



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, February 8, 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

PRESENTATION

- Presentation by Friends of the Morro Bay Harbor Department

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 NOVEMBER 18, 2021, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE JANUARY 25, 2022, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FOR THE JANUARY 26, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 ADOPTION OF RESOLUTION NO. 12-22 DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT REAL PROPERTY OWNED BY THE CITY OF MORRO BAY, LOCATED AT 714 EMBARCADERO AND 781 MARKET STREET (APN: 066-321-025, 026, 027, 028 & APN: 066-112-007, APN: 066-321-008) IS NON-EXEMPT SURPLUS LAND AND NOT NECESSARY FOR THE CITY'S USE; TAKING RELATED ACTIONS; AND AUTHORIZING STAFF TO PROCEED TO DISPOSE OF THE PROPERTY PURSUANT TO THE SURPLUS LAND ACT; (COMMUNITY DEVELOPMENT / CITY ATTORNEY)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 12-22 declaring pursuant to Government Code Section 54221 that real property owned by the City of Morro Bay, located at 714 Embarcadero and 781 Market street (APN: 066-321-025, 026, 027, 028 & APN: 066-112-007, APN: 066-321-008) (“Subject Property”) is non-exempt surplus land and not necessary for the City’s use; taking related actions; and authorizing staff to proceed to dispose of the property pursuant to the Surplus land Act.

- A-5 REIMBURSEMENT AGREEMENT WITH VISTRA FOR BATTERY ENERGY STORAGE SYSTEM (BESS) PROJECT; (CITY ATTORNEY)

RECOMMENDATION: Authorize the City Manager to execute the Deposit and Reimbursement Agreement with Morro Bay Power Company, LLC (Vistra) dated as of January 24, 2022.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

- C-1 CERTIFY RESULTS OF CITIZENS INITIATIVE PETITION ENTITLED “AN INITIATIVE MEASURE TO PROHIBIT TENT CAMPING AND ALL CLASSES OF VEHICLE CAMPING (DRY OR OTHERWISE) IN CERTAIN SPECIFIED AREAS OF THE CITY OF MORRO BAY” AND EITHER: 1) ADOPT THE ORDINANCE WITHOUT ALTERATION; OR, 2) SUBMIT THE ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY AS A PROPOSED MEASURE AT A REGULAR MUNICIPAL ELECTION; OR, 3) ORDER A REPORT ON THE EFFECTS OF THE PROPOSED INITIATIVE; (CITY CLERK)

RECOMMENDATION: Staff recommends the City Council receive the report, discuss the alternatives provided by Elections Code section 9215 and described in this report, and choose item 3, directing the City Manager to evaluate on a Citywide basis, the effects of the proposed initiative measure in accordance with Elections Code section 9212, and prepare a report to be presented to the Council within 30 days. Following review of that recommended forthcoming report, the Council pursuant to statute shall choose to either adopt the ordinance without alteration or submit the ordinance to the qualified voters of the City at an upcoming qualified election.

- C-2 AUTHORIZATION FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON D.C. “WASHINGTON WEEK” MEETINGS, AND DISCUSSION OF THE WASHINGTON WEEK AGENDA; (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council authorize up to a three-person delegation consisting of the Mayor, Harbor Director and Public Works Director to attend the California Marine Affairs and Navigation conference (C-MANC) 2022 “Washington Week” meetings virtually and in Washington D.C. to represent the City’s interests in the nation’s capital, and to provide any desired input on the elements herein.

- C-3 CITY COUNCIL GOALS AND ACTION ITEMS UPDATE; (CITY MANAGER)

RECOMMENDATION: Staff recommends the City Council receive an update from staff on the City’s progress on City goals and related short-term action items and provide direction as appropriate.

- C-4 CONSIDERATION OF RESOLUTION OF SUPPORT FOR STATEWIDE EFFORTS TO EXPAND HEALTH CARE FOR ALL IN CALIFORNIA; (CITY MANAGER)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 13-22, supporting efforts to expand health care for all in California.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, February 22, 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.

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City Council conducted this meeting in accordance with Assembly Bill 361 (2021-22) and Government Code section 54953 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT: John Headding Mayor
Dawn Addis Council Member
Laurel Barton Council Member
Jennifer Ford Council Member
Jeff Heller Council Member

ABSENT: None

STAFF: Scott Collins City Manager
Dana Swanson City Clerk
Greg Kwolek Public Works Director
Scot Graham Community Development Director

ESTABLISH QUORUM AND CALL TO ORDER

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

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

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

SPECIAL MEETING AGENDA ITEMS:

- I. RATIFICATION OF SECOND AMENDMENT TO THE INTEGRATED WASTE MANAGEMENT AUTHORITY (IWMA) JOINT POWERS AGREEMENT (JPA) AND FIRST AMENDMENT TO THE IWMA MEMORANDUM OF AGREEMENT (MOA); (PUBLIC WORKS DEPARTMENT)
<https://youtu.be/qMSQpe-4Y7M?t=135>

Public Works Director Kwolek presented the report.

MOTION: Council Member Heller moved to ratify adoption of the Second Amendment to the IWMA JPA executed by the Mayor on November 10, 2021; and ratify adoption of the First Amendment to the IWMA MOA executed by the Mayor on November 10, 2021. The motion was seconded by Council Member Ford and carried 5-0 by roll call vote.

- II. 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)
<https://youtu.be/qMSQpe-4Y7M?t=388>

City Attorney Neumeyer provided the report.

MOTION: Council Member Addis moved to adopt Resolution No. 81-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing. The motion was seconded by Mayor Heading and carried 5-0 by roll call vote.

- III. DISCUSS AND CONSIDER AUTHORIZING THE MAYOR TO SUBMIT COMMENTS ON BEHALF OF THE CITY COUNCIL TO THE CALIFORNIA CITIZENS REDISTRICTING COMMISSION REGARDING PRELIMINARY DRAFT REDISTRICTING MAPS; (CITY MANAGER)
<https://youtu.be/qMSQpe-4Y7M?t=584>

To avoid any appearance of a conflict of interest, Council Member Addis recused herself from this item.

City Manager Collins provided the report.

MOTION: Council Member Heller moved authorize the Mayor to send a letter on behalf of the City Council to the California Citizens Redistricting Commission regarding the proposed maps for the State Senate, Assembly and also the U.S. Congressional Districts in the State of California, following the Mayor's suggestions on what's best for Morro Bay with regard to redistricting. The motion was seconded by Council Member Barton and carried 4-0-1 by roll call vote with Council Member Addis having abstained.

ADJOURNMENT

The meeting adjourned at 3:52 p.m.

