



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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

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## Regular Meeting Tuesday, January 11, 2022 – 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

- Barbara Spagnola appreciation proclamation
- Presentation of Stormwater Award for Tidelands Pocket Park

### 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](mailto:council@morrobayca.gov) prior to 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=aWZpTzcwTHlRTk9xaTlmWVNWRFUQT09>  
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 26, 2021, CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE NOVEMBER 9, 2021, CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-3 APPROVAL OF MINUTES FOR THE NOVEMBER 10, 2021, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-4 APPOINTMENT OF MAYOR PRO TEMPORE; APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; REMOVE COMPLETED/DISBANDED COUNCIL LIAISON ASSIGNMENTS; (CITY CLERK)

**RECOMMENDATION: Appoint Council Member Laurel Barton as Mayor Pro Tempore; appoint representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2022 as shown on the attached appointment list; and remove Council Liaison assignments that are no longer needed.**

- A-5 ADOPTION OF RESOLUTIONS FOR THE JUNE 7, 2022 SPECIAL MUNICIPAL ELECTION TO FILL A COUNCIL SEAT; (CITY CLERK)

**RECOMMENDATION: Staff recommends Council adopt Resolution No. 01-22 calling a special municipal election for June 7, 2022 to fill a vacant City Council seat for the remainder of a term ending December 2024, and requesting consolidation of the election with the County, and adopt Resolution No. 02-22 adopting regulations for candidate statements.**

- A-6 CONSIDERATION OF LICENSE AGREEMENT WITH SISU COLLECTIVE LLC FOR THE CITY'S TEMPORARY USE OF SCOUT COFFEE'S PARKING LOT AT 390 MORRO BAY AVENUE, AS A PUBLIC PARKING LOT; (CITY MANAGER)

**RECOMMENDATION: City Council authorize staff to execute a license agreement with SISU Collective LLC (Scout Coffee) for the City's temporary use of Scout Coffee's parking lot, located at 390 Morro Bay Avenue, as a public parking lot.**

- A-7 SECOND READING AND ADOPTION OF ORDINANCE NO. 646, UPDATES TO CHAPTER 3.08 OF THE CITY'S MUNICIPAL CODE, PURCHASING SYSTEM; (ADMINISTRATIVE SERVICES DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 646: "An Ordinance of the City Council of the City of Morro Bay, California, Amending Morro Bay Municipal Code Chapter 3.08 of Title 3 to Update the City's Purchasing System."**

- A-8 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. 03-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.**

- A-9 PROCLAMATION EXPRESSING APPRECIATION FOR THE DEDICATION AND PUBLIC SERVICE OF BARBARA SPAGNOLA; (ADMINISTRATION)

**RECOMMENDATION: Approved as submitted**

- B. PUBLIC HEARINGS - NONE

- C. BUSINESS ITEMS

- C-1 DISCUSSION OF, AND CONSIDER ACTIONS TO ADDRESS, PENSION LIABILITIES AND OTHER POST-EMPLOYMENT BENEFIT UNFUNDED LIABILITIES; (ADMINISTRATIVE SERVICES DEPARTMENT)

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

1. Receive and file the informational presentation on CalPERS and the City's unfunded liability and options to address and provide input and feedback;
2. Direct staff to establish a Pension Reserve and, through the FY 2022-23 budget process, set aside a one-time lump sum contribution from FY 2020-21 operating surplus, and to budget annual contributions to the Pension Reserve going forward;
3. Direct staff to establish a Section 115 Trust as the vehicle for the Pension Reserve, and to include one member of the Citizens Finance Advisory Committee (CFAC) on the selection committee to establish the Trust, if there is interest; and
4. Direct staff to continue the current practice of contributing to a restricted trust annually for Other Post-Employment Benefit (OPEB) unfunded liabilities and evaluate whether the current trust is sufficient or whether an alternative trust should be established as part of the Section 115 CalPERS trust establishment.

- C-2 1) APPROVAL OF AMENDMENT NO. 3 TO CONTRACT WITH WATER WORKS ENGINEERS, LLC FOR ENGINEERING DESIGN SERVICES DURING CONSTRUCTION FOR THE WATER RECLAMATION FACILITY LIFT STATION AND OFFSITE PIPELINES; AND 2) APPROVAL OF AMENDMENT NO. 2 TO CONTRACT WITH ANVIL BUILDERS, INC., FOR CONSTRUCTION SERVICES FOR THE WATER RECLAMATION FACILITY (WRF) LIFT STATION AND OFFSITE PIPELINES; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION:** Staff recommends the City Council authorize the City Manager to execute the following: 1) Amendment No. 3 to the agreement with Water Works Engineers, LLC (WWE) for Engineering Design Services during Construction and optional tasks for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines for the amount of \$132,239 with an additional \$84,857 for optional additional services for a grand total of \$217,096; and 2) Amendment No. 2 to the agreement with Anvil Builders, Inc., (Anvil) for construction of the WRF Conveyance Facilities for the amount of \$587,502.00.

- C-3 DISCUSS COUNCILMEMBER COMPENSATION AND CONSIDER INTRODUCTION OF ORDINANCE NO. 647 TO INCREASE CONSISTENT WITH STATE LAW AND CFAC RECOMMENDATION THE SALARIES OF CITY COUNCILMEMBERS AND THE MAYOR; (CITY MANAGER/CITY ATTORNEY/CITY CLERK/ADMINISTRATIVE SERVICES DEPARTMENT)

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

1. Accept Citizen Finance Advisory Committee's (CFAC) recommendation to adjust Councilmember compensation by ordinance by \$500/month per Councilmember and an additional \$200/month for the Mayor, by introducing, for first reading by title only and with further reading waived, Ordinance No. 647, "An Ordinance of the City Council of the City of Morro Bay, California, Amending Chapter 2.20 (Officers' Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code, to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor."
2. Accept CFAC's recommendation to make no adjustments to current Councilmember health benefits.

- C-4 ADOPT RESOLUTION NO. 04-22 AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR STATE RURAL RECREATION AND TOURISM GRANT PROGRAM FOR COLEMAN PARK IMPROVEMENTS AND PROVIDE INPUT ON COLEMAN PARK CONCEPTUAL PLAN; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION:** Staff recommends the City Council 1) adopt Resolution No. 04-22 authorizing the submission of a grant application for the State Rural Recreation and Tourism Program (RRT) for the Coleman Park Improvements project and 2) provide input to staff on the Coleman Park conceptual plan and recreational and cultural amenities for the park.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, January 25, 2022 at 5:30 p.m.** via teleconference.

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

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

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

*City Council conducted this meeting in accordance with California Governor Newsom’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
	Dana Swanson	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
	Nancy Hubbard	Contract Planner

#### ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 5:32 p.m., with all members present.

#### MOMENT OF SILENCE

#### PLEDGE OF ALLEGIANCE

RECOGNITION – None

#### MAYOR & COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

#### CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

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

#### PRESENTATIONS

<https://youtu.be/DbYZeRIsE-M?t=737>

- Friends of the Morro Bay Harbor Department Presentation by Roger Allen
- Presentation by Senior Chief Ben Snider, U.S. Coast Guard Station Morro Bay

#### PUBLIC COMMENT

<https://youtu.be/DbYZeRIsE-M?t=1619>

Linda Winters, Morro Bay, offered to meet with Council Members to discuss state regulations governing mobile home parks and invited all mobile home park residents to the Morro Bay Thanksgiving Dinner.

Richard Sadowski, Morro Bay, requested the Council continue supporting the estuary air monitoring program by funding the purchase of an air monitoring device.

Dawn Beattie, Morro Bay, thanked staff for supporting the Cloisters concert which had been postponed until spring due to inclement weather.

Betty Winholtz, Morro Bay, commented on traffic and other issues related to the Water Reclamation Facility construction project.

Kathleen Minck, Diversity Coalition Board Member, provided an overview of services and educational opportunities their program offers for ages Pre-K through adult.

Mayor Heading closed public comment.

Staff responded to questions raised during public comment.

A. CONSENT AGENDA  
<https://youtu.be/DbYZeRIsE-M?t=2716>

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

A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 28, 2021, CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE SEPTEMBER 29, 2021, CITY COUNCIL SPECIAL  
MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE OCTOBER 12, 2021, CITY COUNCIL SPECIAL  
CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-4 RESOLUTION MAKING FINDINGS RELATED TO 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 RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL  
NO. 361; (CITY ATTORNEY)

**RECOMMENDATION: Staff recommends Council consider adoption of Resolution  
No. 70-21 authorizing for public health and safety the conduct of public meetings  
of the legislative bodies of the City via remote conferencing.**

A-5 APPROVAL OF A 5-YEAR CONTRACT WITH ALEXANDER'S CONTRACT SERVICES,  
INC. FOR MONTHLY WATER METER READING SERVICES. (PUBLIC WORKS  
DEPARTMENT)

**RECOMMENDATION: Staff recommends City Council authorize the City Manager to  
execute a 5-year contract through a sole source procurement with Alexander's  
Contract Services, Inc. (Alexander's) for monthly water meter reading.**

A-6 APPROVAL OF FISCAL YEAR 2020-21 YEAR-END BUDGET ADJUSTMENTS, PART 1 OF 2; (ADMINISTRATIVE SERVICES DEPARTMENT)

**RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 73-21 approving Fiscal Year 2020-21 Year-End Budget Adjustments, Part 1 of 2.**

Mayor Headding opened public comment for the Consent Agenda.

<https://youtu.be/DbYZeRIsE-M?t=2728>

Betty Winholtz, Morro Bay, commented on Item A-4 asking why the Council would not allow the public to meet in a safe distancing fashion at the Veterans Hall.

The public comment period was closed.

Mayor Headding pulled Item A-4.

MOTION: Council Member Addis moved approval of Items A-1 through A-3, A-5 and A-6 on the Consent Agenda. The motion was seconded by Council Member Ford and carried 5-0 by roll call vote.

A-4 RESOLUTION MAKING FINDINGS RELATED TO 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 RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

<https://youtu.be/DbYZeRIsE-M?t=2867>

City Attorney Neumeyer provided an overview of the item and responded to questions raised during public comment.

MOTION: Mayor Headding moved approval of Item A-4. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

## B. PUBLIC HEARINGS

B-1 MAJOR MODIFICATION (MAJ21-005) AND COASTAL DEVELOPMENT PERMIT (CDP21-036) TO APPROVE THE CHANGE FROM 6 NEW RESIDENTIAL PARCELS TO 5 NEW RESIDENTIAL PARCELS ON A .99-ACRE SITE LOCATED AT 2783 CORAL AVENUE AS PART OF THE CLOISTER'S SUBDIVISION TRACT 1996. THE 6-UNIT PROJECT WAS APPROVED BY CITY COUNCIL (THROUGH APPEAL) ON NOVEMBER 3, 2018, WITH THE FOLLOWING PERMITS: CONDITIONAL USE PERMIT (UP0-470), VESTING TENTATIVE MAP NO. 2859 (S00-127) SUBJECT TO CONDITIONS OF APPROVAL AND THE MITIGATION AND MONITORING PLAN INCLUDED IN THE ADOPTED MITIGATED NEGATIVE DECLARATION. THE PROJECT IS ZONED CRR/GC/PD (COASTAL RESOURCE RESIDENTIAL/GOLF COURSE/PLANNED DEVELOPMENT) AND IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION; (COMMUNITY DEVELOPMENT DEPARTMENT)

<https://youtu.be/DbYZeRIsE-M?t=3067>

Contract Planner Hubbard presented the report and responded to Council inquiries.

Mayor Headding opened the Public Hearing.

Kevin Huber, Applicant, provided an overview of amendments made to address concerns raised at previous public hearings and was consistent with all City codes. He requested the Council approve the project as submitted.

Mayor Heading opened Public Comment.

Dawn Beattie, Morro Bay, questioned the relationship between Mr. Huber, Jeff Maher and Morro Bay Ventures.

Betty Winholtz, Morro Bay, requested clarification on various issues and suggested the changes made required further review by the Planning Commission.

Melanie Williams-Mahan, Morro Bay resident speaking on behalf of the Cloisters Design Committee, requested the Council postpone the decision until they hear back from the California Coastal Commission.

Mayor Heading closed Public Comment and invited Mr. Huber to respond to issues that had been raised.

The Public Hearing was closed.

Staff responded to questions raised during public comment.

MOTION: Council Member Addis moved to conditionally approve the project by adopting City Council Resolution No. 71-21, which includes findings for MAJ21-005 and CDP21-036 subject to the conditions of approval related to this modification and mitigation measures from the 2018 adopted Mitigated Negative Declaration for the project. The motion was seconded by Mayor Heading for discussion.

Council Member Heller stated he could not support the project due to concerns about common shared driveways and lack of guest parking for five homes with ADUs.

The motion carried 4-1 by roll call vote with Council Member Heller opposed.

## C. BUSINESS ITEMS

- C-1 RECEIVE SUMMARY OF COMMUNITY FORUM ON MORRO BAY POWER PLANT (MBPP) EXHAUST STACKS AND AUTHORIZE THE CITY MANAGER TO SEND A LETTER TO VISTRA CORP INFORMING THEM CITY RELEASES VISTRA FROM CITY OPTION TO REQUEST STACKS REMAIN ON MBPP FACILITIES; (CITY MANAGER)  
<https://youtu.be/DbYZeRIsE-M?t=6096>

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

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

Betty Winholtz, Morro Bay, objected to a decision being made at this time and urged the Council to allow more time for public input.

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

MOTION: Mayor Heading moved to 1) receive the summary of the September 8, 2021, Community Forum "Facts about the Stacks"; 2) authorize the City

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Manager to send a letter to Vistra Corp informing Vistra the City will not exercise its option to request that the stacks remain (per Section 7 of the Memorandum of Understanding between the City of Morro Bay and Vistra Corp), and that the City unconditionally releases Vistra from any possible exercise by the City of that option. The motion was seconded by Council Member Addis for discussion.

AMENDED MOTION: Mayor Heading amended the motion to include that staff be directed to move forward to discuss with Vistra a proposal to honor the power plant and stacks with a monument/point of interest in the event of the facilities and stacks coming down. Council Member Addis seconded amended the motion.

Council Member Heller acknowledged the potential cost issues but wanted to take the next year to assess potential re-use opportunities.

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

C-2 ADOPT RESOLUTION NO. 72-21 AWARDED FISCAL YEAR 2021-22 COMMUNITY GRANTS; (CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENT)  
<https://youtu.be/DbYZeRIe-M?t=8346>

Council Member Ford announced that she will recuse herself from C-2 due to her financial interest in one or more of the grantees. Council Member Ford left the zoom meeting at 7:52 p.m.

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

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

Janet Hillson, Morro Bay Art Association, appreciated the Council's support and shared how the COVID-19 pandemic had impacted their activities and programs.

Rhonda Crowfoot, President of By the Sea Productions, expressed appreciation for the financial support.

Scott Mather, President of Morro Bay Maritime Museum, thanked staff for its positive response to their grant application.

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

The Council discussed ways in which funding could be redistributed in order to support Ecologistics efforts to address climate change and fully fund the request submitted for By the Sea Productions.

MOTION: Council Member Addis moved to adopt Resolution No. 72-21, approving the grant recommendation with the addition of \$1,000 from the regular community grant fund to go to Ecologistics, and the addition of \$344 more to By the Sea Productions from ARPA funds for a total of \$51,344. The motion was seconded by Council Member Heller and carried 4-0-1 by roll call vote with Council Member Ford having abstained.

MOTION: Mayor Heading moved to authorize the City Manager to enter into agreements with all grantees, reviewing and adjusting insurance requirements on a case-

by-case basis, in coordination with California JPIA and City Attorney's Office, depending on the level of risk associated. The motion was seconded by Council Member Addis and carried 4-0-1 by roll vote with Council Member Ford having abstained.

Council Member Ford rejoined the meeting at 8:19 p.m.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
<https://youtu.be/DbYZeRIsE-M?t=10026>

In consideration of the City's prioritization of community health and focus on diversity, equity and inclusion, Council Member Addis requested and received full support for a resolution declaring our commitment to being a city that welcomes all people, is committed to community health including reproductive freedom, and affirms the constitutional rights enframed by Roe.

Council Member Heller requested and received full support to have staff work with Carollo Engineering to revise the WRF quarterly reports so they are more user friendly and bring back a revised report for Council review at the December meeting.

Council Member Ford commented on safety concerns at the San Jacinto and Coral Avenue intersection and requested a speed survey or report on potential improvements. Mr. Collins offered a speed survey may be a proposed action item at the upcoming goals meeting.

E. ADJOURNMENT

The meeting adjourned at 8:27 p.m.

Recorded by:

Dana Swanson  
City Clerk

*City Council conducted this meeting in accordance with California Governor Newsom’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
	Dana Swanson	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.

#### MAYOR & COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/yDLOpHLhsCA?t=196>

#### CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/yDLOpHLhsCA?t=772>

#### PRESENTATIONS

<https://youtu.be/yDLOpHLhsCA?t=845>

- o Family Court Awareness Month Proclamation presented to Tina Swithin

#### PUBLIC COMMENT

<https://youtu.be/yDLOpHLhsCA?t=1143>

Betty Winholtz, Morro Bay, recognized former Council Member Melody DeMeritt who recently passed for her leadership and love for the environment. She also inquired about recent tree cutting at Bayshore Park.

Linda Winters, Morro Bay, invited residents to attend the community Thanksgiving Dinner.

Mayor Headding closed public comment.

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

A. CONSENT AGENDA  
<https://youtu.be/yDLOpHLhsCA?t=1546>

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 Trolley 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**

Mayor Headding opened public comment for the Consent Agenda.

Don Maruska commented on Item A-7 noting the importance of retaining our coastal community of interest and that redistricting maps not be used to serve political interests. He requested clarification regarding action being taken on Item A-5.

The public comment period was closed.

Council Member Heller pulled Item A-5.

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

- 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)  
<https://youtu.be/yDLOpHLhsCA?t=1877>

Council Member Heller suggested having the Mayor submit a letter concurring with the revised remedy may not be appropriate given the public comment period would be open until December 9<sup>th</sup>.

MOTION: Mayor Heading moved approval of Item A-5. The motion was seconded by Council Member Addis and carried 4-1 by roll call vote with Council Member Heller opposed.

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) <https://youtu.be/yDLOpHLhsCA?t=2025>

Senior Planner Jacinth provided the report and responded to Council inquiries.

Council Member Addis disclosed an ex parte meeting with Cathy Novak to walk the site.

Mayor Heading opened the Public Hearing.

Betty Winholtz, Appellant, responded to the staff presentation and restated points of concern submitted in her appeal.

Cathy Novak, Applicant Agent, requested the Council deny the appeal and approve the project as submitted.

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

The Public Hearing was closed.

Council Member Ford announced she was a member of the Planning Commission that approved the project. City Attorney Neumeyer recommended out of an abundance of caution she not participate in the appeal hearing. Council Member Ford recused herself from the item and left the zoom meeting at 6:35 p.m.

MOTION: Mayor Heading moved to 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. The motion was seconded by Council Member Barton for discussion.

Following comments, the motion carried 4-0-1 by roll call vote with Council Member Ford having abstained.

Council Member Ford rejoined the meeting at 6:40 p.m.

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)  
<https://youtu.be/yDLOpHLhsCA?t=4081>

Senior Planner Jacinth provided the report and responded to Council inquiries.

Mayor Headding opened the Public Hearing.

Cathy Novak, Applicant Agent, requested the Council approve the project as submitted noting the applicants have 12 years remaining on their lease and are willing to move forward with this project several years before entering into a new lease that would require it be done.

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

The Public Hearing was closed.

MOTION: Council Member Heller moved to 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. The motion was seconded by Council Member Addis.

Council Member Addis disclosed an ex parte meeting with Cathy Novak to walk the site.

Council Member Ford announced this project was on the agenda during her last Planning Commission meeting but had been pulled so she did not participate in the decision making.

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

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)  
<https://youtu.be/yDLOpHLhsCA?t=5116>

City Manager Collins introduced the item and turned to Steffan Turoff from Walker Consultants who provided the report and responded to Council inquiries.

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

Kyle Finger voiced his support for the parking plan.

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

MOTION: Mayor Headding moved to authorize staff to 1) pursue parking management system in the Embarcadero broadly that includes paid parking and is inclusive of sub-areas A & B, 2) conduct further analysis on the Morro Rock parking area, 3) consult with the California Coastal Commission staff, 4) seek

additional input from the parking user group, 5) as a first step towards implementation develop a paid parking pilot program and bring it back for Council consideration as soon as practical, 6) evaluate potential alternatives to accommodate employee parking on the Embarcadero, and 7) include an evaluation of industrial delivery zone parking and related issues. The motion was seconded by Council Member Barton.

Mayor Heading clarified the study area includes the triangle parking lot.

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

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

<https://youtu.be/yDLOpHLhsCA?t=8988>

Public Works Director Kwolek presented the report and, along with John DiNunzio from San Luis Obispo Council of Governments (SLOCOG), responded to Council inquiries.

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

Betty Winholtz, Morro Bay, disagreed this was not a decision on whether or not to pursue a roundabout as funding was dependent on the roundabout alternative. She also disagreed a roundabout would be more environmentally friendly and asked why issues raised in the ICE 2-step study were not included. She urged the Council to look at signalization for this intersection.

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

Staff responded to concerns raised during public comment.

MOTION: Mayor Heading moved to 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. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

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

<https://youtu.be/yDLOpHLhsCA?t=10565>

Administrative Services Director/Assistant City Manager Johnson-Rios provided the report and responded to Council inquiries.

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

MOTION: Council Member Addis moved to adopt 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. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

- 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)  
<https://youtu.be/yDLOpHLhsCA?t=11318>

Public Works Director Kwolek presented the report and, along with Management Analyst Burlingame and Special Legal Counsel Laymon, responded to Council inquiries.

The public comment period for Item C-4 was opened; seeing none, the public comment period was closed.

MOTION: Council Member Heller moved to 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." The motion was seconded by Mayor Headding and carried 5-0 by roll call vote.

- 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)  
<https://youtu.be/yDLOpHLhsCA?t=12884>

City Engineer Livick provided the report and responded to Council inquiries.

The public comment period for Item C-5 was opened; seeing one, the public comment period was closed.

MOTION: Mayor Headding moved to 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 the form by the City Attorney. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
<https://youtu.be/yDLOpHLhsCA?t=13479>

Mayor Headding requested and received full support for a report brought forward at a special meeting to review proposed State Redistricting and allow the Mayor to weigh in on proposed maps.

#### E. ADJOURNMENT

The meeting adjourned at 9:16 p.m.

Recorded by:

Dana Swanson  
City Clerk

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*City Council conducted this meeting in accordance with California Governor Newsom’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  
                         Dana Swanson                            City Clerk  
                         Sarah Johnson-Rios                    Assistant City Manager/Admin Services Dir.  
                         Scot Graham                             Community Development Director  
                         Greg Kwolek                              Public Works Director  
                         Daniel McCrain                         Fire Chief  
                         Eric Endersby                            Harbor Director  
                         Kirk Carmichael                        Recreation Services Manager  
                         Bonnie Johnson                        Police Support Services Manager

**ESTABLISH QUORUM AND CALL TO ORDER**

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

**PUBLIC COMMENT FOR ITEMS ON THE AGENDA**

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

**SPECIAL MEETING AGENDA ITEMS:**

- I.        CITY COUNCIL GOALS AND ACTION ITEMS ADOPTION; (CITY MANAGER)  
<https://youtu.be/laLiZkITBKU?t=161>

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

Following discussion, there was Council consensus on the following:

- Elevate “Climate Crisis” to “Climate Emergency” by way of resolution or some other method and seek funding to move Morro Bay forward in this area.
- Under Climate Action, add an action item to implement Central Coast Community Energy (“3CE”) Reach Code Incentive Program limited to electrification of new residential construction with the adoption of 2022 Building Code in January 2023.
- Provide community information/education and resources regarding access to mental health resources to address behavior health or mental health crises:
  - Substance abuse issues
  - Depressive illnesses

- Exacerbation of previously controlled mental health issues

Council Member Heller expressed concern about use of the term “climate emergency” and stated he was reluctant to add anything to the list.

MOTION: Mayor Heading moved to adopt the proposed City Council goals, goals’ statements, and short-term and long-term action Items with the changes that have been made. The motion was seconded by Council Member Addis and carried 4-1 by roll call vote with Council Member Heller opposed.

- II. DISCUSSION AND DIRECTION OF STATE REPRESENTATION TO SUPPORT CITY OF MORRO BAY PROJECTS AND ECONOMIC DEVELOPMENT INITIATIVES; (CITY MANAGER)  
<https://youtu.be/laLiZkITBKU?t=2985>

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

Christopher Townsend, President of Townsend Public Affairs, Inc. provided an overview of the representation and support they can provide to the City of Morro Bay and, along with Associate Andres Ramirez and Senior Director Richard Harmon, responded to Council inquiries.

MOTION: Council Member Addis moved to authorize the City Manager to execute an 8-month retainer agreement (November 2021 – June 30, 2022) with Townsend Public Affairs, in a form reviewed and approved by the City Attorney, to support efforts to gain state support and funding for the City’s goals; support offshore wind development and other economic development initiatives beneficial to Morro Bay; seek state grants for the Wastewater Reclamation Facility (WRF) project, OneWater infrastructure projects, and other infrastructure projects; and keep the City apprised of other relevant state legislation and funding opportunities. The motion was seconded by Mayor Heading and carried 5-0 by roll call vote.

#### ADJOURNMENT

The meeting adjourned at 5:16 p.m.

Recorded by:

Dana Swanson  
City Clerk



AGENDA NO: A-4  
MEETING DATE: January 11, 2022

# Council Report

**TO:** City Council **DATE:** January 4, 2022  
**FROM:** John Heading, Mayor  
**SUBJECT:** Appointment of Mayor Pro Tempore; Appointment of Representatives on Discretionary Boards, Council Liaison Assignments and Council Sub-Committees; Remove Completed/Disbanded Council Liaison Assignments

## **RECOMMENDATION**

Appoint Council Member Laurel Barton as Mayor Pro Tempore; appoint representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2022 as shown on the attached appointment list; and remove Council Liaison assignments that are no longer needed.

## **DISCUSSION**

### ***Mayor Pro Tempore***

The City Council Policies and Procedures Section 3.2 (Appointment of Mayor Pro Tempore) states:

“The appointment of the Mayor Pro Tempore shall be for a one-year term and shall be made at the first meeting in January. For appointment as Mayor Pro Tempore, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Mayor Pro Tempore. If there are two Council Members who have not yet held the position, then the Council Member receiving the highest number of votes in the most recent election shall be appointed Mayor Pro Tempore. If all have held the position, then the Council Member who has held it the least number of times shall be appointed Mayor Pro Tempore. If all Council Members have held it for the same number of years, then the Council Member for whom it has been the longest period of time since holding the position shall be appointed Mayor Pro Tempore.”

Based on the above policy, Council Member Barton shall be appointed as Mayor Pro Tempore for calendar year 2022.

### ***Representatives to serve on County or Regional Discretionary Boards***

The City Council Policies and Procedures Section 6.1 (“County or Regional Representation”) states:

Prepared By: <u>JHeading/DS</u>	Dept Review: _____
City Manager Review: <u>_SC</u>	City Attorney Review: <u>_CN</u>

“Annually the Mayor shall make appointments to a variety of County and/or regional committees and boards. One Member of the Council shall serve as a voting representative and one member shall serve as alternate. To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.”

Consistent with Council Policies and Procedures Section 6.1, the Mayor may seek input from City Council regarding appointments to County and/or Regional Boards, but ultimately, the Mayor is responsible for the appointment of these positions.

### ***Council Liaison Assignments***

The City Council Policies and Procedures Section 6.2.1 (“Council Liaison Assignments”) states:

“The City Council shall assign a Council liaison to each of the following advisory bodies: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, the Citizens Finance Advisory Committee, the Planning Commission and Tourism Business Improvement District Advisory Board. Council liaisons will also be appointed to the special purpose advisory bodies.

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council’s familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and maintain communication with the advisory body on a regular basis.

Council Members should be sensitive to the fact they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.”

Pursuant to Council Policies and Procedures Section 6.2.1, the City Council shall assign Council Liaisons to the Advisory Bodies. Attached for review and approval is a list of the proposed Council Liaison assignments for 2022.

At the June 8, 2021 City Council meeting, the Council adopted Resolution No. 28-21, resulting in the (re)formation of the Morro Bay Tourism Business Improvement District (MBTBID). Future action related to MBTBID will be conducted by California nonprofit Visit Morro Bay. City Council formally dissolved MBTBID in September 2021 and therefore the liaison assignment to this advisory body is no longer needed. The City will continue to have a representative on the San Luis Obispo County Tourism Marketing District Advisory Board.

### ***Council Sub-Committees***

The City Council Policies and Procedures Section 3.13 (“Council Sub-Committees”) states:

“From time to time it may be desirable for the City Council may vote to appoint a sub-committee of the whole to address a particular issue. That is especially the

case if the issue requires additional work or research. Per the Brown Act, sub-committees must consist of less than a quorum of the body and serve for a limited purpose and time. Therefore, the City Council sub-committees may consist of two members. Sub-committees shall report back to the full Council for discussion before any formal action can be taken on the pertinent issue. Establishing a subcommittee requires the body to define the purpose, parameters, and duration of the sub-committee. The City Clerk will keep the list of sub-committees and defined description as a record with Council liaison assignments for review annually.”

Attached for review and approval is a list of the proposed Council sub-subcommittee assignments for calendar year 2022.

