submit three (3) sets of construction plans, fire sprinkler plans, if applicable, and supplemental documents to the Building Division.

The Title sheet of the plans shall include:

a. Street address, lot, block, track and Assessor Parcel Number.
b. Occupancy Classification(s)
c. Type of construction.
d. Maximum height of the building allowed and proposed
e. Floor area of the building(s).
f. Fire sprinklers proposed or existing
g. Minimum building setback allowed and proposed

All construction will conform to the 2019 California Building Code (CBC), 2019 California Residential Code (CRC), 2019 California Fire Code (IFC), 2019 California Mechanical Code (CMC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Energy Code, 2019 California Green Building Code (CGBC), Title 14 and 17 of the Morro Bay Municipal Code.

(Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

1. SITE MAINTENANCE: During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust. A storm water management plan shall be maintained through the duration of the project. The storm water management measures such as fiber rolls, silt fencing, etc. will be enforced by City staff by random site visits.

2.) ARCHAEOLOGICAL MATERIALS: In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

3.) FOUNDATION SETBACK VERIFICATION: Prior to the placement of concrete and upon completed form installation, a licensed surveyor is required to measure and record the distance from the proposed foundation walls to the established lot lines. The contractor shall submit these findings in letter format to the building inspector upon the request for a foundation inspection. Letter shall specify the findings of front, sides and rear yard setbacks as defined in Title 17

of the MBMC. The Building Official shall have discretion on a case by case basis for some lot types.

4.) BUILDING HEIGHT VERIFICATION: Prior to roof sheathing or shear wall inspection, a licensed surveyor is required to measure and record the height of the structure. The contractor shall submit this finding in letter format to the building inspector upon the request for roof sheathing/shear wall inspection. Letter shall specify the recorded height of structure as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some site-specific projects.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF THE CERTIFICATE OF OCCUPANCY:

1. Prior to building division final approval and request for final inspection, all required inspections from the other various divisions and departments must be completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card. This permit card shall then be turned into the building division for scheduling of the final building inspection.

2. Any as-built drawings that were required by the building inspector or plans examiner must be submitted for approval prior to the request for final inspection.

3. If structural observations were required, the final structural observation report shall be submitted to the building division prior to issuance of the certificate of occupancy or final inspection approval.

4. If special inspections were required, the final special inspection report shall be submitted to the building division prior to the issuance of the certificate of occupancy or final inspection approval.

5. Final soils summary report from the geotechnical representative indicating compliance with the required conditions set forth in the soils report.

6. Final T-24 energy reports (Certificates of Installation).

PUBLIC WORKS CONDITIONS:

1. Lot Merger: all existing separate lots being developed must be merged, prior to building permit plan approval.

2. Stormwater Management: The City has adopted Low Impact Development (LID) and Post Construction requirements. All proposed projects must complete the "SFR Performance Requirement Determination Form" to determine if any requirements should be submitted. The requirements can be found in the Stormwater management guidance manual on the City's

website www.morro-bay.ca.us/EZmanual (MBMC 14.48.140)

3. Large Peak Flood Control: Submit drainage calculations to show that post development peak runoff flows are reduced to within 5% of the pre-development flows from the 10, 25, 50 and 100-year rainfall events. (See attached Large Peak Flood Control Requirement sheet).

4. Frontage Improvements: The installation of frontage improvements is required.
   a. Show the installation of a 10-foot sidewalk along the frontage of Harbor Street and Market Avenue.
   b. Show the installation of two curb ramps, per Caltrans detail A88A. One at the corner of Harbor Street and Market Avenue. The other at the corner of Harbor Street and Front Street.
   c. Show the installation of standard Driveway Approach, per City standard detail B-6 and B-9.
   d. To buffer pedestrian crossing at corner of Harbor Street and Front Street, show the installation of a bulb-out.
   e. Show the installation of one street tree per every 50 foot of property frontage. Locate street trees 3-4' behind sidewalk. Street must be chosen from list of approved City street trees

5. Sewer Lateral: Indicate and label if private sewer lateral pipe will be replaced or to remain in place. If the existing sewer lateral is proposed to remain in place, then perform a video inspection of the lateral (from the clean-out at structure to the connection at the sewer mainline pipe) and submit to Public Works via flash drive, prior to building permit plan approval. Requirements for the sewer video inspection can be located on the City's website at the following location: https://www.morro-bay.ca.us/DocumentCenter/View/13500/Private-Sewer-Line-Video-Requirements. Lateral shall be upgraded, repaired or replaced as required to prohibit inflow/infiltration. All repairs or replacements identified from sewer video, shall be noted on approved set of plans, prior to plan approval. (MBMC 14.07.030)

6. Sewer Backwater Valve: Indicate and label sewer backwater valve on plan. A backwater valve, extended to and accessible from grade for maintenance, shall be installed on every Building sewer. Exception: Installation of backwater valve shall not be required when, to the satisfaction of Building Official, it is determined that the intent and purpose of this section is otherwise met. (MBMC 14.07.010.C).

7. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. Show on plans the control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or

ecologically sensitive area.

8. Water Meter: Indicate and label new or existing water meter on plans and include size of meter(s). (MBMC 13.04.140)

9. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.

10. Utilities: Show all existing and proposed locations of the sewer lateral, water service, and water and sewer mains on the building plans. Include sizes where appropriate. Note the location of all overhead utilities and construction underground service entrances per the CBC.

11. Water Backflow Prevention Device: Verify and label all new or existing water backflow preventers. Water backflow preventer devices are required for fire water systems, irrigation systems (on a dedicated water meter), systems which may change in character of use (commercial rentals, etc.), gray water systems, or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. Add note to plan that device is required to be an approved domestic water backflow prevention device. (MBMC 13.08.040)

Add the following Notes to the Plans:

1. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

2. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permit application and requirements are available on the City's website at the following location: https://www.morro-bay.ca.us/197/Public-Works.
   - A standard encroachment permit shall be required for the proposed driveway; the driveway shall comply with B-9 (Driveway Ramps: Size & Location).
   - A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement.
   - If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by a temporary encroachment permit within the City right-of-way.

FIRE DEPARTMENT CONDITIONS

1. Demolition Site Plan, General Notes. Provide the following notation: Fire Safety During Construction and Demolition shall be in accordance with 2019

California Fire Code, Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Fire Protection Systems and Equipment. An approved automatic fire sprinkler system shall be provided throughout this project, pursuant to Morro Bay Municipal Code, Section 14.60.200. Submit all plans and specification sheets for the required automatic fire sprinkler system to the Building Department for review and approval prior to installation. Sprinkler plans shall be submitted prior to issuance of a Building Permit. The sprinkler system shall be in accordance with NFPA Standard 13.

3. Fire Alarms. Plans and specifications for the automatic fire sprinkler system and fire alarm system shall be submitted to Public Services Division for review and approval. The fire sprinkler and alarm systems shall be supervised by a central station and constructed in accordance with NFPA 72.

4. Fire Department access to equipment. Rooms or areas containing controls for Electrical, FAU, Alarm and Fire Sprinkler Systems shall be identified by approved and appropriate signage for Fire Department use.

5. Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street and shall be operable from inside to provide a full, clear opening without tools (CBC 310.4). Exception 2 may apply when fully sprinklered in accordance with NFPA 13.

6. Fire Extinguishers. A minimum of one 2A-10-BC extinguisher shall be provided for each floor area, so that travel distance does not exceed 75 feet. Extinguishers shall be serviced annually and shall have a current service tag attached.

7. Required water supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction (CFC 507.1). Provide the required fire-flow requirement as contained in CFC Table B105.1(2).

8. Fire hydrant where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. (CFC 507.5.1)

9. Elevator Car to Accommodate Ambulance Stretcher. Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretched 24-inches by 84-inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3-inches high and shall be placed inside on both sides of the hoist way door frame. (MBMC 14.08.090)

10. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.

11. Key Boxes. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official. Provide a Knox Key Box for installation to the exterior of the structure. Obtain a Knox Application from Morro Bay Fire Department during business hours.

12. Fire Lanes. Access roads and fire lanes shall be provided and identified by approved signage to read: "Fire Lane, No Parking" stenciled over red-painted curbs and signage

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 7th day of September 2021 on the following vote:

AYES: Rodriguez, Roschen, Ingraffia, Ford, + Stewart

NOES:

ABSENT:

ABSTAIN:

Susan Stewart, Chairperson

ATTEST

Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted on this 7th day of September 2021.

205 Harbor Street

MORRO BAY, CA

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

COVER SHEET

Date 10/11/2021
Project # A20125
Scale 11x17: NTS
24x36: NTS
Sheet **A0.0**

PROJECT DESCRIPTION

THIS PROJECT PROPOSES THE CONSTRUCTION OF A NEW 6 ROOM HOTEL WITH ONSITE PARKING ON AN EXISTING 0.40 ACRE PARCEL.

THE EXISTING SITE CONSISTS OF SIX SEPARATE PARCELS AND IS THE SITE OF A FORMER HOTEL. THIS PROJECT WILL INCLUDE MERGING THE SIX PARCELS INTO ONE, SINGLE LOT. CURRENTLY THE SITE IS MOSTLY VACANT WITH RESIDENTIAL AND OFFICES USES ON THE TWO EASTERN MOST PARCELS. ALL EXISTING BUILDINGS WILL BE REMOVED AS PART OF THE FUTURE DEVELOPMENT. THE WEST PORTION OF THE SITE IS STEEPLY SLOPED DOWN TO FRONT STREET.

THE PROPOSED HOTEL WILL BE STEPPED TO FOLLOW THE SLOPE AND WILL BE A TOTAL OF TWO LEVELS.

THE HOTEL WILL BE CONSTRUCTED IN A SINGLE PHASE AND WILL INCORPORATE NUMEROUS GREEN BUILDING FEATURES INCLUDING LOW WATER USE FIXTURES AND LANDSCAPING, ENERGY CONSERVING LIGHTING AND CONTROLS, ENERGY EFFICIENT WINDOWS AND INSULATION SYSTEMS, ETC.

GUESTROOM DATA

	ROOM	QTY.	FLOOR AREA	STANDARD SHOWER	ACCESSIBILITY		
					ROLL-IN SHOWER	TUB/ SHOWER	COMM. FEATURES
1ST FLOOR	101	1	665 SF	X			
	102	1	651 SF			X	
	103	1	665 SF		X		X
	104	1	683 SF	X			
	TOTAL	**4**	**2,664 SF**				
2ND FLOOR	201	1	665 SF				X
	202	1	682 SF	X			
	TOTAL	**2**	**1,347 SF**				
TOTAL	1ST FLOOR	4	2,664 SF				
	2ND FLOOR	2	1,347 SF				
	TOTAL	**6**	**4,011 SF**	3	1	1	2

PER TABLE 11B-224.2, GUEST ROOMS W/ MOBILITY FEATURES
NUMBER OF ROOMS W/OUT ROLL-IN SHOWERS 1 ROOM
NUMBER OF ROOMS W/ ROLL-IN SHOWERS 1 ROOM
TOTAL 2 ROOMS
PER TABLE 11B-224.4, GUEST ROOMS W/ COMMUNICATION FEATURES
REQ'D NUMBER OF ROOMS 2 ROOMS

SETBACKS

MIN. FRONT YARD (FRONT ST.): 10' (MAY BE REDUCED)
PROPOSED FRONT YARD: 26'-6" TO 46'

MIN. REAR YARD (MARKET ST.): 0' (10' WHEN ADJ. TO RESIDENTIAL)
PROPOSED REAR YARD: 1'-6"

MIN.SIDE YARD (EXTERIOR): 20% OF LOT WIDTH = 20' (10' MAX)
PROPOSED SIDE YARD (EXTERIOR): 10'

MIN. SIDE YARD (INTERIOR): 0' (10' WHEN ADJ. TO RESIDENTIAL)
PROPOSED SIDE YARD (INTERIOR): 10'

PROJECT DATA

ADDRESS: 205-215 HARBOR STREET
APN: 066291014,1015,1016,1017,1018 & 1019

SITE AREA: 17,242 SF (0.40 ACRES)
ZONING: C-VS/PD (VISITOR-SERVING COMMERCIAL/ PLANNED DEVELOPMENT)

USE:
EXISTING USE: VACANT, RESIDENTIAL & OFFICE
PROPOSED USE: HOTEL AND PARKING

LOT COVERAGE:
ALLOWED: 60%
EXISTING: 22% (3,805 SF / 17,242 SF)
PROPOSED: 23% (4,011 SF / 17,242 SF)

TYPE OF CONSTRUCTION: TYPE V-B
SPRINKLERS: YES (NFPA-13)
OCCUPANCIES: R-1

MINIMUM LOT AREA PER UNIT: 750 SF = 23 UNITS
PROPOSED LOT AREA PER UNIT: 2,874 SF / UNIT

GROSS BUILDING AREA:
1ST FLOOR:
RESIDENTIAL LOBBY: 333 SF
UTILITY/BACK OF HOUSE: 698 SF
GUESTROOM: 2,664 SF
TOTAL: 3,695 SF
2ND FLOOR:
GUESTROOM: 1,347 SF
TOTAL 1,347 SF
TOTAL 5,042 SF

BUILDING HEIGHT:
ALLOWABLE: 30' ABOVE AVERAGE NATURAL GRADE
PROPOSED: 30' ABOVE AVERAGE NATURAL GRADE

PARKING REQUIRED:
1 PER ROOM + 1 PER 10 ROOMS 7 SPACES
PARKING PROVIDED:
STANDARD SPACES 4 SPACES
COMPACT SPACES 2 SPACES
ACCESSIBLE SPACES 1 SPACE
TOTAL 7 SPACES

BICYCLE PARKING REQUIRED:
(1 BIKE PER 5 PARKING SPACES) 1 SPACE
BICYCLE PARKING PROVIDED: 2 SPACES

PROJECT DIRECTORY

PROJECT APPLICANT
CHUNG HSIAO
PHONE: (512) 517-5564
EMAIL: NIKOHOW@GMAIL.COM

ARCHITECT
ARRIS STUDIO ARCHITECTS
1327 ARCHER ST, SUITE 220
SAN LUIS OBISPO, CA 93401
ATTN: THOM JESS
PHONE: (805) 547-2240
EMAIL: TJESS@ARRIS-STUDIO.COM

CIVIL ENGINEER
ASHLEY & VANCE ENGINEERING
ATTN: KATHLEEN ALLWINE
PHONE: (805) 545-0010
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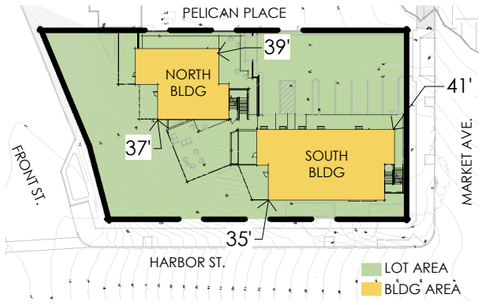
LANDSCAPE ARCHITECT
OASIS ASSOCIATES
ATTN: SCOTT WRIGHT
PHONE:
EMAIL: SCOTT@OASISASSOC.COM

SURVEYOR
MBS LAND SURVEYS
3563 SUELDO STREET, UNIT Q
SAN LUIS OBISPO, CA 93401
ATTN: MICHAEL B. STANTON
PHONE: (805) 594-1960
EMAIL: MIKE@MBSLANDSURVEYS.COM

PLANNER
CATHY NOVAK CONSULTING
P.O. BOX 296
MORRO BAY, CA 93443
ATTN: CATHY NOVAK
PHONE: (805) 441-7581
EMAIL: NOVAKCONSULTING@CHARTER.NET

LOT COVERAGE/ A.N.G. DIAGRAM



AVERAGE NATURAL GRADE

BUILDING FOOTPRINT (NORTH)		BUILDING FOOTPRINT (SOUTH)	
LOW POINT:	37'	LOW POINT:	35'
HIGH POINT:	39'	HIGH POINT:	41'
AVG. NAT. GRADE	38'	AVG. NAT. GRADE	38'

SHEET INDEX

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A0.3 PERSPECTIVES
A0.4 PERSPECTIVES
A0.5 PERSPECTIVES
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A2.1 FIRST FLOOR PLAN
A2.2 SECOND FLOOR PLAN
A2.3 ROOF PLAN
A3.0 BUILDING ELEVATIONS
A3.1 BUILDING ELEVATIONS
A4.0 EXISTING VIEWS
A4.1 PROPOSED VIEWS
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A4.4 EXISTING VIEW
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A5.0 BUILDING SECTIONS
A5.1 BUILDING SECTIONS
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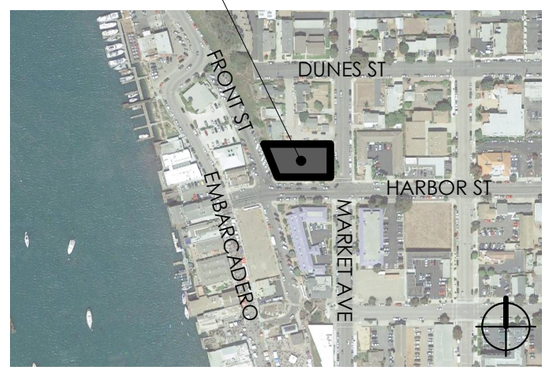
CB-1 COLORS & MATERIALS

CIVIL
C2.1 PRELIMINARY GRADING AND DRAINAGE PLAN
C3.1 PRELIMINARY UTILITY PLAN

LANDSCAPE
L-1 CONCEPTUAL LANDSCAPE PLAN

VICINITY MAP



Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA
PROJECT DATA

Date 10/11/2021
Project # A20125
Scale 11x17: NTS 24x36: NTS
Sheet **A0.1**

VIEW FROM CORNER OF HARBOR STREET AND FRONT STREET

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

PERSPECTIVES

Date 10/11/2021
Project # A20125
Scale 11x17: 24x36:
Sheet **A0.3**

VIEW FROM CORNER OF HARBOR STREET AND MARKET AVENUE

Arris
STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

PERSPECTIVES

Date 10/11/2021
Project # A20125
Scale 11x17:
24x36:
Sheet **A0.4**

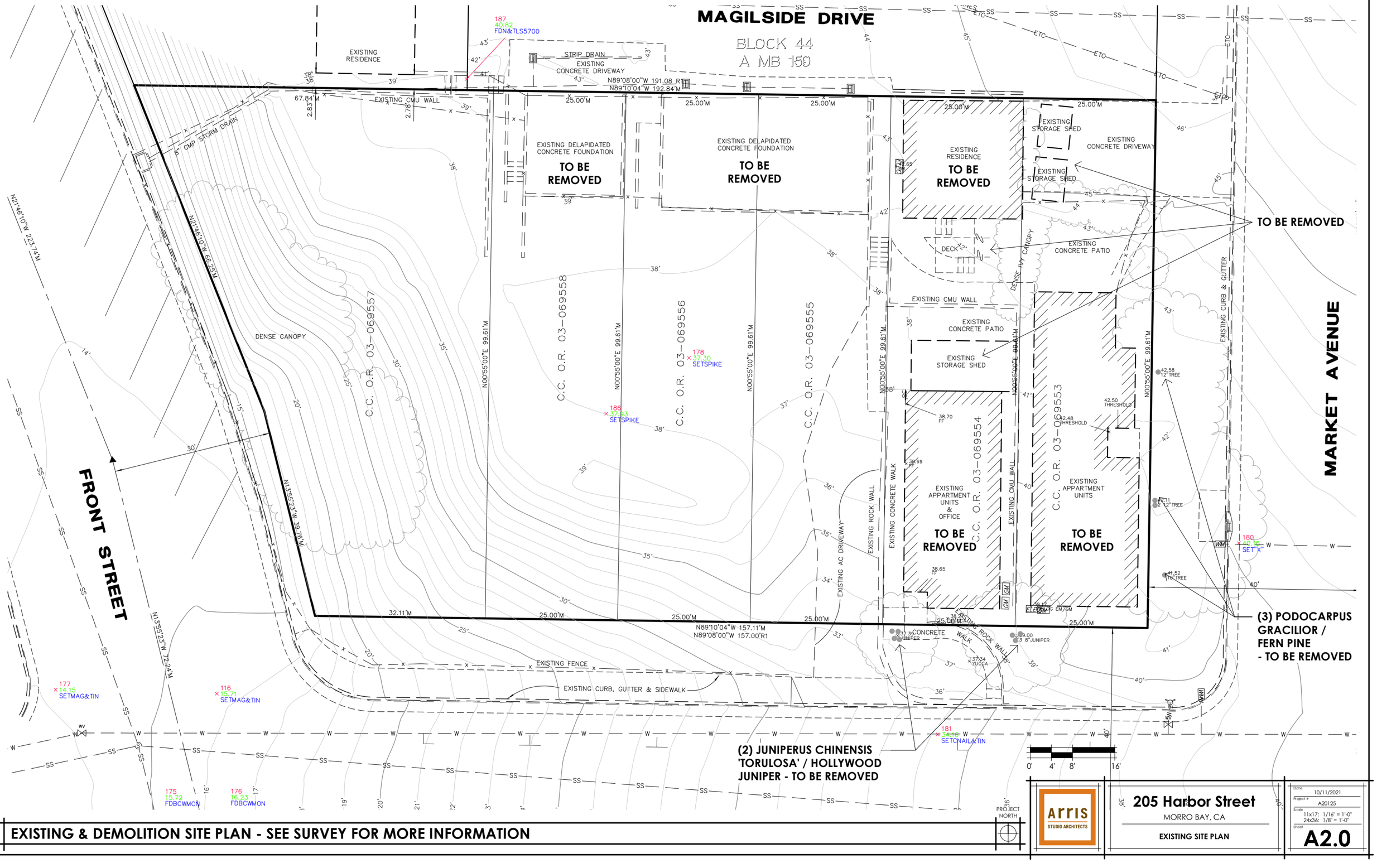
VIEW OF COURTYARD & ROOF DECK

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

PERSPECTIVES

Date 10/11/2021
Project # A20125
Scale 11x17: 24x36:
Sheet **A0.5**



EXISTING & DEMOLITION SITE PLAN - SEE SURVEY FOR MORE INFORMATION

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

EXISTING SITE PLAN

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16" = 1'-0" 24x36: 1/8" = 1'-0"
Sheet **A2.0**

PELICAN PLACE

MARKET AVE.

FRONT ST.

HARBOR ST.

STORMWATER TREATMENT PLANTER, S.C.D.

FENCE AND RETAINING WALL, S.C.D.

SETBACK

GAME LAWN

PATIO

1 BED
101

1 BED
102
607 SF

SEMI-PRIVATE PATIO

TRASH

PARKING
7 SPACES

DRIVE

GUEST LAUNDRY
RESTROOM

SIDEWALK

VIEW COURTYARD

1 BED
103

HALL

ENTRY COURT

1 BED
104

LOBBY

STO.

UP

STORMWATER TREATMENT PLANTER, S.C.D.

STORMWATER TREATMENT PLANTER, S.C.D.

STORMWATER TREATMENT PLANTER, S.C.D.

SETBACK

TOP OF BLUFF

BLUFF SETBACK

N89°08'00"W 191.08 R1
N89°10'04"W 192.84'M

N89°10'04"W 157.11'M
N89°08'00"W 157.00' R1

N21°46'10"W 66.25'M

N13°55'23"W 39.76'M

N00°55'00"E 99.61M

ROOM W/ MOBILITY FEATURES

ROOM W/ COMMUNICATION FEATURES

PROJECT NORTH

0' 4' 8' 16'

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

FIRST FLOOR PLAN

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16" = 1'-0"
24x36: 1/8" = 1'-0"
Sheet **A2.1**

SITE PLAN - FIRST FLOOR

PELICAN PLACE

1 A3.1

N89°08'00"W 191.08 R1
N89°10'04"W 192.84'M

ROOF DECK

46'-11"

10'-0"

N21°46'10"W 66.25M

1 A5.0

1 A3.0

2 A5.0

FRONT ST.

10'-0"

N13°55'23"W 39.76'M

22'-2"

37'-0"

13'-2"

PATIO

1 BED
201

SEMI-PRIVATE PATIO

99.61M N00°55'00"E

18'-5 1/2"

2 A3.1

MARKET AVE.

PATIO

1 BED
202

DN

10'-0"

5'-0"

24'-0"

37'-0"

10'-5"

N89°10'04"W 157.11'M
N89°08'00"W 157.00' R1

1 A5.1

2 A5.1

TOP OF BLUFF

BLUFF SETBACK

2 A3.0

HARBOR ST.

ROOM W/ MOBILITY FEATURES

ROOM W/ COMMUNICATION FEATURES

0' 4' 8' 16'

PROJECT NORTH

SITE PLAN - SECOND FLOOR

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

SECOND FLOOR PLAN

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16"=1'-0" 24x36: 1/8"=1'-0"
Sheet **A2.2**

PELICAN PLACE

N89°08'00"W 191.08 R1
N89°10'04"W 192.84'M

[Not Used]

9" / 12"
9" / 12"
1" / 12"
1" / 12"

ROOF DECK BELOW

N21°46'10"W 66.25'M

FRONT ST.

N13°55'23"W 39.76'M

VIEW COURTYARD BELOW

PATIO BELOW

PATIO BELOW

PATIO BELOW

9" / 12"
9" / 12"
1" / 12"
1" / 12"
9" / 12"
9" / 12"

N00°55'00"E 99.61'M

MARKET AVE.

N89°10'04"W 157.11'M
N89°08'00"W 157.00' R1

TOP OF BLUFF

BLUFF SETBACK

HARBOR ST.

0' 4' 8' 16'

PROJECT NORTH

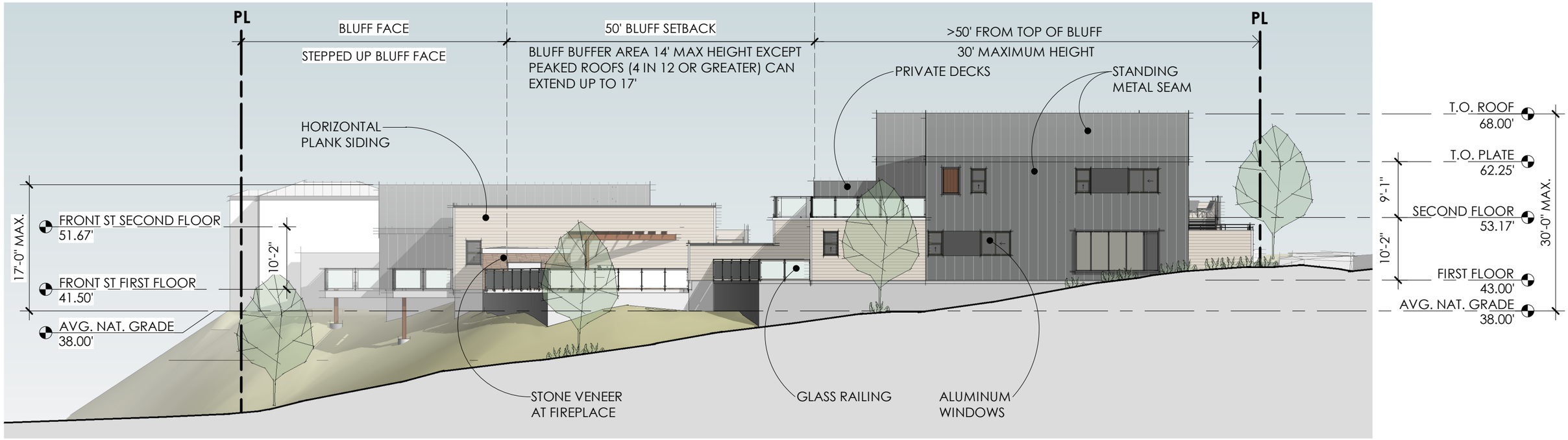
ROOF PLAN

Arris STUDIO ARCHITECTS

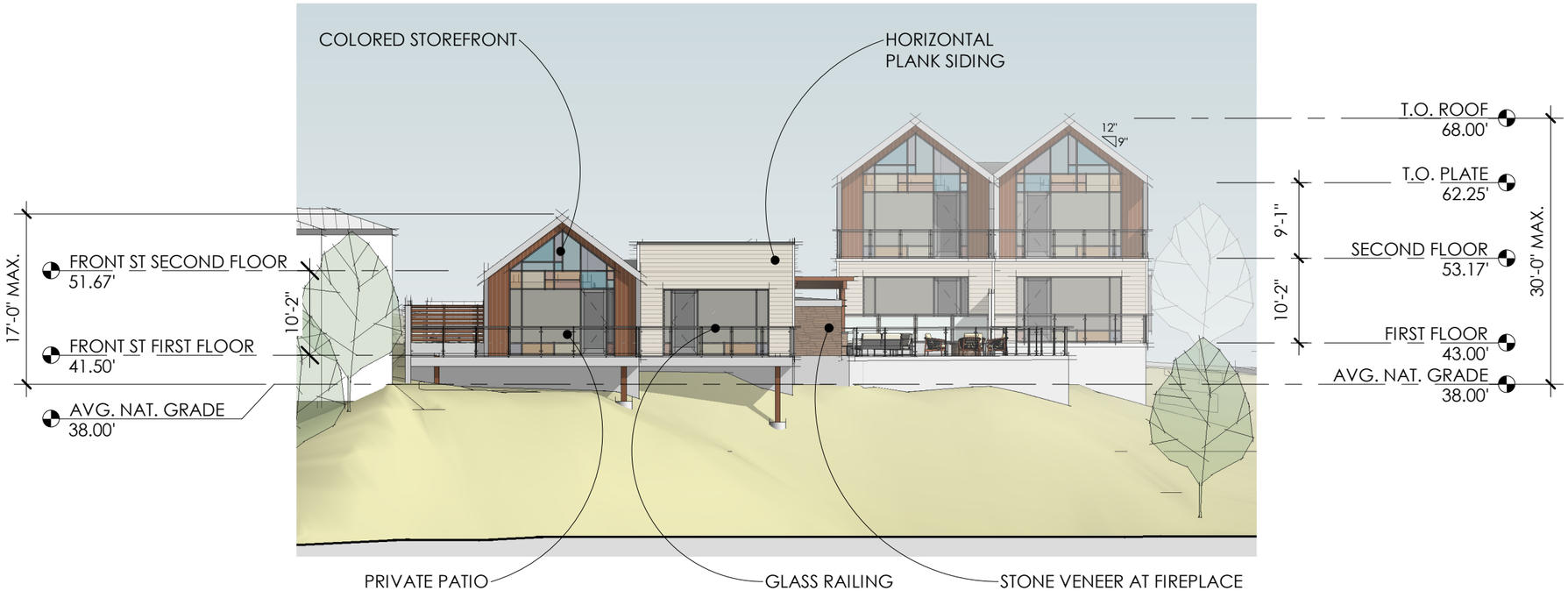
205 Harbor Street
MORRO BAY, CA

ROOF PLAN

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16"=1'-0" 24x36: 1/8"=1'-0"
Sheet **A2.3**



HARBOR STREET ELEVATION (SOUTH)



FRONT STREET ELEVATION (WEST)

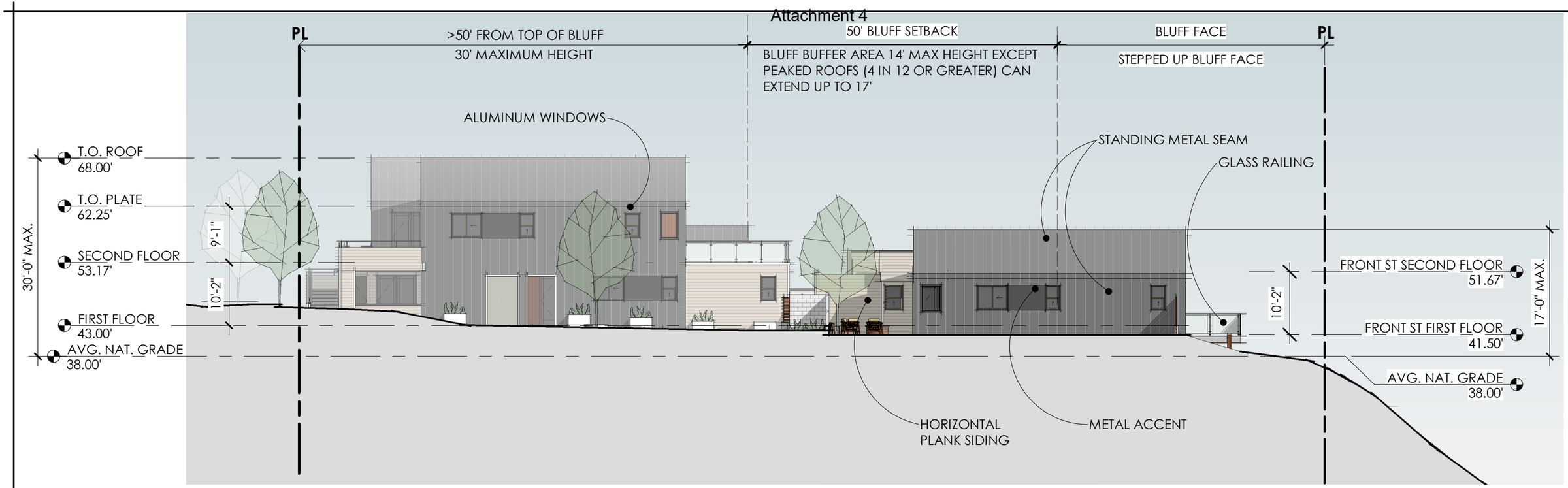
0' 4' 8' 16'

Arris STUDIO ARCHITECTS

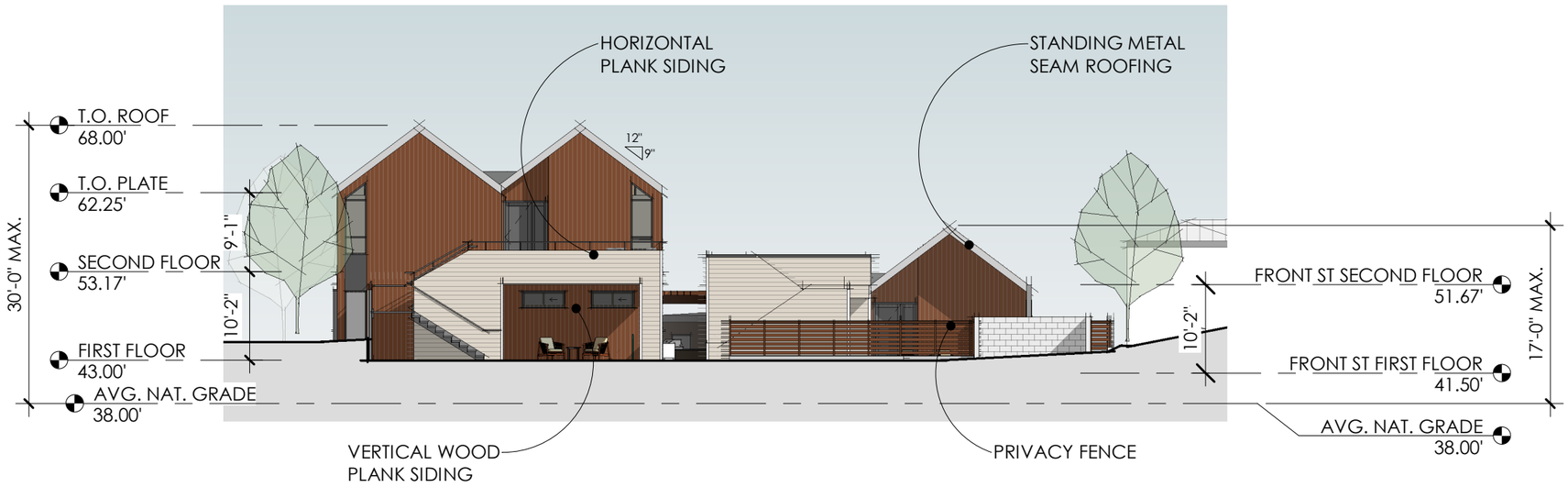
205 Harbor Street
MORRO BAY, CA

BUILDING ELEVATIONS

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16" = 1'-0"
24x36: 1/8" = 1'-0"
Sheet **A3.0**



PELICAN PLACE ELEVATION (NORTH)



MARKET AVENUE ELEVATION (EAST)

0' 4' 8' 16'

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

BUILDING ELEVATIONS

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16"=1'-0" 24x36: 1/32"=1'-0"
Sheet **A3.1**

EXISTING VIEW FROM HARBOR STREET & MARKET AVENUE

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

EXISTING VIEWS

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **A4.0**

PROPOSED VIEW FROM HARBOR STREET & MARKET AVENUE

Arris
STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

PROPOSED VIEWS

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **A4.1**

EXISTING VIEW FROM MARKET AVENUE

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

EXISTING VIEWS

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **A4.2**

PROPOSED VIEW FROM MARKET AVENUE

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

PROPOSED VIEWS

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **A4.3**

EXISTING VIEW FROM HARBOR STREET & FRONT STREET

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

EXISTING VIEW

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S
24x36: N.T.S
Sheet **A4.4**

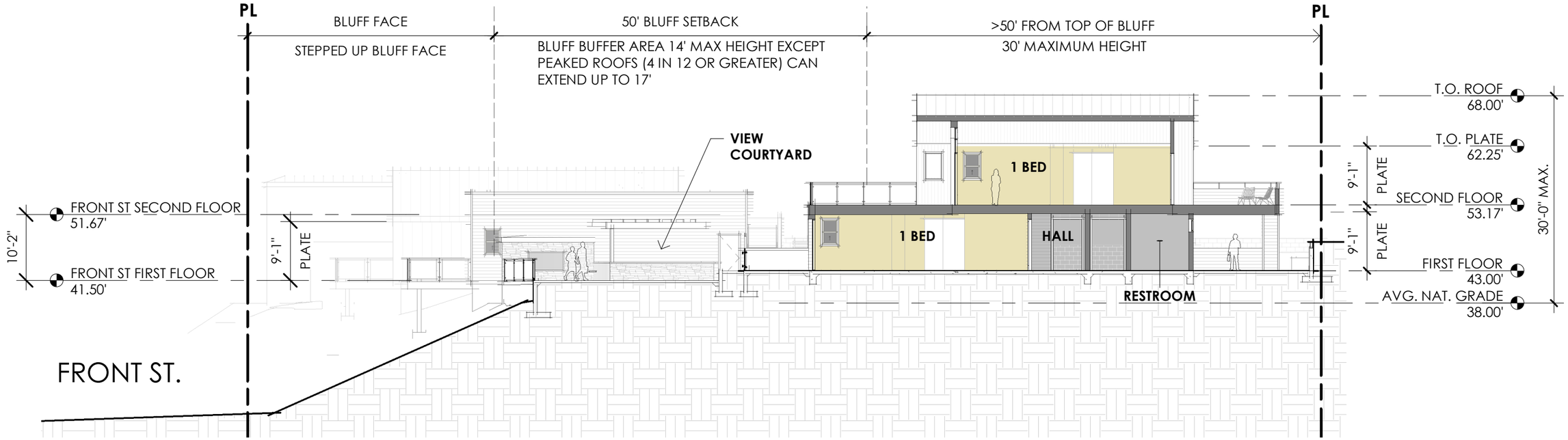
PROPOSED VIEW FROM HARBOR STREET & FRONT STREET

Arris STUDIO ARCHITECTS

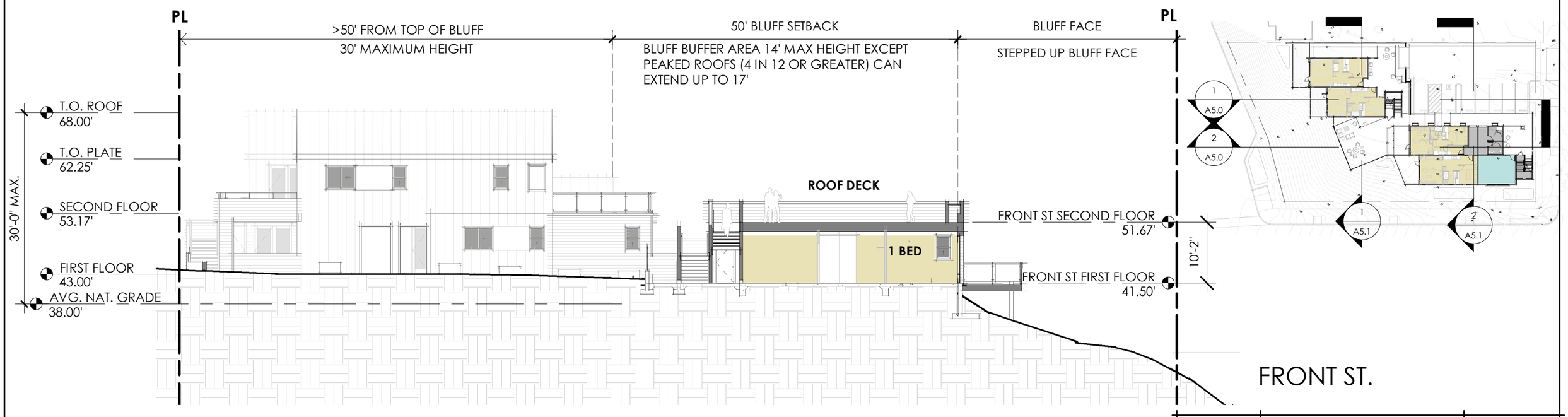
205 Harbor Street
MORRO BAY, CA

PROPOSED VIEW

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S
24x36: N.T.S
Sheet **A4.5**



EAST-WEST SITE SECTION 2



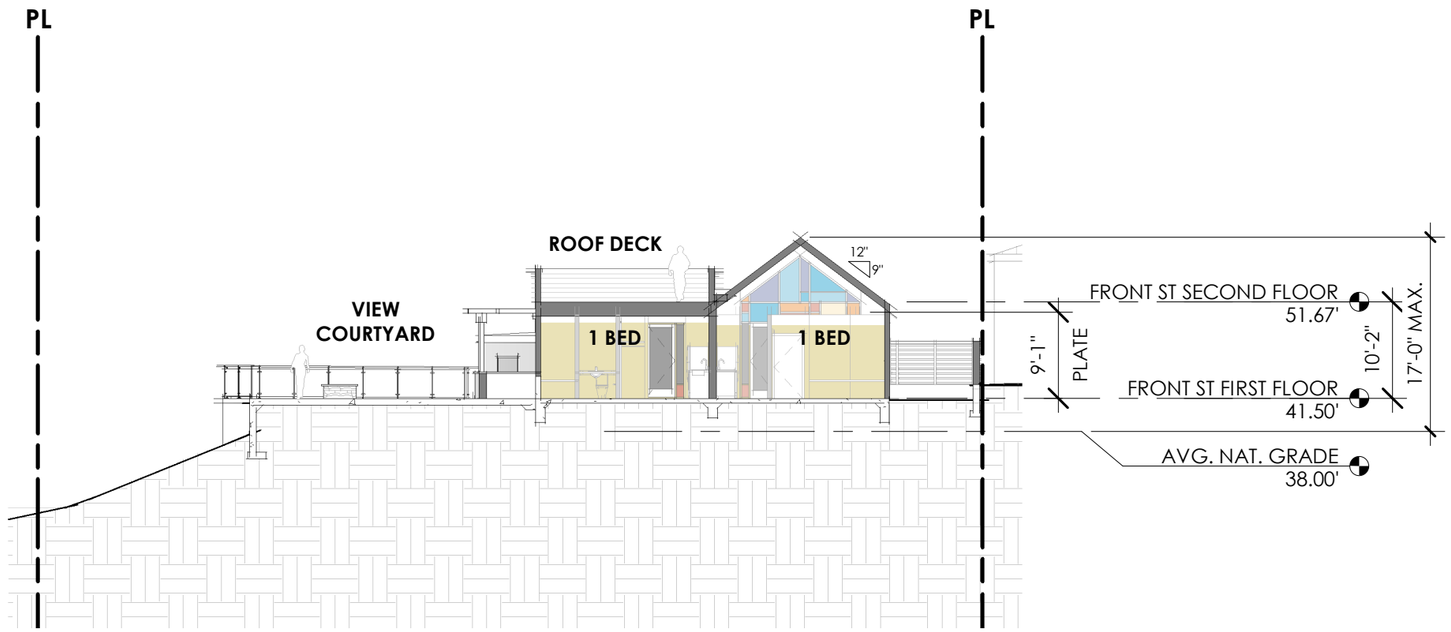
EAST-WEST SITE SECTION 1

Arris STUDIO ARCHITECTS

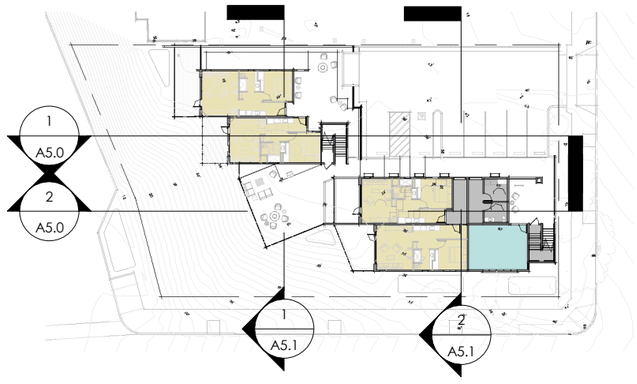
205 Harbor Street
MORRO BAY, CA

BUILDING SECTIONS

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16" = 1'-0" 24x36: 1/8" = 1'-0"
Sheet **A5.0**



BUILDING SECTION A



NORTH-SOUTH SITE SECTION

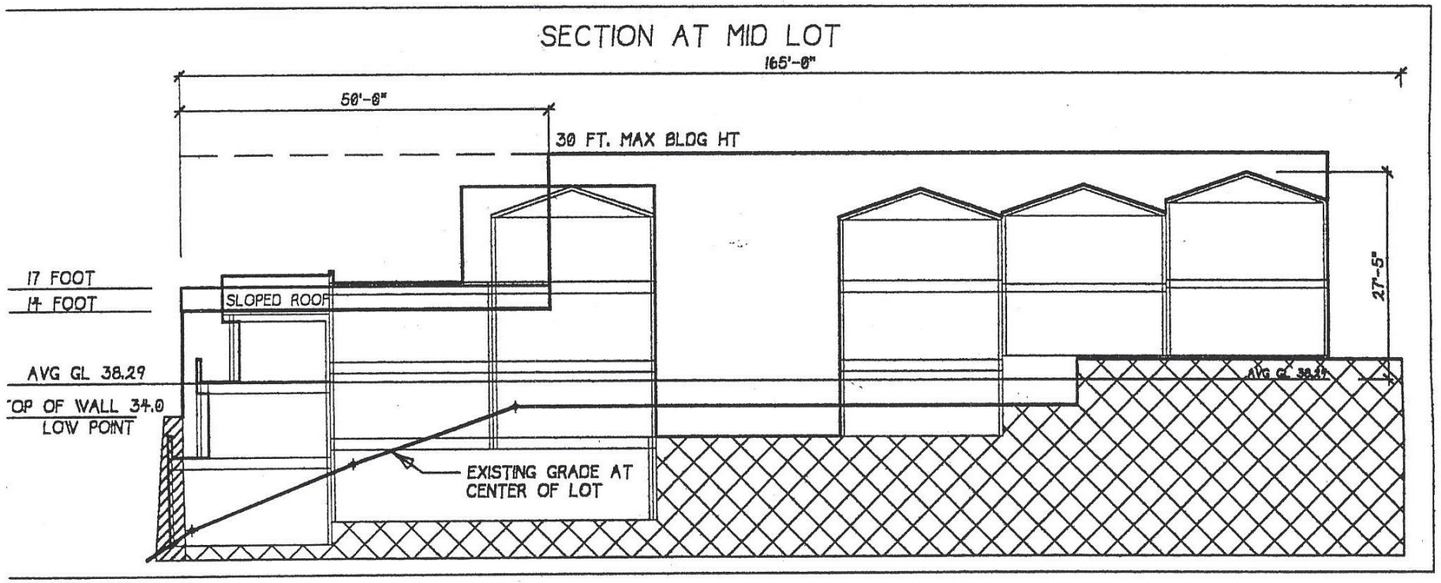
0' 4' 8' 16'

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

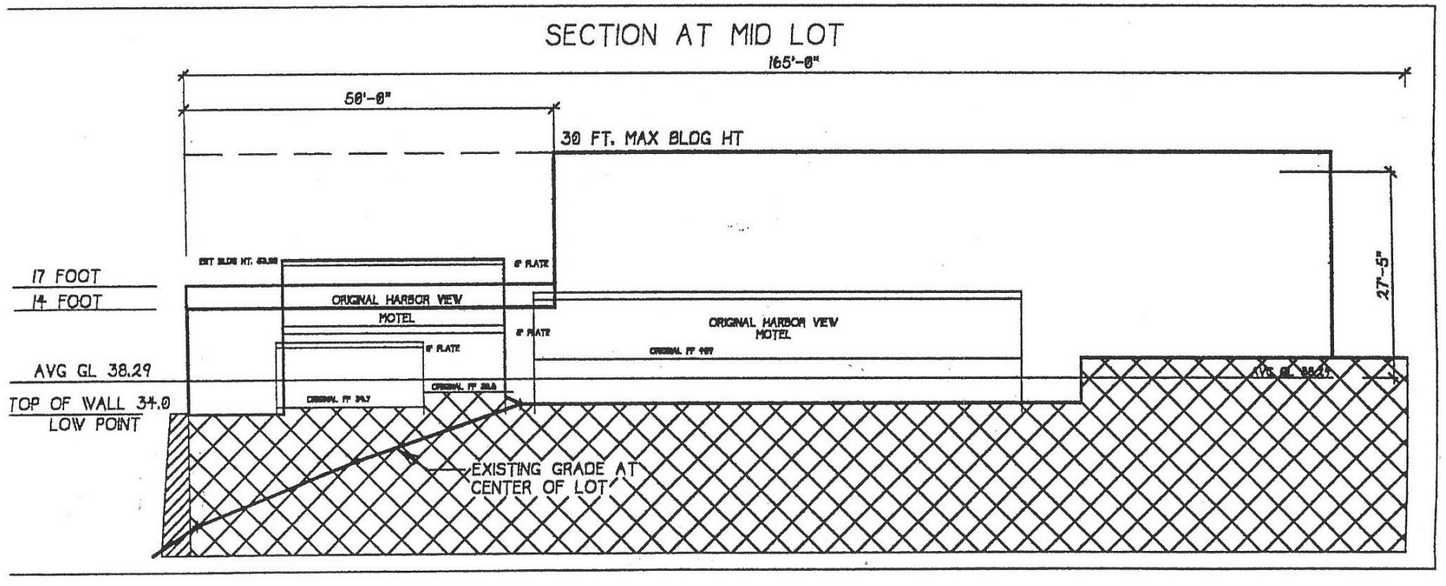
BUILDING SECTIONS

Date 10/11/2021
Project # A20125
Scale 11x17: 1/16" = 1'-0"
24x36: 1/8" = 1'-0"
Sheet **A5.1**



HISTORIC SITE SECTION - 1986 MOTEL HEIGHTS (FOR REFERENCE ONLY)

0' 5' 10' 20'



HISTORIC SITE SECTION-1986 MOTEL HEIGHTS (FOR REFERENCE ONLY)

0' 5' 10' 20'

Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

HISTORIC SITE SECTION

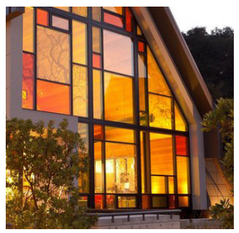
Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **A5.2**

LEGEND

S1
STONE
MOUNTAIN LEDGE
ELDORADO STONE
"YUKON"

M1
METAL CLADDING
SELECT SEAM BATTEN
AEP SPAN
"OLD TOWN GRAY"

W1
WOOD SIDING
COLLECTION
SHERWIN WILLIAMS
3507 "RIVERWOOD"



G1
COLORED GLASS

A1
WINDOWS AND DOORS
KAWNEER
MEDIUM BRONZE

F1
FIBER CEMENT PANEL
COLLECTION
SHERWIN WILLIAMS
7632 "MODERN GRAY"

COLORS AND MATERIALS

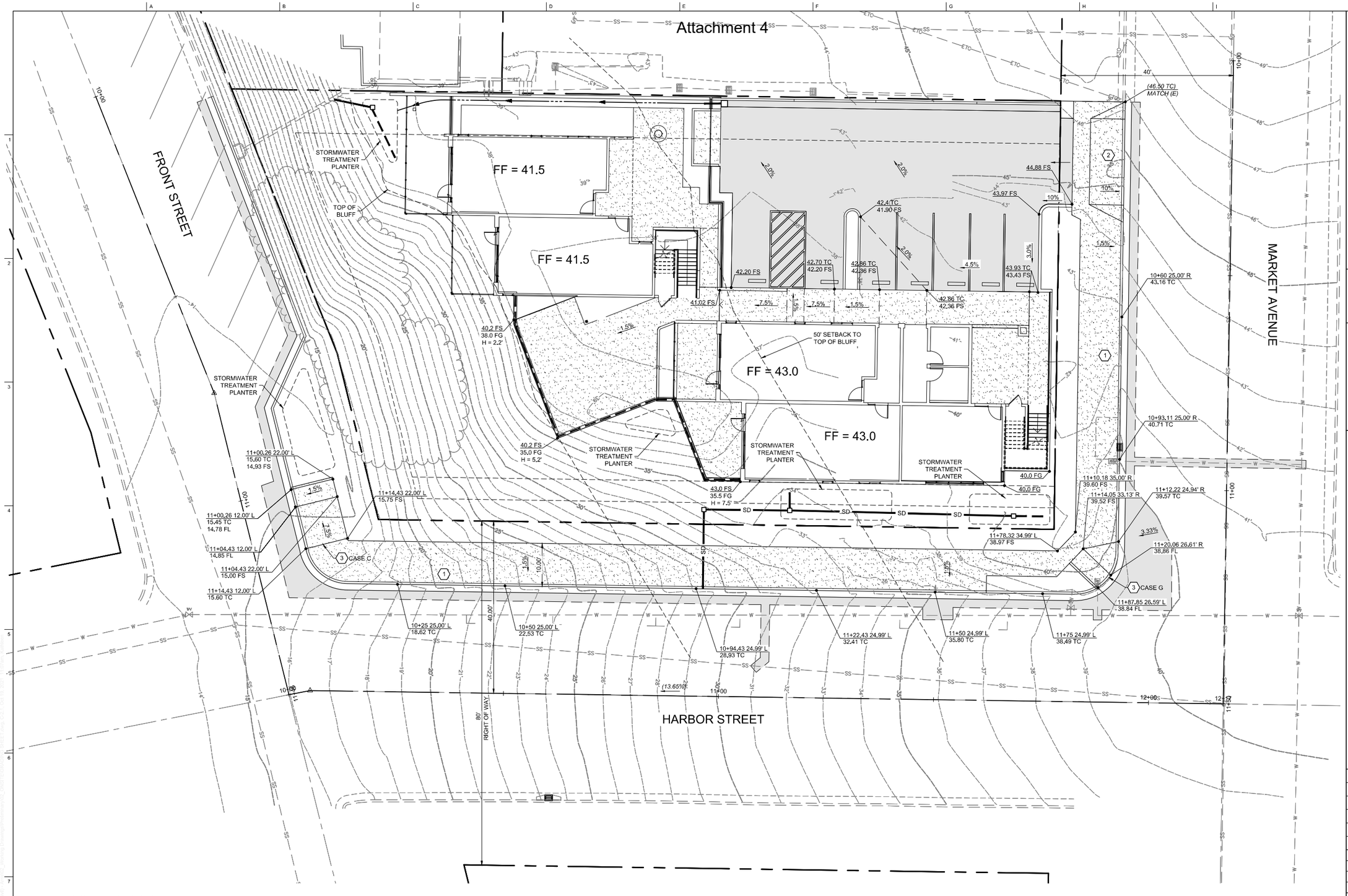
Arris STUDIO ARCHITECTS

205 Harbor Street
MORRO BAY, CA

COLORS & MATERIALS

Date 10/11/2021
Project # A20125
Scale 11x17: N.T.S.
24x36: N.T.S.
Sheet **CB-1**

Attachment 4



AVERAGE NATURAL GRADE:

AVERAGE NATURAL GRADE WITHIN SOUTH BUILDING FOOTPRINT:
HIGH: 41'
LOW: 35'
DISTANCE 65'
GRADE: 9.2%

AVERAGE NATURAL GRADE OF SITE:
HIGH: 46'
LOW: 17'
DISTANCE: 186'
GRADE: 15.6%

AVERAGE NATURAL GRADE WITHIN NORTH BUILDING FOOTPRINT:
HIGH: 39'
LOW: 37'
DISTANCE 45'
GRADE: 4.4%

RIGHT OF WAY CONSTRUCTION NOTES:

1. INSTALL 10' SIDEWALKS AND 8" CURB AND GUTTER PER CITY OF MORO BAY STANDARD DRAWING B-1, TYPE A-1.
2. INSTALL TYPICAL DRIVEWAY PER CITY OF MORO BAY STANDARD DRAWING B-6.
3. INSTALL CURB RAMP PER CAL TRANS DETAIL A88A, CASE PER PLAN.