Recorded by:

Dana Swanson
City Clerk

City Council conducted this meeting in accordance with Assembly Bill 361 (2021-22) and Government Code section 54953 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Laurel Barton	Council Member
	Jennifer Ford	Council Member
	Jeff Heller	Council Member

ABSENT: None

STAFF:	Dana Swanson	City Clerk
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ESTABLISH QUORUM AND CALL TO ORDER

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

Mayor Headding announced Zachary Warner and Louis Ramos had withdrawn their application for consideration of appointment to the Recreation & Parks Commission.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

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

SPECIAL MEETING AGENDA ITEM:

I. ADVISORY BODY INTERVIEWS

Citizens Oversight / Finance Advisory Committee (“CFAC”)

<https://youtu.be/07PdyCh-GAY?t=221>

- Four (4) vacancies for a 4-year term ending January 31, 2026.

The following applicants were interviewed for the Citizens Oversight / Finance Advisory Committee, John Martin, Courtney Shepler, Tina Wener and Michael Woody.

MOTION: Council Member Heller moved to appoint John Martin, Tina Wener, Courtney Shepler, and Michael Woody to the CFAC. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

Harbor Advisory Board (“HAB”)

<https://youtu.be/07PdyCh-GAY?t=3066>

- One (1) South Bay/Los Osos Representative for a 4-year term ending January 31, 2026
- One (1) Member-at-Large for a 4-year term ending January 31, 2026

The following applicants were interviewed for the South Bay/Los Osos Representative position: Gene Doughty and Raymond Purcell.

MOTION: Council Member Addis moved to appoint Gene Doughty to the Harbor Advisory Board. The motion was seconded by Council Member Ford.

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

The following applicants were interviewed for the Member-at-Large Representative position: Sean Green.

MOTION: Council Member Barton moved to appoint Sean Green for the position of member-at-large. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

Recreation and Parks Commission ("RPC")

- Two (2) vacancies for a 4-year term ending January 31, 2026

No interviews were held as the two candidates for the Recreation & Parks Commission withdrew from the process.

ADJOURNMENT

The meeting adjourned at 5:01 p.m.

Recorded by:

Dana Swanson
City Clerk

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

Property: 231 Atascadero Road, APN: 065-182-005
Property Negotiator: Boys & Girls Club
Agency Negotiators: Scott Collins, City Manager; Kirk Carmichael, Recreation Services Manager; 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 4:54 p.m.

Recorded by:

Dana Swanson
City Clerk

In compliance with the SLA, the City prior to sale or lease of the Subject Property must declare the Subject Property “surplus” and “non-exempt” since it does not meet any of the exemptions under the SLA. After such declaration, the City must comply with the specific process set forth in the SLA and Regulations before the City can enter into a purchase and sale agreement with respect to the Subject Property. The Subject Property, totaling 1.6 acres, are shown in Exhibit A of the Resolution, and include the following lots, identified by the Assessor’s Parcel Number and brief description:

1. APN: 066-321-025; City Embarcadero parking lot
2. APN: 066-321-026; City Embarcadero parking lot
3. APN: 066-321-027; Existing building at 781 Market Street
4. APN: 066-321-028; City Embarcadero parking lot
5. APN: 066-112-007; City Parking lot at southeast corner of Market & Pacific
6. APN: 066-112-008; City Bathroom at the bottom of Centennial Stair

DISCUSSION

The SLA notification process requires the City to send (by mail or electronically) a written Notice of Availability (“NOA”) to (i) other public agencies whose jurisdiction covers the area in which the Subject Property is located, and (ii) prospective affordable housing developers which have registered with HCD expressing an interest in surplus land in the county. The list of such interested developers is maintained by HCD in an Excel spreadsheet on its website. The NOA can be sent either by regular mail or electronically to the registered parties. All NOA recipients thereafter have 60 days (“NOA Period”) to reply to the City expressing an interest in the Subject Property. The Regulations specify a methodology for prioritizing responses and provide good-faith negotiations shall be conducted for a period of 90 days.

The City is **not** required to sell the Subject Property for less than its fair market value or upon terms which are not acceptable to it. If the parties, *after good faith negotiations*, cannot reach agreement, the City is not required to sell the Subject Property to any of the responding housing developers.

If the City does not receive any responses during the NOA or is unable to reach agreement with a housing developer within the 90 day period, the City must notify HCD of such event and provide a detailed summary of its actions in compliance with the SLA and its good faith attempt to negotiate with responding housing developers. HCD has 30 days to review the summary and, if it does not find any issues, HCD will notify the City and thereafter the City may proceed to make the Subject Property available to other developers or interested parties pursuant to standard commercial procedures.¹

Any proposed purchase and sale agreement – from either the SLA negotiation period or thereafter - will require City Council approval.

A violation of the SLA will result in significant penalties: a forfeiture of 30 percent of the purchase price for the first violation and 50 percent for any subsequent violation. The penalties amounts will be paid into local housing agencies.

The Subject Property does have several issues that potentially complicate the development of affordable housing on the site including the following:

- High cost of the Property because of the location and Visitor Serving zoning

1. The SLA requires that even if the property is not being sold to an affordable housing developer, a covenant must still be recorded against the land when sold which mandates that if 10 or more housing units are built on the land within 50 years, that at least 15% of all residential units on the land must be restricted for affordable housing.

- Housing is not an allowed use under the Visitor Serving Commercial zoning classification
- The Property contains existing structures that will require demolition prior to redevelopment
- Property contains topographic issue in the form of an approximately 16-foot tall slope which will make development expensive and complicated
- The parking lot at the corner of Market and Pacific is separated from the remainder of the Property to the west by Market Street

The NOA will include the foregoing information and potentially make the appropriate documents available for review on an internal website which will be linked in the NOA. Providing such information for review by any affordable housing developers will provide for full transparency on the nature of the specific property and both its development potential and limitations.

CONCLUSION

In order for the City to dispose of the Subject Property, it must follow the SLA notification process identified above. Staff recommends Council adopt Resolution No. 12-22 declaring (i) the subject properties surplus land which is not necessary for City use and that it is non-exempt, and (ii) authorizing Staff to proceed with disposal of the Subject Property in accordance with the SLA.

