



CITY OF MORRO BAY CITY COUNCIL AGENDA

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

Regular Meeting Tuesday, January 25, 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

- Appreciation of Eric Dowdle & Morro Bay Beautiful
- Measure Q/E Report by CFAC Chair John Martin

PUBLIC COMMENT

Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 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 Assembly Bill 361 (2021-22) and Government Code section 54953, 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:

Remote public participation is allowed in the following ways:

- **Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at council@morrobayca.gov prior to the meeting.**
- *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 JANUARY 11, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 FISCAL YEAR (FY) 2020-21 STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Staff recommends the Council Accept Fiscal Year (FY) 2020-21 status report on receipt and use of Development Impact Fees.

A-3 SECOND READING AND ADOPTION 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, ADMINISTRATIVE SERVICES DEPARTMENT, CITY CLERK)

RECOMMENDATION: Staff recommends the City Council adopt, by second reading and by title only 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.” This ordinance will take effect after the November 2022 election.

A-4 ADOPTION OF RESOLUTION NO. 05-22 ESTABLISHING THE 2022 CITY COUNCIL MEETING CALENDAR AND BUDGET DEVELOPMENT SCHEDULE; (CITY MANAGER)

RECOMMENDATION: Staff recommends the City Council review the proposed Council meeting calendar and adopt Resolution No. 05-22 approving the 2022 City Council Meeting Calendar and Budget Development Schedule.

A-5 ADOPTION OF RESOLUTION NO. 06-22 CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY FOR A NEW LOAN AND ACCEPTING A DEED OF TRUST RELATED THERETO FOR LEASE SITE 87-88/87W-88W (TLC FAMILY ENTERPRISES, 833 EMBARCADERO ROAD); (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 06-22 authorizing the Mayor to execute documents necessary for a new loan and accepting a deed of trust related thereto regarding the leasehold interest at Lease Site 87-88/87W-88W, with documents subject to approval of the City Attorney.

A-6 MEMORANDUM OF UNDERSTANDING WITH CALIFORNIA HIGHWAY PATROL AND AFFILIATED AGENCIES OF SLO COUNTY FIRE CHIEFS ASSOCIATION FOR HELICOPTER RESCUE OPERATIONS; (FIRE DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council to authorize the Fire Chief to sign an operational Memorandum of Understanding with the California Highway Patrol and affiliated agencies of SLO County Fire Chiefs Association, substantively in the form of the attached draft, for helicopter rescue operations.

A-7 STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT; (FIRE DEPARTMENT)

RECOMMENDATION: Authorize the Fire Department to apply for, execute necessary documents for such application for, and accept if awarded, a grant from the Department of Homeland Security and Federal Emergency Management Agency for funding under the Staffing for Adequate Fire and Emergency Response (SAFER) Grant for the hiring of limited term firefighters.

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. 07-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

A-9 RESOLUTION AFFIRMING THE CITY OF MORRO BAY'S SUPPORT OF REPRODUCTIVE FREEDOM;(CITY MANAGER)

RECOMMENDATION: Consider adoption of Resolution No. 08-22, entitled "A Resolution of the City Council of the City of Morro Bay, California, Affirming Support of Reproductive Freedom."

A-10 AUTHORIZATION TO ADD ONE FULL-TIME EQUIVALENT IT SYSTEMS ANALYST TO THE ADMINISTRATIVE SERVICES DEPARTMENT; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council take the following action: 1) Authorize the City Manager to increase the Administrative Services Department by one Full-Time Equivalent (FTE) for an Information Technology Systems Analyst position; 2) Adopt Resolution No. 09-22 approving the creation of the Information Technology Systems Analyst classification and job description, subject to any meet and confer requirements; and 3) Adopt Resolution No. 10-22 approving the revised Combined Master Salary Schedule

A-11 PRESENTATION TO THE CITY COUNCIL REGARDING CFAC'S REVIEW OF FY 2020-21 UNAUDITED TRANSACTIONS FROM THE COLLECTION OF THE GENERAL PURPOSE LOCAL SALES TAX, COMMONLY KNOWN AS "MEASURE Q AND E"; (CFAC CHAIRMAN JOHN MARTIN)

RECOMMENDATION: Receive and file.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

- C-1 POLICE RECORDS MANAGEMENT SYSTEM AGREEMENT WITH MARK43, INC;
(POLICE DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council direct the City Manager to: 1) Execute a 5-year agreement with Mark43, Inc. to implement a new Police Records Management System in an amount not to exceed \$279,500; and 2) Return with a budget amendment at Midyear to appropriate \$64,050 in additional Measure Q & E funds to fully fund implementation in FY 2021-22.

- C-2 ADOPTION OF RESOLUTION NO. 11-22 AUTHORIZING THE CITY MANAGER TO EXECUTE GRANT AGREEMENTS, IF AWARDED, WITH THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR 1) WATER WELL INFRASTRUCTURE REHABILITATION AND INSTALLATION PROJECT; AND 2) RECYCLED WATER FACILITIES PROJECT, PURSUANT TO THE 2021 URBAN AND MULTIBENEFIT DROUGHT RELIEF PROGRAM; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 11-22 entitled "A Resolution of the City Council of City of Morro Bay, California, authorizing the City Manager to apply for, accept and execute a Grant Agreement, if awarded, with the California Department of Water Resources for 1) Water Well Infrastructure Rehabilitation and Installation Project; and 2) Recycled Water Facilities Project, pursuant to the 2021 Urban and Multibenefit Drought Relief Program." Specifically, Resolution No. 11-22 authorizes the following actions: 1) Authorizes the City Manager to negotiate with the Department of Water Resources and sign the Grant Agreements and related documents; and 2) Represents that the City has sufficient funds for its own contributions to the Grants.

- C-3 ESTABLISH A CITY COUNCIL SUBCOMMITTEE TO REVIEW AND MAKE RECOMMENDATIONS FOR UPDATES AND REVISIONS TO THE ADVISORY BODY HANDBOOK AND BY-LAWS; (CITY CLERK)

RECOMMENDATION: Staff recommends the City Council appoint two members to form a Council sub-committee that will conduct the biennial review of the Advisory Body Handbook and By-laws and bring recommended revisions back to the full Council for discussion and re-adoption.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, February 8, 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.

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JANUARY 11, 2022 – 4:00 P.M.
TELECONFERENCE

AGENDA NO: A-1
MEETING DATE: January 25, 2022

In accordance with Assembly Bill 361 (2021-22) and Government Code section 54953, 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
 Joseph Pannone Special Counsel
 Scot Graham Community Development Director
 Eric Endersby Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

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

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

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

Cherise Hansson spoke regarding Item CS-2, urging the Council to require parking impacts be addressed as part of the project requirements should the project move forward.

The public comment period was closed.

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

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

Property: Lease Sites 89/89W (The Boatyard, 845 Embarcadero)
Property Negotiator: Cliff Branch
Agency Negotiators: Eric Endersby, Harbor Director; Scott Collins, City Manager; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

There was consensus to hear Item CS-3 next.

CS-3 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code subdivision 54956.9(d)(1)

Council Member Ford recused herself from Item CS-2 due to an economic interest in the property and left the meeting at 4:41 p.m.

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

Property: 714 Embarcadero, 781 Market Street and parking lot; APNs 066-321-028, 066-321-027, 066-321-026, 066-321-025, 066-112-007, 066-321-008
Property Negotiator: Hemant Patel
Agency Negotiators: Scott Collins, City Manager; Scot Graham, Community Development Director; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

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

ADJOURNMENT - The meeting adjourned at 5:09 p.m.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-2
MEETING DATE: January 25, 2022

TO: Honorable Mayor and City Council

DATE: December 30, 2021

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

SUBJECT: Fiscal Year (FY) 2020-21 Status Report on Receipt and Use of Development Impact Fees

RECOMMENDATION:

Staff recommends the Council Accept Fiscal Year (FY) 2020-21 status report on receipt and use of Development Impact Fees.

FISCAL IMPACT:

There is no fiscal impact associated with the requested action.

BACKGROUND/DISCUSSION:

To ensure that mitigation fees associated with development are spent in a timely manner and on projects for which they were being collected, the State Legislature passed a bill known as AB 1600 (the Mitigation Fee Act). This bill applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act (California Government Code, Section 66000 et seq.) requires local agencies that impose Development Impact Fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be available for review by the Council within 180 days after the close of the fiscal year represented. The AB 1600 report is required to be accessible to the public for viewing at least 15 days prior to the public meeting. In accordance with this legal requirement the report for FY 2020-21 (July 1, 2020 to June 30, 2021) was posted to the City's website on December 30, 2021.

The City collects the following Development Impact Fees that meet the AB 1600 reporting requirements:

- Government Impact Fees (Fund 900)
 - Administration
 - Police
 - Fire
 - Street
 - Storm Drain
 - Parks Fees
- Affordable Housing In-Lieu Fees (Fund 941)
- Water Impact Fees (Fund 951)
- Sewer Impact Fees (Fund 952)

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

- Miscellaneous Impact Fees (Fund 515)
 - Highway 41/Main Impact Fees
 - Traffic Impact
 - Sewer Mast Plan Impact
 - Flood Hazard Plan Impact

Separate balances exist for each of these fees either as individual accounts or separate funds. As required by AB 1600, as of June 30, 2021, all accounts or funds with unspent balances have been credited interest revenue at the City's current interest rate earned on its total investment portfolio.

AB 1600 requires that a status report be prepared annually which must include a brief description of the fee and the fund into which the fee was deposited; the associated fund's beginning and ending balances for the fiscal year; the total amount of the fees collected and interest earned; each public improvement on which impact fees were expended and amount of the expenditure on each improvement; and other information about the public improvement projects or inter-fund loans, if applicable.

The information is presented in the attached FY 2020-21 Annual Status Report on Receipt and Use of Development Impact Fees.

CONCLUSION

Staff recommends Council accept the FY 2020-21 Annual Status Report on Receipt and Use of Development Impact Fees as required under the Mitigation Fee Act (AB 1600).

ATTACHMENT

1. FY 2020-21 Annual Status Report on Receipt and Use of Development Impact Fees



**TO: Honorable Mayor and City Council
City Manager Scott Collins**

DATE: December 30, 2021

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

SUBJECT: Fiscal Year (FY) 2020-21 Status Report on Receipt and Use of Development Impact Fees

To ensure that mitigation fees associated with development are spent in a timely manner and on projects for which they were being collected, the State Legislature passed a bill known as AB 1600 (the Mitigation Fee Act). This bill applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act (California Government Code, Section 66000 et seq.) requires local agencies that impose Development Impact Fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be available for review by the Council within 180 days after the close of the fiscal year represented. The AB 1600 report is required to be accessible to the public for viewing at least 15 days prior to the public meeting. In accordance with this legal requirement the report for FY 2020-21 (July 1, 2020 to June 30, 2021) was posted to the City's website today (27 days before the January 25, 2022 City Council meeting).

The City collects the following Development Impact Fees that meet the AB 1600 reporting requirements:

- Government Impact Fees (Fund 900)
 - Administration
 - Police
 - Fire
 - Street
 - Storm Drain
 - Parks Fees
- Affordable Housing In-Lieu Fees (Fund 941)
- Water Impact Fees (Fund 951)
- Sewer Impact Fees (Fund 952)
- Miscellaneous Impact Fees (Fund 515)
 - Highway 41/Main Impact Fees
 - Traffic Impact
 - Sewer Mast Plan Impact
 - Flood Hazard Plan Impact

As mentioned above, this matter will be presented for City Council approval on January 25, 2022.

ATTACHMENT

1. FY 2020-21 Annual Status Report on Receipt and Use of Development Impact Fees

ATTACHMENT 1

**CITY OF MORRO BAY
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2021**

Government Impact Fees

Government Impact Fees are collected to ensure that new development pays the cost of infrastructure expansion required to meet the needs of that new development, effectively transferring the cost burden of growth from the existing rate and taxpayers.

The collected fees are held in fund 900, Government Impact Fees Accumulation Fund and are permitted to be used for capital projects for new facilities, vehicles, and rehabilitation and/or renovation of existing facilities, so long as the rehabilitation or renovation is needed to serve the new development that has paid the fee.

Fund 900

Beginning Fund Cash Balance FY 2020-21 (07/01/2020) 1,030,493

	Bal 7/1/2020	Fees Collected	Interest Earned	Fees Used	Remaining Balance
Administration Fees	\$ 510,486	\$ 15,814	\$ 2,698	\$ -	\$ 528,997
Police Fees	\$ 77,183	\$ 5,201	\$ 422	\$ (74,223)	\$ 8,584
Fire Fees	\$ 20,585	\$ 6,168	\$ 137	\$ -	\$ 26,890
Street Fees	\$ 194,135	\$ 34,926	\$ 1,174	\$ -	\$ 230,235
Storm Drain Fees	\$ 11,159	\$ -	\$ 57	\$ (11,217)	\$ (0)
Parks Fees	\$ 216,945	\$ 15,740	\$ 1,193	\$ (38,702)	\$ 195,176
	\$ 1,030,493	\$ 77,849	\$ 5,681	\$ (124,142)	\$ 989,880

Uses of Funds

Parking lot repavement for Police Department - Transferred to CIP Fund	\$ 74,223
Stormwater Improvements (Tidelands Park) - Transferred to CIP Fund	\$ 32,850
Shasta St. Pocket Park (Bocce Ball) - Transferred to CIP Fund	\$ 17,069
Total Use of Funds	\$ 124,142

Total Ending Balance FY 2020-21 (06/30/2021) \$ 989,880

Potential future projects are provided below. These are potential projects and may or may not be approved in the City's current budget. Any expenditures from these funds would require Council authorization and approval prior to expenditure.

Government Impact Fees Potential Future Projects

Fund 900

Potential Future Projects	Total Funds Available	
Administration Fees	\$	-
Council Chambers Improvements	\$	450,000
Security Improvements and Upgrades	\$	95,000
Total Potential Admin Projects	\$	545,000 \$ 528,997
Police Fees	\$	-
Police Facility Improvements and Upgrades	\$	75,000
Total Potential Police Projects	\$	75,000 \$ 8,584
Fire Fees		
PSPS Upgrades	\$	36,000
Total Potential Fire Projects	\$	36,000 \$ 26,890
Street Fees		
ADA Transition Plan Improve	\$	5,657,072
Total Potential Street Projects	\$	5,657,072 \$ 230,235
Storm Drain Fees		
Under Funded or Unfunded Storm Drain Projects	\$	5,225,100
915-9933 Pipeline along Kern & Anchor SD-01A		
915-9934 Pipeline along Kern & Anchor SD-01B		
New Pipeline West of Main Along Hwy 1 SD-06A		
New Pipeline West of Main Along Hwy 1 SD-06B		
New Pipeline at Morro Bay Blvd and Quintana Road SD-04		
Total Potential Storm Drain Projects	\$	5,225,100 \$ (0)
Parks Fees		
City Park Playground Equipment Upgrade	\$	150,000
Total Potential Parks Projects	\$	150,000 \$ 195,176
Total Potential Future Projects	\$	11,688,172 \$ 989,880

Affordable Housing In-Lieu Fees

Affordable Housing In-Lieu Fees are collected from residential development projects when the construction of affordable housing units is impractical. The required in-lieu fee is to be paid to the City prior to the issuance of a building permit (where square footage is added) or a final tract map. The Affordable Housing In-Lieu Fee is \$0.35 per square foot. The collected fees are held in the 941 fund and used solely for the affordable housing program activities, such as the Housing Element development and implementation, or transfer to another public agency for providing affordable housing in the City.

Beginning Fund Cash Balance FY 2020-21 (07/01/2020)					\$ 255,139
	Bal 7/1/2020	Fees Collected	Interest Earned	Fees Used	Remaining Balance
	\$ 255,139	\$ 5,285	\$ 1,466	\$ (4,515)	\$ 257,376
Uses of Funds					
					\$ 4,515
	Total Use of Funds				\$ 4,515
Ending Fund Cash Balance (06/30/2020)					\$ 257,376
Potential Future Projects					
					\$ 225,000
					\$ 25,000
	Total Potential Projects				\$ 250,000

Sewer Impact Fees

Pursuant to Government Code, revenues derived from the City's impact fees can only be used for the purpose for which the charges are collected. Wastewater impact fees recover costs for buying in to existing facilities and assets. As such, this share of each fee represents a reimbursement to the City's existing customer base for previously-funded facilities and may potentially be used for any purpose. However, the City's practice is conservative and uses these fees to exclusively fund capital improvements. The collected fees are held in the 952 fund and are used solely for wastewater capital improvements.

Beginning Balance FY 2020-21 (07/01/2020)					\$0
	Bal 7/1/2020	Fees Collected	Interest Earned	Fees Used	Remaining Balance
	\$ -	\$ 30,808	\$ 174	\$ (30,982)	\$ -
Uses of Funds					
					\$ 30,982
	Total Use of Funds				\$ 30,982
Ending Fund Cash Balance (06/30/2021)					\$0
Potential Future Projects					
					\$ 2,473,400
					\$ 2,388,550
	Total Potential Projects				\$ 4,861,950

Water Impact Fees

Pursuant to Government Code, revenues derived from the City’s impact fees can only be used for the purpose for which the charges are collected. Water impact fees are designed to recover the cost of existing water system facilities and assets as well as the cost of system upgrades and expansion needed to serve the City. The collected fees are held in the 951 fund and are restricted to be used solely for water system facilities, assets and system upgrades and expansion.

Beginning Balance FY 2020-21 (07/01/2020)	\$0.00
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Bal 7/1/2020	Fees Collected	Interest Earned	Fees Used	Remaining Balance
\$ -	\$ 30,696	\$ 173	\$ (30,869)	\$ -

Uses of Funds

Interfund Transfer to WRF Capital Project	\$ 30,869
Total Use of Funds	\$ 30,869

Ending Balance (06/30/2021)	\$0.00
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Potential Future Projects

OneWater Capital Improvements	\$ 500,000
Total Potential Projects	\$ 500,000

Trust & Agency Fund Impact Fee Revenues

The Trust & Agency fund (fund 515) has historically been used by the city to hold funds with restricted purposes. There are three impact fees that remain in the Trust & Agency fund, traffic impact, sewer master plan impact and flood hazard plan impact. In addition, previous years balances exist for the Highway 41/Main Impact, Storm Drain Impact and Calvary Baptist Drain Impact. These funds are restricted to use of related projects and improvements.

Beginning Fund Cash Balance FY 2020-21 (07/01/2020)	250,266
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	Bal 7/1/2020	Fees Collected	Fees Used	Remaining Balance
Highway41/Main (2600)*	\$ 45,242	\$ -	\$ -	\$ 45,242
Traffic Impact/All Surces (2607)	\$ 49,973	\$ -	\$ -	\$ 49,973
Storm Drain (2613)	\$ 6,054	\$ 783	\$ -	\$ 6,837
Calvary Baptist Drain Impact (2616)	\$ 314	\$ -	\$ -	\$ 314
Sewer Master Plan (2622)	\$ 146,073	\$ -	\$ -	\$ 146,073
Flood Hazard Plan (2740)	\$ 2,610	\$ -	\$ -	\$ 2,610
Total Trust & Agency Fee Revenue	\$ 250,266	\$ 783	\$ -	\$ 251,049

* Note: Highway41/Main balance corrected from prior year

Uses of Funds

No funds used in FY 2020-21

Ending Fund Cash Balance (06/30/2020)	\$ 251,049
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Potential future projects using impact fee balances in the Trust and Agency Fund (515) are provided below. These are potential projects and may or may not be approved in the City's current budget. Any expenditures from these funds would require Council authorization and approval prior to expenditure.

Fund 515

Potential Future Projects	Estimated Cost	Funds Available
Highway41/Main Impact Fee		\$ 45,242
Traffic Impact/All Sources		\$ 49,973
State Rt (SR) 1/SR 41 Interchange Improvement	\$ 1,800,000	
Potential Future Projects	\$ 1,800,000	\$ 95,215
Storm Drain Impact		\$ 6,837
Calvary Baptist Drain Impact		\$ 314
Laurel Ave Easement Rehabilitation	\$ 97,000	
Potential Future Projects	\$ 97,000	\$ 7,151
Sewer Master Plan Impact		\$ 146,073
Flood Hazard Plan Impact		\$ 2,610
OneWater Plan	\$ 691,150	
Potential Future Projects	\$ 691,150	\$ 148,683
Total Potential Future Projects & Available Funds	\$ 2,588,150	\$ 251,049



AGENDA NO: A-3

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and Council Members

DATE: January 13, 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: Second reading and Adoption of Ordinance No. 647 to Increase Consistent with State Law and CFAC Recommendation the Salaries of City Councilmembers and the Mayor

RECOMMENDATION

Staff recommends the City Council adopt, by second reading and by title only 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." This ordinance will take effect after the November 2022 election.

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.

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.

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

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
Monthly Stipend			
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
B1 + B2. Stipend Increase by Ordinance (Council & Mayor)	N/A	32,400	64,800
C. Higher increase by voters	N/A	Unknown	Unknown
Health and Welfare Benefits*			
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 after the November 2022 election.

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

The City Council introduced the ordinance for first reading on January 11, 2022.

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

Compensation¹ 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 36514.5.²

Council salaries³ 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.

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.

¹ 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.)

² All statutory references shall be to the Government Code, unless otherwise indicated.

³ 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).)

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.⁴ This would be twenty 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

⁴ 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.

- \$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

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
Avg. of Five Cities	\$644	\$834
Morro Bay Current	\$500	\$700

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
Avg. of five cities	644						1,344	1,988
Morro Bay - current	500	588	0	22	160	9	779	1,279

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 the City Council adopt, by second reading and by title only 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.”

ATTACHMENT

1. Ordinance No. 647

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 11th day of January 2022, by motion of Council Member Barton and seconded by Council Member Heller.

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 _____, _____.

DANA SWANSON, City Clerk

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AGENDA NO: A-4

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 13, 2022

FROM: Scott Collins, City Manager

SUBJECT: Adoption of Resolution No. 05-22 Establishing the 2022 City Council Meeting Calendar and Budget Development Schedule

RECOMMENDATION

Staff recommends the City Council review the proposed Council meeting calendar and adopt Resolution No. 05-22 approving the 2022 City Council Meeting Calendar and Budget Development Schedule.

ALTERNATIVES

The Council may alter the proposed meeting calendar and schedule.

FISCAL IMPACT

None

BACKGROUND/DISCUSSION

Strategic Planning and Budget Calendar

Over the past several years, City Council has adopted an annual calendar that incorporates the strategic planning and budget discussions in a methodical way to link those efforts. Adoption of a calendar by resolution informed the community of the planned dates for important work on the City's goals and objectives, adoption of the budget, and more. In 2021, the goals process was delayed due to the COVID-19 pandemic, and goals adopted on November 10, 2021, will guide staff efforts through the end of 2022.

With regard to the budget process, the calendar provides two budget study sessions in late May to provide City Council with an overall financial picture for the City and allow for review of each department's proposed budgets and consideration of adjustments, as necessary, to balance the budget. Council then has two regular meetings in June to formally consider and adopt the annual budget prior to year-end.

2022 Meeting Calendar

A Council meeting schedule which includes proposed regular meetings, as well as proposed special meetings and study sessions (known as of the date of this report) is provided for in Exhibit A to Resolution No. 05-22.