HORIZONTAL SCALE: 1" = 10'

Ashley & Vance ENGINEERING, INC.
CIVIL • STRUCTURAL
1413 Monterey Street
San Luis Obispo, CA 93401
(805) 545-0010
www.ashleyvance.com

Plan Prepared By:

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Engineer of Record:

REGISTERED PROFESSIONAL ENGINEER SHANNON JESSE KEA No. C 78778 Exp. 06/30/22 CIVIL STATE OF CALIFORNIA

PLANS UNDER REVIEW NOT FOR CONSTRUCTION

HARBOR VIEW HOTEL

205 - 215 HARBOR STREET
MORRO BAY, CA 93443

Project:

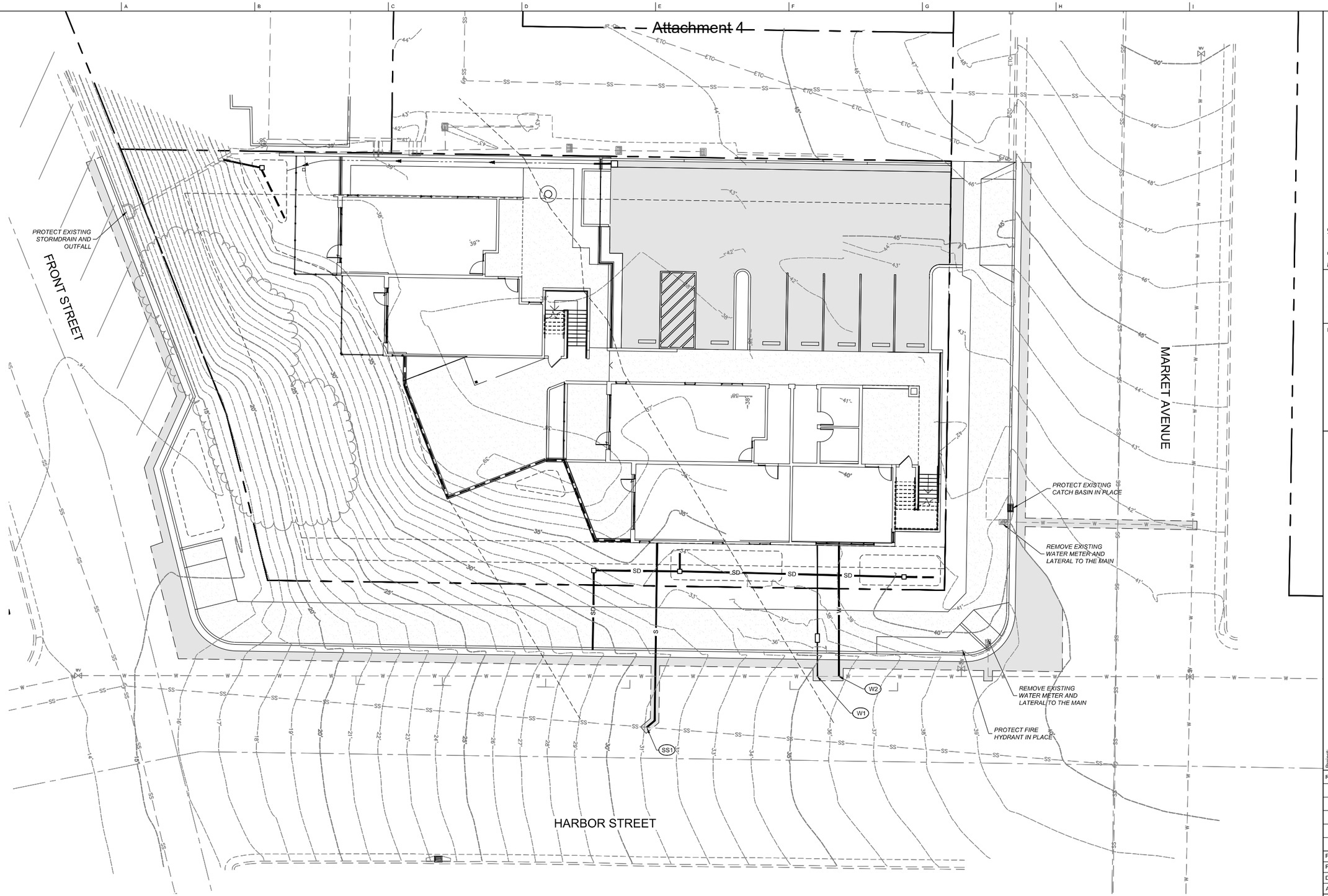
Revisions:	
1	-
2	-
3	-
4	-
5	-

Proj. Engr.:	KEA	Phone Ext.:	165
Proj. Mngr.:	S_J	Phone Ext.:	114
Date:	10/18/2021	Scale:	PER PLAN
A&V Job No.:	18374		

PRELIMINARY GRADING AND DRAINAGE PLAN

C-2.1

~~Attachment 4~~



KEY NOTES:

(SS1) PROPOSED 4" SDR SANITARY SEWER LATERAL PER CITY OF MORRO BAY STANDARDS S-1

(W1) PROPOSED WATER SERVICE AND METER PER CITY OF MORRO BAY STANDARD W-3

(W2) PROPOSED 4" PVC FIRE LINE

GENERAL NOTES:

ALL EXISTING UTILITIES SHOWN ARE BASED ON THE BEST KNOWLEDGE AVAILABLE. CONTRACTOR TO POTHOLE ALL POINTS OF CONNECTION AND VERIFY ALL CLEARANCES. MATERIAL DEPTH AND LOCATION SHALL BE IDENTIFIED BY CONTRACTOR. IF THERE ARE ANY DIFFERENCES FROM PLAN WITH ANY OF THESE ITEMS, ENGINEER OF WORK SHALL BE NOTIFIED IMMEDIATELY.

HORIZONTAL SCALE: 1" = 10'

10 0 10 20

Plan Prepared By:

Ashley & Vance ENGINEERING, INC.

1413 Monterey Street
San Luis Obispo, CA 93401
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Engineer of Record:

REGISTERED PROFESSIONAL ENGINEER SHANNON JESSE KEA No. C78178 Exp. 06/30/22 CIVIL STATE OF CALIFORNIA

PLAN REVIEW SET NOT FOR CONSTRUCTION

Project:

HARBOR VIEW HOTEL

205 - 215 HARBOR STREET
MORRO BAY, CA 93443

Revisions:

1	-
2	-
3	-
4	-
5	-

Proj. Engr.:	KEA	Phone Ext.:	165
Proj. Mngr.:	S_J	Phone Ext.:	114
Date:	10/18/2021	Scale:	PER PLAN
A&V Job No.:	16374		

PRELIMINARY UTILITY PLAN

C-3.1

Attachment 4

WATER CONSERVATION STATEMENT

THE CONCEPTUAL LANDSCAPE PLAN, CONCURRENT WITH THE PLANTING AND IRRIGATION CONSTRUCTION DOCUMENTS, PLAN INSTALLATION, RELATED SPECIFICATIONS AND NOTES, QUALIFIES THIS PROJECT AS ONE WHICH EMBRACES THE FOLLOWING CURRENT WATER CONSERVATION TECHNOLOGY AND METHODOLOGIES:

1. UTILIZATION OF STATE OF THE ART IRRIGATION CONTROLLER(S) ALLOWING FOR PRECISION INCREMENTAL WATER SCHEDULING IN ALL HYDROZONES.
2. USE OF DRIP-TYPE AND/OR MICROSPRAY SYSTEMS ONLY.
3. INTEGRATED PLANT DESIGN. PLANT PALETTES HAVE BEEN FORMED TO REFLECT PARALLEL WATERING REQUIREMENTS WITHIN EACH HYDROZONE GROUP.
4. PLANTS INSTALLED WITH MOISTURE RETENTIVE SOIL AMENDMENTS, ENABLING STRONG ROOT AND PLANT GROWTH, WITH THE USE OF LESS WATER.
5. 3" DEEP MULCHING OF ALL PLANT BASINS AND PLANTING AREAS, INHIBITING EVAPORATION.
6. USE OF LOW WATER USE PLANTS.

CONCEPT NOTES

1. PLANT MATERIAL WAS CHOSEN FOR ITS COMPATABILITY WITH THE MACRO/MICROCLIMATIC CONDITIONS OF THE REGION AND SITE; TOLERANCE OF WIND; TOLERANCE OF DROUGHT CONDITIONS; LONGEVITY; SCREENING CAPABILITIES; AND OVERALL ATTRACTIVENESS.
2. IRRIGATION SYSTEM SHALL BE DESIGNED FOR MAXIMUM WATER EFFICIENCY AND SHALL INCLUDE AN AUTOMATIC CONTROLLER, BACKFLOW PREVENTION DEVICE, AND LOW-GALLONAGE HEADS FOR TURF AND LARGE GROUND COVER AREAS. A DRIP-TYPE SYSTEM SHALL BE USED WHERE APPROPRIATE. TREES SHALL BE IRRIGATED ON SEPARATE BUBBLER SYSTEMS.
3. PLANT MATERIAL QUANTITIES, NARRATIVE SPECIFICATIONS, SITE DETAILS, AND MATERIAL DEFINITIONS WILL BE DETERMINED AND NOTED ON THE CONSTRUCTION DRAWINGS.

PRELIMINARY WATER USE CALCULATIONS

MAXIMUM APPLIED WATER ALLOWANCE (MAWA):

Morro Bay	Name of City		
39.90	ET_o (inches/year)	6,972.00	
	Overhead Landscape Area (ft^2)	94,860.33	Gallons
		12,681.02	Cubic Feet
6972	Drip Landscape Area (ft^2)	126.81	HCF
		0.29	Acre-feet
0	SLA (ft^2)	0.09	Millions of Gallons

ESTIMATED TOTAL WATER USE (ETWU):

Hydrozone	Select System From the Dropdown List click on cell below	Plant Water Use Type (s) (low, medium, high)	Plant Factor (PF)	Hydrozone Area (HA) (ft^2) Without SLA	Enter Irrigation Efficiency (IE)	(PF x HA (ft^2))/IE
Zone 1	Drip	Low	0.25	5,926	0.81	1,829
Zone 2	Drip	Medium	0.50	1,046	0.81	646
						2,475
		SLA		0		0
			Sum	6,972		

Results			
MAWA = 94,860	ETWU=	61,224	Gallons
ETWU complies with MAWA		8,184	Cubic Feet
		82	HCF
		0	Acre-feet
		0	Millions of Gallons

PRELIMINARY PLANT LIST

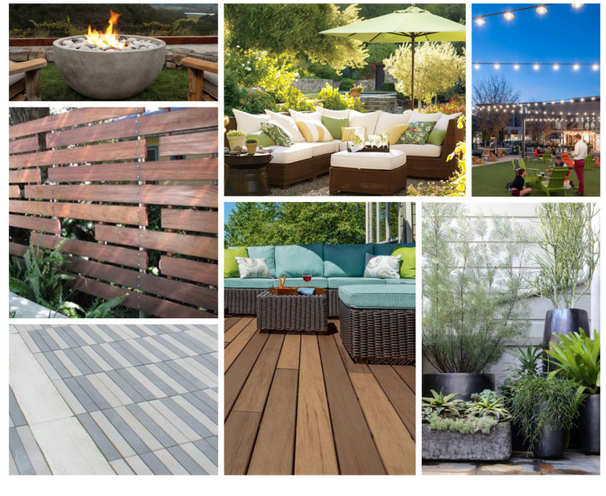
	TREES	SIZE (H X W)	CONTAINER	WUCOLS*	NOTES
A	AGONIS FLEXUOSA / PEPPERMINT TREE	30' X 20'	24" BOX	L	EVERGREEN, WILLOW-LIKE
B	ARBUTUS 'MARINA' / STRAWBERRY TREE	15' X 15'	24" BOX	L	PEELING BARK, EVERGREEN
C	TRISTNIA CONFERTA / BRISBANE BOX	40' X 20'	15 GAL	L	EVERGREEN, REDDISH BARK
D	MELALEUCA QUINQUENERVIA / CAJEPUT TREE	30' X 20'	24" BOX	L	EVERGREEN, PEELING BARK
E	METROSIDEROS EXC. / N. ZEALAND CHRISTMAS TREE	40' X 30'	24" BOX	L	RED BLOOMS
F	OLEA EUROPAEA 'SWAN HILL' / FRUITLESS OLIVE	20' X 20'	48" BOX	L	EVERGREEN, SILVER FOLIAGE
	SHRUBS				
G	CISTUS X PURPUREUS / ORCHID ROCKROSE	5' X 5'	5 GAL	L	PURPLISH-PINK FLOWERS
H	LEUCOSPERMUM CORD. 'YELLOW BIRD' / PINCUSHION	5' X 5'	5 GAL	L	YELLOW DOME FLOWERS
I	LEUCADENDRON 'SAFARI SUNSET' / CONEBUSH	5' X 5'	5 GAL	L	RED, GREEN FOLIAGE
J	WESTRINGIA 'MORNING LIGHT' / COAST ROSEMARY	3' X 3'	5 GAL	L	CREAM VARIEGATION
K	YUCCA FIL. 'COLOR GUARD' / ADAM'S NEEDLE	3' X 3'	5 GAL	L	YELLOW-GREEN LEAVES
	SUCCULENTS				
L	AGAVE ATTENUATA / FOXTAIL AGAVE	3' X 3'	5 GAL	L	SMOOTH GREEN ROSETTES
M	ALOE STRIATA / CORAL ALOE	3' X 2'	5 GAL	L	ORANGE BLOOMS
N	EUPHORBIA TIRUCALLI 'STICKS ON FIRE' / FIRE STICKS	3' X 5'	5 GAL	L	BRIGHT, PENCIL-LIKE STEMS
	PERENNIALS				
O	ACHILLEA MILLEFOLIUM ' MOONSHINE' / YARROW	2' X 1'	1 GAL	L	YELLOW FLOWERS
P	BULBINE FRUTESCENS 'HALLMARK' / BULBINE	2' X 4'	1 GAL	L	ORANGE FLOWERS
Q	KNIPHOFIA UVARIA / RED HOT POKER	3' X 2'	1 GAL	L	ORANGE STALKS
R	LAVANDULA ANGUSTIFOLIA / ENGLISH LAVENDER	2' X 2'	1 GAL	L	AROMATIC
	GROUNDCOVER				
S	FESTUCA GLAUCA 'ELIJAH BLUE' / BLUE FESCUE	1' X 1'	1 GAL	L	BLUE-GRAY FOLIAGE
T	GREVILLEA LAN. 'COASTAL GEM' / WOOLLY GREVILLEA	1' X 4'	1 GAL	L	PINK SPIDER-LIKE FLOWERS
U	JUNIPERUS CONFERTA 'EMERALD SEA' / SHORE JUNIPER	1' X 5'	1 GAL	L	CONIFER, EVERGREEN
V	SENECIO MANDRALISCAE / BLUE CHALKSTICKS	1' X 5'	1 GAL	L	BLUE, PENCIL-LIKE LEAVES

*WUCOLS (WATER USE CLASSIFICATIONS OF LANDSCAPE SPECIES) IS A GUIDE TO HELP IDENTIFY IRRIGATION WATER NEEDS OF PLANT SPECIES. DEVELOPED BY THE UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION, CALIFORNIA DEPARTMENT OF WATER RESOURCES, 2000.

KEYNOTE LEGEND

1. ENHANCED PAVING: COLORED CONCRETE OR MODULAR CONCRETE PAVERS
2. ROOFTOP PATIO WITH ENHANCED PAVING, LOUNGE SEATING AND LANDSCAPE POTS
3. SEATING AROUND FIREPIT
4. SEATING AROUND FIREPLACE
5. CUSTOM COUNTERTOP WITH BBQ GRILL
6. TABLE SEATING
7. PRIVATE PATIO
8. LOBBY ENTRY PATIO WITH LOUNGE SEATING AND LANDSCAPE POTS
9. SYNTHETIC TURF WITH LAWN GAMES
10. SEMI-PRIVATE SEATING AREA
11. EXISTING SLOPE VEGETATION TO REMAIN. REMOVE INVASIVE SPECIES, PRUNE TO MAINTAIN HEALTHY SHAPE AND TO PRESERVE VIEWS. INFILL WITH NEW PLANTS, AS NEEDED.
12. NEW SLOPE PLANTING
13. NEW CORNER ACCENT PLANTING
14. CITY APPROVED STREET TREE IN TREE WELL (QTY 5)
15. VERTICAL EVERGREEN SCREENING SHRUBS
16. LANDSCAPE POTS, TYP.
17. BIOSWALE PLANTS IN TREATMENT PLANTER

PROPOSED LANDSCAPE ELEMENTS

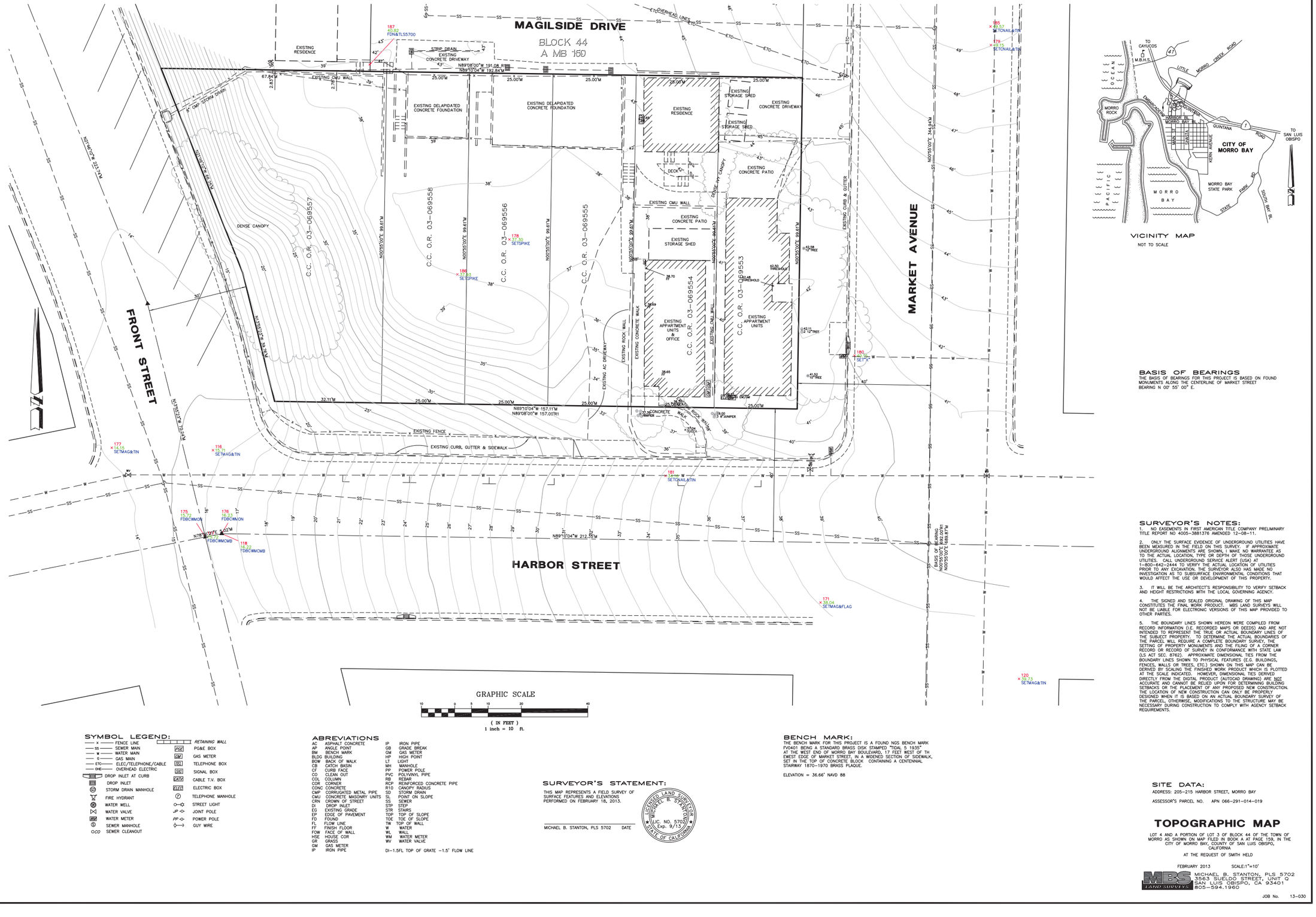


205 HARBOR STREET
MORRO BAY, CA

CONCEPTUAL LANDSCAPE PLAN

L-1
10/18/21

OASIS ASSOCIATES
LANDSCAPE ARCHITECTURE + PLANNING


MAGILSIDE DRIVE
BLOCK 44
A MB 159
HARBOR STREET
FRONT STREET
MARKET AVENUE
EXISTING RESIDENCE
EXISTING DELAPIDATED CONCRETE FOUNDATION
EXISTING STORAGE SHED
EXISTING CONCRETE DRIVEWAY
EXISTING CONCRETE PATIO
EXISTING CMU WALL
EXISTING APPARTMENT UNITS & OFFICE
EXISTING APPARTMENT UNITS
EXISTING CURB & GUTTER
EXISTING CONCRETE WALK
EXISTING ROCK WALL
EXISTING AC DRIVEWAY
EXISTING CURB, GUTTER & SIDEWALK
EXISTING FENCE
DENSE CANOPY
C.C. O.R. 03-069558
C.C. O.R. 03-069557
C.C. O.R. 03-069556
C.C. O.R. 03-069555
C.C. O.R. 03-9553
C.C. O.R. 03-069554
N89°10'04"W 157.11'M
N89°08'01"W 157.00'R1
N89°10'04"W 212.55'M
N89°10'04"W 191.08'R
N89°10'04"W 192.84'M
N01°49'01"W 223.74'M
N11°55'23"W 39.76'M
N11°55'23"W 72.64'M
N78°34'E 5.02'M
N00°55'00"E 89.61'M
N00°55'00"E 89.67'M
N00°55'00"E 344.94'M
BASIS OF BEARING N82.00°W N00°55'00"E 659.67'M
DRIVE WAY CANOPY
DECK
STRIP DRAIN
4" CMP STORM DRAIN
OVERHEAD LINES
187 40.82 FDN&TLS5700
185 x 49.57 SETCNAIL&TIN
179 x 49.15 SETCNAIL&TIN
178 x 37.50 SETSPIKE
186 x 37.93 SETSPIKE
180 x 40.16m SET"X"
181 x 34.90 W SETCNAIL&TIN
171 x 30.04 SETMAG&FLAG
120 x 39.73 SETMAG&TIN
177 x 14.15 SETMAG&TIN
116 x 16.71 SETMAG&TIN
175 15.72 FDBCWMON
176 16.23 FDBCWMON
118 16.22 FDBCWMCMB
42.58 12" TREE
41.52 10" TREE
43.11 12 1/2" TREE
38.70 FF
38.65
38.46 THRESHOLD
42.82 THRESHOLD
37.74 CONCRETE WALK
37.34 x 37.24 x 37.24
39.00 3 6" JUNIPER
37.74 CONCRETE WALK
37.74 CONCRETE WALK
37.74 CONCRETE WALK

Attachment 5

City of Morro Bay City Council

205 HARBOR STREET

APPEAL OF PC APPROVAL OF

COASTAL DEVELOPMENT PERMIT CDP21-019 & CONDITIONAL USE PERMIT CUP21-05

6-UNIT 5,042SF BLUFFTOP HOTEL

APPELLANT: BETTY WINHOLTZ

APPLICANT: CHUNG HSIAO

NOVEMBER 9, 2021

MORRO BAY
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Proposed Development approved by Planning Commission 9/7/21

- New construction of 6 room 5,042sf blufftop hotel on a .40 acre lot including the merger of six underlying lots located on Harbor Street between Market and Front Streets.

- Demolition of three existing single-story residential / office structures on-site, and related accessory structures.

- Major vegetation removal– 2 Hollywood Juniper trees and 3 Fern Pine trees to be removed on Harbor and Market consistent with major vegetation replacement policies.

- Hotel building construction consists of two detached buildings with a view courtyard in the center of the property. Parking lot to include 7 parking spaces with access from Market Avenue.

- The first floor proposes 4 hotel rooms ranging from 651sf to 683sf in size.

- The second floor proposes 2 hotel rooms of 665f and 682sf.

- Hotel amenities include view courtyard, entry court, guest space, hotel lobby, and guest laundry space. Second floor amenities include roof deck for guest use, and west-facing private patios.

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Plans submitted for PC approval showing spa/ retaining wall

Attachment 5

Plans as approved & showing compliance with Planning Commission condition #13 which removes spa/retaining wall

Attachment 5

Appeal Filed 9/17/2021

Claim 1 – Major Vegetation Removal. Appellant claims that trees at corner of Market & Harbor would remain as presented at the March 2021 PC meeting, but Sept 2021 staff report included removal which contradicts the March meeting. Appellant requests the project be in alignment with the Urban Forest Management Plan (UFMP) and retain trees as originally proposed in order to soften the building design.

Staff response – March 2021 meeting was a conceptual meeting with no action taken. Concept review items are to solicit early feedback. No application had been received. PC emphasized importance of this corner with request to modify elevation and develop a landscape plan. UFMP does not apply. Project meets major vegetation replacement guidelines.

Claim 2 - Project not subordinate to setting – Appellant claims height of structures changed from March to September PC meeting. Project out of character for area; Purpose of bluff standards is to mitigate for adverse impact. Visual simulations incorrectly make height appear to have less impact. Requests height to be lowered to 25-27 feet.

Staff response – PC stated they liked the project design and noted that the site plan suits the blufftop site with the staggered structures stepping up the slope. PC emphasized the importance of Harbor & Market as an urban corner with public views opening up as one goes west down Harbor Street. At the September hearing PC added condition 13 to remove the spa and retaining wall along Harbor St to maintain the natural bluff character. Multiple visual simulations were requested to evaluate context of the proposed location and compatibility with surrounding uses. Project complies with bluff development standards.

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PROPOSED VIEW FROM HARBOR STREET & MARKET AVENUE

PROPOSED VIEW FROM MARKET AVENUE

Appeal Filed 9/17/2021

Claim 3 – Parking. Appellant states that EV parking was not required, and that project is actually a short term vacation rental project with 7 parking spaces insufficient. Requests that EV be required and require additional parking as a vacation rental project.

Staff response – California Building Code does not require EV parking for a development of this size. Project was approved by PC as a hotel with a guest lobby for check-in and meets the parking requirement for hotel as required by the Zoning Code. Hotels are not required to have a manager's unit.

Claim 4- Retaining wall – Appellant states the September staff report did not specifically note a retaining wall had added from the March meeting and requested relief is to abide by PC's amendment to eliminate the retaining wall.

Staff response – The project plans have been updated for the City Council appeal hearing to show compliance with the permit condition #13 to remove the spa and retaining wall along Harbor Street. Applicant has accepted the conditions of approval.

MORRO BAY
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Appeal Filed 9/17/2021

Claim 5 – Low Cost Visitor Accommodation. Appellant states that the project room sizes affirms this is not a low income visitor serving project and the 2017 Low Cost memo does not include the upscale hotels to be built and is insufficient to satisfy Section 30213 of the Coastal Act. Requests one unit be affordable.

Staff response – The Low Cost Technical Memo prepared in 2017 informed policy development in the August 2021 certified Coastal Land Use Plan (LCP). The memo's analysis concluded that the city of Morro Bay has an adequate supply of lower cost accommodations and a full policy to implement the LUP policies will be developed in the draft Zoning Code (IP). Requiring an onsite affordable unit does not apply because the property is not on the Embarcadero or on the water and the project is not displacing existing low cost accommodation units.

In addition, a specific analysis was performed for this project whether mitigation would be needed by surveying neighboring hotel rates and amenities comparatively. The conclusion was that although room rates are high, the hotel can be characterized as moderate cost based on the extensive amenities and value offered and location. This is consistent with Policy LU-6.2 which encourages a range of accommodations.

MORRO BAY
PUT LIFE ON COAST

Appeal Filed 9/17/2021

Claim 5 – Low Cost Visitor Accommodation- continued

Phone & Internet Survey of Neighboring Hotel Room Rates for family of 4 for a week				
Hotel Name	**January Room Rate**	**June Room Rate**	**Room Type**	**Amenities**
Blue Sail Inn, 851 Market Ave	$135.67	$166.14	2 Queens	Standard
Bay View Inn, 225 Harbor St	$99.00	$192.50	2 Queens	Microwave & mini-fridge
Beach Bungalows, 1050 Morro Ave	$100.04 or $111.15	$211.41 or $234.90	2 Queens or 2 Br. suite	Mini-fridge & coffee/tea station
Grays Inn, 561 Embarcadero	$220 (approx.)	$292.14	1 bedroom apt size with king bed & living room	Full kitchen with stove & dining amenities
Harbor House Inn, 1095 Main St	$104.00	$183.57	2 Queens	Microwave, mini-fridge, coffeemaker, internet
Salty Sister, 1170 Front St	$570.41	$715.84	2 master bedrooms	Full kitchen with gourmet appliances, and cookware for 12
Rock View Inn, 1080 Market Ave	$83.66	$156.17 average	2 Queens	Microwave & mini-fridge
The Landing, 780 Market Ave	$112.33	$270.25	2 Queens	Patio view, fireplace, microwave, mini-fridge, free wi-fi

- Accommodation inventory of neighboring hotels performed 10/29/21
- Data received from Visit SLO CAL prepared by STR indicates Statewide ADR for 2019 was $172 and Morro Bay ADR as of Sep 2021 is $194.
- Hotel project designed to be an accommodation option for families/visitors with up to 6 persons and include range of hotel amenities to contribute to the affordability by also offering lower cost alternatives such as guestroom kitchen, guest laundry, BBQ area, outdoor firepit, game lawn, common view courtyard, & bicycles.

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Staff Recommendation:

Attachment 5

- Adopt Resolution 75-21 making the necessary findings to deny the appeal and uphold Planning Commission approval of Coastal Development Permit #CDP21-019 and Conditional Use Permit #CUP21-05 for the project at 205 Harbor Street.

MORRO BAY
PUT LIFE ON COAST

From:
To: Cindy Jacinth
Subject: Proposed Development, 205 Harbor Street, Morro Bay
Date: Monday, November 01, 2021 2:02:50 PM

Hello Cindy, Council Members, and Coastal Commission,

We own a property at the corner of Pelican and Dunes, just one lot from this development.

We are very much in favor of this project. The owners did not strive for maximum density, thus allowing for viewshed and a beautiful layout.

This is an outstanding project that will benefit it's neighbors and the town.

George Contento, Morro Bay

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AGENDA NO:	**B-2**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 28, 2021**

FROM: **Cindy Jacinth, Senior Planner**

SUBJECT: **Adoption of Resolution No. 76-21 approving Major Amendment #MAJ20-004 located at 715 Embarcadero, for the conversion of commercial fishing wharf to Harborwalk coastal public access, conversion of existing interior 470-square foot (sf) fish processing area to new retail space, removal of a 580-sf outdoor covered patio and conversion of the area to new Harborwalk, repair of 3 existing pilings to remain for support of the new Harborwalk. The project also proposes a new 461-sf street-facing public outdoor dining and related commercial façade improvements. The project is located in the WF/PD/S.4 zoning district and is within the Coastal Commission original jurisdiction.**

RECOMMENDATION

Staff recommends the Council adopt Resolution No. 76-21, making the necessary findings for approval of Major Amendment #MAJ20-004 as Concept/Precise Plan approval, located at 715 Embarcadero.

ALTERNATIVES

Alternative 1. The City Council could move to modify or delete conditions of approval from the Planning Commission's favorable recommendation.

Alternative 2. The City Council could move to deny the Conditional Use Permit (CUP) and request and direct staff to return to Council with a resolution memorializing that denial.

FISCAL IMPACT

The City will gain additional tax revenue for the second retail space created from within the 715 Embarcadero building but the majority of the project consists of non-revenue generating public access improvements.

PROJECT DESCRIPTION AND REGULATIONS

The lease site at 715 Embarcadero Road (#80/81 and 80W/81W) is an existing approximate 2,892-sf single-story building with street facing visitor-serving retail and a bay-facing 1,025-sf commercial fish processing wharf and 580-sf outdoor covered patio area and windscreen. The project proposes to demolish 445 square feet of the existing 1,025-sf commercial fish processing wharf including removal of five existing wood pilings, installation of a new ten-foot-wide Harborwalk coastal public access and additional ten-foot-wide fiberglass deck, removal of a 580-sf outdoor covered patio and conversion of the area to new Harborwalk, and repair of three existing pilings to remain for support

Prepared By: ___CJ____	**Dept Review: ____SG_____**
City Manager Review: ___SC_____	**City Attorney Review: __JWP_____**

of the new Harborwalk. The project also proposes conversion of 470sf of existing interior fish processing area to new retail space, a new 461-sf of street-facing public outdoor dining, and related commercial façade improvements. No expansion of the existing building square footage is proposed, nor is any height increase proposed. The project is located in the WF/PD/S4 zoning district, within the Waterfront Master Plan and the Downtown Waterfront Strategic Plan (DWSP) areas and is also within the Coastal Commission Original Jurisdiction. The Coastal Commission retains permitting authority for the related coastal development permit. The proposed project request is for a Major Modification of the previous conditional use permit #CUP07-91.

Planning Commission (PC) reviewed the project on September 21, 2021 and October 5, 2021, pursuant to Morro Bay Municipal Code (MBMC) section 17.40.030 (Planned Development overlay), which requires Concept/Precise plan approval for public tidelands projects. The PC reviewed the project and voted on October 5, 2021 to forward a favorable recommendation with recommended conditions to the City Council for final approval (PC Resolution No. 18-21, Attachment 2). The PC staff report for both the September and October meetings, which discusses the project in greater detail, is provided below as online links on the last page of this staff report.

PLANNING COMMISSION REVIEW AND RECOMMENDATION

The PC initially reviewed the CUP amendment at a duly noticed public hearing on September 21, 2021 to consider forwarding a favorable recommendation to City Council for approval. At the conclusion of the meeting, the PC moved to continue the hearing to the October 5, 2021 meeting. The direction of the PC on September 21, 2021 was to continue the project in order to request revised plans with additional detail related to the proposed street-facing public seating; building façade improvement on the west elevation; and show accessibility compliance for the grade difference between this lease site and Rose's Landing lease site to the north at 725 Embarcadero.

At its October 5, 2021 meeting, the PC reviewed the revised CUP plans and modified Conditions #17 and #18, and added 19-23. (Attachment 2, PC Resolution No. 18-21). PC Conditions #15, #17, #18, and #19 address the street-facing open plaza and public dining tables. These conditions were added by PC to ensure the area avoids table creep; minimizes clutter or crowding with excessive movable pots or planters; requires staff review of future umbrella color and design and adds no smoking signs all with the goal to increase the ambiance and openness of the plaza for public enjoyment. Conditions #16, #20, and #22 address building elevation design, lighting, and slope profile details for the Harborwalk connection between lease sites.

Conditions #21 and #23 added by the PC reflect the deliberation regarding preservation of the wharf. The PC discussed whether preserving the entirety of the wharf structure including the hoist was a possibility based on the historic nature and Morro Bay's commercial fishing history. Due to space constraints, it was determined infeasible to preserve the hoist without also impacting the required Harborwalk public access. Instead, the PC recommended conditions would require revising the plans to preserve the wharf planking and edge curbs for the portion of the wharf that is to remain. In addition, Condition #23 directs the applicant to work with staff on pursuing off-site preservation opportunities for the hoist.

DISCUSSION:

The proposed project represents a significant new addition to coastal public access and the City's Harborwalk system. The conversion of the commercial fishing wharf provides a gap connection where no Harborwalk public access currently exists furthering the goal of providing Harborwalk bayside access along the entire length of the Embarcadero lease sites. With the recent redevelopment of the

Rose's Landing lease site to the north, filling in this gap connection point at the Dutchman's/Dolphin Shirt Co. building increases public accessibility to the bay and facilitates bayside access consistent with the Waterfront Master Plan and DWSP. Furthermore, the proposed project exceeds the required minimum ten-foot-wide Harborwalk by expanding the width to twenty feet with an additional ten-foot-wide fiberglass deck which will also provide for increased public enjoyment of the bay and is consistent with the City's General Plan/LCP and the Waterfront zoning district. In addition, the street-facing improvements along Embarcadero will also provide for increased public access by offering a permanent public outdoor dining option for public enjoyment.

CONCLUSION

The PC reviewed the project and has forwarded a favorable recommendation for final approval to City Council. The attached Council Resolution No. 76-21 reflects the PC's recommendation. No exceptions under the Planned Development overlay are proposed.

As conditioned, the City Council can find for approval of the project consistent with applicable provisions of the General Plan/ LCP, and Zoning Ordinance. Staff therefore recommends combined Concept/Precise Plan approval of MAJ20-004.

ATTACHMENTS:

1. City Council Resolution No. 76-21
2. Planning Commission Resolution No. 18-21 (adopted October 5, 2021)
3. Plans/ Plan Reductions received September 29, 2021
4. Powerpoint presentation

ONLINE DOCUMENTS

1. Staff report & attachments for the 10/05/2021 Planning Commission meeting available at the following link: https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/5758
2. Staff report & attachments for the 9/21/2021 Planning Commission meeting available at the following link: https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/5746

RESOLUTION NO. 76-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, TO CONDITIONALLY APPROVE MAJOR MODIFICATION (MAJ20-004) OF CONDITIONAL USE PERMIT (CUP07-91) CONCEPT / PRECISE PLAN APPROVAL FOR CONVERSION OF EXISTING COMMERCIAL FISHING WHARF, INSTALLATION OF NEW HARBORWALK COASTAL PUBLIC ACCESS IMPROVEMENTS, REMOVAL AND REPAIR OF PILINGS TO SUPPORT THE NEW HARBORWALK, CONVERSION OF 470SF OF EXISTING INTERIOR FISH PROCESSING AREA TO NEW RETAIL SPACE FROM WITHIN EXISTING SINGLE-STORY COMMERCIAL BUILDING, NEW 461SF OF PUBLIC OUTDOOR DINING, AND RELATED BUILDING FAÇADE IMPROVEMENTS AT 715 EMBARCADERO

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

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing via video conference on September 21, 2021 and October 5, 2021 for the purpose of considering a favorable recommendation to the Morro Bay City Council for approval of a Major Modification (MAJ20-004) to Conditional Use Permit CUP07-91 ("Project"); and

WHEREAS, the City Council of the City of Morro Bay (the "City") conducted a public hearing via video conference on November 9, 2021, for the purpose of considering the favorable recommendation by the Planning Commission; and

WHEREAS, pursuant to the Governor's Executive Order N-08-21 issued on June 11, 2021 in response to the present State of Emergency in existence due to the threat of COVID-19, the City of Morro Bay Planning Commission and the City of Morro Bay City Council are authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

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

WHEREAS, the City Council has duly considered all evidence, including the testimony of the Applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

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

Section 1. Findings. Based upon all the evidence, the Council makes the following findings:

California Environmental Quality Act (CEQA)

A. For purposes of the California Environmental Quality Act, Case No. MAJ20-004 is exempt under Section 15301 and 15303, Class 1e and 1g for minor alterations to existing structures; and Class 3c for conversion of commercial structures from one use to another where the commercial remodel of this project converting the fish processing wharf and removal to allow for installation of new Harborwalk coastal public access where none currently exists, interior building changes to convert 470sf of existing interior fish processing area to new retail area from within the existing building footprint, removal of pilings and repair of existing pilings to support the new Harborwalk would qualify for an exemption with implementation of best management practices as evaluated in the February 1, 2019 eelgrass report prepared by Tenera Environmental and conditioned by Planning conditions 7-9. To ensure there are no future impacts to eelgrass, a condition of approval has been added to require an updated eelgrass survey prior to construction of the dock and gangway replacement per the California Eelgrass Mitigation Policy (CEMP) (Planning condition 10). Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

Conditional Use Permit Findings

A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the conversion of commercial fish processing wharf to Harborwalk coastal public access improvements where none currently exists, removal of pilings and repair of existing pilings to support the new Harborwalk, conversion of 470sf of interior fishing processing area to new retail area within existing single-story commercial visitor-serving building, new 461sf of public dining area to be located street-facing, and building façade improvements at 715 Embarcadero are permitted uses within the zoning district and said structures comply with all applicable project conditions and City regulations and is consistent with the City's Local Coastal Program.

B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the proposed new ten-foot-wide and additional ten-foot-wide public bayside deck public access improvements, new 470sf retail area, new 461sf public outdoor dining and updated public coastal access signage, will provide public coastal access and new amenities to a visitor-serving commercial use and is consistent with the character of the existing development.

Waterfront Master Plan Findings

A. The proposed project makes a positive contribution to the visual and public accessibility to the bay:

    a. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, in that new Harborwalk bayside lateral access is created where none currently exists providing a significant improvement by connecting the neighboring lease site to allow for easier pedestrian access, enjoyment, and better bay views.

    b. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and enhanced pedestrian experience in that the project will provide new

lateral public access along the water while assisting in the Harborwalk plan to continue public access along the waterfront via bayside lateral access. In addition, the project recognizes the pedestrian orientation by providing a gap connection linking the lease sites to the north and south. The project is consistent with the character of the existing development.

c. The project gives its occupants and the public some variety in materials and/or application in that the proposed color and materials are consistent with the character of the building and coastal access signage will be updated to be consistent with other Embarcadero projects in order to have consistent public access signage to promote public awareness of coastal bayside access.

d. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new harborwalk public lateral access improves public access and that is consistent with the character of the existing development.

e. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition connection point to its immediate neighbors to the north and south.

Architectural Consideration

A. As required by Morro Bay Municipal Code Section 17.48.200 the City Council finds the architectural treatment and general appearance of all proposed structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city and are not detrimental to the orderly and harmonious development of the city or to the desirability of investment of occupation in the area.

Precise Plan Finding

A. As required by Morro Bay Municipal Code Section 17.40.030.G, the City Council finds the project is developed sufficiently to approve the project as a combined concept/precise plan major modification approval of the conditional use permit.

Downtown Waterfront Specific Plan (DWSP) Finding

A. The project is consistent with the Waterfront Design Guidelines for the DWSP in that the proposed project includes outdoor dining, exterior lighting, and coastal access signage oriented toward pedestrians which is encouraged. The project also includes project exterior light consistent with the architectural style of the building as well as public street-facing outdoor dining and a new proposed ten-foot-wide Harborwalk bayside lateral access with an additional ten-foot width of public bayside decking.

Section 2. Action. The City Council does hereby approve Major Modification #MAJ20-004 to Conditional Use Permit #CUP07-91 as a combined Concept/Precise Plan approval subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated October 26, 2021, for the project at 715 Embarcadero depicted on plans dated September 29, 2021, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on City Council approved plans submitted for MAJ20-004, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Director. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.

4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

Building Conditions:

THE FOLLOWING CONDITIONS AND SELECTED CODE REQUIREMENTS SHALL BE MET PRIOR TO ISSUANCE OF A BUILDING PERMIT.

A. CONDITIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.

2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

4. The owner shall comply with the City Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.

5. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.

6. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.

7. BUILDING PERMIT APPLICATION: To apply for building permits, submit three (3) sets of construction plans, fire sprinkler plans, if applicable, and supplemental documents to the Building Division.

8. The Title sheet of the plans shall include, but not limited to:
    - Street address, lot, block, track and Assessor Parcel Number
    - Occupancy Classification(s)
    - Construction Type
    - Maximum height of the building allowed and proposed

- Floor area of the building(s)
- Fire sprinklers proposed or existing
- Minimum building setback allowed and proposed

9. All construction will conform to the 2019 California Building Code (CBC), 2019 California Residential Code (CRC), 2019 California Fire Code (IFC), 2019 California Mechanical Code (CMC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Energy Code, 2019 California Green Building Code (CGBC), Title 14 and 17 of the Morro Bay Municipal Code.

   (Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

10. SITE MAINTENANCE: During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust. A storm water management plan shall be maintained through the duration of the project. The storm water management measures such as fiber rolls, silt fencing, etc. will be enforced by City staff by random site visits.

11. ARCHAEOLOGICAL MATERIALS: In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances**.** If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

12. FOUNDATION SETBACK VERIFICATION: Prior to the placement of concrete and upon completed form installation, a licensed surveyor is required to measure and record the distance from the proposed foundation walls to the established lot lines. The contractor shall submit these findings in letter format to the building inspector upon the request for a foundation inspection. Letter shall specify the findings of front, sides and rear yard setbacks as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some lot types.

13. BUILDING HEIGHT VERIFICATION: Prior to roof sheathing or shear wall inspection, a licensed surveyor is required to measure and record the height of the structure. The contractor shall submit this finding in letter format to the building inspector upon the request for roof sheathing/shear wall inspection. Letter shall specify the recorded height

of structure as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some site-specific projects.

14. EXISTING BUILDINGS: Where windows are required to provide emergency escape and rescue openings, replacement windows shall comply with the maximum sill height requirements of section R310.2.2 and the minimum opening area requirements of section R310.2.1 of the 2019 California Residential Code.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF THE CERTIFICATE OF OCCUPANCY:

15. Prior to building division final approval and request for final inspection, all required inspections from the other various divisions and departments must be completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card. This permit card shall then be turned into the building division for scheduling of the final building inspection.

16. Any as-built drawings that were required by the building inspector or plans examiner must be submitted for approval prior to the request for final inspection.

17. If structural observations were required, the final structural observation report shall be submitted to the building division prior to issuance of the certificate of occupancy or final inspection approval.

18. If special inspections were required, the final special inspection report shall be submitted to the building division prior to the issuance of the certificate of occupancy or final inspection approval.

19. Final soils summary report from the geotechnical representative indicating compliance with the required conditions set forth in the soils report.

20. Final T-24 energy reports (Certificates of Installation)

Fire Department Conditions:

1. Fire Safety during Construction and Demolition shall be in accordance with 2019 California Fire Code, Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Fire Protection for Wharves, docks, marinas, boat moorings. Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the city, and all installations shall be subject to the approval of the fire marshal of the Fire Department.

Public Works Conditions:

1. Construction laydown: Show construction laydown, all staging areas, point of haul-in/out and all construction corridors to and from the construction site.

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4. Add the following Notes to the Plans:

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   No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permit application and requirements are available on the City's website at the following location: https://www.morro-bay.ca.us/197/Public-Works.

Planning Conditions:

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2. Prior to issuance of a building permit, the Applicant shall either acquire all required regulatory permits and authorizations (i.e. U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game), or submit documentation that such permits are not required.

3. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval for both the Conditional Use Permit and the Coastal Development Permit shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

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5. The public access closure shall be limited to no more than 45 days. Any extension of public access closure beyond 45 days shall be subject to review and approval by the Community Development Director.

6. The Harborwalk railing shall be a cable railing design to match with the lease site to the north and consistent with the design guidelines of the Downtown Waterfront Strategic Plan subject to the satisfaction of the Community Development Director.

7. Non-conforming signs, including window signs as discussed in the September 14, 2021

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8. A project-specific Oil Spill Response and Recovery Plan that includes specifics on reporting and response procedures, available on-site equipment and contracted services, and responsibilities shall be completed and approved prior to the initiation of construction activities. Specifically, the project shall include the following Best Management Practices (BMPs) and shall be included on building plans submitted for approval:
    a. No refueling of equipment without adequate containment and spill response equipment. The barge shall have only double contained fuel storage below decks, with the spill containment and clean up kits on-site and easily accessible. Spill containment and clean up kits shall include the following:
    b. 150 feet Absorbent Boom 200 square feet Absorbent Tarp (for use during pile driving / removal operations where applicable)
    c. Barrel Absorbent Pads
    d. Container Absorbent Granules
    e. Rainwater runoff pollution from equipment stored on deck shall be prevented through ongoing equipment maintenance and appropriate double containment.
    f. The work area shall be contained within a boom to prevent debris from falling into the water.
    g. All equipment fueling shall take place on the barge, with containment in-place. No refueling between vessels shall occur.
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    i. No equipment shall be permitted to enter the water with any petroleum products.
    j. All equipment used during pile removal and repair operations shall be in good condition without fuel or oil leakage.
    k. Should any equipment begin to leak, that equipment shall be removed immediately from the barge and repaired or replaced.
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Mitigation Policy, dated October 2014.

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13. No restaurant condiments or table setups shall be allowed at the outdoor public dining area.

14. View Corridor. The required view corridor between the buildings at 701 and 715 Embarcadero shall be maintained with no furniture item or table umbrellas to exceed 30 inches in height per the Waterfront Master Plan. No podium, hostess stand or station shall be allowed within the view corridor and public dining area.

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16. Final building elevations submitted for building permit approval shall include added glazing in the form of window/door area that equals a minimum of 20% of the square footage of the west facing retail unit's wall area including the new retail unit's door and glass panel at northwest corner of the building.

17. Umbrellas for public outdoor street-facing tables shall be consistent with future City policy guidelines for Embarcadero street furniture design. Umbrellas shall be replaced at the time of building permit issuance to the satisfaction of the Community Development Director.

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21. Project plans shall be revised to preserve existing wharf planking and edge curbs for the portion of the wharf that is to remain. Relocate edge curbs to the new footprint on the inside of guardrail.

22. Lighting shall be revised to a warm kelvin color consistent with future City policy guidelines for public area design on the Embarcadero.

23. Existing hoist on the commercial fishing wharf shall be preserved to the greatest extent feasible. Applicant shall work with Staff to identify options for preservation and possible storage.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 9th day of November 2021 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADDING, Mayor

ATTEST

DANA SWANSON, City Clerk

RESOLUTION NO. PC 18-21

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION FORWARDING A FAVORABLE RECOMMENDATION TO THE MORRO BAY CITY COUNCIL FOR CONCEPT / PRECISE PLAN APPROVAL OF CONDITIONAL USE PERMIT MAJOR MODIFICATION (MAJ20-004) FOR CONVERSION OF EXISTING COMMERCIAL FISHING WHARF, INSTALLATION OF NEW HARBORWALK COASTAL PUBLIC ACCESS IMPROVEMENTS, REMOVAL AND REPAIR OF PILINGS TO SUPPORT THE NEW HARBORWALK, CONVERSION OF 470SF OF EXISTING INTERIOR FISH PROCESSING AREA TO NEW RETAIL SPACE FROM WITHIN EXISTING SINGLE-STORY COMMERCIAL BUILDING, NEW 461SF OF PUBLIC OUTDOOR DINING, AND RELATED BUILDING FAÇADE IMPROVEMENTS AT 715 EMBARCADERO

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing via video conference on September 21, 2021 for the purpose of considering approval of Conditional Use Permit Major Modification #MAJ20-004 ("Project"); and

WHEREAS, the Planning Commission continued the hearing to a date certain of October 5, 2021 for the purpose of requesting additional project plan details for the Conditional Use Permit Major Modification #MAJ20-004 ("Project"); and

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing via video conference on October 5, 2021 for the purpose of considering approval of Conditional Use Permit Major Modification #MAJ20-004 ("Project"); and

WHEREAS, pursuant to the Governor'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, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

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

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

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

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA)

A. That for purposes of the California Environmental Quality Act, Case No. MAJ20-004 is exempt under Section 15301 and 15303, Class 1e and 1g for minor alterations to existing structures; and Class 3c for conversion of commercial structures from one use to another where the commercial remodel of this project converting the fish processing wharf and removal to allow for installation of new Harborwalk coastal public access where none currently exists, interior building changes to convert 470sf of existing interior fish processing area to new retail area from within the existing building footprint, removal of pilings and repair of existing pilings to support the new Harborwalk would qualify for an exemption with implementation of best management practices as evaluated in the Feburary 1, 2019 eelgrass report prepared by Tenera Environmental and conditioned by Planning conditions 7-9. To ensure there are no future impacts to eelgrass, a condition of approval has been added to require an updated eelgrass survey prior to construction of the dock and gangway replacement per the California Eelgrass Mitigation Policy (CEMP) (Planning condition 10). Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

Conditional Use Permit Findings

A. The project will not be detrimental to the health, safety, morals,comfort and general welfare of the persons residing or working in the neighborhood in that the conversion of commercial fish processing wharf to Harborwalk coastal public access improvements where none currently exists, removal of pilings and repair of existing pilings to support the new Harborwalk, conversion of 470sf of interior fishing processing area to new retail area within existing single-story commercial visitor-serving building, new 461sf of public dining area to be located street-facing, and building façade improvements at 715 Embarcadero are permitted uses within the zoning district and said structures comply with all applicable project conditions and City regulations and is consistent with the City's Local Coastal Program.

B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the proposed new 10 foot wide and additional 10 foot wide public bayside deck public access improvements, new 470sf retail area, new 461sf public outdoor dining and updated public coastal access signage, will provide public coastal access and new amenities to a visitor-serving commercial use and is consistent with the character of the existing development.

Waterfront Master Plan Findings

A. The proposed project makes a positive contribution to the visual and public accessibilty to the bay while increasing and maintaining commercial fishing industry:

a. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, in that new Harborwalk bayside lateral access is created where none currently exists providing a significant improvement by connecting the neighboring lease site to allow for easier pedestrian access, enjoyment, and better bay views.

b. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and enhanced pedestrian experience in that the project will provide new lateral public access to the water while assisting in the Harborwalk plan to continue public access along the waterfront via bayside lateral access. In addition the project recognizes the pedestrian orientation by providing a gap connection linking the lease sites to the north and south. The project is consistent with the character of the existing development.

c. The project gives its occupants and the public some variety in materials and/or application in that the proposed color and materials are consistent with the character of the building and coastal access signage will be updated to be consistent with other Embarcadero projects in order to have consistent public access signage in order to promote public awareness of coastal bayside access.

d. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new harborwalk public lateral access will be accessible to the public and that is consistent with the character of the existing development.

e. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition connection point to its immediate neighbors to the north and south.

Architectural Consideration

A. As required by Ordinance Section 17.48.200 the Planning Commission finds that the architectural treatment and general appearance of all proposed structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development;of the city or to the desirability of investment of occupation in the area.

Precise Plan Finding

A. As required by Ordinance Section 17.40.030.G, the Planning Commission finds that the project is developed sufficiently to approve the project as a combined concept/precise plan major modification approval of the conditional use permit.

Downtown Waterfront Specific Plan (DWSP) Finding

A. The project is consistent with the Waterfront Design Guidelines for the DWSP in that the proposed project includes outdoor dining, exterior lighting, and coastal access signage oriented toward pedestrians which is encouraged. The project also includes project exterior light consistent with the architectural style of the building as well as public street-facing outdoor dining and a new proposed 10 foot wide Harborwalk bayside lateral access with an additional 10 foot width of public bayside decking.

Section 2. Action. The Planning Commission does hereby forward a favorable recommendation to the City Council to approve Conditional Use Permit #MAJ20-004 as a combined Concept/Precise Plan approval subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated September 14, 2021 and September 29, 2021, for the project at 715 Embarcadero depicted on plans dated September 29, 2021, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on Planning Commission approved plans submitted for MAJ20-004, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Director. Any changes to this approved permit determined, by the Director, not to be minor

shall require the filing of an application for a permit amendment subject to Planning Commission review.

4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

Building Conditions:

THE FOLLOWING CONDITIONS AND SELECTED CODE REQUIREMENTS SHALL BE MET PRIOR TO ISSUANCE OF A BUILDING PERMIT.

A. CONDITIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.

2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible

Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

4. The owner shall comply with the City Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.

5. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.

6. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.

7. BUILDING PERMIT APPLICATION: To apply for building permits, submit three (3) sets of construction plans, fire sprinkler plans, if applicable, and supplemental documents to the Building Division.

8. The Title sheet of the plans shall include, but not limited to:
    - Street address, lot, block, track and Assessor Parcel Number
    - Occupancy Classification(s)
    - Construction Type
    - Maximum height of the building allowed and proposed
    - Floor area of the building(s)
    - Fire sprinklers proposed or existing
    - Minimum building setback allowed and proposed

9. All construction will conform to the 2019 California Building Code (CBC), 2019 California Residential Code (CRC), 2019 California Fire Code (IFC), 2019 California Mechanical Code (CMC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Energy Code, 2019 California Green Building Code (CGBC), Title 14 and 17 of the Morro Bay Municipal Code.

   (Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

10. SITE MAINTENANCE: During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust. A storm water management plan shall be maintained through the duration of the project. The storm water management measures such as fiber rolls, silt fencing, etc. will be enforced by City staff by random site visits.

11. ARCHAEOLOGICAL MATERIALS: In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

12. FOUNDATION SETBACK VERIFICATION: Prior to the placement of concrete and upon completed form installation, a licensed surveyor is required to measure and record the distance from the proposed foundation walls to the established lot lines. The contractor shall submit these findings in letter format to the building inspector upon the request for a foundation inspection. Letter shall specify the findings of front, sides and rear yard setbacks as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some lot types.

13. BUILDING HEIGHT VERIFICATION: Prior to roof sheathing or shear wall inspection, a licensed surveyor is required to measure and record the height of the structure. The contractor shall submit this finding in letter format to the building inspector upon the request for roof sheathing/shear wall inspection. Letter shall specify the recorded height of structure as defined in Title 17 of the MBMC. The Building Official shall have discretion on a case by case basis for some site-specific projects.

14. EXISTING BUILDINGS: Where windows are required to provide emergency escape and rescue openings, replacement windows shall comply with the maximum sill height requirements of section R310.2.2 and the minimum opening area requirements of section R310.2.1 of the 2019 California Residential Code.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF THE CERTIFICATE OF OCCUPANCY:

15. Prior to building division final approval and request for final inspection, all required inspections from the other various divisions and departments must be completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card. This permit card shall then be turned into the building division for scheduling of the final building inspection.

16. Any as-built drawings that were required by the building inspector or plans examiner must be submitted for approval prior to the request for final inspection.

17. If structural observations were required, the final structural observation report shall be submitted to the building division prior to issuance of the certificate of occupancy or final inspection approval.

18. If special inspections were required, the final special inspection report shall be submitted to the building division prior to the issuance of the certificate of occupancy or final inspection approval.

19. Final soils summary report from the geotechnical representative indicating compliance with the required conditions set forth in the soils report.

20. Final T-24 energy reports (Certificates of Installation)

Fire Conditions:

1. Fire Safety during Construction and Demolition shall be in accordance with 2019 California Fire Code, Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Fire Protection for Wharves, docks, marinas, boat moorings. Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the city, and all installations shall be subject to the approval of the fire marshal of the Fire Department.

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1. Construction laydown: Show construction laydown, all staging areas, point of haul-in/out and all construction corridors to and from the construction site.

2. Pedestrian Access: Show limits of construction fencing and how pedestrian access will be accommodated/re-routed throughout the project duration.

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otherwise approved within the 10-foot bayside lateral access shall be prohibited.

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22. Lighting shall be revised to a warm kelvin color consistent with future City policy guidelines for public area design on the Embarcadero.

23. Existing hoist on the commercial fishing wharf shall be preserved to the greatest extent feasible. Applicant shall work with Staff to identify options for preservation and possible storage.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 5th day of October, 2021 on the following vote:

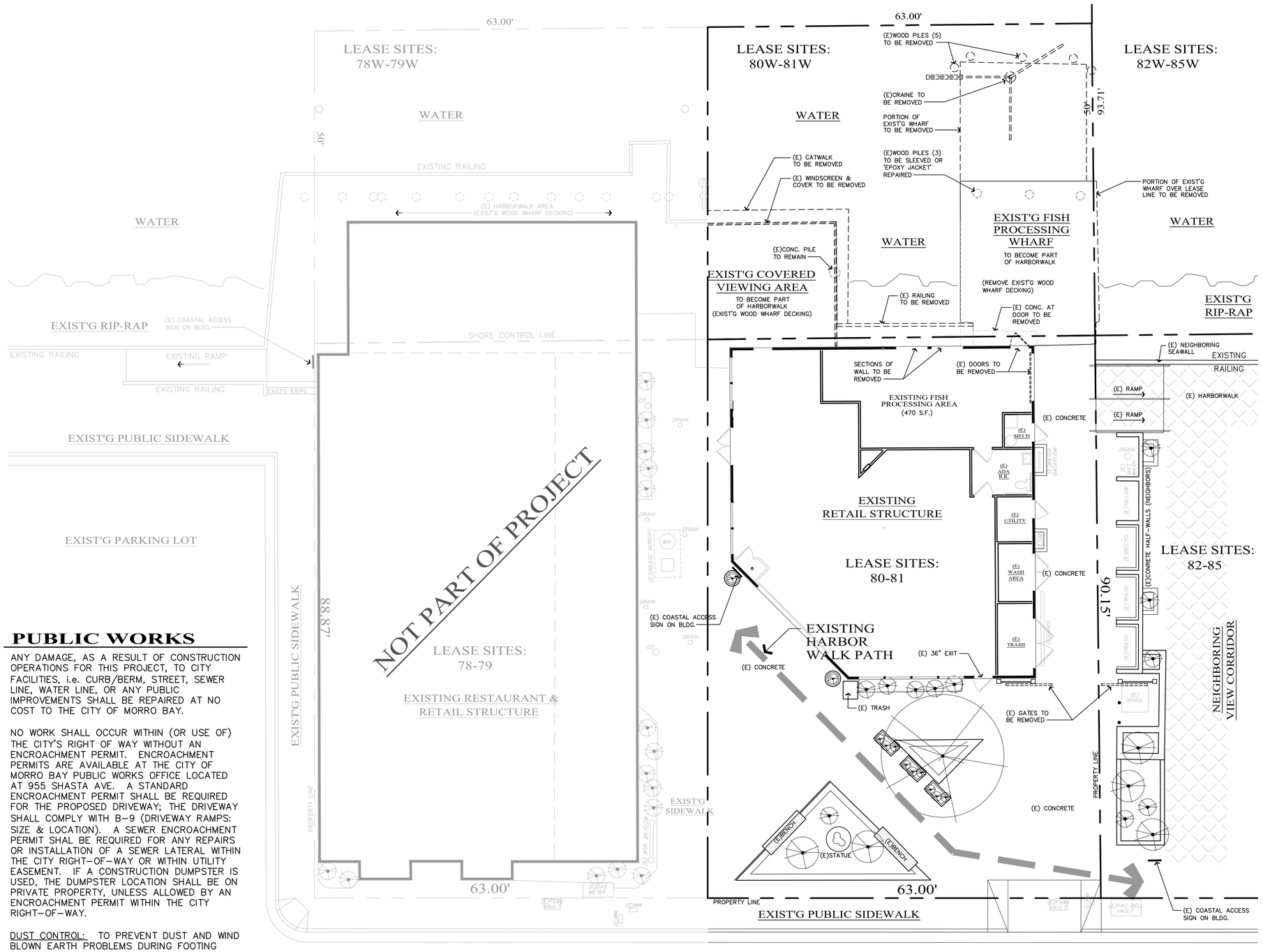
AYES:
NOES:
ABSENT:
ABSTAIN:

Susan Stewart, Chairperson

ATTEST

Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted this 5th day of October 2021.



CENTERLINE — CENTERLINE

EXISTING OVERALL SITE PLAN

SCALE: 1/8" = 1'-0"

PUBLIC WORKS

ANY DAMAGE, AS A RESULT OF CONSTRUCTION OPERATIONS FOR THIS PROJECT, TO CITY FACILITIES, i.e. CURB/BERM, STREET, SEWER LINE, WATER LINE, OR ANY PUBLIC IMPROVEMENTS SHALL BE REPAIRED AT NO COST TO THE CITY OF MORRO BAY.

NO WORK SHALL OCCUR WITHIN (OR USE OF) THE CITY'S RIGHT OF WAY WITHOUT AN ENCROACHMENT PERMIT. ENCROACHMENT PERMITS ARE AVAILABLE AT THE CITY OF MORRO BAY PUBLIC WORKS OFFICE LOCATED AT 955 SHASTA AVE. A STANDARD ENCROACHMENT PERMIT SHALL BE REQUIRED FOR THE PROPOSED DRIVEWAY; THE DRIVEWAY SHALL COMPLY WITH B-9 (DRIVEWAY RAMPS: SIZE & LOCATION). A SEWER ENCROACHMENT PERMIT SHAL BE REQUIRED FOR ANY REPAIRS OR INSTALLATION OF A SEWER LATERAL WITHIN THE CITY RIGHT-OF-WAY OR WITHIN UTILITY EASEMENT. IF A CONSTRUCTION DUMPSTER IS USED, THE DUMPSTER LOCATION SHALL BE ON PRIVATE PROPERTY, UNLESS ALLOWED BY AN ENCROACHMENT PERMIT WITHIN THE CITY RIGHT-OF-WAY.

DUST CONTROL: TO PREVENT DUST AND WIND BLOWN EARTH PROBLEMS DURING FOOTING EXCAVATION, CONTRACTOR TO KEEP SOIL MOIST USING NON-POTABLE WATER

EROSION CONTROL: STRAW WADDLES TO BE PLACED FOR EROSION CONTROL DURING CONSTRUCTION AROUND ANY AREAS OF EXCAVATION

PROJECT DESC.

THIS PERMIT WOULD ALLOW FOR MODIFICATIONS TO THE EXISTING WHARF AREA BY REMOVING THE EXISTING COVERED WINDSCREEN AREA, REMOVING A PORTION OF THE EXISTING FISH PROCESSING WHARF THAT IS IN NEED OF REPAIR, CONVERSION OF THE INTERIOR FISH PROCESSING AREA INTO RETAIL SPACE, AND ADDING A NEW PORTION OF WHARF TO CREATE A CONTINUOUS ACCESSIBLE SECTION OF THE MORRO BAY HARBORWALK. THE NEW SECTION OF HARBORWALK WOULD CONNECT WITH EXISTING PORTIONS TO THE NORTH AND SOUTH. THE PERMIT WILL ALSO ALLOW AN UPDATE TO THE EXISTING FACADE WITH NEW VERTICAL BOARD AND BATTEN SIDING WITH SHINGLE AND CORRUGATED METAL ACCENTS.

PROJECT AREAS

EXIST'G COVERED WINDSCREEN AREA: (WNDSCREEN TO BE REMOVED)	580 SF
EXIST'G FISH PROCESSING WHARF:	1,025 SF
TOTAL:	1,605 SF
PORTION OF FISH PROCESSING WHARF TO REMOVE:	-445 SF
NEW WHARF AREA TO BE INSTALLED: (BETWEEN PATIO & WHARF, AND ANGLE AT HARBORWALK)	+395 SF
FIN. COMBINED WHARF/PATIO AREA:	1,555 SF
NEW OUTDOOR DINING (PUBLIC): (ADJACENT TO EMBARCADERO)	+461 SF
EXISTING RETAIL STRUCTURE:	2,422 SF
AREA TO BE CONVERTED FROM FISH PROCESSING TO ADDITIONAL RETAIL:	470 SF

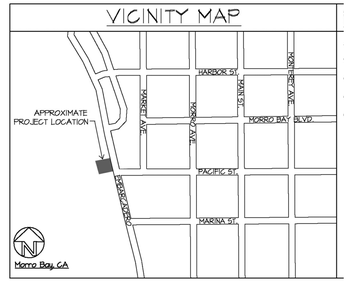
BLDG. CODES

2019 CALIFORNIA BUILDING CODE
2019 CALIFORNIA PLUMBING CODE
2019 CALIFORNIA MECHANICAL CODE
2019 CALIFORNIA ELECTRIC CODE
2019 CALIFORNIA ENERGY CODE
CALIFORNIA GREEN BUILDING CODE
2019 CALIFORNIA FIRE CODE
CALIFORNIA REFERENCE STANDARDS CODE

CONST. HOURS

PURSUANT TO MBMC SUBSECTION 9.28.030.I, CONSTRUCTION OR REPAIRING OF BUILDINGS, THE ERECTION (INCLUDING EXCAVATING), DEMOLITION, ALTERATION, OR REPAIR OF ANY BUILDING OR GENERAL LAND GRADING AND CONTOUR ACTIVITY USING EQUIPMENT IN SUCH A MANNER AS TO BE PLAINLY AUDIBLE AT A DISTANCE OF FIFTY FEET FROM THE BUILDING OTHER THAN BETWEEN THE HOURS OF SEVEN A.M. AND SEVEN P.M. ON WEEKDAYS AND EIGHT A.M. AND SEVEN P.M. ON WEEKENDS EXCEPT IN CASE OF URGENT NECESSITY IN THE INTEREST OF PUBLIC HEALTH AND SAFETY, AND THEN ONLY WITH A PERMIT FROM THE PUBLIC SERVICES DEPT., WHICH PERMIT MAY BE GRANTED FOR A PERIOD NOT TO EXCEED THREE DAYS OR LESS WHILE THE EMERGENCY CONTINUES AND WHICH PERMIT MAY BE RENEWED FOR A PERIOD OF THREE DAYS OR LESS WHILE THE EMERGENCY CONTINUES.

VICINITY MAP



SHEET INDEX

A1.1 EXIST'G SITE PLAN / PROJ. INFO.
A1.2 LAND SURVEY
A1.3 PROPOSED SITE PLAN
A1.4 EXTERIOR LIGHTING
A2.1 ELEVATIONS
~~F1.1 FUTURE ALT. DEMO. SITE PLAN~~
~~F1.2 FUTURE ALT. SITE PLAN~~

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STAMPS

LICENSED ARCHITECT ★ CHRISTOPHER P. PARKER ★ C 30121 ★ STATE OF CALIFORNIA

PROJECT

VAN BEURDEN HARBORWALK MODIFICATION & FACADE UPDATE

715 EMBARCADERO
MORRO BAY, CALIF.
93442

DRAWING PHASE

COASTAL DEVELOPMENT PERMIT

-

Project No.	19-109
Drawn By	CPP
Dwg. Date	09/29/21
Updated	-
Scale	AS NOTED

REVISIONS

SHEET TITLE

EXISTING SITE PLAN

SHEET NO.

A1.1

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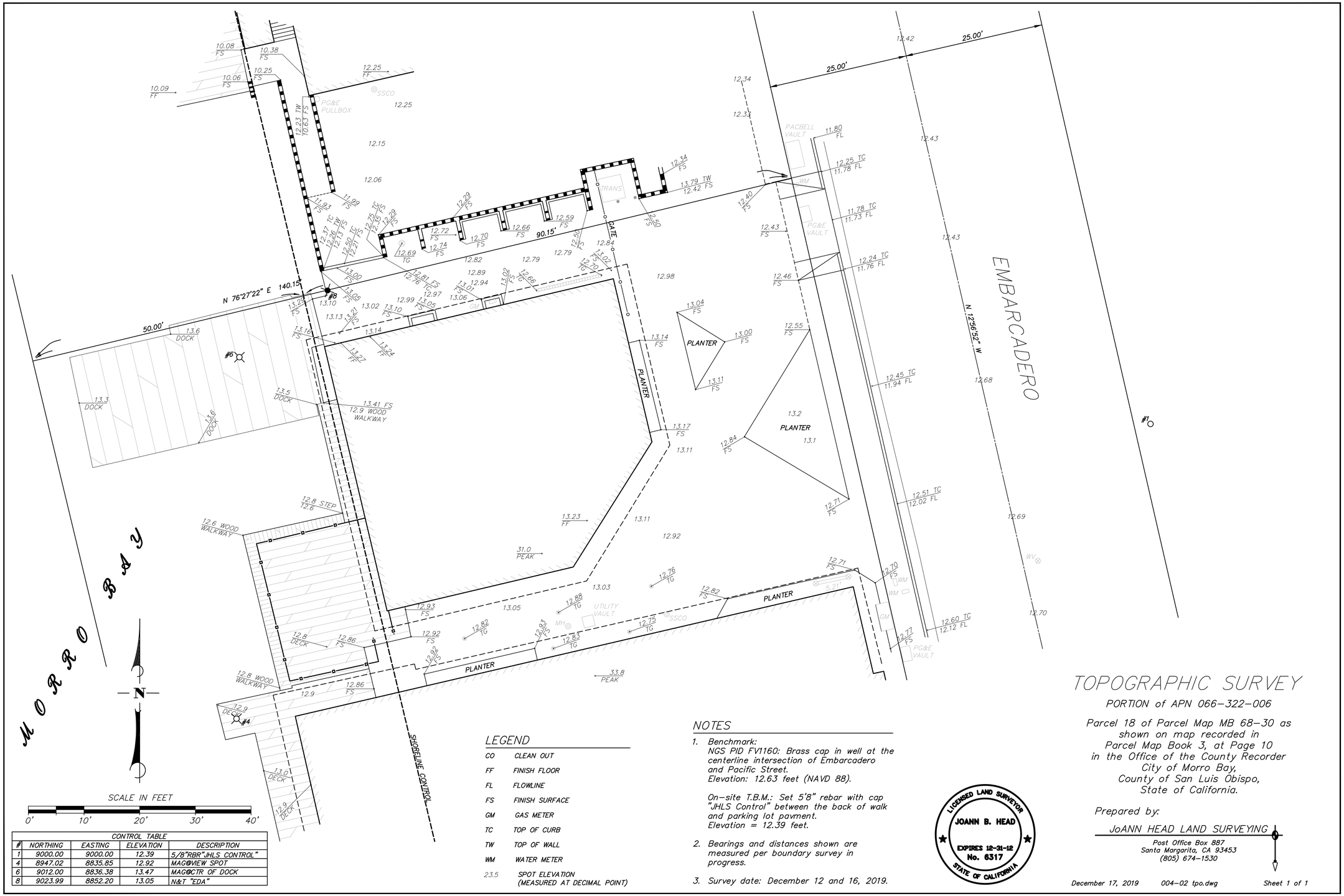

CONTROL TABLE				
#	NORTHING	EASTING	ELEVATION	DESCRIPTION
1	9000.00	9000.00	12.39	5/8"RBR"JHLS CONTROL"
4	8947.02	8835.85	12.92	MAG@VIEW SPOT
6	9012.00	8836.38	13.47	MAG@CTR OF DOCK
8	9023.99	8852.20	13.05	N&T "EDA"

LEGEND

CO	CLEAN OUT
FF	FINISH FLOOR
FL	FLOWLINE
FS	FINISH SURFACE
GM	GAS METER
TC	TOP OF CURB
TW	TOP OF WALL
WM	WATER METER
23.5	SPOT ELEVATION (MEASURED AT DECIMAL POINT)

NOTES

1. Benchmark:
   NGS PID FV1160: Brass cap in well at the centerline intersection of Embarcadero and Pacific Street.
   Elevation: 12.63 feet (NAVD 88).

   On-site T.B.M.: Set 5'8" rebar with cap "JHLS Control" between the back of walk and parking lot pavment.
   Elevation = 12.39 feet.
2. Bearings and distances shown are measured per boundary survey in progress.
3. Survey date: December 12 and 16, 2019.

LICENSED LAND SURVEYOR
JOANN B. HEAD
EXPIRES 12-31-12
No. 6317
STATE OF CALIFORNIA

TOPOGRAPHIC SURVEY

PORTION of APN 066-322-006

Parcel 18 of Parcel Map MB 68-30 as shown on map recorded in Parcel Map Book 3, at Page 10 in the Office of the County Recorder City of Morro Bay, County of San Luis Obispo, State of California.

Prepared by:

JoANN HEAD LAND SURVEYING
Post Office Box 887
Santa Margarita, CA 93453
(805) 674-1530

December 17, 2019 004-02 tpo.dwg Sheet 1 of 1

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STAMPS

LICENSED ARCHITECT CHRISTOPHER P. PARKER C 30121 STATE OF CALIFORNIA

PROJECT

VAN BEURDEN HARBORWALK MODIFICATION & FACADE UPDATE

715 EMBARCADERO
MORRO BAY, CALIF.
93442

DRAWING PHASE

COASTAL DEVELOPMENT PERMIT

-

Project No.	19-109
Drawn By	CPP
Dwg. Date	09/29/21
Updated	-
Scale	1/8" = 1'-0"

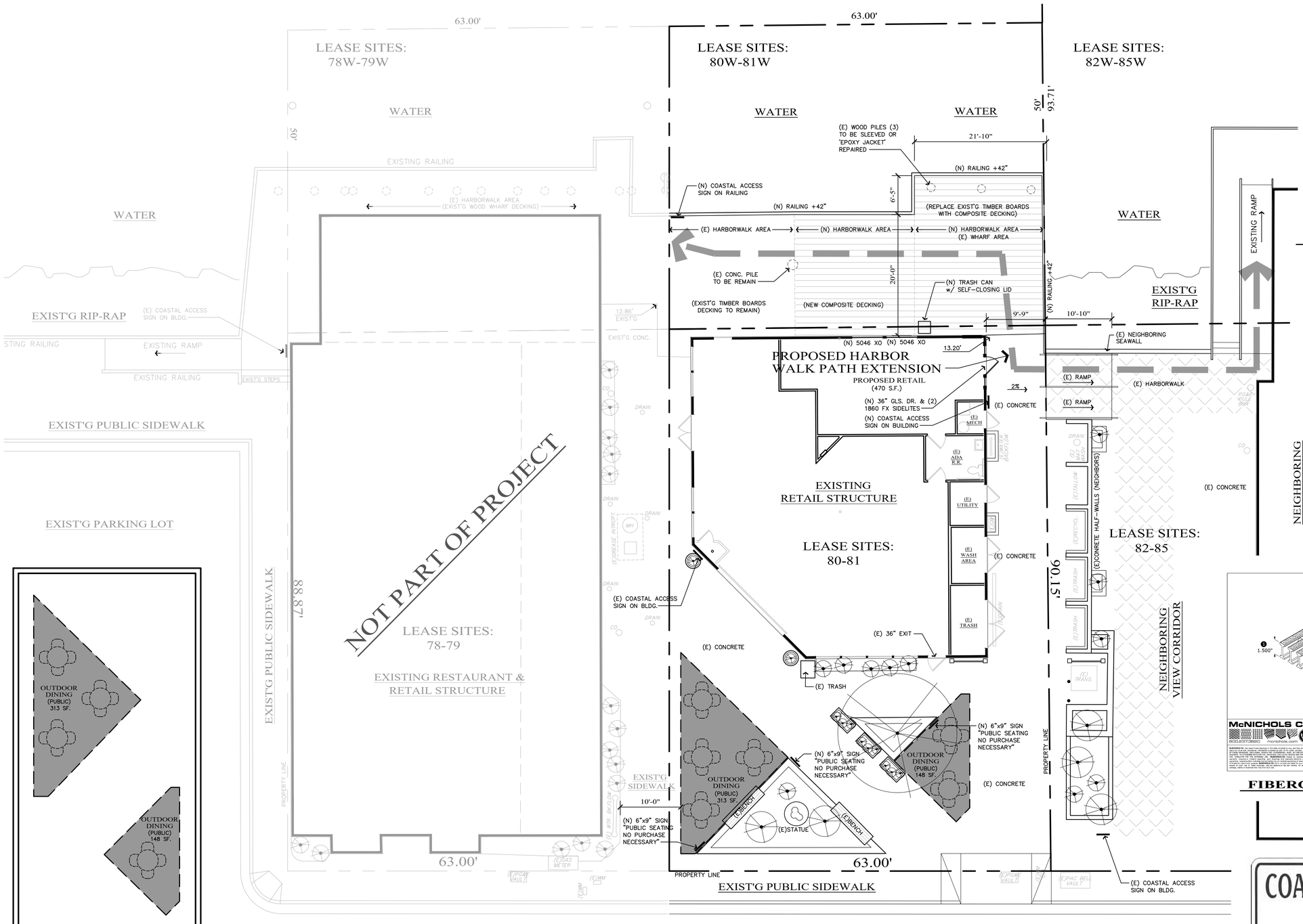
REVISIONS

SHEET TITLE

LAND SURVEY

SHEET NO.

A1.2



OPTIONAL TABLE LAYOUT

PROPOSED OVERALL SITE PLAN
SCALE: 1/8" = 1'-0"

TRASH CAN w/ LID

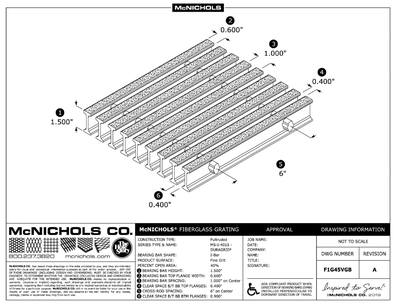
ADDITIONAL GLAZING NEW RETAIL SPACE

ADDITIONAL GLAZING TO NEW RETAIL SPACE SHALL TOTAL 15% SURFACE AREA OF THE NEW RETAIL SPACE WESTERLY FACING WALL.

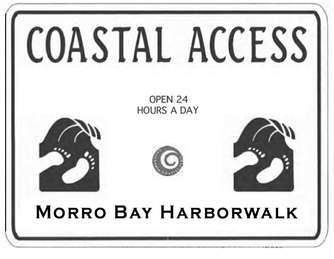
WESTERLY WALL SURFACE AREA: 493 SF
15% OF 493 SF = 73.95 SF

PROPOSED NEW GLAZING:

3'x6'8" DR.	=	12 SF
1660 FX	=	9 SF
1660 FX	=	9 SF
5046 XO	=	22.5 SF
5046 XO	=	22.5 SF
TOTAL PROPOSED:		75 SF



FIBERGLASS GRATING



COASTAL ACCESS SIGNAGE

SIGNAGE SHALL BE 24" WIDE x 18" HIGH METAL SIGN WITH IMAGES, MOUNTED FLAT TO HARBORWALK RAILING. WHITE BACKGROUND WITH BLUE LETTERING.

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STAMPS

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PROJECT

VAN BEURDEN HARBORWALK MODIFICATION & FACADE UPDATE

715 EMBARCADERO
MORRO BAY, CALIF.
93442

DRAWING PHASE

COASTAL DEVELOPMENT PERMIT

-

Project No.	19-109
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Dwg. Date	09/29/21
Updated	-
Scale	AS NOTED

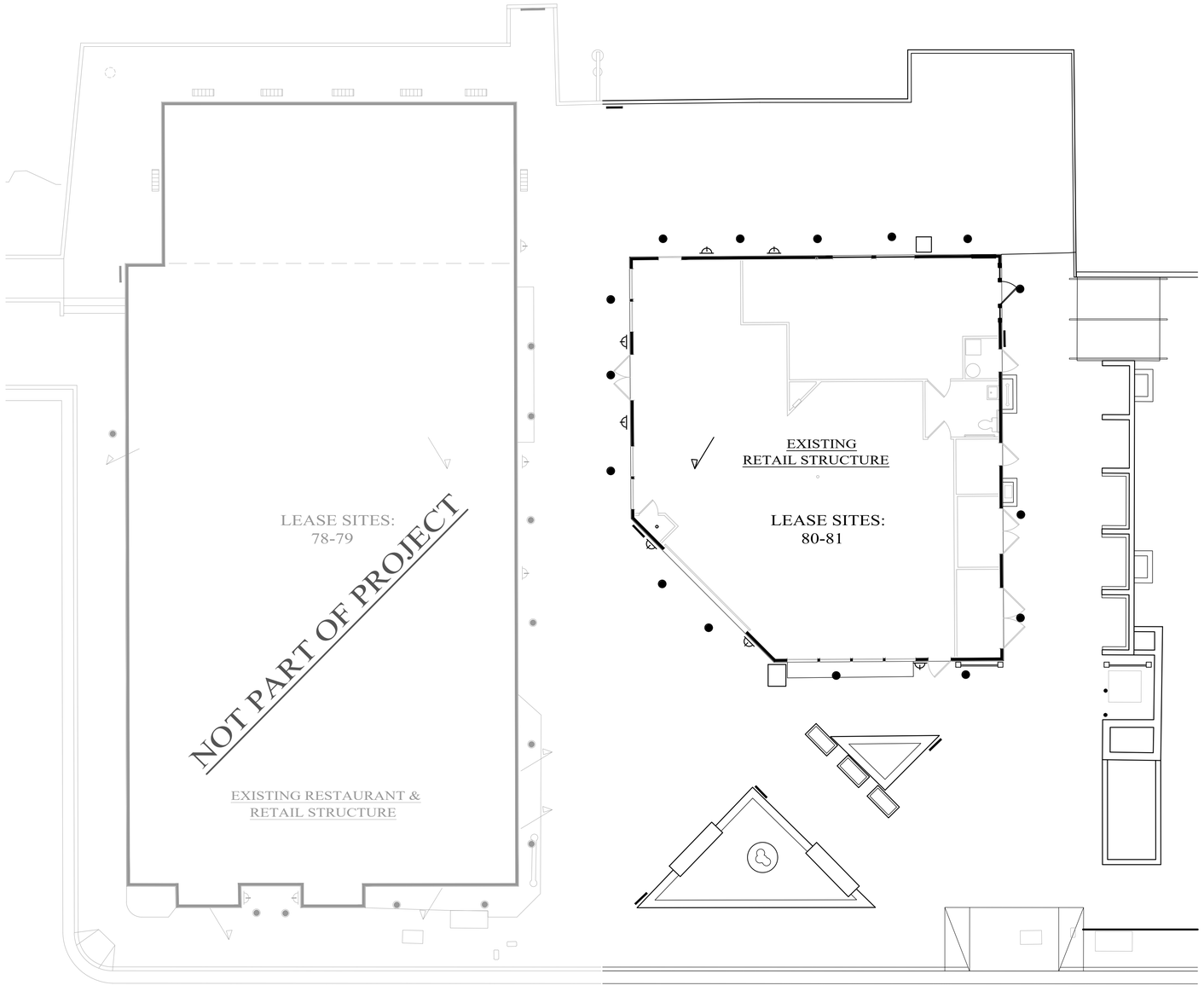
REVISIONS

SHEET TITLE

PROPOSED SITE PLAN

SHEET NO.

A1.3



EXTERIOR LIGHTING PLAN
SCALE: 1/8" = 1'-0"

LIGHTING LEGEND

- EXISTING RECESSED CAN LIGHTING IN EAVES.
- WALL MOUNTED SCONCES TO BE REPLACED WITH SPEC'D SCONES BELOW
- EXISTING LOW PATHWAY WALL MOUNTED LIGHTS AT 20" ABOVE WALKWAY
- EXISTING SIGN LIGHTING

EXISTING CAN LIGHTING

Westinghouse — SPECIFICATION SHEET

Item Number 6360500 — Orson

1 Light LED Wall Fixture Weathered Steel Finish with Clear Prismatic Lens

Specifications

- Height: 11.61"
- Width: 10.63"
- Extends: 11.61"
- Height from Center of Outlet Box: 5.08"
- Back Plate: D: 6.18"
- Hours: 20000
- Life (years): 18.2
- Fixture Lumens: 550
- Light Source Lumens: 640
- Kelvin: 2700
- Equivalent Incandescent Wattage: 40W
- Includes 9 Watt Integrated LED

PROPOSED WALL SCONCE

EXISTING PATH LIGHTING

EXISTING SIGN LIGHTING

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PROJECT

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DRAWING PHASE

COASTAL DEVELOPMENT PERMIT

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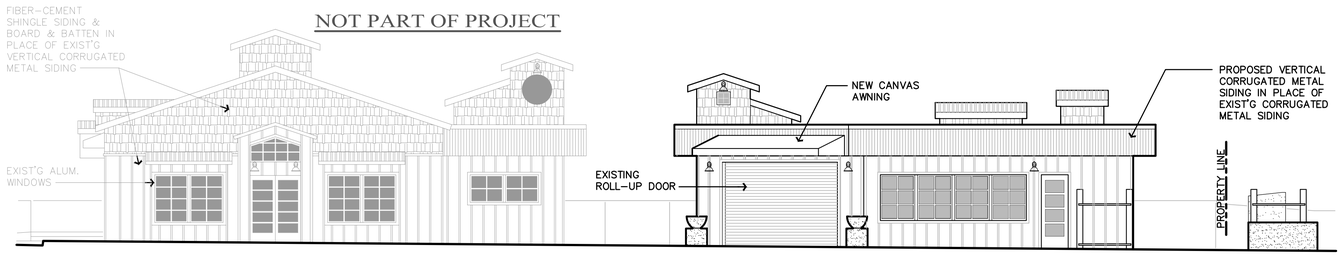
REVISIONS

SHEET TITLE

EXTERIOR LIGHTING

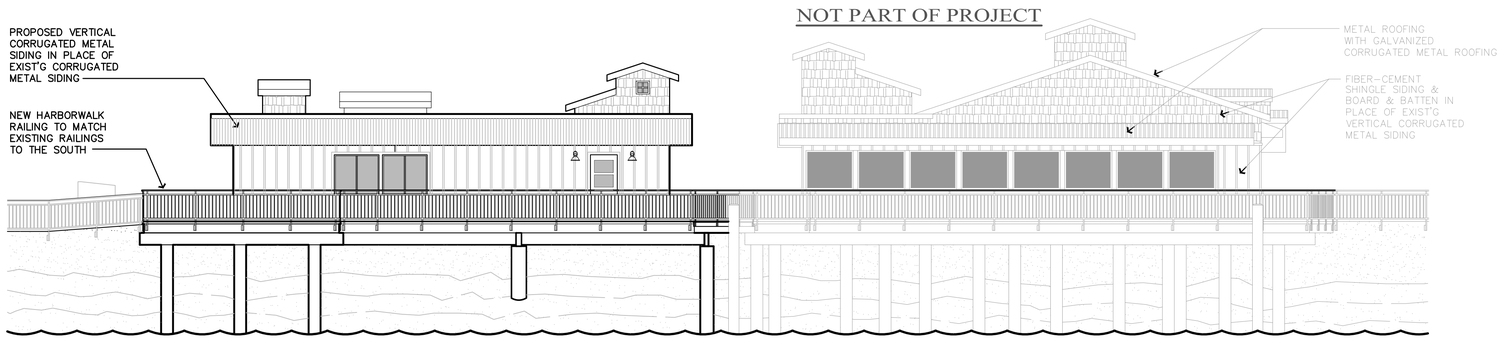
SHEET NO.

A1.4



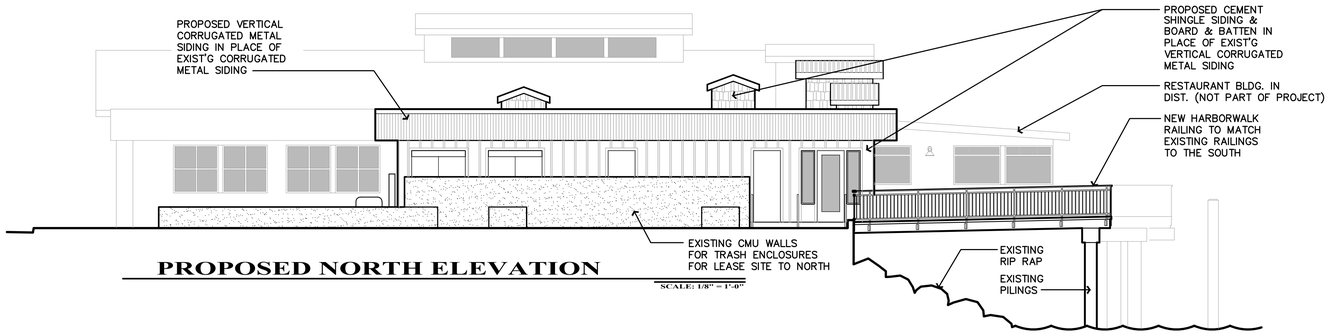
PROPOSED EAST ELEVATION

SCALE: 1/8" = 1'-0"



PROPOSED WEST ELEVATION

SCALE: 1/8" = 1'-0"



PROPOSED NORTH ELEVATION

SCALE: 1/8" = 1'-0"

PROPOSED SOUTH ELEVATION

NOT PART OF PROJECT

SCALE: 1/8" = 1'-0"

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OUTSIDE FURNITURE

Telescope
CASUAL FURNITURE / USA | 1903

MARINE GRADE POLYMER TOP TABLE
42" ROUND DINING HEIGHT TABLE W/ HOLE

Table Top

Item Number	T12KP6S
Frame Type	Tubular Aluminum / MGP
Retail Warranty	3 years
Contract Warranty	3 years
Packaged Weight	30 lbs
Carton Cube	4.9 ft3
UPS-able	No
Assembly Required	Yes
Pack Count	1

Table Base

Item Number	2W5KLEG
Frame Type	Not Applicable / None
Retail Warranty	15 years
Contract Warranty	3 years
Overall Height	28.5 in
Packaged Weight	17 lbs
Carton Cube	2.6 ft3
UPS-able	Yes
Assembly Required	Yes
Pack Count	1

Desert MGP w/ Slatted

Kona PC

COLOR DISCLAIMER: We try extremely hard to ensure our photos are as life-like as possible, but please understand the actual color may vary from your monitor. To ensure accuracy, please refer to actual frame and fabric swatches.

www.TelescopeCasual.com

RATANA Sun Valley Stacking Arm Chair Aluminum
FN23212SJA

Safari Java (SJA)

Dimensions:

- Overall Height: 31.5", Seat Height: 17.5"
- Depth: 23"
- Width: 24"
- Arm Height: 26"
- Weight: 13 LBS

Colors Available:

Safari Java

- Aluminum frame
- Stackable
- Table and chairs with adjustable legs
- Max Weight Load 350 LBS

Living the Dream
www.ratanacontract.com

1.866.919.1881
sales@ratana.com

PROJECT

VAN BEURDEN HARBORWALK MODIFICATION & FACADE UPDATE

715 EMBARCADERO
MORRO BAY, CALIF.
93442

DRAWING PHASE

COASTAL DEVELOPMENT PERMIT

-

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REVISIONS

SHEET TITLE

HARBORWALK ELEVATIONS

SHEET NO.