**ATTACHMENT**

1. Proposed City Council Discretionary Appointments, Liaison Assignments and Council Sub-Committees for 2022.



## CITY COUNCIL LIAISON ASSIGNMENTS (2022)

PLANNING COMMISSION (meets 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of every month; 6:00pm; Vets Hall)

Jeff Heller Liaison

HARBOR ADVISORY BOARD (meets the 1<sup>st</sup> Thursday of the month, except January, April and July; 5:30pm; Vets Hall)

Dawn Addis Liaison

RECREATION AND PARKS COMMISSION (meets the 3<sup>rd</sup> Thursday of the month in odd-numbered months; 6:00pm; Vets Hall)

Laurel Barton Liaison

PUBLIC WORKS ADVISORY BOARD (meets the 3<sup>rd</sup> Wednesday of the month except July, November and December; 5:30pm; Vets Hall)

Jen Ford Liaison

SAN LUIS OBISPO COUNTY TOURISM MARKETING DISTRICT ADVISORY COMMITTEE (meets semi-annually on the first Thursday of May and December at Embassy Suites, 333 Madonna Rd., SLO)

Jen Ford Liaison

CITIZENS OVERSIGHT / FINANCE COMMITTEE (meets the 3<sup>rd</sup> Tuesday of the month except March, June, July, September and October: 3:00pm; Vets Hall)

John Headding Liaison

## CITY COUNCIL SUB-COMMITTEES (2022)

COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES (meets as needed)

John Headding Member  
Dawn Addis Member

WATER RECLAMATION FACILITY / JPA SUB-COMMITTEE

John Headding Member  
Jeff Heller Member

MORRO BAY POWER PLANT

John Headding Member  
Dawn Addis Member

CHEVRON PROPERTY

Dawn Addis Member  
John Headding Member

U.S. COAST GUARD

Jeff Heller Member  
Dawn Addis Member

ESTERO BAY ALLIANCE OF CARE ("EBAC")

Laurel Barton Member  
Jen Ford Member

BOEM INTERAGENCY TASK FORCE MEMBER ON WIND ENERGY

John Headding Member  
Jen Ford Alternate

ADVISORY BOARD APPOINTMENT PROCESS REVIEW (added 2/9/2021)

John Headding Member  
Dawn Addis Member

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AGENDA NO: A-5

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** January 3, 2022

**FROM:** Dana Swanson, City Clerk

**SUBJECT:** Adoption of Resolutions for the June 7, 2022 Special Municipal Election to Fill a Council Seat

## **RECOMMENDATION**

Staff recommends Council adopt Resolution No. 01-22 calling a special municipal election for June 7, 2022 to fill a vacant City Council seat for the remainder of a term ending December 2024, and requesting consolidation of the election with the County, and adopt Resolution No. 02-22 adopting regulations for candidate statements.

## **FISCAL IMPACT**

The estimated cost for calling and holding a special municipal election on June 7, 2022 for the election of one council member to fill a vacant seat is approximately \$30,000. Staff will bring this budget amendment to Council for approval at mid-year.

## **BACKGROUND**

At the September 14, 2021 City Council meeting, the Council appointed Jennifer Ford to temporarily fill the vacant City Council seat resulting from the passing of Council Member Robert "Red" Davis and directed staff to return with the necessary resolutions to call a Special Election on June 7, 2022, to fill that vacancy for the remainder of a term ending December 2024, and further request the County Board of Supervisors consolidate the Special Municipal Election with the Statewide Primary Election to be held on the same date. A link to the previous staff report and background information is available [here](#) (see Item C-1).

## **DISCUSSION**

In order to initiate the election process for a special municipal election to be held on Tuesday, June 7, 2022, two resolutions are presented for consideration by the Mayor and City Council. These two resolutions are pursuant to the provisions of law relating to elections in General Law Cities, in the State of California.

The first resolution calls and gives notice of the Special Municipal Election to be held on June 7, 2022, for the election of the one member of the City Council for the remainder of a term ending December 2024, and further requests that the County Board of Supervisors consolidate the Special Municipal Election with the statewide primary election to be held on the same date. Services provided by the County in a consolidated election include ballot creation, printing, mailing, collection, and counting, voter registration, and voting site operation. The City's request for consolidation commits

Prepared by: DS	Dept Review:
City Manager Review: <u>SC</u>	City Attorney Review: <u>CFN</u>

to reimbursing the County for its costs associated with consolidation.

The second resolution adopts regulations pertaining to candidate's statements to be submitted to the electorate prepared by any candidate for a municipal election, including the costs of such materials, foreign language translations as required by state law, and provision that the candidate's statements may be 200 words (the City Council may authorize 200 words or 400 words, pursuant to Election Code § 13307(a)(1)).

The formal nomination period for candidates will run from February 14 – March 11, 2022, and information regarding the 2022 Election will be available on the City website.

**CONCLUSION**

Staff recommends Council approve the two election resolutions for the holding of a special municipal election on June 7, 2022.

**ATTACHMENTS**

1. Resolution No. 01-22
2. Resolution No. 02-22

**RESOLUTION NO. 01-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION  
TO BE HELD ON TUESDAY, JUNE 7, 2022, FOR THE PURPOSE OF ELECTING A  
COUNCIL MEMBER TO SERVE THE REMAINDER OF A TERM ENDING DECEMBER 2024  
AS REQUIRED BY MORRO BAY MUNICIPAL CODE SECTION 2.06.030 AND PURSUANT  
TO THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES;  
AND, REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO  
CONSOLIDATE SAID ELECTION WITH THE STATEWIDE PRIMARY ELECTION TO BE  
HELD IN THE COUNTY ON TUESDAY, JUNE 7, 2022 PURSUANT TO SECTION 10403 OF  
THE ELECTION CODE; AND, OTHER ELECTION MATTERS AS REQUIRED BY LAW**

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

**WHEREAS**, Measure “R” was passed by the citizens of Morro Bay at the election held in November 2006, amending Morro Bay Municipal Code by adding Section 2.06.030 which provides for a special election to fill a vacancy on the Council while authorizing the Council to make an appointment to fill such vacancy prior to the special election; and

**WHEREAS**, Council Member Robert “Red” Davis, who was elected by the citizens of Morro Bay in November 2020 to serve a 4-year term as Council Member, passed away on July 24, 2021; and

**WHEREAS**, at the regular meeting held September 14, 2021, the Council temporarily appointed Jennifer Ford to fill the Council Member vacancy and directed staff to return with the necessary resolutions to call a Special Election on June 7, 2022, to fill that City Council seat for the remainder of a term ending December 2024; and

**WHEREAS**, it is desirable that said Special Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and that within the City of Morro Bay the precincts, polling places and election officers of the two elections be the same, and that the County Election Department of the County of San Luis Obispo canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election.

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

**SECTION 1.** That pursuant to the requirements of the laws of the State of California and Morro Bay Municipal Code Section 2.06.030, there is called and ordered to be held in the City of Morro Bay, California, on Tuesday, June 7, 2022, a Special Municipal Election for the purpose of electing one (1) member of the City Council of the City of Morro Bay for the remainder of a term ending December 2024.

**SECTION 2.** That the ballots to be used at the election shall be in form and content as required by law.

**SECTION 3.** That the City Clerk is authorized, instructed and directed to coordinate with the County of San Luis Obispo Clerk-Recorder to procure and furnish any and all official ballots, notices,

printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 4.** That the voting sites for the election shall be open at such hours and on such days as determined by the San Luis Obispo County Clerk Recorder (Registrar of Voters) provided that the opening and closure of voting sites is conducted in accordance with Sections 10242 and 14401 of the Elections Code of the State of California.

**SECTION 5.** That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 6.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

**SECTION 7.** That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Luis Obispo is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide Primary Election on Tuesday, June 7, 2022, for the purpose of the election of one (1) Member of the City Council.

**SECTION 8.** That the County Election Department is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

**SECTION 9.** That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

**SECTION 10.** That the City of Morro Bay recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

**SECTION 11.** That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Department of the County of San Luis Obispo.

**SECTION 12.** The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

**SECTION 13.** That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

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**SECTION 14.** This Resolution is effective on the day of its adoption.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11<sup>th</sup> day of January 2022 following vote:

AYES:

NOES:

ABSENT:

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

ATTEST:

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

**RESOLUTION NO. 02-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE,  
PERTAINING TO, AND COSTS OF, CANDIDATE STATEMENTS SUBMITTED  
TO THE VOTERS AT THE CONSOLIDATED SPECIAL MUNICIPAL  
ELECTION TO BE HELD ON TUESDAY, JUNE 7, 2022**

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

**WHEREAS**, California Elections Code section 13307 provides the governing body of any local agency shall adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of each candidate statement.

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

**SECTION 1. General Provisions.** Pursuant to California Elections Code section 13307, each candidate for elective office to be voted for at the Consolidated Special Municipal Election to be held in the City of Morro Bay on June 7, 2022, may prepare a candidate's statement on an appropriate form provided by the City Clerk. Such statement may include the name, age, and occupation of the candidate and a brief description, not exceeding 200 words, of the candidate's education and qualifications expressed by the candidate himself/herself. Such statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in the City Clerk's Office at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

**SECTION 2. Foreign Language Policy.**

- a. Candidates have the option to have their statement translated into another language and printed at an additional cost. Translation will be performed by the County of San Luis Obispo prior to publication.
- b. Pursuant to the Federal Voting Rights Act, candidate's statements will be translated into all languages as required by the County of San Luis Obispo.
- c. The County will mail separate sample ballots and candidates' statements in non-English languages (as required by the Federal Voting Rights Act) to only those voters who are on the county voter file as having requested a sample ballot in a particular language. The County will make the sample ballots and candidates statements in the required languages available at all polling places, on the County's website, and in the Election Official's office.

**SECTION 3. Payment.**

- a. Each candidate is required to pay for the cost of translating and printing his/her candidate statement in English and Spanish (and any language as required by the Federal Voting Rights Act and/or State law) in the voters' pamphlet.

- b. The City Clerk shall estimate the total cost of printing, handling, translating, and mailing each candidate statement filed pursuant to this section, including costs incurred as a result of a candidate choosing to translate a statement into another language, and including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and require each candidate filing a statement to pay in advance to the City of Morro Bay his/her estimated pro rata share as a condition of having his/her statement included in the voters' pamphlet. The estimate is an approximation of the actual cost that varies from one election to another and the actual cost may be significantly more or less than the estimate, depending upon the actual number of candidates filing statements. Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill each candidate for additional actual expense, or refund any excess paid, depending upon the final actual cost. In the event of underpayment, the City Clerk shall require the candidate to pay the balance of the cost incurred. In the event of overpayment, within 30 days after receipt of invoice from the County of San Luis Obispo, the City Clerk shall pro-rate the excess amount among the candidates and refund to each candidate his/her share of the excess amount.

**SECTION 4. Additional Materials.** No candidate is permitted to include additional materials in the sample ballot package.

**SECTION 5. Miscellaneous.**

- a. All translations shall be provided by professionally-certified translators pursuant to state and federal law.
- b. The Elections Official shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

**SECTION 6.** The City Clerk shall provide each candidate, or his/her representative, a copy of this resolution at the time nominating petitions are issued.

**SECTION 7.** All previous resolutions establishing City Council policy on payment for candidate statements are hereby rescinded.

**SECTION 8.** This resolution applies only to the election to be held on June 7, 2022, and shall then be rescinded.

**SECTION 9.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

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**SECTION 10.** Effective Date. This Resolution is effective on the day of its adoption.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11<sup>th</sup> day of January 2022 by the following vote:

AYES:

NOES:

ABSENT:

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

ATTEST:

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



AGENDA NO: A-6

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** January 6, 2022

**FROM:** Scott Collins, City Manager

**SUBJECT:** Consideration of License Agreement with SISU Collective LLC for the City's Temporary Use of Scout Coffee's Parking Lot at 390 Morro Bay Avenue, as a Public Parking Lot

### RECOMMENDATION

City Council authorize staff to execute a license agreement with SISU Collective LLC (Scout Coffee) for the City's temporary use of Scout Coffee's parking lot, located at 390 Morro Bay Avenue, as a public parking lot.

### ALTERNATIVES

Do not authorize staff to execute a license agreement with Scout Coffee.

### FISCAL IMPACT

No immediate fiscal impact, though some staff time may be required to maintain the parking lot during the license agreement period.

### BACKGROUND/DISCUSSION

Scout Coffee recently purchased the property at 390 Morro Bay Avenue, located in Downtown Morro Bay. Prior to Scout Coffee's purchase in 2021, the property sat vacant after Bank of America closed their facility in early 2018. For all intents and purposes, Morro Bay downtown business owners, employees of those businesses, residents and visitors alike have used that parking lot as a public parking lot since 2018.

Scout Coffee is in the process of obtaining building permits to convert the old Bank of America building into a roasting and coffee café shop. They anticipate completing the proposed building improvements within 6 – 12 months of receiving their permits.

Following purchase of the facility, Scout Coffee approached the City to offer to continue to provide their parking lot as a public lot until building improvements were completed for their facility. They are willing to provide that accommodation to our community, so long as the City and Scout Coffee can develop a license agreement that reduces their risk while they complete their facility improvements.

The City Attorney's Office drafted a license agreement (attached) that satisfies Scout Coffee's request. The temporary agreement, if approved by City Council, will be in place until such time either

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

the City or Scout Coffee requests termination, but likely around the time Scout Coffee is prepared to open their café to the public.

Staff recommend approval of the license agreement, as it will allow the public to continue to park in the centrally located parking lot in the downtown area. There is minimal risk to the City, and minimal maintenance requirements.

**ATTACHMENT**

1. License Agreement

## LICENSE AGREEMENT

### FOR USE OF PRIVATE PROPERTY FOR PUBLIC PARKING

SISU Collective LLC, a California limited liability company (“Licensor”) hereby grants to City of Morro Bay, a municipal corporation, (“Licensee”) a license (“this License”) for use of the real property located at 390 Morro Bay Avenue, Morro Bay, CA, as shown on Exhibit A, attached hereto and incorporated herein by this reference, (the “Premises”), subject to all the following terms and conditions<sup>1</sup>:

1. USE: Subject to all the provisions of this License and only in recognition of the purpose set forth in this Paragraph, Licensee shall have permission to cause use of the Premises solely for public parking of passenger vehicles, including pickup trucks and SUVs, while the occupants of those vehicles are visiting the local area (“Permitted Uses”). The Parties further agree Licensee’s use of the Premises for the Permitted Uses shall be exclusive of any other use or user, except that of Licensor, subject to Paragraph 14., below.
2. LICENSOR REQUIREMENTS: In connection with the Permitted Uses, Licensee shall comply with all applicable Federal, State and local laws rules and regulations, including payment of local business taxes, if applicable.
3. EFFECTIVE DATE OF LICENSE: This License shall be deemed effective on January 12, 2022, as long as it has been signed on behalf of both Licensee and Licensor (the “Effective Date”).
4. TERM: The term of this License shall be for the period from the Effective Date, until the earlier of the sixtieth day after a Party receives a written notice of termination from the other Party or termination pursuant to Paragraph 12, below.
5. FEES: There shall be no fee associated with this License.
6. MAINTENANCE: Licensee shall be responsible to maintain the Premises in a clean and presentable manner. Upon termination this License for any reason, Licensee shall leave the Premises free from waste, debris, trash, and other rubbish and in a good condition, subject to normal wear and tear.
7. SIGNS: Any and all signs installed or used by Licensee that are visible to the public from outside the Premises shall not be installed or used without the prior written approval of Jon Peterson or his designee, and subject to all applicable zoning laws, rules and regulations and all required land use approvals and permits.

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<sup>1</sup> Licensor and Licensee are sometimes individually referred to as Party or collectively as Parties.

8. IMPROVEMENTS: Licensee shall not make any improvements to the Premises without prior approval from Jon Peterson or his written designee. Upon termination of this License for any reason, any improvements of any kind installed by or on behalf of Licensee and left on Premises shall become the property of Licensor at no cost whatsoever, including any damages for condemnation, inverse condemnation or relocation benefits or loss of goodwill; provided, that Licensee and Licensor further agree Licensor has the option and right to require Licensee to remove any improvements of any kind installed by or on behalf of Licensee upon the Premises at the termination of this License, however occurring, if Licensor gives Licensee notice, in writing, no later than thirty days prior to termination of License. If Licensor exercises such option and Licensee fails to remove such improvements within sixty days after termination of License, then Licensor shall have the right to have such improvements removed at expense of Licensee.
9. TAXABLE INTEREST: This License is not intended to create any interest in real property. If it is determined, by a governmental agency dually authorized to make such decision, this License creates any taxable interest, including, but not limited to, a possessory interest, then Licensee shall be solely responsible to pay such taxes to the extent such taxes are required by law to be paid.
10. HOLD HARMLESS: Licensee agrees to and hereby does hold harmless, indemnify and defend Licensor and its officers, agents and employees from any claim, judgment, liability, award, damages, loss or expense, including reasonable attorney's fees and court costs, arising out of the use of the Premises by Licensee or its officers, employees, invitees or agents; provided, that Licensee's obligation to indemnify and hold harmless shall apply only to the extent Licensee or its officers, employees, invitees or agents caused the claim, loss or expense.
11. NO LIENS ON PREMISES: Licensee shall not permit or suffer any mechanic's or materialman's or other lien of any kind or nature to be recorded or enforced against the Premises for any work done or materials furnished thereon at the instance of requirement of or on behalf of Licensee; and Licensee agrees to indemnify and hold harmless Licensor and the Premises against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with such work done, labor performed or material furnished in connection with Licensee's use of the Premises.
12. RIGHT TO TERMINATE/NO DISPLACEMENT LIABILITY: Either Party shall have the right to terminate this License, with cause, upon thirty-days' (30-days') written notice to the non-terminating Party.
13. GOVERNING LAW: The terms of this License shall be interpreted according to the laws of the State of California. If arises out of this License, then venue shall be in the Superior Court of San Luis Obispo County.
14. LICENSOR USE OF PREMISES: Licensor may use the Premises for parking of vehicles used as part of Licensor's business; provided, that such use shall not unreasonably interference with or prevent in any substantial way Licensee's ability to

utilize the Premises for the purposed set forth herein. In addition, without any implied or expressed limitation on Licensee's authority and right to access and inspect the Premises in its governmental capacity, Licensee shall have the right to access at any time to the Premises for inspections.

15. TRANSFERABILITY AND ASSIGNABILITY: The License is neither transferable nor assignable by Licensee without the written consent of Licensor.

16. NOTICES: All notices given or required to be given pursuant to this License shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To Licensee:

City of Morro Bay  
Attn: City Manager  
595 Harbor Street  
Morro Bay, CA 93442

To Licensor:

SISU Collective LLC  
Attn: Jon Peterson  
1963 Partridge Drive  
San Luis Obispo, CA 93405

17. ENTIRE AGREEMENT: This License (i) constitutes the entire agreement of the Parties hereto relating to the use, operation and maintenance of the Premises and (ii) shall supersede prospectively from the date it is entered into any and all prior written or oral negotiations or agreements of the Parties relating to the Premises. This License shall not be modified in any particular except by a written amendment duly executed by the Parties.

LICENSOR

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Jon Peterson,  
Managing Member

[Signatures continued on Page 4.]

[Signatures continued from Page 3.]

LICENSEE

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Scott Collins, City Manager

APPROVED AS TO FORM:

ATTEST:

ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Dana Swanson, City Clerk

By: \_\_\_\_\_  
Chris Neumeyer, City Attorney

EXHIBIT A  
AERIAL OF PREMISES



# Exhibit A

## Site Location Map for Parking Lot Agreement with Scout Coffee



**LEGEND**

- Street Centerlines
- ▭ Parking Lot Staging Area



AGENDA NO: A-7

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and Council Members                      **DATE:** January 3, 2022

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

**SUBJECT:** Second Reading and Adoption of Ordinance No. 646, Updates to Chapter 3.08 of the City's Municipal Code, Purchasing System

## RECOMMENDATION

Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 646: "An Ordinance of the City Council of the City of Morro Bay, California, Amending Morro Bay Municipal Code Chapter 3.08 of Title 3 to Update the City's Purchasing System."

## ALTERNATIVES

Council may direct staff to make modifications to the purchasing system code updates or may direct staff to make no update to the Municipal Code in this area.

## FISCAL IMPACT

There is no fiscal impact associated with the recommended action.

## BACKGROUND

The City's current purchasing policy is documented in the Municipal Code as well as in several fragmented documents that have been approved over the years including various resolutions and administrative directions. In some cases, the resolutions are inconsistent with the Municipal Code, resulting in a confusing and fragmented policy framework.

In addition, recent changes to State law have been made, particularly regarding procurement of recycled material, and the City has not yet brought its Municipal Code up to date to reflect compliance with those updates.

## DISCUSSION

The City Council introduced the ordinance for first reading on December 14, 2021.

The draft revised purchasing chapter of the municipal code accomplishes the following:

- Clarifies approval authority for all contracts and contract amendments increasing compensation. It maintains the City Manager's signing authority at \$125,000 for non-public works projects and aligns signing authority with the competitive bidding threshold in State law for public works projects (currently set at \$200,000 by State law) instead of the current threshold of \$175,000. If the State law threshold for public works projects increases, the City

Prepared By:   SJR  

Dept Review:   SJR  

City Manager Review:     

City Attorney Review:   CFN

Manager’s signing authority for public works contracts will increase accordingly. City Council approval is always required above those thresholds.

- Adds a provision establishing Department Head signing authority for contracts up to \$25,000.
- Adds provisions concerning professional services, so these won’t just be covered by resolution (and repeals the old resolution for clarity and consolidation in the Code).
- Updates language to reflect the decentralized purchasing system that the City has, and adds language regarding City Manager and Department Head roles and responsibilities with regard to purchasing.
- Adds language authorizing a Purchasing Policy, to be adopted by the City Manager, and requiring compliance with that policy; simplifies and makes “evergreen” the Code by allowing that document to handle administrative details consistent with policy direction.
- Adds more robust language for purchasing for public projects and aligns the Municipal Code with State law in this area for consistency and clarity.
- Adds requirements for procurement of recycled paper and recovered organic waste products, to comply with new organic waste recycling laws (SB 1383).
- Retains an option to give preference to local service providers in a manner that is clear and practical to implement, and consistent with State law.
- Adds language to prevent breaking up scope of work to get around purchasing authority or bidding requirements – see 3.08.060(E) & (F), 3.08.070(A), and 3.08.080(B).
- Makes changes to terminology throughout (e.g. City Manager instead of City Administrator, and Department instead of Agency).
- Allows for more flexibility in the purchase of goods and services by allowing the City to consider quality of goods and services offered when making an award of contract instead of relying solely on the lowest price offered, except in the case of public works contracts.
- Adds additional documentation requirements when a purchase is made on the basis of “sole source” instead of through a competitive solicitation process.

The changes will repeal all prior resolutions and administrative actions for clarity and consistency, placing all key policy direction within the Municipal Code. The Code will be supplemented by the implementing Purchasing Policy, which will include administrative details; it must be approved by the City Manager and must remain consistent with the Municipal Code.

While a redline of the changes would be difficult to read in this case given that much of the code has been reordered and rearranged, the table below summarizes key differences in the current code and the proposed code. The existing code can be found in its entirety online at [https://library.municode.com/ca/morro\\_bay/codes/code\\_of\\_ordinances?nodeId=TIT3REFI\\_CH3.08\\_PUSASUEQ](https://library.municode.com/ca/morro_bay/codes/code_of_ordinances?nodeId=TIT3REFI_CH3.08_PUSASUEQ).

	<b>Existing Code</b>	<b>Proposed Updates</b>
Management structure	States centralized; in practice, decentralized	Decentralized; oversight by City Manager or designee; Department Head roles clarified
Contract Approval Authority – Non-public (works) projects	Council: > \$125,000 City Manager or designee: \$0-\$125,000 Department Heads: only if designated by CM	Council: No change City Manager: > \$25,000 - \$125,000 Department Heads: \$0-\$25,000
Contract Approval Authority – Public (works) projects	Council: > \$175,000 City Manager or designee: \$0-\$175,000 Department Heads: only if designated by CM	Council: guided by State law* formal bid threshold; (now > \$200,000) City Manager: > \$25,000 – State law *formal bid threshold (now \$200,000) Department Heads: \$0-\$25,000

Contract Amendment Authority	City Manager or designee can amend up to lesser of 25% or \$50k for <i>each</i> amendment	Amendments cannot exceed approval authority (above)
Prevent circumvention of approval authority	No clear language preventing “gaming”	New language preventing splitting work into shorter terms or smaller scope to avoid higher approval level
Purchasing Procedures for Goods / “Supplies and Equipment”	\$2,500-\$50,000 - require written price quotes (informal bids) > \$50,000 – formal bid procedure Awarded to lowest responsible bidder	> \$10,000-\$125,000 – require written price quotes (informal bids) > \$125,000 – formal bid/RFP procedure (align with Council approval threshold) Awarded to lowest responsive and responsible vendor
Purchasing Procedures for Services	Municipal code is somewhat unclear; consultant services are documented in a separate resolution RFP required > \$45,000 Awarded to lowest responsible bidder	> \$40,000-\$125,000 – require written price quotes (informal bids) > \$125,000 – formal bid/RFP procedure (align with Council approval threshold) Awarded on basis of demonstrated competence and price, several criteria outlined
Purchasing Procedures for Public (works) Projects	Up to \$175,000 – informal bid and formal contract procedure > \$175,000 – formal bid and contract procedure (Not aligned with State law)	Aligned with State law* (currently up to \$60,000) – no competitive bidding required Aligned with State law* (currently up to \$200,000) – informal bidding procedure, written Aligned with State law* (currently over \$200,000) – formal bidding procedure Awarded to lowest responsive and responsible bidder
Exceptions to Purchasing Procedures	Sole source and piggybacking allowed, but documented in different resolutions, etc.	Retains ability to use piggybacking and sole source; clarifies that sole source requires justification documentation and approval of City Manager or designee, or Council >
Local Preference	Outdated language that is impractical to implement and may not comply with State law	Retains option to give preference to local service providers in a manner that is practical to implement and consistent with State law
Recycled Goods	Outdated language that may conflict with new State law (SB 1383)	Reference to SB 1383 requiring purchase of recycled paper products and recovered organic waste products
Grant-funded projects	No language	Adds language to clarify that grant requirements must be followed notwithstanding other provisions of the Code

\* Public projects are defined in and governed by the State’s Public Contract Code Section 22032. Aligning the Municipal Code to State law will ensure consistency and compliance over time.

**CONCLUSION**

Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 646: “An Ordinance of the City Council of the City of Morro Bay, California, Amending Morro Bay Municipal Code Chapter 3.08 of Title 3 to Update the City’s Purchasing System.”

**ATTACHMENTS**

1. Ordinance No. 646
  - a. Exhibit A – Updated Chapter 3.08

2. Current Municipal Code – Chapter 3.08 -  
[https://library.municode.com/ca/morro\\_bay/codes/code\\_of\\_ordinances?nodeId=TIT3REFI\\_CH3.08PUSASUEQ](https://library.municode.com/ca/morro_bay/codes/code_of_ordinances?nodeId=TIT3REFI_CH3.08PUSASUEQ)

**ORDINANCE NO. 646**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
AMENDING MORRO BAY MUNICIPAL CODE CHAPTER 3.08  
OF TITLE 3 TO UPDATE THE CITY’S PURCHASING SYSTEM**

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

**WHEREAS**, the City’s current purchasing policy is documented in the Municipal Code as well as several fragmented documents that have been approved over the years including various resolutions and administrative direction; and

**WHEREAS**, recent changes to State law have been made, particularly regarding procurement of recycled material, and the City has not yet brought its Municipal Code up to date to reflect compliance with those updates; and

**WHEREAS**, the City’s purchasing policy must be updated from time to time to remain compliant with State law, to achieve consistency across all City documents, and to reflect changing purchasing needs and priorities over time.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, FINDS AND ORDAINS AS FOLLOWS:**

**SECTION 1. RECITALS.** The City Council hereby finds that the recitals set forth above are all true and correct and are incorporated herein by this reference.

**SECTION 2. CODE AMENDMENT.** Chapter 3.08 of the Morro Bay Municipal Code is hereby repealed and replaced with a new Chapter 3.08 of the Morro Bay Municipal Code, which is attached hereto as Exhibit A.

**SECTION 3. REPEAL OF RESOLUTIONS AND POLICIES.** Effective on the effective date of this ordinance, all City resolutions and administrative polices regarding the City’s purchasing system that were adopted or implemented prior to the effective date of this ordinance are hereby repealed.

**INTRODUCED** at a regular meeting of the City Council held on the 14<sup>th</sup> day of December 2021, by motion of Mayor Headding and seconded by Council Member Barton.

**PASSED AND ADOPTED** on the \_\_\_\_ day of \_\_\_\_\_ 2022, by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk  
APPROVED AS TO FORM:

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

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

I, Dana Swanson, City Clerk of the City of Morro Bay, do hereby certify that the foregoing Ordinance Number 646 was duly passed and adopted by the City Council of the City of Morro Bay at a regular meeting thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:  
NOES:  
ABSENT:

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

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DANA SWANSON, City Clerk

## EXHIBIT A

### Chapter 3.08 PURCHASING SYSTEM

#### **3.08.010 Adoption of purchasing system; applicability.**

- A. In order to establish efficient procedures for the purchase of goods and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases, a purchasing system is adopted.
- B. This chapter is applicable to all city purchases of goods and services, including purchases made through third-party agents.

#### **3.08.020 Purchasing policy.**

The city manager may adopt a policy for the detailed administration and implementation of this chapter, referred to herein as the Purchasing Policy, and may revise the Purchasing Policy from time to time as needed. All city purchases shall be made in compliance with the provisions of this chapter and the Purchasing Policy, provided that in the event of a conflict between the Purchasing Policy and the provisions of this chapter, the provisions of this chapter shall govern.

#### **3.08.030 Definitions.**

For purposes of this chapter, the following terms shall be defined as follows:

“Goods” means equipment, goods, materials, or supplies.

“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).

“Professional services” means the services of attorneys, physicians, architects, engineers, consultants, financial experts, auditors, specialized printers, or other individuals or organizations possessing a high degree of professional, unique, specialized, or technical skill or expertise.

“Public project” means a public project as defined in Public Contract Code Section 22002.