Budget Calendar

Exhibit B includes the Fiscal Year (FY) 2022-23 Budget calendar which lays out the projected schedule for the staff development, public briefing, Citizens Finance Advisory Committee consideration, Council review, and eventual Council approval of the FY 2022-23 City Budget. Staff

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

is recommending that Council hold their study session meetings on back-to-back days in May. Council would reserve the regularly scheduled June 14, 2022 Council meeting date to formally adopt the FY22-23 Budget (with June 28th as a backup date if needed).

CONCLUSION

Staff recommends Council adopt Resolution No. 05-22 that includes the City Council's Meeting Calendar, as well as Budget Development Schedule for calendar year 2022.

ATTACHMENT

1. Resolution No. 05-22 with Exhibits A and B
2. 2021-22 Adopted City Goals

RESOLUTION NO. 05-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ADOPTING THE 2022 CITY COUNCIL MEETING CALENDAR
AND BUDGET DEVELOPMENT SCHEDULE**

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

WHEREAS, the City Council adopts an annual calendar providing for the orderly course of business and to provide transparency and accountability to the public; and

WHEREAS, in accordance with the Strategic Planning Framework Policy established by Resolution No. 83-18, the City Council adopts a schedule for the development of goals and two-year objectives, advisory board work plans, and the annual budget; and

WHEREAS, in accordance with the Strategic Planning Framework Policy, in fall 2021 the City Council held a community forum and accepted public input prior to approval of five City Goals and associated action items to help achieve those goals in calendar years 2021 and 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the 2022 City Council Meeting Calendar is adopted, as set forth in Exhibit A, and the Budget Development schedule is adopted, as set forth in Exhibit B.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 25th day of January 2022 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

2022 Meeting Calendar

January 11

Regular Meeting

January 25

Special Meeting (Advisory Body
Interviews)

Regular Meeting

February 8

Regular Meeting

February 22

Budget Forecast Study Session

Regular Meeting

March 8

Regular Meeting

March 22

Regular Meeting

April 12

Regular Meeting

April 26

Regular Meeting

May 10

Regular Meeting

May 24

Budget Study Session #1

Regular Meeting

May 25

Budget Study Session #2

June 14

Budget Adoption

Regular Meeting

June 28

Regular Meeting

July 12

BREAK

July 26

BREAK

August 9

Regular Meeting

August 23

Regular Meeting

September 13

Regular Meeting

September 27

Regular Meeting

October 11

Regular Meeting

October 25

Regular Meeting

November 8

Regular Meeting

November 22

BREAK

December 13

Regular Meeting

December 27

BREAK

Goals, Work Plan and Budget Development Schedules

Budget Calendar

- February Finance prepares budget framework, training, and instructions
- Feb 15 Mid-Year Measure Q&E Budget Presentation to CFAC
- Feb 22 General Fund Forecast to Council
- Feb 22 Mid-year Budget Presentation to Council
- March Departments prepare budgets
- April City Manager/Exec Team budget meetings; draft budget development
- Apr 19 CFAC reviews and recommends Measures Q and E Funding
- Apr 26 Fiscal Policy Review by Council; preliminary budget input if needed
- May 10 City Manager delivers draft proposed budget numbers to Council
- May 17 CFAC receives update on proposed budget, time permitting
- May 24 Budget Study Session #1
- May 25 Budget Study Session #2
- Jun 14 Budget Adopted at Council Meeting
- Jun 28 Backup date for Budget Adoption

Legend

- Council Meetings
- Council Study Sessions
- Joint or Advisory Board Meetings
- Internal Staff Actions



**** DRAFT ** City of Morro Bay – Goals for Remainder of 2021 and All of 2022 ** DRAFT ****

Morro Bay has a unique geographic location that makes it a beautiful spot for residents to live, visitors to visit, businesses to thrive, animals to call home, and all to recreate. As such, the City has identified its purpose as...*The City of Morro Bay provides essential public service and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.*

The City goals identified below represent a small percentage of the public services that are provided by City staff to reach this purpose. These City goals signify areas where additional focus and resources may be needed at this point in time. Morro Bay has a highly engaged community that is actively involved in committees, non-profits, advisory bodies, etc. to volunteer time and expertise to support the City in accomplishing our goals and preserving the City of Morro Bay. The City is committed to leveraging this time and talent to address the adopted goals listed below.

Goal Theme	Public Infrastructure	Fiscal Sustainability & Economic Vitality	Housing	Climate Action	Community Health
DRAFT Goal Statement	<i>Address (1) cleanliness (while maintaining sensitivity to wildlife) and safety issues in heavy tourism areas, (2) conduct a capital needs assessment, and (3) traffic circulation in Embarcadero.</i>	<i>(4) Create plan to address the City’s unfunded liabilities while striving to achieve competitive compensation, (5) determine potential paths to secure funding for capital needs (Harbor and other needs), and (6) support expedient catalyst site development.</i>	<i>(7) Educate the Council on new and existing State legislation related to housing, (8) identify the opportunities for additional housing options and/or explore partnerships to support these efforts, and (9) continue the Community Development Department’s efforts to expedite the development review process.</i>	<i>(10) Participate with other cities in SLO County to support climate action planning efforts, (11) educate Council on the technical terms around climate action to support policy advocacy and the identification of critical next steps for Morro Bay, and (12) consider opportunities to reduce reliance on carbon producing energy sources.</i>	<i>(13) Create plan to address immediate need for increasing COVID vaccination rates with an emphasis towards target populations with inequitable access or education. (14) Educate Council and staff about Diversity, Equity, and Inclusion (DEI) and engage in a community conversation.</i>

<p>Focus for Nov 2021-Dec 2022 +</p>	<p>-Clean city (address cleanliness, sanitation issues) that is also sensitive to ecosystem, animals, etc.</p> <p>-Address safety concerns – specifically Embarcadero, Morro Bay Blvd. – crosswalks, stripes painted, stop signs (focus in next 12 months)</p>	<p>-Address Citywide CalPERS liability and robust funding plan*</p> <p>-Address healthcare liability/unfunded liability in OPEB – rise in premiums and cost to City* *while balancing with competitive wages for staff to accomplish all of these goals</p> <p>-Fund Harbor needs fully – need to identify a sustainable funding source; create a plan to address upcoming capital plan needs (specifically Harbor capital plan) – maintenance in Harbor area (e.g., underpinnings, pilings)</p> <p>-Expediently completing catalyst site development (e.g., completion of Market Street Plaza, redevelopment on Embarcadero, Cloisters development project,</p>	<p>-Educate Council on housing</p> <p>-Move to forefront a review of the list of properties for affordable/workforce housing development</p> <p>-Work with partners to address affordable/workforce housing opportunities, and review options for using City property</p> <p>-Continue work that Community Development Department is doing to expedite the development review process</p>	<p>-Participate with other cities in SLO County to update Climate Action Plan – review current Climate Action Plan and understand what can be updated</p> <p>-Educate Council on the technical terms around climate action, so they can make informed decisions</p> <p>-Be conscious of Council’s ability to advocate on policymaking at County level (e.g., APCD), State, and Federal and how those policies will be applied locally</p> <p>-Leverage battery storage and reduce reliance on carbon producing energy sources</p> <p>-Continue work on potential offshore wind farm</p>	<p>-Increase COVID vaccination rates through the lens of equity (e.g., target populations appropriately through equity lens) – City to set target on percentage of fully vaccinated people, community education elements to increase vaccination rates (e.g., County’s vaccination champion toolkit)</p> <p>-Engage first in conversation about what this means for Morro Bay</p> <p>-Educate ourselves and understanding the needs of the community before acting, including reviewing General Plan discussion on social justice.</p>
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		redevelopment of B of A)		<ul style="list-style-type: none"> -Create access to EV chargers for cars -Connect to other goals on reducing travel/commute with more housing in Morro Bay, ease to get out of Embarcadero/traffic circulation cuts down on emissions 	
Potential Short-Term Actions for next 12-14 months (known as “Action Items”)	<ul style="list-style-type: none"> -Conduct a traffic speed survey -Initiate a capital assessment effort (Harbor, facilities, stormwater, etc.) -Review options and develop optimal staffing for City maintenance efforts -(*if approved by Council) initiate work on paid parking pilot program and continue work on long-term plan *Council reviewing on 11/9/2021 	<ul style="list-style-type: none"> -Seek state lobbyist contract to assist in obtaining state funding for City projects -Assess viability for business improvement districts for Downtown and Embarcadero -Review development opportunities for the Market Plaza property -Complete fee study (development impact fees) -Continue review of Vistra proposed battery project 	<ul style="list-style-type: none"> -Complete Zoning Code update -Development of stock Accessory Dwelling Units (ADU) to provide to public for free -Provide update to Council on new state housing legislation (such as SB 9) and general education on housing -Implement Housing element, including reviewing housing by right, objective design guidelines, ADU ordinance update with incentives, update 	<ul style="list-style-type: none"> -Pursue funding to complete Climate Action Plan update -Continue review of Vistra proposed battery project -Pursue electric vehicle charging station funding -Initiate implementation of SB 1383 (organic waste for residents and businesses) -Promote Central Coast Community Energy (3CE) New Construction Electrification Program 	<ul style="list-style-type: none"> -Provide education to City Council and staff about DEI issues -Support SLO County Public Health communication efforts to vaccinate members of the Morro Bay community, particularly underrepresented communities -Inform the County process to update the 10-year plan on homelessness -Explore opportunities to support County efforts to address

	<p>-Pursue grant opportunities for the Coleman Beach area</p>	<p>-Assess cyber security needs</p> <p>-Prepare and review policy options on liabilities (pension and health care)</p>	<p>Density Bonus and inclusionary housing requirements</p> <p>-Bring land use amendment forward for the Seashell estates property to increase density to 7 – 15 unites per acre for a future multifamily housing project.</p> <p>-Complete Cityworks public facing portal and integration of DigEplan (online plan check application)</p> <p>-Initiate work with the Planning Commission ad hoc committee for the review of the planning process</p>	<p>and include in planning materials and on website.</p> <p>-Designate 1 week a year to conduct a renewable energy outreach campaign targeting a specific group.</p> <p>-Create city webpage with links to energy efficient websites.</p> <p>-Elevate “Climate Crisis” to “Climate Emergency” by way of resolution and seek funding to move forward in this area.</p> <p>-Implement 3CE Reach Code Incentive Program electrification of new residential construction with the adoption of 2022 Building Code in Jan 2023</p>	<p>homeless issues on the North Coast</p> <p>-Support Filipino-American group (FANHHS) rededication event of their historic monument at Coleman Beach</p> <p>-Review opportunity for Boys and Girls Club to offer enrichment activities for teens in the Estero Bay region</p> <p>-Provide community information and resources regarding access to mental health resources to address behavioral health or mental health crises: substance abuse issues, depressive illnesses and exacerbation of previously controlled mental health issues</p>
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<p>Potential Long-Term Actions (next 2 – 4 years)</p>	<ul style="list-style-type: none"> -Address traffic circulation – specifically Embarcadero -Pursue broadband opportunities – connection to business development -Complete capital assessment and prepare an enhanced capital improvement plan for Harbor, stormwater, facilities, etc.– no capital plan/funding mechanism -If paid parking pilot program proves effective, pursue long-term parking program -Look at parks and how to improve these public spaces for community (such as, conduct a Parks Master Plan) 	<ul style="list-style-type: none"> -Initiate work to develop a compensation philosophy -Continue support for offshore wind opportunity -Pursue broadband opportunities – connection to business development -Identify long-term infrastructure funding for streets, stormwater, Harbor, facilities, etc. -Address Vistra – current proposed battery project – and master planning -Review opportunities to assist businesses, hoteliers, retail to improve façade and infrastructure (could be long-term effort, could be partial TOT relief program) 	<ul style="list-style-type: none"> -Look to create incentives to bring affordable housing (e.g., impact fee reduction) - In order to create a vibrant pedestrian- and bicycle-friendly small-town urban atmosphere in the downtown area and ensure optimal access to services and public transportation, the City will encourage the development of new high-density housing in and adjacent to the downtown commercial district. To facilitate this goal, the City will inventory vacant and underutilized lots in and adjacent to the downtown business district, identify sites or areas where rezoning to high-density residential or mixed use categories might be desirable, and modify the City’s zoning map as appropriate. -The City will review its user charges for public services and facilities to ensure the charges are 	<ul style="list-style-type: none"> -As part of infrastructure planning, review opportunities to improve bike/pedestrian network in City -Complete implementation of SB 1383 -Complete Climate Action Plan update -Evaluate City policies regarding purchases that are climate conscious (e.g., fleet purchases) -Develop electric vehicle charging station strategy -Look for opportunities for solar -Support additional water conservation efforts -Continue support for offshore wind opportunity 	<ul style="list-style-type: none"> -Consider creating a Unity or DEI committee/task force – learn from other communities already doing this work, research they have done, etc. -Consider evaluating how City policies consider DEI when written -Education/raise awareness on drugs as a public health issue -Update the Morro Bay Livability report to evaluate quality of life in MB.
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	-Complete WRF project	-Think through what we do with current waste water treatment plant property since it will be vacant in several years -Explore finance district regarding potential Vistra development	consistent with the costs of improvements and maintenance. Additionally, the Community Development Department will consider reductions or deferral of typically required public improvement projects, such as street/sidewalk improvements and utility infrastructure upgrades to avoid being prohibitive to affordable housing developments.	-Develop list of energy efficient improvements city can make and funding strategy	
Ongoing Actions	-Continue to address water security -Work towards completion of Harbor Walk public space -Continue work on OneWater projects -Continuous improvement of City maintenance efforts -Engage community on traffic safety	-Finish WRF within a reasonable budget and fund the decommission of the current sewer plant -Settlement with Cayucos Sanitary District -Review opportunities for innovation -Review opportunities for revenue enhancements	-Seek continuous improvements to the planning process -Continue to look for grant opportunities to facilitate housing element implementation	-Preserve open space (e.g., invest in parks, Planning Commission's recommendations on tree banking, continue work on Toro Creek preserve)	-City representatives serve on the Estero Bay Action Committee (EBAC) and County Homeless Services Oversight Council. -Morro Bay Police Chief initiated a Chief's Advisory Committee in 2019, which continues to meet to review local law enforcement polices and programs and provides input to the Chief.

		<p>-Ensure proper staffing levels to achieve City goals</p> <p>-Work with Chamber and other partners on catalyst site marketing</p>			
<p>Assign to Committee/Commission or other groups for Review/Discussion</p>	<p>-Work with Public Works Advisory Board on traffic circulation and capital assessment and prioritization</p> <p>-Work with Harbor Advisory Board on prioritization of capital needs in the Harbor</p>	<p>-Be strategic in increasing revenue funding/revenue generation – get creative and reach out to community for revenue generation ideas (potential item for Citizen Finance Advisory Committee - CFAC)</p> <p>-Review options for use of cash reserves in water and sewer funds upon completion of the WRF project (CFAC)</p>	<p>-Planning Commission assist with prioritization of key GP/LCP and Zoning code implementation items</p> <p>-Work with the County, HASLO and other partners for affordable housing opportunities</p>	<p>-Educate community on planting the right trees in the right places (continue work that Planning Commission is doing)</p> <p>-Educate community on diverting organic waste from landfill – support Integrated Waste Management Association (IWMA) community outreach efforts</p>	<p>-Consider forming a community task force for DEI efforts, after going through initial education on this issue</p>

Keep in mind organizational effectiveness from a foundational perspective:

- Ensure City has the organizational capacity to do the work we commit to and support for staff in their health and wellness
- Evaluate what tools City leadership needs to continue to do excellent work and to retain and recruit talent we need to achieve these goals
- Engage subcommittees and partnership wheel model so City staff doesn't have to execute on all of these items alone



AGENDA NO: A-5

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 19, 2022

FROM: Eric Endersby, Harbor Director

SUBJECT: Adoption of Resolution No. 06-22 Conditionally Authorizing the Mayor to Execute Documents Necessary for a New Loan and Accepting a Deed of Trust Related Thereto for Lease Site 87-88/87W-88W (TLC Family Enterprises, 833 Embarcadero Road)

RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 06-22 authorizing the Mayor to execute documents necessary for a new loan and accepting a deed of trust related thereto regarding the leasehold interest at Lease Site 87-88/87W-88W, with documents subject to approval of the City Attorney.

ALTERNATIVES

Do not approve Resolution No. 06-22.

FISCAL IMPACT

There is no fiscal impact to this action.

BACKGROUND

On December 11, 2018, the City Council approved a new 50-year master lease agreement with TLC Family Enterprises (TLC) in exchange for a complete redevelopment of Lease Site 87-88/87W-88W. TLC's redevelopment proposal was vetted through a request for proposals process in 2017/2018.

TLC's redevelopment now has all the approvals and City Building permits necessary to begin construction, and they are ready to commence. Project funding is being provided by a loan from Community West Bank, which per TLC's lease agreement (and all City lease agreements) must be approved by the City Council.

DISCUSSION

TLC is requesting City Council approval of a Deed of Trust (loan) with Community West Bank against the leasehold interest in the amount of \$3,200,000, which will enable the redevelopment project. Community West is currently underwriting the loan as it moves through the title stage of lending, and City approval of the loan is a necessary step in the title process.

TLC is a tenant in good standing, and the lease agreement for Lease Site 87-88/87W-88W stipulates that such funding approval will not be unreasonably withheld by the City. In addition, the lease

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: CFN

agreement stipulates that all loan proceeds be used for leasehold improvements and/or to refinance existing lending on the Lease Site. This lending complies with these stipulations.

CONCLUSION

Completion of the redevelopment of this lease site in the heart of the Embarcadero of one of the last remaining ~1960's-era buildings on the waterfront will modernize and upgrade this key property. TLC is securing the funding necessary for this project with the proposed loan, and staff recommends the City Council adopt Resolution No. 06-22 authorizing the Mayor to execute all necessary documents for the Community West Bank loan and deed of trust requested by TLC, as-approved by the City Attorney.

ATTACHMENT

1. Resolution No. 06-22

RESOLUTION NO. 06-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS
NECESSARY FOR A NEW LOAN AND ACCEPTING A DEED OF TRUST
RELATED THERETO WITH TLC FAMILY ENTERPRISES
FOR LEASE SITE 87-88/87W-88W,
LOCATED AT 833 EMBARCADERO ROAD, MORRO BAY**

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

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

WHEREAS, since December, 2018 TLC Family Enterprises has been the lessee of Lease Site 87-88/87W-88W, located at 833 Embarcadero Road and is a tenant in good standing; and

WHEREAS, TLC Family enterprises is requesting approval of loan documents and a deed of trust with Community West Bank to secure the financing necessary for the complete redevelopment of the lease site using the lease agreement and project improvements as security; and

WHEREAS, lease site lending can only be used to purchase a lease site, to refinance existing lending on the lease site and/or for leasehold improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the Mayor is hereby directed to execute, as necessary, any and all documents, as approved by the City Attorney, necessary to consummate the loan and deed of trust desired by TLC Family Enterprises.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of January, 2022 on the following vote:

AYES:

NOES:

ABSENT:

John Headding, Mayor

ATTEST:

Dana Swanson, City Clerk

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AGENDA NO: A-6

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 12, 2022

FROM: Daniel K. McCrain, Fire Chief

SUBJECT: Memorandum of Understanding with California Highway Patrol and Affiliated Agencies of SLO County Fire Chiefs Association for Helicopter Rescue Operations

RECOMMENDATION

Staff recommends the City Council to authorize the Fire Chief to sign an operational Memorandum of Understanding with the California Highway Patrol and affiliated agencies of SLO County Fire Chiefs Association, substantively in the form of the attached draft, for helicopter rescue operations.

ALTERNATIVES

1. Provide alternate direction.
2. Take no action.

FISCAL IMPACT

Annual training costs for Morro Bay Firefighters based on salary of employee to attend the required training. Estimated costs will be up to \$3,200 per year and are not anticipated to require an additional budget appropriation.

BACKGROUND

The California Highway Patrol (CHP) Coastal Division Air Operations Unit utilizes a helicopter to provide emergency medical transportation, and search and rescue operations within San Luis Obispo County. The CHP helicopter is utilized frequently on ocean rescues, and Morro Rock incidents within the Morro Bay response area. The purpose of this MOU is to authorize properly trained Morro Bay Firefighters to assist the CHP flight crew with rescue operations within the Morro Bay response area and automatic aid areas.

DISCUSSION

CHP provides qualified crew members, aircraft, and equipment that complies with Title 14 of the Code of Federal Regulations and CHP policies and procedures to respond to medical emergencies and rescue incidents within San Luis Obispo County. Due to the nature of CHP's primary mission being law enforcement, there is a need to augment their staffing during rescue operations to successfully mitigate an incident. CHP provides at no cost to participating agencies 3 levels of training. The first level is Helicopter Rescue Awareness (HRA), this level covers safe landing zone operations, working around a helicopter safety, and how to ride inside of the aircraft. The second level is helicopter rescue Operations (HRO), this focuses on working under the helicopter to safely operate rescue equipment, and how to attach and disconnect equipment from the helicopter hoist. The third level of training is helicopter Rescue Technician (HRT). This is the level of training Morro Bay Firefighters would be

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

trained to before working in the helicopter. This training includes all components of the other two modules, but adds being hoisted by the helicopter, how to safely transition in and out of the helicopter, and flight safety while attached to the hoist. This training is broken into a 5-hour didactic portion held at the CHP hangar in Paso Robles, and a 2-4 hour in person training performing simulated rescues with the aircraft. Morro Bay Firefighters are already trained in multiple disciplines of technical rescue and is the lead agency for rescue emergencies withing the city. Department members that are part of the County Technical Rescue Team (TRT) currently assist with these operations. By formalizing this agreement and outlining the training requirements we can improve access to qualified personnel when these incidents occur. The cost associated with this program are directly related to any salaries paid to department members to attend the training program. This practice has been in place within the county for many years with many other cities and CSD departments participating. The contract is being updated by CHP to formalize the agreements between allied agencies.

CONCLUSION

Morro Bay Fire Department is the lead agency for rescues and medical emergencies within the city of Morro Bay. Helicopter utilization is requested by the Incident Commander based on an evaluation of the needs to mitigate an incident after conducting a size up and risk/benefit assessment. City personnel are already involved in the rescue component of these incidents. Formalizing this training and agreement increases our operational capabilities and can reduce delays in patient access by not having to wait for TRT team members to respond to the scene before action may be taken.