A2.1

Attachment 4

City of Morro Bay City Council

CONDITIONAL USE PERMIT

MAJOR MODIFICATION

(MAJ20-004)

715 EMBARCADERO RD

CONVERSION OF FISHING WHARF TO NEW HARBORWALK, PUBLIC ACCESS IMPROVEMENTS, 470SF RETAIL SPACE, NEW 461SF PUBLIC OUTDOOR DINING, AND RELATED FAÇADE IMPROVEMENTS

APPLICANT: VAN BUERDEN

AGENT: CATHY NOVAK CONSULTING

NOVEMBER 9, 2021

MORRO BAY
PUT LIFE ON COAST

PROJECT DESCRIPTION

Attachment 4

1. Commercial Fishing Wharf: Demolish 445sf of the existing 1,025sf fish processing wharf including removal of 5 existing wood pilings.

2. Public Access: Install new 10 foot Harborwalk coastal public access and additional 10 foot wide fiberglass deck, removal of a 580sf outdoor covered patio and windscreen, removal of 5 existing wood pilings and repair of 3 existing piling to support the new Harborwalk;

3. Interior Changes: Conversion of 470sf fish processing area to retail space within the existing building;

4. Public Outdoor Dining Area: New 461sf of street-facing public outdoor dining as two separate areas of 313sf and 148sf

PROPOSED FACADE

EXISTING FACADE

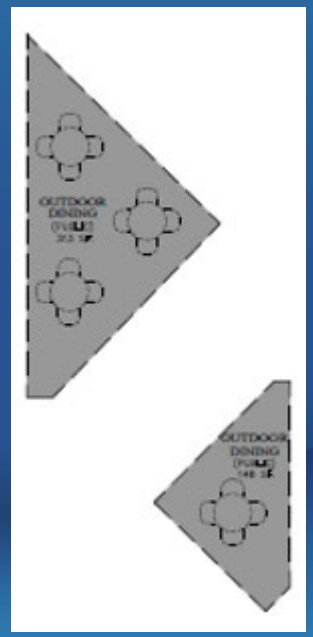
MORRO BAY
PUT LIFE ON COAST

PLANNING COMMISSION RECOMMENDATION

Attachment 4

1. Planning Commission adopted Resolution 18-21 on October 5, 2021 forwarding a favorable recommendation to the City Council for approval of the CUP Concept/Precise Major Modification.
2. The PC recommendation includes 7 added conditions (17-18 modified and 19-23 are new) regarding the street-facing plaza, public dining tables, building design, and preservation of the wharf.

PROPOSED FACADE



PC REVIEW AND RECOMMENDATION

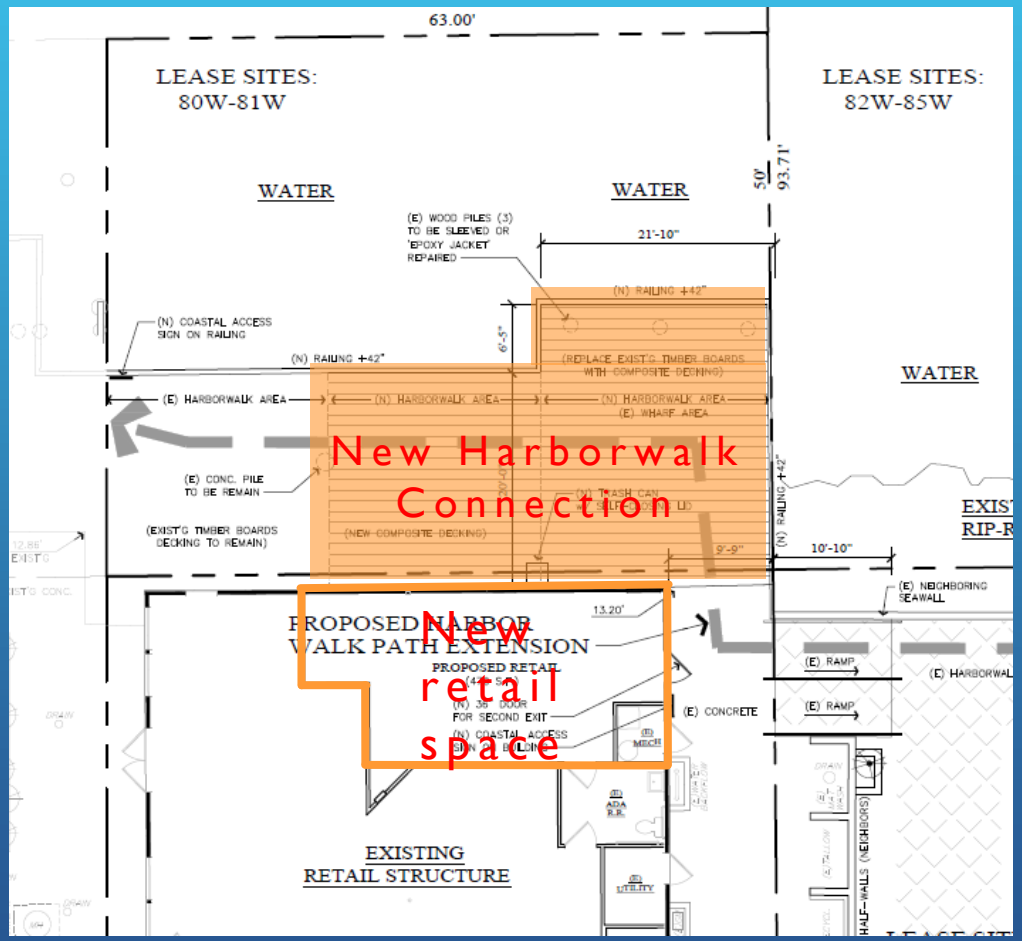
1. Conditions 15, 17, 18, and 19 address the street-facing plaza and public seating area: Conditions added in order to ensure the plaza remains open and easily accessible by public.

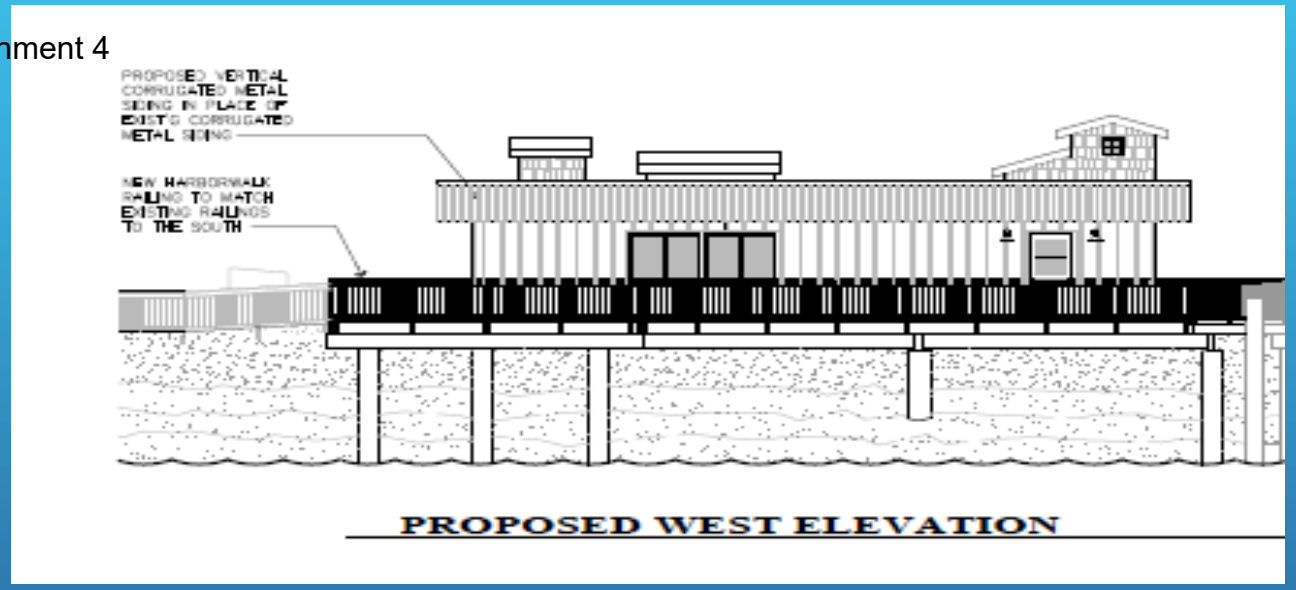
2. Conditions 16, 20, and 22 address the building: Conditions added to require added window area for rear retail space, and revise lighting to be appropriate for Harborwalk and include slope profile details on building plans to ensure grade connectivity between lease sites.

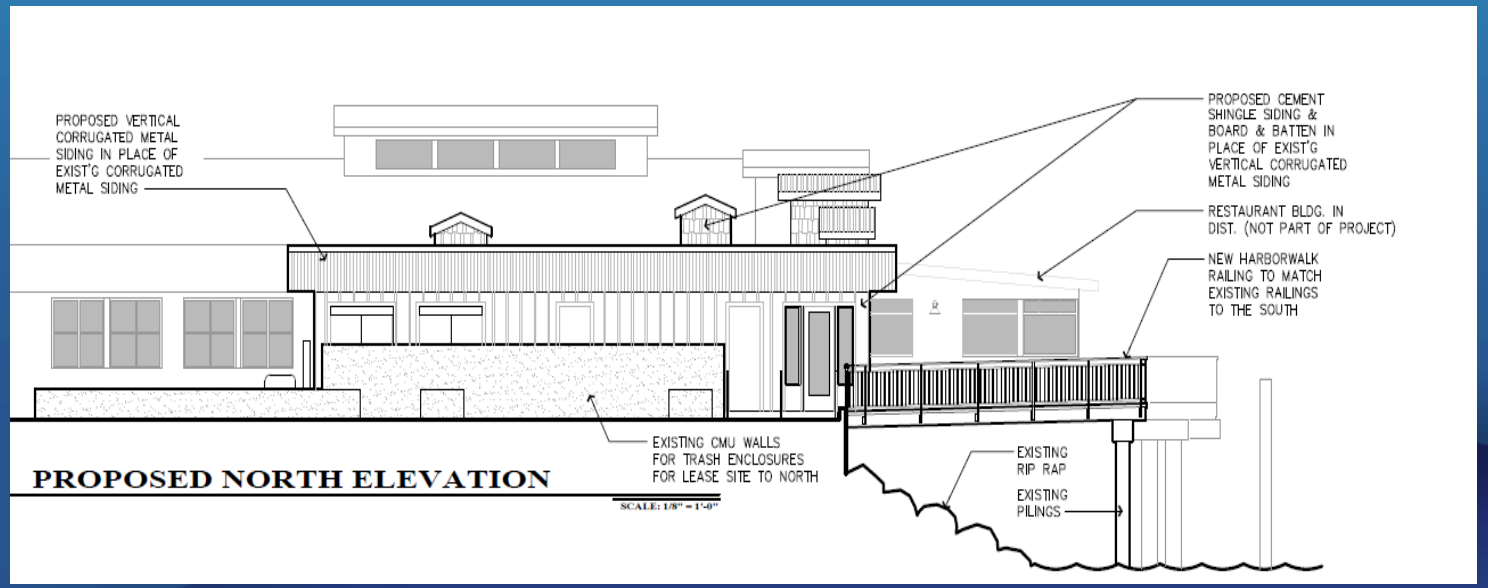
3. Conditions 21 and 23 address preservation of the wharf: PC discussed potential for preservation of the existing commercial fishing wharf. Deemed infeasible due to space constraints. Conditions added to preserve the wharf planking and edge curbs; and work with staff on pursuing off-site preservation opportunities for the hoist.

MORRO BAY
PUT LIFE ON COAST

Attachment 4







Proposed Site Plan (Public Access) and Elevations

MORRO BAY
PUT LIFE ON COAST

Attachment 4

Staff Recommendation:

City Council conditionally approve the project (#MAJ20-004) as a combined Concept/Precise approval by adopting Resolution 76-21 which includes the Finding and Conditions of Approval for the CUP major modification depicted on plans received September 29, 2021.

MORRO BAY
PUT LIFE ON COAST

AGENDA NO:	**C-1**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 4, 2021**

FROM: **Scott Collins, City Manager**

SUBJECT: **Review Morro Bay Public Parking Management Study Conducted by Walker Consultants and Consider Recommended Next Steps Regarding Parking Management**

RECOMMENDATION

City Council review the Walker Consultants' (Walker) parking management study of Morro Bay's Waterfront, Morro Rock and Downtown parking areas and authorize staff to take initial steps to develop a plan to implement parking management recommendations, including development of a pilot paid parking program in the most impacted areas of the Embarcadero, and bring this back to City Council for review. It is further recommended Council direct staff to continue to seek input from key waterfront parking users and engage with California Coastal Commission staff in developing this plan.

ALTERNATIVES

City Council may choose to:

1) Direct staff to bring forward additional information or seek further evaluation of parking conditions, needs and recommendations, prior to developing an implementation plan.
2) Shelve the parking study and do not authorize staff to begin implementation of the parking study recommendations.
3) Provide other direction to staff.

FISCAL IMPACT

Approval of this recommendation may result in new unbudgeted one-time expenses to the City, in the form of implementation and evaluation costs for a parking management system. Those expenses (estimated to be anywhere from $10,000 to $50,000) would most be drawn from the Parking In-Lieu Fund. Staff will bring forward a budget amendment to City Council for review once those costs are better understood.

If paid parking is implemented, then it could result in long-term financial gains to the City. The Walker study determined a fully implemented parking management system in the Embarcadero area (not including the Morro Rock area) could net the City $200,000 or more annually. This is a conservative estimate, according to Walker, as it includes only 300 paid parking spaces and $1 per hour charge. Both of those factors could be adjusted up, thereby increasing revenues. That amount would be net of hard costs related to managing the parking system (capital costs and maintenance). More discussion would need to occur before determining what the staffing costs would be for such a

Prepared By: ___SC___	**Dept Review:** _____
City Manager Review: ___SC_____	**City Attorney Review:** __JWP____

system, though staffing costs are likely to be less than the projected net revenues. Net revenues could be used to both support future parking efforts and support the local transportation system: roads, sidewalks, lighting, and other infrastructure that provide coastal access to Morro Bay residents and visitors.

BACKGROUND

City Council has made pursuit of a parking management study a top action item for its City goals since 2017. Given staffing and resource challenges, the City was unable to pursue such a study until 2020. In the summer of 2020, the City partnered with Walker to conduct a comprehensive parking study of the Embarcadero, Morro Rock and Downtown areas. The purpose of this study was to understand existing parking needs, how parking is currently being used and how to best plan for parking needs in the future. The study, which evaluated both summer and off-season periods, presents an analysis of existing parking conditions and recommendations for parking management strategies. In general, the study found there are parking challenges, particularly in the waterfront area, which could be addressed with several potential approaches, including paid parking.

The Walker study is included with this staff report as Attachment 1, and a summary of the Key Findings and Recommendations of the Walker study are included as Attachment 2. Below is a summary of the parking study methodology and results. The section following that will discuss Walker's recommendations.

Parking Study Areas

The Walker study reviewed the waterfront and Downtown areas, as highlighted in the map below (the maps are also included in the attached study – Attachment 1):

Total numbers of spaces
The table below outlines the total number of parking spaces in each area, excluding private hotel parking lots. These numbers are subject to change, particularly at the Rock as the City installed space dividers after the study was completed, which likely added a few more spaces.

EXISTING PARKING SUPPLY (SPACES)

Number of Parking Spaces

Study Area	Embarcadero	Downtown	Morro Rock
On-Street Spaces	383	369	-
Off-Street Spaces	753	88	384
Total	1,136	457	384

Parking Study Methodology
In order to account for the seasonality of parking in Morro Bay, Walker conducted occupancy and duration data collection in the summer (August 2020) and Fall (November 2020), and during the weekday and weekend in both seasons. While the study took place during the first year of the COVID-19 pandemic, it likely reflects a typical year in terms of parking demand, when looking at sales tax and transient occupancy tax numbers for those periods. If anything, the parking demand would be a bit higher in a normal year, but not by much.

<u>Parking Occupancy Rates</u>
Occupancy measures the number of parking spaces that are occupied at a point in time. Occupancy rates are the typical measure of parking demand in a given area.

Walker representatives conducted occupancy counts during the summer months, both on the weekend and weekday, occupancies were high on the Embarcadero, Rock and in portions of the Downtown area. The same held true for the waterfront and Rock on the weekdays in the summer. Occupancies fell during the week in Downtown in the Summer. Peak demand was observed during the lunchtime hour on the Embarcadero and Downtown, likely due to restaurant service. The Rock occupancy typically peaked in the mid-afternoon (2pm).

In the Fall, occupancy remained high in the Embarcadero area on the weekends. The Rock, depending on the weather, could have occupancy on the fall weekend. However, during the weekday the occupancies fell in all three study areas.

Occupancy data is spelled out in greater detail in Attachment 1.

Parking Duration (Parking Turnover)
Walker staff also reviewed parking duration during the same time periods in select areas within the larger study areas. Parking duration helps the observer understand parking turnover, or how many cars can fill a space or area in a given period of time. Parking duration is most important in retail and dining areas. From an economic standpoint, the more turnover, the more customers. This is also true for coastal access: the more turnover, then more people are gaining access to coastal area.

In the Embarcadero, most cars parked for 1 – 2 hours, commonly referred to as short-term parkers. However, many cars were parked for 3 – 4 or more hours in core areas near restaurants and retail. These longer-term parkers are likely employee, business owners, and recreational fishermen/women vehicles.

Parking duration/turnover data is spelled out in greater detail in Attachment 1.

DISCUSSION

Key Findings of Walker Consultants' Data Collection and Analysis

Based upon their data collection and analysis, Walker offers the following findings and general observations:

- Summer parking conditions are far busier overall compared to the fall.
- Lunchtime was the peak period of parking demand during every period analyzed. This indicates that restaurants and coastal access are key drivers of parking demand.
- The Embarcadero is far more impacted compared to the Downtown area.
- The most highly used parking area on the Embarcadero was between Beach Street and Pacific Street, both during peak parking demand on weekdays and weekends, in the summer and during the off-season.
- Majority of folks park 1-2 hours, but a sizable number park longer and most likely are employees, business owners, and recreational fishermen.
- Morro Rock is notably busier during the summer than the off-season, especially during the midday hours (noon to 2pm).
- Parking availability along the busiest portions of the Embarcadero has been perceived to suffer from a lack of availability and congestion, perceptions that were confirmed by Walker's analysis of parking occupancy and turnover rate. A lack of parking availability can significantly constrain customers and other visitors from enjoying convenient access to the area in general and businesses specifically, in some cases dissuading or preventing the public from patronizing businesses.
- Managing the use of on-street parking spaces has been proven to increase public access to a location, including a waterfront and businesses. Paid parking has been found to be more efficient, effective, customer service friendly and less subject to abuse than time restrictions alone. Finally, other nearby communities on the Central Coast have employed such parking management measures, including San Luis Obispo, Pismo Beach, Avila Beach and most recently, Paso Robles.

Walker Consultants' Recommendations

Based upon the study's findings, Walker recommends the following actions:

1. Acknowledge significant and on-going, on-street parking congestion along the Embarcadero negatively impacts access and the visitor experience for visitors. Moving forward with the development of a solution is in the public interest.
2. Approve (in concept) the establishment of paid parking along the Embarcadero in on-street and public off-street locations, to-be designated in the future. Locations will be based primarily

on those frequently experiencing impacted conditions ("impacted" defined as experiencing high parking occupancies so as to impede access by the public). Measures such as time limits could be imposed in other locations to discourage the possible spillover of parking demand, should that be a concern.

3. Consider efforts along the Embarcadero from approximately in front of the Stacks to Tidelands Park, but with an expected priority between Beach and Marina Streets. Efforts east of the bluff bordering the Embarcadero area would likely not be considered;
4. Consider that at least a portion of the revenue generated by the program, after covering the costs of implementing, operating and enforcement, be directed to improvements in The Embarcadero, including for consideration:
   - Maintenance and improvements to coastal and other adjacent public infrastructure, as well as surface parking lots and the roadway network,
   - Efforts to encourage non-driving modes of transportation including greater use of bicycles and walking, and
   - An "ambassador" approach to enforcement.
5. Begin discussions with the California Coastal Commission to introduce the goals for paid public parking along designated sections of The Embarcadero for the purpose of improving public access to the area and preliminary steps to undertake an application for paid parking implementation. A Coastal Development Permit (CDP) would likely be needed to implement paid parking in the coastal areas in Morro Bay.

Community Input on Paid Parking

Staff presented the results of the Walker study and recommendations to the Public Works Advisory Board, Planning Commission and Harbor Advisory Board (HAB). A summary of the HAB's recommendations from 2017 are attached (Attachment 3), and continue to be supported by the current HAB membership. In those advisory board/commission meetings, staff fielded questions and each of the boards and commissions provided input. Some of the key considerations are as follows (not an exhaustive list):

- Develop clear goals for a paid parking system and identify ahead of time how revenues will spent.
- Identify and retain "free parking" areas for longer-term parkers (employees, business owners, recreational fishermen, liveaboards, etc.) in the Embarcadero area.
- Consider employee safety for those who may have to park further away due to paid parking and get off their work shifts later in the evening.
- Work with the parking users on the waterfront in developing an implementation plan.

In general, these advisory bodies expressed an understanding for the need for parking management in the Embarcadero area, and supported the idea to move forward with implementation on a pilot basis. That support is conditioned upon the City continuing to seek input from parking user groups and that free parking is made available to address longer-term parker needs.

Staff Recommendations to City Council

Based upon the study results and strong recommendations from Walker, and that there are no significant objections raised by the advisory boards that reviewed the study's content, staff recommends that Council authorize staff to:

1) Pursue a parking management system in the Embarcadero, that includes paid parking,
2) Conduct further analysis of the Morro Rock parking area,
3) Consult with California Coastal Commission staff,

4) Seek additional input from the parking user group and
5) As a first step towards implementation, develop a paid parking pilot program, and bring back for Council consideration

This phased approach will provide staff with needed input from key stakeholders and time to further refine the net revenue expectations compared to anticipated costs of a pilot and expanded paid parking program. Staff will likely need additional consultant support to develop pilot program and conduct additional review of the Morro Rock parking area. In that case, staff will bring back any necessary budget amendments for that purpose for Council review. The likely source of funding for this work would come from the Parking In-Lieu Fund.

ATTACHMENTS

1. April 26, 2021 Morro Bay Public Parking Management Study by Walker Consultants
2. Walker Study's Key Findings and Recommendations flyer
3. Harbor Advisory Board Key Considerations for Paid Parking (from 2017)

April 26, 2021

Scott Collins
City Manager
City of Morro Bay, California

Re: Morro Bay Public Parking Management Study
33-009157.00

Dear Mr. Collins,

Walker is pleased to submit the accompanying public parking management study for the City of Morro Bay. Thank you very much for the opportunity to be of service to the City of Morro Bay.

If you have any questions or comments, we would be happy to speak with you.

Sincerely,

WALKER CONSULTANTS

Steffen Turoff
Director of Planning Studies

Shannon Edwin
Analyst

Morro Bay Public Parking Management Study

Morro Bay, California

April 26, 2021 DRAFT

Prepared for:

City of Morro Bay

WALKER CONSULTANTS

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Executive Summary

The City of Morro Bay engaged Walker Consultants to conduct a comprehensive parking study for the Embarcadero and Downtown Morro Bay. This includes an overview of the existing parking conditions and recommendations for improvements and parking management, including the possible need or opportunity for implementing paid parking.

Data collection for this study occurred in August 2020 and November 2020 during the Covid-19 pandemic. Parking occupancy counts were collected at a time when there were fewer public health restrictions for restaurants, retail, and hotels than during periods of peak restrictions. Therefore, with fewer restrictions on commercial businesses, patronage of businesses and the area appeared generally high, reflecting relatively normal busy weekday and weekend conditions.

Existing Conditions

Study Area and Data Collection

- All public on- and off-street parking within the Embarcadero and downtown, as well as private parking lots that hosted 20 or more spaces. The study also included the parking areas adjacent to Morro Rock.
- ES-Figure 1 illustrates the study area.
- Summer data collection occurred on Thursday, August 6, 2020, and Saturday, August 8, 2020. Off-season data collection occurred in November on Thursday, November 19, 2020 and Saturday, November 21, 2020.
    - On-street parking counts occurred between 10 a.m. and 8 p.m., every two hours.
    - Off-street parking counts were collected at noon, 2 p.m., and 6 p.m.

ES-Figure 1: Study Area

Source: Aerial Image – *Google Earth Professional,* 2020; Graphic – *Walker Consultants*, 2020

Existing Parking Supply

ES-Table 1 summarizes the existing parking supply by study area. Where spaces were not clearly delineated reasonable projections of the number of spaces existing were calculated.

ES-Table 1: Existing Parking Supplies

Study Area	Embarcadero	Downtown	Morro Rock
On-Street	383	369	-
Off-Street	753	88	384
Total	**1,136**	**457**	**384**

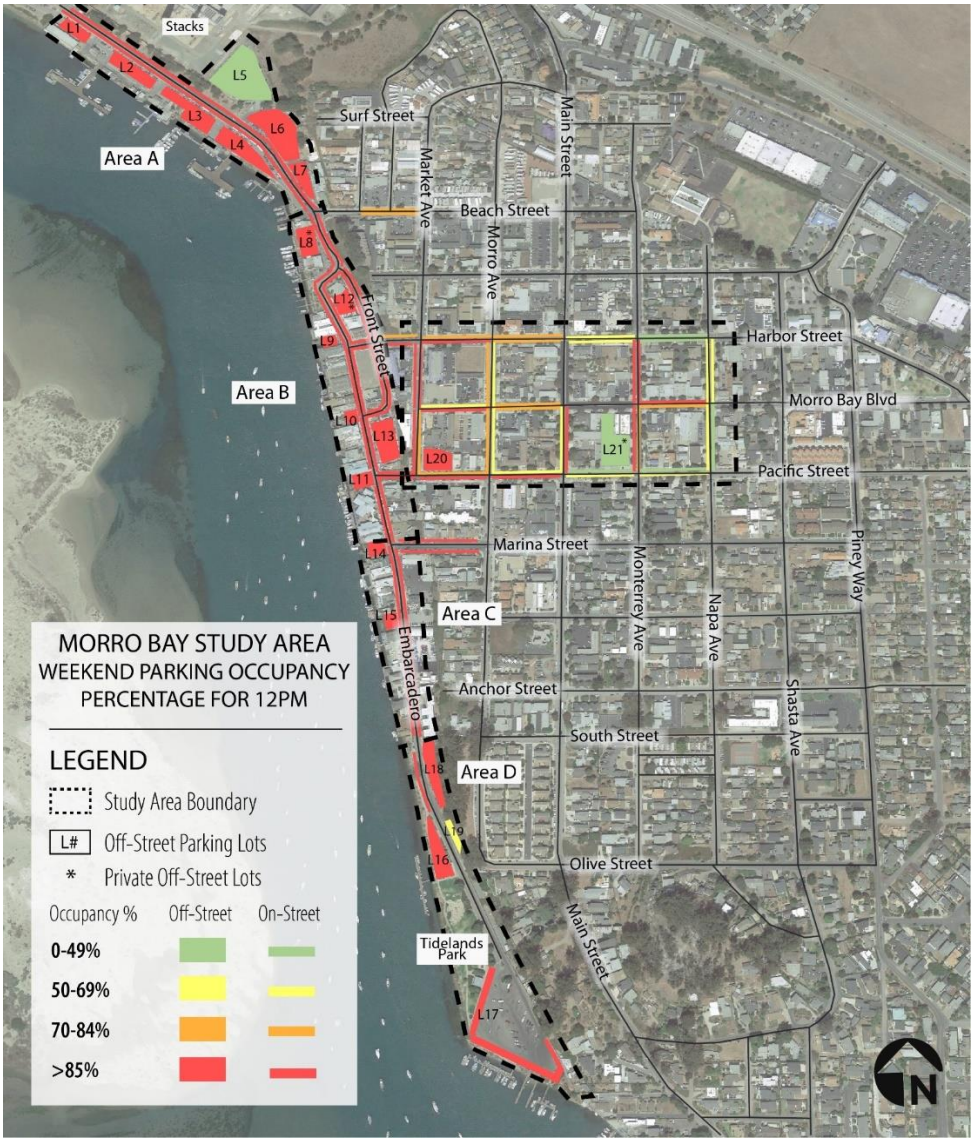
Source: *Walker Consultants*, 2020

Existing Conditions – Summer

Peak Parking Demand

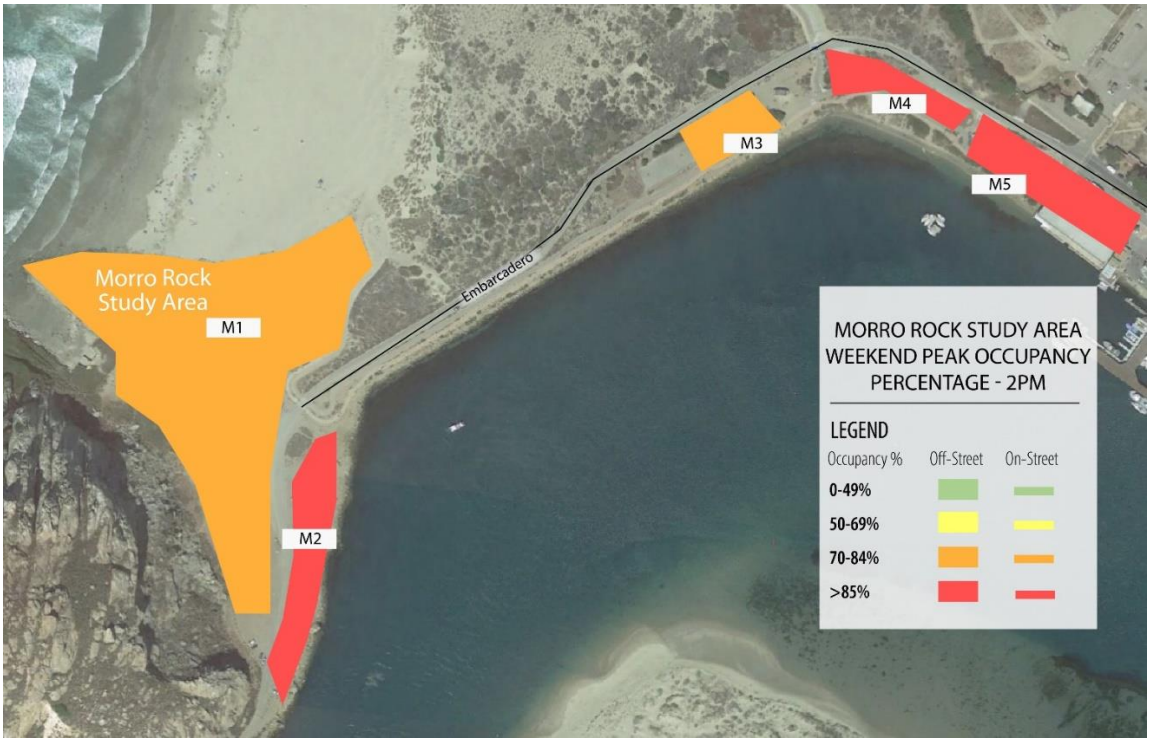
- Embarcadero
  - Peak parking demand occurred at noon on Saturday. At this time there were 981± spaces occupied, 155± spaces available, and a utilization rate of 86%.
  - The Embarcadero between Pacific and Beach experienced a higher parking demand, including 100% occupancy for the noon and 2:00 pm counts on Saturday.
- Downtown
  - Peak parking demand also occurred at noon on Saturday with 327± spaces occupied, 130± spaces available, and a utilization rate of 72%.
- Morro Rock
  - Peak parking demand occurred on the weekend at 2 p.m. with 341± spaces occupied and a utilization rate of 89%.

ES-Figure 2: Summer Weekend Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

ES-Figure 3: Summer Morro Rock Study Area Weekend Peak Parking Occupancy - 2 PM



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Parking Turnover

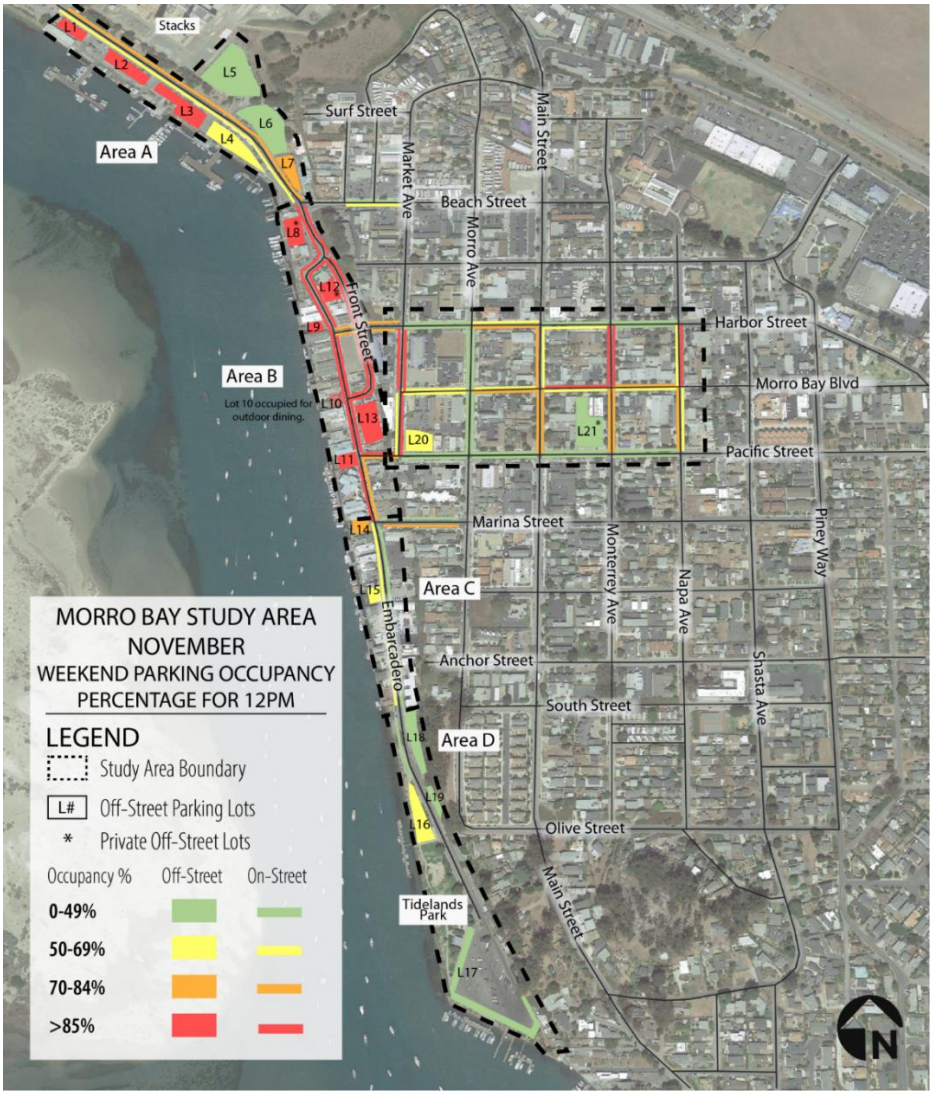
- Embarcadero
  - Overall, most vehicles parked on the Embarcadero were there for one or two hours.
  - Of the vehicle data collected, there were 50 cars parked in the Embarcadero for three or more hours.
    - If 50% of these cars represent owners or employees of businesses that could park elsewhere, 25 spaces could have parked customers. With a turnover of approximately every two hours, this could mean a capacity of 75 to 100 or more customer cars on busy days.
- Downtown
  - Most parkers abided by the posted two-hour time limit. However, there were nine vehicles parked for three or more hours in the downtown study area, violating the posted limit.

Existing Conditions – Off-Season

Peak Parking Demand

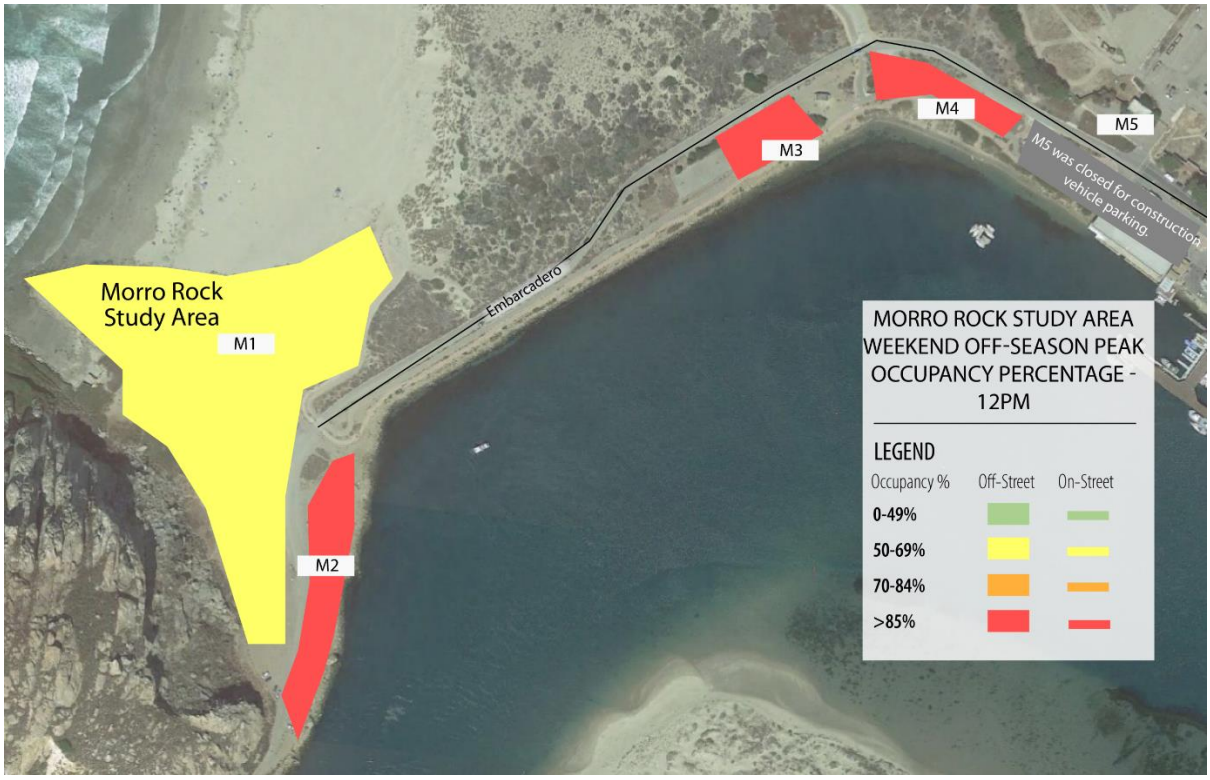
- Embarcadero
  - Peak parking demand occurred at noon on Saturday with 756± spaces occupied, 380± spaces available, and a utilization rate of 67%.
  - Along the stretch of the Embarcadero from Beach to Pacific, observed parking occupancy peaked at 95%, but only during the noon occupancy count.
- Downtown
  - Peak parking demand occurred at noon on Saturday with 237± spaces occupied, 220± spaces available, and a utilization rate of 52%.
- Morro Rock
  - Peak parking occurred at noon with 247± spaces occupied and a utilization rate of 67%.

ES-Figure 4: Off-Season Weekend Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, Graphic – *Walker Consultants*, 2020

ES-Figure 5: Off-Season Morro Rock Study Area Weekend Off-Season Peak Parking Occupancy - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Parking Turnover

- Similar to summer conditions, the majority of vehicles were parked for one or two hours in both the Embarcadero and downtown. However, there were some vehicles parked for three or more hours, especially in the Embarcadero.
- While those parked for one to three hours are likely visitors, those parked for four or more hours are most likely employees of the businesses.
- In the core of the Embarcadero, there were 26 vehicles parked for four or more hours. With a turnover of approximately every two hours, this could mean a capacity of more than 75 to 100 or more customer cars on busy days.

Conclusions and Findings

- Existing summer parking conditions were significantly busier than during the off-season for both the Embarcadero and downtown.

- Lunchtime, at noon, was found to be the peak period of parking demand during every condition analyzed for both the Embarcadero and downtown. This indicates that restaurants and coastal access are key drivers of parking demand.

- The Embarcadero was found to experience significantly higher parking occupancies than downtown.

- The most highly utilized segment of the Embarcadero was Area B, between Beach Street and Pacific Street. This area was found to experience high occupancies during peak parking demand on both weekdays and weekends in summer and during the off-season. This is likely due to the high concentration of popular restaurants and shops in this area, as well as scenic views of the bay. Peak parking demand in the core Embarcadero location was still high, although for a shorter period and, overall, across a significantly smaller area.

- Overall, most visitors park in the Embarcadero and downtown for one or two hours, though there are likely a significant number of employees parking for four or more hours in prime customer parking locations, which impacts overall parking availability and access the Embarcadero.

- Morro Rock was also notably busier during the summer than the off-season, especially during midday hours (noon to 2 p.m.). Off-season weekends experienced higher parking occupancies than during the weekday, which was much lower than any other time analyzed. For the purpose of our analysis, parking approaching and around the rock was segmented into four locations. Three of the four locations experienced parking occupancy rates greater than 85%.

Recommendations

Embarcadero

Time Limits

Parking time limits are intended to provide a level of management of the on-street parking asset to ensure access and functionality through a turnover of spaces. Time limits are in some ways similar to paid parking, except with a "free period" (the time limit) and a significant cost for those who park beyond the posted time limit. Enforcement of time limits is more labor intensive than enforcement of paid parking, requiring two "passes" by a car to confirm compliance rather than one, in the case of paid parking, to confirm payment for the time the space is occupied.

To ensure efficient utilization of parking along the popular Embarcadero, Walker recommends the following:

1. Implement three-hour time-limits along the Embarcadero between 9 a.m. and 6 p.m. for the on-street parking spaces.
2. Consider time limits by facility type and goals for parking user groups. Off-Street parking should remain unrestricted to start with the implementation of time-limited on-street parking, however, these facilities should be monitored over time to determine if/when time limits should be implemented in off-street facilities.
3. Preliminarily we recommend implementing and enforcing time limits along the Embarcadero from the beginning of the 400 block, north to the entrance to the parking lot at the Stacks.
4. Walker recommends that the goal of increased parking enforcement activity be compliance with implemented time limits, greater turnover of visitor-serving parking spaces and accompanying economic benefits to businesses. Parking citation revenue, however, could be a biproduct of such activity both for a time-limit only enforcement effort or combined with paid parking.

Paid Parking

5. Implement paid parking for the prime on-street parking spaces along the Embarcadero.
    a. It is recommended that paid parking be implemented with a multi-space meter system with the ability to pay-by-cell.
    b. Parking should be priced at a rate that aligns with City goals, this may include: cost of operation, enforcement, future infrastructure costs and needs, desired behavior from parking patrons, and a target utilization rate (such as 85%).
    c. Revenues generated from paid parking should be used to create a self-sustaining parking system with the goal of generating a revenue stream that is sufficient to cover ongoing operating and maintenance expenses and improve broader transportation access.
6. Conduct a paid parking pilot for all on-street spaces on the Embarcadero between Harbor Street and Pacific Street, a total of thirty-nine public parking spaces.
    a. Based on the assumptions used for the paid parking scenario, Walker projects annual net revenue of approximately $45,000 to $52,000 annually, with a recoup of total costs projected to occur in less than two years. We believe this is a reasonable but potentially conservative projection of net parking revenue based on a blended hourly parking rate of $1.00 per hour. A higher average hourly parking rate, which could be justified based on the demand observed during the busy summer months, would result in higher annual net revenue.[1]
7. After observing and analyzing the progress and benefits of a pilot program, Walker recommends implementation of a broader, paid-parking program across a larger area of the Embarcadero, from Marina Street up to the Smokestacks and including off-street parking between Beach and Marina Streets and the three lots in the northern Embarcadero labeled Lots 2, 3, and 4 for identification purposes on our heat maps 22, 23, equating to approximately 300 parking spaces.
    a. Based on the assumptions Walker used for this scenario, Walker projects annual net parking revenue of approximately $220,000 to $250,000. Once again, we believe this is a reasonable but conservative projection of net parking revenue based on a blended hourly parking rate of $1.00 per hour. Once again, a higher average hourly parking rate, which could be justified based on the demand observed during the busy summer months, would result in higher revenue.

Enforcement

8. Adopt a Parking Ambassador model of enforcement that is hospitality and customer-service oriented.

Morro Rock

9. Consider implementing paid parking in the Morro Rock parking areas that provide parked drivers the best views of the Bay and Ocean. While the entire Morro Rock parking area did not fill, Walker noted that specific locations did fill, suggesting a justification for an improved allocation of parking demand between locations that experience greater or lesser parking demand.

[1] We note that hourly parking rates in the City of Pismo Beach, are significantly higher, ranging from $2.00 to $5.00 an hour. We also noted the number of annual visitors to Pismo Beach was significantly higher than the number of visitors to Morro Bay.

Additional Access Considerations

10. Remove some on-street parking and widen sidewalks along the Embarcadero for greater pedestrian access and comfort.

Free Parking

11. Upon a larger, Embarcadero-wide implementation of paid parking (beyond the pilot area), identify and maintain a free parking area and increase utilization of the underutilized public lot (the unpaved lot south of the Stacks).

Downtown

12. Maintain existing two-hour parking time-limits in downtown.
13. Should parking occupancies increase over time due to time limited or paid parking implemented on the Embarcadero, begin actively enforcing the two-hour limit.

01 Introduction

1. Introduction

Report Outline

1. Introduction
2. Existing Conditions
3. Recommendations

The City of Morro Bay engaged Walker Consultants ("Walker") to conduct a comprehensive parking study of the City's Embarcadero and downtown. This includes an overview of the existing parking conditions and exploration of parking management options, including paid parking.

This report is organized into three sections: Introduction, Existing Conditions, and Recommendations

Setting

Morro Bay is located in San Luis Obispo County on California's Central Coast. The City is known for Morro Rock, a large rock formation located at Morro Rock Beach. The City is also host to the Embarcadero along the waterfront and a quant downtown. The City is popular tourist destination in the summer and offers a wide variety of outdoor recreational activities.

Figure 1: City of Morro Bay Context Map

Source: Aerial Image – *Google Earth Professional*, 2020; Graphic – *Walker Consultants*, 2020

As shown in Figure 1, Morro Bay is located along California State Route 1, approximately 13 miles northwest of the City of San Luis Obispo. Morro Bay is accessible from the US 101 from the South and State Route 1 and 41 from the north and east.

Morro Bay has a population of approximately 10,543 people according to the U.S. Census 2019 population estimates. Although the population of Morro Bay residents is relatively low, the City experiences significant tourism activity, likely making its population much higher during the summer and warm fall months.

Purpose of the Study

The City of Morro Bay's streets, businesses, and piers along its Embarcadero, enhanced by the surrounding natural beauty, attracts large numbers of visitors and their cars to the on- and off-street parking spaces, particularly during the summer and warm fall months. The high demand for parking the City experiences in this area may justify policies, procedures, tools, and technology to manage the demand for parking during busy periods. The City controls on- and off-street parking along its Embarcadero although enforcement of time restricted parking is not actively performed. Signage for restrictions has largely been removed.

While paid parking in some form can be an effective parking management tool, the City would explore the practice only in this context, recognizing that not only is revenue generation not the focus of its parking needs but also that without a high level of parking demand, parking revenue beyond the cost of the paid parking apparatus is unlikely to be generated. As a visitor destination, the City recognizes that the peaks, valleys, and relatively small area experiencing a parking impact may mean that active efforts to manage parking throughout the year may not warrant the investment in time and resources for limited periods and locations.

The City now seeks to understand parking patterns and conditions in the area in order to make a determination as to how practical and beneficial parking planning practices would be to implement. To what extent is there a problem that needs addressing or would the complexity and cost of solutions ultimately be greater than any real issues that require a solution, including considerations of the cost of enforcement, technology, and efforts for compliance with the requirements of the California Coastal Commission (CCC)?

Based on this understanding of the City's goals, Walker seeks to provide these answers in the following body of this report.

Study Areas

Embarcadero

The study area includes Morro Bay's Embarcadero from the Stacks to the north and Tidelands Park Boat Ramp Area to the south, including all public on- and off-street parking. Private off-street parking lots with 20 or more parking spaces were also included.

Downtown

The downtown study area encompasses the area bounded by Harbor Street to the north, Pacific Street to the south, Market Avenue to the west, and Napa Avenue to the East. This includes all public on- and off-street parking within these boundaries as well as private off-street facilities with 20 or more spaces (excluding parking dedicated specifically to hotel uses, which were not included).

The Embarcadero and Downtown study areas are shown in Figure 2.

Figure 2: Embarcadero & Downtown Study Area

Source: Aerial Image – *Google Earth Professional*, 2020; Graphic – *Walker Consultants*, 2020

Morro Rock

Walker also conducted parking occupancy counts within the Morro Rock area, which included five parking areas, labeled as M1-5, in Figure 3.

Figure 3: Morro Rock Study Area

Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Methodology

To complete this study, Walker worked with the City of Morro Bay to gather the required information and develop recommendations. Walker received background information from the City and in partnership developed project parameters, objectives, and worked together to coordinate fieldwork and data collection.