ATTACHMENT

1. Resolution No. 12-22

RESOLUTION NO. 12-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DECLARING PURSUANT TO GOVERNMENT CODE SECTION
54221 THAT REAL PROPERTY OWNED BY THE CITY OF
MORRO BAY, LOCATED AT 714 EMBARCADERO AND 781
MARKET STREET (APN: 066-321-025, 026, 027, 028 & APN:
066-112-007, APN: 066-321-008) IS NON-EXEMPT SURPLUS
LAND WHICH IS NOT NECESSARY FOR THE CITY'S USE;
TAKING RELATED ACTIONS; AND AUTHORIZING STAFF TO
PROCEED TO DISPOSE OF THE PROPERTY PURSUANT TO
THE SURPLUS LAND ACT**

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

WHEREAS, the City of Morro Bay ("City") is the owner in fee simple of that certain real property located at 714 Embarcadero and 781 Market Street (APN: 066-321-025, 026, 027, 028 & APN: 066-112-007, APN: 066-321-008) and as further identified on the Site Location Map in Exhibit A, attached hereto, and made a part of hereof (collectively "Property"); and

WHEREAS, the Surplus Lands Act ("SLA") requires that before a local agency takes any action to sell or lease its surplus property, it must declare the property to be "surplus land;" and

WHEREAS, "surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that such land is surplus and is not necessary for the agency's use; and

WHEREAS, under the SLA, land is necessary for the City's use if the land is being used pursuant to a written plan adopted by the City Council for City work or operations; and

WHEREAS, City staff has evaluated the Property for its potential to be used for City work or operations, and City staff has determined that the Property is not suitable for the City's use; and

WHEREAS, the Property does not qualify as exempt under the specific exemptions in the SLA, and the Property is, therefore, non-exempt under the SLA; and

WHEREAS, in accordance with the SLA, the City must, among other requirements, give written notice of its availability to certain local agencies and housing sponsors that

have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property which list is on the HCD website; and

WHEREAS, the City Council finds that the Property is surplus non-exempt land which is not necessary for the City's use as described in Government Code Section 54221(c)(1); and

WHEREAS, the City intends to proceed to dispose of the Property in compliance with the SLA and directs the Staff to proceed accordingly.

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. As the Property is zoned for Visitor Serving Commercial use, contains existing structures, has topographical constraints to development, City staff has evaluated the Property for its potential to be used for City work or operations and has determined that the Property is not suitable for the City's use, and the Property is not suitable for development or use of the City, the City Council hereby declares that the Property is not necessary for the City's use and is, therefore, surplus land;

SECTION 3. As the Property does not qualify under any of the exemptions set forth in the SLA, the City Council declares that the Property is non-exempt.

SECTION 4. The City Manager, officers and staff of the City are hereby authorized jointly and severally, to take all actions which the City Manager may deem necessary or proper to effectuate the purposes of this Resolution and to proceed with the disposition of the Property in compliance with the SLA subject to the City Council's approval of any sale agreement.

SECTION 5. This resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of February 2022 by the following vote:

AYES:

NOES:

ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk



Exhibit A. Site Location Map for 714 Embarcadero Rd/781 Market St





AGENDA NO: A-5

MEETING DATE: February 8, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: February 3, 2022

FROM: Chris F. Neumeyer, City Attorney

SUBJECT: Reimbursement Agreement with Vistra for Battery Energy Storage System (BESS) Project

RECOMMENDATION

Authorize the City Manager to execute the Deposit and Reimbursement Agreement with Morro Bay Power Company, LLC (Vistra) dated as of January 24, 2022.

FISCAL IMPACT

An initial deposit with City from Vistra of \$175,000 to cover City staff, legal, and consultant fees and costs associated with a proposed project by Vistra. The deposit is subject to replenishment from time to time if the deposit is depleted to less than \$50,000.

BACKGROUND

Vistra seeks to develop and operate a 600 megawatt Battery Energy Storage System (BESS) on the Morro Bay Power Plant Property and demolish the non-operational power plant and stacks located on the Property (Project). Vistra has submitted an application to the City for the Project. Approximately 22 acres of the 107 acre Property is proposed for siting of the BESS.

Vistra needs to secure a number of permits, approvals, and entitlements for development of the Project, including a Coastal Development Permit (CDP) and compliance with the California Environmental Quality Act (CEQA).

Various elements of the Project requiring Planning Commission and City Council consideration at public hearings for recommendation or approval are expected to be forthcoming sometime in 2022, including consideration of a CDP and a CEQA Environmental Impact Report (EIR).

Since this Project will require substantial legal, staff, and consultant work, Vistra has agreed to enter into the Reimbursement Agreement with the City in order to ensure the City recovers all of its costs and fees related to the Project and its potential approvals.

DISCUSSION

Vistra has approved and executed the proposed Reimbursement Agreement and is awaiting the City execution of the agreement. Staff, consultant and legal costs and fees incurred by City will be reimbursed by Vistra for the substantial amount of work devoted by City to the Project.

The initial deposit by Vistra with the City will be \$175,000 and is subject to replenishment from time to time if the deposit is depleted to less than \$50,000. In addition, the deposit will cover costs and fees previously incurred by the City on the Project going back to September 1, 2021 (including legal fees

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Prepared By: CFN Dept Review:
City Manager Review: City Attorney Review: CFN

and consultant costs).

The agreement also provides for indemnification from Vistra to the City in the event of any litigation challenging the Project or any potential prospective approvals issued by the City (including under CEQA).

The provisions of the agreement expressly provide that City is under no obligation to take any action related to approval of the Project, and further expressly provide that the City will at all times exercise its independent judgment in determining whether or not to approve the Project.

CONCLUSION

Staff recommends the City Council authorize the City Manager to execute the Deposit and Reimbursement Agreement with Morro Bay Power Company, LLC (Vistra) dated as of January 24, 2022.

ATTACHMENT

1. Deposit and Reimbursement Agreement

DEPOSIT AND REIMBURSEMENT AGREEMENT

This **DEPOSIT AND REIMBURSEMENT AGREEMENT** (“**Agreement**”) is executed as of this 24th day of January, 2022 (“**Effective Date**”), by and among the **CITY OF MORRO BAY**, a California municipal corporation (“**City**”), and **MORRO BAY POWER COMPANY LLC**, a Delaware limited liability company (“**Vistra**”). City and Vistra are sometimes referred to herein, individually as a “**Party**” or together as the “**Parties**.”

RECITALS

WHEREAS, Vistra is the owner of that certain property generally located at 1290 Embarcadero, in the City of Morro Bay, California (“**Property**”);

WHEREAS, Vistra desires to develop and operate a battery energy storage system (“**BESS**”) on the Property and demolish the non-operational power plant located on the Property (together, the “**Project**”);

WHEREAS, in December 2020, Vistra filed an application with the City for certain entitlements for the Project (as amended/modified from time to time, the “**Application**”) and the City has deemed the Application complete. As of the Effective Date, Vistra has not yet obtained all necessary permits, approvals, and entitlements for development of the Project, including a Coastal Development Permit, compliance with the California Environmental Quality Act (“**CEQA**”), and other agreements or approvals that may be required to implement the Project (collectively, the “**Entitlements and Approvals**”);

WHEREAS, Vistra paid the fees required to date by the City for its Application and has made other deposits required by the City for processing the Project and necessary Entitlements and Approvals and the initial CEQA Processing (as such term is defined below) for the Project (such fees and deposits, collectively, the “**Existing Deposit**”);

WHEREAS, to facilitate the City’s consideration of approval of the Project, the City requires that Vistra submit certain deposits and make reimbursements to the City for its reasonably incurred costs and expenses related to processing the Application, Project, and Entitlements and Approvals based on staff time at the City’s regular rate of pay (including overtime rates), third-party consulting costs (without any mark-up) and the City’s legal costs associated with the Project, as well as the environmental review and associated approvals associated with the Project (the “**CEQA Approvals**”);