ATTACHMENT

1. Draft Memorandum of Understanding.



California Highway Patrol and San Luis Obispo County Fire Chiefs Association

Memorandum of Understanding

Helicopter Rescue Technician (HRT) Utilization

1. **PARTIES.** The parties to this Agreement are the California Highway Patrol (“CHP”) Coastal Division Air Operations Unit, and each of the affiliated agencies of the San Luis Obispo County Fire Chiefs Association; City of El Paso de Robles, City of Atascadero, City of Morro Bay, and City of San Luis Obispo (hereinafter, collectively referred to for purposes of this Agreement as “CHIEFS”).
2. **PURPOSE.** This Agreement establishes a formal mutual aid relationship between the CHP and the affiliated agencies of CHIEFS regarding utilization of personnel from the respective agencies of the CHIEFS who may be utilized to assist the CHP with helicopter rescue operations. This agreement will expedite response to emergencies, ensure uniformity in equipment and training, and increase the safety and efficiency of helicopter rescue operations within the County of San Luis Obispo. During helicopter rescue incidents, certified HRT members will be prioritized for assisting the CHP when non-qualified crewmember staffing is required.
3. **RESPONSIBILITIES—CALIFORNIA HIGHWAY PATROL.**
 - a. **Crews & Equipment.** The CHP will provide qualified crew members, aircraft, and rescue equipment in compliance with Title 14 of the Code of Federal Regulations and CHP policies and procedures.
 - b. **HRT Training.** The CHP shall provide initial certification of HRT skills competency and annual recertification. All training will be in accordance with Highway Patrol Manual (HPM) 100.7, *Air Operations Manual*, and established training curriculum in compliance with National Fire Protection Association 1670, Chapter 15.
 - c. **Service Requests.** The CHP shall use the WhatsApp mobile application to request HRT assistance and then select the most appropriate respondent based on the crew’s decision of who is best situated to assist with the rescue operation. The crew will send an additional message indicating which HRT member will be utilized. The CHP will make no further notifications.
 - d. **Service Area.** The CHP will not request assistance from HRT members for service calls outside of the County of San Luis Obispo, with the exception of calls for service along the Highway 1 corridor between the Ragged Point Inn and the Salmon Creek watershed.
4. **RESPONSIBILITIES—CHIEFS’ AFFILIATED AGENCIES.**
 - a. **Availability.** Each affiliated agency of CHIEFS will allow agency employees who are HRT certified to respond on an emergency basis to assist with helicopter rescues when requested by the CHP. Only those HRT certified personnel on-duty will be available for response.



- b. HRT Training. Each affiliated agency of CHIEFS will be responsible for ensuring that its staff who are available for HRT callouts shall receive the initial training and annual recertification provided by CPH pursuant to paragraph 3.b. of this Agreement.
- c. Service Requests. CHIEFS shall ensure that the affiliated agencies of HRT members have an established procedure in place for rapid acceptance of missions. The affiliated agencies CHIEFS will establish protocols to ensure the appropriate agency personnel receive alerts via the WhatsApp mobile app as the CHP will not seek additional verification. The CHP will presume an HRT member's indication of availability for a mission was done with approval from their respective agency.
- d. Compensation. HRT members will be employed, insured, and compensated by their own employing agency at all times during deployment and during trainings and certifications. HRT members shall be considered employees of their own employing agency only and are not employees or agents of any other affiliated agency or CHP for any purpose. The California Highway Patrol will not compensate HRT members and this Agreement will be in accordance with mutual aid response protocols.

5. MUTUAL INDEMNIFICATION.

- a. To the extent permitted by law, the CHP shall defend, indemnify, and save harmless each affiliated agency of CHIEFS, and each of the affiliated agency's appointees, elected officials, officers, employees, and agents from and against any and all claims, suits, or actions for "injury" (as defined by Government Code section 810.8) arising out of the CHP's performance under this Agreement, but only in proportion to and to the extent that the injury is caused by, the negligent or intentional acts or omissions of the CHP or the CHP's appointees, officers, or employees, during the course and scope of this Agreement.
- b. To the extent permitted by law, each affiliated agency of CHIEFS shall defend, indemnify, and save harmless the CHP and all of the CHP's appointees, officers, and employees, and each of the other affiliated agencies, and each of the other affiliated agencies' appointees, elected officials, officers, employees and agents, from and against any and all claims, suits, or actions for "injury" (as defined by Government Code section 810.8) arising out of the affiliated agency's performance under this Agreement, but only in proportion to and to the extent that the injury is caused by, the negligent or intentional acts or omissions of the affiliated agency or the affiliated agency's appointees, elected officials, officers, employees, or agents, during the course and scope of this Agreement.
- c. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release any party from its obligation to defend, indemnify and save harmless as to any claims or cause of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred subsequent to the effective date of this Agreement and prior to the effective date of termination or completion of this Agreement.

6. OTHER PROVISIONS. Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the CHP or any of the affiliated agencies of CHIEFS. If a term



SAN LUIS OBISPO CITY FIRE DEPARTMENT

KEITH AGGSON, Fire Chief Date
City of San Luis Obispo

Approved as to Form
Legal Counsel, City of
San Luis Obispo

MORRO BAY FIRE DEPARTMENT

DANIEL MCCRAIN, Fire Chief Date
City of Morro Bay

Approved as to Form
Legal Counsel, City of
Morro Bay

DRAFT



AGENDA NO: A-7

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 13, 2022

FROM: Daniel McCrain, Fire Chief

SUBJECT: Staffing for Adequate Fire and Emergency Response (SAFER) Grant

RECOMMENDATION

Authorize the Fire Department to apply for, execute necessary documents for such application for, and accept if awarded, a grant from the Department of Homeland Security and Federal Emergency Management Agency for funding under the Staffing for Adequate Fire and Emergency Response (SAFER) Grant for the hiring of limited term firefighters.

FISCAL IMPACT

The Staffing for Adequate Fire and Emergency Response (SAFER) Grant covers 100% of the “fully burdened” salary, i.e., salary, benefits, etc. of a Firefighter position which is approximately between \$483,000 - \$524, 000 for the four (4) positions annually. Under the Fire Department’s proposal to apply for four (4) positions, the grant request will be for \$1,507,985.36 for the three-year grant period. Under this year’s SAFER Grant there is no local match required during the grant’s three-year performance period because of COVID-19. The Fire department will also have several full time personnel eligible for retirement within the next three years, and could therefore reduce the overall force by attrition if additional sufficient funds are unavailable after the SAFER grant expires.

BACKGROUND

Every year multiple grant funding opportunities are made available for Fire Departments around the nation. It is common practice for departments to continually apply for these types of grants to help support firefighter safety through strategic grant seeking and funding. The most well-known grant programs are the Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) Staffing for Adequate Fire and Emergency Response (SAFER) and Assistance to Firefighter Grant (AFG). The primary goal of the Staffing for Adequate Fire and Emergency Response (SAFER) Grants is to enhance the safety of the public and firefighters with respect to fire-related hazards. This is done by providing direct financial assistance to eligible fire departments, nonaffiliated Emergency Medical Services organizations, and State Fire Training Academies. This funding is for critically needed resources to equip and train emergency personnel to recognized standards, enhance operations efficiencies, foster interoperability, and support community resilience. This year’s SAFER Grant has set the highest priority is to assist departments experiencing staffing levels significantly below the ideal staffing level required to comply with NFPA 1710 or 1720.

As recommended in the Hunt report in 2004, 2010 strategic plan, updated 2015 strategic plan and the Emergency Services Ad-Hoc Committee report in 2005, our community will be best served with (2) 3-person engine companies. This staffing model would create less dependency for off duty personnel to respond from home while meeting the need to respond to medical aids with the ability to contain a

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

CC 2022-01-25 Meeting

structure fire in the room of origin. By increasing our daily staffing to 5 personnel on duty daily we are closer to the optimum level of service outlined in these reports.

The goal of the SAFER grant program is to assist local fire departments with staffing and deployment capabilities to respond to emergencies and ensure that communities have adequate protection from fire and fire-related hazards. Local fire departments accomplish this by improving staffing and deployment capabilities, so they may more effectively and safely respond to emergencies. With enhanced staffing levels, departments should experience a reduction in response times and an increase in the number of trained personnel assembled at the incident scene. The Morro Bay community resonated this sentiment that is outlined in the SAFER Grant goals in passing Measure E in 2020 and Measure Q in 2006.

DISCUSSION

The NFPA standard 1710 states a department should provide 16 firefighters on scene within eight minutes 90% of the time for a fire in a single-family residence with the first engine arriving on scene within 4 minutes or 17 firefighters if responding with a ladder truck. Currently our department operates with 12 full time operational personnel and runs nearly 2,000 calls annually from one fire station. The average response from Morro Bay Fire is currently 4 paid Firefighters with two on one engine and two on the rescue or second engine. The alarm also includes the request for the Fire Chief, Fire Marshal, and reserve firefighters. Local automatic aid contracts bring only 1 fire engine, one ambulance and one chief officer from neighboring agencies for a staffing level of 6.

The reserve Firefighter program has been successful for many years in Morro Bay, but we have witnessed a dramatic decline in qualified candidates due to training obligations, state training mandates and the limited availability to respond to incidents off duty. This has been a trend throughout San Luis Obispo County with all fire departments. In fact, Morro Bay is one of the last city departments in the SLO county to still operate a reserve Firefighter program. Our current organizational design also depends on off duty full time personnel responding from home. With the change of our reliability of reserve firefighters and the limited full-time personnel responding from home, today we must rely on auto aid and mutual aid response from our neighboring communities.

A very accurate measurement of the Fire Departments capabilities to mitigate emergencies, is its ISO rating. Currently the Fire Departments ISO rating is a Public Protection Classification (PPC) 3 where a class 1 rating is the highest rating, and a class 9 is the lowest rating. This is extremely important to maintain this rating, not just for the fire department but for the benefit of the entire community. The City's last Insurance Services Office (ISO) rating was conducted in 2015 and the fire department received a PPC of 3. Considering most fire departments like Morro Bay Fire Department have a common PPC rating of 5, and with limited full-time staffing, a PPC-3 is an exceptional rating. But this rating is now becoming in jeopardy with 50% of the ISO evaluation rating based on fire department capabilities. Staffing a second engine is expected to maintain the fire department current ISO rating. The next scheduled ISO evaluation is anticipated in the summer of 2022.

By funding these 4 positions, our department will be able to respond 5 personnel and 2 apparatus, 2 Chief Officers (along with 5 firefighters from our automatic aid agencies) within 8 minutes to any single-family fire. This would bring us closer to full NFPA 1710 compliance. Additional staffing will also increase the overall health and safety of the members of the department (NFPA 1500) by relieving physical and emotional stress, reducing injuries, and providing for a healthier working environment. All of these will reduce risk to Firefighters and our community.

The FEMA Safer Grant that we are applying for, and hope to get, will pay for 4 additional firefighter positions. If accepted, it would pay for the total salary and benefit costs for each of the funded positions to include payroll, taxes, and all anticipated costs over the next three years. Under normal circumstances, SAFER Grants cover a three-year grant period with grant funding being reduced each year until the year when the City was responsible for 100% of the cost of the subject firefighters. Additionally, the earlier SAFER grants only covered allowable salary ranges, however the new SAFER grant covers “fully burdened” salaries, i.e., salaries, benefits, etc. The other significant change is that the grant covers 100% of all personnel costs due to COVID-19. The proposed 4 grant-funded positions would be brought into the Department at the Firefighter salary range and the start date would depend on the award date.

CONCLUSION

The Staffing for Adequate Fire and Emergency Response Grants (SAFER) was created to provide funding directly to fire departments to help them increase or maintain the number of trained "front line" firefighters available in their communities. Applying for this grant is just one element of the mission of the Morro Bay Fire Department, *“To enhance the quality of life by providing exceptional emergency services.”* The anticipated grant funding awards are scheduled to begin in June 2022.

ATTACHMENT

None

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AGENDA NO: A-8

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 13, 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. 07-22 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: <u> CFN </u>	Dept Review: _____
City Manager Review: <u> SC </u>	City Attorney Review: <u> CFN </u>

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, December 14, 2021 and January 11, 2022, 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, 84-21 and 03-22, 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. 07-22 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. 07-22

RESOLUTION NO. 07-22

**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, On January 11, 2022, 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. 03-22 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 24, 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 25th day of January 2022 by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: A-9

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 20, 2022

FROM: Scott Collins, City Manager

SUBJECT: Resolution Affirming the City of Morro Bay’s Support of Reproductive Freedom

RECOMMENDATION

Consider adoption of Resolution No. 08-22, entitled “A Resolution of the City Council of the City of Morro Bay, California, Affirming Support of Reproductive Freedom.”

ALTERNATIVES

The City Council can choose not to adopt the proposed resolution.

FISCAL IMPACT

There are no fiscal impacts associated with this action.

BACKGROUND

On January 22, 1973, the U.S. Supreme Court announced its decision in *Roe v. Wade* (410 U.S. 959), a constitutional challenge to a Texas statute that criminalized the termination of a pregnancy unless a woman’s life was at stake. The case had been filed by “Jane Roe,” an unmarried woman who wanted to end her pregnancy safely and legally. Finding that Ms. Jane Roe’s constitutional rights had been violated, the court struck down the Texas law. In that landmark decision, the court recognized the constitutional right to privacy “...is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” (*Roe v. Wade* (1973) 410 U.S. 113, 153.)

Roe v. Wade has come to be known as the case that affirmed the constitutional right across the nation for a woman to choose an abortion and have control over her own body. At the time the decision was handed down, many states outlawed abortion. *Roe v. Wade* rendered these laws unconstitutional, making abortion services safer and more accessible to women throughout the country.

On September 9, 2021, the United States Department of Justice filed a lawsuit to prevent the State of Texas from enforcing Senate Bill 8, which went into effect on September 1, 2021. The complaint seeks a declaratory judgment that Senate Bill 8 is invalid under the Supremacy Clause and the Fourteenth Amendment, is preempted by federal law, and violates the doctrine of intergovernmental immunity. The United States also seeks an order, preliminarily and permanently, prohibiting the State of Texas, including its officers, employees and agents, as well as private parties who would bring suit under the law, from implementing or enforcing Senate Bill 8.

On October 26, 2021, City Council requested that staff bring a resolution that affirms the City’s support of reproductive freedom to the City Council for consideration. This was requested in response to Texas Governor Greg Abbott’s signing and the subsequent enactment into law of Texas Senate Bill 8, which bans almost all abortions in Texas and delegates enforcement responsibility to citizens. Since

Prepared By: _____	Dept Review: _____
City Manager Review: ___SC___	City Attorney Review: ___CFN___

that time, the U.S. Supreme Court upheld Senate Bill 8 on December 10, 2021, while allowing some challenges to Senate Bill 8 to continue. Other challenges to *Roe v. Wade* may be considered by the U.S. Supreme Court in this current year's session.

DISCUSSION

The City of Morro Bay has made it a goal to commit to inclusivity, diversity and equity and the City Council has expressed a commitment to making Morro Bay a welcoming, inclusive, and safe community for everyone, promoting free thought and speech, while condemning racism and prejudice against all. The City's adoption of Resolution No. 08-22 affirms the City's commitment to protecting the rights of all women, including the rights related to family planning and reproductive freedom. In furtherance of the City's stance on protecting the rights of women, the proposed resolution for Council's consideration (Attachment 1) affirms the City of Morro Bay's support of reproductive freedom.

ATTACHMENT

1. Resolution No. 08 - 22 of the City Council of the City of Morro Bay , California, Affirming Support of Reproductive Freedom

RESOLUTION NO. 08-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AFFIRMING SUPPORT OF REPRODUCTIVE FREEDOM**

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

WHEREAS, the Supreme Court of the United States acknowledged in its 1973 landmark decision Roe vs. Wade that the ability to make a private medical decision impacting one's own reproductive health is a Constitutionally Protected Right; and

WHEREAS, prior to 1973, the year when Roe v. Wade was enacted, women faced significant obstacles to safe reproductive health services, resulting in widespread loss of life and serious illness; and

WHEREAS, the historic Supreme Court decision, Roe v. Wade, legalized abortion and recognized women's freedom of reproductive choice as essential to the lives, rights, health and equality of women; and

WHEREAS, in the past 48 years since the Roe v. Wade decision, and the 54 years since the state of California legalized abortion, the people of Morro Bay and the State of California have been able to legally exercise their reproductive freedoms; and

WHEREAS, in August 2021 the Supreme Court abdicated its responsibility to uphold the precedent set in the Roe decision, and allowed Texas to enact Senate Bill 8 into law and by doing so the 29 million people residing in Texas now live in a state where Roe vs. Wade has been, for all intents and purposes, functionally repealed; and

WHEREAS, the right to safe, legal and accessible abortion continues to be undermined by the state of Florida and other U.S. state legislatures that have signaled they are moving to enact similar laws, threatening the health and safety of women's lives, including the most marginalized women: low-income women, women of color, refugee and immigrant women; and

WHEREAS, prohibitions on the right to freely exercise reproductive freedoms are harmful to public health and safety, and are contrary to the values of the people of the City of Morro Bay and the State of California; and

WHEREAS, passage of these laws disproportionately impacts women, trans and non-binary Black, Latinx, Indigenous and other people of color.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORRO BAY, AS FOLLOWS:

SECTION 1.

The City Council affirms its commitment to the human rights afforded to all women under Roe v. Wade, regardless of socioeconomic, ethnic, racial, cultural or religious background, age or sexual orientation and to opposing any laws or regulations that pose

a threat to reproductive freedom, reproductive rights, sexual freedom and/or self-determination.

SECTION 2.

The City Clerk shall certify to the passage and 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 this ____ day of _____, 2022 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: A-10
MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council DATE: January 20, 2022
FROM: Sarah Johnson-Rios, Assistant City Manager / Admin Services Director
SUBJECT: Authorization to Add One Full-Time Equivalent IT Systems Analyst to the Administrative Services Department

RECOMMENDATION

Staff recommends the City Council take the following action:

1. Authorize the City Manager to increase the Administrative Services Department by one Full-Time Equivalent (FTE) for an Information Technology Systems Analyst position.
2. Adopt Resolution No. 09-22 approving the creation of the Information Technology Systems Analyst classification and job description, subject to any meet and confer requirements, and
3. Adopt Resolution No. 10-22 approving the revised Combined Master Salary Schedule

ALTERNATIVES

1. Reject the staff recommendation to authorize an FTE for an IT Systems Analyst position.
2. Provide other direction to staff.

FISCAL IMPACT

Based on current salary and benefits costs, the addition of an IT Systems Analyst is estimated to incur maximum annual costs of approximately \$138,000, fully burdened. This total cost includes salary at top step, benefits, CalPERS contributions at the Tier 2 formula, as well as an annual share of the unfunded pension liability on a per City FTE basis, to ensure that all current and future costs are included. The IT Systems Analyst FTE would be funded by the Information Services Internal Services Fund. For Fiscal Year (FY) 2021-22, the estimated cost of the position for the time that it may be filled would be approximately \$39,000, and these costs could be absorbed by the Fund's Adopted Budget. No budget adjustments would be needed for FY 2021-22; future costs of the position would be included in future year budgets.

BACKGROUND/DISCUSSION

The recommendation to add the IT Systems Analyst position results from the City's historical lack of ability to appropriately resource longstanding information technology needs, and from the need to respond to emerging needs in the IT field, such as cybersecurity and remote working.

Documented Historic Resource Deficiency

In 2015, the City commissioned Management Partners to complete a "Financial and Organization Study" of the City organization. The report noted several deficiencies in the area of information technology that have not been addressed since the report due to resource constraints. A few highlights of the issues identified seven years ago include the following:

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Prepared By: <u> SJR </u>	Dept Review: <u> </u>
City Manager Review: <u> SC </u>	City Attorney Review: <u> MCH </u>

- The Study convened two focus groups with a total of 24 employees overall and reported that “Challenges related to understaffing and inadequate information technology support were raised by both focus groups.”
- “Most departments are operating with minimal resources, especially in terms of staff and contract services. This is especially true in Information Technology and Finance. As a result, important functions that are not time-critical, such as business planning and employee development, are not accomplished.”
- “The information technology (IT) function has only one employee. When he is unavailable, vendors and some knowledgeable operations staff provide the only backup. Antiquated and inadequate IT services negatively impact every City department in terms of cost-effective service delivery. Financial software is only adequate and was last upgraded in FY 2009-10, which is just one example of out-of-date technology. (Others are mentioned later in this report.) Operating departments are aware of many IT applications that could help them deliver services more quickly and efficiently, and there are likely many of which they are unaware. Identifying specific functions to outsource will add capacity.”
- “There is practically no time for IT planning, system testing, or training. Helping operating departments keep their personal computers operational consumes a huge amount of time and still does not address the needs of departments who operate 24/7.”
- “The City does not have an IT Strategic Plan or IT goals. An IT Strategic Plan should begin with an assessment of current IT infrastructure and examine future needs, emergency backup and security, web design, calendaring, and contracting opportunities. The plan should include prioritized goals and cost estimates for each element needed. This will be a significant expense (approximately \$70,000 for an assessment and IT Strategic Plan), but is critically needed.”

This evaluation remains accurate today, seven years later, based upon discussions with department heads and other City employees. The City continues to operate with one IT position (supplemented by limited consultant hours at a cost of \$10,000 or less per year). This staffing level is highly inadequate to effectively meet the modern needs of operating departments and support public-facing services, much less adequately plan for the future.

Increasing Needs

The Management Partners Study recommended completing an IT Needs Assessment and Strategic Plan. While the FY 21-22 Adopted Budget included funding for these efforts, there is no staff capacity to oversee and complete it. The one dedicated IT staff member is almost fully reactive to requests from almost 100 FTEs plus part-time staff and is unable to dedicate time to proactive or strategic planning.

Since the 2015 evaluation, the cybersecurity context has changed dramatically. Unfortunately, this is now an area that cities must proactively fund and resource. It will likely include consultant-based services, but staff must be available to procure and oversee those services. From a risk assessment standpoint, this remains a key area that requires additional investment.

In addition, as the 2015 Management Partners Study also clearly noted, the City’s financial and payroll (ERP) system is outdated and inefficient. There are inadequate resources and increasing needs to evaluate and update core City systems such as the financial and payroll system, the City’s web site, and other systems.

Peer City Comparison

The City of Morro Bay often looks at peer cities as one input when assessing resource needs and allocations. In the case of IT services, Morro Bay is currently the lowest-resourced municipality in the County.

Other small cities such as Arroyo Grande and Grover Beach, which have 25-30% fewer City full-time employees (FTEs) than Morro Bay has, both have two full-time IT employees. Atascadero, with 137 FTEs, has 4.5 IT staff. In comparison to those three cities and Paso Robles, Morro Bay has two-thirds fewer IT staff per Citywide FTE than the other cities, on average.

Contracting Out

Small cities may supplement their in-house staff with consultant services, but no local City relies entirely on consultant services. Staff has had preliminary conversations with other cities and with regional consultants (there are few IT consultants in San Luis Obispo County) and determined that for a City organization of our size, on-site IT staff is essential. A more in-depth IT Needs Assessment and Strategic Plan may better inform the City on the most effective long-term balance between staff and consultant services, but it is unlikely that IT resources can be fully contracted out effectively for a full-service City like Morro Bay.

On-Call Coverage and Continuity of Operations

Having a second IT staff person would allow the City to have on-site coverage when one IT employee is sick, on vacation, or on leave. In addition, it would allow for succession planning as a best practice. Currently, there is only one individual who is familiar with all of the City's IT needs.

Classification Details

The IT Systems Analyst classification would make between \$69,053 and \$83,935 annually. It would be in the Miscellaneous Employees Unit, which employees are represented by Service Employees International Union, Local 620.

CONCLUSION

A second IT position would allow the City to begin addressing a backlog of issues that have been created by historic under-resourcing in the IT sector. It would allow the City to begin to take proactive steps toward strategic planning and addressing essential cybersecurity needs. It would allow the City to provide improved internal services to operating departments and improve outward-facing technology as well. Finally, it would allow the City to ensure some IT coverage at all times by staggering leave time, and to address succession planning and continuity of operations. Failing to add this position may expose the City to significant risk of failure of core information technology systems, which support essential City services.