#### **3.08.040 Purchasing oversight.**

The city manager, or his or her designee, shall be responsible for overseeing and facilitating compliance with this chapter and the Purchasing Policy. This responsibility includes:

- A. Staying informed of current developments in the field of purchasing;
- B. Prescribing and maintaining such forms as are reasonably necessary to the operation of this chapter and the Purchasing Policy;
- C. Recommending updates to this chapter and making revisions to the Purchasing Policy, as needed;
- D. Maintaining centralized purchasing records and tracking citywide expenditures; and
- E. Coordinating the purchase of goods that will be used by multiple city departments where feasible and practical.

### **3.08.050 Purchasing responsibilities of department heads.**

Each department head shall be responsible for ensuring that all purchases by or for his or her department are made in compliance with this chapter and the Purchasing Policy, including but not limited to compliance with the following requirements:

- A. Preparing requests for proposals, requests for bids, requests for qualifications, and other solicitation materials, as needed, for each purchase;
- B. Making a good faith estimation of the cost of each purchase to determine the appropriate solicitation procedure;
- C. Ensuring that the proper solicitation procedure is followed based on the estimated cost of the purchase (informal, formal, etc.);
- D. Evaluating received bids or proposals in accordance with the selection criteria and process described in this chapter and the Purchasing Policy;
- E. Ensuring that the purchase contract is approved and executed by a person or body with sufficient approval authority based on the dollar amount of the purchase;
- F. Ensuring that sufficient funds are appropriated to pay for the purchase;
- G. Ensuring that the vendor, contractor, or consultant has provided insurance certificates and bonds meeting the requirements of the purchase contract, as applicable, before work under the contract begins, and ensuring that such insurance and bonds are renewed, as applicable, during the term of the agreement;
- H. Ensuring that the vendor, contractor, or consultant has obtained a City of Morro Bay business license, as required by the municipal code, prior to beginning work and ensuring that such license is renewed, as applicable, during the term of the agreement;
- I. Inspecting supplies and equipment delivered to determine their conformance with the specifications set forth in the order;
- J. Monitoring the performance of vendors, contractors, and consultants under approved contracts to ensure compliance with contract requirements;
- K. Recommending and preparing contract amendments and change orders as needed, and ensuring that such amendments and change orders are approved and executed by a person or body with sufficient approval authority based on the dollar amount of the amendment or change order, and that sufficient funds are appropriated to pay for the amendment or change order;
- L. Ensuring that due diligence is performed before determining that a purchase can only be made from a single vendor, contractor, or consultant, and ensuring that decisions to forego a competitive purchase process on the basis of sole sourcing are properly documented and submitted for approval by the city manager or designee, or city council, in accordance with this chapter and the Purchasing Policy;
- M. Taking reasonable steps to avoid conflicts of interest in the purchasing process;
- N. Keeping sufficient records of all departmental contracts and expenditures, and ensuring that such records are properly stored and filed in accordance with city recordkeeping procedures;
- O. Submitting reports to the city manager or designee showing all departmental supplies and equipment that are no longer used or have become obsolete or worn out so that the city manager or designee can sell, exchange, or trade in such supplies and equipment, if desired; and
- P. Transferring surplus or unused goods between departments as needed, or selling, exchanging, or trading in surplus goods to interested private or public agencies or vendors.

### **3.08.060 Contract approval authority.**

- A. All contracts and contract amendments shall be approved by a person or board with proper approval authority, as described in this section.
- B. Approval authority for all contracts and amendments other than for public projects is as follows:
  - 1. The department head of the department initiating the contract is authorized to approve contracts for up to \$25,000 and amendments that do not result in a total contract amount greater than \$25,000.
  - 2. The city manager is authorized to approve contracts for up to \$125,000 and amendments that do not result in a total contract amount greater than \$125,000.
  - 3. Contracts and amendments that exceed the city manager’s approval authority may only be approved by the city council.
- C. Approval authority for contracts and amendments for public projects is as follows:
  - 1. The department head of the department initiating the contract is authorized to approve contracts for up to \$25,000 and amendments that do not result in a total contract amount greater than \$25,000.
  - 2. The city manager is authorized to approve contracts for up to the maximum dollar amount for which an informal bidding procedure is permitted under Public Contract Code Section 22032(b), including any amendments thereto, and amendments that do not result in a total contract amount greater than the maximum dollar amount for which an informal bidding procedure is permitted under Public Contract Code Section 22032(b), including any amendments thereto.
  - 3. Contracts and amendments that exceed the city manager’s approval authority may only be approved by the city council.
- D. For purposes of subsections (B) and (C), “amendments” means any amendment, renewal, or change order that results in an increase to the total amount of money that may be spent under a single contract. For purposes of clarity, there is not a separate approval authority limit for amendments. Approval authority limits are based on the total contract amount, inclusive of amendments.
- E. Contracts that renew from year to year or have a regularly recurring term shall not be split into multiple single-term contracts to avoid approval by the city council or the city manager, as applicable.
- F. Purchases of similar goods and/or services from a single vendor, contractor, or consultant, which could reasonably be included in a single contract, shall not be split into multiple contracts in order to avoid approval by the city council or the city manager, as applicable.

**3.08.070 Purchasing procedures – Purchases other than public projects.**

With the exception of purchases made for public projects, all purchases, including purchases of professional services, shall be made as follows:

- A. Solicitation Procedures. Prior to making any purchase, the person or department initiating the purchase shall make a reasonable and good faith estimate of the anticipated cost of the purchase and then proceed with the appropriate solicitation procedure below. If the proposals or bids received exceed the cost threshold for the solicitation procedure used, a new solicitation shall not be required unless directed by the city manager. Purchases shall not be split or separated into smaller orders for the purpose of circumventing the procedures hereunder.
  - 1. Purchases of goods for an estimated cost of up to \$10,000, and purchases of services

(including professional services) for an estimated cost of up to \$40,000, shall not require competitive bidding but may be made following the receipt of at least one price quote or proposal.

2. Purchases of goods for an estimated cost of greater than \$10,000 up to \$125,000, and purchases of services (including professional services) for an estimated cost of greater than \$40,000 up to \$125,000, shall be made following the receipt of at least three written price quotes or proposals, which may be solicited using any means reasonably calculated to obtain a combination of the lowest price and highest quality of goods or services available. Such solicitations do not need to be published in a newspaper and may be made by posting a notice in a public location, including a website, or by mail, fax, or email. The person or department initiating the purchase shall keep a record of all such solicitations and the price quotes or proposals submitted in response thereto. If the person or department initiating the purchase is unable to obtain three price quotes or proposals from responsive and responsible bidders after making diligent efforts to do so, the purchase may be made without obtaining three price quotes or proposals, provided that the efforts made to obtain three quotes or proposals shall be documented in the contract file for the purchase and shall be presented to the city manager as part of the request for contract approval.
3. Purchases with an estimated cost of greater than \$125,000 shall be made following the posting of a written solicitation.
  - (a) Such written solicitations and offers or responses thereto may be in any reasonable form, or as may be established in the Purchasing Policy. Each solicitation shall describe the purchases sought and all other requirements, including the quantity and quality thereof, any desired warranty, insurance, or bonds, the time, place and manner of delivery of the purchases, the desired terms of payment, and the form, method, and timing of the response to the solicitation.
  - (b) Such written solicitations shall be posted in at least one publicly accessible location likely to reach the intended service provider, supplier, or vendor. The first publication or posting of the solicitation shall be at least ten days before the due date for responses to the solicitation. The posting location may include the city's website, an electronic bulletin board, a newspaper of general circulation in the city, or a trade journal, magazine, or other publication, whether in print or electronic.
  - (c) Bids or proposals may also be directly solicited from individuals and businesses if such individuals or businesses are known to be capable of providing the item or service that is being solicited. However, such direct solicitations shall be in addition to solicitations made under subsection (A)(3)(b).

B. Award of Contract.

1. The city may reject all bids or proposals in its sole discretion.
2. If no bids or proposals are received, the city may make the purchase by any reasonable and available means, notwithstanding the other requirements of this chapter.
3. If two or more bids or proposals received are for the same total amount or unit price, quality and service being equal, the contract may be awarded to either bidder or proposer.

4. Contracts for goods shall be awarded to the lowest responsive and responsible vendor, where the goods offered are identical. However, where the goods offered are not identical, the city may consider the fitness and quality of the goods offered, in addition to price, and may award the contract to the vendor that offers that best combination of price and fitness and quality of goods.
  5. Contracts for services (including professional services) shall be awarded on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services, offered at a fair and reasonable price, as determined by a consideration of the following criteria:
    - (a) Whether the price is fair, reasonable, and competitive;
    - (b) The quality of the services offered;
    - (c) The demonstrated competence, ability, capacity, and skill of the person or business to provide the services promptly, within the time specified, within budget, and without delay or interference;
    - (d) The credentials and licenses of the person or business, if required;
    - (e) The character, integrity, reputation, judgment, training, experience, and efficiency of the bidder or proposer;
    - (f) The person's or business's proven working relationships with city project staff and knowledge of local conditions;
    - (g) The person's or business's previous history of working on related projects or issues for the city, where such previous experience will allow the services to be performed more efficiently and will require less time spent on preparation and background research;
    - (h) The sufficiency of the bidder's or proposer's financial and other resources; and
    - (i) The ability of the bidder or proposer to provide such future service as may be needed.
  6. Where two or more bidders or proposers are reasonably comparable based on a consideration of the criteria in subsection (B)(5), a preference may be given to a bidder or proposer that has a primary place of business located within the city. The city council finds that this preference serves the public purposes of supporting local economic stability and of encouraging businesses to locate and remain in the City of Morro Bay.
- C. Exceptions. The solicitation procedures in this section shall not apply to purchases that satisfy one or more of the following criteria:
1. No price advantage would be gained from a competitive solicitation process, including but not limited to circumstances when goods or services are unique and are only available from one source, also known as a "sole source" contract. However, if the person or department initiating the purchase proposes to forego a competitive solicitation process based on this subsection (C)(1), a justification for this decision shall be presented in writing either to the city manager or designee, where the city manager has approval authority, or to the city council, where the city council has approval authority, and shall be placed in the contract file;

provided that failure to provide such information to the city manager or city council shall not nullify the approval of a contract;

2. When the purchase is based on any master agreement, cooperative agreement, multiple award schedule, or other types of agreements entered into by the State of California or the federal government. Examples include, but are not limited to, California Multiple Award Schedules (CMAS) and Federal General Services Administration (GSA) contracts;
3. When the vendor or service-provider was awarded a bid by another public agency, said agency used solicitation procedures substantially similar to those that the city would have been required to use, and the vendor or service-provider offers the same price(s) to the city that it offered to the other agency;
4. When there is a local emergency, as determined by the city manager, and the life, health or safety of employees or the general public is at risk, or when significant harm may occur to city property or operating systems and goods and/or services must be procured immediately to prevent loss or substantial disruption of city services or functions; or
5. When the city council determines by resolution that bidding would be impractical, inefficient, or otherwise not in the best interest of the city, provided that the city council shall state the basis for its determination in the resolution.

### **3.08.080 Purchasing procedures – public projects.**

- A. Uniform Public Construction Cost Accounting Act. The city has adopted the Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq., as may be amended) (the "Act") and all expenditures for public projects by the city shall be made in accordance with the Act.
- B. Solicitation Procedures. Prior to making any purchase, the person or department initiating the purchase shall make a reasonable and good faith estimate of the anticipated cost of the purchase and then proceed with the appropriate solicitation procedure below. Purchases shall not be split or separated into smaller orders for the purpose of circumventing the procedures hereunder.
  1. No Competitive Bidding Required. Public projects with an estimated cost of up to the maximum dollar amount stated in Public Contract Code Section 22032(a), including any amendment thereto, may be performed by city employees by force account or else may be awarded by negotiated contract or by purchase order without competitive bidding.
  2. Informal Bidding Required. Public projects with an estimated cost of up to the maximum dollar amount stated in Public Contract Code Section 22032(b), including any amendment thereto, shall require either the informal bidding procedures set forth in section 3.08.080(C) or the formal bidding procedures set forth in section 3.08.080(D).
  3. Formal Bidding Required. Public projects with an estimated cost of greater than the maximum dollar amount stated in Public Contract Code Section 22032(b), including any amendment thereto, shall require the formal bidding procedures set forth in section 3.08.080(D).
- C. Informal Bidding Procedures. The following procedures shall apply to informal bids: A notice inviting bids shall be prepared, which describes the project in general terms, explains how to obtain

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more detailed information about the project, and states the time and place for the submission of bids. The notice shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with section 3.08.080(E), and to all construction trade journals as specified by the California Uniform Public Construction Cost Accounting Commission ("Commission"), in accordance with Public Contract Code Section 22036. Notices sent to contractors on the contractors list shall be sent not less than ten calendar days before bids are due and may be sent by mail, fax, or email. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids, provided, however:

1. If there is no list of qualified contractors maintained by the city for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
  2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.
- D. Formal Bidding Procedures. The following procedures shall apply to formal bids: A notice inviting bids shall be prepared, which describes the project in general terms, explains how to obtain more detailed information about the project, and states the time and place for the submission of bids. The notice shall be published at least fourteen calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the city; or, if there is no newspaper printed and published in the city, in a newspaper of general circulation which is circulated within the city; or, if there is no newspaper which is circulated within the city, publication shall be by posting the notice in at least three places within the city as have been designated by ordinance or regulation of the city as places for the posting of its notices. The notice inviting formal bids shall also be sent electronically, if available, by either fax or email and mailed to all construction trade journals specified by the Commission pursuant to Public Contract Code Section 22036. The notice shall be sent at least fifteen calendar days before the date of opening the bids. In addition to notice required by this section, the city may give such other notice as it deems proper.
- E. Contractors List. The public works director or designee shall develop and maintain a list of contractors in accordance with the provisions of Public Contract Code Section 22034 and criteria promulgated from time to time by the Commission.
- F. Preparation and Adoption of Plans. In accordance with Public Contract Code Section 22039, the city engineer, or his or her designee, is authorized to and shall prepare and adopt plans, specifications, and working details for all public projects with an estimated cost greater than the maximum dollar amount stated in Public Contract Code Section 22032(b), including any amendment thereto.
- G. Award of Contract.
1. If a contract is awarded, it shall be awarded to the lowest responsive and responsible bidder.

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If two or more bids are the same and the lowest, the contract may be awarded to either bidder.

2. If the project was bid using informal bidding procedures, and all bids received exceed the maximum dollar amount stated in Public Contract Code Section 22032(b), including any amendment thereto, the city council may, by a four-fifths vote, adopt a resolution awarding the contract to the lowest responsive and responsible bidder if the amount of the contract does not exceed the dollar threshold stated in Public Contract Code Section 22034(d), including any amendment thereto, and it determines the city's cost estimate for the project, upon which the decision to use informal bidding procedures was based, was reasonable. Otherwise, the project shall be re-bid following the formal bidding procedures.
3. In its discretion, the city may reject all bids, and may do any of the following:
  - a. Abandon the project.
  - b. Re-advertise the bid in the manner described in this chapter.
  - c. By a four-fifths vote, the city council may declare by resolution that the project can be performed more economically by city employees and may have the project done by force account without further complying with this chapter. Prior to rejecting all bids and declaring that the project can be more economically performed by city employees, the city shall furnish a written notice to an apparent low bidder, informing the bidder of the city's intention to reject the bid. Such written notice shall be mailed at least two business days prior to the hearing at which the city intends to reject the bid.
4. If no bids are received through the formal or informal procedure, the project may be performed by city employees by force account or by a negotiated contract without further complying with this chapter.

G. Emergencies.

1. In cases of emergency when repair or replacements are necessary, the city council may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the city, by contractor, or by a combination of the two.
2. In case of an emergency, if notice for bids to let contracts will not be given, the city shall comply with the requirements of Public Contract Code section 22050.

H. Exemptions. The bidding procedures for public projects required by this chapter shall not apply when an exemption is provided by state or federal law.

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### **3.08.090 Purchase of paper products; procurement of recovered organic waste products.**

- A. When purchasing paper products and printing and writing paper, the city shall comply with 14 CCR Section 18993.3, as may be amended.
- B. All vendors providing paper products and printing and writing paper to the city shall make the certifications required by 14 CCR Section 18993.3(c), as may be amended, and shall provide the city with all records and documents required by the city to comply with the reporting requirements in 14 CCR Section 18993.4, as may be amended.
- C. The city shall procure recovered organic waste products in accordance with the requirements of 14 CCR Section 18993.1, as may be amended, and as further specified in the Purchasing Policy or a different policy adopted by the city council.

### **3.08.100 Encumbrance of funds.**

Except in cases of emergency or in cases where specific authority has been first obtained from the city manager, no purchase shall be made unless there exists an unencumbered appropriation in the department, in the fund against which the purchase is to be charged.

### **3.08.110 Purchases with grant or loan funds.**

Notwithstanding any other provision of this chapter, if a purchase is funded in whole or in part by grant or loan funds and the grant or loan requires the city to use specific purchasing procedures that are inconsistent with the requirements of this chapter, then the city shall follow the grant or loan requirements unless they conflict with state or federal law.

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AGENDA NO: A-8

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** January 5, 2022

**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. 03-22 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: SC 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. On November 9 and 18, 2021 and December 14, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 78-21, 81-21, and 84-21, respectively, authorizing such meetings for an additional thirty days.

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, or a 30-day period thereafter, 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. 03-22 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.03-22

**RESOLUTION NO. 03-22**

**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**

**THE CITY COUNCIL  
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**, On November 9, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 78-21 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On November 18, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 81-21 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On December 14, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 84-21 authorizing such meetings for an additional thirty days; 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) February 10, 2022, 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 \_\_\_\_ day of January 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

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

**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY  
EXPRESSING APPRECIATION FOR THE DEDICATION  
AND PUBLIC SERVICE OF BARBARA SPAGNOLA**

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

**WHEREAS**, the City of Morro Bay is blessed to have residents who generously offer their time and talents in support of City operations, activities, and events; and

**WHEREAS**, Barbara Spagnola served on the Water Reclamation Facility Citizens Advisory Committee from 2014 – 2019 and, along with her colleagues, spent many hours reviewing potential locations and technologies, forming recommendations to the City Council on the critical wastewater and water project; and

**WHEREAS**, Ms. Spagnola served on the Citizens Oversight and Finance Advisory Committee from 2007 to present, reviewing the City's Measure Q tax revenues and expenditures and as the Committee Chair, led the effort to provide very detailed budget and annual financial reporting documents in a condensed and user-friendly budget overview document; and

**WHEREAS**, Ms. Spagnola was a key voice on the Blue-Ribbon Committee for the Water Reclamation Facility project in 2018 and, along with her colleagues, reviewed different funding strategies and opportunities to limit the proposed project costs; and

**WHEREAS**, Ms. Spagnola has served on numerous hiring panels for the City, providing community insight on candidates and helping to select the best candidate for key positions such as the Police Chief; and

**WHEREAS**, Ms. Spagnola has served a variety of organizations, including the American Association of University Women, an organization that advocates for equal opportunities in education and economic security for women in the workplace, providing scholarships for local students to attend the Tech Trek program, a week-long camp designed to introduce middle school girls to STEM subjects and careers; and

**WHEREAS**, Ms. Spagnola's professional career and expertise was a senior contracts manager for a global asset management organization; and

**WHEREAS**, Ms. Spagnola's husband Chuck, served as Morro Bay's representative to the San Luis Obispo County Citizens Transportation Advisory Committee from 2017 - 2021; and

**WHEREAS**; in recognition of these many contributions, we would like to wish Ms. Spagnola and Chuck a fond farewell as they move to southern California to be closer to their grandchildren.

**NOW, THEREFORE, BE IT RESOLVED**, that the Morro Bay City Council does hereby thank Barbara Spagnola for her dedicated service to the City of Morro Bay and community and offers its best wishes for many years filled with happiness in their new home.

IN WITNESS WHEREOF I have  
hereunto set my hand and caused the  
seal of the City of Morro Bay to be  
affixed this 11th day of January 2022

\_\_\_\_\_  
JOHN HEADING, MAYOR  
City of Morro Bay, California

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AGENDA NO: C-1

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and Council Members                      **DATE:** January 3, 2022

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

**SUBJECT:** Discussion of, and Consider Actions to Address, Pension Liabilities and Other Post-Employment Benefit Unfunded Liabilities

## RECOMMENDATION

Staff recommends that the City Council:

1. Receive and file the informational presentation on CalPERS and the City’s unfunded liability and options to address and provide input and feedback;
2. Direct staff to establish a Pension Reserve and, through the FY 2022-23 budget process, set aside a one-time lump sum contribution from FY 2020-21 operating surplus, and to budget annual contributions to the Pension Reserve going forward;
3. Direct staff to establish a Section 115 Trust as the vehicle for the Pension Reserve, and to include one member of the Citizens Finance Advisory Committee (CFAC) on the selection committee to establish the Trust, if there is interest; and
4. Direct staff to continue the current practice of contributing to a restricted trust annually for Other Post-Employment Benefit (OPEB) unfunded liabilities and evaluate whether the current trust is sufficient or whether an alternative trust should be established as part of the Section 115 CalPERS trust establishment.

## ALTERNATIVES

The Council may consider the following alternatives:

- Take no additional action to address the City’s unfunded liabilities and continue to make annual minimum payments outlined by CalPERS;
- Direct staff to make additional discretionary payments (ADPs) directly to CalPERS;
- Direct staff to restructure the pension debt through a pension obligation bond (POB); or
- Provide alternative direction to staff.

## FISCAL IMPACT

Pursuing any of the policy options presented will improve the City’s long-term fiscal position by addressing the unfunded liabilities outlined. If a Section 115 Trust is established, there will be standard management fees associated. The intent would be to offset those fees with the gains on funds invested, given that Section 115 Trusts allow for broader investment options than other tools available to the City. Most providers have several asset allocation options that cities may select from according to their risk tolerance and investment goals. Some of the alternative options, such as a

Prepared By:   SJR  

Dept Review:   SJR  

City Manager Review:   SC  

City Attorney Review:   CFN

pension obligation bond, would also include transactional costs.

## **BACKGROUND**

Like many California cities, Morro Bay has a significant unfunded pension liability, and smaller yet still significant other post-employment benefit (OPEB) liabilities. These liabilities have developed over decades and have been impacted by CalPERS and State regulatory contexts, leaving many aspects of this challenge out of the City's control. The City has taken incremental steps to address these liabilities over time. On the CalPERS side, the City has pursued cost sharing with employees, making additional discretionary payments when possible, and paying annual payments early in the fiscal year to receive nominal savings. On the OPEB side, the City established a restricted trust in 2013 to begin saving for retiree health costs, and has been depositing funds into that trust in most years since, resulting in a balance of approximately \$2 million.

## **DISCUSSION**

Despite these incremental efforts, the size and scale of the remaining liabilities is significant. The CalPERS unfunded liability totaled over \$29 million in the City's latest actuarial report from CalPERS. The OPEB liability is much smaller at approximately \$3 million, offset by approximately \$2 million that is currently saved in the restricted trust, for a net unfunded liability of approximately \$1 million.

The Citizens Finance Advisory Committee (CFAC) discussed these liabilities in an informational session in early 2021. Recently, City Council reiterated that addressing CalPERS and OPEB was a high priority among the City Council goals.

Staff contracted with NHA Advisors to conduct an analysis of Morro Bay's unfunded pension liabilities, provide educational presentations to CFAC and Council, and provide policy options for the City to consider. NHA Advisors has also incorporated basic information about OPEB liabilities, though those are much smaller in scale.

The attached materials provide an overview of the various types of obligations the City has with CalPERS, the current and projected unfunded liabilities, the potential impacts of recent returns and discount rate adjustments at CalPERS, various policy options the City could utilize to address the unfunded liabilities, and the pros and cons of those options.

CFAC reviewed this presentation at their December 21, 2021 meeting and voted 4-3 in agreement with staff's recommendations. This staff report modifies the OPEB-related recommendation slightly to clarify that approximately \$2 million is already in a restricted trust account that the City established in 2013 for this purpose. If directed to pursue a Section 115 Trust for CalPERS liabilities, staff will assess whether the existing OPEB trust remains the preferred trust, or whether there are efficiencies to utilizing the same company that is selected to manage the CalPERS 115 Trust.

## **CONCLUSION AND NEXT STEPS**

Consistent with City Council goals, staff recommends that Council take action to address the unfunded liabilities. Considering this analysis and policy options now will put the City in an informed position from which to take action in the upcoming fiscal forecast and budget cycle and beyond. Failing to take proactive measures now has the potential to negatively impact City service delivery in future years.

If a Section 115 Trust is the preferred policy tool, staff would retain the services of NHA Advisors to evaluate potential 115 providers (including investment portfolio options, past performance, and fees), select a provider and work with its Investment Advisor to determine the preferred portfolio, return to Council for adoption of necessary documentation and amount of initial contribution. This process is

estimated to take two to three months.

**ATTACHMENT**

1. NHA Advisors report on the City of Morro Bay's CalPERS UAL Historical Cost Trends and Cost Management Strategies

# CITY OF MORRO BAY

## CALPERS UAL HISTORICAL COST TRENDS AND COST MANAGEMENT STRATEGIES DISCUSSION

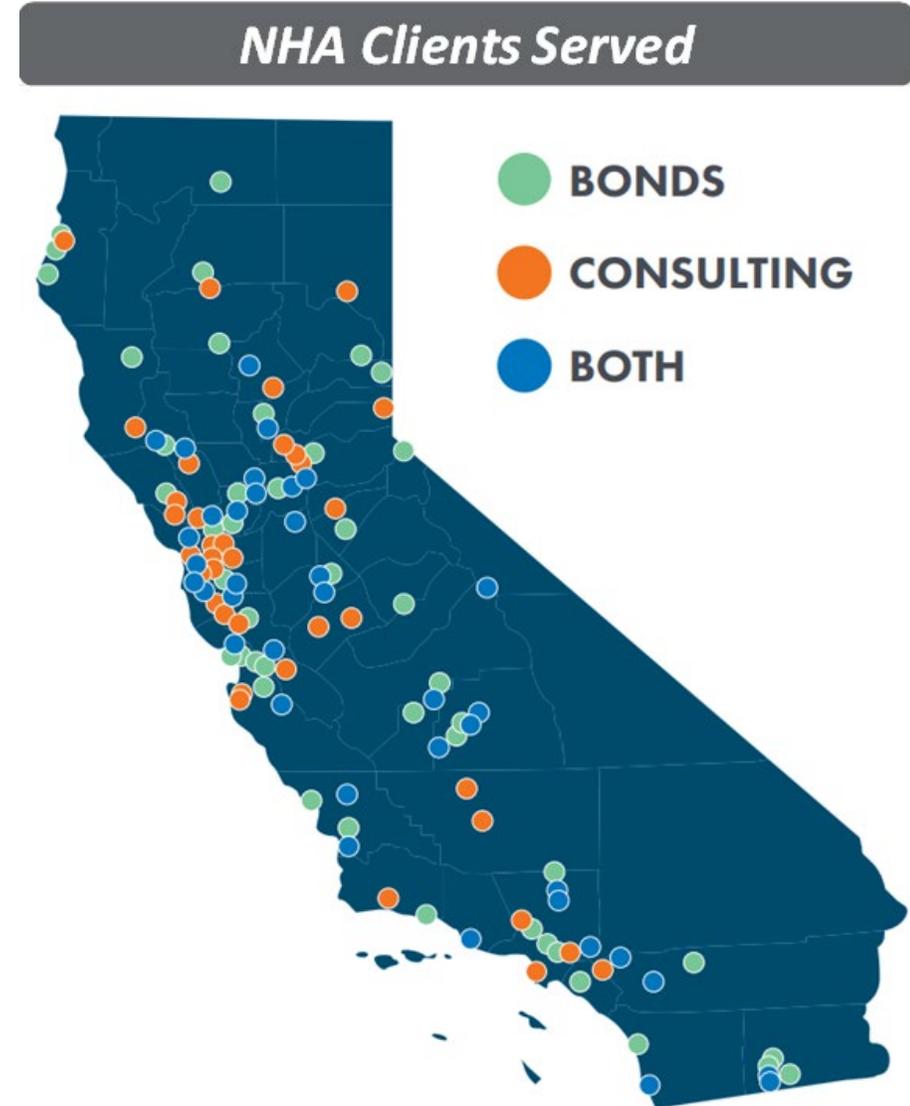


**NHA | ADVISORS**  
Financial & Policy Strategies.  
Delivered.

JANUARY 11, 2022

# Introduction to NHA Advisors

- ▶ Headquartered in San Rafael, CA
  - ▶ Providing Municipal Advisory and Consulting Services to California agencies; primarily cities and special districts
- ▶ 8 Practice Groups to optimally serve public agencies (Capital Funding Solutions, Pension/OPEB, Utility, Energy/Climate Change, Policy, Continuing Disclosure, Land Development, etc.)
- ▶ Pension Group has served 65+ California public agencies
  - ▶ Education – NHA Summary Reports, White Papers, Newsletters, Workshops
  - ▶ Financial Planning – CalPERS Sensitivity Analysis / Modeling
  - ▶ Cost Management Strategies
    - ▶ Section 115 Trusts
    - ▶ Additional Discretionary Payments (ADPs)
    - ▶ POBs/UAL Restructurings
      - 18 over last 18 months for \$1.7 billion UAL funded
  - ▶ Stress Testing and Risk Assessment
  - ▶ Pension Funding Policies



# Executive Summary of Presentation

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- ▶ City of Morro Bay currently has a projected \$29.3M Unfunded Accrued Liability (UAL) for 6/30/2022 with CalPERS
  - ▶ 51% increase (from \$19.4M) over last 10 years
- ▶ CalPERS FY 2020-21 returns of 21.3% and key assumption changes will dramatically change the “shape” of City’s UAL repayment schedule
  - ▶ UAL balance may drop down to \$21.9 million; Near-term repayment “shape” projected to be lower and shorter, though still irregular
- ▶ City also has a small ≈\$1M UAL for OPEB (Other-Post Employment Benefits)
  - ▶ \$3M liability vs. ≈\$2M in assets
- ▶ City has historically taken proactive steps toward managing pension costs
  - ▶ Building reserves, capturing annual prepayment discount benefits & \$500K of additional payments made to CalPERS in FY 2020
- ▶ Continuing to plan for, and evaluating options to manage variable costs are important for budget predictability and fiscal health
  - ▶ Cost management strategies - Section 115 Trust, UAL Pay Down and UAL Restructuring