WHEREAS, the City is the lead agency, within the meaning of CEQA, for purposes of conducting environmental review for the Project, and as such, will prepare all CEQA reports and documentation, distribute such reports and documents to responsible agencies and others, hold public hearings and consider public comments, and consider approval or certification of such reports and other documents as it deems necessary and appropriate in accordance with CEQA;

WHEREAS, the Parties desire to enter into this Agreement to facilitate a streamlined procedure for Vistra to reimburse the City for its reasonably incurred costs associated with processing the Application, the Project, CEQA Approvals, and Entitlements and Approvals;

WHEREAS, as of the date of execution of this Agreement, the City has already incurred certain costs and attorneys’ fees in connection with processing the Application, the Project, initial

CEQA Processing (as defined below), and the Entitlements and Approvals, and such costs and fees are intended to be included as reimbursable costs to the City pursuant to this Agreement;

WHEREAS, Vistra acknowledges that the Existing Deposit does not include all deposits that will be required for the City Costs (as defined below) nor does the Existing Deposit include the anticipated cost associated with the Planning Commission and City Council meetings and, as such, Vistra agrees to add to the Existing Deposit to satisfy the City requirements and pay for City Costs associated with the Project; and

WHEREAS, the Parties further acknowledge that the Existing Deposit made by Vistra associated with the Application will be credited toward Vistra's obligation to pay the City Costs (as defined below).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

TERMS

1. Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated herein by this reference.

2. Vistra Responsibility for City Costs. Vistra shall be responsible for, and shall reimburse City for, all reasonably incurred costs, fees and expenses of the City with no markup related to the following (collectively, "**City Costs**"): (i) all applicable City staff, legal, consultant fees and costs, in reviewing, preparing, negotiating, processing, and obtaining approval for the Project, the Application, this Agreement, the Entitlements and Approvals, and the CEQA Approvals (and CEQA Processing associated therewith); (ii) all costs related to studies, proformas, and reports that are deemed necessary by the City for processing the Entitlements and Approvals and all CEQA Processing for the Project (including any review, negotiation, and preparation of same); (iii) City staff, legal, consultant, or other third-party costs incurred in connection with any litigation brought against the City by third parties in connection with the City's approval of the Project, Entitlements and Approvals, or any CEQA Approvals issued by the City with respect to the Project; and, (v) any other fees and costs that are reasonably necessary for the City in order to process, review, or act upon the Application, Project, the Entitlements and Approvals, and the CEQA Approvals, including preparing for and holding public hearings, meetings or workshops. Reimbursable City Attorney rates will not exceed \$350 per hour. Vistra's obligation to deposit and reimburse City Costs are in addition to Vistra's duty to indemnify, defend, and hold harmless City Parties, as set forth in Section 8.2, below. Vistra acknowledges and agrees that the Deposits (as defined below) shall be used to reimburse the City for previously incurred City Costs between September 1, 2021 (the "**Cost Commencement Date**") through to the Effective Date of this Agreement.

For purposes of this Agreement, the term "**CEQA Processing**" shall mean: (i) preparing necessary CEQA reports and documents, including traffic engineering, other environmentally-pertinent analyses, and additional supporting documentation, as necessary and appropriate in accordance with CEQA, including, without limitation an Environmental Impact Report; (ii) distributing such documentation to responsible agencies and others; (iii) noticing and holding public

hearings and considering public comments on such CEQA documents and reports; (iv) considering certification of such CEQA documents and reports and other documentation through a City Council Resolution in accordance with CEQA; and (v) preparing, negotiating, and approving all environmental documents required under CEQA.

Vistra shall, within seven (7) business days from the Effective Date, deposit with City an additional sum of **One Hundred and Seventy-Five Thousand Dollars (\$175,000)** (“**New Deposit**”) against which, together with any balance remaining on the Existing Deposit, City Costs will be drawn down (together with the Existing Deposit, and any other deposits required herein, the “**Deposits**”).

2.1 Additional Deposits by Vistra. In the event the New Deposit (together with any other Deposits previously provided to the City prior to the Effective Date of this Agreement) are drawn down to less than \$50,000 (the “**Deposit Minimum Balance**”), Vistra shall make additional deposits to the City within ten (10) business days of City’s written request to Vistra, which request must include the following information: (i) what City Costs have been incurred to date, (ii) the additional City Costs that are anticipated to be incurred during the term of this Agreement by the City, and (iii) the amount of the new deposit the City requires in connection with same. Any such additional amounts that are deposited are referred to herein as “**Additional Deposits**” (which shall be added to and included within the definition of the “**Deposits**” hereunder). If any deposited sums ultimately exceed the costs incurred by City (with respect to all City Costs), City shall refund the difference to Vistra. In the event of a dispute regarding any Additional Deposits by either Party, the Parties (which in the case of Vistra may be solely its attorneys set forth in the notice address set forth herein, which are entitled to represent Vistra on its behalf in such negotiations) hereby agree to meet and confer by phone within 5 business days of a written request by either Party.

2.2 City’s Right to Cease Work. In the event that Vistra does not promptly deliver all Deposits (including the Additional Deposits), and the Deposit Minimum Balance has been depleted to less than \$50,000, City may cease all work related to or concerning the Project.

2.3 Interest on Deposit. The Deposits shall not earn interest and may be commingled with other City funds.

2.4 Accounting. City shall keep a detailed accounting of the City Costs incurred by City and all Deposits made by Vistra. The City shall provide to Vistra (and/or its attorneys) a summary of all expenditures made from the Deposits for City Costs within thirty (30) days of receipt of a written request from Vistra; provided that such request shall not be made more than once during any three (3) month period during the term of this Agreement. The City hereby agrees to communicate via email or via telephone to Vistra’s attorneys if the City reasonably anticipates that the City Costs, in the aggregate, will exceed one-hundred thousand dollars (\$100,000.00) in any given month (“**Monthly Cost Estimation**”). If requested in writing by Vistra’s attorneys, the Parties agree to meet and confer (telephonically or via email) within 5 business days, regarding any dispute Vistra may have regarding the Monthly Cost Estimation provided by the City. Vistra shall not unreasonably dispute the Monthly Cost Estimation or any City Costs incurred by the City and the City shall only seek reimbursement for the actual City Costs incurred.

2.5 Unexpended Funds. Within 120 days after all approvals for the Project issued by the City become final for all purposes (including expiration of all applicable appeal periods relating

to lawsuits challenging approvals by the City for the Project, CEQA Approvals, or Entitlements and Approvals), and there are no outstanding obligations of Vistra with respect to the Project or the Entitlements or Approvals that require further imposition of City Costs, City shall return any unexpended portion of the Deposits to Vistra.