ATTACHMENTS

1. Resolution No. 09-22 adopting IT Systems Analyst classification, with draft Job Classification
2. Resolution No. 10-22 adopting the revised Combined Master Salary schedule

RESOLUTION NO. 09-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING IT SYSTEMS ANALYST CLASSIFICATION AND
JOB DESCRIPTION**

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

WHEREAS, the Council desires to approve a new "IT Systems Analyst" job classification and adopt a job description for the classification, subject to any meet and confer requirements with the employee representative, Service Employees International Union Local 620 (SEIU Local 620).

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Morro Bay does hereby:

1. The represented full-time classification of "IT Systems Analyst" is hereby created. The classification will be included within the City's Miscellaneous Employees Unit, which is represented by the Service Employees International Union, Local 620 (SEIU Local 620).

2. The initial annual compensation for the IT Systems Analyst classification shall be as follows:

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
69,053	72,506	76,131	79,938	83,935

3. The job description for the IT Systems Analyst classification, attached hereto, is hereby adopted.

4. This resolution shall be effective as of the date of its adoption, subject to any applicable meet and confer requirements with SEIU Local 620.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of January 2022 by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY

IT SYSTEMS ANALYST

DEFINITION

Under general direction of assigned supervisor, provides analytical information technology (IT) support by applying business and IT solutions to a broad range of software and hardware projects and issues. Supervision is not normally a responsibility of this classification but may act as lead worker for temporarily assigned employees, or projects. May be required to work an irregular work schedule, including nights and weekends.

The Systems Analyst position is an Individual Contributor role that provides technical support to staff Citywide. Their role enables City of Morro Bay employees to effectively utilize technology to assist them in providing the highest quality service to the public.

ESSENTIAL DUTIES & RESPONSIBILITIES

These duties are a representative example; position assignments may vary depending on the business needs of the department and organization. This position:

- Performs a variety of technical research, support and training duties involving the use of hardware, application software, and networks.
- Implements software and hardware systems and trains users in operations of software applications and related computer equipment.
- May be responsible for citywide installation, repair, and maintenance of personal computers (PCs), telephone systems, communications systems, etc.; troubleshoots and corrects hardware and software malfunctions.
- May oversee vendors' services and monitor results of their work.
- Coordinates departmental data processing and automation activities.
- Trains citywide staff in the use of PC and other office automation equipment.
- Administrates or troubleshoots local (LAN) or Wide Area Network (WAN) problems.
- Monitors the use of all automated systems and ensures effective and efficient operations.
- Scope of assigned area will depend on departmental structure and is at the discretion of the department director.
- Upholds the values of the organization and has strong customer service orientation.
- Performs other related projects and duties as assigned.
- Demonstrates regular, reliable and punctual attendance.

IT SYSTEMS ANALYST

QUALIFICATIONS/EXPERIENCE

Knowledge of:

- Current technical/professional knowledge of complex principles, methods, standards, and techniques associated with the scope of work of a recognized profession.
- Troubleshooting procedures and methods for hardware and software issues.
- Knowledge and support experience for local area networks (LAN) and wide area networks (WAN), as well as emerging technologies including Cloud based networks.
- Terminology, methods, techniques and practices of the operation and maintenance of network and personal computer hardware and software.
- Recent and on-going developments, current literature, and sources of information related to information technology, activities and projects.
- Knowledge and experience with California Law Enforcement Telecommunication System (CLETS) and Department of Justice (DOJ) requirements.
- Working knowledge of security, networking, backup, data management, technology acquisition, and data base concepts, practices and procedures.
- Security requirements and procedures related to computer systems and networks.
- English usage, grammar, spelling vocabulary and punctuation.
- Techniques for providing a high level of customer service by effectively dealing with the public, vendors, contractors, and City staff.

Ability to:

- Communicate effectively orally and in writing, actively seeking information from a variety of sources and disseminating it in a variety of ways.
- Create and maintain effective working relationships with City officials, management, employees, consultants, and members of the public.
- Recommend and implement goals, objectives, and practices for providing effective and efficient services.
- Evaluate and develop improvements in operations, procedures, policies, or methods.
- Analyze, interpret, summarize, and present administrative and technical information and data in an effective manner.

IT SYST

- Interpret, explain, and ensure compliance with City policies and procedures, complex laws, codes, regulations, and ordinances.
- Provide innovative, effective, and efficient IT solutions.
- Perform regular updates and upgrades to IT systems and servers.
- Ability to analyze, design and implement new hardware and software systems.
- Organize and prioritize a variety of projects and multiple tasks in an effective and timely manner; organize own work, set priorities, and meet critical deadlines.
- Use English effectively to communicate in person, over the telephone, in writing using technical language appropriate to the audience being addressed.

Experience/Education:

- Any combination of training, education, and experience which demonstrates an ability to perform the duties of the position. The typical qualifying background is two years completed (60 college units) from an accredited college or university with a major or concentration in computer science, management information science or closely related field **AND** two years of experience implementing effective computer solutions; demonstrating excellent customer service and interpersonal skills; working collaboratively in a team environment; communicating effectively; safeguarding information in computer files against accidental or unauthorized modification, destruction or disclosure; practicing computer science fundamentals including programming concepts and languages, software engineering, operating systems and computer architecture.
- **Substitution:** In lieu of college coursework, qualifying experience may be substituted on a year-for-year basis. Formalized technical training program and/or certifications, such as those conducted by commercial training organizations and university extensions, and/or training programs covering principles and methods of computer programming
- Possession of a valid and appropriate Driver License. Must have and maintain a satisfactory driving record and meet City liability requirements to drive for City business.

PHYSICAL DEMANDS

- The incumbent must meet the physical requirements of the job class and have mobility, balance, coordination, vision, hearing and dexterity levels appropriate to the duties to be performed. Employee must be able to lift, carry, push, and pull materials and objects weighing up to 25 pounds. Reasonable accommodation(s) for an individual with a qualified disability will be considered on a case-by-case basis.

IT SYSTEMS ANALYST

SELECTION GUIDELINES

Formal application, rating of education and experience, oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on January 25, 2022.

RESOLUTION NO. 10-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
SUPERSEDING AND REPLACING RESOLUTION NO. 44-21 AND
APPROVING UPDATED FISCAL YEAR 2021-2022 SALARY SCHEDULE**

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

WHEREAS, the California Public Employees' Retirement System (CalPERS), has requested all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with 2 California Code of Regulations (CCR), section 570.5, and meeting all of the following requirements thereof:

1. Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
2. Identifies the position title for every employee position;
3. Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
4. Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
5. Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
6. Indicates an effective date and date of any revisions;
7. Is retained by the employer and available for public inspection for not less than five years; and
8. Does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, the Council has approved a new job classification "IT Systems Analyst" subject to any meet and confer requirements established by State Law with the employee representative, Service Employees International Union Local 620 (SEIU Local 620); and

WHEREAS, the formal approval of the pay schedules requires that they are duly approved and adopted by the City Council, and the 2 CCR 570.5 regulation requires the re-adoption of the Salary Schedule for Fiscal Year 2021-22, attached as Exhibit A and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Morro Bay does hereby:

1. Resolution No. 44-21 shall be superseded and replaced by this resolution, and

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2. The Combined Salary schedules, attached hereto as Exhibit A shall be effective January 26, 2022.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of January 2022 by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY							
COMBINED SALARY SCHEDULE							
FISCAL YEAR 2021-22: Effective 01/26/2022							
TITLE	GROUP	STEP 1 Annual	STEP 2 Annual	STEP 3 Annual	STEP 4 Annual	STEP 5 Annual	STEP 6 Annual
ACCOUNT CLERK IN-TRAINING	S	34,083	35,787	37,577	39,455	41,428	
ACCOUNT CLERK I	S	41,205	43,265	45,429	47,700	50,085	
CONSOLIDATED MAINTENANCE WRK I	S	41,205	43,265	45,429	47,700	50,085	
OFFICE ASST. III	S	41,205	43,265	45,429	47,700	50,085	
OFFICE ASST. IV	S	44,549	46,777	49,116	51,571	54,150	
ACCOUNT CLERK II	S	46,283	48,597	51,027	53,578	56,257	
CONSOLIDATED MAINTENANCE WRK II	S	46,283	48,597	51,027	53,578	56,257	
PERMIT TECHNICIAN	S	47,400	49,770	52,259	54,872	57,615	
ACCOUNT CLERK III	S	49,571	52,049	54,651	57,384	60,253	
CONSOLIDATED MAINTENANCE WRK III	S	49,571	52,049	54,651	57,384	60,253	
ADMINISTRATIVE TECHNICIAN	S	50,446	52,969	55,617	58,398	61,318	
PERMIT TECHNICIAN - CERTIFIED	S	50,446	52,969	55,617	58,398	61,318	
SUPPORT SERVICES TECHNICIAN	S	50,446	52,969	55,617	58,398	61,318	
PROPERTY EVIDENCE CLERK	S	50,446	52,969	55,617	58,398	61,318	
MECHANIC	S	52,060	54,663	57,396	60,266	63,279	
RECREATION COORDINATOR	S	52,060	54,663	57,396	60,266	63,279	
HUMAN RESOURCES ANALYST I	C	57,425	60,296	63,311	66,476	69,800	
ENGINEERING TECHNICIAN III	S	58,966	61,914	65,010	68,260	71,673	
RECREATION SUPERVISOR	S	58,966	61,914	65,010	68,260	71,673	
UTILITY OPERATOR	S	59,057	62,010	65,111	68,366	71,784	
ASSISTANT PLANNER	S	59,333	62,300	65,415	68,686	72,120	
HARBOR PATROL OFFICER	S	60,255	63,267	66,431	69,752	73,240	
BUILDING INSPECTOR	S	61,703	64,788	68,028	71,429	75,001	
EXECUTIVE ASSISTANT/DEPUTY CLERK	C	61,703	64,788	68,028	71,429	75,001	
FIREFIGHTER	F	62,018	65,119	68,375	71,794	75,384	
UTILITY OPERATOR MC (MULTIPLE CERT)	S	63,191	66,351	69,668	73,152	76,809	

CITY OF MORRO BAY							
COMBINED SALARY SCHEDULE							
FISCAL YEAR 2021-22: Effective 01/26/2022							
TITLE	GROUP	STEP 1 Annual	STEP 2 Annual	STEP 3 Annual	STEP 4 Annual	STEP 5 Annual	STEP 6 Annual
SENIOR ACCOUNTING TECHNICIAN	C	64,141	67,348	70,716	74,252	77,964	
HARBOR BUSINESS COORD	S	67,286	70,650	74,183	77,892	81,786	
POLICE OFFICER	P	68,410	71,830	75,422	79,193	83,152	87,310
FIRE ENGINEER	F	67,802	71,192	74,751	78,489	82,413	
ENGINEERING TECHNICIAN IV	S	69,053	72,506	76,131	79,938	83,935	
ASSISTANT ENGINEER	S	69,053	72,506	76,131	79,938	83,935	
ASSOCIATE PLANNER	S	69,053	72,506	76,131	79,938	83,935	
BUILDING INSPECTOR/PLANS EXAMINER	S	69,053	72,506	76,131	79,938	83,935	
CONSOLIDATED MAINT FIELD SUPV	S	69,053	72,506	76,131	79,938	83,935	
IT SYSTEMS ANALYST	S	69,053	72,506	76,131	79,938	83,935	
HUMAN RESOURCES ANALYST II	C	69,053	72,506	76,131	79,938	83,935	
LEAD UTILITY OPERATOR	S	70,434	73,956	77,653	81,536	85,613	
MANAGEMENT ANALYST	M	70,511	74,036	77,738	81,625	85,706	
POLICE SUPPORT SERVICES MANAGER	M	70,511	74,036	77,738	81,625	85,706	
HARBOR PATROL SUPERVISOR	S	70,975	74,524	78,250	82,163	86,271	
POLICE DETECTIVE	P	71,831	75,422	79,193	83,153	87,310	91,676
POLICE SCHOOL RESOURCE OFFICER	P	71,831	75,422	79,193	83,153	87,310	91,676
POLICE SENIOR OFFICER	P	71,831	75,422	79,193	83,153	87,310	91,676
FIRE CAPTAIN	F	77,938	81,835	85,927	90,223	94,735	
ASSOCIATE CIVIL ENGINEER	S	79,410	83,381	87,550	91,928	96,524	
WASTEWATER SYSTEMS SUPV	S	79,410	83,381	87,550	91,928	96,524	
CONSOLIDATED MAINTENANCE SUPT	M	82,459	86,582	90,911	95,456	100,229	
ENVIRONMENTAL PROGRAMS MANAGER	M	82,459	86,582	90,911	95,456	100,229	
INFORMATION SYSTEMS TECHNICIAN	M	82,459	86,582	90,911	95,456	100,229	
RECREATION SERVICES MANAGER	M	82,459	86,582	90,911	95,456	100,229	
SR. ADMINISTRATIVE SERVICES ANALYST	M	82,459	86,582	90,911	95,456	100,229	

CITY OF MORRO BAY							
COMBINED SALARY SCHEDULE							
FISCAL YEAR 2021-22: Effective 01/26/2022							
TITLE	GROUP	STEP 1 Annual	STEP 2 Annual	STEP 3 Annual	STEP 4 Annual	STEP 5 Annual	STEP 6 Annual
SENIOR PLANNER	M	82,459	86,582	90,911	95,456	100,229	
POLICE SERGEANT	P	85,314	89,579	94,058	98,761	103,699	108,884
PLANNING MANAGER	M	90,706	95,242	100,004	105,004	110,254	
FINANCE MANAGER	M	90,706	95,242	100,004	105,004	110,254	
SENIOR CIVIL ENGINEER	M	90,706	95,242	100,004	105,004	110,254	
FIRE MARSHAL	F	92,520	97,146	102,003	107,103	112,458	
CITY CLERK/HR MANAGER	M	105,633	110,915	116,461	122,284	128,398	
CITY ENGINEER	M	106,898	112,243	117,855	123,748	129,936	
UTILITY DIVISION MANAGER	M	106,898	112,243	117,855	123,748	129,936	
FIRE MARSHAL/DIVISION CHIEF	M	110,187	115,696	121,481	127,555	133,933	
POLICE COMMANDER	M	120,015	126,016	132,317	138,932	145,879	
COMMUNITY DEVELOPMENT DIRECTOR	E	131,024	137,575	144,454	151,677	159,261	
ASST CITY MANAGER/ADMIN SERVICES DIR	E	135,911	142,706	149,842	157,334	165,201	
PUBLIC WORKS DIRECTOR	E	135,911	142,706	149,842	157,334	165,201	
HARBOR DIRECTOR	E	138,446	145,368	152,636	160,268	168,282	sworn
FIRE CHIEF	E	138,446	145,368	152,636	160,268	168,282	sworn
POLICE CHIEF	E	138,446	145,368	152,636	160,268	168,282	sworn
CITY MANAGER	E	183,188	187,768	192,462	197,274	202,206	
*Pending Council Approval 01/25/2022							

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AGENDA NO: A-11

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor & Council Members

DATE: January 19, 2022

FROM: John Martin, CFAC Chairman

SUBJECT: Presentation to the City Council regarding CFAC's Review of FY 2020-21 Unaudited Transactions from the Collection of the General Purpose Local Sales Tax, commonly known as "Measure Q and E"

RECOMMENDATION

Receive and file.

DISCUSSION

On December 21, 2021 the Citizens Financial Oversight Committee ("Committee") reviewed and approved the FY 2020-21 Unaudited Transactions from the Collection of the General Purpose Local Sales Tax, commonly known as "Measure Q and E". The Committee reviewed the presentation at its January 18th Regular Meeting.

ATTACHMENTS:

1. Draft Presentation regarding FY 2020-21 Unaudited Transactions from the Collection of the General Purpose Local Sales Tax, commonly known as "Measure Q and E"
2. [Link](#) to January 18, 2022 - CFAC Staff Report on Measure Q & E Expenditures, included for Council per the CFAC Chair's Request (Item B-2)

Prepared By: SJR

Dept Review:

City Manager Review:

City Attorney Review:



Citizens Oversight Committee

(Acting as the Citizens Finance Advisory Committee -
CFAC)

Agenda

- Summarize CFAC's review of all Measures Q and E previous fiscal year transactions (July 2020-June 2021)
- Report other CFAC activities during past year and recommendations



Citizens Oversight Committee

Measure Q Overview

- Committee met Dec 2021 to review and discuss all Measures Q&E fiscal year transactions (2020-2021)
 - Members: John Martin, Barbara Spagnola, Homer Alexander, Lois Johnson, Bart Beckman, Tina Wener and Stephen Peck
- Measure Q/E Financial Summary
 - Tax revenue from Measure Q/E was \$ 1.98M
 - \$1.11M from Measure Q & \$869K from Measure E
 - Total expenditures/transfers out were \$ 1.32M
 - Carryover Q/E fund balance is \$1.31M as of June 30, 2021
 - Debt service reserve is \$ 81K
 - Unassigned fund balance amount is \$ 1.23M
 - Cash balance is \$ 439K



Citizens Oversight Committee

Measure Q Total Spending 2020-2021

- Fire Department: \$ 480K
 - Vacation relief person and OT to maintain four personnel per shift - \$ 330K
 - Fire Station debt service - \$ 68K*
 - (* \$15,582 interest accrual error was corrected in FY 2020-21. Actual FY 2020-21 debt service was \$83,294)
 - Fire safety equipment and gas detectors- \$ 26K
 - Replacement engine debt service - \$ 56K

General Fund reserve: \$ 282K (transfer)



Citizens Oversight Committee

Measure Q Total Spending 2020-2021

- Street Maintenance: \$ 425K
 - Pavement Management Plan - \$ 415K (transfer)
 - Street maintenance materials - \$ 10K
- Police Department: \$ 132K
 - Standby pay / overtime / other pay - \$ 83K
 - Payment to SLO Sheriff - \$ 29K
 - Task forces / CAD / data lines
 - Equipment & Supplies - \$ 20K
 - First responder kits / active shooter kits
- Storm Drains: \$0



Citizens Oversight Committee

Measure Q Recommendations

- CFAC approved Measure Q/E transactions during the fiscal year 2020-2021
- Carryover and unallocated cash
 - CFAC defers recommendation for the unassigned fund balance of \$ 1.23M until midyear 2021-22 budget review occurs
- Continue progress on the funding categories identified in the 2006 Measure Q ballot initiative and the 2020 Measure E ballot initiative



Citizens Oversight Committee

- Summary of other CFAC accomplishments
 - Review of two quarterly budget reports with feedback provided to City Finance staff
 - Review and recommendations for WRF Capital Project quarterly reports
 - Review of quarterly investment reports
 - Miscellaneous reviews and discussions
 - City Council compensation, PERS/OPEB liability



Citizens Oversight Committee

- Upcoming activities
 - Welcome and transition new members to CFAC
 - Continue Measure Q/E oversight
 - Review fiscal 2021 Annual Comprehensive Financial Report
 - Participation in midyear budget process
 - Review 10-year General Fund forecast
 - Continue review of quarterly WRF reports
- Any questions ?
- Thank You



AGENDA NO: C-1

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 3, 2022
FROM: Jody Cox, Police Chief
Bonnie Johnson, Support Services Manager
SUBJECT: Police Records Management System Agreement with Mark43, Inc.

RECOMMENDATION

Staff recommends the City Council direct the City Manager to:

1. Execute a 5-year agreement with Mark43, Inc. to implement a new Police Records Management System in an amount not to exceed \$279,500; and
2. Return with a budget amendment at Midyear to appropriate \$64,050 in additional Measure Q & E funds to fully fund implementation in FY 2021-22.

ALTERNATIVE

1. Direct staff to re-issue Request for Proposal or take other action consistent with law.

FISCAL IMPACT

The Fiscal Year (FY) 2021-22 Adopted Budget includes \$109,450 for the Record Management System (RMS) in the Measure Q&E Fund. The FY 2021-22 cost will be \$173,500, resulting in a need for \$64,050 in additional budget appropriation. In the subsequent four years, the ongoing cost will be \$26,500 annually. If directed, staff will return to Council with a midyear budget adjustment for FY 2021-22 utilizing Measure Q&E funds and will incorporate ongoing costs into future year budgets for adoption.

BACKGROUND

The current RMS system (EIS) has been used by the Morro Bay Police Department (MBPD) for the last nine years.

Legislative changes mandate that Police Departments transition the method by which statistical data is reported to the State and Federal agencies from the old Uniform Crime Reporting (UCR) to the new California Incident Based Reporting Systems (CIBRS). The new reporting requirements became effective on January 1, 2021, but our current system does not have the upgraded capability to produce the reports necessary to comply with the new reporting standards.

In 2017 the San Luis Obispo Sheriff's Department (SLOSO) along with 5 local agencies started the process of procuring a new RMS vendor. We attended several demonstrations, meetings and discussions to review RMS vendors to meet our needs and which would allow all of the neighboring agencies to continue information sharing.

The MBPD concluded in late 2021 that it was in our best interest to develop and issue a Request for

Proposal (RFP) for a RMS system. In September 2021, the RFP was posted online and published nationally. In October 2021, we received six proposals and the department reviewed each written proposal and consulted with the City of Morro Bay Information Technology department (IT). The top vendors were selected for presentations and demonstrations. Finalist presentations were evaluated on (1) System suitability and ability; (2) Knowledge of California specific legislation requirements; (3) Proven customer service record; (4) Ease of integrating with other software; (5) Intuitive and straightforward data entry masks. After review of proposals, MBPD RMS staff recommend Mark43 should be awarded the contract.

DISCUSSION

Mark43 submitted a robust and detailed proposal that achieved what the Department and IT staff requested. The system is a cloud-based solution, offering unlimited storage on the Amazon Web Services (AWS) Government Cloud, which is Criminal Justice Information Services (CJIS) security compliance through the US Department of Justice. Upgrades, regular releases, patch fixes all get delivered as part of the subscription, without the system requiring downtime during maintenance and the need for City IT staff to monitor upgrades. The Mark43 platform, and the Department data, will run on multiple geographically dispersed data centers to ensure maximum redundancy and resiliency in the event of a cyber-attack, natural disaster or other security risk. This redundancy is an improvement over the current system. The solution is highly customizable to best align with workflow fit. The structure of the software is user-friendly and has several safeguard features to ensure each report is submitted correctly, with accurate information.

In addition to improved workflow, customization, security and analytics, Mark43's benefits over the current RMS system include integration with software programs related to Dispatch/CAD, the DA's Office, other County systems and notices to appear in court are available as well as they have CIBRS reporting capabilities that is recognized as one of the best in the field.

All features proposed are held in high regard with MBPD RMS staff who participated in the product review, and all recommend award of the contract to Mark43 after careful consideration of all the proposals received in response to the RFP.

CONCLUSION

MBPD concluded that an RFP for a new RMS system was appropriate. After review of six proposals, MBPD RMS staff concluded Mark43 should be awarded the contract and recommend City Council direct the City Manager to enter into the agreement with Mark 43 and return with a budget amendment as detailed above.

ATTACHMENTS

1. Software License and Services Agreement
2. Staff Presentation

SOFTWARE LICENSE AND SERVICES AGREEMENT

This Software License and Services Agreement (this “**Agreement**”) is effective as of _____, 2022 (the “**Effective Date**”) by and between Mark43, Inc. (“**Mark43**”), with a place of business at 250 Hudson Street, 3rd Floor, New York, NY 10013, and the City of Morro Bay (“**Subscriber**”), with a place of business at 595 Harbor Street, Morro Bay, CA 93442.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS.