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- I. Background on CalPERS Costs
- II. Historical and Projected CalPERS Costs
- III. Common Cost Management Strategies
- IV. Conclusion

Appendix – Additional Materials Related to Pension Funding Policies and POBs





# **I. BACKGROUND ON CALPERS COSTS**

# Background - Retirement Plans

- ▶ 2 CalPERS plans
  - ▶ Miscellaneous: 279 covered members
  - ▶ Safety (Fire & Police): 139 covered members
- ▶ PEPRAs helpful to manage long term pension costs for new employees
  - ▶ PEPRAs are reduced benefit plans
- ▶ However, **over 99% of UAL is from Classic plans** and not reduced by PEPRAs

MISCELLANEOUS PLANS			
Benefit Group	# of Actives	% of Actives	Benefit Formula
Miscellaneous	18	30.5%	2.7% @ 55
Miscellaneous T2	13	22.0%	2.0% @ 60
PEPRA Miscellaneous	28	47.5%	2.0% @ 62
<b>Total Active Members</b>	<b>59</b>	<b>100%</b>	-
<b>Total Covered Members</b>	<b>279</b>	-	-

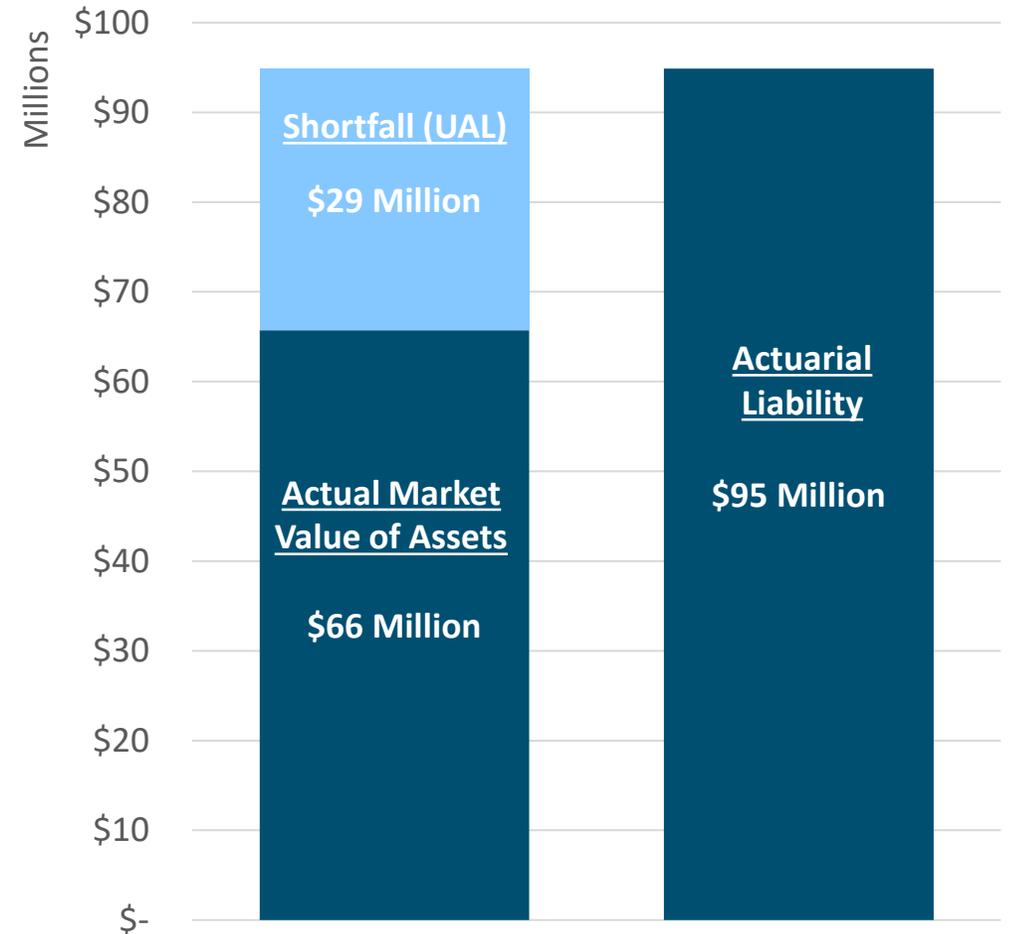
SAFETY PLANS			
Benefit Group	# of Actives	% of Actives	Benefit Formula
Safety Fire T1	5	14.3%	3.0% @ 50
Safety Fire T2	3	8.6%	3.0% @ 55
PEPRA Safety Fire	5	14.3%	2.7% @ 57
Safety Police	6	17.1%	3.0% @ 50
Safety Police T2	7	20.0%	3.0% @ 55
PEPRA Safety Police	9	25.7%	2.7% @ 57
<b>Total Active Members</b>	<b>35</b>	<b>100%</b>	-
<b>Total Covered Members</b>	<b>139</b>	-	-



# Background - Two Payments Made to CalPERS Annually

- ▶ **Normal Cost (NC)** = Annual cost for current employees
- ▶ **Unfunded Accrued Liability (UAL):** Annual payment to amortize the “debt” to CalPERS
  - ▶ CalPERS actuaries calculate how much the City is required to have in its account with them to pay out benefits to City’s retirees over the next 30-40 years (Actuarial Liability)
  - ▶ CalPERS annually calculates the Market Value of City’s assets held on account with them; Most public agencies have *less assets than required* to meet Actuarial Liability
  - ▶ This shortfall (i.e. the “UAL”) is not repaid all at once but amortized over time with the City paying down a portion each year (principal and interest)
    - CalPERS uses a “discount (i.e. interest) rate” of 7.00% (to be lowered to 6.80%)
    - CalPERS annually adjusts this repayment schedule by adding a new “base” (i.e. layer) which adds to (in bad investment years) or lowers (good investment years) the overall repayment schedule
      - Over past 20 years, the addition of these “layers,” along with other CalPERS assumption changes has created a very irregular repayment shape for most CalPERS public agencies

CalPERS Pension Funded Status



### Historical PERS Returns

5-Year: 10.3%  
10-Year: 8.5%  
20-Year: 6.9%  
30-Year: 8.4%

# Background - Why CalPERS Costs have Trended Higher

## Then (late 1990s)...

- ▶ Robust investment returns (10%+)
  - ▶ Retirement plans were “Super-Funded” through the late 1990s
  - ▶ Earnings on funds were more than adequate to cover retirement costs
- ▶ Super-funded Status induced widespread retirement benefits enhancements....

## Now ...

- ▶ Sluggish returns outlook (<7%)
- ▶ Assumptions have changed/changing
  - ▶ Discount Rate: 8.25% → 7.00% → 6.80%
  - ▶ Inflation rate (prices going up?)
  - ▶ Mortality rates (people living longer)
  - ▶ Actuarial Valuation → Market Valuation
  - ▶ Shorter (20 year) amortization
- ▶ UAL payments have grown rapidly from past changes, remain exposed to the upside from future poor investment returns and assumption changes



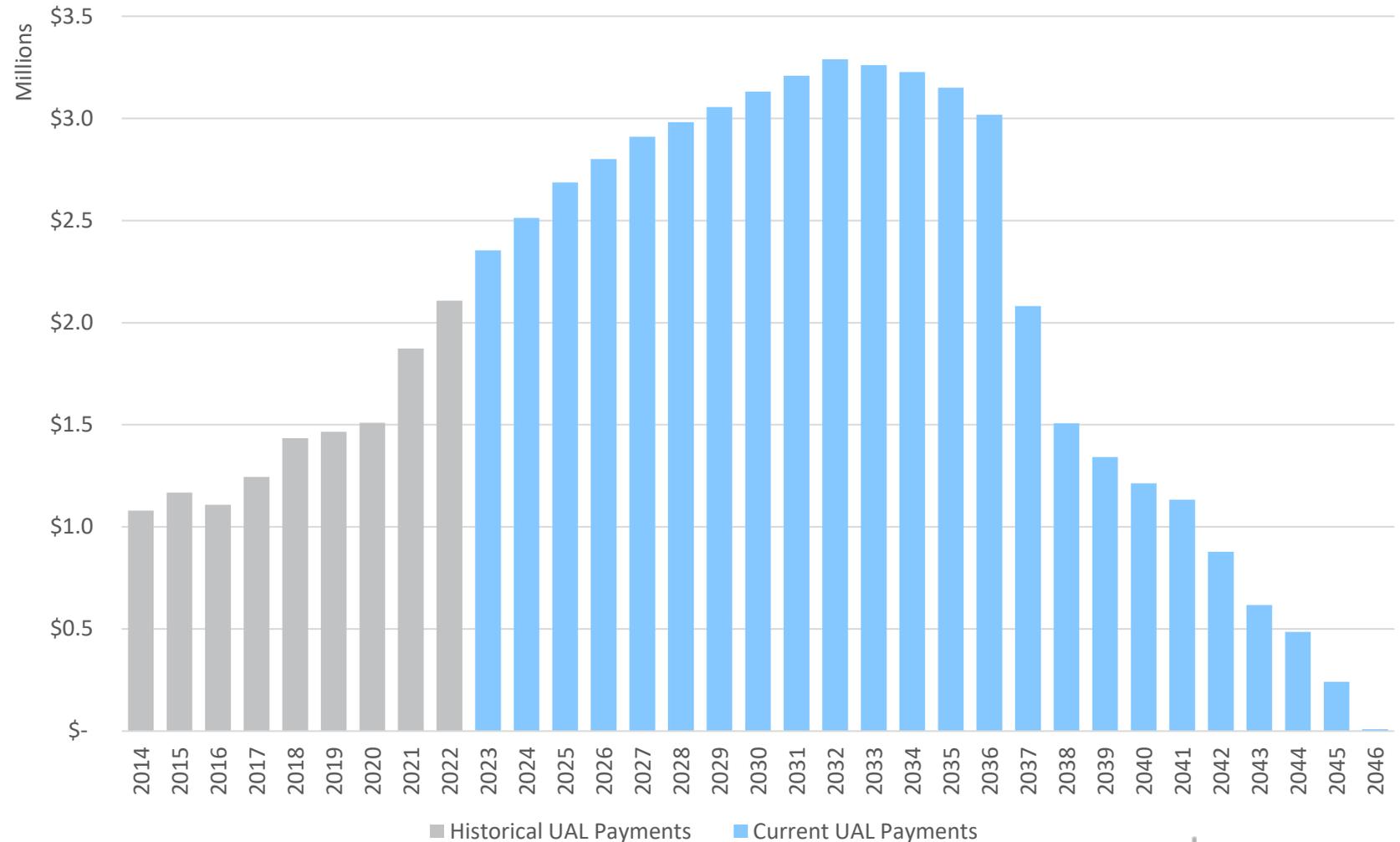


## **II. HISTORICAL AND PROJECTED COSTS**

# City of Morro Bay – Recent CalPERS Actuarial Report

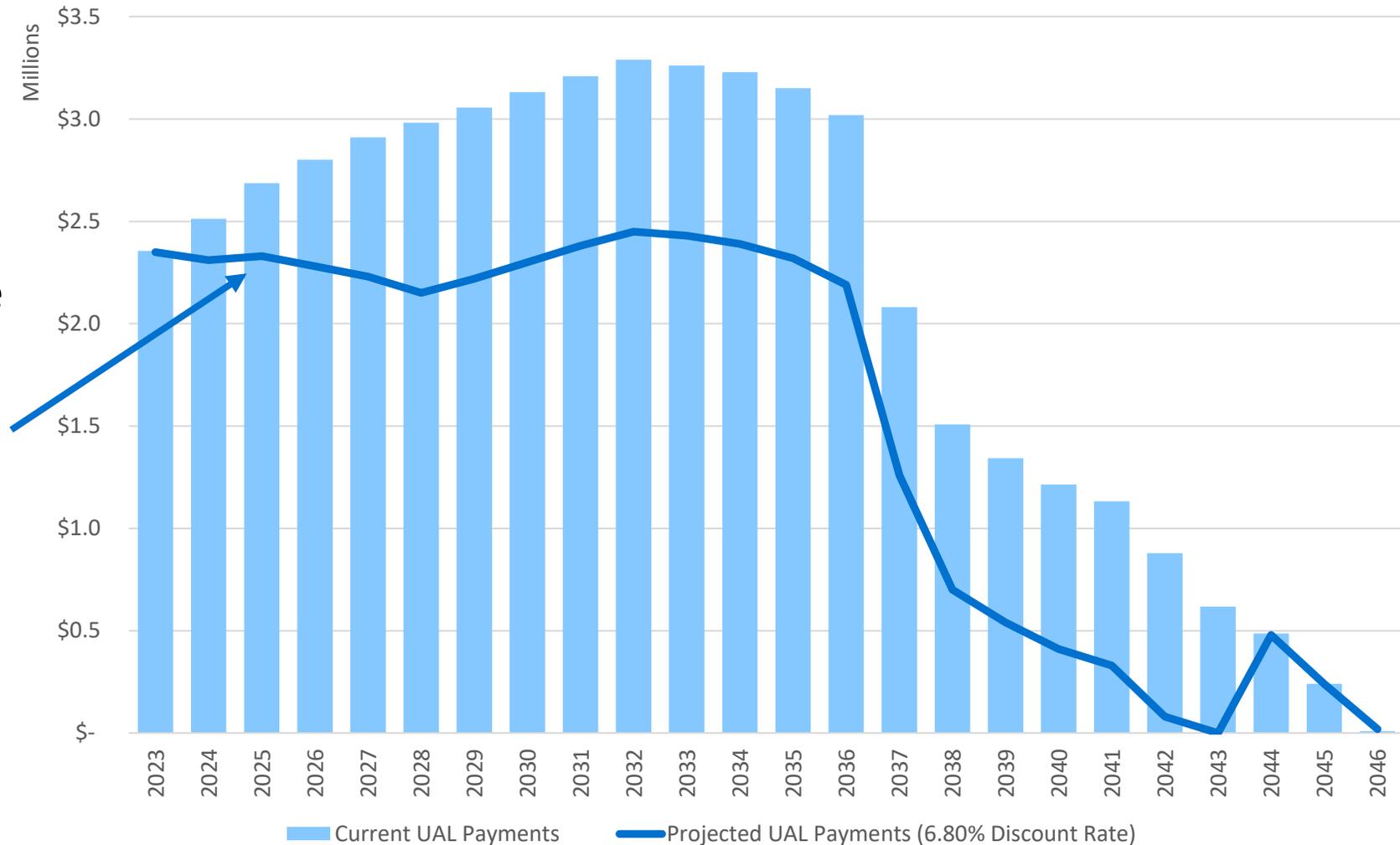
## Historical and Projected UAL Payment Schedule (\$29.3M UAL)

- ▶ City's UAL has increased 51% (\$19.4M → \$29.3M) over the last 10 years
- ▶ Escalating and uneven UAL & debt repayment shape
- ▶ UAL payments front-loaded over the next 10 years



# City of Morro Bay – Projected UAL Payments Accounting for FY '21 21.3% Returns & 6.80% Discount Rate Reduction

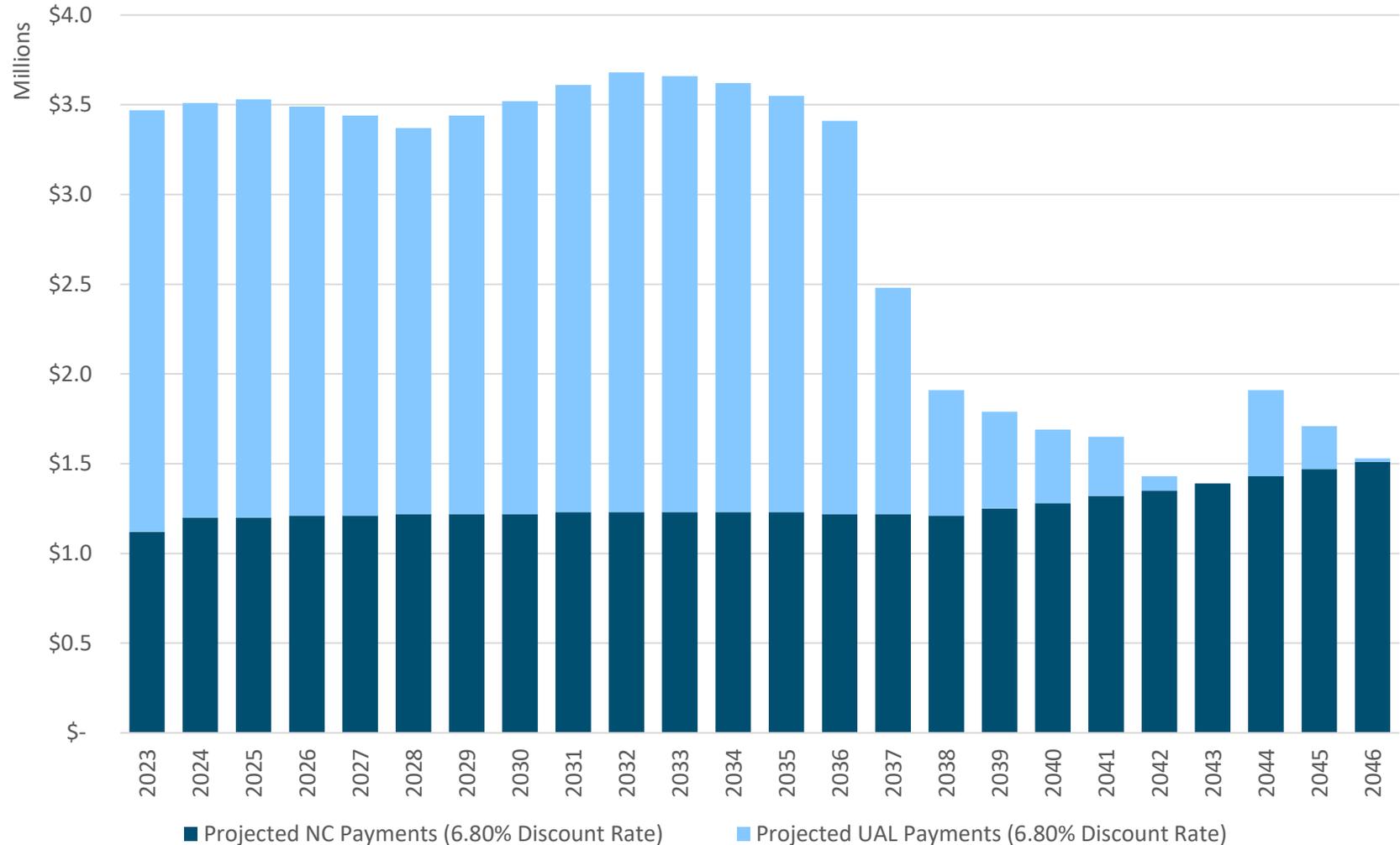
- ▶ UAL is projected to decrease from **\$29.3M** to **\$21.9M** given that CalPERS had very strong investment returns in FY 2021
- ▶ Projected near-term UAL payments are more affordable ( $\approx \$2.2 - \$2.5M$ ) and eliminate previous spike in payments
  - ▶ However, they are still 2x the size of payment levels from 6 years ago
- ▶ It should be noted that the UAL will fluctuate annually moving forward based on future CalPERS investment returns



# Total Projected Payments to CalPERS

## Payments on Projected \$21.9M UAL & Normal Cost Payments

- ▶ Normal Cost Payment projected to increase by about 7% from FY 2022 levels due to lowering of discount rate
  - ▶ Payments higher by \$50K - \$70K annually vs. 7% discount rate scenario
    - ▶ Will be higher if employee / payroll growth exceeds projections (2.75% payroll growth and 15-year workforce transition from Classic to PEPRAs)
- ▶ Overall pension payments around \$3.5M annually



Source: CalPERS Outlook Tool. Assumes 2.75% payroll growth and 15-year PEPRAs transition.



# **III. POTENTIAL COST MANAGEMENT STRATEGIES**

# Cost-Containment Strategies – Not Mutually Exclusive

(1) Prepay UAL early in Fiscal Year ( $\approx 3.4\%$  discount) **[CITY DOES THIS]**

## (2) Negotiate Cost Sharing With Employees

- Require employees to pay their share; New employees already governed by lower cost/benefit PEPRAs plans
- Negotiated cost sharing of the City's share

## (3) Fresh Start Amortization offered by CalPERS

- Pros: Smooths payment, shortens repayment period; reduces overall interest paid from shorter amortization period
- Cons: New structure “locked-in” + increased annual payments in near term; still amortized at discount rate

(4) Use Cash Reserves to Pay Extra (two options) **[CITY HAS DONE ADPs]**

- Section 115 Trust - Separate trust solely dedicated to pension/OPEB
  - Offered by PARS, CalPERS, Keenan and others
- Lump Sum Pay Down of UAL – Reduce UAL through “Additional Discretionary Payments” (ADPs)
  - Choose optimal amortization bases to pay off

## (5) Restructure All or Portion of Remaining UAL

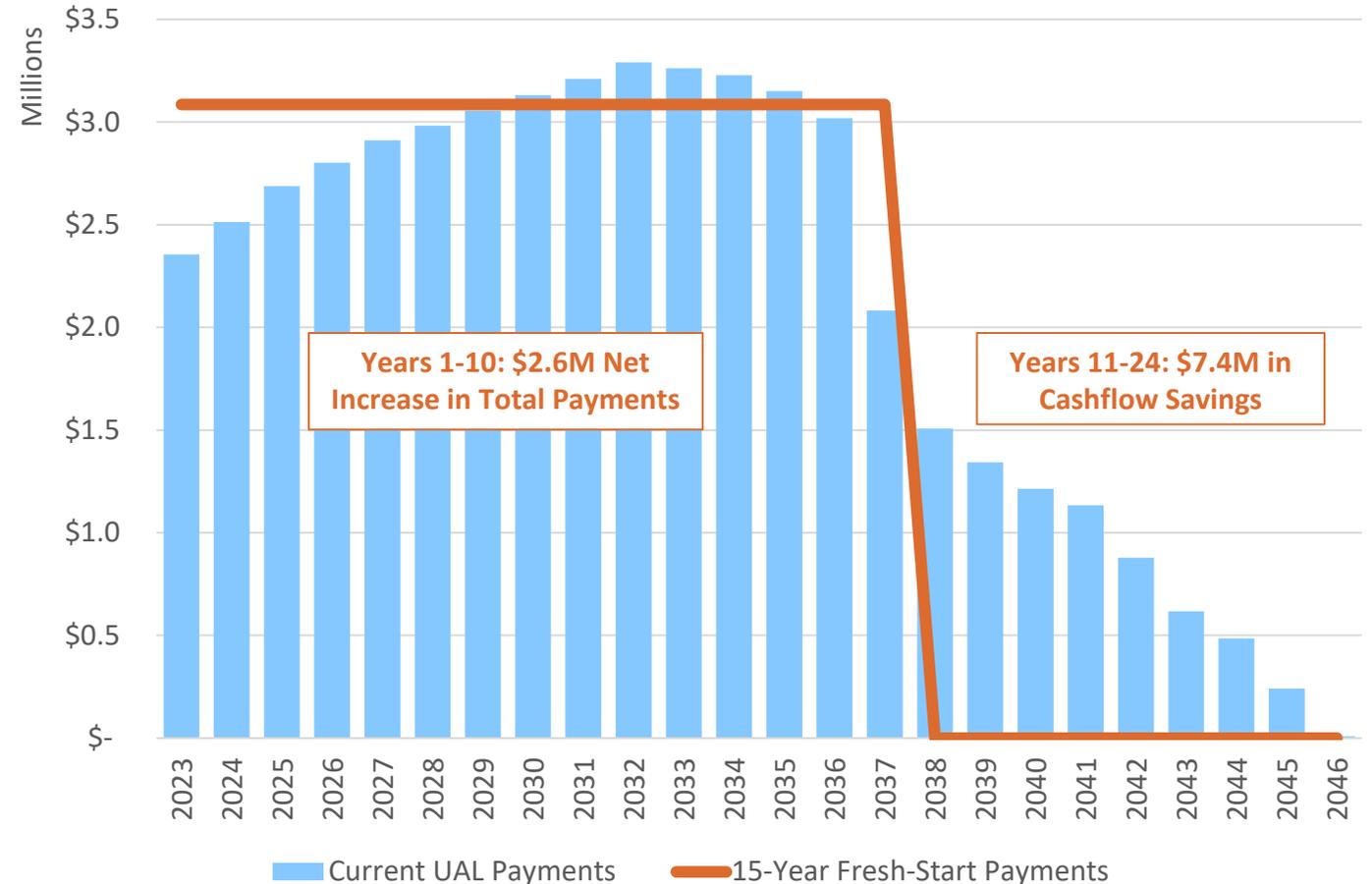
- Restructure portion of UAL at lower bond interest rate (i.e. 3.00-3.50% vs. CalPERS rate of 7.0%) and “smooth out” payments for enhanced budget predictability, near and mid-term potential savings, and preservation of cash for other critical projects



# CalPERS “Fresh Start”

- ▶ **What is it?** City can request new, smoother amortization schedule with CalPERS
  - ▶ Must be shorter than current term
  - ▶ Amortized at discount rate (currently 7% this year and 6.8% next year)
- ▶ **Pros:**
  - ▶ Overall reduction in interest paid on UAL
  - ▶ UAL paid off sooner
- ▶ **Cons:**
  - ▶ Near term payments are higher
  - ▶ All payment reductions are in later years
  - ▶ No net present value savings
  - ▶ City can't go back to old schedule
- ▶ Fresh Start is not commonly utilized – City could achieve same result using either the ADP or Section 115 strategy while maintaining some flexibility

15-Year Fresh Start Analysis



# Use Cash Reserves: Section 115 Trust

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- ▶ **What is it?** Dedicated (restricted to pension/OPEB) account managed by 3<sup>rd</sup> party
- ▶ **Pros:**
  - ▶ Potential for increased investment returns vs. current General Fund reserves
    - ▶ General Fund investments restricted by Government Code (limits types of instruments and maturities)
    - ▶ Flexibility – more investment options than CalPERS and can decide when and how to use
  - ▶ Longer-Term: Trust funds can grow over time and pay off full UAL in the future
  - ▶ Shorter-Term: Apply during challenging budget years or to “smooth” payment spikes
  - ▶ Diversify assets under management away from CalPERS
  - ▶ Potential shock absorber for volatility from CalPERS investment performance & assumption changes
  - ▶ Can also be used for Normal Cost “smoothing” and for OPEB
- ▶ **Cons:**
  - ▶ Market risk (dependent on type of investment portfolio)
- ▶ **Note:** The Trust will show up as an asset on the City’s financial statements, but will not technically offset UAL until funds are transferred to CalPERS



# Use Cash Reserves: ADP

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- ▶ **What is it?** City makes Additional Discretionary Payment (ADP) directly to CalPERS and designates which amortization base(s) / layer(s) shall be paid off
  - ▶ CalPERS will eliminate payments associated with the portion of the UAL paid off, essentially giving the City credit at the discount/interest rate (currently 7%)
    - ▶ Actual credit given over time will be at CalPERS' actual future reinvestment returns
- ▶ **Pros:**
  - ▶ Reduced future payments
  - ▶ Reduced UAL / higher CalPERS funding ratio
  - ▶ Broader, less restrictive CalPERS investment portfolio has potential for higher returns
- ▶ **Cons:**
  - ▶ Re-investment and market timing risk with ADP funds
  - ▶ No options for other investment portfolios like there is with Section 115



# Section 115 vs. CalPERS ADP Comparison

OPTION	Section 115 Trust	Direct UAL Pay Down with CalPERS
Reduced UAL & UAL Payments with CalPERS	No	Yes
Reduced Pension Liability in CAFR	No (but will be off-setting asset on balance sheet)	Yes
Control of Investment Strategy	Yes	No
Funds Managed By	Trust Administrator	CalPERS
Flexibility in Uses	Yes (annual pension or OPEB expense, direct UAL pay down, OPEB, etc.)	No
Savings	Varies; Depends on when City utilizes funds to pay liabilities	Immediate; Length of time varies based on which amortization component is paid off (City's amortization bases currently range from 1-29 years)
Enhanced Budgetary Flexibility	Yes	No
How Many Agencies in CA Have Used?	<b>Over 300 (Estimated) CA agencies maintain Section 115 Trusts (&gt;150 cities)</b>	<b>168 Different Employers for 431 distinct ADPs in 2020</b>