3. Additional Taxes, Fees, and Charges. Notwithstanding any provision to the contrary, Vistra shall pay all normal and customary fees and charges applicable to all permits necessary for the Project, and any taxes, fees, and charges hereafter imposed by City in connection with the Project, and the Entitlements and Approvals which are standard and uniformly-applied to similar projects in the City.

4. Termination. This Agreement shall terminate (i) ten (10) days after Vistra provides written notice to the City that it no longer seeks to pursue the Project and withdraws the Application or (ii) 120 days after all approvals for the Project and CEQA Approvals become final for all purposes, including expiration of all applicable appeal periods relating to lawsuits challenging approvals by the City for the Project, CEQA Approvals, and Entitlements and Approvals, and there are no outstanding obligations of Vistra with respect to the Project or the Entitlements or Approvals that require further imposition of City Costs.

5. Remedies. In the event of a breach by either Party, the non-breaching Party may, in addition to any other remedies, seek to recover its reasonable attorneys' fees in enforcing this Agreement. This provision will not be interpreted to curtail either Party's remedies at law or equity against the other, nor shall it be interpreted as a waiver of any defense.

6. Conflicts of Interest.

6.1 No Financial Relationship. Vistra acknowledges the requirements of Government Code Sections 1090 *et seq.* ("1090 Laws") and represents and warrants that it has not entered into any financial or transactional relationships or arrangements that would violate the 1090 Laws, nor shall Vistra solicit, participate in, or facilitate a violation of the 1090 Laws. By law, the documents required by CEQA must be independently reviewed and approved by City in accordance with its independent judgment and subject to its sole discretion. Accordingly, despite any funding mechanism provided in this Agreement, during the existence of the City's contract with the Environmental Consultant (as defined below), and for a period of one (1) year after final resolution / approval of the Project, the CEQA Approvals, and any applicable Entitlements and Approvals, Vistra and any of its affiliated entities shall not enter into any financial relationship with the Environmental Consultant or with any City official, employee, or contractor. Nor, during such period, shall Vistra propose to enter into any future relationship with the Environmental Consultant or with any City official, employee, or contractor. This shall not prevent Vistra's consulting with Environmental Consultant as permitted by Sections 9 and 10 of this Agreement.

6.2 Vistra's Representations and Warranties. Vistra represents and warrants that it is duly authorized to do business in the State of California. Vistra further represents and warrants that, for the 12-month period preceding the Effective Date of this Agreement, it has not entered into any arrangement to pay financial consideration to, and has not made any payment to, any City official, agent or employee that would create a legally cognizable conflict of interest as defined in the Political Reform Act (California Government Code sections 87100 *et seq.*).

7. **Vistra Acknowledgements.** Subject to the reimbursement obligations set forth in this Agreement, Vistra acknowledges and agrees that, with respect to the work concerning the Project, the Application, the CEQA Processing, and the Entitlements and Approvals:

7.1 City shall have sole discretion to select which of its employees and contractors are assigned to the work, including the Environmental Consultant (as defined in Section 9).

7.2 City shall have sole discretion to direct the work and evaluate the performance of its employees and/or contractors assigned to the work, and City retains the right to terminate or replace at any time any such person.

7.3 City, not Vistra, shall pay employees and contractors assigned to the work from a City account.

7.4 City makes no representations or assurances to Vistra that the Project will be approved, or that Vistra will receive any priority treatment for processing the Project or its Entitlements and Approvals.

8. **Indemnification and Hold Harmless.**

8.1 **Non-liability of City.** The Parties acknowledge that there may be challenges to approval of the Application, the Project, the CEQA Approvals, and the Entitlements and Approvals, which could delay development of the Project. The Parties agree that the City and its officials, officers, employees and agents shall not be responsible in any way for any delays or liabilities of any type whatsoever resulting from any such legal challenges to the Project or the CEQA Approvals, or the fact that any required Entitlements and Approvals were not issued by the City or any other agency. No official, officer, employee or agent of the City shall be personally liable hereunder to any extent. The Parties further acknowledge and agree that this Agreement is not a debt of the City. The City shall not in any event be liable hereunder other than to return the unexpended and uncommitted portions of the Deposits as provided in Section 2.5 above, and to provide an accounting under Section 2.4 above. The City shall not be obligated to advance any of its own funds with respect to CEQA documents or for any other purpose.

8.2 **Indemnification.** Vistra agrees to indemnify, protect, defend, and hold harmless the City and its officials, officers, employees, agents, boards, commissions, departments, agencies, and instrumentalities thereof (“**City Parties**”), from any and all actions, suits, claims, demands, writs of mandamus, liabilities, losses, damages, penalties, obligations, expenses, and any other actions or proceedings (whether legal, equitable, declaratory, administrative, adjudicatory, or otherwise, in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures) asserted by third parties against the City Parties that challenge, or seek to void, set aside, or otherwise modify or annul, the action of, or any approval by, the City Parties for or concerning this Agreement, the Project, the Entitlements and Approvals, the Application, or any CEQA Approvals, or any aspect or portion thereof (including, but not limited to, reasonable attorneys’ fees and costs) (herein the “**Claims and Liabilities**”), whether such Claims and Liabilities arise under planning and zoning laws, the Subdivision Map Act, CEQA, or any other federal, state, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction.

In the event any action for any Claims and Liabilities is brought against the City and/or City Parties, the City shall promptly notify Vistra of same, and upon City's notification to Vistra of such Claims and Liabilities, Vistra shall make a minimum deposit in an amount sufficient to pay all of Vistra's indemnification obligations to the City for the following ninety (90) days that the Parties reasonably anticipate to be incurred (including reasonable legal costs and fees). Thereafter, upon the commencement of each subsequent period of ninety (90) days, Vistra shall make a further deposit sufficient to pay all of Vistra's indemnification obligations to the City for the following ninety (90) days, as reasonably determined by the Parties. Vistra shall make deposits required under this Section within ten (10) business days of receipt of the City's written request. At no point during the pendency of such Claims and Liabilities shall the minimum balance of the deposits provided by Vistra for all Claims and Liabilities fall below One Hundred Thousand Dollars (\$100,000). If Vistra fails to timely pay such funds, the City may abandon the defense without liability to Vistra and may recover from Vistra any attorneys' fees and other costs for which the City may be liable as a result of abandonment of the action.

The City acknowledges that Vistra shall be primarily responsible for defending Claims and Liabilities. With respect to the defense of any Claims or Liabilities, the City shall have the right to utilize the City Attorney's office, or use other comparable legal counsel of its choosing (subject to approval by Vistra which may not be unreasonably withheld), as well as the right to utilize consultants and specialists, in connection with any defense of any Claims and Liabilities. Vistra's obligation to pay the defense costs of the City shall continue until final judgment, including any appeals. City agrees to fully cooperate pursuant to the terms of this Agreement with Vistra in the defense of any matter in which Vistra is defending and/or holding the City harmless.

8.3 Exception. The obligations of Vistra under this Section 8 shall not apply to any claims, actions, or proceedings arising (as determined by a judge of a court of competent jurisdiction) through the sole negligence or willful misconduct of the City Parties.