- 1.1 “**Affiliate**” means, with respect to any entity, any other entity who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.
- 1.2 “**Affiliated Agency**” means any other government agency to which Subscriber is legally or contractually bound to share information.
- 1.3 “**Applicable Law(s)**” means, with respect to any party, any federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any international, federal, state or local court, administrative agency or commission or other governmental or regulatory authority or instrumentality, domestic or foreign, applicable to such party or any of its properties, assets or business operations.
- 1.4 “**Applications**” means the applications purchased by Subscriber as described in Schedule F.
- 1.5 “**Authorized Users**” means employees of Subscriber and any Affiliated Agency who are authorized to access and use the Applications through the applicable security designation(s), pursuant to which full or limited access to the applicable Applications may be granted.
- 1.6 “**Documentation**” means the knowledge base for the SaaS Services to which Subscriber will be granted access by Mark43.
- 1.7 “**Go Live**” means the date of cutover to each respective Mark43 Application.
- 1.8 “**Integrated Application**” means a third-party product, database or application requested by Subscriber and approved by Mark43 that will be installed, linked or enabled by Subscriber for use in connection with the SaaS Services (e.g. NCIC).
- 1.9 “**Integrated Application Data**” means all data, information, content and other materials stored on an Integrated Application.
- 1.10 “**Integrated Application Provider**” means any third party, including other vendors, state agencies and local agencies, that control products and/or databases with which Mark43 SaaS Services are to be interfaced.
- 1.11 “**Intellectual Property Rights**” means all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress or other proprietary trade designations, including all registrations and applications therefor (iv) all rights throughout the world to proprietary know-how, trade secrets and other confidential information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.
- 1.12 “**Professional Services**” means any implementation, training, project management, consulting and other services (outside the scope of the Support Services) that are described in a Statement of Work.
- 1.13 “**SaaS Services**” means the Applications, Software, and related software-as-a-service, hosting, maintenance and/or support services made available by Mark43 for remote access and use by Subscriber, including any Documentation thereto.
- 1.14 “**Services**” means the services provided or required to be provided by or through Mark43, including without limitation, SaaS Services and Professional Services.

- 1.15 “**Software**” means the object code version of Mark43’s computer software and all Updates made available by Mark43 to Subscriber under this Agreement.
- 1.16 “**Statement of Work**” means a detailed plan of work to be agreed by the Parties in conjunction with this Agreement.
- 1.17 “**Subscriber Data**” means all data, information, content and other materials stored or transmitted by Subscriber and any Authorized User through the SaaS Services (i) in their user accounts; and (ii) on any Integrated Application, excluding any Third-Party Data and any Mark43 data.
- 1.18 “**Term**” means the Initial Term and any Renewal Terms.
- 1.19 “**Third-Party Component**” means a third-party application incorporated in, integrated with or accessed through the SaaS Services (e.g. a mapping provider).
- 1.20 “**Third-Party Data**” means any data, information, content and other materials made available by any third party, including without limitation through a Third-Party Component.
- 1.21 “**Updates**” means any and all new releases, new versions, patches and other updates for the SaaS Services that Mark43 makes generally available without additional charge to its other subscribers of the SaaS Services.
- 1.22 “**Website**” means any Internet website through which Mark43 provides the SaaS Services under this Agreement.
- 1.23 “**Work Product**” means all materials, software, tools, data, inventions, works of authorship and other innovations of any kind that Mark43, or personnel working for or through Mark43, may make, conceive, develop or reduce to practice, alone or jointly with others, in the course of performing Professional Services or as a result of such Professional Services, whether or not eligible for patent, copyright, trademark, trade secret or other legal protection.

2. PROVISION OF THE SERVICES AND SOFTWARE.

- 2.1 **SaaS Services.** Subject to the terms of this Agreement, and during the Term, Mark43 hereby grants a non-exclusive, non-transferable, non-sublicensable license to Subscriber and its Authorized Users to access and use the SaaS Services through the Website for Subscriber’s internal purposes and in accordance with the terms and conditions of this Agreement. Mark43 will be responsible for hosting the Website, and Subscriber and its Authorized Users will be responsible for obtaining internet connections and other third-party software, hardware and services necessary for it to access the Website through the Internet, including without limitation as set forth in Schedule C. Subscriber will be responsible to Mark43 for compliance with the restrictions on use and other terms and conditions of this Agreement by any of its Authorized Users.
- 2.2 **Professional Services.** Mark43 offers Professional Services in connection with the SaaS Services as further described on Schedule F and the Statement of Work. To the extent any Professional Services involve the development of any customization or configuration to the SaaS Services, all Intellectual Property Rights to such customization or configuration will be solely owned by Mark43 and will be deemed to be included in the definition of SaaS Services and licensed to Subscriber on the terms set forth herein.
- 2.3 **Access to Documentation.** Mark43 will provide Subscriber via the Website or other means with access to the Documentation, as may be updated from time to time. Subscriber may print copies of, use, and permit its Authorized Users to use, the Documentation solely in connection with the use of the SaaS Services.
- 2.4 **Support Services.** Subject to the terms and conditions of this Agreement, Mark43 will provide to Subscriber the support services detailed on Schedule A (the “**Support Services**”).
- 2.5 **Restrictions on Use.** Subscriber and its Authorized Users will not (and will not permit any third party to): (i) share Subscriber’s or any Authorized User’s login credentials; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, underlying ideas, algorithms, file formats, or interface protocols of the SaaS Services or of any files contained in or generated by the SaaS Services; (iii) copy, modify, adapt or translate the SaaS Services or the Third-Party Data, or otherwise make any use, resell, distribute or sublicense the SaaS Services or the Third-Party Data other than in connection with this Agreement; (iv) make the SaaS Services available on a “service bureau” basis or allow any third parties to use the SaaS Services; (v) disclose the SaaS Services or any of its components to third parties; (vi) remove or modify any proprietary marking or restrictive legends placed on the SaaS Services or the Third-Party Data; (vii) use the SaaS Services or the

Third-Party Data in violation of any Applicable Law; (viii) create or augment any mapping-related dataset (including a mapping or navigation dataset, business listings database, mailing list, or telemarketing list) for use in an implementation that is not connected to the Services; (ix) introduce into the Services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature; (x) use the Services to post advertising or listings; (xi) use the Services to defame, abuse, harass, stalk, or threaten others; (xii) permit access or use of the Services by any individual outside the United States; (xiii) hide or obscure any Authorized User's location; (xiv) permit access or use of the Services, for any activities other than to enhance Subscriber's own services, where reliance solely on, or failure to use, the Services could lead to death, personal injury, or property damages. Subscriber and its Authorized Users will not access the SaaS Services if in direct competition with Mark43, and will not allow access to the SaaS Services by any party who is in direct competition with Mark43, except with Mark43's prior written consent. Subscriber shall comply with additional restrictions on use of the Services in accordance with the Third-Party Component Terms.

- 2.6 Security Obligations.** Subscriber agrees it and its Authorized Users shall securely manage their respective password(s) for access to the SaaS Services. Subscriber agrees it shall notify Mark43 promptly in the event it becomes aware of any unauthorized access or use of the SaaS Services, or of any of its or its Authorized Users passwords or accounts. Unless expressly stated otherwise in this Agreement, a single username or password may not be used by more than one (1) Authorized User. In addition, Authorized Users may log into the SaaS Services from only one location at any given time; concurrent usage (or sign in) under a single username is prohibited, unless Subscriber has a business justification for concurrent usage, in which case Subscriber is responsible for providing approval for such usage to the applicable Authorized Users. Subscriber is responsible for all activities conducted within user accounts in use of the SaaS Services. Subscriber shall comply with all applicable local, state, federal and regional or other laws and regulations applicable in connection with use of the SaaS Services, including all those related to data privacy and the transmission of technical or personal data. Subscriber agrees to (a) provide true, accurate, current and complete registration data for each account it creates via the SaaS Services, and (b) maintain and promptly update the registration data to keep it true, accurate, current and complete.
- 2.7 Changes to Services.** Mark43 may make changes and Updates to its Services, provided that it does not materially derogate the overall quality of the Services. Mark43 does not guarantee that the Services are or will remain compatible with any particular third-party software or equipment, and may, upon written notice, terminate its support for, any software or equipment of Subscriber that Mark43 determines are incompatible with the operation of the Services.
- 2.8 Data Sharing.** Mark43 will allow Subscriber to grant other agencies specified levels of access to Subscriber Data pursuant to an executed data-sharing agreement between agencies, and with permissions subject to the parameters laid out in the relevant data-sharing agreement. Subscriber shall provide Mark43 with a copy of the executed data-sharing agreement prior to allowing any such data-sharing. As between Mark43 and Subscriber, Subscriber will be solely responsible for any liabilities that arise as a result of such data-sharing.

3. PROPRIETARY RIGHTS; SUBSCRIBER DATA.

- 3.1 Ownership of Subscriber Data.** As between Mark43 and Subscriber, Subscriber owns the Subscriber Data. Mark43 will have, and Subscriber hereby grants and agrees to grant to Mark43, a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use the Subscriber Data to configure and/or provide the SaaS Services, Software, Support Services and Professional Services to Subscriber, and/or to prevent or address service or technical problems, in accordance with this Agreement and the Documentation, or otherwise in accordance with Subscriber's requests or instructions. Mark43 may also use Subscriber Data in anonymized and/or aggregated form to develop analytics that may be used to provide products and services to Subscriber and/or to other Mark43 customers, provided that: (a) Mark43 makes available to Subscriber functionality and services based on anonymized data obtained from other Mark43 customers that are similar to the functionality and services provided to such other customers based on the anonymized data; and (b) Mark43 may not sell or offer for sale any Subscriber Data, whether in Subscriber identifiable, or anonymized and aggregated form. Mark43 shall comply with its obligations under all Applicable Laws in its provision of the Services and use of Subscriber Data.
- 3.2 Ownership and Reservation of Rights to Mark43 Intellectual Property.** As between Mark43 and Subscriber, Mark43, its Affiliates and/or its licensors own all right, title and interest in and to the Services, Software, Work Product and all related technology and Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, and except with respect to Third-Party Components, Mark43 reserves all rights, title and interest in and to the Services, Software, and Work

Product, including all related technology and Intellectual Property Rights. No rights are granted to Subscriber hereunder other than as expressly set forth in this Agreement or as required by Applicable Law.

- 3.3 **Subscriber Feedback.** Subscriber and its Authorized Users may elect to provide Mark43 with suggestions, enhancement requests, recommendations and other feedback concerning the SaaS Services, Software, Support Services or Professional Services (the “**Subscriber Feedback**”). Subscriber hereby assigns and agrees to assign all Subscriber Feedback to Mark43 without lien or encumbrance and agrees that Subscriber Feedback will be the sole property of Mark43 and that Mark43 may use Subscriber Feedback in its discretion without obligation to Subscriber. Mark43 has no obligation to make Subscriber Feedback an improvement. For the avoidance of doubt, Subscriber Feedback does not constitute Confidential Information of Subscriber hereunder.
- 3.4 **Usage Data.** Mark43 may collect certain information in connection with Subscriber’s access to or use of the Services, such as access records, date and time stamps, transaction and activity records and system performance data (“**Usage Data**”). Mark43 may use Usage Data to deliver and manage its products and services, perform maintenance and support, and develop, test, analyze, and improve the Services and other Mark43 products and services, and generate statistical data about usage of its products and services. As between Mark43 and Subscriber, Mark43 owns the Usage Data.
- 3.5 **Data Security.** Terms applicable to the privacy and security of Subscriber Data are set forth in the Data Processing Addendum attached as Schedule E hereto (the “**Data Processing Addendum**”).

4. THIRD-PARTY COMPONENTS AND INTEGRATED APPLICATIONS.

- 4.1 **Third-Party Components.** Third-Party Components may be made available to Subscriber through the SaaS Services. In connection with the functionality provided by and/or through Third-Party Components, Subscriber hereby accepts and agrees to be bound by the terms and conditions set forth in Schedule D, which may be updated from time to time upon notice (email acceptable) to Subscriber (the “**Third-Party Component Terms**”). In the event of any inconsistency or conflict between the Third-Party Component Terms and the terms of this Agreement, the Third-Party Component Terms shall govern with respect to Subscriber’s access to and use of the applicable Third-Party Component.
- 4.2 **Integrated Applications.** To the extent Subscriber installs, links to or enables any Integrated Application for use with the SaaS Services, Subscriber grants and agrees to grant (and will cause the applicable Integrated Application Provider to grant) to Mark43 permission to access, retrieve, view, store, copy, modify and process Integrated Application Data from Subscriber’s existing account(s) on each such Integrated Application to the extent necessary to facilitate the interoperation of such Integrated Application with the SaaS Services. To the extent Subscriber requires an Integrated Application Provider’s assistance to install, link to or enable any Integrated Application for use with the SaaS Services, Subscriber shall separately contract with each such Integrated Application Provider for any such assistance. In no event will Mark43 be responsible for any Integrated Application or Integrated Application Data, or for any failure of an Integrated Application to properly interoperate with the SaaS Services; provided, however, to the extent that Mark43 creates, pursuant to the Statement of Work, an interface for an Integrated Application hereunder, Mark43 shall be responsible for such interface only, subject to the terms and conditions of this Agreement and the applicable Statement of Work. Mark43 may at any time, in its sole reasonable discretion, including upon the request of an Integrated Application Provider or due to an actual or potential security threat, disable any connection between an Integrated Application and the Applications, and any access, retrieval and viewing of Integrated Application Data via the Applications. For the avoidance of doubt, Subscriber’s access to and use of Integrated Applications and Integrated Application Data shall be subject to the terms and conditions of Subscriber’s agreement(s) with the applicable Integrated Application Provider.

5. FEES AND PAYMENT TERMS.

- 5.1 **Fees for the Services.** Subscriber will pay the fees as stated in Schedule F (the “**Fees**”) attached hereto in accordance with the payment schedule set forth in Schedule E. All Fees due hereunder will be due and payable by Subscriber within thirty (30) days of the invoice date. All payments of Fees are non-refundable. All amounts stated in this Agreement or on any invoice are in U.S. dollars, and all payments will be made in U.S. dollars.
- 5.2 **Overdue Payments.** Any payment not received from Subscriber by the due date shall accrue late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by Applicable Law, whichever is lower, from the date such payment was due until the date paid.

- 5.3 Taxes.** Subscriber will pay all taxes, including sales, use, excise, and other governmental fees, duties, and charges (and any penalties, interest, and other additions thereto) that are imposed on Subscriber or Mark43 with respect to the transactions and payments under this Agreement (excluding taxes based on Mark43's income or employment) ("**Indirect Taxes**"). All Fees are exclusive of Indirect Taxes. If any such taxes are required to be withheld on any payment, Subscriber will pay such additional amounts as are necessary so that the net amount received by Mark43 is equal to the amount then due and payable under this Agreement.

6. TERM AND TERMINATION.

6.1 Term.

- (a) Initial Term. The initial term of this Agreement begins on the Effective Date and will continue for the period set forth on Schedule E, unless and until terminated in accordance with Section 6.2 (the "**Initial Term**").
- (b) Renewal Terms. Upon expiration of the Initial Term or any Renewal Term, this Agreement will automatically renew for successive periods as set forth on Schedule F (each, a "**Renewal Term**") at the rates set forth on Schedule F, unless either party provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term.

6.2 Temporary Suspension and Termination.

- (a) Termination for Breach by Either Party. Either party may terminate this Agreement upon written notice to the other party, if the other party breaches a material term of this Agreement and such breach remains uncured for thirty (30) days after the other party's receipt of such notice.
- (b) Suspension of Services. To the extent permitted by Applicable Law, in addition to any other rights or remedies it may have under this Agreement or by Applicable Law, Mark43 may immediately suspend provision of the Services without liability to Subscriber: (a) if Subscriber's account is more than sixty (60) days past due, until paid in full; (b) if Subscriber breaches Section 2.5 (Restrictions on Use) or Section 2.6 (Security Obligations); (c) to avoid harm or liability to Mark43, its Affiliates or its other customers, including in the case of denial of service attacks or other disruptions; or (d) if required by Applicable Law or requested by a governmental authority. Subscriber shall remain liable for any fees and other amounts payable under this Agreement during any period of suspension. Mark43 will use commercially reasonable efforts to restore Subscriber's rights to use and access those portions of the Services or accounts that gave rise to the suspension promptly after Subscriber has resolved the problem giving rise to the suspension.
- (c) Termination for Non-Appropriation. Subscriber's payment obligation under this Agreement extends only to funds appropriated annually by Subscriber or Subscriber's governing body for the purpose of this Agreement. For each succeeding fiscal period covered by this Agreement, Subscriber or other applicable agency or department responsible for this Agreement agrees to include in its budget request appropriations sufficient to cover the annual financial obligations under this Agreement. If Subscriber is appropriated insufficient funds to continue annual payments under this Agreement, Subscriber may terminate this Agreement by giving Mark43 not less than thirty (30) days' prior written notice. Upon termination under this paragraph, Mark43 shall be entitled to compensation for all Services rendered prior to the effective termination date, plus any prepaid Fees, as well as reimbursement for reasonable costs actually incurred in closing out this Agreement.

6.3 Effect of Termination. In the event of any termination or expiration of this Agreement,

- (a) Subscriber will pay Mark43 all amounts payable hereunder as of the termination or expiration date;
- (b) all rights and licenses granted hereunder to Subscriber (as well as all rights granted to any Authorized Users of Subscriber) will immediately cease, including but not limited to all use of the SaaS Services; and
- (c) Mark43 will provide records to Subscriber in accordance with its transition assistance services ("**Transition Assistance**") as set forth in Schedule B.
- (d) Subscriber will, upon written request of Mark43, either return to Mark43 or provide Mark43 with written certification of the destruction of, all documents, computer files and other materials containing any Confidential Information of Mark43 that are in Subscriber's possession or control.

- 6.4 Survival.** Notwithstanding any other provision of this Agreement, the following provisions will survive any termination or expiration of this Agreement: Section 3.1 (“Ownership of Subscriber Data”), Section 4 (“Third-Party Components and Integrated Applications”), Section 6.3 (“Effect of Termination”), Section 7 (“Confidentiality”), Section 8.2 (“Disclaimer”), Section 9 (“Limitation of Liability”), Section 10 (“Indemnification”), Section 12 (“Miscellaneous”), Schedule B (“Transition Assistance”) and this Section 6.4 (“Survival”).

7. CONFIDENTIALITY.

- 7.1 Definition of Confidential Information.** For the purposes of this Agreement, “**Confidential Information**” means: (a) with respect to Mark43, the SaaS Services, and any and all source code relating thereto, as well as Documentation and non-public information or material regarding Mark43’s legal or business affairs, financing, customers, properties or data, and (b) with respect to Subscriber, any non-public information or material regarding Subscriber’s legal or business affairs, financing, customers, properties or data. Notwithstanding any of the foregoing, Confidential Information does not include information which: (i) is or becomes public knowledge without any action by, or involvement of, the party to which the Confidential Information is disclosed (the “**Receiving Party**”); (ii) is documented as being known to the Receiving Party prior to its disclosure by the other party (the “**Disclosing Party**”); (iii) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (iv) is obtained by the Receiving Party without restrictions on use or disclosure from a third person who did not receive it, directly or indirectly, from the disclosing party.
- 7.2 Use and Disclosure of Confidential Information.** The Receiving Party will, with respect to any Confidential Information disclosed by the Disclosing Party before or after the Effective Date: (i) use such Confidential Information only in connection with the Receiving Party’s performance of this Agreement; (ii) subject to Section 7.4 below, restrict disclosure of such Confidential Information within the Receiving Party’s organization to only those of the Receiving Party’s employees and independent contractors who have a need to know such Confidential Information in connection with the Receiving Party’s performance of this Agreement and (iii) except as provided herein, not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing Party to do so.
- 7.3 Protection of Confidential Information.** The Receiving Party will protect the confidentiality of any Confidential Information disclosed by the Disclosing Party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).
- 7.4 Employee and Independent Contractor Compliance.** The Receiving Party will, prior to providing any employee or independent contractor access to any Confidential Information of the Disclosing Party, inform such employee or independent contractor of the confidential nature of such Confidential Information and require such employee or independent contractor to comply with the Receiving Party’s obligations hereunder with respect to such Confidential Information.
- 7.5 Compelled Disclosure.** A disclosure by one party of Confidential Information of the other party to the extent required by Applicable Law will not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party’s cost, if the other party wishes to contest the disclosure.
- 7.6 Public Records.**
- (a) For purposes of this Section 7 (Confidentiality), the term “**Public Records Request**” shall mean any request for the disclosure of records pursuant to a state public records law or “sunshine” law, federal Freedom of Information Act or other comparable law.
 - (b) To the extent Subscriber is subject to a Public Records Request that seeks the disclosure of any information or materials provided by Mark43 to Subscriber prior to or during the Term (including without limitation this Agreement), Subscriber shall, prior to any disclosure, promptly notify Mark43 of such Public Records Request (to the extent legally permitted to do so) and provide reasonable assistance, at Mark43’s cost, if Mark43 wishes to contest the disclosure. Subscriber shall also identify for Mark43 the information or materials it intends to disclose, and provide Mark43 at least ten (10) days to review prior to disclosure, or if such time is not available or permitted under Applicable Law, at least as much time as would be reasonable to allow Mark43 to meaningfully review and seek appropriate relief, but in no event fewer than five (5) business days. For the avoidance of doubt, and without limiting the foregoing, Subscriber hereby

acknowledges that Mark43 shall have no implicit or explicit obligation to challenge, oppose or defend against any request described herein.

- (c) Mark43 may charge Subscriber for all reasonable time spent by Mark43 personnel assisting Subscriber in responding to a Public Records Request seeking the disclosure of any Subscriber Data or other information collected or maintained by Mark43 in connection with Subscriber's use of the SaaS Services.

7.7 CJIS Standards; Employee Background Checks.

- (a) Subscriber understands and agrees that Mark43 utilizes third-party vendors (each, a "**Hosting Provider**") to host the SaaS Services. As of the Effective Date of this Agreement, Mark43 utilizes Amazon Web Services (AWS) as its Hosting Provider for the SaaS Services.
- (b) Subscriber may request reasonable records from Mark43 from time to time to assess Mark43's adherence to requirements of the applicable CJIS Security Policy promulgated by the FBI. For the avoidance of doubt, Subscriber may need the consent of Hosting Provider to obtain any records or information from Hosting Provider.
- (c) Subscriber, or if Subscriber is located in the State of California, Mark43's CLETS host agency, will have the opportunity to run background checks on Mark43 employees that will have direct access to Subscriber Data in the production environment (such employees, the "**Covered Employees**"), provided that Mark43 may assume that a Covered Employee has been cleared by Subscriber if Mark43 does not receive an adverse response from Subscriber within thirty (30) days of a submission of a background check request.

8. REPRESENTATIONS AND WARRANTIES.

8.1 Power and Authority. Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to discharge its obligations hereunder and that the person signing this Agreement on behalf of the party has the authority to bind that party. Subscriber represents and warrants that it has obtained, and shall have, all necessary approvals, consents, and authorizations necessary for procurement under this Agreement and that its obligations under this Agreement do not, and shall not, exceed any budget authority limitations, during the Term of this Agreement.