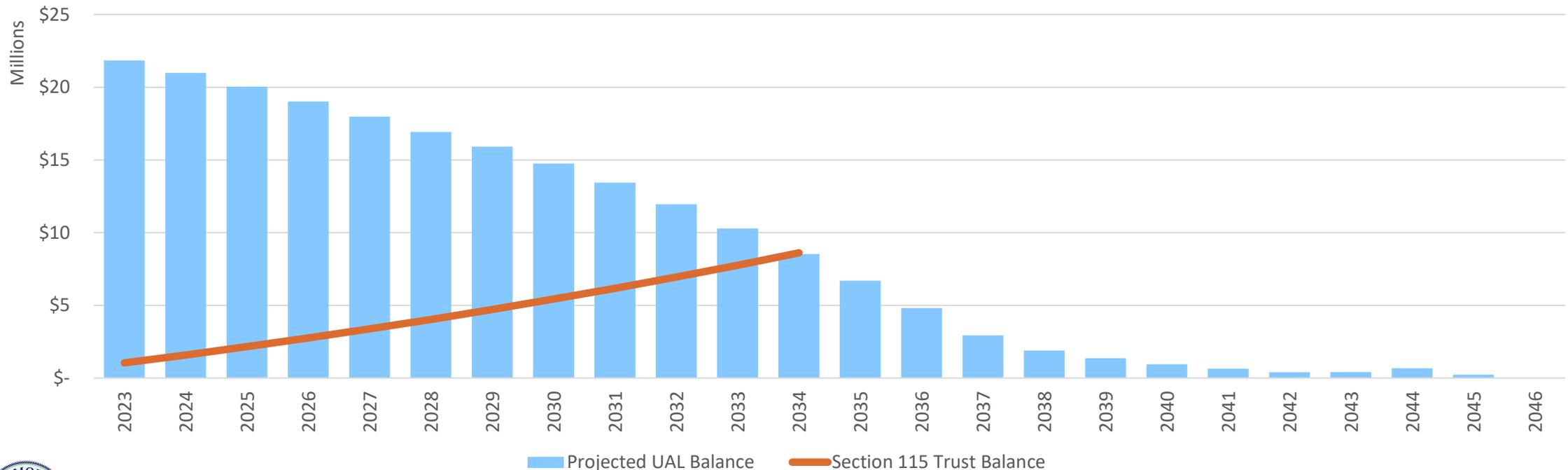


# Section 115 Trust - Hypothetical Example

## \$6.5M Funded in Section 115 Trust Over 12 Years Using Surplus

- ▶ Assuming **\$1.0M** is invested in FY 2023 with annual **\$0.5M** contributions made through FY 2034 (**\$6.5M total contributed**) @ **4.5% returns rate**, fund's growth could cover the UAL balance by FY 2034 (UAL could be fully paid off), saving \$8.6M in UAL payments from FY 2035-2046
- ▶ Section 115 Trust funds could also be used to make Normal Contributions to CalPERS during challenging budget years

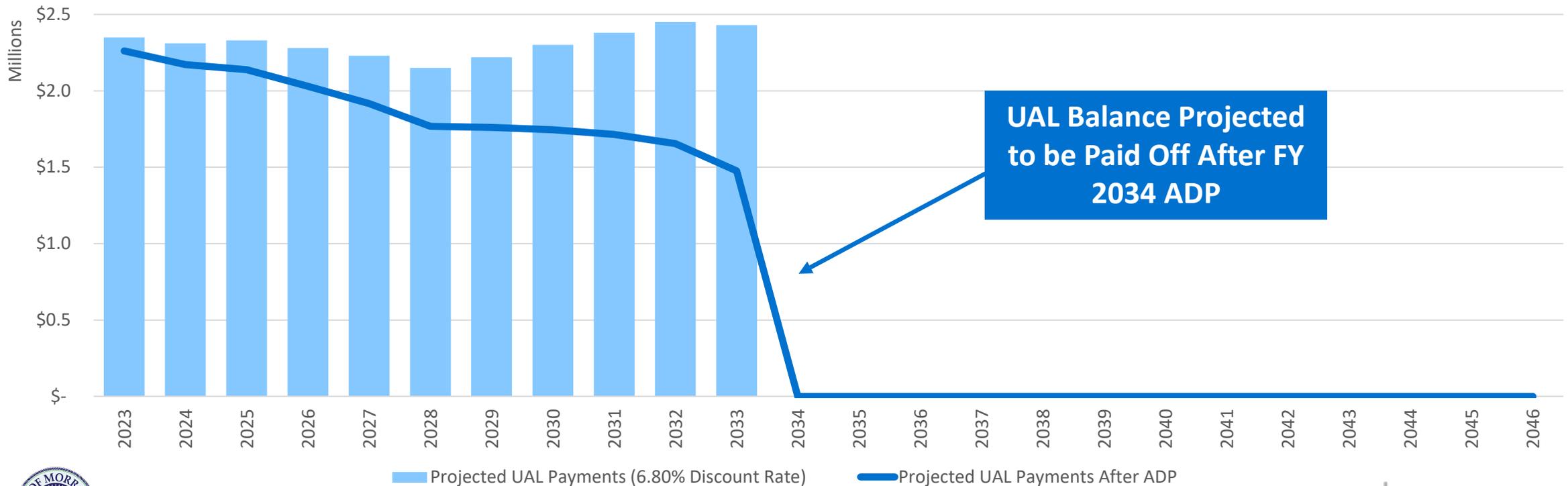
Projected UAL Balance vs. Section 115 Trust Balance



# Additional Discretionary Payment to CalPERS - Hypothetical Example

## \$6.5M of UAL Paid Off Through FY 2034

- ▶ **Example:** ADPs applied to current 14- & 15-year amortization bases
  - ▶ \$8.9M of total reduced payments (\$2.4M savings net of initial deposit)
  - ▶ Reduction in annual payment ranges from \$89K - \$1.2M through FY 2037



# Restructuring UAL using Debt

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- ▶ **What is it?** Borrow money to pay off all or a portion of UAL with CalPERS (i.e. very large ADP)
  - ▶ Pension Obligation Bond (POB) is typically utilized
    - ▶ Unsecured debt (no collateral required)
    - ▶ “Court Validation” to confirm UAL is a “debt” that can be refinanced
      - Typically a 3-to-4-month process
      - Validation provides option to issue POBs now or anytime in the future
  - ▶ Alternative option is lease revenue bond
- ▶ **Pros:**
  - ▶ POB rates significantly lower than CalPERS rate (currently 7%, will be 6.8%)
    - ▶ Current market: 3.00% to 3.50% (dependent upon term and credit rating)
  - ▶ Restructuring the annual payments into a smoother, predictable schedule is core objective
- ▶ **Cons:**
  - ▶ Re-investment risk and market timing risk of bond proceeds sent to CalPERS



# Market Update – Recent UAL Restructurings

- ▶ Since 2020, about 80 agencies have issued UAL Restructuring bonds for over \$7.0 billion in UAL funded
  - ▶ Interest rates have ranged from 2.54% to about 4.25%
- ▶ Vast majority of agencies to come to market in 2021 have achieved 2.50% - 3.25% interest rates

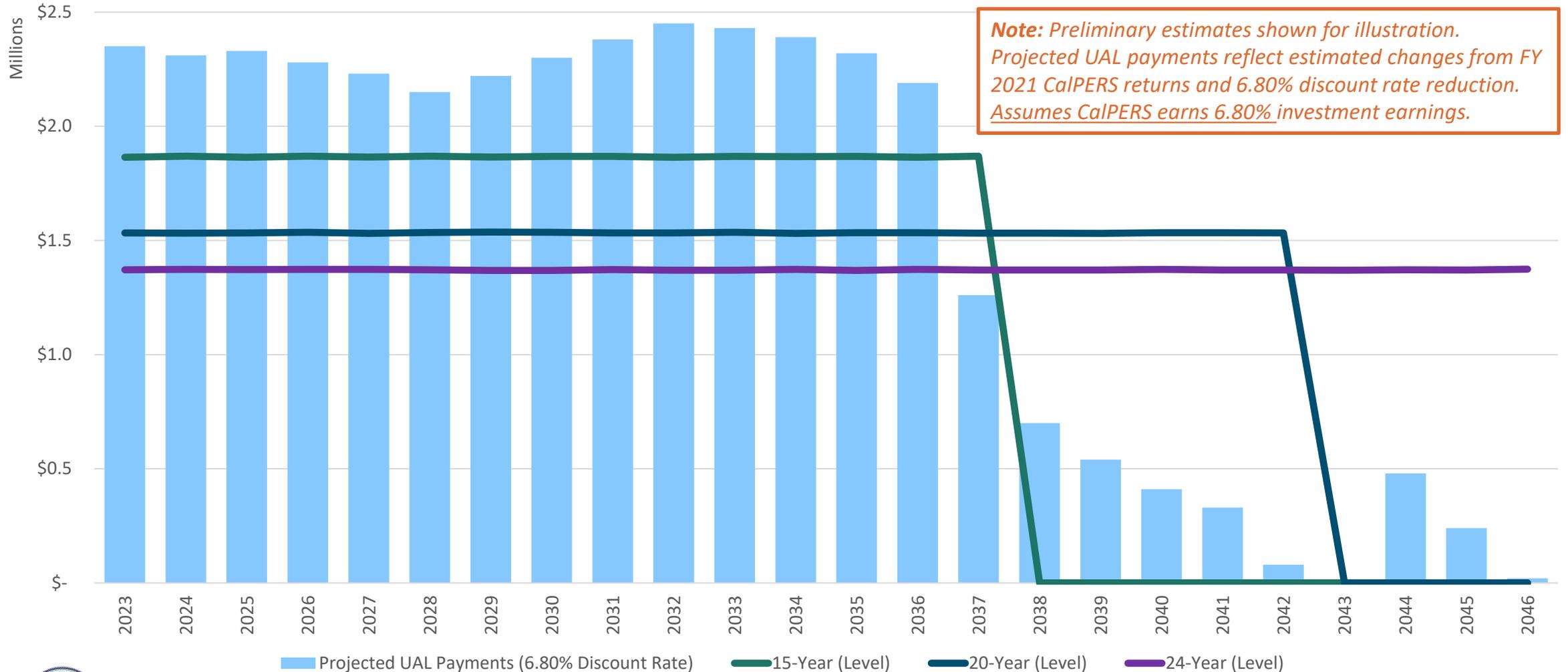
									
San Ramon	Paramount	National City	Oroville	Bellflower	Montclair	Lakeport	Corona	Stanislaus CFPD	San Anselmo
(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)
\$23,345,000	\$17,365,000	\$83,395,000	\$19,225,000	\$13,030,000	\$62,190,000	\$7,920,000	\$276,710,000	\$11,636,000	\$9,285,000
AAA	AA-	AA-	AA-	AA-	AA-	AA	AA+	AA-	AAA
									
Santa Ana	Commerce	Buena Park	Sanger	San Fernando	Whittier	Redondo Beach	Red Bluff	Auburn	El Segundo
(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)
\$425,830,000	\$27,875,000	\$96,385,000	\$19,450,000	\$31,780,000	\$133,895,000	\$226,180,000	\$18,540,000	\$17,165,000	\$144,135,000
AA	AA-	AA+	A+	AA (Ins.)	AA (Ins.)	AA	A+	AA+	AA+
									
Willows	Corte Madera	Manhattan Beach	Huntington Beach*	Orange	Chula Vista	Downey	Monterey Park*	Ukiah	North County FPD
(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2021)	(2020)	(2020)
\$8,510,000	\$18,955,000	\$91,275,000	\$363,645,000	\$286,485,000	\$350,025,000	\$113,580,000	\$106,335,000	\$49,875,000	\$20,305,000
A+	AAA	AAA	AA+	AA	AA	AA	AA	A+	AA-

\* Secured by pension tax override



# Preliminary UAL Restructuring Options: Graphically Depicted

## 15-, 20- and 24-Year Maturities





## **IV. CONCLUSION**

# Conclusion

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- ▶ Rising pension costs are a challenge facing most public agencies
- ▶ City should incorporate latest estimates into budget and planning process
  - ▶ Utilize CalPERS tool to conduct sensitivity analysis and conservatively plan for potential CalPERS underperformance
- ▶ City can consider various cost management strategies, including:
  - ▶ Utilize cash reserves/future surplus for Section 115 Trust or UAL pay down (ADP)
    - ▶ Given the nature of Morro Bay's primary revenue streams (TOT and Sales Tax), a **Section 115 Trust may be most helpful in mitigating BOTH revenue volatility as well as CalPERS volatility**
      - Note: All other strategies (ADP, Fresh Start, POB) can still be executed at any time; a Section 115 trust does not preclude the City from executing other strategies now or in the future.
  - ▶ UAL Restructuring (requires comprehensive evaluation)
- ▶ City could also consider creating a new pension funding policy or amending its current reserve policy to provide additional detail on how it will apply various one-time monies and/or surplus towards pension and OPEB liabilities



# Section 115 Trust – Procedural Steps to Set Up

## 2 to 3 Months Estimated Timeline

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Evaluate potential Section 115 Trust Providers; including investment portfolio options, past performance, and fees

Select Provider and work with its Investment Advisor to determine preferred investment portfolio

Formal City Council adoption of necessary documentation and amount of initial contribution

Trust established and funded by City



# Staff Recommendations

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## ▶ Recommendation

- ▶ Receive and file the informational presentation on CalPERS and the City's unfunded liability and options to address and provide input and feedback;
- ▶ Direct staff to establish a Pension Reserve and, through the FY 2022-23 budget process, set aside a one-time lump sum contribution from FY 2020-21 operating surplus, and to budget annual contributions to the Pension Reserve going forward;
- ▶ Direct staff to establish a Section 115 Trust as the vehicle for the Pension Reserve, and to include one member of the Citizens Finance Advisory Committee (CFAC) on the selection committee to establish the Trust, if there is interest; and
- ▶ Direct staff to continue the current practice of contributing to a restricted trust annually for Other Post-Employment Benefit (OPEB) unfunded liabilities and evaluate whether the current trust is sufficient or whether an alternative trust should be established as part of the Section 115 CalPERS trust establishment.

## ▶ Alternatives

- ▶ Take no additional action to address the City's unfunded liabilities (continue making minimum payments);
- ▶ Make additional discretionary payments (ADPs) directly to CalPERS;
- ▶ Restructure pension debt through a pension obligation bond (POB); or
- ▶ Provide alternative direction to staff.

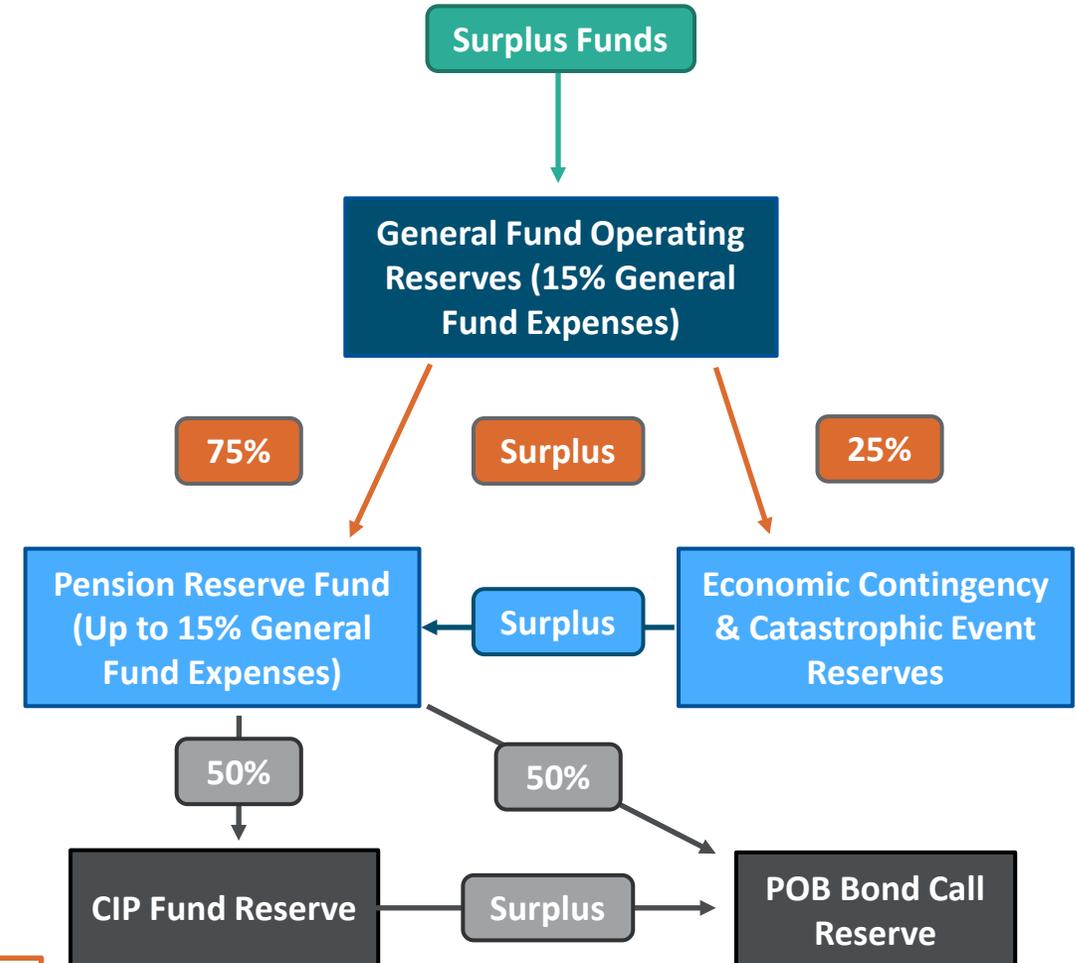




# **APPENDIX: ADDITIONAL MATERIALS RELATED TO PENSION FUNDING POLICIES AND POBs**

# Pension Funding Policy – What is it?

- ▶ Integrated into a comprehensive reserve policy
  - ▶ Provides direction and prioritization to use surplus funds for “filling up” City reserves and other important accounts
- ▶ Detailed projections that account for positive POB cash flow benefits under different CalPERS performance assumptions is a good planning tool
  - ▶ Also, a “credit positive” by rating agencies
- ▶ Beyond economic contingency reserves, surpluses may also be targeted towards funding Section 115 Trusts for additional future smoothing, if needed, of pension or OPEB costs
- ▶ Finally, funding an early redemption account of POBs, as well as other priority capital project funds may be considered



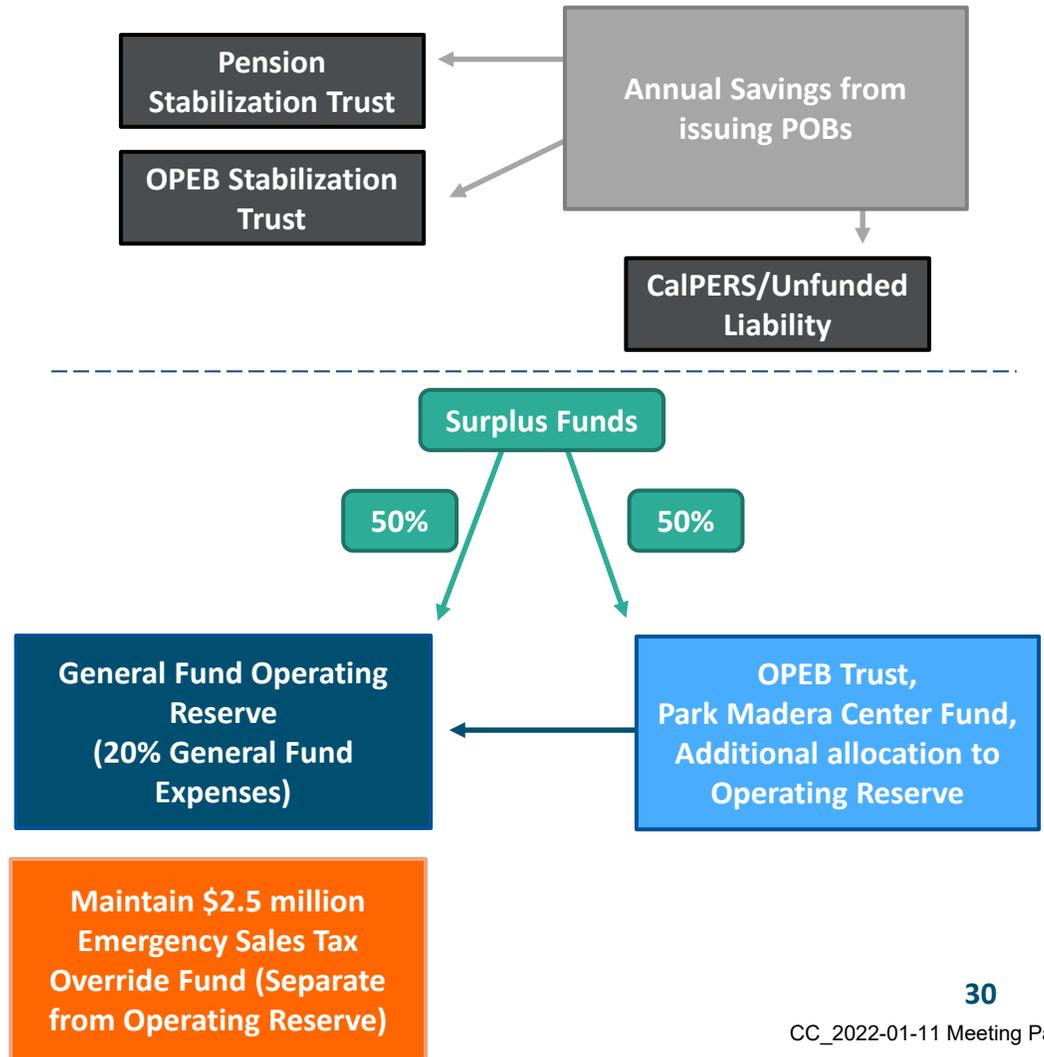
*Note: Policy Graphic is provided for illustrative purposes only. Each agency should consider its unique needs and constraints for its own Pension Funding Policy.*



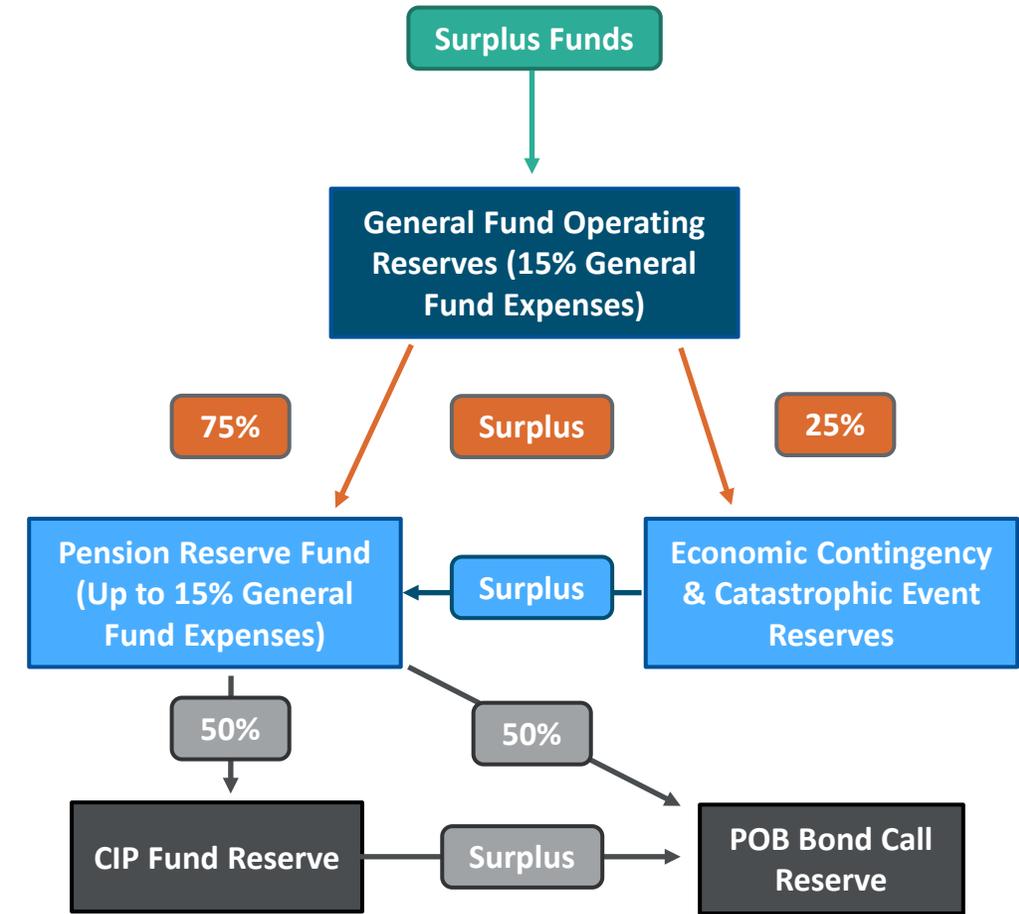
# Examples of Two Pension Funding/Reserve Policies

## Corte Madera and Chula Vista

### Town of Corte Madera



### City of Chula Vista



# Preliminary UAL Restructuring Options: Numerical Results\*

- ▶ PV savings ranges from \$5.4M - \$6.1M\*
  - ▶ 24.8% - 28.0% of refunded UAL\*
- ▶ Savings through peak period (next 10 years) estimated at \$4.3M - \$9.3M\*
  - ▶ \$433K - \$929K annually on average\*

Metrics	15-Year (Level)	20-Year (Level)	24-Year (Level)
UAL Funded (\$)	\$21,850,000	\$21,850,000	\$21,850,000
% UAL Funded (Current Asset Valuations)	75%	75%	75%
Funded Ratio (Current Asset Valuations)	92%	92%	92%
% UAL Funded (Projected After FY 2021 Returns & 6.8% Discount Rate)	100%	100%	100%
Funded Ratio (Projected After FY 2021 Returns & 6.8% Discount Rate)	100%	100%	100%
Maturity	15 Years	20 Years	24 Years
Average Life	8.5 Years	11.5 Years	14.0 Years
All-In Interest Rate	3.27%	3.47%	3.57%
PV Savings (%)	28.04%	25.86%	24.75%
PV Savings (\$)	\$6,127,349	\$5,650,376	\$5,406,801
Cumulative Savings	\$8,388,264	\$5,723,019	\$3,480,516
Savings (2023-2032)	\$4,334,614	\$7,663,093	\$9,285,047
Average Savings (2023-2032)	\$433,461	\$766,309	\$928,505



\* Note: Preliminary estimates shown reflect estimated changes from FY 2021 CalPERS returns and 6.80% discount rate reduction. Assumes CalPERS earns 6.80% investment earnings.

# UAL Restructuring Pros & Cons Summarized

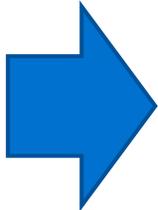


## Primary Benefits

- Fiscal Sustainability Tool: “Re-shape” to “smoother” payments
- Near-Term Budgetary Savings
- Interest Rate Savings “Arbitrage”: Borrow at lower rates (currently  $\approx$  3.25%) vs. CalPERS (currently 7%)
- Increase Funding Ratio
- Flexibility to Modify Maturity

## Primary Risks

- **Reinvestment Risk:** Savings dependent on future CalPERS returns (unknown at issuance) through term of bond - *Primary concern of GFOA*
  - Present value savings occur if PERS earns greater returns than pension bond interest rate
- **Market-Timing Risk:** Near-term losses exacerbate the reinvestment risk given large lump sum deposit into the market



*These risks should be quantified through a **stress testing process** to better understand the impacts of potential poor investment performance by CalPERS*

*What if CalPERS only earns 4%?*

*What if there is another 2008-like recession?*



# Government Finance Officers Association (GFOA) Critique of POBs

Invested pension bond proceeds might earn less than the borrowing costs

- Yes. Instead of CalPERS's expected earnings rate of (currently 7.0%), lower actual returns could occur. The chances of long-term returns being below current < 3.25% borrowing costs do exist. A "stress testing" process is often helpful to better quantify this risk. Each agency has different risk tolerances.

"Pension bonds are complex instruments that carry considerable risk...and may include swaps or derivatives..."

- No. Only fixed rate POBS (no swaps or derivatives) are being issued in current marketplace.

"Issuing taxable debt to fund the pension liability increases the jurisdiction's bonded debt burden and potentially uses up debt capacity..."

- No. POBs replace CalPERS (all or portion) UAL on the Agency's Balance Sheet, thereby converting one liability for another. A lease bond (instead of an unsecured POB) does reduce asset/debt capacity.

Pension bonds are "typically issued without call options" making it more difficult to refund bonds if interest rates fall or a different debt service structure is desired in the future.

- No. All POBS are being issued with an optional redemption (5 or 10 year call) in current marketplace.

"Pension bonds are frequently structured in a manner that defers the principal payments..."

- No. Almost all POBS amortize principal immediately. Shortening, lengthening, or maintaining the same term of payments is at the discretion of each agency.

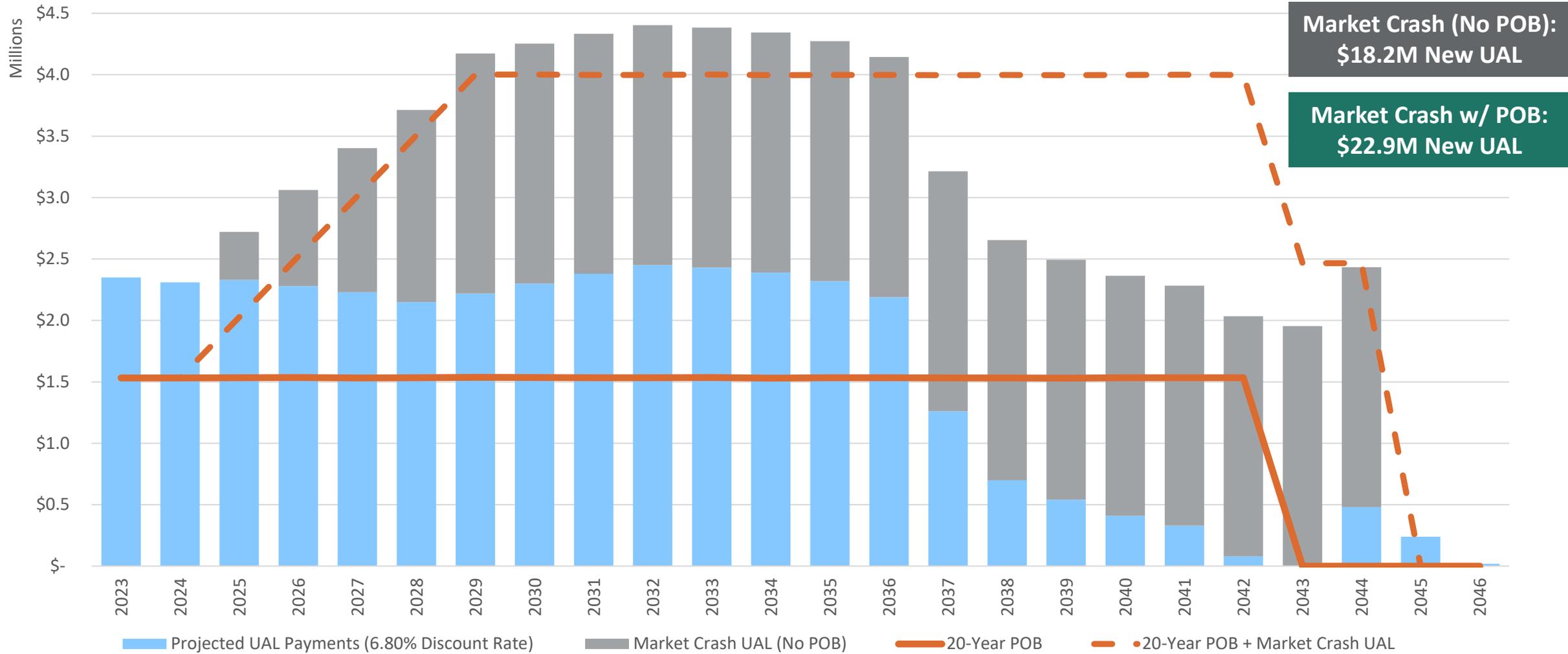
"Rating agencies may not view the proposed issuance of Pension bonds as credit positive..."