8.4 Period of Indemnification. The indemnity obligations under Section 8.2 shall begin upon the Effective Date and shall survive termination or expiration of this Agreement for a period of twelve (12) months, or until the expiration of all statutes of limitations for any Claims and Liabilities, whichever event occurs later in time.

9. Compliance with Guidelines; Independent Judgment. The CEQA Guidelines, including Sections 15084 and 15090, require the City as lead agency to exercise its independent judgment in CEQA findings and approvals with respect to the Project. The City has engaged and may continue to engage with one or more consultants to prepare CEQA documents and assist in the CEQA Processing, including, without limitation, Rincon Consultants, Inc. (collectively, the "**Environmental Consultant**") for the Project and the CEQA Approvals. Accordingly, it is understood that any such Environmental Consultant hired by the City to prepare CEQA documents or assist in the CEQA Processing shall be under contract to and directed by the City, and Vistra shall not attempt to direct, influence, or otherwise control the Environmental Consultant in the performance of the work. Any questions or concerns Vistra may have will be directed to the City. Notwithstanding the foregoing, and in accordance with CEQA Guidelines Section 15084, Vistra may retain and direct other environmental consultants to prepare various technical reports and analyses that may be used and relied upon by the Environmental Consultant and the City in preparing the draft and final CEQA

document (including but not limited to consultants retained to prepare traffic, air quality, noise, and historical studies or analyses (collectively, the “**Technical Consultants**”)). The City retains the sole and absolute right to review and approve any and all reports prepared and submitted to the City and the Environmental Consultant by the Technical Consultants in accordance with its independent judgment and ultimate sole discretionary authority.

10. Vistra’s Rights Concerning Review of Documents. City shall provide Vistra with draft copies of all reports and studies produced in connection with the CEQA Processing and funded through this Agreement subject to applicable law. Vistra may discuss issues with the City Parties or their consultants and may make comments orally or in writing. The City Parties, at Vistra’s written request, shall also use reasonable efforts consistent with law to permit Vistra’s review with respect to agendas and staff reports for all open City Council, Planning Commission and other public body meetings at which the Project or related matters are to be considered. As set forth herein, it is expressly understood that the Environmental Consultant (and other City consultants retained hereunder) is under contract solely with the City, and the City is free to disregard the comments of Vistra and exercise its independent judgment in making payments to the Environmental Consultant or revising or accepting the Environmental Consultant’s work product, without any liability whatsoever to Vistra therefor.

11. No Obligation to Adopt CEQA Documents or to Approve Project. The provisions of this Agreement shall in no way obligate the City to adopt or certify any CEQA documents or take any action related to approval of the Project or any Entitlements and Approvals related thereto. The City shall use its independent judgment in determining whether to approve the Project’s proposed Entitlements and Approvals, whether to approve draft CEQA documents for circulation, and whether to certify or to not certify any CEQA documents. In the event that the City certifies any CEQA documents in connection with the Project or the proposed Entitlements and Approvals, the City shall use its independent judgment in determining the significance of any impacts, approving any mitigation program, adopting a statement of overriding considerations, or taking any other action. The City Parties shall have no liability to Vistra in any manner whatsoever therefor, other than providing the accounting of expenses as provided herein.

12. Assignment/Transfer. Except with respect to an Affiliate of Vistra, this Agreement may not be assigned or transferred to another entity unless agreed to in writing by City and upon proof of the financial viability of the successor entity to fulfill the obligations of Vistra under this Agreement, in the City’s discretion. For purposes of this Agreement, the term “**Affiliate**” shall mean a company or entity that is controlled by Vistra Corp.

13. Relationship Between the Parties. The Parties agree that this Agreement does not operate to create the relationship of partnership, joint venture, or agency between City and Vistra. Nothing herein shall be deemed to make Vistra an agent of City.

14. Qualification; Authority. Vistra represents and warrants that it has the legal capacity to enter into the Agreement. Each Party warrants that the individuals who have signed the Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. Each individual executing this Agreement on behalf of Vistra represents, warrants and covenants to City that (a) Vistra is duly formed and authorized to do business in the state of its formation and the State of California, (b) such person is duly authorized to execute and deliver this Agreement on behalf

of Vistra in accordance with authority granted under the organizational documents of Vistra, and (c) Vistra is bound under the terms of this Agreement.

15. Notices. Any notices, requests, demands, documents approvals or disapprovals given or sent under this Agreement from one Party to another (each a “**Notice**”, and collectively, the “**Notices**”) shall be given to the Party entitled thereto at its address set forth below or at such other address as such Party may provide to the other Parties in writing. Any such Notice may be given (i) by personal delivery which will be deemed received on the day of delivery; (ii) by national overnight delivery service which shall be deemed received the following day; or (iii) by mailing the same by registered or certified US mail, return receipt requested which will be deemed delivered three (3) days after depositing same in the mail, addressed to the Party to whom the Notice is directed as set forth below:

To City: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attention: City Manager Scott Collins
Telephone: 805-772-6206
Email: scollins@morrobayca.gov

With a Copy to: City of Morro Bay
955 Shasta Avenue
Morro Bay, CA 93442
Attention: Community Development Director Scot Graham
Telephone: 805-772-6291
Email: sgraham@morrobayca.gov

With a Copy to: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attention: City Clerk Dana Swanson
Telephone: 805-772-6205
Email: dswanson@morrobayca.gov

With a Copy to: Aleshire & Wynder, LLP
18881 Von Karman Ave., Suite 1700
Irvine, CA 92612
Attention: Chris Neumeyer
Telephone: (949) 223-1170
Email: cneumeyer@awattorneys.com

To Vistra: Morro Bay Power Company LLC
6555 Sierra Drive
Irving, TX 95039
Attention: Gabe Vazquez
Email: gabe.vasquez@vistracorp.com

With a Copy to: Paul Hastings, LLP
101 California St., 48th Floor
San Francisco, CA 94111
Attention: Navi Dhillon and Chris Carr
Email: navidhillon@paulhastings.com

16. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

17. Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against either Party. Unless otherwise specified, any term referencing time, days, or period for performance shall be deemed calendar days and not business days, provided, that any deadline that falls on a weekend or holiday shall be extended to the next City business day. All references to City include all City Parties. The captions of the various paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

18. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

19. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

20. Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

21. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

22. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

23. Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken

pursuant to this Agreement, shall be filed and prosecuted in the United States District for the Central District of California or the Superior Court of California, County of San Luis Obispo. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Vistra expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

24. Time is of the Essence. Time is of the essence with respect to this Agreement.

25. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument. The signature of any Party to this Agreement transmitted to any other Party by facsimile or e-mail shall be deemed an original signature of the transmitting Party.