To gain an understanding of the existing parking system, parking occupancy counts were collected during the summer on Thursday, August 6, 2020 every two hours from 10 a.m. to 6 p.m. and on Saturday, August 8, 2020 every two hours from 10 a.m. to 6 p.m. Data collection days were selected in coordination with the City to reflect typically busy summer parking conditions. For off-street parking, occupancy data was collected at noon, 2 p.m., and 6 p.m. A parking length-of-stay analysis was conducted on Friday, August 9, 2020 every hour from 9 a.m. to 5 p.m.

Parking data collection also occurred during the off-season, on Thursday, November 19, 2020 and Saturday, November 21, 2020. Like summer, parking occupancy counts were collected from 10 a.m. to 6 p.m., every two-hours. Off-street parking was counted at noon, 2 p.m., and 6 p.m. Parking length-of-stay data was collected on

Friday, November 20, 2020, every hour from 9 a.m. to 5 p.m. The intent of the data collection effort was to gain an understanding of peak parking conditions on a busy summer weekend and during a typical off-season.

It is noted that data collection occurred during the Covid-19 pandemic, which, in most cases, would impact parking demand. However, given Morro Bay's scenic setting and opportunities for outdoor recreation, and observations from the City, it was determined that despite public health restrictions because of the pandemic, the Embarcadero and downtown were experiencing typical summer conditions.

In addition to parking occupancy counts, Walker also collected length-of-stay data for select on-street and off-street parking within the Embarcadero and downtown study areas. This provided an understanding of how long vehicles were parked on the street.

Recommendations for parking improvements in the Embarcadero and downtown were developed based on the compilation and analysis of existing conditions data and conversations and input from the City.

The following sections of this report provide the existing conditions analyses (Section 2) and proposed recommendations (Section 3). These sections include detailed analysis and findings resulting from the study.

02 Existing Conditions

2. Existing Conditions

This section provides an overview of the existing parking conditions experienced in the Embarcadero and downtown study areas. This includes the number of parking spaces available within the study area, how occupied these spaces are during peak parking demand, and how long people typically park in each area.

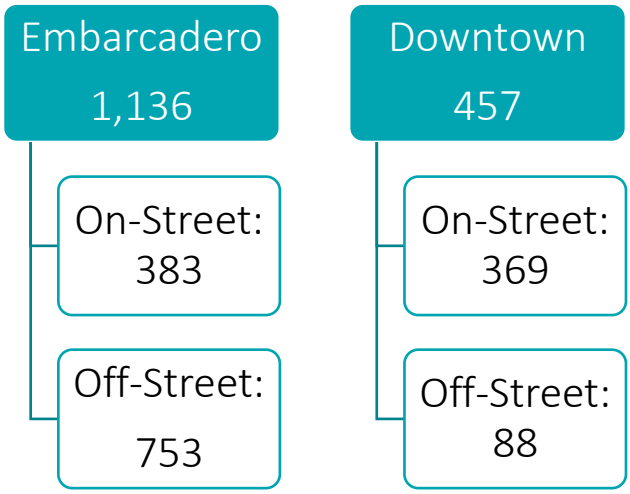
It should be noted that parking occupancy counts were collected during the COVID-19 pandemic. Despite restrictions for the operation of some businesses (e.g., no indoor dining at restaurants), the area appeared to be experiencing typically busy summer conditions. With much of Morro Bay's draw being its scenic waterfront and outdoor recreational activities, summer activity appeared to be similar with what we would expect to be pre-COVID levels. However, because some restrictions were still in place at the time of data collection, parking demand during normal summer conditions may vary.

Parking Supply

Walker identified 1,136± parking spaces in the Embarcadero study area and 457± spaces in the downtown study area. The combined study areas have a supply of 1,593± spaces.

The Embarcadero area includes 383± on-street parking spaces and 753± off-street spaces. The off-street parking supply consists of public parking facilities as well as the private lot which serves Giovanni's Fish Market & Galley (24 spaces) and an additional lot that serves multiple businesses including Surf Shop and Wavelengths Boardshop (27 spaces).

Figure 4: Embarcadero & Downtown Parking Supply



The downtown area includes 369± on-street spaces and 88± off-street spaces. The off-street parking supply included one private parking lot serving Bank of America (49 spaces) and one public lot (39 spaces).

Figure 5 summarizes the Embarcadero and downtown parking supplies.

Figure 5: Existing Time-Limit in Downtown

Source: *Walker Consultants*, 2020

Parking Restrictions and Enforcement

Parking is currently unrestricted within the Embarcadero study area, except for private lots which are restricted to customer-parking only.

Within downtown, there are two-hour posted time limits in some areas, including the main downtown core and Morro Bay Boulevard. Some side streets also have two-hour limits including Napa Avenue, Monterey Avenue, and Main Street. The two-hour limit is effective from 8 a.m. to 6 p.m., daily, except Sundays and holidays.

Based on conversations with the City, time limits are not currently enforced.

Existing Summer Parking Conditions

Walker evaluated parking demand in the Embarcadero and downtown study area by conducting occupancy counts of parked cars on one weekday and one weekend. Weekday occupancy counts were conducted every two hours on Thursday, August 6, 2020 from 10 a.m. to 6 p.m. Weekend counts were conducted on Saturday, August 8, 2020 every two hours from 10 a.m. to 6 p.m. Data collection days were selected in coordination with the City to reflect typically busy summer parking conditions. For off-street parking, occupancy data was collected at noon, 2 p.m., and 6 p.m.

It should be noted that parking occupancy counts were collected during the COVID-19 pandemic. Despite restrictions for the operation of some businesses (e.g., no indoor dining at restaurants), the area appeared to be experiencing typically busy summer conditions. With much of Morro Bay's draw being its scenic waterfront and outdoor recreational activities, summer activity appeared to be similar with what we would expect to be pre-COVID levels. However, because some restrictions were still in place at the time of data collection, parking demand during normal summer conditions may vary.

Overall, peak parking demand occurred at noon on the weekend for both the Embarcadero and downtown. Weekday peak parking demand also occurred at noon, but parking demand was found to be higher on the weekend than the weekday.

During the noon weekend peak, the Embarcadero experienced a parking utilization rate (the percent of parking spaces occupied) of 86%. Downtown parking had a utilization rate of 72% during the weekend noon peak. Combined, these study areas experienced an overall utilization rate of 82% during the weekend noon peak.

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*Peak parking demand occurred at **noon** on the weekend. At this time, **Embarcadero** parking was 86% occupied and **downtown** parking was 72% occupied. The areas combined were 82% occupied.*

For the purposes of data collection, the Embarcadero was divided into four areas - Areas A, B, C, and D:

- Area A (northern end): Stacks to Beach Street
- Area B ("core" of the Embarcadero): Beach Street to Marina Street
- Area C: Marine Street to the end of the main Embarcadero area, ending at 456 Embarcadero
- Area D: South of the main area to Tidelands Park and the boat ramp launch area.

Further analysis of parking demand observed in each study area is included in the following sections.

Embarcadero

Weekday Parking Demand

Weekday peak parking demand occurred at noon with 759± spaces occupied, 377± spaces available, and a utilization rate of 67%. On-street parking was 76% occupied and off-street parking was 62% occupied.

The highest parking demand occurred in Area B, the core of the Embarcadero, where the majority of popular shops and restaurants are located, between Beach Street and Marina Street. In this area, the parking utilization rate was 96%. In comparison, parking demand was lower in the other subareas (43%, 52%, and 72% utilization rate).

Peak weekday parking demand for the Embarcadero is summarized in Table 1.

Table 1: Embarcadero Weekday Summer Peak Parking Demand Summary - Noon

Embarcadero Areas	Supply	Occupancy	Utilization
Area A – Stacks to Beach Street			
On-Street	92	40	43%
Off-Street	465	252	54%
Total	**557**	**292**	**52%**
Area B – Beach Street to Pacific Street			
On-Street	208	200	96%
Off-Street	149	145	97%
Total	**340**	**325**	**96%**
Area C – Marina Street to 456 Embarcadero			
On-Street	75	49	65%
Off-Street	20	19	95%
Total	**95**	**68**	**72%**
Area D – 456 Embarcadero to Tide Lands Park			
On-Street	8	3	38%
Off-Street	119	51	43%
Total	**127**	**54**	**43%**
Total Embarcadero Area			
On-Street	383	292	76%
Off-Street	753	467	62%
Total	**1,136**	**759**	**67%**

Source: *Walker Consultants*, 2020

Weekend Peak Parking Demand

Weekend peak parking demand occurred at noon with 981± spaces occupied, 155± spaces available, and a utilization rate of 86%. Like weekday counts, Area B experienced the highest utilization rate at 98%. However, unlike the weekday, the remaining areas of the Embarcadero were also highly utilized, as Area C and Area D had a utilization rate over 90%. Most of the unoccupied parking spaces in Area A were observed within the large unpaved lot located just south of the Stacks and adjacent to the Morro Bay Maritime Museum. This lot was not utilized during the peak times during the weekday or weekend.

In general, weekend parking demand is significantly higher than on the weekday. Peak weekend parking demand for the Embarcadero is summarized in Table 2.

Table 2: Embarcadero Weekend Summer Peak Parking Demand Summary - Noon

Embarcadero Subareas	Supply	Occupancy	Utilization
Area A – Stacks to Beach Street			
On-Street	92	92	100%
Off-Street	465	334	72%
Total	**557**	**426**	**76%**
Area B – Beach Street to Pacific Street			
On-Street	208	201	97%
Off-Street	149	148	99%
Total	**340**	**332**	**98%**
Area C – Marina Street to 456 Embarcadero			
On-Street	75	69	92%
Off-Street	20	19	95%
Total	**95**	**88**	**93%**
Area D – 456 Embarcadero to Tide Lands Park			
On-Street	8	3	100%
Off-Street	119	51	92%
Total	**127**	**54**	**93%**
Total Embarcadero Area			
On-Street	383	370	97%
Off-Street	753	611	81%
Total	**1,136**	**964**	**86%**

Source: *Walker Consultants*, 2020

Downtown Parking Demand

Weekday peak parking demand occurred in downtown at noon, with 216± spaces occupied, 241± spaces available, and a utilization rate of 47%.

On the weekend, peak parking demand occurred at noon with 327± spaces occupied, 130± spaces available, and a utilization rate of 72%. Like the Embarcadero, utilization of downtown parking was notably higher on weekends than during the weekday. Additionally, the Morro Bay Farmer's Market occurs on Saturdays along Morro Bay Boulevard and Main Street. Some parking along these two downtown streets was blocked off for the market, which contributed to the higher utilization.

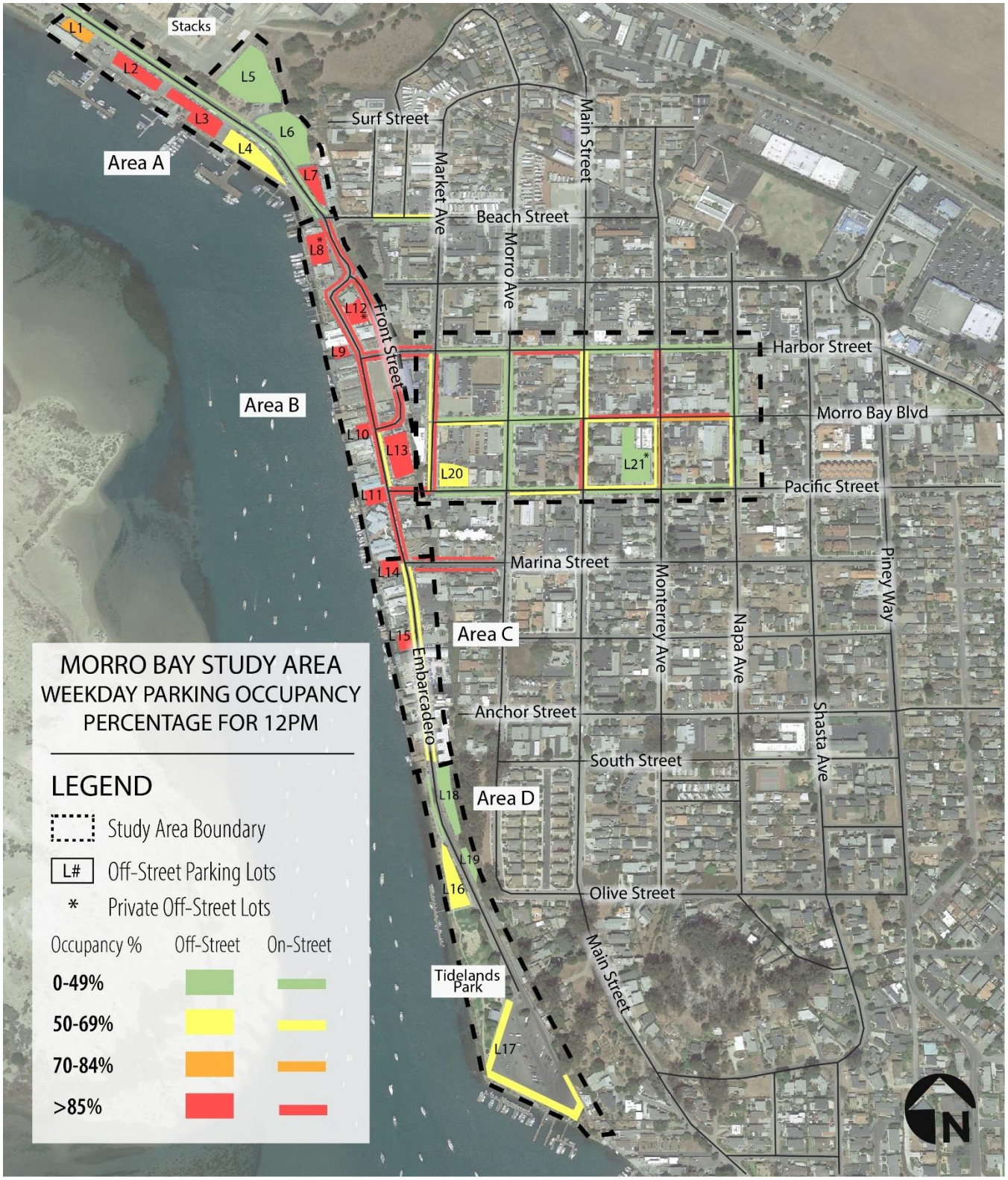
Table 3: Downtown Parking Demand Summary - Noon

Supply: 457	Occupancy	Utilization
Weekday	216	47%
Weekend	327	72%

Source: *Walker Consultants*, 2020

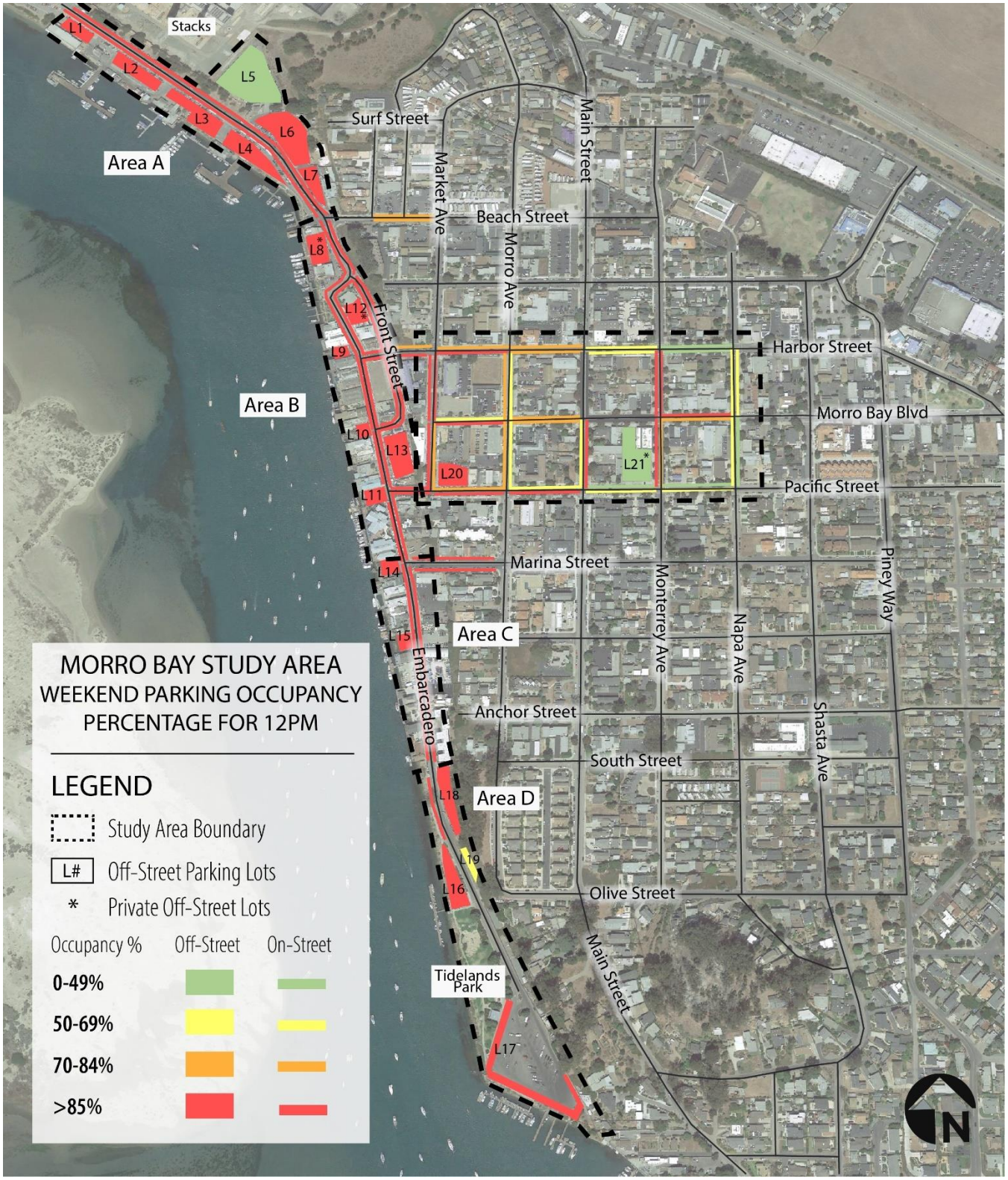
Figure 6 shows existing peak parking demand within the Embarcadero and downtown study areas and Figure 7 shows the weekend.

Figure 6: Summer Weekday Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, Graphic – *Walker Consultants*, 2020

Figure 7: Summer Weekend Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Parking Demand Over Time

On both weekdays and weekends, parking occupancy was found to be low in the morning, peak around lunchtime, and gradually decline throughout the day. Parking demand experienced throughout the day for both on- and off-street parking are shown in Table 4 and Table 5 for the weekday and weekend.

Table 4: Weekday Parking Demand Over Time

	Supply	10 AM		12PM		2PM		4PM		6PM	
		#	%	#	%	#	%	#	%	#	%
Embarcadero											
On-Street	366	112	31%	272	74%	260	71%	230	63%	168	46%
Off-Street	753			467	67%	441	59%			286	38%
Total	119			**739**	**66%**	701	63%			454	41%
Downtown											
On-Street	369	135	37%	186	50%	163	44%	130	35%	99	27%
Off-Street	88			30	34%	14	16%			10	11%
Total	457			**216**	**47%**	177	39%			109	24%

Source: *Walker Consultants*, 2020

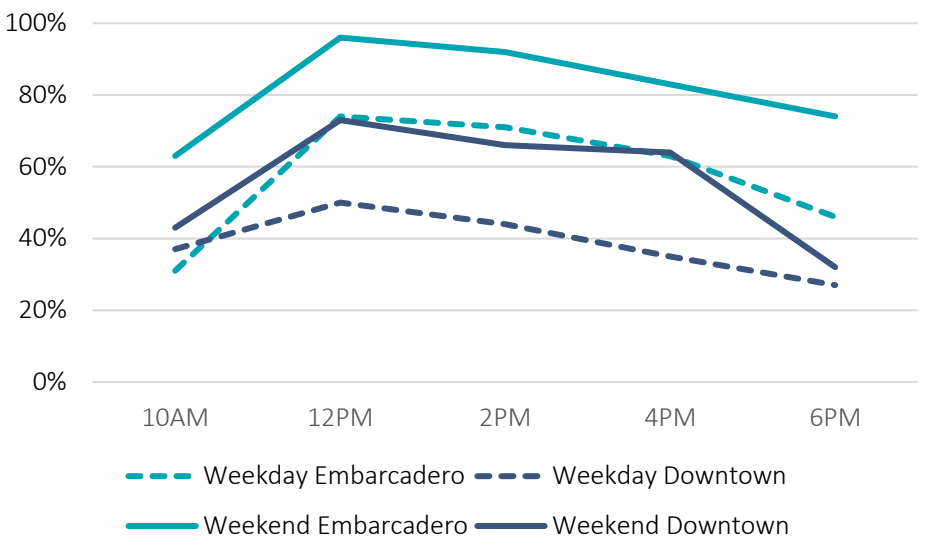
Table 5: Weekend Parking Demand Over Time

	Supply	10 AM		12PM		2PM		4PM		6PM	
		#	%	#	%	#	%	#	%	#	%
Embarcadero											
On-Street	366	229	63%	353	96%	336	92%	303	83%	272	74%
Off-Street	753			611	81%	600	80%			433	58%
Total	119			**964**	**86%**	936	84%			705	63%
Downtown											
On-Street	369	158	43%	268	73%	244	66%	237	64%	119	32%
Off-Street	88			59	67%	58	66%			43	88%
Total	457			**327**	**72%**	262	66%			162	35%

Source: *Walker Consultants*, 2020

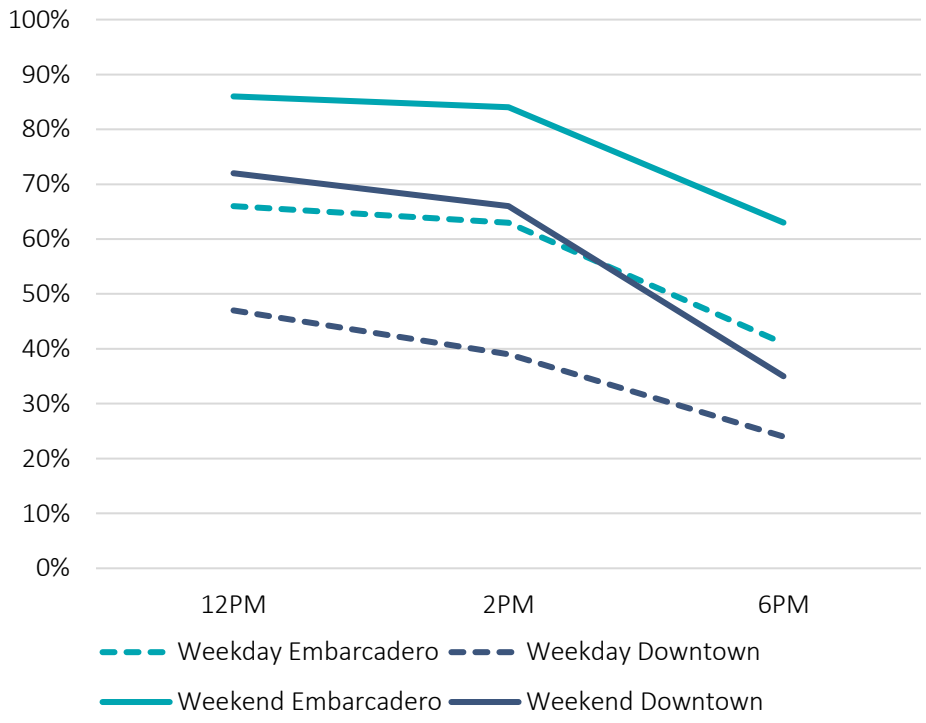
On-street parking demand observed throughout the day is shown graphically in Figure 8 and total utilization for both the Embarcadero and downtown are shown in Figure 9.

Figure 8: On-Street Utilization Over Time



Source: *Walker Consultants*, 2020

Figure 9: Parking Utilization Over Time (On- & Off-Street Combined)



Source: *Walker Consultants*, 2020

Morro Rock

Walker also conducted a high-level review of parking occupancies experienced in the Morro Rock area at 12 p.m., 2 p.m., and 6 p.m. during the weekday and weekend parking occupancy counts. Parking supply was estimated based on how many cars were parked and aerial imagery, as most were dirt lots with no striping. Some spaces were striped in the main Morro Rock lot, which was included in the count.

Peak weekday parking demand in the Morro Rock Area occurred at noon with 198+ spaces occupied and a utilization rate of 52%.

Weekend parking demand was significantly higher, peaking at 2 p.m. with 341+ spaces occupied and a utilization rate of 89%.

Morro Rock parking demand is summarized in Table 6 and Table 8 and shown graphically in Figure 10 and Figure 11.

Table 6: Morro Rock Area Weekday Summer Parking Demand

	Supply	12PM		2PM		6PM	
		#	%	#	%	#	%
M1	272	109	40%	101	37%	82	30%
M2	65	53	82%	62	95%	59	91%
M3	16	12	75%	14	88%	12	75%
M4	13	9	69%	12	92%	3	23%
M5	18	15	83%	6	33%	5	28%
Total	384	**198**	**52%**	195	51%	161	42%

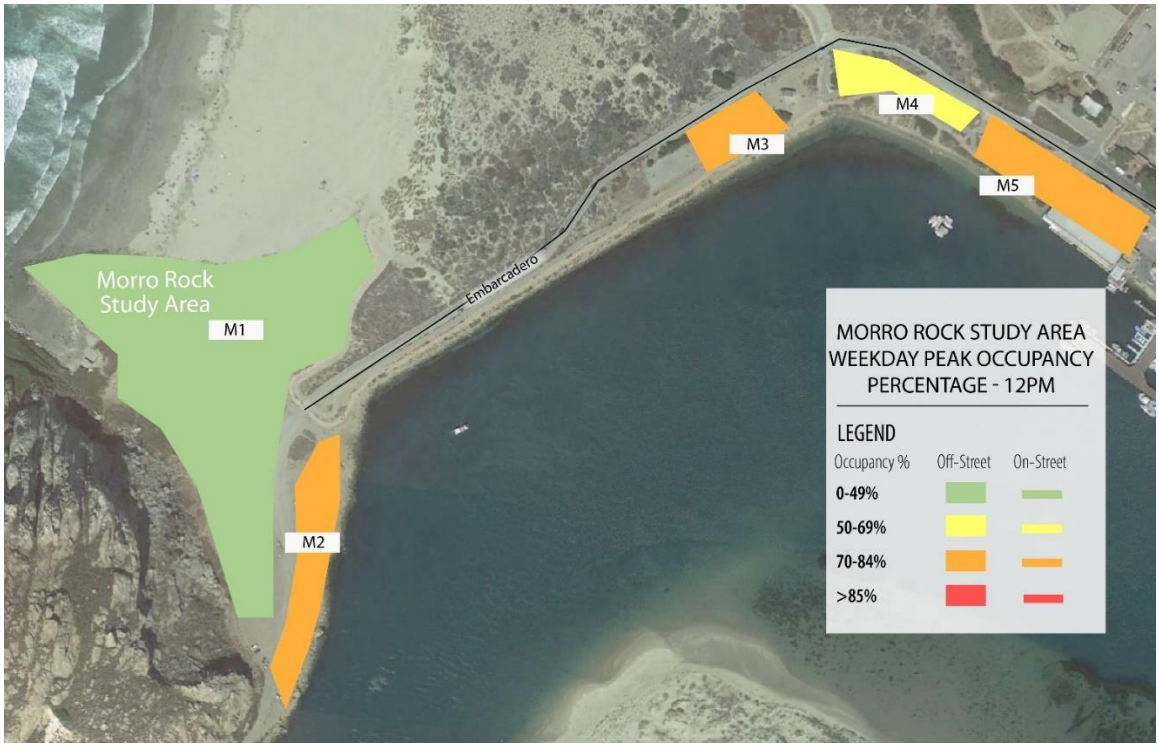
Source: *Walker Consultants*, 2020

Table 7: Morro Rock Study Area Weekend Summer Parking Demand

	Supply	12PM		2PM		6PM	
		#	%	#	%	#	%
M1	272	218	80%	230	85%	218	80%
M2	65	65	100%	65	100%	63	97%
M3	16	13	81%	15	94%	13	81%
M4	13	13	100%	13	100%	12	92%
M5	18	18	100%	18	100%	14	78%
Total	384	327	85%	**341**	**89%**	320	83%

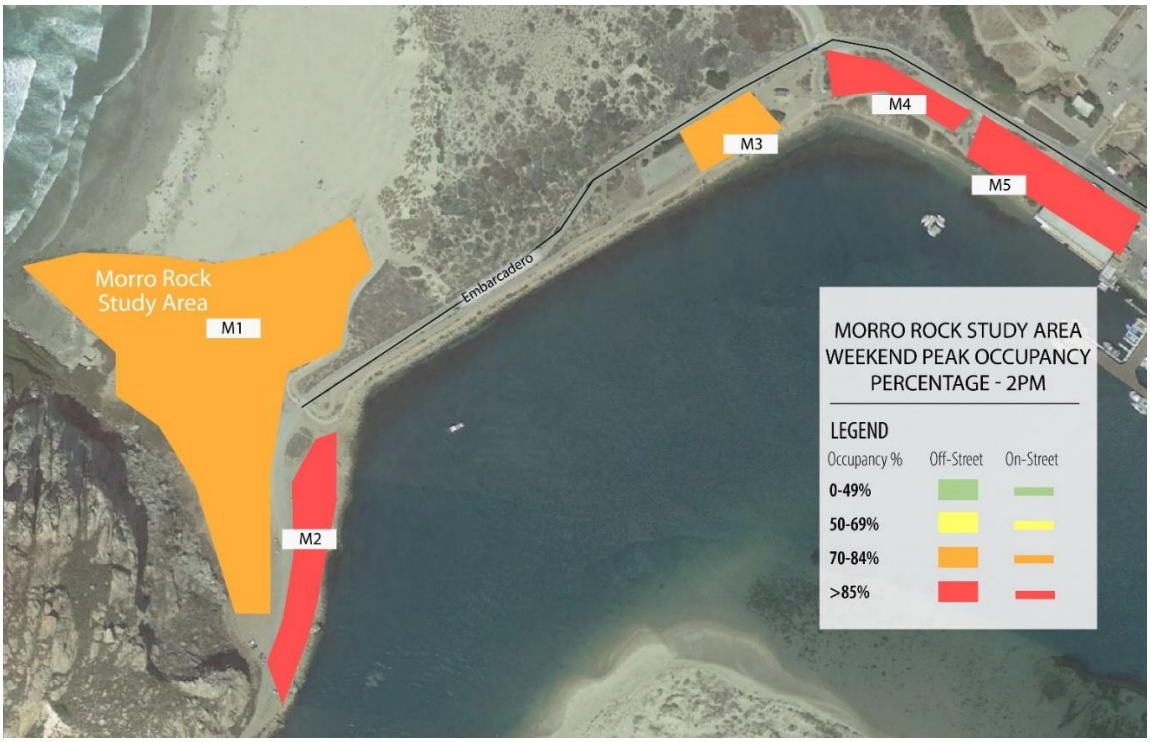
Source: *Walker Consultants*, 2020

Figure 10: Morro Rock Study Area Weekday Summer Peak Parking Occupancy - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Figure 11: Morro Rock Study Area Weekend Peak Parking Occupancy - 2 PM



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

How Long Do People Park?

During summer data collection, Walker conducted a parking length-of-stay analysis in the core area of the Embarcadero, from Pacific Street to the northern edge of Anchor Memorial Park. A length-of-stay analysis was also conducted in downtown on Morro Bay Boulevard between Napa Avenue and Main Street.

To understand how often cars leave a space, or turnover, a license plate inventory (LPI) was collected hourly from 9 a.m. to 5 p.m. The LPI inventory was conducted by collecting the last four digits of all license plates within the turnover study area. An LPI assists in understanding how long a vehicle is parked in a space, if there are areas with low turnover, and/or if cars are parked longer than the hourly time limits posted.

In general, most vehicles were parked for one or two hours in both the Embarcadero and downtown. However, there were some vehicles parked for three or more hours, especially in the Embarcadero.

With no posted time limit on the Embarcadero, cars parked longer-term are not violating any restrictions. Of the vehicle data collected, there were 50 cars parked in the Embarcadero for three or more hours. If 50% of these cars represent owners or employees of businesses that could park elsewhere, 25 spaces could have parked customers. With a turnover of approximately every two hours, this could mean a capacity of 75 to 100 or more customer cars on busy days.

In downtown, the length-of-stay data indicates that most parkers abided by the posted two-hour time limit on Morro Bay Boulevard. However, there were nine vehicles parked for three or more hours, violating the posted limit.

Table 8: Summer Parking Length-of-Stay Data Summary

Hours	1	2	3	4	5	6	7	8
Embarcadero Plates Collected: 294	178	66	18	9	8	9	3	3
Percent	61%	22%	6%	3%	3%	3%	1%	1%
Downtown Plates Collected: 139	118	12	3	2	1	2	0	1
Percent	85%	9%	2%	1%	1%	1%	0%	1%

Source: *Walker Consultants*, 2020

Existing Off-Season Parking Conditions

To understand parking conditions during non-summer peak season months, Walker collected parking occupancy data on one day during the weekday and weekend in November 2020, and turnover data on Friday November 20, 2020.

Weekday parking occupancy counts were collected on Thursday, November 19, 2020 and Saturday, November 21, 2020. Like summer, parking occupancy counts were collected from 10 a.m. to 6 p.m., every two-hours. Off-street parking was counted at noon, 2 p.m., and 6 p.m.

Like summer conditions, peak parking demand occurred at noon on the weekend in both downtown and the Embarcadero. The weekday peak also occurred at noon in both areas.

During the weekend peak, the Embarcadero was 67% occupied and downtown was 52% occupied.

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*During the off-season, peak parking demand occurred at **noon** on the weekend. At this time, **Embarcadero** parking along the entire study area was 67% occupied and **downtown** parking was 52% occupied. The areas combined were 62% occupied.*

When compared to summer conditions, peak parking occupancy was significantly lower than during the off-season in November.

Table 9: Comparison of Summer and Off-Season Parking Utilization

	Embarcadero		Downtown	
	Summer	Off-Season	Summer	Off-Season
Weekend	82%	67%	72%	52%
Weekday	67%	42%	47%	38%

Source: *Walker Consultants*, 2021

Embarcadero

Weekday Parking Demand

Peak parking demand occurred on the weekday at noon. At this time, 476± spaces were occupied, 660± spaces were available, with a utilization rate of 42%. Similar to summer conditions, Area B was the most highly utilized area along the Embarcadero. Weekday peak parking is summarized in Table 10.

Table 10: Embarcadero Weekday Off-Season Peak Parking Demand Summary - Noon

Embarcadero Areas	Supply	Occupancy	Utilization
Area A – Stacks to Beach Street			
On-Street	92	28	30%
Off-Street	465	153	33%
Total	**557**	**181**	**32%**
Area B – Beach Street to Pacific Street			
On-Street	208	97	47%
Off-Street	149	84	56%
Total	**340**	**181**	**51%**
Area C – Marina Street to 456 Embarcadero			
On-Street	75	26	35%
Off-Street	20	18	90%
Total	**95**	**68**	**46%**
Area D – 456 Embarcadero to Tide Lands Park			
On-Street	8	2	25%
Off-Street	119	68	57%
Total	**127**	**54**	**43%**
Total Embarcadero Area			
On-Street	383	153	40%
Off-Street	753	323	43%
Total	**1,136**	**476**	**42%**

Source: *Walker Consultants*, 2020

Weekend Parking Demand

Weekend peak parking demand also occurred at noon with 756± spaces occupied, 380± spaces available, and a utilization rate of 67%.

Area B continued to be the most highly utilized subarea. These results are shown in Table 11.

Table 11: Embarcadero Weekend Off-Season Peak Parking Demand Summary - Noon

Embarcadero Areas	Supply	Occupancy	Utilization
Area A – Stacks to Beach Street			
On-Street	92	57	62%
Off-Street	465	259	56%
Total	**557**	**316**	**57%**
Area B – Beach Street to Pacific Street			
On-Street	208	191	92%
Off-Street	149	143	96%
Total	**340**	**334**	**94%**
Area C – Marina Street to 456 Embarcadero			
On-Street	75	39	52%
Off-Street	20	16	80%
Total	**95**	**55**	**58%**
Area D – 456 Embarcadero to Tide Lands Park			
On-Street	8	1	13%
Off-Street	119	50	42%
Total	**127**	**54**	**43%**
Total Embarcadero Area			
On-Street	383	288	75%
Off-Street	753	468	62%
Total	**1,136**	**756**	**67%**

Source: *Walker Consultants*, 2020

Downtown Parking Demand

Weekday peak parking demand occurred in downtown at noon, with 175± spaces occupied, 282± spaces available, and a utilization rate of 38%.

On the weekend, peak parking demand occurred at noon with 237± spaces occupied, 220± spaces available, and a utilization rate of 52%.

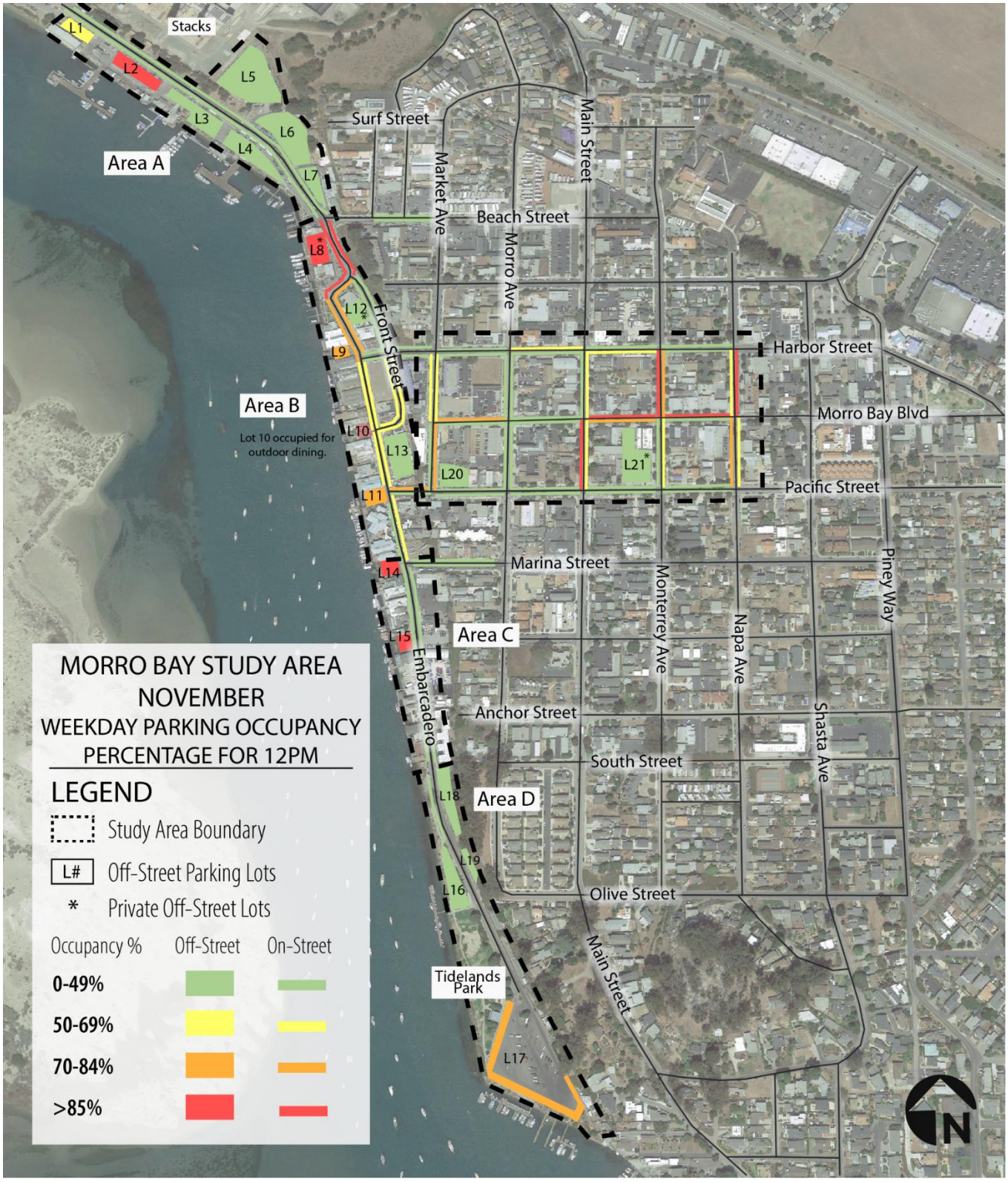
Table 12: Downtown Off-Season Parking Demand Summary - Noon

Supply: 457	Occupancy	Utilization
Weekday	175	38%
Weekend	237	52%

Source: *Walker Consultants*, 2020

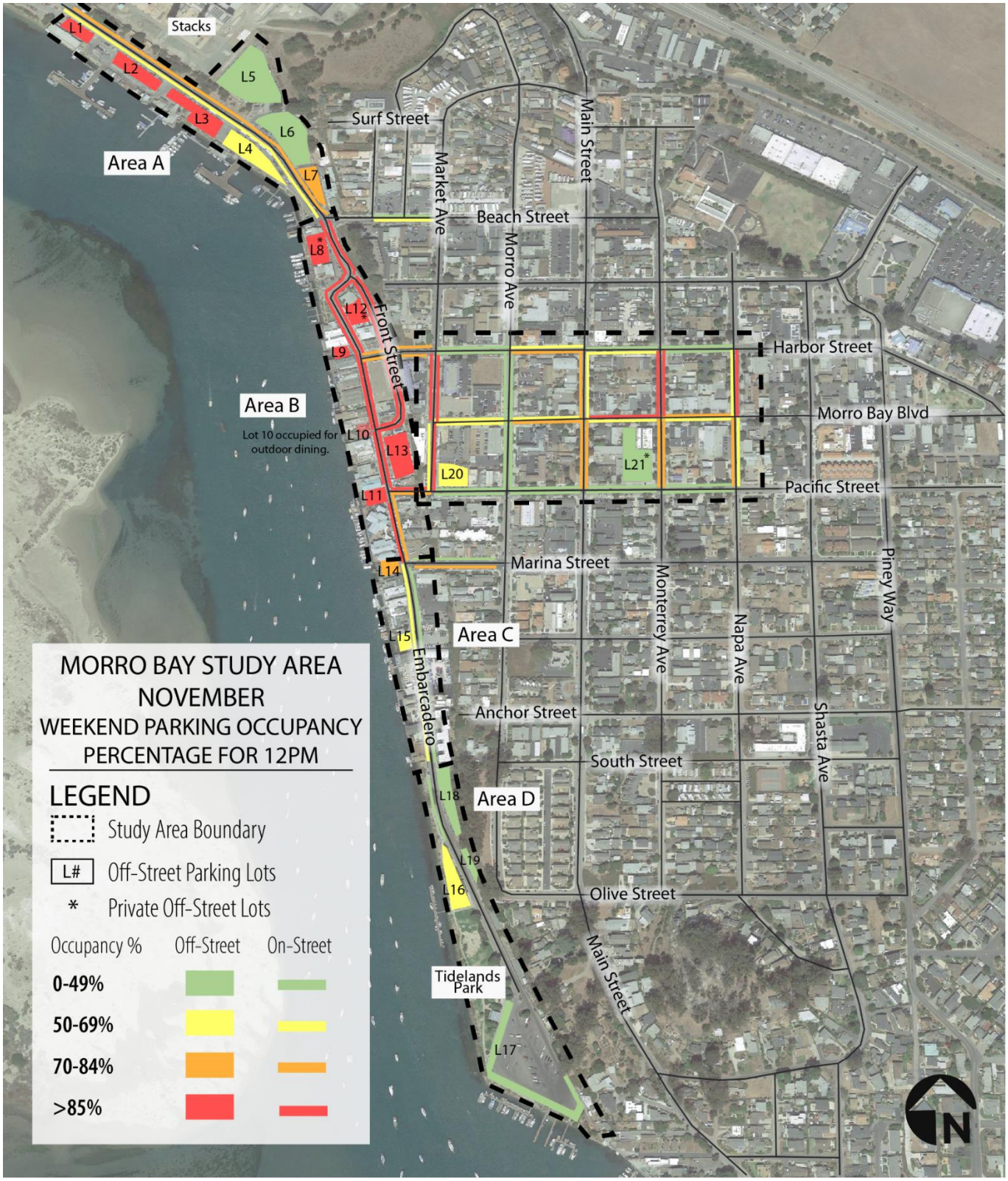
Figure 12 shows graphically existing off-season peak parking demand within the Embarcadero and downtown study areas and Figure 13 shows the weekend.

Figure 12: Off-Season Weekday Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, Graphic – *Walker Consultants*, 2020

Figure 13: Off-Season Weekend Peak Parking Demand - Noon



Source: *Aerial Image – Google Earth Professional*, Graphic – *Walker Consultants*, 2020

Morro Rock

Like summer data collection, Walker conducted a high-level review of parking occupancies experienced in the Morro Rock area at 12 p.m., 2 p.m., and 6 p.m. during the weekday and weekend parking occupancy counts.

Peak weekday parking demand in the Morro Rock Area occurred at noon with 90± spaces occupied and a utilization rate of 25%.

Weekend parking demand was higher, peaking at noon with 247± spaces occupied and a utilization rate of 67%.

Morro Rock parking demand is summarized in Table 13 and Table 14 and shown graphically in Figure 12 and Figure 13.

Table 13: Morro Rock Area Weekday Off-Season Parking Demand

	Supply	12PM		2PM		6PM	
		#	%	#	%	#	%
M1	272	68	23%	50	18%	30	11%
M2	65	15	25%	18	28%	10	15%
M3	16	4	23%	5	31%	1	6%
M4	13	3	23%	3	23%	0	0%
M5	Lot was closed for construction vehicle parking						
Total	366	**90**	**25%**	76	21%	41	11%

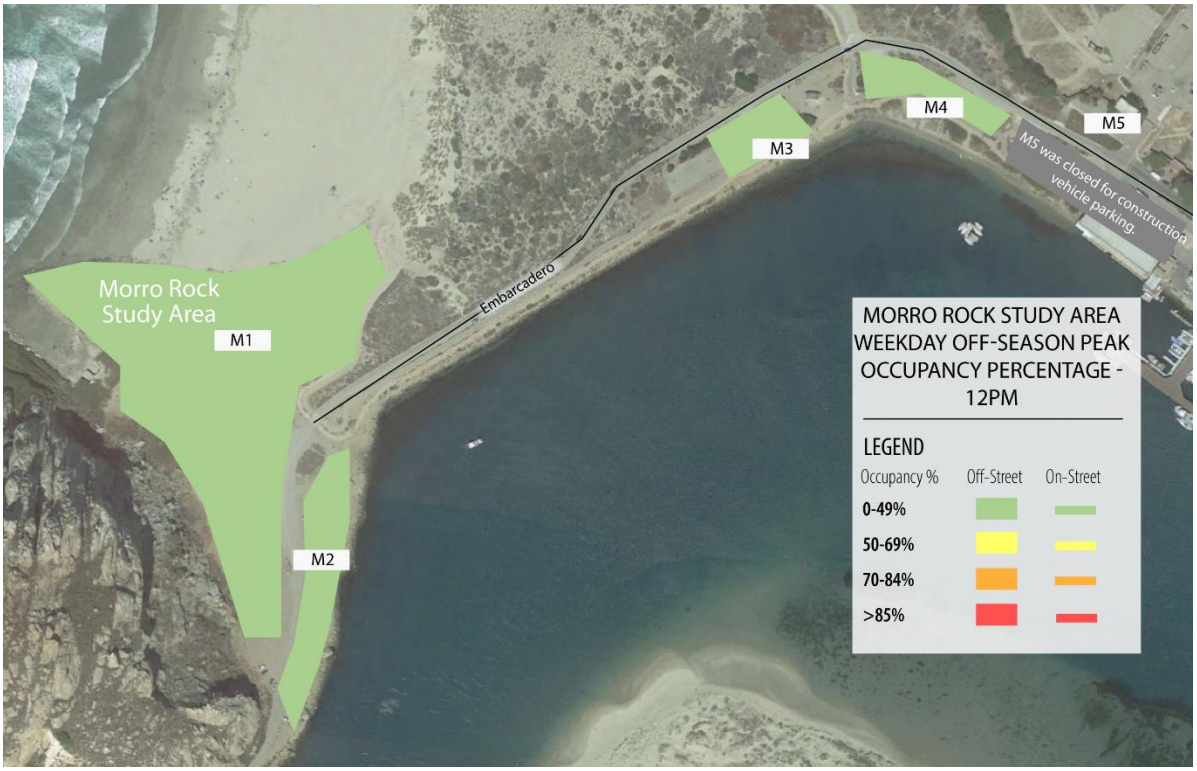
Source: *Walker Consultants*, 2020

Table 14: Morro Rock Area Weekend Off-Season Parking Demand

	Supply	12PM		2PM		6PM	
		#	%	#	%	#	%
M1	272	163	60%	100	60%	20	7%
M2	65	58	89%	20	89%	8	12%
M3	16	14	88%	5	88%	2	13%
M4	13	12	92%	5	92%	0	0%
M5	Lot was closed for construction vehicle parking						
Total	366	**247**	**67%**	130	36%	30	8%

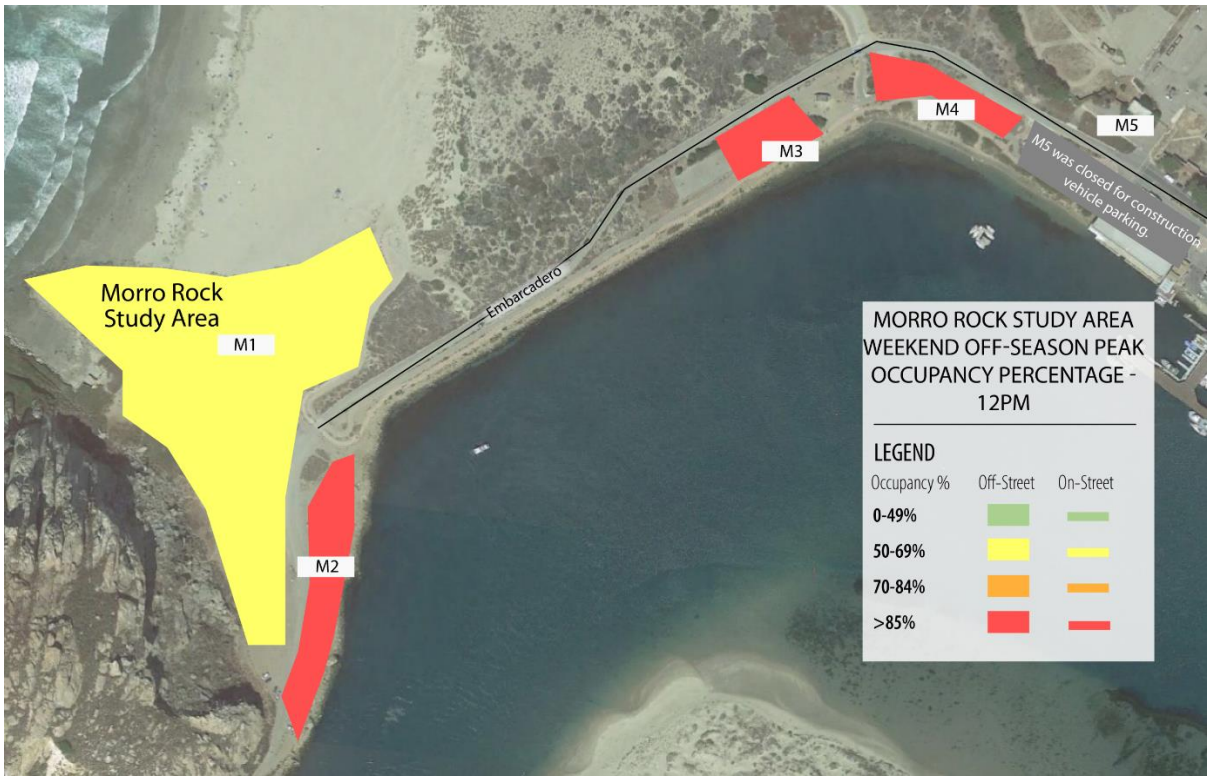
Source: *Walker Consultants*, 2020

Figure 14: Morro Rock Study Area Weekday Off-Season Peak Parking Occupancy - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

Figure 15: Morro Rock Study Area Weekend Off-Season Peak Parking Occupancy - Noon



Source: *Aerial Image – Google Earth Professional*, 2020, Graphic – *Walker Consultants*, 2020

How Long Do People Park?