- No. If POB is prudently structured from a thoughtful and comprehensive policy to increase payment affordability, financial flexibility and long-term resiliency. A Pension Funding Policy is noted as a credit positive by S&P.



# Preliminary Stress Test Analysis\*: 1<sup>st</sup> Year “Market Crash”

## -15% CalPERS Investment Returns in FY 2023 (PV Savings Reduced to \$0.6M)



*\* Note: NHA is not an actuary. Analysis should be considered best estimates for presentation purposes.*

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AGENDA NO: C-2

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor & City Council **DATE:** January 11, 2022

**FROM:** Greg Kwolek – Public Works Director  
 Kyle Rhorer – Water Reclamation Facility (WRF) Program Manager

**SUBJECT:** 1) Approval of Amendment No. 3 to Contract with Water Works Engineers, LLC for Engineering Design Services During Construction for the Water Reclamation Facility Lift Station and Offsite Pipelines; and 2) Approval of Amendment No. 2 to Contract with Anvil Builders, Inc., for Construction Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines.

**RECOMMENDATION**

Staff recommends the City Council authorize the City Manager to execute the following:

1. Amendment No. 3 to the agreement with Water Works Engineers, LLC (WWE) for Engineering Design Services during Construction and optional tasks for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines for the amount of \$132,239 with an additional \$84,857 for optional additional services for a grand total of \$217,096; and
2. Amendment No. 2 to the agreement with Anvil Builders, Inc., (Anvil) for construction of the WRF Conveyance Facilities for the amount of \$587,502.00.

**FISCAL IMPACT**

**Water Works Engineers, LLC**

The total cost for Amendment No. 3 is \$132,239 with \$84,857 of optional services for a grand total of \$217,096. The total not to exceed amount for the WWE agreement will increase from \$2,214,311 to \$2,431,407.

**Anvil**

Anvil's new total contract amount will be \$32,755,662.

PCO #	DESCRIPTION	Amount
9	SoCal Gas Delays and Disruptions	\$ 43,017.00
22	6-Inch Waterline Relocation at Pump Station A	\$ 20,147.00
23	Miscellaneous Unforeseen Utility Work	\$ 27,198.00
27	MTBM Delays and Disruptions - Claim Resolution	\$ 111,161.00
28	Backup Generator Regulation Mandates – Procurements	\$ 301,703.00
34	Bike Path Jack & Bore Concrete Debris Obstruction	\$ 84,276.00
<b>TOTAL</b>		<b>\$ 587,502.00</b>

01181.0001/759177.1	
Prepared By: <u>AC</u>	Dept Review: <u>GK</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>JWP</u>

The value of Amendment No. 3 for Waterworks and Amendment No. 2 for Anvil will be covered by the Conveyance Facilities budget contingency for the Project budget as outlined in the FY 21/22 Q1 quarterly report. As a result of these two amendments, the remaining project contingency is \$17,028. As a result, these amendments will not result in an increase to the WRF project budget or the rates paid by the City's water or wastewater customers.

## **DISCUSSION**

### **Waterworks Engineers, LLC**

The City of Morro Bay (City) and WWE entered into an agreement on November 15, 2017, for consulting services related to the WRF Lift Station and Offsite Pipelines. That component of the WRF project is currently under construction. The original scope of work for Engineering Services During Construction included the following:

#### **Construction Phase Assistance:**

- Pre-Construction Conference Attendance (assume 1 meeting).
- Complete all submittal reviews (assume qty. 80).
- Request for Information (RFI) and Request for Clarification (RFC) review, documentation and tracking (assume qty. 30).
- Change order request review, documentation, and tracking (assume qty. 6).
- Attend weekly jobsite meetings (assume 12 months at 2x per month = qty. 24).
- Assist in observing operational test of lift station (assume 3 site visits, one each for planning, initial, and final operational test).
- Final inspection, report and project completion recommendation letter (assume 3 site visits, one each for development, progress review, and final punch list acceptance).
- Record drawings (assume redlines provided by Contractor and Inspector, assume 80 hours for pump station and 40 hours for pipelines).

The additional services requested as part of the proposed amendment are based on specific additional design services requested by the Program Manager, Construction Manager, and the City and also include the engineer's best assessment of the remaining level of effort necessary to provide ongoing construction phase engineering support for the WRF Lift Stations and Offsite Pipelines through June 2022. The additional work for Engineering Services During Construction are listed below:

- Complete design modifications to accommodate updated California Air Resources Control Board (CARB) for the construction and operation of emergency generator permits for both conveyance facilities pump station A and B.
- Provide support by reviewing and responding to microtunnel contractor delay claims.
- Develop design modification to bike path joint trench pipe alignment to utilize 70-ft city easement.
- Assist with hydraulic assessment and remaining useful life evaluation of existing WRF outlet to outlet pipe air-relief structure.
- Design field requested electrical and controls modifications.
- Oversee and facilitate electrical and instrumentation acceptance inspection and testing.
- Provide additional engineering support services during construction and start-up (including potential phased start-up of improvement).

The following additional engineering services are listed as optional tasks and will only be provided by

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Engineer if deemed necessary by Program Manager and the City. No work will commence on these activities without specific written approval.

- Conduct site visit and “desktop” condition assessment of existing City extraction wells.
- Design a new WRF outlet air relief structure to accommodate updated hydraulics and extend design life.
- Update existing City water treatment plant discharge line to extend to air relief structure and discharge to the air-gap structure.
- Design temporary realignment of joint trench piping at Morro Creek crossing pipe alignment to support expedited project start-up.

A more detailed description of the listed additional engineering services during construction is provided below:

#### New Regulations for Emergency Backup Generators

Engineer will update construction drawing(s) to address comments from the CARB permit to construct and operate revise and approval process. The need for this work results from new Best Available Control Technology (BACT) requirements implemented after design, bid, and commencement of construction.

#### Microtunnel Delay Claim Evaluation

Engineer supported construction manager in review of delay claims made by Contractor related to alleged change in geotechnical conditions and obstruction in the path of the microtunnel machine. Services included virtual meetings, engineering analysis, field visits, and response to contractor correspondence. Activities for this task are complete; however, associated costs are for compensation for out-of-scope services provided by WWE to support the program management team.

#### Bike Path Joint Trench Realignment

Engineer will update construction drawing(s) to accommodate revisions to joint trench alignment as a result of newly acquired City right-of-way along the bike path to expedite construction and support enhancements for long term access for operation and maintenance of installed pipe alignment along the bike path between Main Street and Morro Creek.

#### Existing Air Relief Structure Enhancements Review and Base Re-Design

Engineer will support Program Manager in evaluating hydraulic capacity of existing air relief structure to handle combined flow of new WRF discharge and City RO water treatment plant discharge. The Central Coast Regional Water Quality Control Board requested the City evaluate connecting the existing water treatment RO discharge line to the existing air relief structure and ocean outfall facility. Adding the additional flow into the air relief structure in combination with the WRF peak flows required a physical and hydraulic evaluation of the air-relief structure. Program Manager will be responsible to provide hydraulic design parameters for outfall pipe as they relate to impact on hydraulic capacity analysis of Air Relief Structure. Engineer will assist Program Manager in evaluation of remaining useful life of air relief structure and potential cost to benefits of replacing that structure to support updated hydraulics and long-term access, operations and maintenance. If City selects to move forward with use of existing air relief structure, then engineer will design of extension of water treatment plant discharge line to existing air relief structure and/or to Pump Station A with air gap connection. (See optional tasks).

#### Electrical Instrumentation Design Modifications During Construction.

Engineer will support Construction Manager with requests to revise, modify and/or update electrical and instrumentation design. Items include potential relocation of fiber pull boxes, elimination of PLC at bridge crossing, pump sump termination panel revision, review of CFD acceptance test information, etc.

#### Electrical Instrumentation Acceptance Inspection and Testing

Engineer's electrical and instrumentation subconsultant, Frisch Engineering, will provide ten (10) days of as needed on-site witness testing and inspection of project electrical and instrumentation work.

#### Additional Engineering Support Services

Engineer will provide the following additional engineering support during construction through the anticipated construction completion date of June 2022.

- Continue utilization of project SharePoint site for tracking and documentation of RFI's, submittals, etc.
- Complete submittal reviews (assume qty. 55 in addition to the 245 reviewed to date).
- Request for Information (RFI) and Request for Clarification (RFC) review, documentation and tracking (assume qty. 25 in addition to the 107 addressed to date).
- Attend WRF Program Meeting and Weekly Project Meeting - virtually (assume 2 additional months – May & June 2022 - at 2 meetings x 4x per month/meeting = 16 qty, in addition to those currently scoped through April 2022.)

#### Morro Creek Crossing Temporary Pipe Realignment (Optional Task)

Engineer will update construction drawing(s) to accommodate temporary joint trench pipe alignment across Morro Creek to expedite construction and support phased start-up project improvements to coincide with the WRF start-up.

#### "Desktop" Evaluation of Existing City Potable Water Extraction Wells (Optional Task)

Engineer will support Program Manager in completing a "desktop" evaluation of the existing City potable water extraction wells. This task will contribute to evaluating the City's existing groundwater well facilities that will be used to extract injected purified water into the Morro groundwater basin for indirect potable reuse. Results of this evaluation may be used in the final recycled water facilities design scope of work. Engineer will complete the following services related to this task:

- Site Visit by process mechanical and electrical engineer to document field condition of equipment (to be led by City maintenance staff with working knowledge of operations and maintenance history).
- Participate in review meeting with City staff to discuss anecdotal and logged operations and maintenance history (intent is for City staff to provide any an all-institutional knowledge about the wells and direct Engineer to specific conditions, reports, data, etc. that are germane to the analysis).
- Review all information provided by Client:
  - As built / record drawings of existing extraction wells against field conditions and equipment.
  - Maintenance history and known equipment replacement(s) and/or refurbishment records.
  - Existing documentation provided by client related to wells, including previously completed condition assessment reports and documentation.
  - Operating parameters and historical data.

- Review all data and develop “remaining useful design life” estimate for all major equipment.
- Develop repair, rehabilitation and/or replacement (RRR) upgrades for all major equipment.
- Estimate Cost of RRR Upgrades (planning level +50% contingency level of detail).
- Present Prioritization of RRR Upgrades.
- Identify additional condition assessment activities recommended to refine and enhance analysis

City Water Treatment RO Plan Discharge Connection to Brine Line (Optional Task)

Engineer will support Program Manager in evaluating options for connecting existing City RO Water Treatment Plant discharge line to new Air Relief Structure brine line per request from the Central Coast Regional Water Quality Control Board as a future requirement for the City. Engineer will provide as needed support to review hydraulic data (pump curves, mechanical layout, pipe alignment and material, etc.) and calculations to confirm connection at new Air Relief structure is feasible. If new air relief structure is deemed a cost benefit to the City, engineer will design realignment of Water Treatment Plant Discharge line to include the following drawings:

- New plan and profile drawing to proposed location (05-PP-01).
- Miscellaneous mechanical details to accommodate air gap into new structure.

Existing Air Relief Structure Enhancements Review and Design (Optional Task)

As a result of the physical and hydraulic assessment of the City’s air-relief structure (see above task) and if new air relief structure is deemed a cost benefit to the City, Engineer will design new structure and connection of WRF brine line and potentially City RO line to it consisting of the following drawings:

- New plan and profile drawing to proposed location.
- Miscellaneous mechanical details to accommodate air gap into new structure.

**Anvil Builders, Inc.**

City and Anvil entered into an agreement as of November 10, 2020, for construction of the WRF conveyance facilities (the “Contract”). Amendment No. 2 consists of six PCO that were negotiated between Anvil and the construction management team.

PCO No. 9 - SoCal Gas Delays and Disruptions

The project's joint trench, containing multiple pipelines, parallels an existing 16" diameter SoCal Gas high pressure gas main for nearly the entire alignment along Quintana Road. SoCal Gas requires a representative to be on site during all digging activities as well as other work activities occurring within 10 ft of the high pressure gas main (i.e. that could potentially damage or otherwise impact the main). There have been several occurrences where the SoCal Gas representative did not show up for scheduled assignments, which prevented Anvil from performing contract work and/or progressing the joint trench. In these cases, Anvil's entire crew was forced to stand-by and wait for the SoCal Gas representative to arrive. Anvil was negatively impacted on the following days: 5/3/21 for 2 hours, 5/17/21 for 2.5 hours, 5/18/21 for 3 hours, 6/3/21 for 2 hours, 6/17/21 for 2.5 hours for 2 different crews, 8/10/21 for 4 hours. PCO No. 9 provides a resolution to contractor’s notice of impacts.

PCO No. 22 - 6-Inch Waterline Relocation at Pump Station A

New Pump Station A is located on City property at City’s existing corporation yard on Atascadero Road. As part of the site preparation and demolition work at Pump Station A, an unknown 6” Waterline was discovered and needed to be relocated to construct the pump station. The extra work included potholing and locating the unknown utility, trenching and installation of new by-pass piping, pressure testing and disinfection of the relocated waterline, backfill and other site work. PCO No. 22 is a

differing site condition change order.

#### PCO No. 23 - Miscellaneous Unforeseen Utility Work

During the project work to date, the below noted miscellaneous unforeseen minor utility work was required for contract work to proceed. The following items are acknowledged as unforeseen conditions and as such warrant reimbursement of verified extra costs: (1) potholing unmarked utility at Pump Station A on 5/3/21, (2) emergency work to recover trench caving due to adjacent utilities from Sta 71+75 to Sta 71+85 on 6/13/21, (3) excavating around unmarked 4" (asbestos) Waterline at Sta 146+00 on 7/8/21, (4) Anvil crew standby time during potholing of incorrectly marked telephone conduit on 8/5/21, (5) unknown and unmarked Sanitary Sewer crossing at Sta 88+50, line was struck and repaired on 8/6/21, (6) potholing unknown and unmarked Sanitary Sewer lines on 8/9/21, and (7) unknown and unmarked Sanitary Sewer crossing at Sta 90+50, line was struck and repaired on 8/23/21. PCO No. 23 is a differing site condition change order.

#### PCO No. 27 - MTBM Delays and Disruptions

Anvil and their Microtunnel Boring Machine (MTBM) subcontractor, Vadnais Trenchless Services (Vadnais) encountered several unknown utilities, potential obstructions, and differing soil conditions along the MTBM alignment below the Morro Bay Roundabout, including complete equipment stoppages at approximately Sta 98+50 and Sta 98+65. Anvil's subcontractor (Vadnais) claimed delay and equipment standby time for these equipment stoppages that lasted over 8 weeks. During the 8 weeks of work stoppage, Anvil excavated and shored two separate 23-foot deep emergency recovery shafts to clear the apparent obstructions from in front of the MTBM cutting head. However, no actual obstruction was found, located, or confirmed during the recovery shaft excavations. Subsequently, the MTBM casing pipe installation was completed without further incidents. Anvil and Vadnais provided notifications of potential costs under PCO #14 and PCO #27 in excessive \$500,000 for the Vadnais equipment downtime, Vadnais loss of crew efficiencies, and for the cost of the two recovery shafts by Anvil. City project management team initially denied the claim for stoppages at Sta 98+50 and Sta 98+65, as no obstruction was found. City does not dispute the other costs related to unknown utilities noted herein. After several meetings between City, Carollo, Anvil, and Vadnais, a claim settlement was reached in the amount of \$111,161, wherein all other costs and impacts associated with both PCO #14 and PCO No. 27, are waived or otherwise agreed upon for the final lump sum amount noted herein. PCO No. 27 is a differing site condition change order and provides a resolution to contractor's notice of impacts.

#### PCO No. 28 – California Air Resources Control Board Regulation Changes

On 9/24/21, City received a Notice of Incomplete Applications from CARB, pursuant to the Pump Station A emergency generator and the Pump Station B emergency generator. The original design of both generators were in compliance with CARB requirements at the time of Bid Opening in 2020. However, in late 2020, CARB rules were revised causing the two generators to now need retrofitted emissions reduction components to attain CARB compliance and approval. CARB is now also requiring Health Risk Assessments (HRAs) for both pump station sites which Carollo is undertaking via specialty subconsultant. This change order encompasses the below noted initial known costs for emissions reduction components, however it is acknowledged there will be a subsequent change order for additional structural, mechanical, electrical, and sitework revisions necessary to implement the changes. This change order includes costs for the following assumed necessary procurement items: At Pump Station A add a Diesel Particulate Filter (DPF); and at Pump Station B add the DPF, plus Selective Catalytic Reduction (SCR) and Diesel Oxidation Catalysts (DOC) technologies. PCO No. 28 is a regulatory agency requirement change order.

### PCO No. 34 - Bike Path Jack & Bore Concrete Debris Obstruction

On 11/11/21, about 3 pm, Anvil and their jack & bore subcontractor (Pacific Boring) encountered a concrete obstruction in the path of the 60" casing pipe. Anvil and Pacific Boring were immediately instructed to suspend the jack & bore mechanical operation and hand excavate to investigate and confirm the size and extent of the concrete obstruction. For the following 6 consecutive days (including Saturday 11/13/21 and Sunday 11/14/21), Anvil and Pacific Boring worked 8 to 10 hour shifts to hand excavate and jack hammer out the concrete obstruction, while simultaneously advancing the casing pipe about 20 ft using the hydraulic jacking equipment. On 11/18/21, the obstruction was cleared, and Pacific Boring resumed normal jack & bore operations, finishing the casing installation the same day. Note the obstruction appears to be an old Caltrans culvert structure from the original CA Route 1 highway. Also note the jack & bore work through jurisdictional wetlands needed to proceed without delay, working through the weekend, in order to meet a California Department of Fish and Wildlife (CDFW) mandate for the tunnel to be completed by 11/19/21. PCO No. 34 is a differing site condition change order.

### **CONCLUSION**

The requested contract amendments for WWE and Anvil have been thoroughly reviewed and refined by the project management team and City staff. With the addition of these contract modifications, the WRF conveyance facilities project will continue to meet the timing and regulatory agency requirements of the entire WRF project.

### **ATTACHMENTS**

1. Amendment No. 3 to the agreement with Water Works Engineers, LLC for Engineering Design Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines.
2. Amendment No. 2 and CCO No. 2 execution form and description of change document.

CITY OF MORRO BAY

AMENDMENT NO. 3 TO THE AGREEMENT  
FOR CONSULTANT SERVICES  
BETWEEN THE CITY OF MORRO BAY  
AND WATER WORKS ENGINEERS, LLC

This Amendment No. 3 is entered by and between the City of Morro Bay, a municipal corporation (“City”) and Water Works Engineers, LLC, an Arizona limited liability company (“Consultant”).

**RECITALS**

WHEREAS, City and Consultant entered into an agreement, as of November 15, 2017, for consulting services related to the Water Reclamation Facility (the “Project”) Lift Station and Offsite Pipelines, which was approved by the City Council for a not to exceed amount of \$1,353,574 (the “Agreement”).

WHEREAS, the Parties amended the Agreement, as of August 27, 2019, for additional services and an increase in compensation of not to exceed \$691,822.00 (Amendment No. 1);

WHEREAS, the Parties amended the Agreement, as of September 22, 2021, for additional services and an increase in compensation of not to exceed \$168,915.00 (Amendment No. 2);

WHEREAS, the Agreement and Amendment No. 1 and No. 2 are referred to collectively as the "Amended Agreement;”

WHEREAS, the Parties again agree to amend the Amended Agreement to provide for additional engineering services during construction, which said work requires an expansion of the tasks to be provided by Consultant pursuant to the Amended Agreement, as hereby amended;

WHEREAS, Consultant has specific knowledge and experience to provide technical oversight needed to accomplish necessary tasks required to meet the City Council's goals for the Project, and

WHEREAS, due to the expansion of tasks to be provided, the compensation payable pursuant to the Amended Agreement must be increased.

NOW THEREFORE, City and Consultant mutually agree to amend the Amended Agreement as follows:

1. The additional services to be provided by Consultant, pursuant to the Amended Agreement, as hereby amended, shall include Task 8 of the Scope, as set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Additional Work"). In addition, as part of the Additional Work, but if, and only if, requested, in writing, by the Project Manager and Public Works Director, Consultant shall also provide the services noted in Exhibit A as Optional (the “Optional Work”),

2. The compensation to be paid for the Additional Work: (i) shall be paid in accordance with the amounts and hourly rates set forth in Exhibit A, and the process established by the Amended Agreement on a time and materials basis and (ii) shall not exceed \$217,096.00, for a total not to exceed amount of \$2,431,407.00 for the Amended Agreement, as hereby amended; provided, that the Optional Work shall not exceed \$84,857.00.

3. Except as expressly stated herein, all terms and conditions in the Amended Agreement shall remain in full force and effect.

4. The effective date of this Amendment No. 3 shall be deemed to be the date upon which the Additional Work was satisfactorily commenced.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 3 to be executed by their duly authorized representatives as of the day first written above.

CITY OF MORRO BAY

CONSULTANT

By: \_\_\_\_\_  
Scott Collins,  
City Manager

By: \_\_\_\_\_,  
Its \_\_\_\_\_

Attest:

\_\_\_\_\_  
Dana Swanson, City Clerk

Approved As To Form:

\_\_\_\_\_  
Chris Neumeyer, City Attorney

**City of Morro Bay (CITY or CLIENT)  
Consultant Services Agreement with  
Water Works Engineers (CONSULTANT, ENGINEER, Water Works, or WWE)**

**Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines  
AMENDMENT 3 (December 31<sup>st</sup>, 2022)**

**AMENDMENT SUMMARY**

ENGINEER is currently providing Engineering Services for the City of Morro Bay Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines Project (Project). ENGINEER and CLIENT identified additional Engineering Services required to:

- complete design modifications to accommodate updated air pollution control board requirements for emergency generators permits to construct and operate;
- review and respond to microtunnel contractor delay claims;
- develop design modifications to bike path joint trench pipe alignment to utilize 70-ft city easement;
- assist with hydraulic assessment and remaining useful life evaluation of existing WRF outlet to outlet pipe air-relief structure;
- update existing city water treatment plant discharge line to extend to air relief structure and discharge to the structure with an air gap;
- design electrical and controls field requested modifications;
- oversee and facilitate electrical and instrumentation acceptance inspection and testing; and
- provide additional engineering support services during construction and start-up (including potential phased start-up of improvements).

The following additional engineering assistance was requested by the CLIENT as optional tasks and will only be provided if deemed necessary by Program Manager. No work will commence on these activities without specific written approval.

- Design temporary realignment of joint trench piping at Morro Creek crossing pipe alignment to support expedited project start-up;
- Conduct site visit and “desktop” condition assessment of existing city extraction wells;
- Support to connect City’s water treatment RO plant discharge to WRF discharge brine line; and
- Design new WRF outlet air relief to accommodate updated hydraulics and extend design life.

The additional services quantified herein are based on specific additional design services requested by CLIENT’s Representative (WRF Program Manager and Project Construction Manager) and ENGINEER’s assessment of the remaining level of effort necessary to provide ongoing construction phase engineering support for both Lift Station and Forcemain construction through June 2022. The following generally describes the additional services required:

**Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines  
AMENDMENT 3**

**Task 8: Engineering Services during Construction (ESDCs)**

ENGINEER will provide the following additional Engineering Services During Construction for the project.

**Air Pollution Control Board (APCB) Requirements for Emergency Generators**

ENGINEER will update construction drawing(s) to address comments from the Air Pollution Control Board permit to construct and operate review and approval process. These are resultant from new best available control technology (BACT) requirements implemented by the APCD after design, bid and commencement of construction. ENGINEER will provide engineering support and make updates to the following drawings:

- 10-S-3 PS-A Generator Plan
- 10-S-4 PS-A Generator Sections
- 20-S-5 PS-B Generator Plan
- Misc details and electrical to accommodate revisions

Deliverables shall include:

- ✓ 95% Design Submittal for review and comment (PDF)
- ✓ Final Submittal based on review comments provided to ENGINEER (PDF)

**Microtunnel Delay Claim Evaluation**

ENGINEER will support Construction Manager in review of delay claims made by Contractor related to alleged change in geotechnical conditions and obstruction in path microtunnel machine. Services included virtual meetings, engineering analysis, field visit, response to Contractor correspondence.

**Bike Path Joint Trench Realignment**

ENGINEER will update construction drawing(s) to accommodate revisions to joint trench alignment to expedite construction and support enhancements to long term access for operation and maintenance of installed pipe alignment. ENGINEER will provide engineering support and make updates to the following drawings:

- 05-PP-7
- 05-PP-8
- 05-PP-9
- 05-PP-10
- 05-PP-11

Deliverables shall include:

- ✓ 95% Design Submittal for review and comment (PDF)
- ✓ Final Submittal based on review comments provided to ENGINEER (PDF)

**Existing Air Relief Structure Enhancements Review and Base Re-Design**

ENGINEER will support Program Manager in evaluating hydraulic capacity of existing air relief structure to handle combined flow of new WRF discharge and City RO water treatment plant. Program Manager will be responsible to provide hydraulic design parameters for outfall pipe as they relate to impact on hydraulic capacity analysis of Air Relief Structure. ENGINEER will assist Program Manager in evaluation of remaining useful life of air relief structure and potential cost to benefits of replacing that structure to support updated hydraulics and long-term access, operations and maintenance. If City selects to move forward with use of existing air relief structure, ENGINEER will design of extension of water treatment plant discharge line to existing air relief structure and/or to Pump Station A with air gap connection. Design will include the following drawings:

- Updated plan and profile drawing to proposed air relief box location (revise 05-PP-1)
- Updated plan and profile drawing to proposed PS a location (revise 05-PP-2 or 46)
- Misc mechanical and electrical details to accommodate redesign

Deliverables shall include:

- ✓ 95% Design Submittal for review and comment (PDF)
- ✓ Final Submittal based on review comments provided to ENGINEER (PDF)

## Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines AMENDMENT 3

### Electrical and Instrumentation Design Modifications

ENGINEER will support Construction Manager with requests to revise, modify and/or update electrical and instrumentation design. Items include potential relocation of fiber pull boxes, elimination of PLC at bridge crossing, pump sump termination panel revision, review of VFD acceptance test information, etc.

### Electrical and Instrumentation Acceptance Inspection and Testing

ENGINEER's electrical and instrumentation subconsultant, Frisch Engineering, will provide ten (10) days of as needed on-site Witness Testing and Inspection of project electrical and instrumentation work.

### Additional Engineering Support Services

ENGINEER will provide the following additional engineering support during construction through the anticipated construction completion date of June 2022.

- Continue utilization of project SharePoint site for tracking and documentation of RFI's, submittals, etc.
- Complete submittal reviews (assume qty. 55 in addition to the 245 reviewed to date)
- Request for Information (RFI) and Request for Clarification (RFC) review, documentation and tracking (assume qty. 25 in addition to the 107 addressed to date)
- Attend WRF Program Meeting and Weekly Project Meeting - virtually (assume 2 additional months - May & June 2022 - at 2 meetings x 4x per month/meeting = 16 qty, in addition to those currently scoped through April 2022.)

Deliverables shall include:

- ✓ Submittal responses submitted electronically (PDF) via project SharePoint site
- ✓ RFI responses submitted electronically (PDF) via project SharePoint site

**Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines  
AMENDMENT 3**

**OPTIONAL SERVICES**

Water Works will provide the following option tasks only upon written approval from CLIENT to commence work.

**Morro Creek Crossing Temporary Pipe Realignment**

ENGINEER will update construction drawing(s) to accommodate temporary joint trench pipe alignment to expedite construction and support phased start-up of project improvements to coincide with WRF start-up. ENGINEER will provide engineering support and make updates to the following drawings:

- 05-PP-6
- 05-PP-7
- Misc mechanical details (ARV, thrust restraint, valves, etc.) to accommodate temporary pipe

Deliverables shall include:

- ✓ 95% Design Submittal for review and comment (PDF)
- ✓ Final Submittal based on review comments provided to ENGINEER (PDF)

**“Desktop” Evaluation of Existing City Potable Water Extraction Wells**

ENGINEER will support Program Manager in completing a “desktop” evaluation of the existing City potable water extraction wells. ENGINEER will complete the following services related to this task:

- Site Visit by process mechanical and electrical engineer to document field condition of equipment (to be led by City maintenance staff with working knowledge of operations and maintenance history)
- Participate in review meeting with City staff to discuss anecdotal and logged operations and maintenance history (intent is for City staff to provide any all-institutional knowledge about the wells and direct ENGINEER to specific conditions, reports, data, etc. that are germane to the analysis)
- Review all information provided by Client;
  - As built / record drawings of existing extraction wells against field conditions and equipment
  - Maintenance history and known equipment replacement(s) and/or refurbishment records
  - Existing documentation provided by client related to wells, including previously completed condition assessment reports and documentation
  - Operating parameters and historical data
- Review all data and develop “remaining useful design life” estimate for all major equipment
- Develop repair, rehabilitation and/or replacement (RRR) upgrades for all major equipment
- Estimate Cost of RRR Upgrades (planning level +50% contingency level of detail)
- Present Prioritization of RRR Upgrades
- Identify additional condition assessment activities recommended to refine and enhance analysis

Deliverables shall include:

- ✓ Draft “Desktop” Condition Assessment Technical Memorandum for review and comment (PDF)
- ✓ Final TM Submittal based on review comments provided to ENGINEER (PDF)

**City Water Treatment RO Plan Discharge Connection to Brine Line (Optional Task)**

ENGINEER will support Program Manager in evaluating options for connecting existing City RO Water Treatment Plan discharge line to new Air Relief Structure brine line. ENGINEER will provide as-needed support to review hydraulic data (pump curves, mechanical layout, pipe alignment and material, etc.) and calculations to confirm connection at new Air Relief structure is feasible. . If new air relief structure is deemed a cost benefit to the City, ENGINEER will design realignment of Water Treatment Plant Discharge line to include the following drawings:

- New plan and profile drawing to proposed location (revise 05-PP-1)
- Misc mechanical details to accommodate air gap into new structure.