26. Entire Agreement. This Agreement contains the entire agreement between City and Vistra with respect to the subject matter of this Agreement and supersedes any prior oral or written statements or agreements between City and Vistra with respect to the subject matter of this Agreement. In the event of any conflict between this Agreement and an agreement between the City and the City Attorney concerning private party reimbursement, the terms of this Agreement shall control.

27. Attorneys' Fees. In the event of any litigation or other legal proceeding including, but not limited to, arbitration or mediation between the Parties arising from this Agreement, the prevailing party will be entitled to recover, in addition to any other relief awarded or granted, its reasonable costs and expenses (including attorneys' fees) incurred in the proceeding.

[signatures on the following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

VISTRA:

MORRO BAY POWER COMPANY LLC, a Delaware limited liability company

CITY:

CITY OF MORRO BAY, a California municipal corporation

By: 
Name: Stephanie Moore
Title: EVP & General Counsel & Chief Compliance Officer

By: _____
Scott Collins, City Manager

ATTEST:

By: _____
Dana Swanson, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Chris Neumeyer, City Attorney

VISTRA SHALL PROVIDE CITY WITH COPIES OF APPROPRIATE DOCUMENTS EVIDENCING AUTHORITY OF SIGNATORY TO EXECUTE AND BIND VISTRA. VISTRA'S SIGNATURE SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO VISTRA'S BUSINESS ENTITY.

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AGENDA NO: C-1

MEETING DATE: February 8, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: February 1, 2022

FROM: Scott Collins, City Manager
Dana Swanson, City Clerk/Human Resources Manager

SUBJECT: Certify Results of Citizens Initiative Petition entitled “An Initiative Measure to Prohibit Tent Camping and all Classes of Vehicle Camping (dry or otherwise) in Certain Specified Areas of the City of Morro Bay” and either: 1) Adopt the ordinance without alteration; or, 2) Submit the Ordinance to the Qualified Voters of the City as a Proposed Measure at a Regular Municipal Election; or, 3) Order a Report on the Effects of the Proposed Initiative

RECOMMENDATION

Staff recommends the City Council receive the report, discuss the alternatives provided by Elections Code section 9215 and described in this report, and choose item 3, directing the City Manager to evaluate on a Citywide basis, the effects of the proposed initiative measure in accordance with Elections Code section 9212, and prepare a report to be presented to the Council within 30 days. Following review of that recommended forthcoming report, the Council pursuant to statute shall choose to either adopt the ordinance without alteration or submit the ordinance to the qualified voters of the City at an upcoming qualified election.

ALTERNATIVES

1. The Council may adopt the ordinance without alteration by introducing for first reading by title only, with further reading waived, Ordinance No. 648, An Ordinance of the City Council of the City of Morro Bay, California, adding Subsection (D) to Section 8.24.010 (Prohibited at Certain Times and in Certain Places) of Chapter 8.24 (Camping) of Title 8 (Health and Safety) of the Morro Bay Municipal Code; or
2. The Council may adopt Resolution No. 14-22 calling for a General Municipal Election to be held on Tuesday, November 8, 2022, for the submission of Ordinance No. 648 to the qualified voters of the City as a proposed measure, and adopt Resolution No. 15-22 setting priorities for written argument(s) and directing the City Attorney to prepare an impartial analysis, and consider the adoption of Resolution No. 16-22 providing for the filing of rebuttal arguments.

****If Council desires pursuant to Election Code section 9282 to submit an argument against the proposed measure, then one or two members should be appointed for the task as provided for in section 2 of Resolution No. 15-22, as discussed further in this report. Otherwise, Council should not approve section 2 of Resolution No. 15-22.****

FISCAL IMPACT

Should the Council submit the ordinance to the qualified voters of the City as a proposed ballot measure at either the November 2022 General Election or June 2022 Special Election, the estimated cost is \$1,500 - \$2,500.

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

The potential fiscal impact that the adoption of this ordinance would have on the Harbor Fund is not fully known at this time and would require further legal analysis of the proposed ordinance language. As currently configured, staff estimates the Waterfront RV Camping Program would generate approximately \$130,000 to \$150,000 (net) revenues for the Harbor Fund, \$15,000 to \$16,000 in General Fund TOT revenues, and \$2,300 to \$2,400 for the County Tourism Marketing District on a long-term annual basis if permanently established. Additional analysis is required to determine how much of the current RV program revenues would be impacted by the proposed ordinance.

Funds to process and verify an initiative petition, and to add an initiative petition to either the June or November election, were not anticipated in the City's FY 2021/22 budget. Staff may need to return to Council for a budget authorization for this unanticipated City expense.

BACKGROUND

On December 29, 2021, pursuant to authority provided by the California Constitution and the State Elections Code, an initiative petition was presented for filing entitled "An Initiative Measure to Prohibit Tent Camping and All Classes of Recreational Vehicle Camping (dry or otherwise) in Certain Specified Areas of the City of Morro Bay." The Notice of Intent to Circulate an Initiative Petition is provided as Attachment 1, and the Ballot Title and Summary prepared by the City Attorney for the proposed initiative measure is provided as Attachment 2.

Elections Code Section 9215 provides in part that an initiative petition qualifies if it "is signed by not less than 10 percent of the voters of the city." As of the February 10, 2021, voter registration report to the Secretary of State, there were 8,196 registered voters in the City of Morro Bay. Pursuant to Elections Code section 9210, the initiative petition was examined by the City Clerk and it was determined the number of signatures prima facie, was in excess of 10% (820) of the registered voters of the City and the petition was accepted for filing. The City Clerk's office coordinated with the County Registrar of Voters' to examine signatures and, in accordance with Election Code Sections 9114-9115, the initiative petition was determined to contain 869 valid signatures and deemed sufficient on January 28, 2022. The results of the petition signature verification are being certified to the Council as presented in Attachment 3.

Elections Code Section 9215 also provides in part that when a city council is presented with a qualified petition, the Council shall either:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented; or,

(b) Submit the ordinance, without alteration, to the voters pursuant to Section 1405; or,

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

Elections Code Section 1405 provides the election for a qualified initiative petition shall be held at the next regular election occurring not less than 88 days after the date of the order of the election. If the governing body calls a special election, the election shall not be held less than 88 days nor

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more than 103 days after the order of the election.

DISCUSSION

The initiative petition presented seeks to prohibit tent camping and all classes of recreational vehicle camping (dry or otherwise), along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots and specifies this shall not affect any current private businesses.

Recommended Action – Request a Report of effect of proposed initiative

Elections Code Section 9212 provides the City Council may request a report on any or all of the following that must be presented to the Council within 30 days:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under [Section 65008 of the Government Code](#) and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with [Section 65915\) of Division 1 of Title 7 of the Government Code](#).
- (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
- (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
- (5) Its impact on the community's ability to attract and retain business and employment.
- (6) Its impact on the uses of vacant parcels of land.
- (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
- (8) Any other matters the legislative body requests to be in the report.