Like for summer data collection, Walker conducted a parking length-of-stay analysis in the core area of the Embarcadero, from Pacific Street to the northern edge of Anchor Memorial Park. A length-of-stay analysis was also conducted in downtown on Morro Bay Boulevard between Napa Avenue and Main Street.

In general, the majority of vehicles were parked for one or two hours in both the Embarcadero and downtown. However, there were some vehicles parked for three or more hours, especially in the Embarcadero.

Of the vehicle data collected, there were 43 cars parked in the Embarcadero for three or more hours. As stated under summer conditions, if 50% of these cars represent owners or employees of businesses that could park elsewhere, 26 spaces could have parked customers. With a turnover of approximately every two hours, this could mean a capacity of 75 to 100 or more customer cars on busy days.

In downtown, the length-of-stay data indicates that most parkers abided by the posted two-hour time limit on Morro Bay Boulevard. However, there were nine vehicles parked for three or more hours, violating the posted limit.

Table 15: Off-Season Parking Length-of-Stay Data Summary

Hours	1	2	3	4	5	6	7	8
Embarcadero Plates Collected: 238	140	55	17	10	6	6	2	2
Percent	59%	23%	7%	4%	3%	3%	1%	1%
Downtown Plates Collected: 119	98	12	3	2	1	2	1	0
Percent	82%	10%	3%	2%	1%	2%	1%	0%

Source: *Walker Consultants*, 2020

Conclusions and Major Findings

Based on the data collection conducted during the summer and the off-season in November, the following summarizes the major findings:

- Summer parking conditions were significantly busier than off-season parking conditions, for both the Embarcadero and downtown.
- Lunchtime, at noon, was found to be the peak period of parking demand during every condition analyzed for both the Embarcadero and downtown. This strongly suggests that the overlap of restaurant and coastal access are key drivers of parking demand.
- The Embarcadero was found to experience significantly higher parking occupancies than downtown.
- The most utilized segment of the Embarcadero was what we designated as Area B, between Beach Street and Pacific Street. This area was found to experience high occupancies during peak parking demand on both weekdays and weekends in summer and during the off-season. This is likely due to the high concentration of popular restaurants and shops in this area, as well as scenic views of the bay.
- Overall, most visitors park in the Embarcadero and downtown for one or two hours, though there are likely a significant number of employees parking for four or more hours in prime customer parking locations.
- Morro Rock was also notably busier during the summer than the off-season, especially during midday hours (noon to 2 p.m.). Off-season weekends experienced higher parking occupancies than during the weekday, which was much lower than any other time analyzed.

03 Recommendations

3. Recommendations

Based on the information gathered from the existing conditions analysis and conversations with the City, Walker developed a series of recommendations to improve and enhance the parking system along the Embarcadero and in downtown.

Embarcadero

The Embarcadero experiences significantly high parking utilization during busy summer weekends with occupancies over 85% for the combined on- and off-street parking supply. Walker's parking turnover analysis also revealed that approximately 32 of the most prime and desired parking spaces on the Embarcadero are occupied by long-term parkers.

During the off-season, the Embarcadero still experiences high visitation on weekends and during the lunch hour on weekdays. The off-season also found a similar rate of long-term parkers occupying prime spaces.

Given these factors, the City should consider implementing time-restricted parking and/or paid parking within the core of the Embarcadero. This area includes the publicly available parking between Beach Street and Pacific Street, (Area B in the study's subarea breakdown).

The goal of a time-limited or paid parking system would ultimately be to increase access to the Embarcadero and the coast. While implementing parking restrictions may sounds counterintuitive to increasing access, time limits or paid systems can accomplish the following:

- Increase the frequency that spaces turnover, thereby increasing the number of visitors who can access the coast throughout the day.
- Deter long-term parkers from occupying prime parking spaces all day, opening more prime spaces to visitors.

Time Limits

1. Implement three-hour time-limits along the Embarcadero between 9 a.m. and 7 p.m. for the on-street parking spaces.

Currently, parking in the Embarcadero is entirely unrestricted. This presents the opportunity for prime parking spaces to be occupied all day, limiting the availability of spaces for customers and visitors. The turnover analysis conducted for this study revealed that at least 32 vehicles are parked along the Embarcadero for four or more hours, likely most or all of which are employees or business owners. If time limits were implemented in the Embarcadero these 32 spaces would become available for more customer and visitor parking within the prime downtown parking spaces. With a time limit applied, these 32 spaces could provide access to well over 32 vehicles depending on the limit.

Data collection revealed that the most highly utilized spaces along the Embarcadero are between Beach Street and Pacific Street. It would be beneficial to implement some regulation and enforcement of the time cars may park in

this location at least this area of the Embarcadero, if the goal of the city and businesses is to facilitate access for business patrons and other visitors to the area.

Given the multiple, possible destinations in the area, restaurants, bakeries, unique shops, and coastal views along the Embarcadero, Walker recommends a three-hour parking time limit be implemented. Based on the turnover analysis, most vehicles were parked for one to three hours. Therefore, it is reasonable to assume that two to three hours is sufficient time for most customers and visitors to the Embarcadero.

Additionally, since data collection revealed that parking occupancies are lower in the evenings, these time limits do not need to be in effect all day although a later restriction is typically used to provide evening access to businesses.[2] It is recommended that there be a posted time limit from 9 a.m. to 6 p.m, as evening parking occupancies appear not to create an access issues. This would ensure that long-term parkers do not use prime spaces during the busiest times of days, such as lunch and dinner time, while providing some flexibility in the later evening when parking is more available.

2. Consider time limits by facility type. Off-Street parking should remain unrestricted to start with the implementation of time-limited on-street parking, however, these facilities should be monitored over time to determine if/when time limits should be implemented in off-street facilities.

Time limits can also be set depending on the facility type. For example, on-street limits may be two hours while off-street limits may be three or four hours depending on the level of turnover desired in each area.

Paid Parking

3. Implement paid parking for prime parking spaces along the Embarcadero.

Paid parking is an effective measure for making parking available when the demand for parking spaces regularly exceeds the supply. Paid parking can help achieve a balance of parking demand, promote turnover, and make parking more convenient.

Paid parking can generate revenue but the activity of charging for parking generates costs. This may include capital expenses, maintenance expenses, and the cost of enforcement personnel and technology.

Paid parking can be implemented in conjunction with or as an alternative to time-limited parking. Users may only be able to pay up to a certain number of hours or be able to pay for as many hours as they would like. Given the high demand for the public parking supply, it is recommended that either a time limit be set in combination with paid parking, or that the cost per hour should increase incrementally with longer dwell times.

Like time-limits, there is flexibility in the hours that payment for parking can be required. A balance must be struck between a schedule for charging that is both easy to understand but also addresses the demand for parking. On a busy summer weekend, Walker recommends paid parking be required from at least 9 a.m. to 6 p.m.

[2] For example, an employee who arrives for an evening shift at 5:00 pm can effectively park all evening.

With any paid parking system, active and regular enforcement is a key part of success. This includes regularly monitoring the surrounding areas including downtown and residential streets adjacent to the Embarcadero to ensure that these areas are not being negatively impacted due to visitors avoiding payment along the Embarcadero.

Additionally, prior to implanting a paid parking program (or time limits), the City should plan for a widespread advertising campaign to notify visitors, residents, businesses, and employees of the changes. This should include when the changes would be put into effect as well as details on how to use the payment systems and what to expect.

Multi-Space Meters (MSM)

There are a variety of methods to implement paid parking. For a setting like the Embarcadero, Walker recommends multi-space meters with the ability to pay-by-cell.

Multi-space meters (MSM) are centrally located payment kiosks where customers can pay for their parking. Depending on the type of MSM installed, payment can usually be made via cash, coin, credit card, or mobile payment (payment via cell phone or mobile application). MSMs have rechargeable batteries, solar panels or AC power for charging, and wireless communications which allows for credit card acceptance and on-line report generation and alerts. There are many benefits to MSMs, but one includes a less infrastructure for paid parking occupying the street.

MSMs can be configured for use in one of three modes of operation: pay and display, pay-by-space, or pay by license plate. Most MSM manufacturers make one meter capable of being programmed for all payment modes. These various modes are described in Table 16.

Table 16: Multi-Space Meter Operation Modes

MSM Mode Type	Description	Enforcement	Other Considerations
Pay and Display (PND)	Patrons park and pay for the time they wish to park. They are then issued a receipt which they display on the dashboard of their vehicle. This receipt displays the transaction information and expiration date and time for the parking session.	Performed by visually inspecting each vehicle for receipt and checking expiration date and time. This can be time consuming for the enforcement personnel as the receipt may not be easily visible, upside down, or difficult to read.	PND does not allow for adding additional time remotely from another MSM or pay-by-cell phone application. Installation of signage stating: “Pay here and display your ticket on dash” and “Have you paid and displayed your ticket?” are recommended with this system.
Pay by Space (PBS)	Each space is numbered, and patron enters the number of the space they parked in at the meter and pays for their desired amount of time. A receipt is not required on the dashboard.	Performed by viewing a report of paid and/or unpaid spaces and checking each unpaid space. Report can be issued at meter or accessed online or on a handheld enforcement device.	Requires signage and/or painted numbers on every space.
Pay by Plate (PBP)	Patron enters their vehicle’s license plate number at the meter and selects the amount of parking time. No receipt required.	Similar to PBS by reviewing a report and comparing the parking license plates, which is time intensive.	Requires signage indicating to patrons that they need their plate number at the meter.

	Alternatively, plates are uploaded to an electronic handheld enforcement device.

Source: *Walker Consultants*, 2020

Since PND systems require a physical receipt and limits the ability of patrons to pay by cell or add time remotely, this mode is not recommended. Walker recommends a PBS or PBP system be considered.

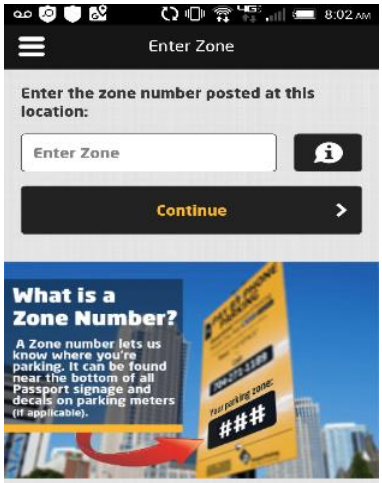
Pay-by-Cell

Pay-by-Cell is a service that allows the parking patron to pay for parking using a cellular phone. This method is considered standard and can be provided by multiple vendors. Signage is installed indicating the pay-by-cell provider along with the location ID so that the patron can easily make payment using a downloaded App on their phone.

The payment information is uploaded to the pay meter as well as the enforcement software in real-time so no citations will be improperly written.

Once the license plate and payment credential information are saved in the app, the patron will not need to reenter the data the next time they use the app to park. The app also makes it very convenient for "adding time" to the parking session by informing the patron when their parking is expiring. Time can be extended if needed without returning to the vehicle or payment kiosk.

Figure 16: Pay-by-Cell Example



Source: *Walker Consultants*

Parking Pricing

Parking rates should be set with a goal to ensuring access to the area through its parking spaces. The goal is achieved through the allocation of shorter-term visitor parking to the most convenient spaces and moving long-term parkers away from high turnover locations. Rates for paid parking can be fixed or vary depending on time-of-day, day of week, time of year, facility, or area. For example, spaces farther from the Embarcadero core may be priced at a lower rate than the most prime and in-demand spaces. Off-street parking can be priced differently than on-street parking. Additionally, since lunchtime during a summer weekend was found to be the busiest time for downtown, rates may be higher during these hours than they are in the evening. If parking demand is found to be particularly low on some days or hours, such as a typical off-season weekday, parking rates can be set lower or be free during those times. MSMs provide flexibility in programming this type of pricing. While pricing structures targeting specific times are useful, ease of understanding for the public is also important.

In general, when selecting rates, the City should consider goals for the parking system, costs of operations and enforcement, future infrastructure costs and needs, and desired results of the system. Other considerations include the desired behavior from parking patrons (e.g., deterring long-term parking) and targeted parking occupancy rate (such as 85%).

Ideally, revenues generated from paid parking are used in part to create a self-sustaining parking and access system which, to the extent possible, generates a revenue stream that covers ongoing operating and maintenance expenses. Excess revenue should be used to fund parking and other transportation-related capital and operational improvements that enhance access to and within downtown. It is recommended that it be made explicit that a

portion of the funds may be used for multiple forms of access, such as pedestrian, bicycle, and transit-related improvements, as well as constructing new parking improvements and maintenance of existing ones.

Too many or too few occupied parking spaces at key times represent a failure of the parking system. Rates should be set at a level that does not deter patrons from using the lot or space and not so low that spaces are always occupied, diminishing the benefits to access. If rates are set too high, it could cause patrons to park in neighboring residential areas which could create conflicts between downtown and residential parking demand.

While additional analysis and stakeholder input would be required to provide a recommended pricing structure, based on our knowledge of parking patterns and the parking "market" in Morro Bay and the Central Coast, we offer what we suggest is a reasonable pricing strategy.

4. Conduct a paid parking pilot for all on-street spaces on the Embarcadero between Harbor Street and Pacific Street.

In order to test and determine the viability and performance of a paid parking program, it is recommended that the City implement a paid parking pilot program.

The pilot program would focus on a particularly busy area of the Embarcadero with the highest utilization. Based on our findings, we recommend that a pilot program first be implemented between Harbor Street and Pacific Street. The City may also consider including some of the off-street parking also located between these two segments to monitor the viability of paid parking in the off-street lots.

Rough Order of Magnitude

Walker developed a rough order of magnitude (ROM) revenue and cost scenario for the purpose of projecting the financial feasibility and desirability of paid parking for the proposed paid parking pilot.[3]

Table 17: Preliminary Cost & Revenue Scenario – Pilot Program

MSM Revenue Analysis	
Hourly Rate[4]	$1.00
Projected Average Daily Revenue Per Parking Space	$3.60
Projected Annual Revenue Per Parking Space[5]	$1,300
Total Annual Revenue Projection	***$49,600***
Estimated Machine Costs (Installed)	$40,000
Spare Parts (Varies by meter quantities)	$18,000
Estimated MSM Signage, installed (2@$150 per MSM)	$1,200
Estimated Marketing Costs for MSM Program	$30,000
Annual Mgmt. Fees	$2,900
Total MSM Implementation Cost	***$92,100***
Payback Period (# of Months)	22
Annual CC Processing Fees (Assume 50% of Revenue x 5%)	$1,200
Annual Net after Mgmt. Fees and CC Processing Fees	**$45,400**
Five Year Net	**$135,100**
Ten Year Net	**$362,300**

Note: Figures ($) are rounded to the nearest hundred

Additional costs would need to be considered should pay-by-cell also be implemented. Based on this analysis, Walker believes that based on the assumptions used, a net revenue annual projection of parking revenue range from $45,000 to $52,000 is a reasonable projection based on typical economic conditions and the assumptions used for this analysis. We also note an approximately two-year "pay back" period for the technology assumed.

[3] These projections are for informational and planning purposes only and should not be used in project financing or by third parties. To be valid, the assumptions must be used in whole and not in part.

[4] An hourly rate for the purpose of this scenario may be blended. For example, a mix of $1.00 per hour during an "off" season and $1.50 per hour during the summer and weekends.

[5] Assumes paid parking seven days a week except for 12 holidays per year.

5. After observing and analyzing the progress and impacts of the pilot program, implement a full paid-parking program.

Once the City can gain an understanding of how paid parking is likely to function based on the pilot program, the City may consider implementing paid parking more widely.

Based on conversations with the City and a review of parking occupancy data collected in August and November 2020, it is recommended that paid parking be implemented for all on-street parking between the Smokestacks and Marina Street. Off-street parking between Beach Street and Marina Street should also be included. Additional off-street paid parking should also be implemented in the northern Embarcadero lots, labeled as Lots 2, 3, and 4 on the heat maps on pages 22 and 23 of this study. Overall, this equates to roughly 300 parking spaces.

Rough Order of Magnitude

Like the pilot program, Walker developed an ROM for a full paid parking program, shown in Table 18[6].

Table 18: Preliminary Cost & Revenue Scenario – Paid Parking Program

MSM Revenue Analysis	
Hourly Rate[7]	$1.00
Estimated Revenue Per Parking Space	$2.25
Annual Revenue Per Parking Space[8]	$800
Total Annual Revenue Projection	***$251,000***
Estimated Machine Cost (Installed)	$260,000
Spare Parts (Varies by meter quantities)	$18,000
Estimated MSM Signage, installed (2@$150 per MSM)	$7,800
Estimated Marketing Costs for MSM Program	$30,000
Annual Mgmt. Fees	$18,700
Total MSM Implementation Cost	***$334,500***
Payback Period (# of Months)	16
Annual CC Processing Fees (i.e. 50% of Revenue x 5%)	$6,300
Annual Net after Mgmt. Fees and CC Processing Fees	**$226,000**
Five Year Net	**$795,400**
Ten Year Net	**$1,925,400**

Note: Figures ($) are rounded to the nearest hundred

Based on the assumptions and revenue projections presented in Table 18, we project annual net parking revenue of approximately $220,000 to $250,000 generated by the approximately 300 spaces used in this analysis. Once again, we believe this is a reasonable though potentially conservative projection of net parking revenue based on a blended hourly parking rate of $1.00 per hour throughout the course of the year. Once again, a higher average hourly parking rate, which could be justified based on the demand observed during the busy summer period, would result in higher revenue.

[6] These projections are for informational and planning purposes only and should not be used in project financing or by third parties. To be valid, the assumptions must be used in whole and not in part.

[7] An hourly rate for the purpose of this scenario may be blended. For example, a mix of $1.00 per hour during an "off" season and $1.50 per hour during the summer and weekends.

[8] Assumes paid parking seven days a week except for 12 holidays per year.

Enforcement

6. Adopt a Parking Ambassador model of enforcement that is hospitality and customer-service oriented.

The success of time limits or paid parking is highly reliant on active and consistent enforcement. Currently, with no existing parking restrictions, there has not been a parking enforcement effort along the Embarcadero. If time limits or paid parking is implemented, an enforcement plan would also need to be made.

The goal of enforcement should be education and compliance and should not be used as a method to collect revenue. Overall, enforcement should be used to encourage parking patrons to use spaces correctly and deter long-term parkers from using time-limited spaces and payment evasion. Revenue collected from citations should be used to offset the cost of enforcement personnel, parking operations, and maintenance.

Enforcement can be conducted in a variety of ways. Some cities partner with local law enforcement, hire their own enforcement officers or contract a third-party parking enforcement service.

Given that the Embarcadero is a popular tourist destination, customer service should be a key consideration in developing enforcement procedures. Walker recommends considering a Parking Ambassador model of enforcement.

Parking Ambassador Program

A parking ambassador model of enforcement is hospitality oriented. Ambassadors are still required to enforce parking regulations, but also provide hospitality, tourism, and public safety services to the community.

Ambassadors typically are trained in hospitality and customer service as well as emergency response, first aid, and city services. They typically wear uniforms that make the ambassadors clearly identifiable. However, it is important that they are not imposing or appear police oriented. The goal is for them to be identifiable, but approachable in both how they look and act. This allows parking enforcement to be viewed as less punitive and more as an opportunity to educate visitors on parking regulations. They also then become a resource for visitors as they will be knowledgeable of Morro Bay and can assist visitors navigating the area.

The primary goals of an ambassador program are to promote the area, resolve concerns, and help make the Embarcadero a better, safer, and friendlier place to live, visit, shop and conduct business. Ambassadors should initiate personal contacts with the parking public (known as “touches”), issue more warnings and slightly fewer citations, and interact with visitors and citizens in a genuinely positive manner. The vision of the program is to help promote a progressive and dynamic experience on the Embarcadero. The ambassadors can accomplish this while providing parking management by monitoring public safety, extending a helping hand in emergency situations, and calling on area merchants on a regular basis.

Enforcement Process and Technology

Enforcement can be performed in a variety of ways. Traditional methods such as tire chalking and hand-written tickets may be used, though there are several technology-based systems that are more efficient and less labor-intensive. Physical tire chalking is typically not recommended as parkers can easily “game” the system by simply wiping off chalk on the tire, rolling their tires back and forth, or weather can remove the chalk mark.

Some of these options include:

- Mobile license plate recognition (LPR) – Camera-based technology mounted to an enforcement vehicle that reads license plate numbers across a defined area. Through software applications, parameters can be put in place to create enforcement rules and hours. The enforcement officer drivers a route on an hourly basis with the camera recording occupied parking spaces.
- Enforcement mobile applications – Mobile apps for parking enforcement that can be used with most Android and Apple based cellular phones and tablets.

These systems can also help track occupancy as well as be integrated with MSM software, pay-by-cell software, and other databases such as law enforcement agencies. They can also provide electronic records of enforcement activity without requiring manual data entry.

Costs of Enforcements

The cost to enforce parking will depend on who is responsible for enforcing and, if performed internally to the city, which staff are tasked with the effort. Regarding paid parking, we do not include the cost to enforce for a key reason; findings from our study demonstrate a need for parking enforcement to be conducted along the Embarcadero, whether paid parking is implemented or not.

Compared to the enforcement of time limits, the enforcement of paid parking should be less costly because time limited enforcement requires less labor, two passes by a parked car to establish how long a vehicle has been parked. Paid parking requires only one pass to determine whether payment has been made or not. For this reason, in general the enforcement of paid parking on the street should not represent a material increase in cost over the same level of diligent enforcement needed for time limits.

Insourcing vs. Outsourcing

When deciding whether it is best to insource or outsource parking operations, it is important to look at not only cost considerations, but the overall advantages and disadvantages of each option. This section describes the key advantages and disadvantages of insourcing vs. outsourcing.

Insourcing

An insourced, or self-managed, parking operation obligates the City to provide complete internal parking management, including staffing, and operating expenses associated with the operation. To best assess this operating methodology, we provided the following list of advantages and disadvantages that are commonly associated with self-operated parking systems:

Advantages

- The City does not need to share revenue with a private operator and the net operating income (“NOI”) generated is retained by City.
- The City retains control over operating policies and procedures.
- The City retains control over customer service-related aspects of the operation.
- The City can avoid contracting with an operator whose standards and mission may not align with the City’s.
- The costs of an insourced operation are more transparent, as there are no hidden third- party expenses.

Disadvantages

- City staff may not have the experience/expertise associated with running a parking operation.
- It may be more expensive to run the operation in-house with current labor rates. There are additional payroll and benefit expenses, likely at higher costs than outsourcing to a private operator.
- The City must hire, train, and terminate staff, as well as provide supervision structure and management from within the organization.
- The City must retain enough trained staff on standby to provide for staffing coverage (e.g., late, sick or vacation coverage), as well as part-time attendants for events.
- The City must retain staff to perform internal operational and financial audits.
- City must have accounts receivable and payable staff.
- Accounting, marketing, and insurance claims adjudication and processing would be the City's responsibility.
- Due to procedural and administrative requirements that many public agencies have, the City may be slower to change and keep current with market conditions than a private operator.
- Civil service rules and budgeting process can be cumbersome and time consuming.

Outsourcing

An outsourced parking operation involves a private operator performing the parking operation and management functions, including staffing, and operating expenses associated with the operation. To best assess this operation methodology, below are a list of advantages and disadvantages associated with an outsourced parking operation:

Advantages

- Private parking operators have specialized expertise related to parking management and parking specific experience around revenue control, customer service, and quality control. The County benefits from the expertise of the operator, without needing to give up control of key policy decisions.
- A private operator may be able to operate more efficiently and cost effectively. Most of the burden of hiring, training, and staffing the operation, and associated work and costs, is placed on operator and it is typically easier for the operator to replace under-performers than it would be for the City.
- Private operators typically have more flexibility in hiring, purchasing, and other cost related items.
- Private operators can often respond to changes in technology by adapting staffing plans more efficiently.
- The cost of the management fee/revenue share may be at least partially offset by cost savings realized by reducing the workload of certain departments such as Human Resources and Accounting
- A private operator may be able to implement changes more rapidly than the City.
- A private operator may be likely to be more responsive to market conditions, such as rate increases, because of continuous market knowledge and operation of other area properties.

Disadvantages

- The City would have less control over parking operations.
- In a location such as the Central Coast, professional parking operations companies may be few, and their responsiveness delayed, reducing the benefits of engaging a third party operator.
- The City needs to release RFP for operator and expend staff time and resources to review responses and select an operator.
- City is responsible for managing the contract with the selected operator during the life of the term.
- There is potential for hidden third-party expenses.

Morro Rock

7. Consider implementing paid parking in the Morro Rock parking areas.

The demand for parking around Morro Rock can be high, according to city staff significantly congesting the roadway to the destination. For this reason, the City has also sought to explore paid parking at this location to help manage demand.

Based on parking occupancy counts, despite high visitation to the Morro Rock area, especially on summer weekends, overall the large, unpaved parking lot provides ample parking availability. However, parking availability around the rock was found to be quite uneven; in some locations parking spaces would fill entirely while parking spaces remained available in locations where it was perhaps less desirable or less intuitive to park.

Pricing parking at Morro Rock could provide benefits. This includes an evening out of parking availability around the rock and creating a source of funding for improvements at the coast and maintenance of the unpaved lots. Additionally, traffic exiting the Morro Rock parking areas was found to be heavily congested during summer weekends. Pricing parking at the rock could help fund roadway, bicycle, pedestrian and coastal improvements to ease and mitigate some of this heavy congestion.

Overall parking availability at Morro Rock as the sole consideration arguably may not currently justify a need to price parking. However, there are infrastructure and maintenance factors that would benefit from a funding source generated by paid parking.

Additional Access Considerations

8. Remove some on-street parking and replace with widened sidewalks along the Embarcadero for greater pedestrian access and comfort.

The Embarcadero experiences heavy pedestrian volumes as visitors enjoy walking along the waterfront and visiting the unique shops and restaurants. Arguably the sidewalk is something of its own destination, but it is also a transportation facility, within and to the Embarcadero, which facilitates a “park once” destination that encourages strolling and visiting multiple destinations. During data collection, Walker staff observed heavy pedestrian travel along the Embarcadero. Sidewalk capacity is often low along the Embarcadero compared with demand; they are narrow in comparison with the number of people walking throughout the day, often crowding the sidewalks and making it difficult to pass others on the sidewalk.

Given the destination and desire for visitors to walk, opportunities to widen the sidewalks and create a more pedestrian-oriented space should be considered. This would likely require removing some of the on-street spaces along the Embarcadero. While this could result in a loss of on-street parking spaces in the core of the Embarcadero, access to the Embarcadero would be increased and serve even more pedestrians. On a per square foot basis, more pedestrians can be accommodated than drivers and their passengers in an automobile.

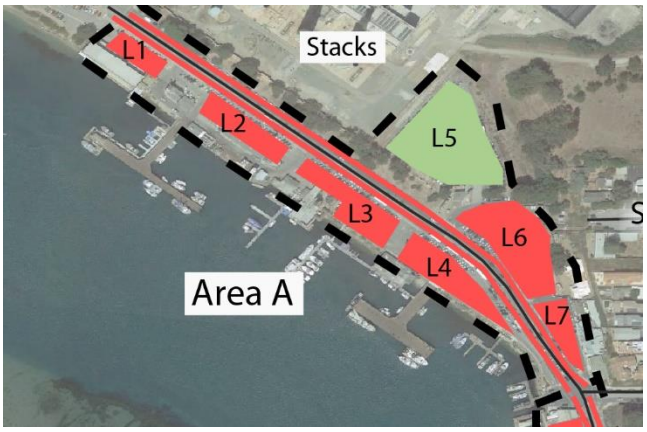
Maintaining Free Parking

9. Upon a larger, Embarcadero-wide implementation of paid parking (beyond the pilot area), identify and maintain a free parking area and increase utilization of the underutilized public lot (the unpaved lot south of the Stacks).

With the potential of implementing time-limits and paid parking along the Embarcadero, considerations should also be given to areas that would remain free and unrestricted, to provide parking options for long-term and cost-conscious parkers. If paid parking is implemented in the prime spaces along the Embarcadero, there may be some visitors or patrons who would prefer to park for free but are willing to walk a farther distance to do so.

Parking lot, L5, south of the Stacks and adjacent to the maritime museum appears to us to be an appropriate location for free parking if paid is implemented elsewhere. Figure 18 shows the peak weekend summer utilization of this lot. During data collection, even during the busiest summer day, this lot was not utilized. While there is some signage identifying it as public parking, its location may be challenging to find for most visitors, as it requires entering another parking lot (L6) to access.

Figure 17: Proposed Free Parking Area - L5



Additionally, if paid parking is implemented at Morro Rock, L5 could also be used as an alternative free parking area for those wishing to visit the rock and are willing to walk, given the available and pleasant pedestrian connections. The benefit of using L5 as a free parking area is its central location to both Morro Rock and the core of the Embarcadero.

Downtown

Parking Restrictions

10. Maintain existing two-hour parking time-limits in downtown.

In general, the downtown area was found to be significantly less utilized that the Embarcadero. While some areas of downtown experienced high parking occupancies during the peak, overall, there were always available spaces within a block or two. Therefore, at this time, paid parking is not recommended for downtown.

Most streets in downtown currently have a posted time-limit of two-hours. Data collection showed that most parkers abide by this limit, however there are some who violate it, parking for four or more hours.

11. Should parking occupancies increase over time due to time limited or paid parking implemented on the Embarcadero, begin actively enforcing the two-hour limit.

If paid parking is implemented along the Embarcadero, those who wish to avoid payment may park in downtown, should downtown parking remain free. This could potentially increase parking utilization in downtown over time. While there is currently sufficient parking in downtown, should utilization begin to increase over time with other changes on the Embarcadero, enforcement should be increased to ensure visitors and employees are abiding by the two-hour limit.

As discussed in the previous Enforcement section for the Embarcadero, a Parking Ambassador program could be extended to provide enforcement and parking education in downtown as well the Embarcadero.

Planning for the future

Morro Bay Parking Study

The City partnered with Walker Consultants to conduct a comprehensive parking study of the City's Embarcadero and Downtown. The purpose of this study is to understand existing parking needs, how parking is currently being used, and how to best plan for parking needs in the future. The study presents an analysis of existing parking conditions and recommendations for parking management strategies. The study evaluated both summer and off-season periods.

CURRENT PARKING CONDITIONS

1. There are 1,136 parking spaces on the Embarcadero, 457 in Downtown, and 384 at Morro Rock

2. During peak parking occupancy parking spaces are used as follows:

Summer - Lunchtime

Weekday

Embarcadero - 67% of spaces utilized
Downtown - 47% of spaces utilized
Morro Rock - 54% of spaces utilized

Weekend

Embarcadero - 86% of spaces utilized
Downtown - 72% of spaces utilized
Morro Rock - 89% of spaces utilized

November (Off-Season) - Lunchtime

Weekday

Embarcadero - 42% of spaces utilized
Downtown - 38% of spaces utilized
Morro Rock - 25% of spaces utilized

Weekend

Embarcadero - 67% of spaces utilized
Downtown - 52% of spaces utilized
Morro Rock - 67% of spaces utilized

3. How long do people park?

Majority parked for 1-2 hours. About 50 vehicles were parked for 3+ hours during the peak - if 50% of these cars represent owners or employees of businesses that could park elsewhere, 25 spaces could have parked customers. With a turnover of ~2 hours, this could mean a capacity of 75 to 100 or more customer cars which could = 150+ customers

KEY FINDINGS

- Summer was significantly busier than the off-season
- Lunchtime was the busiest period - restaurants & coastal access key drivers
- Embarcadero parking demand was much higher than Downtown
- Busiest areas of Embarcadero - between Beach St & Marina St & lots north of Beach
- Most people parked for 1-2 hours, but a sizeable number of vehicles parked long-term, likely employees and recreational fishermen/women
- Morro Rock parking demand was significantly higher during the summer

Planning for the future

Morro Bay Parking Study

Based on the existing conditions analysis, Walker in partnership with the City, developed a series of recommendations to help plan and manage parking both now and into the future.

RECOMMENDATIONS

EMBARCADERO

1. Parking time limits (e.g. 3-hrs, 9 a.m. - 6 p.m.)

2. Paid parking

- Begin with pilot program in core areas & then expand
- Pricing may be dynamic - based on time of day, time of year, area, etc.
- Option to have longer or no time limits & allow people to pay for more time instead

3. Enforcement

- Adopt a Parking Ambassador model of enforcement that is hospitality & customer-service driven

4. Improved pedestrian access

- Morro Bay is incredibly scenic & walkable
- Consider removing some on-street spaces on the Embarcadero to create wider sidewalks & devote more space to pedestrian access

5. Maintain a free parking area

- If paid parking is implemented, maintain a free parking area in the unpaved lot south of the Stacks
- This would increase utilization of an underutilized lot & provide a free parking option to those who don't mind the longer walk to the core of the Embarcadero

MORRO ROCK

6. Paid parking at Morro Rock

- Fee to park at Morro Rock
  ~ May be based on time of day, year, etc.
- Fees may go toward lot improvements, maintenance, amenities (e.g., bathrooms, bike & walking trails)
- Roadway maintenance in/out of the Morro Rock area
  ~ Area experiences heavy traffic during peak times

DOWNTOWN

- Maintain existing 2-hr time limits
- Actively enforce 2-hr limit should utilization of the Embarcadero increase & significant spillover occurs

BENEFITS OF PARKING MANAGEMENT & REGULATIONS

- More frequent turnover of prime parking spaces
- Increased access to parking
- Parking is easier to find for visitors (less time circling & searching for space)
- Increased coastal access
- Bring more visitors to shop, dine, & recreate in Morro Bay

CITY OF MORRO BAY
HARBOR DEPARTMENT
1275 Embarcadero Road
Morro Bay, CA 93442

MEMO

Date: July 18, 2017
To: City of Morro Bay Planning Commission
From: City of Morro Bay Harbor Advisory Board
Subject: Paid Parking in the Area of the Morro Bay Waterfront

In June 2017, the Morro Bay City Council approved the Harbor Advisory Board's 2017/2018 Work Program, based upon the Council's 2017/2018 Goals and Objectives. Item 1.d. from that Work Program states in part, " Evaluate opportunities for new or expanded revenue sources, including but not limited to: paid parking . . .".

During its regular meeting on July 6, 2017 the City of Morro Bay Harbor Advisory Board (HAB) addressed agenda item C-6, *"Consideration of Issues Regarding Paid Parking on the Embarcadero and Adjacent Vicinities"*. The purpose was to identify issues for consideration regarding paid parking on and around Embarcadero, including a reason or reasons they are important, and what might be considered when evaluating them - as a starting point in the process of evaluating paid parking.

In its preparations for addressing the agenda item, the HAB reviewed a number of historic documents, the earliest dating back to the 1990's, relative to the concept of paid parking in the area of the Morro Bay waterfront. The most recent of these documents, and the apparently most comprehensive, is the *City of Morro Bay Parking Management Plan – Final: October 2007*, prepared by TPG Consulting, Inc. Other than suggesting or recommending paid parking in areas of Morro Bay's waterfront, no definitive City action to establish paid parking was found during the HAB's review of historic documents.

The fundamental question the HAB addressed was should there be paid parking on and around Embarcadero, and why or why not. **The HAB concluded that as a revenue generating concept, it is reasonable to consider establishing a paid parking plan on and around Embarcadero Road.** In coming to that conclusion, the HAB noted that numerous waterfront communities on the coast of California, communities that attract and benefit from tourism, have paid parking plans. These include but are not limited to:

Santa Cruz, Monterey, Pismo Beach, Avila Beach, Santa Barbara, Huntington Beach, etc.

Having concluded that the concept of paid parking on and around Embarcadero is reasonable, further HAB discussion identified the following related issues for further consideration:

- A paid parking plan on and around Embarcadero Road involves the City's downtown waterfront strategic plan, the City's economic strategic plan, the City's waterfront master plan, and the City's Harbor Lease Management Policy.
- Does the current parking configuration on and around Embarcadero optimize the amount of available parking, whether paid or not?
- Consideration of a paid parking plan on and around Embarcadero best includes the waterfront area between Coleman Beach, and the north portion of Tidelands Park.
- It would be necessary to balance the opportunity for revenue from paid parking with the needs of business, and with tourism activities.
- It is probable there will be continuing impacts on available parking in the downtown waterfront area from business property development between Beach Street and the south end of the business area – especially in the case of hotel development that inherits parking-in-lieu, or is granted parking-in-lieu.
- Input from the waterfront business community regarding the concept of paid parking on and around Embarcadero is necessary.
- Irrespective of paid parking on and around Embarcadero Road, how should the issue of impacts on waterfront parking by waterfront business employees be addressed? It is probable that waterfront business employees occupy significant portions of Embarcadero area parking.
- In a waterfront paid parking plan, should the Triangle Lot be specifically designated as "free parking", and should public transportation be provided between the Triangle Lot and the downtown waterfront area? [As a side note, no cars were parked in the Triangle Lot at 11:30 AM on July 4, 2017, or at 12:30 PM on July 5, 2017]
- If paid parking is instituted, where specifically would it be located?
- If paid parking is instituted, would it be hourly or daily, and during what hours of the day would paid parking apply? The HAB discussed the possibility paid parking, if instituted, not applying after early hours in the evenings.
- If paid parking is instituted, how much are reasonable parking fees?
- If paid parking is instituted, what sort of equipment (kiosk, etc.) would be used, and what would be the means to collect the parking fees? It was noted that solar powered kiosks are commonplace in other waterfront communities, and in fact there is one such unit in Morro Bay's Tidelands Park, which according to the

Harbor Director paid for itself in short order, and is a regular contributor to revenue.

- If paid parking is instituted, would there be enforcement, and if so by whom?
- If paid parking is instituted, would there be free parking in the same area, and if so where, why, how much, and for how long?
- If paid parking is instituted, would paid permit parking be incorporated into the plan? For instance, would waterfront businesses be able to purchase a limited number of permits for their use?
- If paid parking is instituted, would free permit parking be incorporated into paid parking areas (i.e. fishermen with City slips adjacent to Embarcadero Road)?
- If paid parking is instituted, would some sort of permit be made available to Morro Bay residents, and if so, for what paid parking areas, for what period of time, and at what fee, if any?
- If paid parking is instituted, would parking-in-lieu be incorporated into the program, and if so, how?
- If an Embarcadero parking plan is instituted, clear and effective signage and directional information relative to paid and free parking would be critical to the plan's success.
- Any Embarcadero parking plan needs to incorporate ADA accessibility, and loading zone considerations.
- A Morro Bay waterfront paid parking plan could be implemented by phases. For instance, the HAB recommends immediately establishing kiosk paid parking in the City lot on the east side of Embarcadero, below DiStasio's.
- The lands west of Embarcadero Road are public trust land owned by the State of California. Those lands were granted to San Luis Obispo County, and in 1964/1965 upon its incorporation, the City of Morro Bay assumed trusteeship of those lands. Per the terms of the Tidelands Grant, these lands must be used for commerce, fisheries, navigation, recreational purposes, parklands, public access, public parking, and environmental protection or enhancement. Further, funds for the maintenance and improvement of these lands falls to leaseholders, and in the absence of leaseholders, to the City. Ongoing waterfront infrastructure maintenance and improvement is necessary for public access, and is costly. Revenues from paid parking in the area of the Embarcadero could be a significant contributor to the City's capital needs in this area.
- If a paid parking plan is instituted on and around Embarcadero Road, some significant portion of the net proceeds should be earmarked specifically for maintenance and improvement of City shoreline infrastructure along the waterfront - infrastructure that is necessary to the working waterfront, and necessary for tourist access and enjoyment.

The HAB looks forward to continued involvement in the issue of paid parking on and around Embarcadero, and to working with the Morro Bay Planning Commission and the Morro Bay Public Works Advisory Board to further develop the feasibility and desireability of this potential revenue producing concept.

cc: Mr. Eric Endersby; City of Morro Bay Harbor Department Director
Mr. Scot Graham; City of Morro Bay Community Development Director
Morro Bay Public Works Advisory Board
Morro Bay City Council

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AGENDA NO:	**C-2**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 1, 2021**

FROM: **Gregory Kwolek, Public Works Director**
Rob Livick, PE/PLS/QSD - City Engineer

SUBJECT: **Adopt Resolution No. 79-21 Pledging a Funding Commitment for Intersection Improvements at SR1/SR41 and Main Street**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 79-21 pledging a funding commitment for project costs for intersection improvements for the intersection at SR1/SR41 and Main Street based on the roundabout alternative.

ALTERNATIVES

A. Direct staff to seek out other funding options, such as debt financing, to fund City's share of the project over a longer term.
B. Direct staff to suspend all work on the project if improvements are no longer warranted.

BACKGROUND

Improvements to the SR1/SR41 and Main Street intersection to resolve issues with congestion and delays have been under City consideration for over 20 years, with plans to design a roundabout at this intersection abandoned in 2002 due to funding issues. After reinitiating the capital project in 2014, the State required an Intersection Control Evaluation (ICE), a two-step process that was completed by the City's consultant GHD, Inc., in 2016 and approved by Caltrans in 2020.

The first step of the ICE was to evaluate the issue and develop a shortlist of alternative solutions. Importantly, the ICE evaluation determined the existing intersection configuration will fail at full build out of the City by the year 2040. This conclusion is mirrored by traffic count and delay data included in the Draft Technical Report of the City's Circulation Element, which shows the SR1/41 and Main Street intersection as having the longest delay times of all other intersections in the City. The SR41/Main intersection and the SR1/SR41 intersection are about 75 feet apart; due to close intersection spacing and the existing controls, the two intersections operate as one unsignalized intersection with six approaches and exits. This intersection's current configuration creates several issues, including congestion, confusing traffic patterns, unfavorable pedestrian crossings, poor bicycle pathways, and increased carbon emissions from cars that must stop and go several times before clearing the intersection. As the gateway to Morro Bay for visitors from communities to the east and northeast, the intersection leaves a deficient first impression of the City.

To address these issues raised in the evaluation, the ICE recommended two design alternatives, a signal control and a roundabout:

Prepared By: RL	**Dept Review: GK**
City Manager Review: SC	**City Attorney Review: JWP**

Signal Control Alternative

Roundabout Alternative

The second step in the ICE process involved an alternative selection to determine the preferred alternative based on more detailed evaluations. The evaluation chose the roundabout as the preferred alternative due to its reduction of congestion, construction of pedestrian and cyclist improvements, and creation of environmental benefits. Though the ICE determined the roundabout to be the preferred alternative solution, both alternatives will be considered during the current environmental evaluation and public input process. The City's consultant, GHD, began the environmental evaluation over the summer.

DISCUSSION

In late September, San Luis Obispo County Council of Governments (SLOCOG) staff notified the City of their need to justify to the SLOCOG board their continued efforts to reserve $5.89 Million in transportation funding for the SR1/SR41 and Main Street intersection improvements in lieu of programming funding for other projects in need across the County. SLOCOG staff expressed general concern about the City's slow progress on the project and requested the Morro Bay City Council adopt a resolution pledging a funding commitment to demonstrate the City's resolve to improve the SR1/SR41 and Main Street intersection. It is likely, without this resolution, the City will lose this funding to other areas of the County, and this loss will result in an uncertain future for the much-needed, and expensive, intersection improvements to create a user-friendly, attractive entrance to the City.

While the adoption of the proposed resolution does not obligate the City to expend funds on the project, it does give staff direction to continue the environmental evaluation, public input process for the two alternatives for intersection improvements from the ICE by completion of the CalTrans required Project Authorization and Environmental Determination phase of the project. However, Staff must use the estimated budget from one of the alternatives to serve as the basis for a funding amount from SLOCOG. Staff is electing to use the roundabout alternative, estimated to cost $8,952,000, for this purpose and to ensure the City secures the maximum funding contribution from the SLOCOG board, which has pledged $5.89 Million for the roundabout alternative. While SLOCOG funding for a signal control alternative may be available, it will not garner the same level of support on the SLOCOG Board, and SLOCOG has stated they are willing to be greater funding partner by proportion for the roundabout alternative. In consequence, the City will receive less funding for the signal control alternative, if the City ultimately chose to go in that direction. Of note, the City is required by the State to consider a roundabout first because of the environmental benefits.

The roundabout alternative provides many benefits the signal alternative does not. First, it would offer protective pedestrian and bicycle facilities for Morro Bay High School and visitor coastal access. Pedestrian crossings would be provided on all legs of the Roundabout with separated path from driving lane, and bicycles would be accommodated by navigating through the Roundabout in two ways: take the travel lane and travel through the Roundabout as a vehicle or take the separated bike ramp/shared use path and travel around as a pedestrian. The roundabout project components include

approximately 2,300 linear feet of new bike lane, 1,070 linear feet of new or reconstructed sidewalk, 10 new ADA compliant curb ramps, pedestrian refuges, and the traffic calming benefit of a roundabout. For these reasons, Morro Bay High School and the San Luis Coastal School District have indicated their strong support of the roundabout.

The roundabout alternative also offers environmental benefits. The expected reduction in congestion from the roundabout alternative results in an air quality improvement by reducing the idling time of vehicles at the intersection. Air Quality modeling by SLOCOG staff as part of the Federal Transportation Improvement Program (FTIP) authorization projects a total emission reduction of 0.26 kg/day. This reduction includes a reduction in the following greenhouse gas components: Reactive Organic Gas (ROG) of 0.03kg/day; Carbon Monoxide (CO) of 0.21kg/day; Oxides of Nitrogen (NOx) of 0.02kg/day; and Particulate Matter (PM2.5) of 0.001kg/day.

FISCAL IMPACT

An updated engineer's opinion of probable costs, for the Intersection Control Evaluation (ICE) preferred alternative i.e., a roundabout, was prepared in 2020 for use in the application for an Alternative Transportation Program (ATP) grant and were estimated to be $8,341,000. The cost was further updated for the attached funding agreement and the total project cost currently estimated at $8,952,000. The cost estimate includes preconstruction activities, right of way acquisition, construction, construction management, and project administration. The City, so far, has invested $368,300 in consultant fees for the preparation of the ICE Phases 1 and 2, and the Preliminary Engineering and Environmental Documentation. Additionally, the City has contractually committed to spend another $182,000 for the completion of the Preliminary Engineering and Environmental determination by June 2022.

The proposed funding agreement with SLOCOG requires the City to pledge at least $2,500,000 in order to match the SLOCOG commitment of $5,890,000. The City also has available from SLOCOG previously unreimbursed State Highway Account funds of $266,000. Any increases in project costs above the estimated $8,952,000 will be borne by the City of Morro Bay either through grants or the General Fund, and these funds must be available by the 2024/25 fiscal year. The City has already included $600,000 in the current FY 2021-22 budget. This funding agreement commitment will require the City to invest at least an additional $633,333 a year for each of the next three fiscal years to realize this commitment. This commitment can be funded through a combination of including non-discretionary State Highway Account funds, transportation impact fees, the General Fund, and local option sales tax revenue (Measures Q & E). Staff will make a recommendation of this funding mix through the annual City budget process.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 79-21 pledging a funding commitment for project costs for intersection improvements for the intersection at SR1/SR41 and Main Street based on the roundabout alternative, recognizing the pledge does not bind the City to any particular improvement plan.