Deliverables shall include:

- 95% Design Submittal for review and comment (PDF)
- Final Submittal based on review comments provided to ENGINEER (PDF)

**Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines  
AMENDMENT 3**

**Existing Air Relief Structure Enhancements Review and Design**

If new air relief structure is deemed a cost benefit to the City, ENGINEER will design new structure and connection to it consisting of the following drawings:

- New plan and profile drawing to proposed location
- New cast in place structure over existing outfall pipe
- New mechanical plan to accommodate redesign

Deliverables shall include:

- ✓ 95% Design Submittal for review and comment (PDF)
- ✓ Final Submittal based on review comments provided to ENGINEER (PDF)

**Scope of Engineering Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines  
AMENDMENT 3**

**PROPOSED COMPENSATION**

Water Works Engineers proposes to complete the additional services described herein on a Time and Expense basis not to exceed \$132,239 for Base Additional Services plus an additional \$84,857 for Optional Additional Services without written consent from CLIENT and invoiced in accordance with our Hourly Billing Rates table below, bringing the total approved project budget to \$2,431,407.

The following summarizes the current approved contract amount, the increase in fee associated with the requested Amendment 3 services, and the revised total contract amount (by Task):

<b>Task</b>	<b>Title</b>	<b>Currently Approved</b>	<b>Amend 3</b>	<b>Revised Total</b>
1	Project Management	\$102,285	\$-	\$102,285
2	Site Alternatives Evaluation	\$106,236	\$-	\$106,236
3	Easement Acquisition Support	\$56,678	\$-	\$56,678
4	Survey, Geotechnical Investigation, and Potholing	\$528,946	\$-	\$528,946
5	Concept Design Report	\$159,806	\$-	\$159,806
6	Construction Documents and Specifications	\$827,714	\$-	\$827,714
7	Permitting Support	\$81,051	\$-	\$81,051
8	Engineering and Services during Construction – <b>Base</b>	\$351,595	\$132,239	\$483,834
8	Engineering and Services during Construction - <b>Optional</b>		\$84,857	\$84,857
<b>Total</b>		<b>\$2,214,311</b>	<b>\$217,096</b>	<b>\$2,431,407</b>

\*A detailed fee basis estimate work plan for the additional services is provided on the following page for reference.

<b>Classification</b>	<b>Title</b>	<b>Hourly Rate</b>
AA	Administrative	\$96
E1	Staff Engineer	\$119
E2	Associate Engineer	\$146
E3	Project / Structural Engineer	\$165
E4	Senior Project Engineer / Manager	\$191
E5	Principal Engineer	\$221
I1	Field Inspector	\$129
I2	Senior Inspector	\$144
I3	Supervising Inspector	\$160
T1	CADD Tech 1	\$81
T2	CADD Tech 2	\$109
T3	CADD Tech 3	\$133

**Notes:**

1. A markup of 10% will be applied to all project related Direct Costs and Expenses.
2. An additional premium of 25% will be added to the above rates for Expert Witness and Testimony Services.
3. Rate effective through December 31, 2017. A 3% increase will be added for any services performed in each year thereafter.

**Water Works Engineers Fee Estimate**

Client City of Morro Bay  
 Project WRF List Station and Offsite Pipelines  
 Prepared by Mike Fisher  
 Date 12/31/2021  
 AMENDMENT 3

Hours and Fee

		Additional Service														Optional Tasks								
		Amend 3 Task 1		Amend 3 Task 2		Amend 3 Task 3		Amend 3 Task 4		Amend 3 Task 5		Amend 3 Task 6		Amend 3 Task 7		Amend 3 Opt 1		Amend 3 Opt 2		Amend 3 Opt 3		Amend 3 Opt 4		
Year		2022		2022		2022		2022		2022		2022		2022		2022		2022		2022		2022		
		APCB Requirements for Emergency Generators		Microtunnel Delay Claim Evaluation		Bike Path Joint Trench Realignment		Existing Air Relief Structure Enhancements Review & Base Redesign		Electrical and Instrumentation Design Modifications		Electrical and Instrumentation Acceptance Inspection and Testing		Additional Engineering Support Services		Morro Creek Crossing Temporary Pipe Realignment		City Water Treatment RO Plan Discharge Connection to Brine Line		"Desktop" Evaluation of Existing City Potable Water Extraction Wells		Existing Air Relief Structure Enhancements Design		
WWE Project Team		hrs		hrs		hrs		hrs		hrs		hrs		hrs		hrs		hrs		hrs		hrs		
Classification		fee		fee		fee		fee		fee		fee		fee		fee		fee		fee		fee		
Title		2017		2017		2017		2017		2017		2017		2017		2017		2017		2017		2017		
Base Year		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		Hourly Rate*		
E5	Mike Fisher - PM & Technical Lead	\$221	2	\$512	8	\$2,050	4	\$1,025	8	\$2,050	2	\$512		8	\$2,050	10	\$2,562	2	\$512	8	\$2,050	8	\$2,050	
E5	Sami Kader - QAQC & Technical Oversight	\$221																		24	\$6,149		\$0.00	
E5	Todd Kotey - Process / Mechanical	\$221																		60	\$11,477	16	\$3,060	
E3	Kristina Alacon - Civil / Mechanical	\$165	20	\$3,826				16	\$3,060				48	\$9,181	16	\$3,060						24	\$4,062	
E2	Andy Lindemann - Structural / Architectural	\$146	8	\$1,354									28	\$4,739	4	\$677						40	\$7,651	
E3	Tim Lewis - Pipeline / Trenchless	\$165	12	\$2,295	12	\$2,295	44	\$8,416	16	\$3,060			88	\$16,833	16	\$3,060	12	\$2,295					\$0.00	
E3	Frisch Engineering - EI&C / SCADA	\$165	20	\$3,826						40	\$7,651	120	\$22,954							48	\$9,181		\$0.00	
E4	DCM - Dave Mathy - Trenchless	\$210			40	\$9,738								20	\$4,869					40	\$5,518		\$0.00	
E1	Staff Engineer	\$119																					\$0.00	
T3	Senior Designer	\$133	12	\$1,850			24	\$3,700	16	\$2,467						24	\$3,700	4	\$617			36	\$5,551	
T1	Drafter / Technician	\$81	16	\$1,502			20	\$1,878	16	\$1,502						16	\$1,502	20	\$1,878			60	\$5,634	
AA	Administrative	\$96												8	\$890									
	WWE Expenses (including mark-up)																						\$2,150	
	Subconsultant Markup			\$191		\$487		\$0		\$0		\$383		\$1,148		\$243		\$0		\$0		\$459		\$0
	<b>Subtask Totals</b>	<b>90</b>	<b>\$15,357</b>	<b>60</b>	<b>\$14,570</b>	<b>92</b>	<b>\$15,020</b>	<b>72</b>	<b>\$12,140</b>	<b>42</b>	<b>\$8,546</b>	<b>120</b>	<b>\$27,301</b>	<b>200</b>	<b>\$39,306</b>	<b>86</b>	<b>\$14,563</b>	<b>38</b>	<b>\$5,303</b>	<b>180</b>	<b>\$36,984</b>	<b>184</b>	<b>\$28,008</b>	
		Amend 3 Task 1		Amend 3 Task 2		Amend 3 Task 3		Amend 3 Task 4		Amend 3 Task 5		Amend 3 Task 6		Amend 3 Task 7		Amend 3 Opt 1		Amend 3 Opt 2		Amend 3 Opt 3		Amend 3 Opt 4		
		\$15,357		\$14,570		\$15,020		\$12,140		\$8,546		\$27,301		\$39,306		\$14,563		\$5,303		\$36,984		\$28,008		

\*WWE rates are increased 3% each year beyond base.

**Total Amendment 3 - Base Services 676 \$132,239**

**Optional 488 \$84,857**

**Total Amendment 3 - All Services 1164 \$217,096**

CITY OF MORRO BAY

AMENDMENT NO. 2 TO THE AGREEMENT  
FOR CONSTRUCTION SERVICES  
BETWEEN THE CITY OF MORRO BAY  
AND ANVIL BUILDERS, INC.

This Amendment No. 2 is entered by and between the City of Morro Bay, a municipal corporation ("City") and Anvil Builders, inc., a California corporation ("Contractor").

**RECITALS**

WHEREAS, City and Contractor (collectively, the "Parties") entered into an agreement as of November 10, 2020, for construction services for Contractor to complete the work for the Water Reclamation Facility Lift Station and Offsite Pipelines Project, (the "Project") which was approved by the City Council for a not to exceed amount of \$31,493,765 (the "Agreement").

WHEREAS, the Parties amended the Agreement, as of October 12, 2021, to expand the tasks to be provided by Contractor and to increase the compensation payable in the amount of \$674,485 (Amendment No. 1), increasing the total compensation payable pursuant to the Agreement to \$32,168,160;

WHEREAS, the Agreement and Amendment No. 1 are referred to collectively as the "Amended Agreement;"

WHEREAS, the Parties again agree to amend the Amended Agreement because the construction services for the Project require an expansion of the tasks to be provided by Contractor pursuant to the Amended Agreement;

WHEREAS, due to the expansion of tasks to be provided, the compensation payable pursuant to the Amended Agreement must be increased.

NOW THEREFORE, City and Contractor mutually agree to amend the Amended Agreement as follows:

1. The additional services to be provided by Contractor, pursuant to the Amended Agreement, as hereby further amended, shall include Change Orders 9, 22, 23, 27, 28, and 34 for the out of scope items, as set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Change Order No. 2"). The Change Order No. 2 activities shall have been already satisfactorily commenced as of the date of this Amendment No. 2 or be satisfactorily commenced immediately after January 11, 2022, and, to the extent not completed by January date, completed no later than June 30, 2022.

2. The compensation for the Change Order No. 2 shall not exceed \$587,502. The activities for Change Order No. 2 shall be paid in accordance with (i) the amounts set forth in Exhibit A,

and (ii) the process established by the Amended Agreement on a lump sum basis. With the amount added for the Additional Work, the total compensation paid pursuant to the Amended Agreement shall not exceed \$32,755,662.

3. Contractor shall not be compensated for any services rendered in connection with its performance of the Amended Agreement which are in addition to those set forth in Change Order No. 2.

4. Except as expressly stated herein, all terms and conditions in the Amended Agreement shall remain in full force and effect.

5. The effective date of this Amendment No. 2 shall be deemed to be January 11, 2022.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 2 to be executed by their duly authorized representatives as of the day first written above.

CITY OF MORRO BAY

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Scott Collins,  
City Manager

\_\_\_\_\_  
Its \_\_\_\_\_

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
Dana Swanson, City Clerk

\_\_\_\_\_  
Its \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
Chris Neumeyer, City Attorney



**City of Morro Bay  
Water Reclamation Facility  
Lift Stations and Offsite Pipelines Project  
CHANGE ORDER 002**

**Project:** WRF Lift Stations and OffSite Pipelines Project      **Contractor:** Anvil Builders, Inc.  
**Date:** January 11, 2022      **Project Manager:** Matt Scholfield

Upon mutual acceptance and execution of this document by the City of Morro Bay (City) and Anvil Builders, Inc. (Contractor), Contractor is hereby directed to make the following changes for the consideration set forth below:

See following page(s) for Descriptions and Reasons for Change

PCO #	DESCRIPTION	Reason For Change	Amount	Contract Time (Calendar Days)
9	SoCal Gas Delays and Disruptions	ABI	\$ 43,017.00	0 Days
22	6-Inch Waterline Relocation at Pump Station A	DCS	\$ 20,147.00	0 Days
23	Miscellaneous Unforeseen Utility Work	DSC	\$ 27,198.00	0 Days
27	MTBM Delays and Disruptions - Claim Resolution	ABI	\$ 111,161.00	0 Days
28	SLO County APCD Generator Mandates – Procurements	REG	\$ 301,703.00	0 Days
34	Bike Path Jack & Bore Concrete Debris Obstruction	DSC	\$ 84,276.00	0 Days
NET CHANGE ORDER ADJUSTMENT			\$ 587,502.00	0 Days

ORIGINAL CONTRACT AMOUNT	\$ 31,493,675.00	CURRENT FINAL COMPLETION DATE	4/3/2022
Previous Change Orders	\$ 674,485.00	Extension Days (Calendar)	0 Days
Previous Contract Amount	\$ 32,168,160.00	NEW FINAL COMPLETION	4/3/2022
Adjustments by this Change Order	\$ 587,502.00		
Change Order to Date	\$ 1,261,987.00		
New Contract Amount	\$ 32,755,662.00		

Acceptance of this Change Order constitutes an agreement between the City and Contractor, and the work is to be performed subject to the same terms and conditions as are contained in the Agreement with Contractor and for work on the above-mentioned project.

By signature of this Change Order, the Contractor acknowledges that the adjustments to the Contract Cost and Time contained in the Change Order are in full satisfaction and accord and so waives any right to claim any further cost and time impacts at any time during and after completion of the Contract for the changes encompassed by this Change Order.

ACCEPTED

Anvil Builders Inc.

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Contractor (Company Name)

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(Authorized Signature) (Date)

Matt Scholfield

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(Print Name and Title)

When signed by the Construction Manager, and upon execution of source document Amendment by City Council, this document becomes effective IMMEDIATELY, and Contractor shall proceed with the change(s) described above.

APPROVED

Carollo Engineers Inc / MEG Inc.

Construction Manager

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Authorized Signature (Date)

Steve Mimiaga - Construction Mngr.

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(Print Name and Title)



**City of Morro Bay**  
**Water Reclamation Facility**  
**Lift Stations and Offsite Pipelines Project**  
**CHANGE ORDER 002**

**Project:** WRF Lift Stations and OffSite Pipelines Project

**Contractor:** Anvil Builders, Inc.

**Date:** January 11, 2022

PCO	TILE	DESCRIPTION OF CHANGE	Reason For Change
9	SoCal Gas Delays and Disruptions	The project's joint trench, containing multiple pipelines, parallels an existing 16" diameter SoCal Gas high pressure gas main for nearly the entire alignment along Quintana Road. SoCal Gas requires a representative to be on site during all digging activities as well as other work activities occurring within 10 ft of the high pressure gas main (i.e. that could potentially damage or otherwise impact the main). There have been several occurrences where the SoCal Gas representative did not show up for scheduled assignments, which prevented Anvil from performing contract work and/or progressing the joint trench. In these cases Anvil's entire crew was forced to literally stand-by and wait for the SoCal Gas representative to arrive. The City/Carollo have spent considerable time and effort to coordinate between Anvil and SoCal Gas to improve communication and cooperation, but nevertheless, Anvil was negatively impacted on the following days: 5/3/21 for 2 hours, 5/17/21 for 2.5 hours, 5/18/21 for 3 hours, 6/3/21 for 2 hours, 6/17/21 for 2.5 hours for 2 different crews, 8/10/21 for 4 hours.	ABI
22	6" Waterline Relocation at Pump Sta. A	New Pump Station A is located on City property at the City's existing corporation yard on Atascadero Road. As part of the site preparation and demolition work at Pump Station A, an unknown 6" Waterline was discovered and needed to be relocated to construct the pump station. The extra work included potholing and locating the unknown utility, trenching and installation of new by-pass piping, pressure testing and disinfection of the relocated waterline, backfill and other site work.	DSC
23	Miscellaneous Unforeseen Utility Work	During the project work to date, the below noted miscellaneous unforeseen minor utility work was required for contract work to proceed. The following items are acknowledged as unforeseen conditions and as such warrant reimbursement of verified extra costs: (1) potholing unmarked utility at Pump Station A on 5/3/21, (2) emergency work to recover trench caving due to adjacent utilities from Sta 71+75 to Sta 71+85 on 6/13/21, (3) excavating around unmarked 4" (asbestos) Waterline at Sta 146+00 on 7/8/21, (4) Anvil crew standby time during potholing of incorrectly marked telephone conduit on 8/5/21, (5) unknown and unmarked Sanitary Sewer crossing at Sta 88+50, line was struck and repaired on 8/6/21, (6) potholing unknown and unmarked Sanitary Sewer lines on 8/9/21, and (7) unknown and unmarked Sanitary Sewer crossing at Sta 90+50, line was struck and repaired on 8/23/21.	DSC
27	MTBM Delays and Disruptions Claim Resolution	Anvil and their Microtunnel Boring Machine (MTBM) subcontractor, Vadnais Trenchless Services (Vadnais) encountered several unknown utilities, potential obstructions, and differing soil conditions along the MTBM alignment below the Morro Bay Roundabout, including complete equipment stoppages at approximately Sta 98+50 and Sta 98+65. Anvil's subcontractor (Vadnais) claimed delay and equipment standby time for these equipment stoppages that lasted over 8 weeks. During the 8 weeks of work stoppage, Anvil excavated and shored two separate 23 ft deep emergency recovery shafts to clear the apparent obstructions from in front of the MTBM cutting head. However, no actual obstruction was found, located, or confirmed during the recovery shaft excavations. Subsequently, the MTBM casing pipe installation was completed without further incidents. Anvil and Vadnais provided notifications of potential costs under PCO #14 and PCO #27 in excessive \$500,000 for the Vadnais equipment downtime, Vadnais loss of crew efficiencies, and for the cost of the two recovery shafts by Anvil. The City initially denied the claim for stoppages at Sta 98+50 and Sta 98+65, as no obstruction was found. The City does not dispute the other costs related to unknown utilities noted herein. After several meetings between the City, Carollo, Anvil, and Vadnais, a claim settlement was reached in the amount of \$111,161, wherein all other costs and impacts associated with both PCO #14 and PCO #27, are waived or otherwise agreed upon for the final lump sum amount noted herein.	ABI
28	SLO County APCD Emergency Generator Mandates – Procurements	On 9/24/21, the City received a Notice of Incomplete Applications from SLO County Air Pollution Control District (APCD), pursuant to the Pump Station A emergency generator and the Pump Station B emergency generator. It is City staff understanding that both generators were in compliance with APCD requirements at the time of Bid Opening in 2020. However, in late 2020, APCD rules were revised causing the two generators to now need retrofitted emissions reduction components to attain APCD compliance and approval. APCD is now also requiring Health Risk Assessments (HRAs) for both pump station sites which Carollo is undertaking via specialty subconsultant. This change order encompasses the below noted initial known costs for emissions reduction components, however it is acknowledged that there will be a subsequent change order for additional structural, mechanical, electrical, and sitework revisions necessary to implement the changes. This change order includes costs for the following assumed necessary procurement items: At Pump Station A add a Diesel Particulate Filter (DPF); and at Pump Station B add the DPF, plus Selective Catalytic Reduction (SCR) and Diesel Oxidation Catalysts (DOC) technologies.	REG
34	Bike Path Jack & Bore Concrete Debris Obstruction	On 11/11/21, about 3 pm, Anvil and their jack & bore subcontractor (Pacific Boring) encountered a concrete obstruction in the path of the 60" casing pipe. Anvil and Pacific Boring were immediately instructed to suspend the jack & bore mechanical operation and hand excavate to investigate and confirm the size and extent of the concrete obstruction. For the following 6 consecutive days (including Saturday 11/13/21 and Sunday 11/14/21), Anvil and Pacific Boring worked 8 to 10 hour shifts to hand excavate and jack hammer out the concrete obstruction, while simultaneously advancing the casing pipe about 20 ft using the hydraulic jacking equipment. On 11/18/21, the obstruction was cleared and Pacific Boring resumed normal jack & bore operations, finishing the casing installation the same day. Note that the obstruction appears to be an old Caltrans culvert structure from the original CA Route 1 highway. Also note that the jack & bore work through jurisdictional wetlands needed to proceed without delay, working through the weekend, in order to meet a California Department of Fish and Wildlife (CDFW) mandate for the tunnel to be completed by 11/19/21.	DSC

**REASON FOR CHANGE CODES**

**CR1:** City requested (required)

**CR2:** City requested (Optional)

**E&O:** Design Error or Omission

**ABI:** Anvil request / claim item

**DSC:** Differing Site Conditions

**REG:** Regulatory Agency Item



AGENDA NO: C-3

MEETING DATE: January 11, 2022

# Staff Report

**TO:** Honorable Mayor and Council Members

**DATE:** January 3, 2022

**FROM:** Scott Collins, City Manager  
Sarah Johnson-Rios, Assistant City Manager/Admin Services Director  
Dana Swanson, Human Resources Manager/City Clerk  
Chris F. Neumeyer, City Attorney

**SUBJECT:** Discuss Councilmember Compensation and Consider Introduction of Ordinance No. 647 to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor

## **RECOMMENDATION**

Staff recommends that the City Council:

1. Accept Citizen Finance Advisory Committee's (CFAC) recommendation to adjust Councilmember compensation by ordinance by \$500/month per Councilmember and an additional \$200/month for the Mayor, by introducing, for first reading by title only and with further reading waived, Ordinance No. 647, "An Ordinance of the City Council of the City of Morro Bay, California, Amending Chapter 2.20 (Officers' Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code, to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor."
2. Accept CFAC's recommendation to make no adjustments to current Councilmember health benefits.

## **ALTERNATIVES**

Relative to Council stipends, Council may:

- A. make no adjustments to monthly stipends;
- B. increase its stipends by ordinance by different amounts than the staff recommendation; or
- C. seek voter approval for a more significant increase to Council stipends.

Relative to health benefits, Council may consider the following options or alternative options:

- A. Self-only medical coverage with the same contribution employees receive;
- B. Family medical coverage consistent with the lowest cost health plan; or
- C. Family medical coverage with the same contribution employees receive.

## **FISCAL IMPACT**

The fiscal impact of the staff recommendation would be an increase in expenditures of \$32,400 annually.

Prepared By:   SJR/CFN   Dept Review: \_\_\_\_\_

City Manager Review:   SC   City Attorney Review:   CFN

There are multiple different scenarios that Council could consider to adjust compensation, both in the form of changes to monthly stipend and/or to health and welfare benefits. The table below presents the maximum potential fiscal impact of several potential policy options that are outlined in greater detail in the body of the report. In the case of health benefit costs, these may be higher than the actual costs that the City will incur, since not all Councilmembers utilize health benefits uniformly.

Table 1. Potential Fiscal Impacts

Policy Option	Current Annual Cost for Full Council	Max Increase in Annual Cost for Full Council	Total Revised Annual Cost for Full Council
<b>Monthly Stipend</b>			
A. No Change - Current Cost of Council and Mayor Stipends	32,400	N/A	32,400
B1. Stipend Increase by Ordinance – 5 Councilmembers	N/A	30,000	62,400
B2. Stipend Increase by Ordinance – Mayor Stipend	N/A	2,400	2,400
<b>B1 + B2. Stipend Increase by Ordinance (Council &amp; Mayor)</b>	<b>N/A</b>	<b>32,400</b>	<b>64,800</b>
C. Higher increase by voters	N/A	Unknown	Unknown
<b>Health and Welfare Benefits*</b>			
Current Maximum Potential Cost (if all benefits utilized)	46,718	N/A	46,718
A. <i>Max Increase in Cost</i> of Self-only medical w/employee cont.	N/A	10,753	57,471
B. <i>Max Increase in Cost</i> of Family medical - lowest cost plan	N/A	56,427	103,145
C. <i>Max Increase in Cost</i> of Family medical w/employee cont.	N/A	60,073	106,791

\* Health Benefit Costs are only valid for 2022. They would increase annually as the cost of health benefits increases, according to the policy method selected.

## **BACKGROUND**

City Council directed staff to evaluate Council compensation and review options for modification with the CFAC. Council was interested in evaluating compensation as one factor that may limit who is able to dedicate the time to run for local office. For example, individuals who work full time may find it challenging to run for local office and dedicate significant time to the role in exchange for a nominal monthly stipend.

This item was taken to CFAC consistent with the City Council Policies Section 2.1 (Salaries for Mayor and Council Members), which states that “Compensation for services rendered by the Mayor and Council Members, in an official capacity, shall be provided in accordance with State law and the MBMC. The Citizens Finance Advisory Committee will be asked every 4 years, starting with 2020, to provide the Council a recommendation on whether any changes should be made to that compensation.”

This review was delayed due to COVID. The next review will occur in 2026 unless otherwise directed by the City Council, given that any change decided on now would not be implemented until 2022.

## **CFAC RECOMMENDATION**

CFAC met and discussed Council compensation on November 16, 2021. CFAC requested that the item come back with additional information regarding Council benefits, in addition to monthly stipends. Staff returned to CFAC on December 21, 2021 with the health benefit information.

CFAC recommended by a vote of 6-1 that Council increase Councilmember salaries by \$500/month and increase the Mayor's salary by an additional \$200/month. CFAC recommends no adjustments to current Councilmember health benefits.

## **DISCUSSION**

### **A. Current Councilmember and Mayor Stipends**

Councilmembers currently receive \$500/month in salary as established by the Morro Bay Municipal Code ("MBMC"). "Each member of the city council and the mayor shall receive a salary of five hundred dollars per month." (MBMC 2.20.010.)

A Council salary was initially adopted in 1964 and was last adjusted to the current salary amount in July 2002.

A directly elected mayor may be provided with compensation in addition to that which he or she receives as a councilmember. (Govt. Code § 36516.1). The Mayor receives \$700/month per MBMC 2.20.015: "The mayor, in addition to the compensation enumerated in Section 2.20.010 shall receive the sum of two hundred dollars, per month, as additional compensation as provided by California Government Code 36516.1.

The Mayor's stipend of \$200 monthly was last updated in January 1999 by Ordinance 476.

### **B. Councilmember Compensation Legal Framework**

Compensation<sup>1</sup> for councilmembers of a general law city such as Morro Bay is governed by Title 4, Division 3, Part 1 of the Government Code, starting with Section 36514.5.<sup>2</sup>

Council salaries<sup>3</sup> are controlled by Section 36516. Section 36516(a) allows a city council to initially establish by ordinance a salary up to certain statutory limits, and then thereafter by ordinance adjust salary within certain statutory limits.

Section 36516(b) authorizes voter approval of Council salary. There is no general limitation on the compensation amount when the amount is subject to voter approval. Staff is of the understanding that there is no present interest to place a Council compensation increase on the ballot, though Council could direct staff to bring back a report on this option.

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<sup>1</sup> In addition to their flat salary, "any councilmember and the mayor may be reimbursed for actual and necessary expenses incurred in the performance of official duties." (MBMC 2.20.010.)

<sup>2</sup> All statutory references shall be to the Government Code, unless otherwise indicated.

<sup>3</sup> For purposes of these rules, "salary" does not include city payments for retirement, health and welfare, or federal social security benefits, nor expense reimbursements. (§36516(d), (e).)

### C. Establishing and Increasing Council Salaries by Ordinance

Council compensation increases may be set by ordinance. (Govt. Code § 36516(a)(4).) However, there are limits on increases by ordinance to Council salary which are imposed by the Govt. Code.

Govt. Code Section 36516 authorizes a city to adopt an ordinance providing an initial council salary with a maximum amount depending upon the city's population.

Govt. Code Section 36516 goes on to authorize an increase in council salaries to a higher amount, so long as such amount does not exceed 5% for each calendar year from the operative date of the last adjustment. In July 2002, the Council by ordinance increased Council compensation from \$300/month to \$500/month.

At least three important caveats apply to the Govt. Code Section 36516 calculation for salary increases:

- *No Compounding.* The Attorney General has ruled that the maximum 5% per calendar year percentage increase must be applied only once, with *no compounding*. (89 Ops.Cal.Atty.Gen. 159 (2006).)
- *No Increase Until After a Council Election for New Term of Office.* A change in compensation may not take actual effect during the sitting council's term of office. This does not mean that Councilmember X, elected in 2020, must wait until their next term of office begins in 2024. Because city councilmembers serve staggered terms, Councilmember X will be eligible for the adopted increase following the next regular municipal election that occurs during their term - i.e., when any one of their colleagues must run for reelection for a new term, even though X is in the middle of their own term. In short, once one council seat is elected to a new term, it triggers the adjusted salary for all council seats. (Govt. Code § 36516.5) (54 Ops Cal Atty Gen 112, 114 (1971) (salary increase triggered by increase in census population takes effect following next municipal election).)
- *No Automatic Adjustments.* Once adopted, Section 36516(a)(4) provides, in pertinent part, that "no ordinance shall be enacted or amended to provide automatic future increases in salary." In other words, the 5% maximum calendar increase cannot be enacted on a going-forward basis - it is purely retroactive on a non-compounded basis, with no further increases until another compensation ordinance is adopted.

### D. Statutory Limits on Council Compensation Increases

As noted above, MBMC 2.20.010 establishes Council salaries at \$500/month. The last adjustment to that section was operative in July 2002. Thus, an increase in the base Council salary could be calculated from July 2002 at a rate not-to-exceed *5% for each calendar year thereafter, non-compounded*.

If Council were to adopt a new ordinance increasing its salary, it would go into effect after November 2022, being when "a new term of office" for Councilmembers would begin.<sup>4</sup> This would be twenty

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<sup>4</sup> Govt. Code § 36516.5 provides in full: "A change in compensation does not apply to a council member during the council member's term of office. This prohibition shall not prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of the city council becomes eligible for a salary increase by virtue of the council member beginning a new term of office." Reasonably the proper interpretation of this state law is that the special election in June, 2022 is not for a new term of office, but rather an election to finish an existing term of office which commenced in 2020 and runs through 2024.

years after the operative date of the last MBMC 2.20.010 adjustment in 2002. Section 36516 dictates that the new, maximum salary could be \$1,000/month, as follows:

- \$500/month (est. 2002) x 5% = \$25/month
- \$25/month over 20 years = \$500/month
- \$500/month base 2002 salary + increased \$500/month salary =
- \$1,000/month, maximum.