8.2 Disclaimer. USE OF THE APPLICATIONS IS NOT, AND IS NOT INTENDED TO BE, A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF AUTHORIZED PARTIES, INCLUDING DISPATCHERS, LAW ENFORCEMENT OFFICERS, INVESTIGATORS OR FIRST RESPONDERS. THE APPLICATIONS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND THE DATA PROVIDED BY MARK43 THEREIN (INCLUDING ANY THIRD-PARTY DATA) SHOULD NOT REPLACE OTHER EMERGENCY INFORMATION AND SHOULD NOT BE EXCLUSIVELY RELIED-UPON IN AN EMERGENCY SCENARIO. SUBSCRIBER SHALL BE RESPONSIBLE FOR ALL ITS OWN ACTIONS OR FAILURE TO ACT IN CONNECTION WITH THE APPLICATIONS, INCLUDING WITH RESPECT TO COMPLIANCE WITH APPLICABLE LAWS, AND MARK43 ASSUMES NO RESPONSIBILITY OR RISK FOR SUBSCRIBER'S USE OR MISUSE OF, OR FAILURE TO USE, THE INFORMATION PROVIDED THROUGH THE APPLICATIONS. CUSTOMER ACKNOWLEDGES THAT THE APPLICATIONS DO NOT PROVIDE LEGAL ADVICE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MARK43 MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE APPLICATION. MARK43 DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED OR THAT SUBSCRIBER DATA WILL BE SECURE OR NOT LOST OR DAMAGED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO SUBSCRIBER IN CONNECTION WITH THE PROVISION OF THE SERVICES. MARK43 SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE ITS REASONABLE CONTROL, INCLUDING ANY HARM OR DAMAGES CAUSED BY ITS HOSTING PROVIDERS. MARK43 MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO ANY THIRD-PARTY DATA, THIRD-PARTY COMPONENT, INTEGRATED APPLICATION, OR ON BEHALF OF ANY INTEGRATED APPLICATION PROVIDER.

To the extent that a party may not as a matter of Applicable Law disclaim any implied warranty, the scope and duration of such warranty will be the minimum permitted under such law.

9. LIMITATION OF LIABILITY.

- 9.1 Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL MARK43'S (OR MARK43'S THIRD-PARTY LICENSORS') TOTAL AND AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AGGREGATE AMOUNT OF FEES PAID BY SUBSCRIBER TO MARK43 PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ARISES. THE FOREGOING LIMITATION IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT, AND THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THAT LIMIT.
- 9.2 Exclusion of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, PERSONAL INJURY OR PROPERTY DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA, COST OF DATA RECONSTRUCTION OR COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, SOFTWARE OR PROFESSIONAL SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.
- 9.3 Exceptions.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 9.1 AND SECTION 9.2 SHALL NOT APPLY TO DAMAGES ARISING FROM EITHER PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. INDEMNIFICATION.

- 10.1 Indemnification by Mark43.** Mark43 shall indemnify Subscriber, and its employees, officers, and directors against any third-party claim alleging that Subscriber's use of the Services in the form provided by Mark43 and when used in accordance with the Documentation and in compliance with this Agreement infringes that third party's U.S. copyright, U.S. patent issued as of the Effective Date, or U.S. trademark, and shall pay the amount of any adverse final judgment or settlement to which Mark43 consents. Mark43 shall have no obligation or liability under this Section 10.1 (Indemnification by Mark43) to the extent the third party claim arises from: (a) Subscriber's or its Affiliates' failure to incorporate a software or other update or upgrade made available by Mark43 that would have avoided the alleged infringement; (b) modification of the Services, any Application, Software or Hardware by anyone other than Mark43; (c) specifications, instructions, features, functions or designs or other elements provided by or requested by Subscriber or its Affiliates; (d) use of the Services, any Application or Software in combination with any other product, service, process or material not provided by Mark43 (including, without limitation, Third-Party Applications, Third-Party Data and Subscriber Data); or (e) use of the Services, any Application or Software in a manner not contemplated by this Agreement. If the Services are (or Mark43 believes are likely to become) the subject of a claim for which Mark43 would be obligated to defend and indemnify pursuant to this Section, then Mark43 may, at its sole option, obtain for Subscriber the right to continue use of the Services or replace or modify the Services, as applicable, provided there is no material loss of functionality. If neither of the foregoing options is reasonably available to Mark43, in its judgment, then use of the Services may be terminated at the option of Mark43 and Mark43's sole liability will be to refund any prepaid fees for the Services applicable to periods following the effective date of termination. The remedies provided in this Section 10.1 (Indemnification by Mark43), are Subscriber's sole and exclusive remedies for any third-party claims of infringement or misappropriation of Intellectual Property Rights by the Services and, for the avoidance of doubt, survive the termination of this Agreement.
- 10.2 Indemnification by Subscriber.** To the extent consistent with Applicable Law, Subscriber shall indemnify Mark43, its Affiliates, and their respective employees, officers, and directors against any third-party claim arising out of or related to (a) Subscriber's breach of Section 2.5 (Restrictions on Use), Section 2.6 (Security Obligations) or Section 3.2 (Ownership and Reservation of Rights to Mark43 Intellectual Property); (b) Integrated Applications or Subscriber Data, including any third-

party claim alleging that Subscriber Data infringes or misappropriates the rights of a third party or violates any Applicable Law, and shall pay the amount of any adverse final judgment or settlement to which Subscriber consents; and (c) Mark43's disabling a connection to an Integrated Application at Subscriber's request.

- 10.3 Procedures.** Each party shall give the other party prompt notice of any claim to which an indemnification obligation under this Section 10 (Indemnification) may apply and shall reasonably cooperate with the indemnifying party, at its expense, in the defense or settlement of any claim. An indemnifying party's payment obligations under this Section 10 (Indemnification) will be diminished to the extent that it is materially prejudiced by the indemnified party's non-compliance with the foregoing procedures.

11. PIGGYBACKING.

- 11.1** The parties agree that this Agreement may be referenced to support purchases made within eighteen (18) months of the Effective Date by other local government entities within San Luis Obispo County as permitted under Applicable Law. Such purchases will be made pursuant to a direct contract by the local government entity and Mark43 upon the same terms and conditions and pricing set forth herein.

12. MISCELLANEOUS.

- 12.1 Sole Source Procurement.** Subscriber represents that it has complied with all state and local laws related to this sole source award to Mark43. In addition, Subscriber represents that it has followed all sole source procedures, including any applicable public notice requirements, related to the award of this Agreement.

- 12.2 Notices.** Unless otherwise specified herein, all notices and other communications between the parties required or permitted by this Agreement or by Applicable Law, will be deemed properly given, if given by (i) personal service, (ii) registered or certified mail, postage prepaid, return receipt requested, (iii) nationally recognized private courier service, or (iv) email with a copy via one of the foregoing methods, to the respective addresses of the parties set forth below or such other addresses as the respective parties may designate by like notice from time to time. Notices so given will be effective upon (a) receipt by the party to which notice is given; or (b) on the fifth (5th) business day following mailing, whichever occurs first:

If to Mark43:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: David Jochim
Email: dave@mark43.com

If to Subscriber:

Morro Bay Police Department
850 Morro Bay Blvd
Morro Bay, CA 93442
Attn: Bonnie Johnson
Email: bjohnson@morrobayca.gov

Copy to:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: General Counsel
Email: contractnotices@mark43.com

- 12.3 Assignment.** Neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of the other party; provided, however, that a party may, without the consent of the other party, assign or otherwise transfer this Agreement to any of its Affiliates or to an entity with or into which it is merged or consolidated or to which it sells its stock or other equity interests or all or substantially all of its assets. Any assignment or other transfer in violation of this section will be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

- 12.4 Governing Law.** This Agreement will be governed by the internal laws of the state in which Subscriber is geographically located, and any disputes between the parties may be resolved in a state or federal court of competent jurisdiction within such state. EACH PARTY HEREBY WAIVES

ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION OR LITIGATION IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT.

- 12.5 Dispute Resolution.** Prior to the initiation of any legal proceeding other than one for equitable relief as described in subsection (d) below, the parties shall first attempt to resolve their dispute informally, as follows:
- (a) Within five (5) business days following the written request of a party, designated individual(s) from Mark43 and Subscriber shall meet to resolve such dispute.
 - (b) The representatives referred to in paragraph (a) shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter at issue that the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of formal legal proceedings. The specified format for the discussions will be left to the discretion of the designated representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
 - (c) If the representatives referred to in paragraph (a) above are unable to resolve the dispute within thirty (30) business days after the dispute is escalated to them, then either party may escalate the dispute to the Chief Operating Officer of Mark43 and the Chief or Sheriff or comparable Subscriber official, for their review and resolution.
 - (d) The provisions of this Section 12.4 shall not be construed to prevent a party from instituting, and a party is authorized to institute, judicial or other proceedings either to (i) seek injunctive relief or (ii) avoid the expiration of any applicable legal or contractual limitations period.
- 12.6 Force Majeure.** Except with respect to failure to pay any amount due under this Agreement, nonperformance of either party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts that are not caused by or within the control of the nonperforming party, orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.
- 12.7 No Waiver.** The failure of either party to enforce at any time for any period any provision hereof will not be construed to be a waiver of such provision or of the right of such party thereafter to enforce each such provision, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver of any rights is to be charged against any party unless such waiver is in writing signed by an authorized representative of the party so charged.
- 12.8 Amendment.** No modification, change or amendment to this Agreement shall be effective unless in writing signed by Subscriber and Mark43. No term included in any invoice, estimate, confirmation, acceptance, purchase order or any other similar document in connection with this Agreement will be effective unless expressly stated otherwise in a separate writing signed by Subscriber and Mark43.
- 12.9 Relationship of the Parties.** The relationship of the parties established by this Agreement is that of independent contractors and nothing contained herein will be construed to (a) give any party any right or authority to create or assume any obligation of any kind on behalf of any other party or (b) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.
- 12.10 Subcontracting.** Mark43 may draw on the resources of (and subcontract to) its Affiliates and third-party contractors and subcontractors, within or outside of the United States (each, a "**Mark43 Vendor**") for internal, administrative and compliance purposes or in connection with the hosting or provision of the Service and other products and services to be provided by Mark43 pursuant to this Agreement. Subscriber agrees that Mark43 may provide information, data and materials that Mark43 receives in connection with this Agreement (including Subscriber Data) to the Mark43 Vendors for such purposes. Mark43 shall be permitted to subcontract its obligations under this Agreement to the Mark43 Vendors identified on Schedule F as "Subcontractors" or such other subcontractors as approved in advance by Subscriber (each, a "**Subcontractor**"). Mark43 shall be responsible in accordance with the terms of this Agreement for performance failures by such Subcontractors that cause Mark43 to breach its obligations under this Agreement.
- 12.11 Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, to the extent the economic benefits conferred thereby to the parties remain substantially unimpaired, be ineffective to the extent of such invalidity or unenforceability without

rendering invalid or unenforceable the remaining terms and provisions or affecting the validity or enforceability of any of such terms or provisions in any other jurisdiction.

- 12.12 Headings.** The titles and headings contained in this Agreement are for reference purposes only and shall not in any manner limit the construction or interpretation of this Agreement.
- 12.13 Counterparts.** This Agreement may be executed, including by electronic signature, in two or more counterparts, each of which shall be an original and all such counterparts together shall constitute one and the same instrument. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.
- 12.14 Cumulative Remedies.** All remedies for breach of this Agreement are cumulative, and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 12.15 Export Compliance.** In connection with this Agreement, each party will comply with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control.
- 12.16 Compliance with Laws.** Each party shall comply with all Applicable Laws relating or pertaining to the use of the Services. Subscriber shall ensure that its use of all Subscriber Data complies with all Applicable Laws relating to the privacy of third parties or the protection of their personal data promulgated by any governmental, municipal, or legal authority having jurisdiction over Subscriber or the Subscriber Data covered by this Agreement. Each party shall comply with local anti-bribery laws as well as the U.S. Foreign Corrupt Practices Act, as well as any other Applicable Laws and regulations. In connection with its performance under this Agreement, neither party shall directly or indirectly: (A) offer, pay, promise to pay, or authorize the payment of any money, gift or other thing of value to any person who is an official, agent, employee, or representative of any government or instrumentality thereof or to any candidate for political or political party office, or to any other person while knowing or having reason to believe that all or any portion of such money, gift or thing of value will be offered, given, or promised, directly or indirectly, to any such official, agent, employee, or representative of any government or political party, political party official or candidate; (B) offer, promise or give any person working for, or engaged by, the other party a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (C) request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement. Each party represents and warrants that it shall be responsible for compliance with this provision by all third parties engaged by it to perform services related to this Agreement and shall require that such third parties agree to comply with all legal requirements required of such party under this Agreement.
- 12.17 Entire Agreement.** This Agreement supersedes all previous understandings, agreements and representations between the parties, written or oral and constitutes the entire agreement and understanding between the parties with respect to the subject matter thereof and incorporates all representations, warranties, covenants, commitments and understandings on which they have relied in entering into this Agreement, and, except as provided for herein, neither party makes any covenant or other commitment concerning its future action nor does either party make any promises, representations, conditions, provisions or terms related thereto.
- 12.18 Supporting Documents.**

The following documents are, by this reference, expressly incorporated into this Agreement and are collectively referred to herein as the "Supporting Documents:"

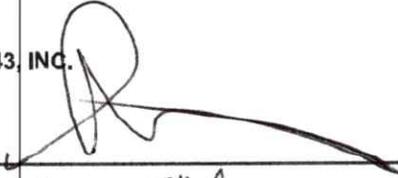
- Schedule A: Support Services
- Schedule B: Transition Assistance
- Schedule C: Technical Requirements
- Schedule D: Third-Party Component Terms
- Schedule E: Data Processing Addendum
- Schedule F: Order Form

This Agreement and the Supporting Documents shall be construed to be mutually complementary and supplementary whenever possible. In the event of a conflict that cannot be resolved, the

provisions of this Agreement itself shall control over any conflicting provisions in any of the Supporting Documents.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

MARK43, INC.

By:  _____

Name: Steven Sibelts

Title: Chief Financial Officer

Date: 1/18/2022

CITY OF MORRO BAY ("Subscriber")

By: _____ Date: _____

Scott Collins, City Manager

Attest:

Dana Swanson, City Clerk

Approved as To Form:

Chris F. Neumeyer, City Attorney

SCHEDULE A
Support Services

1. Support Services.

a. Error Reporting

When reporting a failure of the Services to perform substantially in conformance with this Agreement (an “**Error**”), Subscriber shall use the phone number, email address, or Mark43 Support Portal URL identified in this Agreement (or otherwise provided to Subscriber by Mark43 from time to time, including by email) during the hours of support set forth herein.

Subscriber personnel submitting support requests must be reasonably trained in the use and functionality of the Services and familiar with this Agreement and, before submitting a support request to Mark43 hereunder, must use reasonable efforts to ensure a perceived Error is not due to a problem with Subscriber’s (or its other third-party providers’) equipment, systems, software or connectivity or due to improper, non-conforming or unauthorized use of the Services by or on behalf of Subscriber.

Subscriber will include with each support request, further detailed in subsection (d) below: (i) Subscriber’s initial assessment of the Response Priority (including identification of the Error and the approximate percentage of Authorized Users impacted); (ii) sufficient information to enable Mark43 to identify and replicate the Error; and (iii) contact information for Subscriber personnel familiar with the Error who will be available to Mark43 to assist with resolution of the Error on an ongoing basis until the Error is resolved.

b. Response Priority Determination

Mark43 will validate Subscriber’s Response Priority designation, or notify Subscriber of its Response Priority designation if it is different than Subscriber’s. If requested, Mark43 will provide Subscriber with the basis of its determination. In the event of a conflict regarding the appropriate Response Priority designation, each party shall promptly escalate such conflict for resolution by the parties’ management, during which time the parties shall continue to handle the support issue in accordance with the Mark43 Response Priority designation. In the rare case that a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

c. First Response, Resolution, and Updates

Upon notification by Subscriber of an Error in accordance with this Schedule and subject to Mark43’s identification and replication of the Error, Mark43 will respond to each case in accordance with the First Response Times and Communication Commitments described in the charts below. First Response Time is the period from the time the Error was logged with the Mark43 Support Team until Mark43 responds to Subscriber (and escalates within Mark43, if appropriate). A first response is defined as a non-automatic means where an agent will reach out to gather additional details and may not include a solution or workaround. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments. Actual resolution time will depend on the nature of the case and the resolution itself. Resolution methods are defined below. A resolution may consist of a fix, workaround, delivery of information, or other commercially reasonable solutions to the issue.

d. Subscriber’s Obligations

Mark43’s provision of the support services described in this Schedule is subject to Subscriber cooperating fully and on a timely basis with reasonable requests of Mark43 for accurate information and access to Subscriber personnel with sufficient availability and knowledge to enable Mark43 to provide the support services, including accurate information and assistance reasonably required to detect, replicate, and correct Errors. In the event Mark43’s response, resolution, or update times are negatively impacted by delayed responses by Subscriber personnel or Subscriber’s failure to otherwise comply with its obligations under this Schedule, timeframes will be extended.

First Response Commitment

Red	Orange	Yellow
1 hour 24/7	2 hours 8am - 8pm EST, 7 days	8 hours 8am - 8pm EST M-F

Communication Commitment

	Red	Orange	Yellow
Status page updates	A status update will be posted as soon as Mark43 is notified and updated every 30 minutes thereafter until resolved.	n/a	n/a
Email/phone updates	After initial Mark43 response, within 1 hour of any additional client questions about the same issue until resolved.	After initial Mark43 response, within 1 business day of any additional client questions until issue is resolved. Client will receive notification via email once the issue fix has been scheduled and again when the issue has been fixed.	After initial Mark43 response, within 2 business days of any additional client questions until issue is resolved. Client will receive notification via email once the issue has been fixed.

Priority Definitions

- *Red* - An Error due to Mark43’s systems that results in the inoperability or substantial impairment of a core function for the majority of Subscriber’s Authorized Users, provided there is no feasible workaround. Examples include: Authorized Users cannot access the Application; CAD units cannot be dispatched; reports cannot be created.
- *Orange* - An Error due to Mark43’s systems that results in the inoperability or substantial impairment of a critical workflow for the majority of Subscriber’s Authorized Users, provided there is no feasible workaround. Examples include: significant lagging/slowness; inability to process persons in custody; inability to export reports or cases for same or next day court deadlines; inability to submit reports.
- *Yellow* - An Error due to Mark43’s systems for which a reasonable workaround is available.
- *None* - There are a number of low-impact issues, how-to questions, and feature requests that do not fall into one of the categories above and are not subject to the outlined First Response or Communication Commitments.

Issue Escalation & Resolution Methods: Customer-reported issues are escalated within Mark43 by a well-defined internal process. Mark43 works to resolve issues based on the issue severity/impact, by employing one or more of the following methods:

- Providing client with a reasonable workaround
- Adjusting system/hosting configurations or setup
- Direct database modifications
- Releasing a fix out-of-cycle (patching)
- Releasing a fix as part of the regular release cycle
- Other commercially reasonable solution

Subscriber will be notified of status changes either through Mark43’s status page and/or via email updates in a support ticket.

2. **Service Level Agreement.** Mark43 shall provide the Applications in accordance with the following service levels (“SLA”).

a. **Monthly Uptime Commitment.**

Following Cutover to the applicable In-Scope Application, Mark43 will use commercially reasonable efforts to make the In-Scope Application available with the Monthly Uptime Percentage corresponding to that Application (the “**Uptime Commitment**”), as follows:

- *RMS Application:* Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 RMS Application of no less than 99.90% in any calendar month.
- *CAD Application:* Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 CAD Application of no less than 99.95% in any calendar month.

For each In-Scope Application, the “Monthly Uptime Percentage” is calculated as set forth below by subtracting from one hundred percent (100%) the percentage of minutes during the month in which the In-Scope Application experienced Downtime.

Monthly Uptime Percentage = $(100) - ((\text{minutes of Downtime} * 100) / (\text{total minutes in month}))$

b. **Service Credit Calculation.**

Subject to the SLA Exclusions, if Mark43 does not achieve the Uptime Commitment in any given month due to Downtime, Subscriber may be eligible for credits as described herein (the “**Service Credits**”), as follows:

- *RMS Application:* If Mark43 does not achieve the Uptime Commitment for the RMS Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the RMS Application in respect of the period in which the actual RMS Downtime for the month exceeded the RMS Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month’s subscription fee paid in consideration for the RMS Application, as illustrated here:

RMS Service Credit = $(10) * ((1/12) * \text{annual subscription fee}) * ((\% \text{ of Downtime}) - (0.10\%))$

- *CAD Application:* If Mark43 does not achieve the Uptime Commitment for the CAD Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the CAD Application in respect of the period in which the actual CAD Downtime for the month exceeded the CAD Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month’s subscription fee paid in consideration for the CAD Application, as illustrated here:

CAD Service Credit = $(10) * ((1/12) * \text{annual subscription fee}) * ((\% \text{ of Downtime}) - (0.05\%))$

c. **Requesting Service Credits.**

In order to receive a Service Credit, Subscriber must notify Mark43 in writing at 250 Hudson Street, 3rd Floor, New York, NY 10013, Attn: Accounting, with a copy to accounting@mark43.com, or such other address provided by Mark43 from time to time, within fifteen (15) days following the end of the month in which the Downtime occurred. Claims must include the words “SLA Credit Request” in the subject line; the dates and times of each Downtime incident that Subscriber is claiming occurred; and any documentation to corroborate Subscriber’s claim of Downtime, ensuring removal or redaction of any confidential or sensitive information in these logs. All claims are subject to review and verification by Mark43 prior to any Service Credits being granted. Mark43 will acknowledge requests for Service Credits within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied.

If Mark43 confirms that the Uptime Commitment has not been met in the applicable calendar month, Subscriber will be issued a Service Credit within one billing cycle following the month in which Subscriber’s request is confirmed by Mark43. Subscriber’s failure to provide the request and other information as required above will disqualify Subscriber from receiving a Service Credit. Service Credits will not entitle Subscriber to any refund or other payment from Mark43 and are non-transferable. The parties acknowledge and agree that Service Credits are intended as genuine pre-estimates of loss that may be suffered as a result of any failure to achieve Uptime Commitments and will not be deemed to be penalties. To the extent legally permitted, the issuance of a Service Credit by Mark43 hereunder is Subscriber’s sole and exclusive remedy for any failure by Mark43 to satisfy the Uptime Commitment.

d. **Additional Definitions.**

“**Downtime**” with respect to any single In-Scope Application means time in which the Application is not accessible or available to Subscriber for reasons other than those resulting directly or indirectly from an SLA

Exclusion. For the avoidance of doubt, slow performance does not constitute lack of accessibility or availability and shall not count as Downtime, unless there is a total loss of ability for the substantial majority of Authorized Users to perform any one of the In-Scope Application Features so as to constitute a total loss of service of that Application, in each case in Mark43's reasonable discretion. The concurrent loss of service of two or more In-Scope Application Features within the same Application will count as a single Downtime event. At the end of each month, Mark43 adds "Downtime" periods together to calculate the overall monthly "Downtime."

"In-Scope Application" means the web-accessible Applications identified in subsection (a) above, provided that Subscriber has purchased a subscription for the Applications and signed a valid agreement with Mark43. Under no circumstance shall any reference to an Application that Subscriber has not purchased a subscription and signed an agreement for be construed to entitle Subscriber to use such Application. For the avoidance of doubt, In-Scope Applications do not include mobile versions or Applications that are in beta testing.