ATTACHMENT

1. Resolution No. 79-21

RESOLUTION NO. 79-21

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
PLEDGING TO FUND ITS SHARE OF IMPROVEMENTS
AT THE HIGHWAY41/HIGHWAY 1/MAIN STREET INTERCHANGE**

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

WHEREAS, the City's adopted FY21/22 budget includes a capital project for HIGHWAY /1HIGHWAY 41/Main Street Intersection Improvements (project) that is partially funded; and

WHEREAS, the San Luis Obispo Council of Governments (SLOCOG) is the Regional Transportation Planning Agency (RTPA) for the San Luis Obispo region pursuant to Section 29532 of the Government Code has agreed in concept to fund up to $5.89 Million of the estimated $8.592 Million for improvements to the project;

WHEREAS, the City of Morro Bay will be responsible for funding the remaining costs for the interchange improvements, currently estimated at $2.5 Million and;

WHEREAS, SLOCOG expects Morro Bay's funds to be available to fund its share of preconstruction and construction activities for the project; and

WHEREAS, SLOCOG anticipates the project to be "Ready to List" during the 2024/25 fiscal year; and

WHEREAS, the HIGHWAY 1/HIGHWAY 41/Main Street interchange improvements will reduce congestion and decrease Greenhouse Gas emissions, and contribute to two of Council's Adopted Goals by advancing Economic Sustainability and Improving Infrastructure; and

WHEREAS, as analyzed in the two stages of the Caltrans approved Intersection Control Evaluation (ICE), the Level of Service is deteriorating steadily as congestion continues to grow with increased tourism in the City; and

WHEREAS, this intersection serves as the principal gateway to Morro Bay from the Central Valley, the City's primary source of tourists; and

WHEREAS, vehicular commuters must use this intersection on route to or from Morro Bay High School, which generates significant vehicular traffic during the morning, lunch, and afternoon peak hours; and

WHEREAS, pedestrian and bicycle volumes have grown steadily at this intersection with the increased emphasis on Active Transportation modes; and

WHEREAS, the proposed improvements to the intersection will reduce the number of conflict points between pedestrian and bicycle; and motorized vehicles, therefore improving the experience for non-motorized components; and

WHEREAS, SLOCOG has adopted, pursuant to Government Code 65080, a Regional Transportation Plan (RTP); and

WHEREAS, SLOCOG biennially adopts, pursuant to Government Code Section 65080, a Regional Transportation Improvement Program (RTIP) that is submitted, pursuant to Government

Code 14527, to the California Transportation Commission (CTC) and the California Department of Transportation (Caltrans); and

WHEREAS, SLOCOG has developed, in cooperation with Caltrans, public transit providers, and local governments, a comprehensive program for funding made available for surface transportation projects and programs; including highways, streets, and roads improvements, bicycle and pedestrian improvements, and transit capital and operations for inclusion in a multi-year capital improvement program called the 2022 RTIP; and

WHEREAS, the 2022 RTIP consists of three SLOCOG discretionary funding programs; the State Transportation Improvement Program (STIP), the Regional Surface Transportation Program (RSTP), the Congestion Mitigation and Air Quality Program (CMAQ); and

WHEREAS, SLOCOG'S advisory committees – Technical Transportation Advisory Committee (TTAC), Citizens Transportation Advisory Committee (CTAC), and Surface Transportation (STP) - recommends unanimous support of the November 19, 2021 draft of the 2022 RTIP.

WHEREAS, SLOCOG's 2022 RTIP is developed with a means to an end approach; where five projects are fully funded, and two projects require grant funds through Senate Bill 1, The Road Repair and Accountability Act, or by other state and federal grant programs.

WHEREAS, funding partnerships with member agencies is a necessity and ensures a commitment of local funds for agencies that have an ability to commit local revenue and a fair-share contribution based on the local benefits documented in either a pending or Caltrans approved Project Report and further captured in SLOCOG's 2022 RTIP funding agreement, also referred to as Project Programming Request (PPRs) forms.

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

1. The City will be responsible for funding its share of costs for the project, currently estimated at $2.5 Million.
2. The City intends to set aside funds for the project over the next three budget cycles.
3. The SLOCOG funds will be reprogrammed to other more viable regional projects if the City fails to fund its share of the project costs.
4. The City Council hereby directs Morro Bay staff to seek out all funding opportunities (grants) to assist in funding the City's share of the project.
5. The City Council also hereby directs City staff to ensure the project is "Ready to List" during the 2024/25 fiscal year

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of November 2021 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

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AGENDA NO: C-3

MEETING DATE: November 9, 2021

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 3, 2021**

FROM: **Sarah Johnson-Rios, Assistant City Manager / Admin Services Director**

SUBJECT: **Approve a Master Services Agreement with Hinderliter De Llamas and Associates (HdL) to Provide Tax and Fee Administration Services**

RECOMMENDATION

Approve Resolution No. 80-21 authorizing the City Manager to execute a Master Services Agreement with HdL to provide Tax and Fee Administration Services in the areas of Business Tax Certificates and Transient Occupancy Tax, subject to City Attorney approval of Agreement language.

ALTERNATIVES

City Council may choose to:

1) Continue administering services with City staff, which would require adding staff, as Finance positions were eliminated during COVID and have not yet been fully restored.
2) Direct staff to proceed with a Request for Proposals for these services; based on staff's research, this would be unlikely to yield additional companies that have adequate expertise in all areas of service administration and effective customer service, which the City is seeking.
3) Provide other direction to staff.

FISCAL IMPACT

The annual cost for the services provided will depend on the volume of business tax certificates and TOT-generating properties each year. All costs will be netted out of the revenues due to the City. Many cities find the revenue recaptured through discovery and audit partially or fully offset the annual licensing fees; the proportion that is offset in Morro Bay will depend on the current rates of compliance with business licensing and TOT remittances.

Currently, utilizing HdL for **Business License Administration** will cost an estimated $39,000 annually, based on the annual fee per business tax certificate, net revenue recaptured through discovery and audit services for business tax certificate. That conservatively assumes revenue recapture of approximately eight percent of the City's current business tax certificate revenue. HdL's annual administration fee of $16.00 per business tax certificate is consistent with the current renewal fee of $15.30 that businesses pay to the City now. Short-term rentals (STRs) also must obtain permits to operate, and HdL would process those renewals as well at $15.00 per STR per year, which is also incorporated into the fee structure.

Utilizing HdL for **Transit Occupancy Tax Administration and Audit Services** would cost approximately $35,000 annually based on the number of current hotels in Morro Bay. Those

Prepared By: SJR **Dept Review: _____**

City Manager Review: SC **City Attorney Review: JWP**

expenditures could be partially offset by revenues collected through the audit process.

Service	Cost Factors	Estimated Annual Cost	Offsetting Revenue Potential
Business Tax Certificate Admin	$16 x 3,500 business tax certificates	$56,000	Existing as part of business tax. Going forward, Master Fee Study would continually evaluate full costs to City of issuing business tax certificates and recover costs.
API for Daily Reporting (Cityworks)		$1,800	N/A
Business Tax Certificate Discovery/Compliance	N/A	($17,000)	City gets 65% of all revenues collected. Will offset tax certificate admin costs.
Short-Term Rental (STR) Permit	$15 x 230 STRs	$3,450	Existing as part of business tax. Going forward, Master Fee Study would continually evaluate full costs to City of issuing short term rental permits and recover costs.
TOT Admin & Audit	$850 x 40 hotels (plus MHP cost)	$35,000	Audits may generate revenue to partially offset this.
Total Cost/Reduction in Revenue		**$79,250***	* Or lower if revenue recovery is higher

No budget amendments will be required. All costs with be netted out of revenues to the City, with the exception of the $1,800 data fee for Cityworks, which can be covered with existing budget. Fees in future years would increase by a consumer price index (CPI) factor. Over half of the funds to cover those costs/revenue reductions come from business license and short-term rental permit fees.

BACKGROUND

Morro Bay Municipal Code (MBMC) Title 5, Chapter 5.08 states: “Every person transacting and carrying on the businesses enumerated in this chapter shall pay a business tax as specified in this chapter.” Staff from various departments—Finance, Community Development, Fire, Police, etc.—work together to ensure all businesses operating in Morro Bay have valid, current, active business tax certificates. Moreover, these departments must keep up with State and local law changes and ensure active businesses in the City abide by current regulations and statutes.

The City receives approximately $340,000 annually in revenue from the issuance and renewal of business tax certificates. The annual business tax varies based on the type of business, (MBMC Chapter 5.08). The revenue offsets a portion of staff and related costs associated with ensuring active businesses in Morro Bay meet minimum building and safety, planning, code and related regulations.

In addition, the City collects Transient Occupancy Tax (TOT) per Chapter 3.24 and 3.60 of the Municipal Code, and also issues Short-Term Rental Permits consistent with Chapters 5.47 and 5.04 of the Municipal Code. Staff is currently processing these revenue receipts and short-term rental permits. Currently the City is not auditing tourism-related revenues.

DISCUSSION

While the City could continue to administer business tax certificates and TOT in house, there are efficiency improvements, customer service improvements, and revenue capture potential that could be realized through a professional service agreement with HdL to administer these services.

Efficiency Improvement

Implementing efficiency improvements in the City’s financial administration realm has been identified

as an explicit priority. In 2015, the "Financial and Organization Study" completed by Management Partners recommended the following: "Recommendation 17. Evaluate opportunities to outsource work in finance…Doing so will allow City staff to have more time for planning, training, and other functions essential to the long-term effectiveness of the department."

Recently, the City's leanly staffed Finance team experienced further capacity reductions when positions were eliminated due to COVID-19. The position responsible for both business tax certificate and TOT administration assumed other significant responsibility as well, and business tax certificate processing experienced delays as a result of insufficient staff capacity.

Customer Service Enhancement
Customer service for businesses would be improved by utilizing HdL to administer business tax certificates and TOT. Currently, the City is providing in-person business tax certificate services Monday through Thursday from 8:00-12:00. Using HdL would provide businesses and hotels with the ability to complete all transactions on an up-to-date, intuitive web site, which is of course available 24/7, unlike City staff. In addition, HdL will also provide a toll-free phone number to access a specialist, Monday-Friday 8:00am-5:00pm Pacific Standard Time. Businesses will have access to support via email, fax, and the Business Support Center Online. HdL monitors quality control points to ensure high quality customer service, and they commit to hold times of under two minutes as well as to returning voice messages on the same business day.

Revenue Potential
In addition to efficiency improvements, this professional service agreement would potentially allow the City to recapture business tax certificate and TOT revenue that is currently going unrealized. HdL estimates that Morro Bay may recapture 8-15% of annual business tax certificate revenue by implementing business tax audits (starting at the high end and tapering over time), and may recapture TOT revenue, as well if some properties are underreporting or misreporting revenues, even inadvertently. These revenues would accrue to the City to be utilized for City service provision.

Proposed Services
The proposed services would provide an easy to utilize one-stop business tax certificate shop for new and existing businesses in Morro Bay – all of which can be done virtually, which is convenient for businesses and particularly helpful in the pandemic/post-pandemic context.

The contract term would be for three years with two, three-year options for renewal. HdL's proposal (Attachment 2) includes the following:

Business License Tax Administration
In addition to the services that HdL offers below, City staff will remain available as needed for any questions or concerns, and will coordinate regularly with HdL regarding City business tax certificates.

- **Renewal Processing** – Send active business tax certificate accounts a renewal notice within 45 days of the renewal period ending. Accounts will receive all applicable forms necessary to complete the renewal process.
- **New Account Processing** – HdL will process any new business tax certificate applications and complete the new account registration process in a timely fashion. HdL will also facilitate intracity departmental approvals such as zoning, code compliance, fire inspection, and other regulatory related functions.
- **Delinquent Account Processing** – HdL will endeavor to collect delinquent accounts through a series of City approved processing methods. This will include at minimum two follow up delinquent notice and up to two telephone calls. Delinquent accounts will be collected with full penalties as allowed by the MBMC or through current City practices. Accounts that remain

delinquent will be processed through the City approved processes established in HdL's collections component of the Compliance Management Program.

- **Online Filing & Payment Processing** – HdL registers a City approved domain name which will serve as the starting point for all web-based activities. This City specific site is designed to look and feel like the City's own web pages and ensures a level of continuity between the business community, the City, and HdL. Businesses can choose to file their new business registration as well as renew their tax certificate and make payments via the online portal. In addition to filing and paying for taxes, businesses can obtain copies of applications, general support and FAQs, schedule appointments and request copies of their tax registration all online. The online services underscore HdL's commitment to excellence in customer service and education by continually improving the registration and payment experience for the business community.
- **Payment Posting/Processing** – HdL will process all payments received in an expedited manner. Business tax certificate accounts will be updated daily with payment information and revenues to be disbursed to the City net applicable fees.
- **Business Support Center** – HdL will provide businesses with multiple support options for registering, renewing, making payments and for general inquiries. A toll-free number will be provided to businesses to access a specialist, Monday-Friday 8:00am to 5:00pm Pacific. Businesses will also have access to support via, e-mail, fax, and via the Business Support Center On-Line. HdL constantly monitors quality control points to ensure courteous customer service, minimal hold times under 2 minutes, and the return of voice messages the same business day.

Business Tax Certificate - Revenue Discovery and Audits

HdL's technical capabilities will allow for the identification of all types of businesses that must have a tax certificate. HdL possesses advanced data matching techniques in order to identify which business entities are complying with the MBMC and which require follow up. All communication with businesses to bring them into compliance is coordinated with and approved by the City. Potential non-compliant entities are notified of their options to comply or dispute their non-compliant status. Initial notification packets include everything a business needs to become compliant and multiple methods of resolving their accounts. The Business Support Center described above is also available as a resource to assist businesses to come into compliance using a business friendly and education centric approach.

Short-Term Rental Permit Administration

The services provided by HdL will be similar to business tax certificate renewal services. HdL will not be completing compliance or enforcement actions for short-term rentals. This will be done in coordination with City staff, who will be managing the wait list under the updated STR ordinance.

Transient Occupancy Tax Administration Services and Audits

HdL's transient occupancy tax administration service will include cyclical audits, and will also provide day-to-day administration of the TOT revenue program. The program is education focused, ensuring lodging providers are clear on reporting requirements and methodology.

- **Tax Registration Database Management** – HdL will transfer the City's existing databases as they relate to TOT into HdL's internal administration tools. HdL will maintain the data, software, online filing portal for lodging providers, and online client portal for the City.
- **Return Processing** – HdL will process TOT filings within 5 days after submission. Accounts will receive all applicable forms necessary to complete the renewal process.

- **New Account Processing** – HdL will process any new TOT registrations for Lodging Establishments that change hand or newly offered properties.
- **Payment Posting / Processing** – HdL will process all payments made for new and existing lodging providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL's fees on no less than a monthly basis.
- **On-Line Filing & Payment Processing** – With input from the City, HdL crafts a customized website and domain for the City's taxpayers to submit online forms, returns, and payments along with other customer support related items.
- **Compliance Monitoring & Lodging Provider Audits** – HdL will ensure accurate filings of TOT returns by consistently monitoring returns and educating lodging providers on filing requirements. HdL will also provide cyclical compliance audits as mutually agreed to by the City and HdL, ensuring all providers are audited at least once every three years. HdL's Transient Occupancy Tax Audit Service employs a business-friendly approach which educates hoteliers in transient occupancy tax regulations and filing procedures, ensures compliance, and maximizes agency revenues.
- **Reports** – HdL's TOT administration service includes a variety of standard reports demonstrating account activity and filing trends.
- **Customer Support Center** – HdL will provide lodging providers with multiple support options for registering, filing returns, making payments and for general inquiries. A toll-free number will be provided to businesses to access a tax specialist. Lodging providers will also have access to support via e-mail, fax, and the online Business Support Center.

Staff has completed due diligence and has reviewed industry boards and found cities with positive feedback for HdL's services in these areas. Staff has spoken in detail with one city that has used HdL for these services for several years and found them to have had a very positive experience. Staff has also completed internet research and is not aware of other firms that provide all of these services. In addition, the City currently contracts with HdL for sales tax analysis, creating some synergy as they would be able to provide reporting and potentially forecasting input on a few key City revenue sources.

CONCLUSION

To realize the efficiency and customer service improvements as well as potential revenue capture, staff recommends that Council authorize the City Manager to enter into an agreement with HdL for business tax certificate and transit occupancy tax administration, subject to City Attorney approval of the agreement language.

ATTACHMENTS

1. Resolution No. 80-21 Authorizing a Master Services Agreement
    a. Exhibit A. HdL Tax and Fee Administration Proposal

RESOLUTION NO. 80-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA AUTHORIZING THE CITY MANAGER TO ENTER INTO A MASTER SERVICES AGREEMENT WITH HINDERLITER DE LLAMAS AND ASSOCIATES (HdL) FOR BUSINESS TAX CERTIFICATE AND TOURISM OCCUPANCY TAX COLLECTION AND AUDIT SERVICES

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

WHEREAS, Morro Bay Municipal Code (MBMC) Title 5, Chapter 5.08 states: "Every person transacting and carrying on the businesses enumerated in this chapter shall pay a business tax as specified in this chapter;" and

WHEREAS, the City collects Transient Occupancy Tax (TOT) per MBMC Chapters 3.24 and 3.60, and also issues Short-Term Rental Permits consistent with MBMC Chapters 5.47 and 5.04; and

WHEREAS, staff is currently processing these revenue receipts and short-term rental permits; and

WHEREAS, currently the City does not have staff capacity to audit business tax certificates or transit occupancy tax remittances and may be foregoing revenue as a result; and

WHEREAS, Hinderliter De Llamas and Associates (HdL) is qualified to provide business certificate tax administration and audit services as well as transit occupancy tax administration and audit services and contracting with HdL to provide these services would provide efficiency improvements, customer service enhancements, and revenue capture opportunities to the City.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Morro Bay the City Manager is authorized to execute a Master Services Agreement with HdL for the services outlined in the attached proposal at the rates outlined therein (Exhibit A) for a term of three years with two additional three-year options for renewal, subject to City Attorney approval.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of November 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

Exhibit A. HdL Proposal

City of Morro Bay, CA

Tax & Fee Administration Services

July 28, 2021

HdL Companies

SUBMITTED BY
HdL Companies
120 S. State College Blvd., Suite 200
Brea, CA 92821
hdlcompanies.com

CONTACT
George Bonnin
T: 714-879-5000
E: gbonnin@hdlcompanies.com

Dear Sarah,

Thank you for the opportunity to present this proposal for HdL's Tax and Fee Administration Services. Please be advised that we maintain a busy implementation schedule throughout the year. Your position in the implementation schedule will be determined when a signed agreement is received.

This proposal is valid until: **October 31, 2021.**

Should you have any questions, please contact me at 888.861.0220 or by email at gbonnin@hdlcompanies.com.

Tax & Fee Administration Fee Schedule

Service	Compensation
Transient Occupancy Tax Administration (includes audits)	$850.00 per year for each monthly filer + CPI
Transient Occupancy Tax – Audits Only	$1,800.00 per audit
Short Term Administration (no monitoring)	$15.00/filing + CPI
Business License Administration Services (Includes Cannabis Module (2 accounts)	$16.00/processed account + CPI
Business License Discovery/Compliance Services	35% of all revenues collected

General Scope of Work

Transient Occupancy Tax Administration Services

HdL's transient occupancy tax administration service goes beyond scheduled cyclical audits providing compliance monitoring of each return as it is filed while unburdening the City from the day-to-day administration of the TOT revenue program. Continual monitoring of returns is the optimal way to increase compliance while maintaining positive relations with the City's lodging providers.

The program is education focused, ensuring that lodging providers are clear on reporting requirements and methodology. HdL's tax administration professionals are available as needed to support both the City's team and the City's lodging providers. The City is kept up to date, with 24x7 online access to HdL's client portal containing real time access to registration and filing data, and management reporting. HdL's TOT administration service incorporates all of the following:

Tax Registration Database Management – HdL will transfer the City's existing databases as they relate to TOT into HdL's internal administration tools. HdL will maintain the data, software, online filing portal for lodging providers, and online client portal for the City.

Return Processing – HdL will process TOT filings within 5 days of submission. Accounts will receive all applicable forms necessary to complete the renewal process.

New Account Processing – HdL will process any new TOT registrations for Lodging Establishments that change hand or newly offered properties.

Payment Posting / Processing – HdL will process all payments made for new and existing lodging providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL's fees on no less than a monthly basis.

On-Line Filing & Payment Processing – With input from the City, HdL crafts a customized website and domain for the City's taxpayers to submit online forms, returns, and payments along with other customer support related items.

Compliance Monitoring & Lodging Provider Audits – HdL will ensure accurate filings of TOT returns by consistently monitoring returns and educating lodging providers on filing requirements. HdL will also provide cyclical compliance audits as mutually agreed to by the City and HdL, ensuring all providers are audited at least once every three years. The compliance audit process is described above in Option 1.

Reports – HdL's TOT administration service includes a variety of standard reports demonstrating account activity and filing trends. During service implementation HdL will work with the City to identify reporting requirements and frequency/method of delivery and will supplement our standard service with custom reports as needed to meet the City's requirements.

Progress Payments – HdL's TOT administration service is billed monthly based on activity completed during the prior month. If standalone audits are conducted, they are billed only upon completion of the audit.

Customer Support Center – HdL will provide lodging providers with multiple support options for registering, filing returns, making payments and for general inquiries. A toll-free number will be provided to businesses in order to access one of our tax specialists. Lodging providers will also have access to support via e-mail, fax, and the online Business Support Center.

Annual Audit Plan – During implementation, HdL gathers all the historical data available from the City and leverages internal data sources and expertise to provide an analysis of all lodging providers, along with a recommended audit schedule. This allows HdL to work cooperatively with the City to identify the entities that require attention first. HdL works directly with the City to ensure consensus on the audit schedule for the program.

HdL's Transient Occupancy Tax - Audit Only Service

HdL's Transient Occupancy Tax Audit Service employs a business-friendly approach which educates hoteliers in transient occupancy tax regulations and filing procedures, ensures compliance, and maximizes agency revenues. The process incorporates the following:

Ordinance and Filing Procedure Review – Analysis of Transient Occupancy Tax ordinances and agency procedures are conducted to identify possible deficiencies or other administration related issues. Recommendations are made by the audit team for items such as to best practices, form design, and potential ordinance modifications to insure the most effective policies and controls.

Analysis Report – HdL's audit team will obtain and conduct a review of the most recent 36 months of transient occupancy tax filings. In order to verify and augment the data, the audit team will compile a variety of supplemental information on each property, including number of rooms, occupancy rate, physical condition, and business dynamics. Data is then further scrutinized in order to identify unusual or suspicious reporting and/or other variables that indicate cause for further review. Information and findings are documented in the analysis report for review with the Agency.

Analysis Review – Upon completion of the analysis report, meetings are scheduled with the agency to review the results as well as identify and recommend lodging providers who require additional investigation or examination to determine their compliance with the Agency's ordinance.

Audit Notification & Scheduling – Lodging providers selected by HdL and approved by the Agency for an audit are sent a letter and scheduled for a Compliance Analysis Audit. Every effort is made to promote a positive experience for the taxpayer. Lodging providers will be reminded of the documents required for the audit that were discussed in webinars and previous communications. Lodging providers are afforded the opportunity to schedule flexible appointment times by contacting the Business Support Center or visiting our online support center.

Compliance Analysis & Audit – The HdL audit team reviews the books and records of the lodging provider to determine compliance with transient occupancy tax regulations. HdL validates taxable gross rents, exemptions, bank statements, daily/monthly summaries, and other relevant information for determining compliance. Supporting documentation for relevant items such as exemptions will also be documented for accuracy.

Audit & Compliance Report – Upon completion of the audit and analysis, and prior to additional actions, a compliance report is generated and reviewed with the Agency. The report indicates specific results of the reviews and recommended actions. Documentation will be included with the report to assist the Agency and HdL in determining next steps.

Deficiency and Commendation Notification – Upon final review with the Agency, lodging providers that are found to have deficiencies are notified of the findings as well as payment and appeal processes. Appointments are also scheduled to review the findings and educate taxpayers on proper filing procedures designed to prevent future errors and deficiencies. Lodging providers found to be compliant are sent a commendation letter thanking them for their cooperation and compliance.

Invoicing & Collections – Lodging providers found to be underreporting are invoiced through the standard Agency approved collections process identical to the procedures approved for other Programs. Balances are collected and remitted along with supporting documentation to the Agency through approved remittance processes.

Business License Tax Administration (Includes Revenue Discovery/Audits)

HdL will transfer the City's existing databases as they relate to business license tax into HdL's internal administration tools. HdL will maintain the data and provide access to or copies of data or reports at the City's request. While access to online systems will be available for the City to use at their discretion, the City will not be required to use or maintain any software in house for managing the business license registry.

Renewal Processing – Send active business license accounts a renewal notice within 45 days of the renewal period ending. Accounts will receive all applicable forms necessary to complete the renewal process.

New Account Processing – HdL will process any new business license applications and complete the new account registration process in a timely fashion. HdL will also facilitate intra-city departmental approvals such as zoning, code compliance, fire inspection, and other regulatory related functions.

Delinquent Account Processing – HdL will endeavor to collect delinquent accounts through a series of City approved processing methods. This will include at minimum two follow up

delinquent notice and up to two telephone calls. Delinquent accounts will be collected with full penalties as allowed by the Municipal code or through current City practices. Accounts that remain delinquent will be processed through the City approved processes established in HdL's collections component of the Compliance Management Program.

On-Line Filing & Payment Processing – HdL registers a City approved domain name which will serve as the starting point for all web-based activities. This City specific site is designed to look and feel like the City's own web pages and ensures a level of continuity between the business community, the City, and HdL.

With *HdL Flex File,* businesses can choose to file their new business registration as well as renew their license and make payments via our on-line filing portal. In addition to filing and paying for taxes, businesses can obtain copies of applications, general support and FAQs, schedule appointments and request copies of their tax registration all with the click of a button. Our on-line services underscore HdL's commitment to excellence in customer service and education by continually improving the registration and payment experience for the business community.

Payment Posting/Processing – HdL will process all payments received in an expedited manner. License accounts will be updated daily with payment information and revenues to be disbursed to the City net applicable fees at an interval to be agreed to during the project planning phase. Disbursements typically occur monthly but can be remitted as often as weekly depending on volumes and City needs. HdL's payment acceptance process accepts the following payment types:

- ✓ Check / Money Order /Cashier's Check
- ✓ E-Check
- ✓ Debit Cards
- ✓ Credit Cards (Visa, Mastercard, Discover, & American Express)
- ✓ Check by Phone

HdL currently utilizes multiple payment gateway providers for on-line payment acceptance. HdL will work with the City to determine which provider, rate structures, and card types meet the City's needs. HdL can also utilize the same provider and process used by the City's current on-line functionality.

Business Support Center – HdL will provide businesses with multiple support options for registering, renewing, making payments and for general inquiries. A toll-free number will be provided to businesses in order to access one of our license specialists Monday-Friday 8:00am to 5:00pm Pacific. Businesses will also have access to support via, e-mail, fax, and via the Business Support Center On-Line. HdL constantly monitors quality control points to ensure courteous customer service, minimal hold times under 2 minutes, and the return of voice messages the same business day.

Business License Tax - Revenue Discovery

Enriched Data Portfolio / Lead Identification – Utilizing data provided by the City, as well as the HdL Enriched Data Portfolio (EDP), HdL's team builds an enhanced listing of entities subjected to licensure or taxation including, but not limited to, those businesses physically located in the City, itinerant businesses, and entities participating in the sharing economy such as short-

term rentals (STRs), drive sharing services and others. These entities are electronically matched to the existing files of the City using advanced data matching algorithms, allowing HdL staff to identify which entities are compliant and which entities require follow up.

Field Surveys – Experienced field crews, equipped with the most advanced tools available (mobile mapping/GPS systems, tablet computers pre-loaded with various City and state-wide databases, etc.) may canvass commercial areas of the City to develop and enhance the leads identified in the EDP. Field Surveys provide additional inventories of active businesses as well as to provide on-site verifications of data culled from other sources.

Exception Resolution – Records are reviewed by our skilled team members, filtering out records that may lead to erroneous contacts. This extra step allows staff to find additional revenues not otherwise identifiable through electronic means and assists in reducing potential complaints levied at City staff and management from pursuit of false positives.

Compliance Communication and Outreach – Upon exception resolution, HdL staff initiates contact with the identified entities through a series of City approved communication methods. HdL makes every effort to simplify the process for taxpayers and utilizes a variety of mediums for communication including mail, telephone, email, and web-site access. Potential non-compliant entities are notified of their options to comply or dispute their non-compliant status. Initial notification packets include everything a business needs to become compliant and multiple methods of resolving their accounts.

Business Support Center – HdL operates a business support and service center where the business community can access expert staff during normal business hours. Businesses calling our toll-free line can expect minimal hold times along with access to a variety of options which include filing support, payment options, resolution of specific tax issues and other services designed to reduce the burden of registering and filing taxes. Our team of experts, including our resident Certified Revenue Officers (CRO), implements a business friendly and education centric approach to supporting the business community in all aspects of the management and compliance process.

Business Support Center ~Online – Businesses are encouraged to take advantage of the range of services available on-line, 24 hours a day, seven days a week. With *HdL Flex File,* businesses can choose to file their new business registration as well as make payments via our on-line filing portal. In addition to filing and paying for taxes, businesses can obtain copies of applications, general support and FAQs, schedule appointments and request copies of their tax registration all with the click of a button. Our on-line services underscore HdL's commitment to excellence in customer service and education by continually improving the registration and payment experience for the business community.

Document Submission / Processing – Whether the taxpayer chooses to respond by mail, email or our online filing website, each application submission is reviewed for completion and accuracy prior to processing. Any additional documentation needed to complete the approval of a submission, such as a home occupation permit, can also be requested or forwarded to other City departments either as a pre-requisite or as a courtesy to the business. All submissions are filed and stored electronically and made available to the City via standard reporting processes or upon request.

Invoicing – Once an application is approved, invoices are forwarded to the taxpayer indicating detailed tax calculations and balances owed. Taxpayers are provided the opportunity to pay their

balances via mail, online, or over the phone services. Taxpayers will also have continued access to our Business Support Center for any questions or disputes arising from the invoice process.

Registry Update – Upon collection of all requirements which may include the payment, application and/or other documentation, HdL will prepare a Registry Update package to include payment as well as copies of all taxpayer correspondence and other relevant information. Data in the City registry file stored in the HdL Prime Software Suite is updated daily with packages from the Compliance Management Services. Once completed, the business will be processed through the standard processes approved through the HdL Operations Management Component.

Business License Tax – Audits

Analysis & Selection – Audit candidates are selected using a variety of selection methodologies developed by our audit team using decades of business license tax audit experience. Preliminary analysis reports on each business selected are shared with the City prior to moving through the audit phases.

Audit Notification & Scheduling – Businesses selected by HdL and approved by the City are sent a letter notifying them of a scheduled Compliance Analysis Audit. Every effort is made to promote a positive experience for the taxpayer. A detailed description of the requirements and relevant documentation required for the audit is provided to the business 2 weeks in advance of the proposed audit date. If the business is unable meet the audit date selected by the City all efforts to reschedule the audit to a more accommodating date will be made. Businesses are also afforded the opportunity to schedule flexible appointment times by contacting the Business Support Center or visiting our online support center.

Compliance Analysis & Audit – The HdL audit team will audit the financial records of the business to determine compliance with business tax regulations. HdL validates taxing variables such as gross receipts and other relevant information for determining compliance. In addition to identifying underreporting issues, the HdL Audit Program will also focus on other compliance related issues such as assuring correct classifications, multiple location allocation, apportionment issues, and identifying business to business relationships that may create tax liability for 3rd parties.

Audit & Compliance Report – Upon completion of the audit and analysis, and prior to additional actions, a compliance report will be generated and reviewed with the City. The report will indicate specific results of the review and recommended future actions. Documentation that substantiates the findings in the report will be included with the report to assist the City and HdL in determining next step of the process.

Deficiency and Commendation Notification – Upon final review of the audit and analysis report businesses that are found to have deficiencies will be notified of the findings as well as the payment and appeal processes. HdL will also work with businesses found to be deficient to explain the current findings and educate taxpayers on proper future filing procedures so as to prevent future errors and deficiencies. Businesses found to be in compliance, will be sent a commendation letter thanking them for their compliance.

Invoicing & Collections – Business found to be underreporting are invoiced through the standard City approved collections process. Balances are collected and remitted along with supporting documentation to the City through the approved remittance processes.

Short Term Rental Administration

The Short-Term Rental (STR) Program provided by HdL takes a unique approach in ensuring compliance and educating lodging providers, including short term rental hosts (STR Hosts), in transient occupancy tax regulations and filing procedures, regulatory permits and licensing, and other City specific goals and objectives. HdL's program involves a modular, customer service centric approach, that reduces City administrative costs and provides the City with assurances of future compliance and reporting practices from the City's short-term rental lodging industry.

HdL's modular approach starts with a detailed analysis of STR listing on a variety of published methods, including Airbnb, Home Away, VRBO, etc. This process creates a full inventory of short-term rentals within the City's proscribed geographic boundary, including the full name of the owner and the physical address of the unit. Each STR is tracked and updated nightly with valuable data that can include items such as number of nights rented, average occupancy rates, room rates, as well as trend and usage reporting.

Following identification, HdL conducts a targeted education and compliance campaign designed to inform STR Hosts of their obligations to file and remit taxes and other requisite licenses and permits as may be needed. Each lodging provider is provided a full overview of the requirements and how to best comply both in the present and the future. During the registration process, HdL offers a variety of support options to the community including online filing, file-by-phone, email, and registration via standard mail. HdL tax and license specialists are available throughout the process to provide support to the STR community and to assist in the registration process.

Once registered, accounts move into a standard administration process. HdL manages the filing of tax returns and other prerequisites on a quarterly or monthly basis, depending on City requirements. This includes mailing of tax returns, processing of payments, customer support, delinquency follow up, and the development and management of an online portal for registration, filing, payments, and other support related needs.

Education, Registration, and Compliance

Using the list of active STR listings, HdL conducts a series of City approved education-based programs ranging from mailers to direct phone contacts. Each packet contains all the information necessary to obtain registration and comply with local requirements. HdL assists STR hosts throughout the program with information and support with all aspects of becoming compliant. During this program, HdL will:

- Validate listing to ensure proper identification and filter out records that may lead to erroneous contacts.
- Notify non-compliant entities with a series of education-based packets designed to garner compliance.
- Provide a support center for assistance with general questions, support, and assistance with filing and paying returns.
- Provide online portal with links to FAQs, education packets, and support for registering, filing returns, and making payments online.

- Follow up with non-compliant accounts to obtain registration
- Work with City to identify additional requirements and ensure collection of data necessary to enforcement procedures.
- Establish optional implementation items such as amnesty programs, back tax and penalty provisions, and other pre-registration programs.

Prime – Business License Software with Web Module
One-time costs

Item	Price	Comments
Prime Business License - Software License Fee (Includes Cannabis and TOT Module)	$36,000.00	3 Named Users
Prime Web Module	Included	Must use HdL supported FIS Global payment gateway. Non-supported gateways require a development charge of a minimum of $5,000.00 + Specifications.
Implementation	9,500.00	Project management, installation, configuration, report design, training, etc.
Data Conversion	7,500.00	Up to 30 hrs. of work. Above 30 hrs., time, and material
Travel Expenses	At Cost	At Cost
Training Costs – 1 day	Included	Included Additional days available at $2,000/day
TOTAL	**$53,000.00**	**Total one-time costs**

Recurring Costs

Item	Price	Comments
Annual Software Use Fee	$9,500.00	Due at Prime core system “Go Live”. Renewed annually + CPI
HdL Hosting Services	$3,000.00	3 remote user licenses included. Billed annually. Additional remote access user licenses @$15.00 each/month.
TOTAL RECURRING COSTS	**$12,500.00**	

Optional Services

Cashiering Export (Optional)	**4,000.00**	End of day, basic financial information export.
Cityworks Integration	TBD	

NOTE: The HdL Prime Business License Suite includes the following: Software license for 9 named users, installation, implementation, complete review of existing operation, fees, penalties, municipal code, standard reports/forms/letters, data conversion (30 hrs. max), 1 day of training. It also includes the web renewal module, new application module, installation, and implementation. City must use HdL supported FIS Global credit card payment gateway (no charge). Additional programming charges of a minimum of $5,000 if City elects to utilize other than HdL supported payment gateway.

AGENDA NO: C-4

MEETING DATE: November 9, 2021

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 2, 2021**

FROM: **Greg Kwolek, Public Works Director**
Janeen Burlingame, Management Analyst

SUBJECT: **Introduction (First Reading) of Ordinance No. 645 Adding Chapter 8.18, "Specific Regulations for Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste," to Title 8 ("Health and Safety") of the Morro Bay Municipal Code**

RECOMMENDATION

Staff recommends the City Council introduce, by title only, and waive further reading of Ordinance No. 645: "An Ordinance of the City Council of the City of Morro Bay, California, Adding Chapter 8.18 to Title 8 ("Health And Safety") of the Morro Bay Municipal Code, entitled "Specific Regulations For Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste," to enact regulations in compliance with Senate Bill (SB) 1383 for the implementation of Mandatory Food and Organics Recycling, and related Solid Waste and Recycling Processing and Reporting."

FISCAL IMPACT

There is no immediate fiscal impact to the City due to adopting the proposed Ordinance. Passage of the Ordinance will have no immediate impact on solid waste collections rates; however, compliance with SB 1383 will result in additional costs to the City, the San Luis Obispo Integrated Waste Management Authority (IWMA), and the City's waste hauler, Waste Connections (a.k.a. Morro Bay Garbage Service). The City is currently analyzing these costs in collaboration with IWMA and Waste Connections. Depending on the magnitude of the costs, rate increases by these three entities may be required. Any increases would go through a Proposition 218 hearing process.

DISCUSSION

SB 1383 was signed into law in September 2016 to address climate change, and specifically short-lived climate pollutants. It sets targets for reducing organic waste disposal in landfills and reducing disposal of edible food. The California Department of Resources Recycling and Recovery (CalRecycle) found 20% of the State's methane emissions come from landfills with organics such as food scraps, yard trimmings, paper and cardboard making up half of what California disposes of in landfills.

SB 1383 established a statewide target to reduce organic waste disposal by 50% by 2020 and 75% by 2025, as well as a statewide target to redirect to people in need at least 20% of edible food that is currently disposed. To meet these mandates, CalRecycle developed regulations requiring local jurisdictions to adopt a mandatory and enforceable organics waste recycling ordinance by January 1, 2022.

Prepared By: J Burlingame	Dept Review: __GK__
City Manager Review: ___SC_____	City Attorney Review: _LNL___

As further described below, local jurisdictions are required to:

- Provide organic waste recycling services to all residents and businesses;
- Implement an edible food recovery program to recover edible food from the waste stream;
- Conduct outreach and education to all affected parties, including generators, haulers, facilities, and edible food recovery organizations;
- Procure recycled organic waste products like compost, mulch, and renewable natural gas;
- Maintain accurate and timely records of SB 1383 compliance for annual reporting requirements; and
- Monitor compliance and conduct enforcement of the City's enforcement ordinance.

SB 1383 will take effect January 1, 2022, with enforcement, including assessment of penalties, beginning on January 1, 2024. This progressive approach is intended to provide ample time for notification to solid waste generators on what is required of them and achieve compliance before penalties are required to be issued by the City.

The proposed ordinance (Attachment 1) is a critical component of the City's efforts to comply with SB 1383 and the corresponding CalRecycle regulations. The proposed ordinance addresses the key elements of SB 1383 compliance applicable to the City, including the following:

- Collection Services: All residential accounts and commercial businesses, including multi-family residential dwellings, will be automatically enrolled in the City's collection services for trash, recycling, and green waste. Food waste generated by residents and businesses will be collected in the green container. Commercial businesses may apply for "de minimis" and/or "physical space waivers" if, respectively, their organic waste collected in the blue or green containers is below a certain volume, or if the business does not have adequate space for all the collection containers.

- Commercial Edible Food Generators: SB 1383 requires implementation of programs to recover edible food from commercial food generators (e.g., grocery stores with overstock) and cause that food to be distributed to food insecure people. This means commercial food generators will enter into contracts with food recovery organizations such as charitable pantries and community kitchens (discussed immediately below). Edible food generators are required to recover the maximum amount of edible food that would otherwise be disposed in the waste stream and implement related programs. These generators are also required to maintain and provide records to City staff or the City's program designee regarding their edible food recovery efforts.

- Food Recovery Organizations: These entities are required to maintain certain records related to their food recovery and distribution efforts, report amounts of edible food recovered to the City or the City's program designee and provide information upon request to support the City's food recovery capacity.

- Haulers and Self-Haulers: Haulers and Self-Haulers are required to transport trash, recycling, and organic waste to the appropriate facility that will accept and process such materials. Self-Haulers are additionally required to keep records of what they haul and provide such records to the City and/or CalRecycle, depending on the type of materials hauled.

- Procurement Requirements for Direct Service Providers and Vendors: Direct services providers and vendors are required under the ordinance to comply with the City's procurement policy for organics. The City will be required to procure certain levels of compost, renewable gas used for fuels, electricity or other resources produced from

organic waste. Procurement doesn't necessarily mean purchase. The City may, for example, receive free delivery of compost from its hauler and subsequently host community compost giveaways. Or, a hauler that uses fuel produced from recovered organics to power vehicles could count towards the City's procurement target. Finally, the City will need to purchase recycled content paper and paper products for its municipal operations.

Inspections and Investigations: The City and the City's designee (e.g., IWMA and/or Morro Bay Garbage Service) are authorized to conduct investigations to confirm SB 1383 compliance. Regulated entities are required to provide access and cooperate with City staff or the City Designee during the process.

- Enforcement: Violation of any provision of the ordinance shall constitute grounds for issuance of a penalty. Furthermore, fees may be assessed for container contamination. Formal enforcement does not start until January 1, 2024. Between January 2022 and December 2023, the City will need to identify regulated entities in violation and provide educational materials with the goal of ensuring every generator has an opportunity to comply before City enforcement is undertaken. After January 2024, jurisdictions must take progressive enforcement against organic waste generators that are not in compliance. This progressive approach allows for notification to generators and provides time for them to learn and comply before penalties are issued by the City

- Model Water Efficient Landscape Ordinance (MWELO) Compliance: Entities subject to MWELO are required under the ordinance to at a minimum comply with certain provisions of MWELO, as in effect on September 15, 2015, including those related to compost and mulch.

- California Green Building Standards (CalGreen): Entities subject to CalGreen are required under the ordinance to at a minimum comply with certain provisions of CalGreen, as in effect on January 1, 2020, related to accommodating collection containers and treatment of organics comingled with construction and demolition debris.

Next Steps

City staff is currently working to update its solid waste franchise agreement to address the relevant requirements of SB 1383 and the corresponding CalRecycle regulations. Additionally, City staff is working to update its procurement policies to be consistent with the new organics procurement requirements. Both updates to the solid waste franchise agreement and procurement policies will be brought to the City Council for review and approval once finalized.

CONCLUSION

Staff recommends the City Council introduce, by title only, and waive further reading of Ordinance No. 645 adding Chapter 8.18 Specific Regulations for Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste to Title 8 ("Health and Safety") of the Morro Bay Municipal Code to enact regulations in compliance with SB 1383 for the implementation of mandatory good and organics recycling, and related solid waste and recycling processing and reporting.

ATTACHMENT

1. Ordinance No. 645

ORDINANCE NO. 645

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, ADDING CHAPTER 8.18 TO TITLE 8 ("HEALTH AND SAFETY") OF THE MORRO BAY MUNICIPAL CODE, ENTITLED "SPECIFIC REGULATIONS FOR COLLECTION, AND DISPOSAL REDUCTION, OF ORGANIC WASTE, RECYCLABLES AND SOLID WASTE," TO ENACT REGULATIONS IN COMPLIANCE WITH SENATE BILL (SB) 1383 FOR THE IMPLEMENTATION OF MANDATORY FOOD AND ORGANICS RECYCLING, AND RELATED SOLID WASTE AND RECYCLING PROCESSING AND REPORTING

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, a City Council may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, Assembly Bill 341 of 2011 places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires the City to implement a mandatory commercial recycling program; and

WHEREAS, Assembly Bill 1826 of 2014 requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recycling, and organic waste per week to arrange for recycling services for that waste, requires cities to implement a recycling program to divert organic waste from businesses subject to the law, and requires cities to implement a mandatory commercial organics recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery ("CalRecycle") to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations ("SB 1383 Regulations") place requirements on multiple entities including the City of Morro Bay, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, the SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations, and to reduce community food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, this Ordinance implements the requirements of AB 341, AB 1826, and the SB 1383 Regulations; and

WHEREAS, on November 9, 2021, the City Council of the City of Morro Bay held a duly-agendized meeting on the Ordinance, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record.

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

SECTION 1. The facts set forth in the recitals in this Ordinance are true and correct and incorporated by reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in the Ordinance.

SECTION 2. The Ordinance is consistent with the City's General Plan, the Morro Bay Municipal Code, and applicable Federal and State laws.

SECTION 3. The Ordinance will not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION 4. The Ordinance is hereby adopted by the addition of a new Chapter 8.18, "SPECIFIC REGULATIONS FOR COLLECTION, AND DISPOSAL REDUCTION, OF ORGANIC WASTE, RECYCLABLES AND SOLID WASTE," in Title 8 of the Morro Bay Municipal Code to read in its entirety as shown in ***Exhibit "A"*** attached hereto and incorporated herein by this reference.

SECTION 5. If the provisions in this Ordinance conflict in whole or in part with any other City regulation or ordinance adopted prior to the effective date of this section, the provisions in this Ordinance will control.

SECTION 6. If any subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declare that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. This Ordinance shall take effect in accordance with the "Effective Date" stated in Section 8.18.180 of ***Exhibit "A"***, and the City Clerk shall cause it to be posted and published in a newspaper of general circulation, printed, published and circulated in the City in the manner required by law and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

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SECTION 8. 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 9th day of November, 2021, by motion of _____, and seconded by _____.

PASSED and ADOPTED this _____ day of _____, 2021.

AYES:
NOES:
ABSENT:

_____
JOHN HEADDING, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

_____
CHRISTOPHER 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, California, do hereby certify that the foregoing Ordinance No. _____ was duly passed and adopted by the City Council of the City of Morro Bay at the regular meeting thereof, held on the ___th day of _____, 2021, 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 _____, 2021

_____
DANA SWANSON, City Clerk

EXHIBIT "A"

CHAPTER 8.18 – SPECIFIC REGULATIONS FOR COLLECTION, AND DISPOSAL REDUCTION, OF ORGANIC WASTE, RECYCLABLES AND SOLID WASTE

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EXHIBIT "A"

8.18.010 Purpose and Findings

The City finds and declares:

(a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their City to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

(b) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on Commercial Businesses and Multi-Family Premises that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires jurisdictions to implement a mandatory Commercial recycling program.

(c) State Organics Materials recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires Commercial Businesses and Multi-Family Premises that generate a specified threshold amount of Solid Waste, Recyclable Materials, and Organic Materials per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert Organic Materials from Commercial Businesses and Multi-Family Premises subject to the law, and requires jurisdictions to implement a mandatory Commercial Organic Materials recycling program.

(d) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce Organic Waste in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, Residential households, Multi-Family Premises, Commercial Businesses, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of the SB 1383 statewide Organic Waste disposal reduction targets.

(e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This Chapter will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange

to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

(f) Requirements in this Chapter are consistent with other adopted goals and policies of the City including without limitation: the Morro Bay General Plan, Morro Bay Climate Action Plan, Morro Bay Municipal Code Title 8 ("Health and Safety), Morro Bay Municipal Code Title 14 ("Building and Construction") and any franchise agreements for relating to City services for Solid Waste and recycling programs.

8.18.020 - Title of Ordinance

This Chapter shall be entitled "Specific Regulations For Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste."

8.18.030 - Definitions

"Alternative Daily Cover (ADC)" has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.

"Alternative Intermediate Cover (AIC)" has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations.

"CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

"City" means the City of Morro Bay, a General Law Municipal Corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the term, acting through the City Council or the City Manager. The City may designate responsibilities to City staff or a third-party designee through written letter between the City Manager and designee.

"City Enforcement Official" means any City employee or agent of the City with the authority to enforce any provision of this Chapter.

"Code," when not embedded within citation to another law or regulation, means this Morro Bay Municipal Code.

"Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this Chapter.

"Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section 8.18.030 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

"Community Composting" means any activity that Composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

"Compliance Review" means a review of records by the City to determine compliance with this Chapter.

"Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or that are separated at a centralized facility yielding a safe and nuisance free Compost product.

"Contamination," any variant thereof, or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

"Contractor" means an entity under exclusive or non-exclusive franchise agreement with the City for the collection, handling, transport and processing of Recyclable Materials, Organic Materials, and Solid Waste, organized and operating under the laws of the State and its officers, directors, employees, agents, companies, related-parties, affiliates, subsidiaries, and subcontractors. Contractor may also serve as a Designee for purposes of this Chapter.

"County Enforcement Official" means a county agency enforcement official.

"Customer" means the Person to whom Contractor or other Designee submits its billing invoice to, and collects payment from, for collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

"C&D" means construction and demolition debris composed of building materials, packaging and rubble resulting from the construction, remodeling, repair or demolition of pavements, houses, Commercial, industrial or agricultural buildings, and other structures.

"Designated Waste" means non-Hazardous Waste which may pose special Disposal problems because of its potential to Contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

"Designee" means an entity that a City contracts with or otherwise arranges to carry out any of the City's responsibilities of this Chapter as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler (including Contractor) or other a private entity, or a combination of those entities.

"Discarded Materials" means all Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a collection container and/or at a location for the purposes of collection, excluding Excluded Waste.

"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Health and Safety Code, including the California Retail Food Code.

"Enforcement Action" means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Excluded Waste" means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including without limitation: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

"Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

"Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.

"Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

"Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food

to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,

(3) A nonprofit charitable temporary Food Facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Chapter.

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food Scraps" means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

"Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

"Food-Soiled Paper" is compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, milk cartons and pizza boxes.

"Food Waste" means Source Separated Food Scraps and Food-Soiled Paper.

"Food Waste Self-Hauler" means a Self-Hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500

pounds or more per quarter of their own Food Waste to a location or facility that is not owned and operated by that Self-Hauler. Food Waste Self-Haulers are a subset of Self-Haulers.