If the Mayor’s additional stipend of \$200/month were to remain unchanged, the Mayor’s adjusted stipend would be \$1,200/month. However, the same increase is legally permissible for the Mayor’s additional stipend. Utilizing the same methodology, the maximum increase to the Mayor’s monthly stipend, which was last updated to its current amount in 1999, that could be implemented by ordinance would be \$230/month, based on MBMC 2.20.015, for a total Mayoral stipend of \$430/month, resulting in a maximum monthly stipend of \$1,430/month total for the Mayor.

- \$200/month (est. 1999) x 5% = \$10/month
- \$10/month over 23 years = \$230/month
- \$200/month base 1999 Mayor stipend + increased \$230/month =
- \$430/month, maximum.

For consistency with the Council stipend adjustment over a twenty-year prior, staff recommends an increase of \$200/month for the Mayor, for a total revised monthly stipend of \$1,400/month for the Mayor.

Under any calculation scenario, because automatic salary adjustments are prohibited on a going-forward basis, Council salaries could not increase again until another amendment to the compensation ordinance is adopted.

**E. Local Comparison of Council Stipends**

Staff conducted research regarding Council stipends in other cities in San Luis Obispo County and was able to gather the following data. This data shows that currently the Morro Bay Mayor and Councilmembers have the lowest monthly stipend in the County. Morro Bay’s Councilmembers receive 22% less than the average of the other five cities in the County presented below, and Morro Bay’s Mayor receives 16% less than average per month. Note that San Luis Obispo’s monthly stipends are significantly higher in both cases, in part because San Luis Obispo is in a different population tier and was able to set their stipends higher initially under state law. San Luis Obispo data was excluded per CFAC’s request.

Table 2. Survey of City Council Salaries in San Luis Obispo County, 2021

<b>CITY</b>	<b>COUNCILMEMBER STIPEND (Monthly)</b>	<b>MAYOR STIPEND (Monthly)</b>
Arroyo Grande	\$648	\$798
Atascadero	\$600	\$750
Grover Beach	\$600	\$750
Paso Robles	\$600	\$800
Pismo Beach	\$772	\$1,072
<b>Avg. of Five Cities</b>	<b>\$644</b>	<b>\$834</b>

CITY	COUNCILMEMBER STIPEND (Monthly)	MAYOR STIPEND (Monthly)
<b>Morro Bay Current</b>	<b>\$500</b>	<b>\$700</b>

**F. Legal Framework for Council Health and Welfare Benefits**

Several provisions in the Government Code allow the City to provide benefits for current employees and council members, subject to certain restrictions. In general, the benefits provided for councilmembers must be the “same benefits” that the City pays for “its employees.” (§36516(d).) In applying this principal, Section 53208.5 provides some conceptual frameworks by holding that where different benefit structures are provided for different sets of employees, the maximum benefits received by a council can be no greater than the most generous “schedule of benefits” provided to any category of non-safety employees.

Council health and welfare benefits do not require modification by ordinance but can be modified by resolution if changes are consistent with State law.

**G. Current City Council Health and Welfare Benefits Information**

Morro Bay’s Councilmembers currently receive a monthly contribution for medical insurance for themselves only (not family members) based on the lowest cost CalPERS HMO or PPO plan; those costs change each calendar year. They also have the option to enroll themselves and their dependents in vision and dental insurance. Councilmembers are able to enroll in a higher cost plan and/or cover family members in a CalPERS medical plan but would pay the difference between the lowest cost plan for self-only and the full cost of the plan selected (a difference of up to \$312 monthly for self-only for the highest cost plan or up to \$1,753 monthly for the cost to cover family members on the highest cost plan, in 2022). The City also provides a \$50,000 life insurance policy. These benefits are outlined in City Council policies, which are adopted by resolution. The current cost of these benefits is outlined in the table below.

Staff collected information regarding Councilmember health and welfare benefits in the other cities in the County, with the exception of San Luis Obispo, per CFAC’s request to exclude it from the average.

Table 3. Councilmember Health & Welfare Benefits in San Luis Obispo County, 2021

City	Monthly Stipend	Health & Welfare Benefits						Max Monthly Cost/Member
		Medical (self)	Medical (family)	Vision	Dental	Life Ins.	Total Health (max)	
Arroyo Grande	648	0	0	0	0	0	1,836	2,484
Atascadero	600	0	0	0	0	0	897	1,497
Grover Beach	600	0	0	0	0	0	0	600
Paso Robles	600	702	1,769	25	88	0	1,882	2,482
Pismo Beach	772	0	0	0	0	Unknown	2,104	2,876
<b>Avg. of five cities</b>	<b>644</b>						<b>1,344</b>	<b>1,988</b>
<b>Morro Bay - current</b>	<b>500</b>	<b>588</b>	<b>0</b>	<b>22</b>	<b>160</b>	<b>9</b>	<b>779</b>	<b>1,279</b>

Reviewing health and welfare benefits demonstrates that that Morro Bay Councilmembers are farther behind the County average overall than they are when only monthly stipends are considered. Morro Bay Councilmembers' benefits are approximately 42% below average for health benefits and approximately 36% below average for total maximum monthly compensation, including both monthly stipends and the maximum allocation of health and welfare benefits.

Three potential alternatives for Morro Bay Councilmembers are presented in the table below. The first would continue to provide medical insurance coverage for Councilmembers only (not dependents), but would increase the monthly City contribution from \$589 to \$767 consistent with the current monthly contribution for employees who do not opt to cover dependents on their medical plan. The second option would provide Councilmembers with the option to cover family members on their medical plans but would only offer a contribution that would cover the cost of the lowest cost plan. The third option would make Councilmember health insurance consistent with coverage for full-time employees, offering family coverage and the same monthly contribution that employees receive. In all cases, the other benefits would remain the same. The fiscal impact of each of these options is presented in the fiscal impact section of the report.

Table 4. Alternative Options for Morro Bay Councilmember Health Benefits (monthly cost)

	Medical (self)	Medical (family)	Vision	Dental	Life Ins.	Total Monthly Health Cost per Member (max)
Current Council Health Benefits	588	0	22	160	9	779
A. Self-only medical w/employee cont.	767		22	160	9	958
B. Family medical - lowest cost plan		1,528	22	160	9	1,719
C. Family medical w/employee cont.		1,589	22	160	9	1,780

The data regarding health and welfare benefits is the same for a Mayor as it is for Councilmembers. Given the Mayoral monthly stipends in the County as outlined above, Morro Bay's Mayor is currently eligible to receive 42% below average for health benefits and approximately 32% below average for total maximum monthly compensation, including both monthly stipends and the maximum allocation of health and welfare benefits. The medical insurance benefit alternatives outlined above for Morro Bay Councilmembers would also apply to the Mayor.

**CONCLUSION**

Staff recommends Council adjust compensation by ordinance within the limits of state law, by \$500/month per Councilmember and an additional \$200/month for the Mayor. If this change is made and there are no changes to health benefits, Council's total monthly compensation would at or below the County average.

**ATTACHMENTS**

1. Ordinance No. 647, "An Ordinance of the City Council of the City of Morro Bay, California, Amending Chapter 2.20 (Officers' Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code, to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor."
2. Power Point Presentation

**ORDINANCE NO. 647**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
AMENDING CHAPTER 2.20 (OFFICERS' SALARIES) OF TITLE  
2 (ADMINISTRATION AND PERSONNEL) OF THE MORRO  
BAY MUNICIPAL CODE, TO INCREASE CONSISTENT WITH  
STATE LAW AND CFAC RECOMMENDATION THE SALARIES  
OF CITY COUNCILMEMBERS AND THE MAYOR**

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

**WHEREAS**, Government Code section 36516 authorizes the City to change the salary of City Councilmembers and Mayor in accordance with a statutory formula; and

**WHEREAS**, Government Code section 36516.5 provides that any change to the salary of City Councilmembers and Mayor shall not become effective until one or more Councilmembers commences a new term; and

**WHEREAS**, Councilmember salary was initially adopted in 1964 and was last adjusted to the current salary amount in 2002; and

**WHEREAS**, a directly elected mayor may be provided with compensation in addition to that which he or she receives as a Councilmember pursuant to Government Code section 36516.1. The Mayor's additional stipend was last updated in 1999; and

**WHEREAS**, City Council directed staff to evaluate Council compensation and review options for modification with the Citizens Finance Advisory Committee (CFAC); and

**WHEREAS**, Council is interested in evaluating compensation as one factor that may limit who is able to dedicate the time to run for local office. For example, individuals who work full time may find it challenging to run for local office and dedicate significant time to the role in exchange for a nominal monthly stipend; and

**WHEREAS**, CFAC met and discussed Council compensation on both November 16, 2021 as well as on December 21, 2021; and

**WHEREAS**, on December 21, 2021 CFAC recommended on a vote of 6-1 that the Council both increase Councilmember compensation by \$500/month and also increase the Mayor's stipend by an additional \$200/month; and

**WHEREAS**, the City Council desires to accept CFAC's recommendation and adjust, in accordance with the Government Code, the compensation of Councilmembers and Mayor, consistent with the recommendation from CFAC; and

**WHEREAS**, Chapter 2.20 (Officers' Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code codify compensation in the form of salaries for City Councilmembers and the Mayor; and

01181.0001/760151.2

Ordinance No. 647

Page 1

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:**

**SECTION 1. RECITALS.** The City Council hereby finds that the recitals set forth above are all true and correct and are incorporated herein by this reference.

**SECTION 2. CODE AMENDMENT.** Chapter 2.20 (Officers' Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code is hereby amended, in both Section 2.20.010 as well as Section 2.20.015, to read as follows (deleted text in ~~strike through~~ and new text in **bold italics**):

A. "2.20.010 - Mayor and councilmembers.

Each member of the city council and the mayor shall receive a salary of ~~five hundred~~ **one thousand** dollars per month. In addition to said salary, any councilmember and the mayor may be reimbursed for actual and necessary expenses incurred in the performance of official duties."

B. "2.20.015 - Additional compensation for mayor.

The mayor, in addition to the compensation enumerated in Section 2.20.010 shall receive the sum of ~~two~~ **four** hundred dollars, per month, as additional compensation as provided by California Government Code 36516.1."

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

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after its passage (subject to State law restrictions on operational date).

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01181.0001/760151.2

**SECTION 5. CERTIFICATION.** The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_ 2022, by motion of \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PASSED AND ADOPTED** on the \_\_\_\_ day of \_\_\_\_\_ 2022, by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

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

APPROVED AS TO FORM:

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

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

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 647 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the \_\_\_\_ day of \_\_\_\_\_, 2022, and that it was so adopted by the following vote:

AYES:  
NOES:  
ABSENT:

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

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DANA SWANSON, City Clerk

# Morro Bay City Council Meeting January 11, 2022 Item C-3: Council Compensation





# Background

- Council Policies ask CFAC to review Council compensation and make recommendations to Council every 4 years.
- CFAC discussed in November and December and recommended that Council:
  - increase Councilmember monthly stipends by \$500/mo and increase the Mayor's stipend by an additional \$200/mo, by ordinance; and
  - not adjust Council's medical benefits.
- *This would result in total monthly Council compensation (including stipends and benefits) at or below the County average, excluding SLO City.*



# Legal Framework for Stipends

- Governed by Government Code 36516
- Sets initial limits based on population
- Can increase by ordinance up to 5% per year, not compounded
- Higher increases require voter approval



# Council Stipends

- Current stipend:
  - Councilmembers - \$500/mo
  - Mayor - \$700/mo (base + \$200/mo)
- Last updated 20 years ago, in 2002  
(increased from \$300/mo)



# Comparison with Peer Cities

CITY	COUNCILMEMBER STIPEND (Monthly)	MAYOR STIPEND (Monthly)
Arroyo Grande	\$648	\$798
Atascadero	\$600	\$750
Grover Beach	\$600	\$750
Paso Robles	\$600	\$800
Pismo Beach	\$772	\$1,072
<b>Avg. of Five Cities</b>	<b>\$644</b>	<b>\$834</b>
Morro Bay Current	\$500	\$700



# Council Health Benefits

- Optional benefits currently available to elected officials
  - City covers full cost of lowest cost CalPERS medical plan for member only (2022 cost = \$587.78/mo.)
  - City covers full cost of dental/vision coverage for member plus family (2022 cost – up to \$182.15/mo.)
  - City provides \$50,000 life insurance policy for member only (value declines based on age (70-74: 65%, 75+: 50%)) (2022 cost - \$8.70/mo.)

Monthly cost if member elects maximum available coverage: \$778.63/member



# Health Benefit Comparison

City	Monthly Stipend	Health & Welfare Benefits						Max Monthly Cost/Member
		Medical (self)	Medical (family)	Vision	Dental	Life Ins.	Total Health (max)	
Arroyo Grande	648	0	0	0	0	0	1,836	2,484
Atascadero	600	0	0	0	0	0	897	1,497
Grover Beach	600	0	0	0	0	0	0	600
Paso Robles	600	702	1,769	25	88	0	1,882	2,482
Pismo Beach	772	0	0	0	0	Unknown	2,104	2,876
<b>Avg. of five cities</b>	<b>644</b>						<b>1,344</b>	<b>1,988</b>
Morro Bay - current	500	588	0	22	160	9	779	1,279



# Health Benefit Alternatives

	Medical (self)	Medical (family)	Vision	Dental	Life Ins.	Total Monthly Health Cost per Member (max)
Current Council Health Benefits	588	0	22	160	9	779
A. Self-only medical w/employee cont.	767		22	160	9	958
B. Family medical - lowest cost plan		1,528	22	160	9	1,719
C. Family medical w/employee cont.		1,589	22	160	9	1,780



# B-4: Potential Fiscal Impacts

Policy Option	Current Annual Cost for Full Council	Max Increase in Annual Cost for Full Council	Total Revised Annual Cost for Full Council
<b>Monthly Stipend</b>			
A. No Change - Current Cost of Council and Mayor Stipends	32,400	N/A	32,400
B1. Stipend Increase by Ordinance – 5 Councilmembers	N/A	30,000	62,400
B2. Stipend Increase by Ordinance – Mayor Stipend	N/A	2,400	2,400
Rec: B1 + B2. Stipend Increase by Ordinance (Council & Mayor)	N/A	32,400	64,800
C. Higher increase by voters	N/A	Unknown	Unknown
<b>Health and Welfare Benefits*</b>			
Current Maximum Potential Cost (if all benefits utilized)	46,718	N/A	46,718
A. Max Increase in Cost of Self-only medical w/employee cont.	N/A	10,753	57,471
B. Max Increase in Cost of Family medical - lowest cost plan	N/A	56,427	103,145
C. Max Increase in Cost of Family medical w/employee cont.	N/A	60,073	106,791

\* Health Benefit Costs are only valid for 2022. They would increase annually as the cost of health benefits increases, according to the policy method selected.



# Recommendation

Staff recommends that the City Council:

- Accept CFAC’s recommendation to adjust Councilmember compensation by ordinance by \$500/month per Councilmember and an additional \$200/month for the Mayor, by introducing, for first reading by title only and with further reading waived, Ordinance No. 647, “An Ordinance of the City Council of the City of Morro Bay, California, Amending Chapter 2.20 (Officers’ Salaries) of Title 2 (Administration and Personnel) of the Morro Bay Municipal Code, to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor.”
- Accept CFAC’s recommendation to make no adjustments to current Councilmember health benefits.

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## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** January 11, 2022

**FROM:** Greg Kwolek – Public Works Director  
Pamela Newman, Assistant Engineer

**SUBJECT:** Adopt Resolution No. 04-22 Authorizing the Submission of a Grant Application for State Rural Recreation and Tourism Grant Program for Coleman Park Improvements and Provide Input on Coleman Park Conceptual Plan

### **RECOMMENDATION**

Staff recommends the City Council 1) adopt Resolution No. 04-22 authorizing the submission of a grant application for the State Rural Recreation and Tourism Program (RRT) for the Coleman Park Improvements project and 2) provide input to staff on the Coleman Park conceptual plan and recreational and cultural amenities for the park.

### **ALTERNATIVES**

1. Direct staff to not apply for the RRT grant; or
2. Provide other direction to staff.

### **FISCAL IMPACT**

The City is in the process of preparing a grant application for \$400,000 to \$1,000,000 in grant funding from RRT. If awarded, the grant will require local match of 20%. The City plans to leverage as matching funds the funding for the Coleman Park Restroom Demolition and Reconstruction Project, which is already included in the FY 2021-22 Adopted Budget and approved by Council. This would require part of the RRT application to include additional support to the restroom project, which will help cover increased costs due to recent increases in construction costs that were not anticipated in the original restroom project budget. The project budget is \$318,000 and is comprised of, from Prop 68 State Parks Per Capita Grant Program funds (\$177,000), Deferred Maintenance Funds (\$31,500), Castle Winds Community Development Funds (\$40,000), and Park in Lieu Fees (\$69,500). No additional funding is requested at this time.

The grant application will not be for the entire conceptual plan presented here. Instead, staff will take community and Council input and craft an application for a portion of the conceptual plan that may be covered with grant funds, if awarded. Any portion of the park improvement that is

Prepared By: PN

Department Review: GK

City Attorney Review: CFN

City Manager Review: SC

not able to be funded by grant revenues would be incorporated into a capital needs assessment for future funding prioritization along with other capital needs.

## **BACKGROUND**

The improvement of Coleman Park has been identified by staff as a priority because of its favorable existing elements and its proximity to other major City attractions. The park already draws local and regional visitors who enjoy its swing sets, picnic tables, and barbeque pits, and it sits at the crossroads between three of Morro Bay's best known attractions: the Embarcadero, Morro Rock, and Morro Rock Beach. Unfortunately, parts of Coleman Park stand in disrepair. The basketball court is dated and rarely used, and the restroom was recently demolished because of structural issues. Further, much of the park is comprised of unimproved, unvegetated decomposed granite, which is used as makeshift parking lots. These factors, combined with the abovementioned favorable elements of the park, present an opportunity for a variety of improvements. Because of this, City Council took interest in improving the Coleman Park area since at least 2008. Though efforts were made to develop a plan for Coleman Park and the surrounding areas, no lasting initiatives were ever finalized.

More recently, staff has monitored grant funding opportunities to fund Coleman Park improvements. While a broader City capital needs assessment and parks master plan is in development and not yet available, staff has taken a phased, piecemeal approach to park improvements so as to not lose out on grant opportunities. A capital needs assessment is expected to be brought to City Council later this year.

## **DISCUSSION**

The passage of Proposition 68, which was placed on the ballot via Senate Bill 5 and approved by voters on June 5, 2018, made available park related grant funding opportunities to California cities. On October 8, 2019, the City Council adopted Resolution No. 92-19 to authorize staff to apply for the Prop 68 Per Capita Grant to partially fund a new, prefabricated restroom for Coleman Park that includes four gender-neutral bathroom stalls, each with their own sink as well as a concession stand. After a significant delay, the State made the Per Capita Grant open to applications in 2021, at which time the City applied. As a non-competitive grant, the Per Capita Grant offers city applicants \$177,952 towards park related improvements, and staff is expecting to receive an award notification in the coming months. Once awarded, the City must enter into a contract with the State for the Per Capita Grant to complete the Coleman Park restroom reconstruction by December 31, 2023.

Staff recently conducted a survey of grant opportunities to fund additional improvements to Coleman Park. The most promising of these opportunities is the competitive RRT through the State of California Department of Parks and Recreation, which was developed to create new recreation opportunities within rural communities to support health-related and economic goals. The RRT guidelines define "rural" communities as being a City with a population of less than 80,000 within a county with a population of less than 500,000. Grant applications must be submitted by January 20, 2022, with the project awards notification released in Spring 2022. Project improvements must be completed by March 1, 2025, to receive the grant funds.

To better understand what specific improvements and features at Coleman Park the City should focus on, staff held two community meetings to elicit suggestions from community members. To do this, staff invited members of the City Council, the Public Works Advisory Board, the Recreation and Parks Commission, the Harbor Advisory Board, Planning Commission, as well as representatives from the Chamber of Commerce, Visit Morro Bay, and a variety of local community, wildlife, and environmental organizations. Further, a community event flyer was distributed on social media. The event flyer indicated an option to send improvement ideas to staff over email for interested community members who could not attend the meetings.

The first community meeting was held at 10:00 a.m. on Tuesday, October 19, 2021 and brought approximately 30 attendees. The second was held on Thursday October 20, 2021 at 5:30 p.m. in the evening to allow for working families to attend. This meeting had approximately 15 attendees present. The attendees were diverse in age and shared different perspectives based on age and intended use. A variety of park improvement ideas were received by staff, such as inclusion of:

- Family friendly exercise stations and amenities
- Natural (i.e., not traditional plastic) playgrounds for children
- Stage/concert space
- Natural and native gardens
- Picnic Tables
- Historical monuments
- Cultural and education interpretive signage and plaques
- Art component and/or sculptures
- Improved accessibility
- BBQ or Fire Pits

Staff is now seeking additional input from City Council and will also request input from the Public Works Advisory Board at their January meeting.

### **Conceptual Plan**

City Staff compiled the most feasible community suggestions obtained through public meetings and emails and considered options for a competitive grant application for the RRT that complies with the constraints of the site, Coastal Commission regulations, and the adopted 2021 General Plan. The attached conceptual plan is comprised of the following top five main components, ranked by order of popularity, that were consistently raised in the public meetings and emails received by staff:

1. Playground areas
2. Plaza/stage area (for concerts, performances, celebrations, etc.)
3. Landscape/garden areas
4. Exercise/fitness stations
5. Art/historical space

The layout of the conceptual plan replaces 30 existing, unimproved parking spaces with 32

asphalt parking spaces (including 8 accessible spaces) while reducing the overall footprint of parking within the park. It adds a playgrounds, gardens, fitness stations, a plaza/stage, a sports court, art installations, and an accessible ADA concrete sidewalk along Coleman Drive and within the park. These amenities combined offer a family focused park for residents as well as a regional tourist attraction for visitors to Morro Bay.

The conceptual plan is only an example layout for the feasible recreational and cultural amenities suggested by members of the community. It is not intended to be a final vision for Coleman Park, and the grant application will not include all features included in it. Rather, it is intended as a starting point to gather input from City Council to guide staff on the application of grant funding. As such, staff is requesting City Council to review the amenities included in the conceptual plan and provide input on which features to consider in the grant application. Specifically, staff seeks guidance on the following questions:

1. Does City Council support creating ADA accessible parking spaces and consolidating all parking for Coleman Park onto smaller footprint asphalt areas? To do this, the park design would include some new accessible concrete walkways. Without consolidated parking, less space is available for recreational and cultural amenities.
2. Does the City Council support construction of a stage/plaza for small events and concerts? This amenity could be used for community groups and events and also could bring in future revenue for the City. The Division of Recreation Services would manage use of the plaza/stage.
3. Are there any recreational or cultural amenities in the conceptual plan which the City Council does not support?
4. Are there any recreational or cultural amenities not already included in the conceptual plan which they City Council would like included?
5. Are there any areas of the existing park that City Council would like to see preserved in their current condition rather than improved?

Staff will use the input and feedback provided by City Council to develop project cost estimates and the RRT grant application. Any input received from City Council that is not included in the RRT application will be brought to City Council as part of other grant application authorization requests or be included in the future capital needs assessment or parks master plan.

### **CONCLUSION**

Staff recommends the Council adopt Resolution No. 04-22 authorizing staff to submit an application for the Rural Recreation and Tourism Grant Program and to provide input on the three conceptual site plan options for recreational and cultural amenities.

### **ATTACHMENTS**

1. Resolution No. 04-22: Rural Recreation and Tourism Program Grant Authorization
2. Coleman Park Conceptual Plan
3. Current Coleman Park Area Layout
4. Example Coleman Park Design Elements

**RESOLUTION NO. 04-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING THE APPLICATION FOR RURAL RECREATION  
AND TOURISM PROGRAM GRANT FUNDS**

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

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Rural Recreation and Tourism Grant Program, setting up necessary procedures governing the application; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of application before submission of said application to the State; and

**WHEREAS**, successful Applicants will enter into a contract with the State of California to complete the Grant Scope project;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Morro Bay, California, hereby:

**APPROVES THE FILING OF AN APPLICATION FOR THE COLEMAN PARK; AND**

1. Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and
2. Certifies that if the project is awarded, the Applicant has or will have sufficient funds to operate and maintain the project, and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
4. Delegates the authority to Gregory Kwolek, Public Works Director, to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.
6. Will consider promoting inclusion per Public Resources Code

**BE IT FURTHER RESOLVED** that this authorization is effective until rescinded by the Signature Authority or this governing body.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11<sup>th</sup> day of January 2022, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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JOHN HEADDING, Mayor

ATTEST:

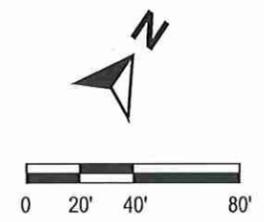
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DANA SWANSON, City Clerk

# COLEMAN PARK CONCEPTUAL PLAN



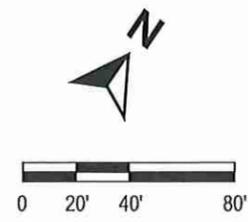
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	PROJ. NAME: <b>COLEMAN PARK HARBORWALK</b>	
DESIGN:	SHEET NAME:	PRJ. NO.:
DRAWN:	<b>CONCEPTUAL PLAN</b>	DATE:
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FILE:		<b>1 OF 1</b>



# COLEMAN PARK CURRENT AREA LAYOUT



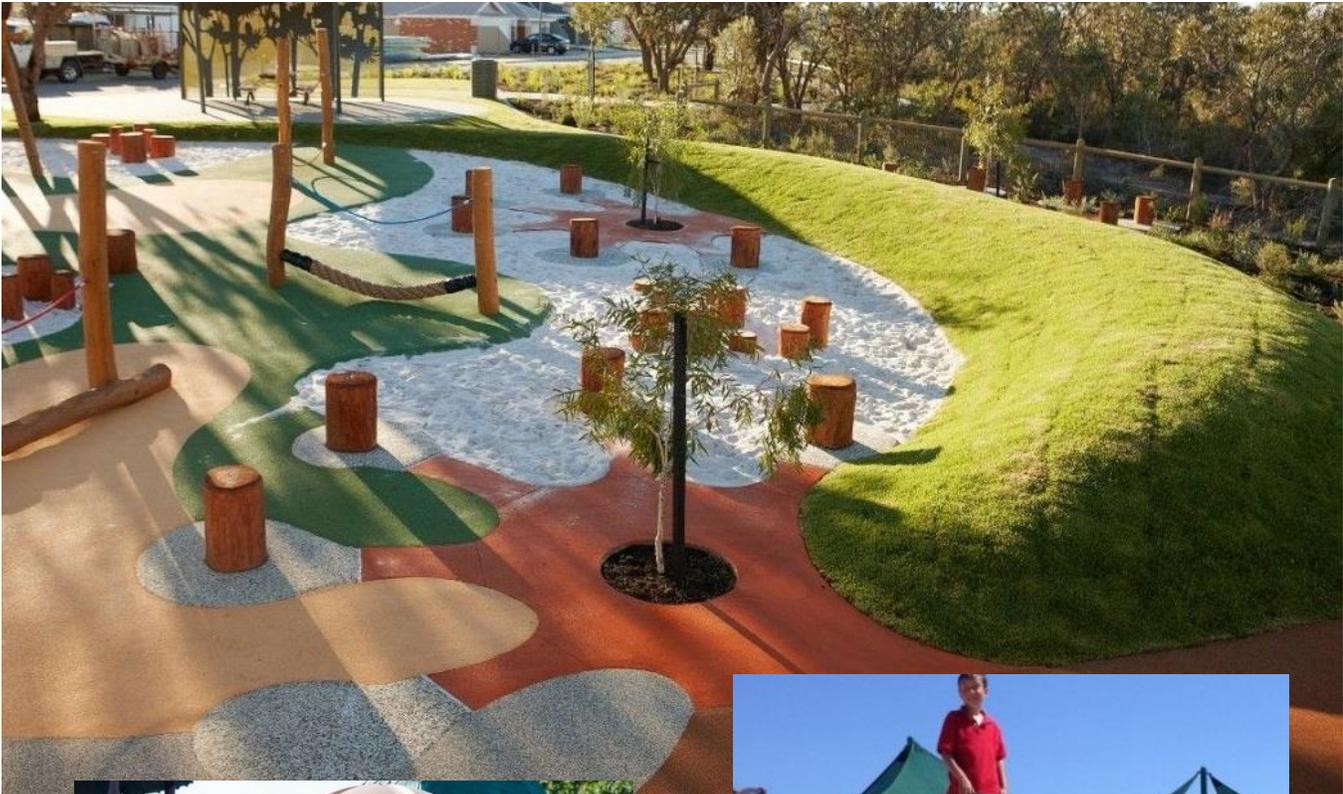
	<b>CITY OF MORRO BAY PUBLIC WORKS DEPARTMENT</b> 955 SHASTA AVE., MORRO BAY, CA 93442 1-805-772-6261 WWW.MORROBAYCA.GOV		
	PROJ. NAME: <b>COLEMAN PARK HARBORWALK</b>		
DESIGN:	SHEET NAME: <b>CURRENT AREA LAYOUT</b>	PRJ. NO:	
DRAWN:		DATE:	SHEET:
CHECK:			1 OF 1
FILE:			



# PLAZA/STAGE DESIGN ELEMENTS



# PLAYGROUND DESIGN ELEMENTS



# LANDSCAPE/GARDEN DESIGN ELEMENTS



# EXERCISE/FITNESS STATIONS ELEMENTS