"In-Scope Application Features" means, in each case:

- For RMS Application: (i) the ability to login to the Mark43 RMS; (ii) the ability to view and edit reports and names, property, and vehicles; (iii) the ability to view and edit cases; and (iv) the ability to search for entities within the RMS.
- For CAD Application: (i) the ability to login to the Mark43 CAD; (ii) the ability to view / edit / clear events; (iii) the ability to view and edit units; (iv) the ability to search for CAD tickets; and (v) the ability to receive real-time updates when actively connected to an internet-enabled network.

"Monthly Uptime Percentage" has the meaning set forth in Section 2(a) of this SLA.

"Scheduled Maintenance" means scheduled work related to the Mark43 Application or the hosting environment, which may cause inaccessibility or unavailability of the Mark43 Application. Except as set forth below, Mark43 shall provide at least seven (7) days' advance notice of Scheduled Maintenance whenever practicable, and in no circumstances less than three (3) days' advance notice. In the event that Mark43 determines it is appropriate to perform emergency work related to the Mark43 Application or emergency work is performed related to the hosting environment, such work will be deemed Scheduled Maintenance, provided Mark43 uses reasonable efforts under the circumstances to provide Subscriber with notice at least twenty-four (24) hours prior to such emergency work. Notice of Scheduled Maintenance may be provided by email and, in the case of emergency work, may also be provided by telephone. The total amount of Scheduled Maintenance for the CAD Application shall not exceed sixty (60) minutes during any thirty (30)-day period.

- e. **SLA Exclusions.** The Uptime Commitment does not apply to any inaccessibility or unavailability of an Application (the **"SLA Exclusions"**):
- That is not an In-Scope Application;
 - That occurs prior to Cutover;
 - That results from Scheduled Maintenance;
 - That results from a suspension or remedial action, as described in this Agreement;
 - Caused by factors outside of Mark43's reasonable control, including any force majeure event, Internet access, or problems beyond the demarcation point of the Mark43 cloud environment;
 - That results from actions or inactions of Subscriber or any third party;
 - That is attributable to Subscriber's own computer equipment or devices, or failure of any software, hardware or service not supplied by Mark43 pursuant to this Agreement, including, without limitation, issues related to network connectivity, internet connectivity or network performance issues at any Subscriber locations, server downtime related to connectivity issues resulting from third-party-managed VPN access to a hosted server or Subscriber's internal network problems, or Software (including interfaces) that is not supplied or maintained by Mark43;
 - That results from any Integrated Application, Third-Party Data, or any Subscriber-provided application or program; or
 - That results from the failure by Subscriber, its Affiliates, or any Authorized User to incorporate a Software or Service update or upgrade made available by Mark43.

SCHEDULE B

Transition Assistance

1. Preparation.

- a. Subscriber will provide the desired cutoff date of the SaaS Services (the “**Cutoff Date**”) to Mark43, at which time all existing user accounts will be terminated.
- b. For one (1) year following the Cutoff Date, Mark43 will provide one (1) transition account for Subscriber to access the Applications and retrieve all Subscriber Data as further detailed below

2. Content.

- a. Upon Subscriber’s request, Mark43 will deliver and make available Subscriber Data to Subscriber within four (4) weeks of the Cutoff Date. Subscriber Data will be delivered as follows:
 - Searchable PDFs: Mark43 will create searchable PDFs of each record (each, a “**Record**”) and provide them to the Subscriber for download. Subscriber may request, and Mark43 will consider, other formats in which to create the Records, but the final format of all Records will be determined in Mark43’s sole discretion. Records can be uploaded to Subscriber’s new system by the Subscriber or its new vendor.
 - Database Export: Subscriber Data will be provided to Subscriber as an export of Mark43’s Microsoft SQL Server Data Lake database. To use the data, Subscriber will need to have access to its own Microsoft SQL Server database.
 - Document/File Export: Documents/file attachments stored within the Mark43 system will be provided to the Subscriber in a zipped folder. Within the folder the Subscriber will find all files with a unique ID appended to the filename. A csv file will be provided to relate the unique file ID with the attached entity type and Mark43 ID.
- b. If files are too large for practical internet transmission, an encrypted hard drive will be provided.

3. Support.

- a. Mark43 will maintain Subscriber Data in the Mark43 Applications for up to one (1) year following the Cutoff Date.
- b. Mark43 will resolve any issues it deems to be the result of errors in the Mark43 platform or export process for a period of six (6) months after the Cutoff Date.
- c. No less than two (2) years after the Cutoff Date, Mark43 will delete Subscriber Data from all Mark43 online systems (e.g. primary database, replica databases, search databases, application caches, etc.) other than database backups, audit logs and server system logs.
- d. Within six (6) months from the date of deletion of Subscriber Data from all Mark43 online systems, all Subscriber Data will be erased from database backups.
- e. Notwithstanding the foregoing, Mark43 reserves the right to retain Subscriber Data on audit logs and server system logs and in support tickets, support requests and direct communications with Mark43.

4. Additional Services.

- a. Ongoing Web Access: Subscriber may elect to purchase a read-only tenant of the Mark43 system. This service enables Subscriber to utilize a single user log-in to view and access data entered into the Mark43 system up to the date of termination or expiration of this Agreement. Under this service, Subscriber will not have permission to change, modify or update any Subscriber Data.
- b. Additional Professional Services: If the Subscriber requires additional Professional Services, these will be billed according to the current market rate for such Services.

5. **Fees.** In the event that any Fees have not been paid as required under this Agreement, Mark43 may decline to provide the support outlined in this Schedule B until such Fees are paid in full.

SCHEDULE C

Technical Requirements

This Schedule lists the minimum technical requirements required for each of the Mark43 Applications. This also describes the requirements for Mark43 interface servers. Integrated Application Providers and Subcontractors may have additional requirements that are not listed here.

1. MARK43 RMS

1.1 RMS Workstation Requirements

Item	Minimum
Operating System	Windows 10
Processor	2x 2.0+ GHz processors
Architecture	x64
Memory	8 GB+
Network Card	1x 10 Mbps+ NIC
Display(s)	1x 1920x1080
Hard Drive	25 GB available space
Graphics Card	N/A
Bandwidth	5 Mbps+

1.2 RMS Workstation Site Internet Requirements

Mark43 RMS operates as a single-page application where most of the heavy download load is needed only on initial page load for each user. For RMS, Mark43 requires an overall internet bandwidth connection of 1+ Mbps per concurrent user using that connection with a minimum of a 100 Mbps connection per site. Actual performance and usage may vary depending on user usage of other internet-connected applications and your ISP. Department firewalls and other networking applications must have capacity to support a minimum of a 100 Mbps connection per site.

1.3 RMS Mobile Data Terminal Requirements

Item	Minimum
Operating System	Windows 10
Processor	2x 2.0+ GHz processors
Architecture	x64
Memory	8 GB+
Network Card	5 Mbps+ (4G LTE)
Display(s)	1x 1920x1080
Hard Drive	25 GB available space
Graphics Card	N/A
Bandwidth	5 Mbps+ (4G LTE)

1.4 RMS Browser Requirements

Mark43 RMS is web-based and requires a modern web browser to access the system. Mark43 RMS supports the following browser versions that receive technical support and security updates from the browser vendor.

- Google Chrome (latest)
- Microsoft Edge (latest)

1.5 RMS Smartphone Mobile Application Requirements

The Mark43 RMS Smartphone Mobile Application is available on iOS.

Item (iOS)	Minimum
Operating System	Apple iOS 13, 14
Device	iPhone 11, 12 iPad Gen 7 or 8 iPad Air Gen 3 or 4 iPad Pro Gen 4 or 5

1.6 Evidence Smartphone Mobile Application Requirements

The Mark43 Evidence Smartphone Mobile Application is available on iOS and Android and requires network connectivity.

iOS

Item	Minimum
Operating System	Apple iOS 13, 14
Device	iPhone 11, 12 iPad Gen 7 or 8 iPad Air Gen 3 or 4 iPad Pro Gen 4 or 5

Android

Device*	Operating System	Ram
Samsung Galaxy S21+ (& variants)	Android 11	8GB
Google Pixel 5	Android 11	8GB
Samsung Galaxy S20+ 5G (& variants)	Android 11	8 or 12GB
Google Pixel 4, 4 XL	Android 10, Android 11	6GB
Google Pixel 4a 5G	Android 11	6GB
Google Pixel 4a	Android 11	6GB
Samsung Galaxy A52	Android 11	6, or 8GB
Samsung Galaxy S20+	Android 10	8GB
Samsung Galaxy Note 10+	Android 10,11	12GB

*All of these devices are FIPS 104-2 Certified.

1.7 Evidence Barcode Printer Requirements

The Mark43 RMS Property and Evidence module requires a barcode printer to optimize the evidence management process. Mark43 integrates seamlessly with Zebra barcode printing hardware and requires the following printer:

- ZD420 model number ZD42043-C01E00EZ
- 2000T label

- 5095 Premium Resin ribbon (05095CT11007)
 - o Ribbon roll-only (05095GS11007)

Deviating from this hardware configuration will lead to smeared, stretched or otherwise incorrectly printed barcode labels. For departments with multiple printers, Mark43 requires purchasing the same model for all locations.

1.8 Evidence Printer Server Requirements

In order for Mark43 RMS to communicate with the barcode printers, an intermediate server to route printing requests is required. This machine can be the same machine as the Interface Servers specified below or standalone in which case it will need the following specifications:

Item	Minimum
Processor	2x 2.0+ GHz processors
Memory	4 GB+
Hard Drive	64 GB HDD storage

1.9 RMS Fillable PDF Software Requirements

In order for the Subscriber to utilize Mark43 RMS Fillable PDFs) (SKU – RMS 7), the Subscriber must have enough Adobe Professional licenses to support their department needs.

1.10 QuickCrash Requirements

QuickCrash is available as a progressive web app on iOS, Android and desktop web.

iOS

Item	Minimum
Operating System	Apple iOS 13, 14
Device	iPhone 11, 12 iPad Gen 7 or 8 iPad Air Gen 3 or 4 iPad Pro Gen 4 or 5

Android

Device*	Operating System	Ram
Samsung Galaxy S21+ (& variants)	Android 11	8GB
Google Pixel 5	Android 11	8GB
Samsung Galaxy S20+ 5G (& variants)	Android 11	8 or 12GB
Google Pixel 4, 4 XL	Android 10, Android 11	6GB
Google Pixel 4a 5G	Android 11	6GB
Google Pixel 4a	Android 11	6GB
Samsung Galaxy A52	Android 11	6, or 8GB
Samsung Galaxy S20+	Android 10	8GB
Samsung Galaxy Note 10+	Android 10,11	12GB

*All of these devices are FIPS 104-2 Certified.

Browser Requirements

QuickCrash is web-based and requires a modern web browser to access the system. QuickCrash supports the following browser versions that receive technical support and security updates from the browser vendor.

- Google Chrome (latest)
- Microsoft Edge (latest)

2. MARK43 CAD

2.1 CAD Call Taker / Dispatcher Workstations

Mark43 only supports the Mark43 CAD installed CAD dispatch application for call takers and dispatchers in a live environment. The CAD dispatch desktop application allows for multi-window functionality and a more seamless user experience for call takers and dispatchers.

Item	Minimum
Operating System	Windows 10
Processor	2x 2.0+ GHz processors
Architecture	x64
Memory	16 GB+
Network Card	1x 10 Mbps+ NIC
Display(s)	2x+ 1920x1080 monitors
Hard Drive	25 GB available space
Graphics Card	2x 512MB NVIDIA Quadro NVS 310, 4 MON
Bandwidth	5 Mbps+ per concurrent dispatcher

2.2 CAD Call Taker / Dispatcher Workstation Site Internet Requirements

For CAD, Mark43 recommends an overall internet bandwidth connection of 5+ Mbps per concurrent user using that connection with a minimum of a 100 Mbps connection per site and a backup ISP connection with automatic failover of equal bandwidth. Actual performance and usage may vary depending on user usage of other internet-connected applications and your ISP. Department firewalls and other networking applications must have capacity to support a minimum of a 100 Mbps connection per site.

2.3 CAD First Responder Mobile Data Terminal Requirements

Mark43 only supports the Mark43 CAD installed CAD first responder application for first responders in a live environment.

Item	Minimum
Operating System	Windows 10
Processor	2x 2.0+ GHz processors
Architecture	x64
Memory	8 GB+
Network Card	5 Mbps+ (4G LTE)
Display(s)	1x 1920x1200
Hard Drive	25 GB available space
Graphics Card	256 MB+ video memory
Bandwidth	5 Mbps+ (4G LTE)

Mark43 CAD also requires installing a Windows Service on First Responder MDTs to query message switches, track GPS, monitor performance, and more. This Windows Service requires:

- Powershell installed with Windows 10+
- .NET Core v2.1+
- .NET Framework v4.5+
- A service account with “Log in as service” and administrative permissions
- Completion of all Windows updates recommended by Microsoft

2.4 GPS Tracking

Mark43 CAD First Responder MDTs support tracking GPS from the following hardware:

- Getac machines with internal GPS (BAUD rate of 96k)
- BU-353S4 receivers that plug in
- Cradlepoint routers

GPS Tracking also requires:

- GPS Receiver using NMEA standard (e.g. \$GPxxx messages)
- Dedicated COM port on machines that use external USB GPS devices
- External Antenna required
- DIS (a windows service that can capture GPS data in the following formats: a) Sent over a COM port in the NMEA 1 format or b) via UDP in the NMEA 1 format

3. **MARK43 ANALYTICS**

3.1 Data Lake Requirements

Mark43 Data Lake is a Microsoft SQL Server Database and requires a database client that receives technical support and security updates from the vendor. Mark43 recommends using Microsoft SQL Server Management Studio.

3.2 Business Intelligence Suite Requirements

Mark43 Business Intelligence Suite runs embedded within Mark43 RMS and therefore has the same browser requirements as Mark43 RMS.

4. **MARK43 DATA EXCHANGE**

The Mark43 Data Exchange functionality is enabled through either the RMS or CAD applications. Additional interface servers may be required to support Mark43 Data Exchange data flows, depending on the department's size and complexity.

5. **MARK43 INTERFACE SERVERS**

5.1 Server Requirements

Interface servers are on-premise servers that Mark43 uses to run interfaces developed by Mark43. These servers allow Mark43 interfaces to access on-premise Subscriber systems and/or run custom interfaces developed by Mark43. Mark43 supports these servers from the VM up and ensures that interfaces running on these servers are maintained and monitored. The table below outlines Mark43's minimum required and recommended server specifications for an interface server setup.

Item	Requirement
Number of servers	2+
Operating System	Ubuntu 20.04 LTS, CentOS 8, or Red Hat Enterprise Linux 8
Processor	2x quad-core processor
Architecture	x64
Memory	16 GB+
Network Card	1 x 1 Gbps NIC
Display(s)	N/A
Disk	128+ GB available space
Graphics Card	N/A
Bandwidth	100+ Mbps

5.2 Server Software Requirements

Subscriber provisions these servers and maintains them from hardware/VM up to and including the operating system.

Mark43 will maintain the application software installed on this server, which consists of:

- Docker, which runs all the application software in an easily manageable way
- Kubernetes, a container orchestration technology, which allows Mark43 to deploy, update, and monitor the Docker containers running the application software

Subscriber may choose to install other software (e.g. monitoring software) on this server. However, if the Subscriber-installed software interferes with the operation of the Mark43 Applications, Subscriber will be required to uninstall the software.

5.3 Networking/Firewall/Access Requirements

Inbound:

SSH / Port 22	Originating from within the Subscriber's VPN For Mark43 SSH access
HTTPS / Port 443	Originating from within the Subscriber's VPN For Kubernetes API server communication and evidence labeling printing software (if applicable for Subscriber)
TCP Port 6443	Originating from within the Subscriber's VPN For Kubernetes API server communication
TCP Port 10250	Originating from within the Subscriber's VPN For Kubernetes node metrics

* All IPs and ports inbound from the public internet should be closed.

Outbound:

HTTPS / Port 443	To all network interfaces – 0.0.0.0/0
TCP Port 6443	Originating from within the Subscriber's VPN For Kubernetes API server communication

VPN:

- Subscriber must provide Mark43 with Subscriber's VPN credentials to access the interface server. Mark43 will SSH to the servers over the Subscriber VPN to install Docker and Kubernetes, and perform any troubleshooting actions or maintenance tasks that can't be completed via the normal release process

User Accounts:

- Subscriber must provide Mark43 with a service account(s) with sudo access on the interface servers

Static IP Addresses:

- Subscriber must assign static IP addresses for the interface servers

6. THIRD PARTY CONNECTIONS TO MARK43

All connections to Mark43 systems must be made using TLS 1.2 or greater.

SCHEDULE D

Third-Party Component Terms

Google: Users are bound by the Google Maps/Google Earth Additional Terms of Service (including the Google Privacy Policy), available by following these links:

Google Maps Terms: https://maps.google.com/help/terms_maps.html

Google Privacy Policy: <https://policies.google.com/privacy?hl=en&gl=us>

Acceptable Use: https://enterprise.google.com/maps/terms/universal_aup.html

Esri: Users are bound by the following Esri Terms of Service:

To the extent permitted by applicable law, Environmental Systems Research Institute, Inc. (“Esri”) and its licensors disclaim liability for any damages or loss of any kind, whether direct, special, indirect, incidental, or consequential, arising from the use of Esri’s solution (“Esri Solution”) including, but not limited to, liability for use of the Esri Solution in high-risk activities or liability related to any data supplied by Esri.

In the event of any termination of the Agreement, the end user of the Esri Solution (“User”) shall (i) cease access and use of the Esri Solution and any data supplied by Esri, and (ii) clear any client-side data cache derived from the Esri Solution or any data supplied by Esri.

User will comply with all relevant export laws and regulations of the United States with respect to the Esri Solution, including, but not limited to, the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR); and the United States Department of Treasury, Office of Foreign Assets Control (OFAC) regulations, and User will not export, reexport, transfer, divert, use, or access, directly or indirectly, the Esri Solution in violation of any United States export laws and regulations.

User will provide Esri with information about User’s export and distribution activities as may be required for Esri to meet its obligations under the United States export control laws and regulations.

User shall not remove or obscure any patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to the Esri Solution or any Esri materials, output, metadata file, or online or hard-copy attribution page of any data supplied by Esri.

Esri and its licensors disclaim all terms in any “click-through” agreements included with the Esri Solution. Esri and its licensors do not warrant that the Esri Solution or any data or materials supplied by Esri will meet User’s needs or expectations; that the use thereof will be uninterrupted; or that all nonconformities can or will be corrected. Esri and its licensors are not inviting reliance on data in the Esri Solution, and User should always verify actual data in the Esri Solution. Any warranty offered by Mark43 for Mark43’s solution the Services shall only apply between Mark43 and User. Esri does not offer any warranties or indemnities to User for the Esri Solution.

User shall not use the Esri Solution for any revenue-generating activities. The Esri Solution is for the internal use of User only.

User shall not use the Esri Solution independently from the Mark43 solution or in any other product or service.

User shall not store, cache, use, upload, distribute, or sublicense content provided through the Esri Solution in violation of Esri’s or a third-party’s rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation.

User’s login credentials for the Esri Solution are for User only and may not be shared with other individuals.”

Amazon:

Universal Service Terms: <https://aws.amazon.com/service-terms/>

Acceptable Use: <https://aws.amazon.com/aup/>

Auth0 (if elected):

Acceptable Use: <https://cdn.auth0.com/website/legal/files/aup-19.pdf>

RapidSOS (if elected): Subscriber must sign up and accept the terms contained within the following link:

<https://info.rapidsos.com/rapidsos-integrations-signup>

CommSys (if elected): Subscriber must enter into an end user license agreement directly with CommSys.

SCHEDULE E

Data Processing Addendum

1. **Definitions.** For purposes of this this Data Processing Addendum (“DPA”), “Subprocessor” means a Mark43 Affiliate or other third party engaged by Mark43 for the purpose of hosting, storing or otherwise processing Subscriber Data as authorized by this Agreement or otherwise in writing by Subscriber. Terms not otherwise defined in this DPA have the meaning set out in this Agreement.
2. **Subscriber Data.** The obligations in this Schedule apply to Subscriber Data in the custody or control of Mark43 and its Subprocessors. They do not apply to Subscriber Data in the custody or control of any other party, including Subscriber Data under Subscriber’s custody or control outside of the Services or Subscriber Data maintained by an Integrated Application Provider or transmitted or accessed on or through an Integrated Application.
3. **Disclosure.** Mark43 will not disclose Subscriber Data to any third party except: (i) to Authorized Users; (ii) as permitted under this Agreement; (iii) to its Subprocessors, provided that each Subprocessor agrees to protect Subscriber Data in a manner substantially in accordance with this DPA; or as provided by this DPA with respect to any Disclosure Request. Notwithstanding the foregoing or anything in this DPA to the contrary, Subscriber acknowledges and agrees that (a) Mark43 utilizes major providers of cloud-based services for processing certain Subscriber Data through the Services (each, a “Cloud Provider”) (including, as of the Effective Date of this Agreement, Amazon Web Services for hosting and Google for mapping and geolocation services), (b) each Cloud Provider has its own data protection practices that are applicable to its delivery of services to its customers, and (c) Cloud Providers will not agree to separate data protection practices on a customer-by-customer basis; therefore, Cloud Providers will not be required to comply with the obligations in this DPA to the extent that they are inconsistent with each Cloud Provider’s own data protection practices, but Mark43 will use reasonable efforts to assess that each Cloud Provider complies with its own data protection practices, which may include periodic examination of SOC 2 reports or comparable reports made available by Cloud Provider.
4. **Information Security Program.** Mark43 will implement and maintain a written information security program that contains reasonable administrative, technical and physical safeguards intended to protect Subscriber Data from unauthorized access, disclosure, use, modification, loss or destruction.
5. **Access.** Mark43 will maintain appropriate access controls to Subscriber Data, including limiting access to Subscriber Data only to personnel who require such access in order for Mark43 to provide Services to Subscriber or to otherwise exercise Mark43’s rights or perform Mark43’s obligations under this Agreement. Mark43 will require its personnel to protect Subscriber Data in accordance with the requirements of this DPA and will provide its personnel with appropriate information security training.
6. **Information Security.**
 - a. Mark43 maintains its information security program and applicable safeguards at all Mark43 sites at which an information system that stores or otherwise processes Subscriber Data is located.
 - b. Mark43 maintains network security using commercially available equipment and industry standard techniques, including firewalls, router access control lists, intrusion detection and/or prevention systems, penetration testing, vulnerability scanning, and patch management tools.
 - c. Mark43 will encrypt, using industry-standard encryption tools, all Subscriber Data that Mark43: (i) transmits or sends wirelessly or across public networks; (ii) stores on laptops or removable storage media; and (iii) stores on portable devices. Mark43 will safeguard the confidentiality and availability of all encryption keys associated with encrypted Subscriber Data.
 - d. Mark43 installs and maintains endpoint security measures such as anti-virus and malware protection software intended to protect Subscriber Data from malicious code.
 - e. Mark43 undertakes appropriate logging and monitoring to enable recording of information security-related actions and identification of anomalous events.
 - f. Mark43 develops software used to deliver the Services in accordance with secure software development principles.
7. **Security Incident Management.** Unless otherwise prohibited by law, Mark43 will notify Subscriber promptly (and in any event within seventy-two (72) hours) in the event Mark43 reasonably believes that there has been any unauthorized access, acquisition, disclosure, use, modification, loss or destruction of Subscriber Data (“Security Incident”). Mark43 will promptly investigate the Security Incident, will take necessary steps to eliminate or contain the exposure of Subscriber Data, and will keep Subscriber informed

of the status of the Security Incident. Mark43 will provide reasonable assistance and cooperation requested by Subscriber or Subscriber's designated representatives to correct, remediate, or investigate the Security Incident or to mitigate potential damage resulting from it, including any notification that Subscriber may determine appropriate to send to affected individuals, regulators or third parties.