"Generator" means a person or entity that is responsible for the initial creation of one or more types of Discarded Materials.

"Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including without limitation a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

"Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

"Hazardous Substance" means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117, State Public Resources Code Section 40141, or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from Residential Premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as

calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

"Infectious Waste" means (a) equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; (b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; and/or (c) surgical operating room pathologic specimens - including recognizable anatomical parts, human tissue, anatomical human remains and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as defined in 14 CCR Section 17225.36. .

"Inspection" means a site visit where a City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Recyclable Materials, Organic Waste, Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Chapter.

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Chapter.

"Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

"Multi-Family Residential Dwelling" or "Multi-Family" or "MFD" means of, from, or pertaining to Residential Premises with five (5) or more dwelling units including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more dwelling units who receive individual service and are billed separately shall not be considered Multi-Family. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

"MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

"Notice of Violation" or "NOV" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

"Occupant" means the Person who occupies a Premises.

"Organic Materials" means Yard Trimmings and Food Waste, individually or collectively that are set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of processing. No Discarded Material shall be considered to be Organic Materials, however, unless it is Source Separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.

"Organic Materials Container" shall be used for the purpose of storage and collection of Source Separated Organic Materials.

"Organic Waste" means wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

"Owner" means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.

"Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

"Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

"Premises" means and includes any land, building and/or structure, or portion thereof, in the City where Discarded Materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one Premises.

"Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the City's Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in City's Organic Materials Container and/or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.

"Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

"Recyclable Materials" means those Discarded Materials that the Generators set out in Recyclables Containers for Collection for the purpose of Recycling by the Service Provider and that exclude Excluded Waste. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. Recyclable Materials shall include, but not be limited to newspaper, aluminum, tin and bi-metal cans, clear and colored glass containers, all plastic containers (except polystyrene), corrugated cardboard, mixed paper (Including white and colored ledger paper, chipboard, junk mail, magazines and phone books) and used motor oil and filter. Acceptable Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Manager or signed amendment to any City agreement with a Contractor or Designee, and such approval shall not be unreasonably withheld. For the purpose of collection of Recyclable Materials through contractor's collection services, recyclable materials shall be limited to those materials identified by the collection contractor as acceptable recyclable materials.

"Recyclable Materials Container" shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

"Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

"Residential" shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises, including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments. For purposes of this Chapter, a Multi-Family Residential Dwelling (five units or less) qualifies as Commercial despite its Residential uses.

"Responsible Party" means the Owner, property manager, tenant, lessee, Occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for Premises in the City, or, if there is no such subscriber, the Owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the Owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.

"Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-Premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

"Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this Chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-Haul" means to act as a Self-Hauler.

"Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or Recyclable Material he or she has generated to another Person. Self-Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). A Self-Hauler must be a Person within the City who is not primarily engaged in the business of collection, removal or transportation of Solid Waste, Organic Waste, or Recyclables, but in the course of performing the Person's primary business function incidentally transports Solid Waste, Organic Waste, or Recyclables with equipment owned or leased by that Person. Examples of Self-Haulers include, but are not limited to, gardeners, landscapers, and household cleanup service firms. A Person who is engaged in the business of collection, removal or transportation of C&D material (other than as work performed ancillary to the person's business and using that person's own forces and equipment) is not a Self-Hauler under any circumstance.

"Service Level" refers to the size of a Customer's Container and the frequency of Collection service.

"Single-Family" or "SFD" refers to any detached or attached house or residence of four (4) units or less designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family includes townhouses, condominiums, and each independent unit of duplex, tri-plex, or four-plex Residential structures, regardless of whether each unit is separately billed for their specific Service Level.

"Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

(1) Hazardous Waste.

(2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

(4) Recyclable Materials, Organic Materials, and Construction and Demolition Debris when such materials are Source Separated.

Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of household hazardous waste (as defined in Health and Safety Code Section 25218.1) in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation.

"Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.

"Source Separated" or "Source-Separated (materials)" means materials, including commingled Recyclable Materials and Organic Materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party's employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing.

"Source Separated Organic Materials" means Organic Materials that are Source Separated and placed in an Organic Materials Container.

"Source Separated Recyclable Materials" means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.

"State" means the State of California.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

(1) Supermarket.

(2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.

(3) Food Service Provider.

(4) Food Distributor.

(5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Chapter.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(2) Hotel with an on-site Food Facility and 200 or more rooms.

(3) Health facility with an on-site Food Facility and 100 or more beds.

(4) Large Venue.

(5) Large Event.

(6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

"Ton" or "Tonnage" means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 18982(a)(76).

8.18.040 - Requirements for Single-Family Premises

(a) Except Responsible Parties of Single-Family Premises that meet the Self-Hauler requirements in Section 8.18.110, Responsible Parties of Single-Family Premises shall comply with the following requirements:

(1) Subscribe to and pay for City's three-container collection services for weekly collection of Recyclable Materials, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in Section 8.18.040(a)(2). City and its Designee(s) shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Parties for Single-Family Premises shall adjust their Service Level for their collection services as requested by the City.

(2) Participate in the City's three-container collection service(s) in the manner described below.

(A) Place, or, if Responsible Party is not an Occupant of the Single-Family Premises, direct its Generators to place, Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.

(B) Not place, or, if Responsible Party is not an Occupant of the Single-Family Premises, direct its Generators to not place Prohibited Container Contaminants in collection containers and not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.

(b) Nothing in this Section prohibits a Responsible Party or Generator of a Single-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

8.18.050 - Requirements for Multi-Family Residential Dwellings

(a) Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter and for employees, contractors, and tenants. Responsible Parties of Multi-Family Premises may receive waivers pursuant to Section 8.18.070 for some requirements of this Section.

(b) Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements in Section 8.18.110 of this Chapter, including hauling services arranged through a landscaper, Responsible Parties of Multi-Family Premises shall:

(1) Subscribe to and pay for City's three or more-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this Section. City and its Designee(s) shall have the right to review the number and size of the Multi-Family Premises' collection containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of a Multi-Family Premises shall adjust their Service Level for their collection services as requested by the City or its Designee.

(2) Participate in the City's three or more-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.

(A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials

Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.

(B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.

(3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 8.18.110 of this Chapter.

(4) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.

(5) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.

(6) Provide or arrange access for City and/or its Designee(s) to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

(c) If the Responsible Party of a Multi-Family Premises wants to Self-Haul, meet the Self-Hauler requirements in Section 8.18.110 of this Chapter.

(d) Multi-family Premises that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the Owner, Occupant, or operator of a Multi-Family Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this Chapter.

(e) Nothing in this Section prohibits a Responsible Party or Generator of a Multi-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

8.18.060 - Requirements for Commercial Businesses

(a) Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter and for employees, contractors, tenants, and customers. Responsible Parties of Commercial Premises may receive waivers pursuant to Section 8.18.070 for some requirements of this Section.

(b) Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements in Section 8.18.110 of this Chapter, including hauling services arranged through a landscaper, Responsible Parties of Commercial Premises shall:

(1) Subscribe to and pay for City's three or more-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this Section. City and its Designee(s) shall have the right to review the number and size of a Commercial Premises' collection containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of the Commercial Business shall adjust their Service Level for their collection services as requested by the City or its Designee.

(2) Participate in the City's three or more-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.

(A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.

(B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.

(3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.18.060(b)(4)(A) and 8.18.060(b)(4)(B), below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 8.18.110 of this Chapter.

(4) Provide containers for customers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that Commercial Business. Such containers shall be visible and easily accessible. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, as demonstrated through an approved de minimis waiver per Section 8.18.070(a), then the Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have <u>either</u>:

(A) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Business is not required to replace functional containers that do not comply with the requirements of this subsection prior to whichever of the following comes first: (i) the end of the useful life of those containers, or (ii) January 1, 2036.

(B) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

(5) To the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service or, if Self-Hauling, per the instructions of the Commercial Business's Responsible Party to support its compliance with Self-Hauler requirements in Section 8.18.110 of this Chapter.

(6) Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for Contamination and inform employees if containers are Contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(7) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.

(8) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.

(9) Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

(c) If the Responsible Party of a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements in Section 8.18.110 of this Chapter.

(d) Nothing in this Section prohibits a Responsible Party or a Generator of a Commercial Business from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(e) Responsible Parties of Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.18.080 of this Chapter.

8.18.070 - Waivers for Multi-Family Premises and Commercial Premises

(a) De Minimis Waivers for Multi-Family Premises and Commercial Premises. The City's Designee, or the City if there is no Designee, may waive a Responsible Party's obligation to comply with some or all Recyclable Materials and Organic Waste requirements of this Chapter if the Responsible Party of the Commercial Business or Multi-Family Premises submits an application in a form established by Designee, or the City if there is no Designee, to the Designee, or the City if there is no Designee, that the Commercial Business or Multi-Family Premises meets one of the criteria in subsections (1) and (2) below. For the purposes of subsections (1) and (2), the total Solid Waste shall be the sum of weekly container capacity measured in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials collection service. Hauling through paper shredding service providers or other incidental services may be considered in granting a de minimis waiver.

(1) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is two (2) cubic yards or more per week and Recyclable Materials and Organic Materials subject to collection in Recyclable Materials Container(s) or Organic Materials Container(s) comprises less

than twenty (20) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than twenty (20) gallons per week or Organic Materials in the Organic Materials stream are less than twenty (20) gallons per week); or,

(2) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is less than two (2) cubic yards per week and Recyclable Materials and Organic Materials subject to collection in a Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than ten (10) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than ten (10) gallons per week or Organic Materials in the Organic Materials stream are less than ten (10) gallons per week).

(b) Physical Space Waivers. The City's Designee, or the City if there is no Designee, may waive a Commercial Business's or Multi-Family Premises' obligation to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the City or its Designee has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 8.18.050 or 8.18.060 as applicable.

(c) Review and Approval of Waivers. Waivers shall be granted to Responsible Parties by the City's Designee, or the City if there is no Designee, according to the following process:

(1) Responsible Parties of Premises seeking waivers shall submit a completed application form to the City's Designee, or the City if there is no Designee, for a waiver specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.

(2) Upon waiver approval, the City's Designee, or the City if there is no Designee, shall specify that the waiver is valid for the following duration:

(i) For Commercial Premises, five (5) years, or if property ownership changes, or if occupancy changes, whichever occurs first.

(ii) For Multi-Family Premises, five (5) years, or if property ownership changes, or if the property manager changes, whichever occurs first.

(3) Waiver holder shall notify City's Designee, or the City if there is no Designee, if circumstances change such that Commercial Business's or

Multi-Family Premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.

(4) Any waiver holder must cooperate with the City and/or its Designee for any on-site assessment of the appropriateness of the waiver.

(5) Waiver holder shall reapply to the City's Designee, or the City if there is no Designee, for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the City and/or its Designee. Failure to submit a completed application shall equate to an automatic denial of said application.

(6) The City's Designee, or the City if there is no Designee, may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.

(7) If the City's Designee does not approve a waiver application or revokes a waiver, the City may appeal the decision for additional review by the Designee. The City may also, after meeting and conferring with the Designee, direct the Designee to approve the waiver application and/or repeal the revocation of the waiver.

8.18.080 - Requirements for Commercial Edible Food Generators

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

(c) Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed. Food that is donated shall be free from adulteration, spoilage, and meet the food safety standards of the California Health and Safety Code. Food cannot be donated if it is not in compliance with the food safety standards of the California Health and Safety Code, including food that is returned by a customer, has been served or sold and in the possession of a consumer, or is the subject of a recall.

(2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the

Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.

(3) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow City's designated enforcement entity or designated third-party enforcement entity to access the Premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

(A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).

(B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

(i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

(ii) The types of food that will be collected by or Self-Hauled to the Food Recovery Service or Food Recovery Organization.

(iii) The established frequency that food will be collected or Self-Hauled.

(iv) The quantity of food, measured in pounds recovered per month, collected or Self-Hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(6) Maintain records required by this section for five (5) years.

(7) No later than January 31 of each year commencing no later than January 31, 2023 for Tier One Commercial Edible Food Generators and January 31, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City or its Designee that includes the following information:

(i) The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,

(ii) The amount, in pounds of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.

(iii) Any additional information required by the City Manager or his/her designee, or Designee.

(d) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.18.090 - Requirements for Food Recovery Organizations and Services

(a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

(2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

(3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

(4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

(b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

(2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.

(3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

(c) Maintain records required by this section for five years.

(d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in and the City's Designee, if applicable, the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b). The annual report shall be submitted to the City and the City's Designee, if applicable, no later than January 31 of each year.

(e) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City that provides Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City and City's Designee, if applicable, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City and/or its Designee shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

(f) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators shall include language in all agreements with Tier 1 and Tier 2 edible food generators located in the City identifying and describing the California Good Samaritan Act of 2017.

(g) Nothing in this chapter prohibits a Food Recovery Organization or Food Recovery Service from refusing to accept Edible Food from a Commercial Edible Food Generator.

8.18.100 - Requirements for Haulers and Facility Operators

(a) Requirements for Haulers

(1) Franchised hauler(s) providing Recyclable Materials, Organic Waste, and/or Solid Waste collection services to Generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of its contract, agreement, permit, or other authorization with the City to collect Recyclable Materials, Organic Materials, and/or Solid Waste:

(A) Through written notice to the City annually on or before January 31of each year, identify the facilities to which they will transport Discarded Materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste

unless otherwise stated in the franchise agreement, contract, permit, or license, or other authorization with the City.

(B) Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).

(C) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 8.18.110 of this Chapter, and all City ordinances and requirements related to C&D collection, transportation and processing.

(2) Franchised hauler(s) authorized to collect Recyclable Materials, Organic Materials, and/or Solid Waste shall comply with education, equipment, signage, container labeling, container color, Contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, or other agreement entered into with City.

(b) Requirements for Facility Operators and Community Composting Operations

(1) Owners of facilities, operations, and activities located in the City's boundaries that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

(2) Community Composting operators with operations located in the City's boundaries, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

(3) Owners of facilities, operations, and activities located in the City's boundaries that receive Recyclable Materials, Organic Materials, and/or

Solid Waste shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle under 14 CCR.

8.18.110 - Self-Hauler Requirements

(a) Every Self-Hauler shall Source Separate its Recyclable Materials and Organic Materials (materials that City otherwise requires Generators or Responsible Parties to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the City's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (b) below. Alternatively, Self-Haulers may or choose not to Source Separate Recyclable Materials and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility subject to advance written approval by the City.

(b) Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source Separated Organic Waste; and, haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste.

(c) Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to review by the City and/or its Designee(s). The records shall include the following information:

(1) Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.

(2) The amount of material in cubic yards or Tons transported by the Generator or Responsible Party to each entity.

(3) If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Recyclable Materials, Organic Materials, and Solid Waste.

(d) Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic

Materials, and/or Solid Waste was first delivered to the facility accepting the material.

(e) Self-Haulers that are Commercial Businesses or Multi-Family Premises shall provide copies of records required by this Section to City in accordance with any schedule and/or format set by the City Manager or his/her designee, or any City administrative policy.

(f) A Single-Family Generator or Single-Family Responsible Party that Self-Hauls Recyclable Materials, Organic Waste, or Solid Waste is not required to record or report information in Section 11(c) through (e).

(g) Pursuant to 14 CCR Section 18815.9, Food Waste Self-Haulers are required to maintain records and report to CalRecycle information on the Tons of Food Waste Self-Hauled and the facilities or each use of such material. All reports Food Waste Self-Haulers are required to report to CalRecycle shall be subject to review by the City and/or its Designee upon written 30-day request.

8.18.120 - Compliance with CalGreen Recycling Requirements

(a) Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CalGreen, as amended, if its project is covered by the scope of CalGreen or more stringent requirements of the City. If the requirements of CalGreen are more stringent then the requirements of this Section, the CalGreen requirements shall apply.

Project applicants shall refer to City's building and/or planning code for complete CalGreen requirements.

(b) For projects covered by CalGreen or more stringent requirements of the City, the applicants must, as a condition of the City's permit approval, comply with the following:

(1) Where five (5) or more Multi-Family units are constructed on a building site, provide readily accessible areas that serve Owners or Occupants of all buildings on the site and are identified for the storage and collection of Discarded Materials, consistent with the three container collection program offered by the City, or comply with provision of adequate space for recycling for Multi-Family and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11, as amended, provided amended requirements are more stringent than the CalGreen requirements for adequate recycling space effective January 1, 2020.

(2) New Commercial or Multi-Family construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified

for the storage and collection of Discarded Materials, consistent with the three container collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11, as amended, provided amended requirements are more stringent than the CalGreen requirements for adequate recycling space effective January 1, 2020.

(3) Comply with CalGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste and Recyclable Materials in C&D from disposal. Comply with all written and published City policies, ordinances, and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

8.18.130 - Model Water Efficient Landscaping Ordinance Requirements (MWELO)

(a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section 8.18.130.

(b) The following Compost and mulch use requirements that are part of the MWELO are now also included as requirements of this Chapter. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

(c) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 8.18.130(a) above shall:

(1) Comply with Sections 492.6 (a)(3)(B)(C),(D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:

(A) For landscape installations, Compost at a rate of a minimum of four (4) cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.

(B) For landscape installations, a minimum three (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the

landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(C) Organic mulch materials made from recycled or post-consumer materials shall (i) take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available, and (ii) comply with 14 CCR, Division 7, Chapter 12, Article 12. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

(2) The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 8.18.130(a) shall consult the full MWELO for all requirements.

(d) If, after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO September 15, 2015 requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

8.18.140 - Procurement Requirements for City Departments, Direct Service Providers, and Vendors

(a) City departments, and direct service providers to the City, as applicable, must comply with the City-adopted procurement policy for Recycled-Content Paper Products adopted in accord with 14 CCR Section 18993.3.

(b) All vendors providing Paper Products and Printing and Writing Paper to the City shall:

(1) If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.

(2) Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.

(3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be

waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

(4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12.

(5) Provide records to the City's designated personnel member for purposes of procurement recordkeeping in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 8.18.140(b)(3) and (b)(4) of this Chapter for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

8.18.150 - Inspections and Investigations

(a) City/County representatives or its Designee(s) are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this Chapter by Generators, Responsible Parties of Single-Family Premises, Responsible Parties of Commercial Businesses, Responsible Parties of Multi-Family Premises, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City or its Designee to enter the interior of a private Residential property for Inspection.

(b) Entities regulated by this Chapter shall provide or arrange for access during all Inspections (with the exception of Residential property interiors) and shall cooperate with the City's representative or its Designee during such Inspections and investigations. Such Inspections and investigations may be set by City ordinance, resolution, or internal policy and include, without limitation, confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Chapter. Failure of a Responsible Party to provide or arrange for: (i) access to an entity's Premises; or (ii) access to

records for any Inspection or investigation is a violation of this Chapter and may result in penalties described in Section 8.18.160.

(c) Any records obtained by a City or its Designee during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) City representatives or their Designee are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.

(e) City or its Designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

(f) City representatives and/or their Designee are authorized to provide informational notices to entities regulated by this Chapter regarding compliance with this Chapter.

8.18.160 - Enforcement

(a) Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines as specified in Chapter 1 of the City's code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

(b) Other remedies allowed by law may be used for enforcement, including but not limited to civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

(c) Responsible Entity for Enforcement

(1) Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official or their designee authorized and legally able to undertake such action.

(2) Enforcement may also be undertaken by a County Enforcement Official, designated by the County, in consultation with City Enforcement Official and legally able to undertake such action.

(3) City Enforcement Official(s) may issue Notices of Violation(s).

(d) Process for Enforcement

(1) City Enforcement Officials and/or their designee will monitor compliance with this Chapter through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. City Enforcement Officials and/or their designee may also monitor compliance with this Chapter randomly and reserve all authority of their full prosecutorial discretion. The City may exercise any of its rights to conduct inspections and investigations as established by Section 8.18.150 and any other provision of the Code authorizing such investigations.

(2) City may issue an official notification to notify regulated entities of its obligations under the ordinance.

(3) Container Contamination:

i. For incidences of Prohibited Container Contaminants found by City or its Designee, City or its Designee will issue an informational notice of Contamination to any Generator or Responsible Party found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 3 days after determining that a violation has occurred. If the City or its Designee observes Prohibited Container Contaminants in a Responsible Party's containers on more than two (2) occasion(s), every calendar year starting January 1, the City may assess an administrative fine or penalty on the Responsible Party in accordance with Code Chapter 1.03.

ii. In addition to subparagraph (i) above, Designee may implement through Designee's service rate structure a Contamination service charge for customers committing incidents of Prohibited Container Contaminants. Designee shall provide such customers with written notice and/or cart tags, or such other procedures required under any contract, agreement, or similar contractual authorization between the City and its Designee, prior to levying any Contamination service charge. The foregoing Contamination service charge shall not be considered an administrative fine or penalty. Any disputes arising from the assessment of a Contamination service charge shall be adjudicated pursuant to the customer complaint resolution process provided under the terms of any contract, agreement, or similar contractual authorization between the City and its Designee assigned to collect Organic Waste.

(4) With the exception of violations of Contamination of container contents addressed under subparagraph (d)(3) above, City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an Enforcement Action to impose penalties, via an administrative citation and fine.

(6) Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the County Assessor or if no such address is available, to the owner at the address of the Multi-Family Premises or Commercial Premises or to the Responsible Party for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations

Administrative fine levels shall be as stated in Section 1.03.050 of the Code, excepting that should the penalties levels in Section 1.03.050 either (i) fall below the minimum amounts stated in 14 CCR Section 18997.2, or (ii) exceed the maximum amounts stated in 14 CCR Section 18997.2, then the administrative fine level shall be that which is closest to a level stated in 14 CCR Section 18997.2.

(f) Factors Considered in Determining Penalty Amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

(1) The nature, circumstances, and severity of the violation(s).

(2) The violator's ability to pay.

(3) The willfulness of the violator's misconduct.

(4) Whether the violator took measures to avoid or mitigate violations of this chapter.

(5) Evidence of any economic benefit resulting from the violation(s).

(6) The deterrent effect of the penalty on the violator.

(7) Whether the violation(s) were due to conditions outside the control of the violator.

(g) Compliance Deadline Extension Considerations

City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section if it finds that there are extenuating circumstances

beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(2) Delays in obtaining discretionary permits or other government agency approvals; or,

(3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City/County is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(h) Review and Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing and any subsequent review of the decision in accordance with the procedures set forth in Code Chapter 1.03.

(i) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City or its Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City or its Designee determines that Generator, Responsible Party, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(j) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines that a Generator, Responsible Party, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section, as needed.

Section 8.18.170. Coordination and Interpretation in Conjunction With Related Solid Waste Ordinances

In interpreting this Chapter in conjunction with the City's general solid waste regulations (Municipal Code Chapters 8.16, entitled "Solid Waste Management" and 8.17, entitled "Expanded Polystyrene"), in the event of any conflict between this Chapter and Chapters 8.16 and 8.17 that cannot be reasonably harmonized through the application of lawful

principles of statutory construction, the provisions of this Chapter shall control with respect to all issues specific to the regulation of organic and food waste collection, disposal, enforcement and penalties.

Section 8.18.180. Effective Date

This Chapter shall be effective commencing on January 1, 2022.

AGENDA NO:	**C-5**
MEETING DATE:	**November 9, 2021**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 26, 2021**

FROM: **Rob Livick, PE/PLS/QSD – City Engineer**

SUBJECT: **Kings and Blanca Tanks Rehabilitation Project Contract Award in the amount of $2,039,268 to Superior Tank Solutions, Inc.**

RECOMMENDATION

Staff recommends the City Council waive minor irregularities in the bids received by the City, reject the bid protest filed by Paso Robles Tank, Inc., and authorize the City Manager to execute a contract with Superior Tank Solutions, Inc. (STS) in the amount of $2,039,268 for recoating and rehabilitation of six water storage tanks after approved as to form by the City Attorney.

ALTERNATIVE

1. Authorize the City Manager to execute a contract with Superior Tank Solutions, Inc. (STS) in the amount of $2,552,068 for the base bid plus of recoating and rehabilitation of six water storage tanks plus the alternate bid item after approved as to form by the City Attorney.
2. Reject all bids and direct staff to readvertise the project.

FISCAL IMPACT

Execution of the contract with STS for the amount of $2,039,268 is within the project budget for this current fiscal year budget of $2,691,152. Due to the 12-month schedule, the project will not be completed by June 30, 2022. The remaining project funds will be carried over to the next fiscal year to support project completion.

DISCUSSION

This project will provide complete rehabilitation of six water storage tanks, with two tanks located at the top of Kings Avenue and the remaining four tanks at the top of Blanca Street. The project will involve replacement of internal and external coatings, replacement of access ladders, handrails, railings, and the installation of OSHA required fall protection equipment.

Due to the harsh ocean environment, deferred maintenance has caused the structure of these tanks to deteriorate and the interior and exterior coatings to fail. This project will make improvements to the overall infrastructure, restore safe and standard conditions, extend the useful life of the tanks, and improve water quality. The project will be managed and coordinated by the Utilities Division, and staff time for these roles are included in the Department's FY 2021/22 Operating Budget.

On July 14, 2021, the City advertised the project on its website and through ASAP Reprographics plan room. During the bidding period, staff met with perspective contractors, answered bidders' questions, and issued a total of four addenda. Four bids were received by the City and publicly opened at City Hall on October 21, 2021. The results of the bid opening are summarized in the table below:

Prepared By: RL	**Dept Review:** GK
City Manager Review: _SC___	**City Attorney Review:** _JWP___

Summary of Bids Received for the Project

Bidder	Original Bid	Corrected Base Bid[(1)]	Alternative Item
Superior Tank Solutions	$2,023,052.00	$2,039,268.00	$512,800.00
Paso Robles Tank	$2,178,400.00	$2,179,400.00	$450,000.00
United Field Solutions	$4,698,575.00	$4,692,075.00	No Bid
Utility Service Company	$2,550,500.00	$2,550,500.00	No Bid

1. Includes arithmetic corrections

Following the bid opening, the City Engineer reviewed the bid packages and determined all the bids received were both responsible and responsive. In the analysis of the submitted bids, staff found several non-substantive arithmetic errors. Staff determined these minor irregularities do not affect the integrity of the procurement, and staff recommends City Council waive these irregulates.

The base bid includes field cleaning and recoating of the Blanca bolted steel tanks and Kings tanks, as well as all other ancillary work. The alternate bid item involves disassembly of the Blanca bolted steel tanks and the return of disassembled components to the factory for factory refinishing. Based on the relatively high bids for the alternative item, staff does not recommend awarding the alternative bid item. Field cleaning and recoating of the Blanca bolted steel tank is sufficient to provide the tanks with extended useful life near what the factory refinished components would provide.

Bid Protest

The City received a bid protest on September 21, 2021, from Paso Robles Tank (PRT) claiming the bid submitted by STS was “unbalanced bid by way of listed subcontractor balances and scope of work”. The City asked STS to provide a response to the protest (see Attachment 3). The response stated the protest was not based in fact and was conjecture on the part of PRT. In addition, the response provided explanations to counter each of the issues alleged in the protest. The City Attorney reviewed STS’s response and determined there were not sufficient legal grounds for the City Council to award the bid to the PRT. Based on this determination, the City Attorney and staff recommend rejecting the protest and awarding the project to the lowest responsive and responsible bidder, STS.

ATTACHMENT

1. Bid Summary
2. Bid Protest from Paso Robles Tank
3. Response to bid protest from Superior Tank Solutions

ATTACHMENT 1 - BID SUMMARY
KINGS TANKS AND BLANCA TANKS REHABILITATION PROJECT
Project No. MB2021-U1-Water

BID SCHEDULE				Engineers Estimate		Superior Tank Services		Paso Robles Tank		United Field Services		Utility Service Company	
Item No.	Description	Units	Quantity	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost
1	Mobilization and Demobilization – Kings Tanks	1	LS	$ 34,500.00	$ 34,500.00	$ 33,020.00	$ 33,020.00	$ 20,000.00	$ 20,000.00	$ 15,000.00	$ 15,000.00	$ 20,500.00	$ 20,500.00
2	Mobilization and Demobilization – Blanca Tanks	1	LS	$ 34,500.00	$ 34,500.00	$ 53,075.00	$ 53,075.00	$ 20,000.00	$ 20,000.00	$ 15,000.00	$ 15,000.00	$ 20,500.00	$ 20,500.00
3	Bonds and Insurance	1	LS	$ 57,500.00	$ 57,500.00	$ 19,685.00	$ 19,685.00	$ 30,000.00	$ 30,000.00	$ 25,000.00	$ 25,000.00	$ 85,500.00	$ 85,500.00
4	Demolition	1	LS	$ 28,750.00	$ 28,800.00	$ 21,100.00	$ 21,100.00	$ 35,000.00	$ 35,000.00	$ 150,000.00	$ 150,000.00	$ 21,300.00	$ 21,300.00
5	Install 36-inch Square Roof Curb	5	EA	$ 5,175.00	$ 25,900.00	$ 3,500.00	$ 17,500.00	$ 2,200.00	$ 11,000.00	$ 4,162.00	$ 20,810.00	$ 2,300.00	$ 11,500.00
6	Install 36-inch Square Roof Hatch	5	EA	$ 6,325.00	$ 31,600.00	$ 700.00	$ 3,500.00	$ 3,000.00	$ 15,000.00	$ 4,042.00	$ 20,210.00	$ 10,200.00	$ 51,000.00
7	Install 39-inch Square Roof Hatch	1	EA	$ 7,475.00	$ 7,500.00	$ 4,200.00	$ 4,200.00	$ 5,000.00	$ 5,000.00	$ 4,374.00	$ 4,374.00	$ 11,400.00	$ 11,400.00
8	Install 40-inch Diameter Roof Vent	2	EA	$ 6,325.00	$ 12,700.00	$ 7,000.00	$ 14,000.00	$ 7,500.00	$ 15,000.00	$ 7,482.00	$ 14,964.00	$ 13,800.00	$ 27,600.00
9	Install 48-inch Diameter Roof Vent	1	EA	$ 7,475.00	$ 7,500.00	$ 7,790.00	$ 7,790.00	$ 9,000.00	$ 9,000.00	$ 7,182.00	$ 7,182.00	$ 16,900.00	$ 16,900.00
10	Replace Roof Vent Screens	3	EA	$ 1,150.00	$ 3,500.00	$ 200.00	$ 600.00	$ 800.00	$ 2,400.00	$ 2,082.00	$ 6,246.00	$ 1,200.00	$ 3,600.00
11	Install Fall Protection Anchors	8	EA	$ 1,725.00	$ 13,800.00	$ 335.00	$ 2,680.00	$ 650.00	$ 5,200.00	$ 671.00	$ 5,368.00	$ 800.00	$ 6,400.00
12	Install New Interior Ladder	3	EA	$ 10,925.00	$ 32,800.00	$ 7,000.00	$ 21,000.00	$ 14,000.00	$ 42,000.00	$ 7,916.00	$ 23,748.00	$ 9,400.00	$ 28,200.00
13	Install Interior Ladder Safety Climb	6	EA	$ 2,875.00	$ 17,300.00	$ 2,000.00	$ 12,000.00	$ 5,000.00	$ 30,000.00	$ 4,258.00	$ 25,548.00	$ 3,400.00	$ 20,400.00
14	Install Exterior Ladder and Cage	4	EA	$ 13,225.00	$ 52,900.00	$ 9,395.00	$ 37,580.00	$ 9,500.00	$ 38,000.00	$ 18,455.00	$ 73,820.00	$ 13,400.00	$ 53,600.00
15	Install New CP Handholes and Caps	24	EA	$ 575.00	$ 13,800.00	$ 158.00	$ 3,792.00	$ 250.00	$ 6,000.00	$ 1,328.00	$ 31,872.00	$ 700.00	$ 16,800.00
16	Install New CP Anodes and Hangers	24	EA	$ 2,300.00	$ 55,200.00	$ 3,458.00	$ 82,992.00	$ 2,900.00	$ 69,600.00	$ 1,619.00	$ 38,856.00	$ 1,000.00	$ 24,000.00
17	Install Hand Railings	198	LF	$ 47.00	$ 9,300.00	$ 232.00	$ 45,936.00	$ 250.00	$ 49,500.00	$ 414.00	$ 81,972.00	$ 300.00	$ 59,400.00
18	Install Self Closing Swing Gate	6	EA	$ 2,530.00	$ 15,200.00	$ 1,200.00	$ 7,200.00	$ 750.00	$ 4,500.00	$ 1,542.00	$ 9,252.00	$ 2,500.00	$ 15,000.00
19	Install 36-inch Halo Ring	2	EA	$ 8,625.00	$ 17,300.00	$ 14,670.00	$ 29,340.00	$ 30,000.00	$ 60,000.00	$ 7,113.00	$ 14,226.00	$ 6,000.00	$ 12,000.00
20	Install 24x36 Catch Basin	2	EA	$ 5,750.00	$ 11,500.00	$ 6,321.00	$ 12,642.00	$ 12,500.00	$ 25,000.00	$ 22,078.00	$ 44,156.00	$ 7,100.00	$ 14,200.00
21	Modify 8-Inch Overflow - Kings Tank No. 1	1	LS	$ 4,025.00	$ 4,000.00	$ 1,900.00	$ 1,900.00	$ 8,500.00	$ 8,500.00	$ 34,363.00	$ 34,363.00	$ 9,200.00	$ 9,200.00
22	Modify 8-Inch Overflow - Kings Tank No. 2	1	LS	$ 9,545.00	$ 9,500.00	$ 1,900.00	$ 1,900.00	$ 8,500.00	$ 8,500.00	$ 34,363.00	$ 34,363.00	$ 9,200.00	$ 9,200.00
23	Install 36-inch Access Manway	2	EA	$ 4,830.00	$ 9,700.00	$ 7,300.00	$ 14,600.00	$ 7,500.00	$ 15,000.00	$ 18,262.00	$ 36,524.00	$ 14,900.00	$ 29,800.00
24	Interior Coating Complete Removal and Replacement - Blanca Welded Tanks	2	EA	$ 70,150.00	$ 140,300.00	$ 74,253.00	$ 148,506.00	$ 88,000.00	$ 176,000.00	$ 101,011.00	$ 202,022.00	$ 69,500.00	$ 139,000.00
25	Interior Coating Complete Removal and Replacement - Blanca Bolted Tanks	2	EA	$ 92,000.00	$ 184,000.00	$ 89,115.00	$ 178,230.00	$ 75,000.00	$ 150,000.00	$ 145,000.00	$ 290,000.00	$ 76,500.00	$ 153,000.00
26	Interior Coating Complete Removal and Replacement - Kings Tank No. 1	1	EA	$ 310,500.00	$ 310,500.00	$ 266,290.00	$ 266,290.00	$ 270,000.00	$ 270,000.00	$ 325,831.00	$ 325,831.00	$ 260,400.00	$ 260,400.00
27	Interior Coating Complete Removal and Replacement - Kings Tank No. 2	1	EA	$ 442,750.00	$ 442,800.00	$ 330,130.00	$ 330,130.00	$ 430,000.00	$ 430,000.00	$ 399,966.00	$ 399,966.00	$ 402,100.00	$ 402,100.00
28	Exterior Tank Steel Spot Repairs	6,600	SF	$ 23.00	$ 151,800.00	$ 6.60	$ 43,560.00	$ 15.00	$ 99,000.00	$ 125.00	$ 825,000.00	$ 16.00	$ 105,600.00
29	Exterior Tank Spot Prime and Complete Overcoat - Blanca Welded Tanks	2	EA	$ 51,750.00	$ 103,500.00	$ 16,450.00	$ 32,900.00	$ 11,000.00	$ 22,000.00	$ 59,105.00	$ 118,210.00	$ 24,400.00	$ 48,800.00
30	Exterior Tank Spot Prime, Surface Prep, and Complete Overcoat - Blanca Bolted Tanks	2	EA	$ 80,500.00	$ 161,000.00	$ 16,450.00	$ 32,900.00	$ 12,500.00	$ 25,000.00	$ 75,762.00	$ 151,524.00	$ 34,000.00	$ 68,000.00
31	Exterior Tank Spot Prime and Complete Overcoat - Kings Tank No. 1	1	EA	$ 169,050.00	$ 169,100.00	$ 55,890.00	$ 55,890.00	$ 30,000.00	$ 30,000.00	$ 105,333.00	$ 105,333.00	$ 66,200.00	$ 66,200.00
32	Exterior Tank Spot Prime and Complete Overcoat - Kings Tank No. 2	1	EA	$ 230,000.00	$ 230,000.00	$ 81,700.00	$ 81,700.00	$ 45,000.00	$ 45,000.00	$ 137,465.00	$ 137,465.00	$ 89,500.00	$ 89,500.00
EE33	Dehumidification Equipment	28	WK	$ 6,325.00	$ 177,100.00								
33	Dehumidification – Kings Tank No. 1	6	WK	$ -	$ -	$ 8,550.00	$ 51,300.00	$ 1,500.00	$ 9,000.00	$ 7,559.00	$ 45,354.00	$ 2,200.00	$ 13,200.00
34	Dehumidification – Kings Tank No. 2	8	WK	$ -	$ -	$ 8,550.00	$ 68,400.00	$ 1,500.00	$ 12,000.00	$ 7,559.00	$ 60,472.00	$ 2,200.00	$ 17,600.00
35	Dehumidification – Blanca Tank No. 1	4	WK	$ -	$ -	$ 4,175.00	$ 16,700.00	$ 1,500.00	$ 6,000.00	$ 7,559.00	$ 30,236.00	$ 2,200.00	$ 8,800.00
36	Dehumidification – Blanca Tank No. 2	4	WK	$ -	$ -	$ 4,175.00	$ 16,700.00	$ 1,500.00	$ 6,000.00	$ 7,559.00	$ 30,236.00	$ 2,200.00	$ 8,800.00
37	Dehumidification – Blanca Tank No. 3	4	WK	$ -	$ -	$ 4,175.00	$ 16,700.00	$ 1,500.00	$ 6,000.00	$ 7,559.00	$ 30,236.00	$ 2,200.00	$ 8,800.00
38	Dehumidification – Blanca Tank No. 4	4	WK	$ -	$ -	$ 4,175.00	$ 16,700.00	$ 1,500.00	$ 6,000.00	$ 7,559.00	$ 30,236.00	$ 2,200.00	$ 8,800.00
39	Center Support Column Modifications	5	EA	$ -	$ -	$ 6,325.00	$ 31,625.00	$ 4,500.00	$ 22,500.00	$ 27,000.00	$ 135,000.00	$ 4,300.00	$ 21,500.00
40	Install Fall Protection Anchors	8	EA	$ -	$ -	$ 335.00	$ 2,680.00	$ 650.00	$ 5,200.00	$ 1,700.00	$ 13,600.00	$ 800.00	$ 6,400.00
41	Install Chime Seal – Kings Tank No. 1	1	LS	$ -	$ -	$ 1,500.00	$ 1,500.00	$ 6,000.00	$ 6,000.00	$ 3,000.00	$ 3,000.00	$ 3,800.00	$ 3,800.00
42	Install Chime Seal – Kings Tank No. 2	1	LS	$ -	$ -	$ 2,000.00	$ 2,000.00	$ 7,000.00	$ 7,000.00	$ 3,000.00	$ 3,000.00	$ 4,400.00	$ 4,400.00
43	Install Chime Seal – Blanca Tanks	4	EA	$ -	$ -	$ 1,000.00	$ 4,000.00	$ 3,000.00	$ 12,000.00	$ 3,000.00	$ 12,000.00	$ 2,200.00	$ 8,800.00
44	Install Steel Patch Plate (12" Square or less)	30	EA	$ -	$ -	$ 162.00	$ 4,860.00	$ 350.00	$ 10,500.00	$ 350.00	$ 10,500.00	$ 300.00	$ 9,000.00
45	Annual Maintenance Contract	10	YR	$ 5,750.00	$ 57,500.00	$ 18,796.50	$ 187,965.00	$ 30,000.00	$ 300,000.00	$ 100,000.00	$ 1,000,000.00	$ 53,000.00	$ 530,000.00
TOTAL				$	$ 2,633,900.00		$ 2,039,268.00		$ 2,179,400.00		$ 4,692,075.00		$ 2,550,500.00
Optional Alternative Bid Item													
A-46	Factory Rehab of Bolted Blanca Tanks	2	EA			$ 256,400.00	$ 512,800.00	$ 225,000.00	$ 450,000.00	No Bid	No Bid		No Bid
					Items deleted if A-46 Awarded		$ 244,530.00		$ 187,000.00				
					Bid Amout if A-46 Awarded		$ 2,307,538.00		$ 2,442,400.00				

Notes: Bid items 33- 38 are combined in Engineer's Estimate
Bid items 39- 44 are inclusive with other bid items in Engineer's Estimate
Engineers estimate includes 15-percent contingency
Spreadsheet corrects arithmatic errors in the bids (highlighted)

ATTACHMENT 2

From: Larry Wombles <lwombles@a-c-e-inc.com>
Sent: Thursday, October 21, 2021 11:02 AM
To: Rob Livick
Cc: Shane Wombles; Shawn Owens
Subject: Kings Tanks and Blanca Tanks Rehabilitation Project - BID PROTEST

Mr. Livick,
Thank you for opportunity to bid your project. Please be advised that Paso Robles Tank, Inc. would like to file a bid formal bid protest against the apparent low bidder on basis that STS provide an unbalanced bid by way of listed subcontractor balances and scope of work. This email will serve as our protest unless you request that we submit in paper form at district office?

1. STS appears to list Brand Energy Services for all their field coatings work.
    a. STS list that Brand Energy Services is performing 30% of the work when the coatings represents estimated 60% of the field coatings work.
    b. We do not believe that Brand Energy Services holds the required SSPC QP1 nor SSPC QP2 certifications nor have the 10-years field coatings experience on water tanks.
        i. While Brand parent company owns many other companies and subsidiaries whom may hold the SSPC certs and/or water tank coatings experience, that is not whom STS listed as their subcontractor.
        ii. Brand Energy Services contract amount is much higher than 30%.
            1. We believe STS is intended to deceive the owner in paying for Brand Energy Services labor only in contract form while then issuing a Purchase order for their tooling, equipment, and coating materials on back end so that it 'appears' that they are only performing 30% of the contract value.
            2. If you take all the total paint numbers that represent field coatings work, you will see that it totals +/- $1,273,590.
                a. Lets assume STC added 5% to this number for total of $1,209,910. This number represents that Brand Energy Services is performing + 60% of the contract value which goes against the specified California public contract code which requires minimum of 50.1% be performed by the General Contractor.

2. If Owner considers true % of work performed by STS, then they are subcontracting out +75% of work which is against the project specifications and CA Public Contract Code. It appears that STS is carrying paper and simply monitoring the job for the duration.

While it can be stated that PRT listed ATC for 40% of the contract value, you should note that PRT and ATC as wholly owned subsidiaries of the same parent company, Associated Construction and Engineering, Inc. thus common ownership of both. PRT was also going to perform field coatings, thus the idea that we've done same is not true.

We ask that Morro Bay provide us with a complete copy of STS proposal so that we may also review their bid breakdown for further discrepancies. For now, we base our protest based upon the above and ask that the Honorable City of Morro Bay reject Superior Tank Solutions bid as non-responsive and award to most responsive bidder in Paso Robles Tank, Inc.

Larry Wombles

PASO ROBLES TANK INC.
951-956-9943

ONE NATION UNDER GOD & IN GOD WE TRUST!

"This is what the kingdom of God is like. A man scatters seed on the ground. Night and day, whether he sleeps or gets up, the seed sprouts and grows, though he does not know how. All by itself the soil produces grain-first the stalk, then the head, then the full kernel in the head. As soon as the grain is ripe, he puts the sickle to it, because the harvest has come."

Mark 4:26-29

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ATTACHMENT 3

From: Matthew Hoose <mhoose@superiortanksolutions.com>
Sent: Monday, October 25, 2021 7:04 PM
To: Rob Livick; Joe Mueller
Cc: Joseph Pannone; Steven Bishop; Matthew Tasch
Subject: RE: Kings Tanks and Blanca Tanks Rehabilitation Project - BID PROTEST

Importance: High

Mr. Livick,

We appreciate you allowing STS to address the protest by Paso Robles Tank (PRT) and Mr. Wombles. Unfortunately, this same type of protest is common practice for this particular contractor group when they are not the apparent successful bidder throughout the industry. This is definitely a cut and paste boilerplate response from the accuser. This protest, as with many others they have lodged in the past does not have merit, is no more than a desperate effort by the second-place contractor to try and gain award of the contract in question, a subversive attempt to gain proprietary pricing knowledge from a competitor and an attempt to discredit a competitor. By no means has STS attempted to deceive the City as we have been so accused. STS will be happy to share any information about our proposal submission with the City; however, this information is proprietary and we ask that it not be shared with any of our competitors. While it is easy for PRT/ Mr. Wombles to assume and speculate with "ifs"; "do not believe" and "appears to" on how much he knows of the inner workings of STS or any other contractor for that matter, his aspersions are 100% incorrect and arguably slanderous. That being said, please see the below responses to PRT's protest email in red:

1. *STS appears to list Brand Energy Services for all their field coatings work.*
    a. *STS list that Brand Energy Services is performing 30% of the work when the coatings represents estimated 60% of the field coatings work.* STS's portion of the coating work on this project totals for Bid Items 24-32 and 41-43 is 57.4% of STS's total contact price. Brand Energy Services of California's contract portion of the work will equate to 30% or less of that total.
    b. *We do not believe that Brand Energy Services holds the required SSPC QP1 nor SSPC QP2 certifications nor have the 10-years field coatings experience on water tanks.*
        i. *While Brand parent company owns many other companies and subsidiaries whom may hold the SSPC certs and/or water tank coatings experience, that is not whom STS listed as their subcontractor.* STS did not list Brand parent company as our subcontractor this statement is moot. However, STS listed Brand Energy Services of California CSLB License # 867721 which has been in good standing since 11/2005, has held the C-33 license portion since 11/2010 (more than ten years) and has a current SSPC QP-1 certification. STS has supplied a plethora of similar work references with our bid package as well as our supplementary Asset Management Program Overview.
        ii. *Brand Energy Services contract amount is much higher than 30%.* *This statement has zero merit and is purely speculation on PRT's part.*
            1. *We believe STS is intended to deceive the owner in paying for Brand Energy Services labor only in contract form while then issuing a Purchase order for their tooling, equipment, and coating materials on back end so that it 'appears' that they are only performing 30% of the contract value.* This statement seems like it borders on libel since STS is/will not issue Brand Energy Services of California "backdoor" purchase orders separately for tooling and equipment as accused. STS will purchase and pay for directly, 100% of all materials associated with the surface preparation and coating tasks for the Bid Line Items in question.

2. If you take all the total paint numbers that represent field coatings work, you will see that it totals +/- $1,273,590. This statement refuted above in item 1a., has zero merit and is purely speculation on PRT's part.
    a. *Lets assume STC added 5% to this number for total of $1,209,910. This number represents that Brand Energy Services is performing + 60% of the contract value which goes against the specified California public contract code which requires minimum of 50.1% be performed by the General Contractor.* This statement refuted above in item 1a., has zero merit and is purely speculation on PRT's part. While this claim is untrue and baseless, per the protest requirements listed on page 21 section 7 the project specifications, there is zero substantiation from the protesting party for the basis of their claims and is lacking references of the specific sections in both the project specification and public contracting code.

2. *If Owner considers true % of work performed by STS, then they are subcontracting out +75% of work which is against the project specifications and CA Public Contract Code. It appears that STS is carrying paper and simply monitoring the job for the duration.* This statement refuted above in item 1a., has zero merit and is purely speculation on PRT's part. While this claim is untrue and baseless, per the protest requirements listed on page 21 section 7 the project specifications, there is zero substantiation from the protesting party for the basis of their claims and is lacking references of the specific sections in both the project specification and public contracting code.

While it can be stated that PRT listed ATC for 40% of the contract value, you should note that PRT and ATC as wholly owned subsidiaries of the same parent company, Associated Construction and Engineering, Inc. thus common ownership of both. PRT was also going to perform field coatings, thus the idea that we've done same is not true. This is confusing here and not sure what PRT's point is other than that their intent was to not utilize the subcontractor that they listed for that portion of the work in their proposal documents.

Again, we thank you for allowing STS the opportunity to respond and refute the accusations. We ask that you reject this baseless protest and award the project to STS as the rightful responsive and lowest bidder with the most experience in tank asset management.

Thanks again and best regards,

Matt Hoose
Central Region Sales/Project Manager
Cell: 661.304.7352
NACE Certified CIP level III #75128

SUPERIOR TANK SOLUTIONS

mhoose@superiortanksolutions.com

Superior Tank Solutions
9500 Lucas Ranch Road
Rancho Cucamonga, CA 91730
www.superiortanksolutions.com

From: Rob Livick <rlivick@morrobayca.gov>
Sent: Thursday, October 21, 2021 5:35 PM

To: Matthew Hoose <mhoose@superiortanksolutions.com>
Cc: Joseph Pannone <jpannone@awattorneys.com>
Subject: FW: Kings Tanks and Blanca Tanks Rehabilitation Project - BID PROTEST

Matt,

The City received a bid formal bid protest against the apparent low bidder Superior Tank Solutions, INC (STS), see below. The City is requesting a response from STS addressing the protest points to help us determine the merit of this protest.

Additionally, Paso Robles Tank, requested your complete bid package, which the City is supplying.

Thank You

Rob Livick, PE/PLS/QSD - City Engineer (he/him)
C61057/PLS8126
City of Morro Bay
595 Harbor Street (Mail)
955 Shasta Avenue (Walk, Bike or Drive)
Morro Bay, CA 93442
rlivick@morrobayca.gov
Phone: (805)772-6569

Please consider the environment before printing this e-mail.

From: Larry Wombles <lwombles@a-c-e-inc.com>
Sent: Thursday, October 21, 2021 11:02 AM
To: Rob Livick <rlivick@morrobayca.gov>
Cc: Shane Wombles <swombles@pasoroblestank.com>; Shawn Owens <sowens@a-c-e-inc.com>
Subject: Kings Tanks and Blanca Tanks Rehabilitation Project - BID PROTEST

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Larry Wombles
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