8. **Business Continuity.** Mark43 implements appropriate disaster recovery and business continuity plans and reviews and updates such plans regularly. Back-up copies of critical business information and software are created regularly and tested to verify their integrity.
9. **Audits.** Upon Subscriber's request, Mark43 will make available to Subscriber up to once per year a copy of a third-party assessment, such as a SOC 2 report or comparable report ("**Third-Party Report**"), if Mark43 has obtained such a Third-Party Report for the Services; or if Mark43 has not obtained a Third-Party Report for the Services, Subscriber may provide to Mark43 a security assessment questionnaire related to the Services, which Mark43 will accurately and promptly complete. Such a questionnaire must be reasonable in scope and may include questions seeking verification of compliance with the terms and conditions of this DPA. All Third-Party Reports or information accessed by or otherwise disclosed to Subscriber in connection with any such review will be considered Confidential Information of Mark43.
10. **Return/Disposal.** Upon termination or expiration of this Agreement, Mark43 will cease handling Subscriber Data and will take reasonable steps to return or destroy Subscriber Data according to the timeframes set out in Schedule B of this Agreement. If Mark43 has any legal obligation to retain Subscriber Data beyond the periods otherwise specified by Schedule B, Mark43 will notify Subscriber in writing of that obligation, to the extent permitted by applicable law, and will return or destroy the Subscriber Data in accordance with this DPA as soon as possible after that legally required retention period has ended. If Mark43 disposes of any paper, electronic or other record containing Subscriber Data, Mark43 will take all reasonable steps to do so by: (a) shredding; (b) permanently erasing and deleting; (c) degaussing; or (d) otherwise modifying Subscriber Data in such records to make it unreadable, unreconstructable and indecipherable.
11. **Location of Subscriber Data.** Subscriber Data stored or transmitted through the SaaS Services in Subscriber's user accounts shall be hosted by a Cloud Provider in the United States. Mark43 currently uses AWS Govcloud region as Cloud Provider to host Subscriber Data. Information about AWS' commitment to support customers' CJIS compliance requirements is available here: <https://aws.amazon.com/compliance/cjis/>.

SCHEDULE F

Order Form

1. **Services.** The Services covered by this Agreement consist of the following:
SaaS Services with respect to the following Applications: Records Management System and Analytics
Professional Services as detailed in the Statement of Work.
2. **Subcontractors.** None.
3. **Initial Term.** The Initial Term is the five (5) year period commencing on the Effective Date.
4. **Renewal Terms.** Any Renewal Terms shall be for a period of one (1) year.
5. **Fees.** For the Initial Term, the following Fees will apply:

Recurring Fees:

<i>Mark43 SaaS Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
ANA 1: Analytics BI Suite Viewer	Not to exceed 10 licenses	\$1,200.00	\$1,200.00
ANA 2: Analytics BI Suite Explorer	Not to exceed 2 licenses	\$960.00	\$960.00
RMS 1: RMS Core	Not to exceed 18 sworn	\$21,600.00	\$15,120.00
RMS 2: RMS Case Management	Not to exceed 18 sworn	\$8,640.00	\$2,160.00
RMS 3: RMS Property and Evidence Management	Not to exceed 18 sworn	\$8,640.00	\$2,160.00
RMS 5: Mobile Field Collection	Not to exceed 18 sworn	\$8,640.00	\$0.00
RMS 7: RMS Fillable PDFs	Included	\$7,000.00	\$4,900.00
RMS 8: QuickCrash Reporting	Not to exceed 18 sworn	\$2,160.00	\$0.00
Subtotal - Mark43 SaaS Services		\$58,840.00	\$26,500.00
<i>Mark43 Professional Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Support & Maintenance - Interfaces	Included	\$0.00	\$0.00
Support & Maintenance - Subscription	Included	\$0.00	\$0.00
Subtotal - Mark43 Professional Services		\$0.00	\$0.00
<i>Partner Products and Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
No Partner Products or Services Included	-	-	-
Subtotal - Partner Products and Services		-	-

Total Recurring Fees	\$58,840.00	\$26,500.00*
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*For the avoidance of doubt, this is the recurring fee that will serve as the baseline for the recurring fees to be charged during any Renewal Term. Additional increases may be applied at any time during the Initial Term if required quantities increase.

One-Time Fees:

<i>Mark43 Professional Services – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Implementation Tenant: provisioning environments for configuration, testing, and training during the implementation period	N/A	\$58,840.00	\$26,500.00
DCM 8: RMS with Evidence – Standard	1 source	\$90,000.00	\$63,000.00
IMP 2: Implementation Services	N/A	\$90,000.00	\$63,000.00
Interface Development: Pre-Launch Interface	2	\$30,000.00	\$21,000.00
Subtotal - Professional Services		\$268,840.00	\$173,500.00
<i>Partner Products and Services – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
No Partner Products and Services Included	-	-	-
Subtotal - Partner Products and Services		-	-
Total One-Time Fees		\$268,840.00	\$173,500.00

Mark43 will notify Subscriber of any changes to the fees for any Renewal Term at least forty-five (45) days prior to the start of the Renewal Term.

6. Payment Schedule.

- a. Initial Term: Subscriber will pay the Fees detailed in Section 5 above according to the following schedule during the Initial Term.

Year	Details of Payments and Due Dates	Amount Due
1	Year 1 Payment, due according to the following schedule:	\$173,500.00
	- Effective Date	\$52,050.00
	- Project Kickoff	\$34,700.00
	- Workflow Validation	\$34,700.00
	- Training Complete	\$34,700.00
	- Cutover/Go Live	\$17,350.00
2	Year 2 Payment, due on the first anniversary of the Effective Date.	\$26,500.00

3	Year 3 Payment, due on the second anniversary of the Effective Date.	\$26,500.00
4	Year 4 Payment, due on the third anniversary of the Effective Date.	\$26,500.00
5	Year 5 Payment, due on the fourth anniversary of the Effective Date.	\$26,500.00
	5 YEAR TOTAL	\$279,500.00

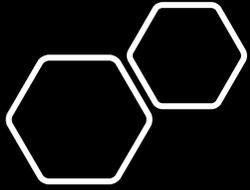
- b. Renewal Term: Fees for any Renewal Term will be paid in full in advance on the first day of the Renewal Term.

City Council Meeting
Police Records Management
System Award



Introduction

- Police Records Management System (RMS) is critical to the core functions of MBPD
- Crime reports, traffic collision reports, citations, permits, property and evidence, statistical information, etc
- Current RMS system is not reliable or support the reporting requirements of DOJ.



Procurement Process

2017/2018

- Sheriff's Department hosted Presentations & Demos with RMS systems and included 5 local agencies
- Sheriff's Department and local agencies were given a proposal with contortion rates.
- Sheriff's Department started the process with an RMS vendor for a conversion to be completed Spring 2021. Our plan was to procure the same vendor and transition to the new RMS system when the Sheriff's Department conversion was complete.

July 2021

- MBPD decided to not use the same vendor as San Luis Obispo Sheriff's Department
- Additional agencies including San Luis Obispo Sheriff's Department also moved away from this vendor

August 2021

- Started attending demos for RMS systems

Procurement Process

September
2021

- Develop & Issue RFP

October
2021

- Open (6) Proposals
- Rate, Invite (2) for demo.

November
2021

- Check References with multiple other agencies
- Meetings & Negotiations

New Features

- CIBRS compliant
- Integrations with CAD/Dispatch, DA's Office, Courts, GIS
- Error Detection; Intuitive Design
- Workflow; Analytics/Reporting
- Simplified Customization, Forms
- Redundancy, Security, Innovation
- Property & Evidence Mobile
- Report Writing in the Field= Time and Cost Savings

5 Year Contract Price for the 2 vendors of choice

Sunridge

- Server based module
- 10 year contract
- Initial Costs \$370,367
- Annual Software Maintenance, Support \$27,888 (year 1) to \$40,060 (year 10)
- Total Cost \$665,545 plus a new server

Mark 43

- Cloud Based system
- 5 year contract
- Implementation/Start Up Costs \$173,500
- Annual Software Maintenance, Support \$26,500 per year
- Total Cost \$279,500

- The FY 2021-22 Adopted Budget includes \$109,450 for the RMS system in the Measure Q&E Fund. The FY 2021-22 cost will be \$173,500, resulting in a need for \$64,050 in additional budget appropriation.
- In the subsequent four years, the ongoing cost will be \$26,500 annually.
- If directed, staff will return to Council with a midyear budget adjustment for FY 2021-22 utilizing Measure Q&E funds, and will incorporate ongoing costs into future year budgets for adoption



Questions?

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AGENDA NO: C-2

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 19, 2022

FROM: Greg Kwolek, Public Works Director

SUBJECT: Adoption of Resolution No. 11-22 Authorizing the City Manager to execute Grant Agreements, if awarded, with the California Department of Water Resources for 1) Water Well Infrastructure Rehabilitation and Installation Project; and 2) Recycled Water Facilities Project, pursuant to the 2021 Urban and Multibenefit Drought Relief Program.

RECOMMENDATION

Staff recommends City Council adopt Resolution No. 11-22 entitled “A Resolution of the City Council of City of Morro Bay, California, authorizing the City Manager to apply for, accept and execute a Grant Agreement, if awarded, with the California Department of Water Resources for 1) Water Well Infrastructure Rehabilitation and Installation Project; and 2) Recycled Water Facilities Project, pursuant to the 2021 Urban and Multibenefit Drought Relief Program.”

Specifically, Resolution No. 11-22 authorizes the following actions:

1. Authorizes the City Manager to negotiate with the Department of Water Resources and sign the Grant Agreements and related documents.
2. Represents that the City has sufficient funds for its own contributions to the Grants.

ALTERNATIVES

The City Council may choose to not authorize City staff to apply for grants from the 2021 Urban and Multibenefit Drought Relief Program.

FISCAL IMPACT

The City funds water system infrastructure rehabilitation and replacement projects through its Water Enterprise Fund. Receipt of Department of Water Resources (DWR) 2021 Urban and Multibenefit Drought Relief Program Grant (Drought Grant) for the Water Well Infrastructure Rehabilitation and Install Project would reduce the City’s Water Fund expenditures needed to maintain its critical extraction well infrastructure.

Additionally, the City has secured funding for the Water Reclamation Facility (WRF) project planning, design and implementation through its own funds, the Water Infrastructure Finance and Innovation Act (WIFIA) loan, and California State Revolving Fund (SRF) construction and planning loans. Receipt of Drought Grant funding may decrease the City’s cash expenditures for the WRF, if required, and/or potentially decrease the loan disbursement expenditures a commensurate amount, which could help reduce the debt service payments on the WRF

Prepared By: <u> DH </u>	Dept Review: <u> GK </u>
City Manager Review: <u> SC </u>	City Attorney Review: CFN

There are no funding match requirements for the Drought Grant, however, the City did indicate a \$200,000 contribution for project administration and planning/design costs for the Water Well Infrastructure Rehabilitation and Install Project, if awarded. If the grant is awarded, staff will return to City Council for approval and a budget adjustment request. Should the DWR only award a partial grant to the City requiring local funds, staff will come back to City Council to decide on grant approval.

BACKGROUND

Drought Grant Overview

The Drought Grant Program is one of two DWR Relief Grant Programs that offers financial assistance to address drought impacts through implementation of projects with multiple benefits:

1. For communities, including Tribes, facing the loss or contamination of their water supplies due to the drought; and
2. To address immediate drought impacts on human health and safety, and to protect fish and wildlife resources plus other public benefits, such as ecosystem improvements.

Funding for the Program was authorized by the California State Legislature pursuant to the Budget Act of 2021 and its Trailer Bill, Assembly Bill 148; DWR was allocated \$100 million for Urban Communities and \$200 million for Multibenefit projects.

Eligible project types for the Drought Grant include:

- Hauled water
- Installation of temporary community water tanks
- Bottled water
- Water vending machine
- Emergency water interties
- New wells or rehabilitation of existing wells
- Construction or installation of permanent connection to adjacent water systems, recycled water projects that support immediate relief to potable water supplies
- Fish and wildlife rescue, protection, and relocation
- Drought resilience planning (not applicable to Multibenefit Project Funds)
- Other projects that support immediate drought response

The solicitation period for Drought Grant closed on January 14th, 2022. Based on the eligible project types and City's vulnerability to ongoing droughts, the following two projects were proposed for consideration for Drought Grant funding:

Water Well Infrastructure Rehabilitation and Install Project Overview

The Morro Bay Water Well Infrastructure Rehabilitation and Installation Project includes two components that address the City's groundwater well infrastructure in the Morro Valley Basin (Morro Basin), which is a critical supply source for the City's potable water supply. The City operates the existing groundwater extraction wells routinely to supplement its water supplies during the months when the City's imported water supply from the State Water Project (SWP) is not available or is reduced in delivery as this is the only other available water supply source to the City. Groundwater from the Morro Basin has shown elevated levels of total dissolved solids (TDS) and nitrates and requires treatment through reverse osmosis before this supply can be utilized in the City's drinking water system. The City identified the need to upgrade its extraction well infrastructure to better integrate with the water treatment system to ensure its reliability, efficiency, and operational sustainability in order to continue to serve as a reliable water supply. The City's existing extraction infrastructure includes aging and

deteriorated components which are nearing the end of their useful life, resulting in water use inefficiencies and a lack of reliability. Additionally, lack of modern electrical, instrumentation and controls infrastructure require near full-time operational monitoring and constant maintenance to prevent failures.

The Water Well Infrastructure Rehabilitation and Installation Project provides for the infrastructure needed to ensure the reliability of the City's existing extraction wells, allowing for an increase in the City's extraction capacity to reliably utilize the City's permitted withdrawals, in order to provide an efficient and sustainable water supply for future immediate drought relief.

The first project component includes conducting a comprehensive desktop and physical condition assessment of the City's existing Morro Basin Well Field and subsequently rehabilitating up to four (4) of the City's existing groundwater extraction wells based on the findings of the evaluation and condition assessment. Rehabilitation of the existing extraction wells includes necessary upgrades to structural, mechanical, electrical, and instrumentation and controls assets (including new variable frequency drives connected to a new controls system) to improve well operational and recovery efficiency while operated in conjunction with the City's existing reverse osmosis water treatment facility. Rehabilitation of the existing wells will allow the City to implement the latest well rehabilitation technology to more effectively and efficiently operate existing groundwater extraction infrastructure during both normal operation and during drought emergencies. The project will also extend the useful life of these assets by 10 to 15 years.

The second project component includes the installation of up to two (2) new groundwater extraction wells to increase the City's extraction capacity and will be designed to optimize the extraction locations to provide sustainability within the groundwater aquifer. The new wells will be installed within the City's Morro Basin Well Field. The final well capacities and locations will be determined upon completion of final design (anticipated in mid-2023). The new wells will be used in conjunction with the City's existing extraction wells and drinking water infrastructure to increase the City's potable water capacity from the augmented Morro Basin and will provide additional redundancy to increase the Morro Basin Well Field's reliability.

A summary of the anticipated costs for the Water Well Infrastructure Rehabilitation and Install Project is shown below:

	BUDGET CATEGORY	Grant Amount	All Other Cost	Total Cost
(a)	Project Administration	100,000	100,000	200,000
(b)	Land Purchase / Easement	0	0	0
(c)	Planning / Design / Engineering / Environmental Documentation	514,000	100,000	614,000
(d)	Construction / Implementation	9,750,000	0	9,750,000
	TOTAL COSTS	10,364,000	200,000	10,564,000

Recycled Water Facilities Project Overview

The City of Morro Bay is currently constructing the \$145 million Water Reclamation Facility (WRF)

Project to replace its existing wastewater treatment plant, which was built in 1953. The construction of new wastewater facilities will provide the City with the opportunity to implement water reclamation through indirect potable reuse (IPR), which will help the City supplement their current water supply, enhance its water supply portfolio, and build drought resiliency for a community whose primary water supply is imported State Water Project water.

The City's WRF Project consists of three distinct components: wastewater treatment, conveyance, and recycled water facilities. The treatment component includes an advanced wastewater treatment facility consisting of a membrane bioreactor followed by reverse osmosis and ultraviolet advanced oxidation process. The full treatment train can treat wastewater to California's potable water reuse standards. The design capacity for this facility is approximately 0.97 mgd and initial modeling estimates show the facility will be capable of producing up to approximately 825 AFY of purified recycled water.

The conveyance project component includes two (2) force main pipelines, a treated discharge effluent line, and parts of the recycled water facilities indirect potable reuse (IPR) recycled water pipeline and two (2) pump stations that convey wastewater to the new WRF. The third component is the Recycled Water Facilities (RWF) which includes the IPR pipeline extension and purified recycled water injection wells used to recharge the Morro Basin. Initial estimates show the WRF will produce up to 825 AFY of purified recycled water from the City's wastewater, which will be pumped from the IPR pump station at the WRF site and conveyed through the IPR pipeline to the proposed recycled water facilities injection well sites.

The Morro Bay Recycled Water Facilities Project (for which grant funding is being requested) includes the construction of 10,400 linear feet of 8 and 10-inch indirect potable reuse pipeline, the construction of four 90-foot-deep injection wells, and the supporting on site well infrastructure and civil facilities. The location of the recycled water facilities IPR pipeline extends along the conveyance facilities alignment from the WRF to the proposed injection sites. The injection well field is located near the intersection of Morro Creek and Highway 1, adjacent to the City bike path between Main Street and Atascadero Road. Up to 825 AFY of purified recycled water will be injected into the Morro Basin. After sufficient underground residence time, groundwater will be extracted from the Morro Basin using municipal wells and treated at the City's existing water treatment facility for potable distribution.

The Morro Basin is susceptible to seawater intrusion due to decreasing groundwater levels because of drought conditions and over pumping of the Morro Basin. The goal of the project is to increase the available volume of groundwater supplies available for extraction as well as to protect the basin from further seawater intrusion. Because the recycled water facilities injection wells would serve as a seawater intrusion barrier between the ocean and the City's existing extraction wells, they would mitigate the migration of seawater towards the City's extraction wells. Contamination of the City's potable wells by seawater would render the wells unusable as a potable water supply source.

A summary of the anticipated costs for the Recycled Water Facilities Project is shown below:

	BUDGET CATEGORY	Grant Amount	All Other Cost	Total Cost
(a)	Project Administration	400,000		400,000
(b)	Land Purchase / Easement			
(c)	Planning / Design / Engineering / Environmental Documentation	1,850,000		1,850,000
(d)	Construction / Implementation	8,500,000		8,500,000
	TOTAL COSTS	10,750,000		10,750,000

ATTACHMENT

1. Resolution No. 11-22

RESOLUTION NO. 11-22

**A RESOLUTION OF THE CITY COUNCIL
OF CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING THE CITY MANAGER TO APPLY FOR, ACCEPT AND
EXECUTE A GRANT AGREEMENT, IF AWARDED, WITH THE
CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR 1)
WATER WELL INFRASTRUCTURE REHABILITATION AND
INSTALLATION PROJECT; AND 2) RECYCLED WATER FACILITIES
PROJECT , PURSUANT TO THE 2021 URBAN AND MULTIBENEFIT
DROUGHT RELIEF PROGRAM**

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

WHEREAS, the California Department of Water Resources (“DWR”) is accepting applications for drought mitigation projects under the 2021 Urban and Multibenefit Drought Relief Program (“Drought Grant”); and

WHEREAS, the City of Morro Bay’s (“City’s”) Water Well Infrastructure and Rehabilitation and Installation and Recycled Water Facilities Projects (“Projects”) are eligible for the DWR grant funding pursuant to the Drought Grant published eligibility guidelines; and

WHEREAS, the DWR requires a grant applicant to provide a resolution adopted by applicant’s governing body designating an authorized representative to submit a funding application and execute agreements with DWR for a grant (the “Grant Agreement”); and

WHEREAS, this Council wishes to authorize the City Manager of the City to apply, accept and execute such Grant Agreement, if awarded, and any amendment thereto and other required documents, on behalf of the City; and

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

Section 1. That pursuant and subject to all the terms and provisions of Budget Act of 2021 (Stats. 2021, ch. 240, § 80), the City Manager of the City of Morro Bay is hereby authorized and empowered to prepare the necessary data, conduct investigations, file such applications, and, if awarded, conduct all negotiations and execute in the name of the City of Morro Bay (“City”), the application, the Grant Agreement, amendments thereto, and all other required documents, if any, necessary for the funding of the Projects with the grant, provided that the City is able to satisfy grant terms, conditions, and requirements, and comply with all applicable state and federal laws and regulations, including without limitation the California Environmental Quality Act, the National Environmental Policy Act and other environmental laws, as applicable.

Section 2. Funds are available in City’s budget and/or funding plan for the Projects to provide the City’s required funding and/or in-kind contributions, if the grant is awarded. The City has the capability to complete the Project.

Section 3. The City Manager is directed to work with the DWR to meet established deadlines for entering into a DWR grant, the Grant Agreement or cooperative agreement pursuant to the Act.

Section 4. The City Manager is authorized and directed, if the grant is awarded, to execute the Grant Agreement, and apply the grant monies to the project for which the award is made.

Section 5. This Resolution shall take effect both from as well as after its adoption.

Section 6. The City Clerk is hereby authorized and directed to certify the adoption of this resolution.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of January, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Dana Swanson, City Clerk of the City of Morro Bay, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Morro Bay City Council at its regular meeting held on the ____ day of _____, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

City Clerk



AGENDA NO: C-3

MEETING DATE: January 25, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: January 18, 2022

FROM: Scott Collins, City Manager
Dana Swanson, City Clerk

SUBJECT: Establish a City Council Subcommittee to Review and Make Recommendations for Updates and Revisions to the Advisory Body Handbook and By-Laws

RECOMMENDATION

Staff recommends the City Council appoint two members to form a Council sub-committee that will conduct the biennial review of the Advisory Body Handbook and By-laws and bring recommended revisions back to the full Council for discussion and re-adoption.

ALTERNATIVES

The Council may choose not to pursue policy review at this time.

FISCAL IMPACT

There is no fiscal impact associated with this action.

BACKGROUND/DISCUSSION

In 2019, the Council established a sub-committee consisting of Mayor Headding and Council Member McPherson to comprehensively review and make recommendations to the Council Policies and Procedures and Advisory Body Handbook. The results of that review were brought to the full Council for discussion and re-adoption at the December 10, 2019 meeting.

On January 11, 2022, the Council approved a future agenda item to re-establish a Council Subcommittee to conduct a biennial review of the Advisory Body Handbook and bring forward recommended updates and revisions for Council consideration.

CONCLUSION

Staff recommends the City Council appoint two members to form a sub-committee that will conduct the biennial review of the Advisory Body Handbook and By-laws and bring recommended revisions back to the full Council for discussion and re-adoption.

ATTACHMENT

1. [Link](#) to Advisory Body Handbook & By-laws

Prepared By: DS

City Manager Review: SC

City Attorney Review: CFN