Staff recommends the Council direct the City Manager to evaluate the impacts of the initiative measure on a Citywide basis and prepare a report to be brought back to Council at the March 8, 2022, Regular Meeting at which time the Council may consider the information provided and either: (a) adopt the ordinance without alteration within 10 days, or (b) submit the ordinance to the voters at **either** the June 7, 2022 Special Election or November 8, 2022 General Election.

Note the March 8th Regular Meeting falls within the 88 – 103 day range established by Elections Code Section 1405(b) that would allow for the option to place the item on the ballot for the June Special Election should the Council wish to do so.

Alternative 1 – Adopt the Ordinance without alteration

The Council may adopt the ordinance provided as Attachment 4 without alteration either at the February 8th meeting or within 10 calendar days, by introducing for first reading by title only, with further reading waived, Ordinance No. 648, An Ordinance of the City Council of the City of Morro

01181.0001/766043.1

Bay, California, adding Subsection (D) to Section 8.24.010 (Prohibited at Certain Times and in Certain Places) of Chapter 8.24 (Camping) of Title 8 (Health and Safety) of the Morro Bay Municipal Code (See Attachment No. 4).

Staff does not recommend the Council adopt the ordinance without alteration at this time as further analysis is needed to understand the full impacts, particularly as it relates to the Waterfront RV Camping Program.

Alternative 2 – Submit the Ordinance without alteration, to the voters at the November General Municipal Election

The Council may send the ordinance to the voters for approval at the next regular municipal election to be held in not less than 88 days (Morro Bay's next regular municipal election is November 8, 2022).

To send Ordinance No. 648 to the voters at the general municipal election on November 8, 2022, three election resolutions are presented for consideration by the City Council.

The first resolution orders the submission of the ordinance to the voters at the November 8, 2022, General Municipal Election and requests from the County a consolidation of that election with the Statewide General Election scheduled for the same date. (See Attachment No. 5)

Ballot Label. The first resolution includes a "ballot label" which describes the proposed ordinance and which is the question actually presented to the voters. Ballot labels are limited to 75 words or less. The Council may revise the language used for the ballot label within the following state law restrictions: "The statement of the measure shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure." (Election Code section 13119(c).)

The second resolution is concerned with written arguments (both pro and con) about the initiative measure, as well as directing the City Attorney to prepare an impartial analysis of the imitative measure. (See Attachment No. 6.) The second resolution establishes priorities under state law for choosing among multiple arguments. In consultation with the City Clerk the second resolution sets a deadline for written arguments (pro and con) of Tuesday, July 22, 2022, at the close of business.

Argument Authorization. Pursuant to Election Code section 9282, for measures placed on the ballot by petition, the persons filing an initiative petition may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. The second resolution authorizes - if Council so desires - one or two councilmembers to write an argument against the ballot measure. If three or more Councilmembers jointly write a ballot argument then the Brown Act will require the collaboration to occur at a noticed public meeting. As such, staff suggests, if Council desires to submit an argument against the ordinance, the Council appoint one or two councilmembers to write an authorized argument.

*****If Council desires to appoint one or two Councilmembers to write an argument against the ballot measure, then Section 2 in the second resolution should have name(s) added to it for the drafter(s). If Council does not desire to submit an argument against the measure, then Section 2 in the second resolution should be taken out of the resolution before approval.**

The third resolution provides for the filing of rebuttal arguments to the primary written arguments.

01181.0001/766043.1

(See Attachment No. 7.) The rebuttal arguments are prepared by the opposite authors of the primary written arguments. In consultation with the City Clerk the third resolution sets a deadline for rebuttals of Tuesday, August 2, 2022, at the close of business. Rebuttal arguments are optional under state law and are allowed at the discretion of the City Council. Disallowing rebuttal arguments will result in lowering the total cost for placing the initiative measure on the ballot (as extra pages in the voter books cost more money). The exact amount of cost savings is unknown at the present. If the City Council does not desire to authorize rebuttal arguments, then Council should not approve this third election resolution.

CONCLUSION

Staff recommends the City Council receive the report, discuss the alternatives provided by Elections Code section 9215 and described in this report, and direct the City Manager to evaluate on a Citywide basis, the effects of the proposed infinitive measure in accordance with Elections Code section 9212 and prepare a report to be presented to the Council within 30 days. Following review of that recommended forthcoming report, the Council shall pursuant to statute choose to either adopt the ordinance without alteration or submit the ordinance to the qualified voters of the City at a future election.

ATTACHMENTS

1. June 14, 2021 Notice of Intent to Circulate a Petition
2. June 29, 2021 Ballot Title and Summary for proposed Initiative Measure
3. January 28, 2022 Certificate of Sufficiency of Petition
4. Ordinance No. 648 Prohibiting Camping in Certain Areas of the City
5. Resolution No. 14-22 Calling for a General Municipal Election for the Submission of Ordinance No. 648 to the Qualified Voters of the City
6. Resolution No. 15-22 Setting Priorities for Filing Written Argument(s) and Directing the City Attorney to Prepare an Impartial Analysis regarding Ordinance No. 648
7. Resolution No. 16-22 Providing for the Filing of Rebuttal Arguments Regarding Ordinance No. 648

RECEIVED
City of Morro Bay

JUN 14 2021

City Clerk

June 14, 2021

Dana Swanson
City Clerk
City of Morro Bay
595 Harbor Avenue
Morro Bay, CA 93442

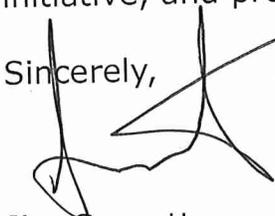
Dear Ms. Swanson:

As the elections official for the City of Morro Bay, this is to notify you that we find it necessary to modify the text of the initiative we submitted on May 12, 2021. Also, a section number has been added as previously suggested by you. Consequently, we withdraw our previously submitted initiative.

As the elections official for the City of Morro Bay, we request a ballot title and summary be prepared for the attached initiative. By way of information, the Notice of Intent to Circulate Petition and the Written Statement setting forth the reasons for the proposed petition remain the same.

The address you may use to furnish us a copy of the ballot title and summary prepared by the City attorney is 405 Acacia, Morro Bay, CA 93442. Please inform us if you need another \$200 for filing. We will deliver original cover letter, the initiative, and proponents declaration.

Sincerely,



Jim Curnutt
2056 Bayview Avenue



Carole Truesdale
331 Kodiak Street



Betty Winholtz
405 Acacia Street

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Morro Bay, CA for the purpose of defining unsuitable camp sites. A statement of the reasons for the proposed action as contemplated in the petition is as follows:

1. To protect the natural beauty, sensitivity, and intrinsic value of the named areas.
2. To prevent the visual and physical degradation of public places by private housekeeping.
3. To preclude competition with local businesses and State campgrounds.
4. To preserve day use parking.

Proponents: Jim Curnutt, Carole Truesdale, Betty Winholtz

Written text of the initiative:

The people of the City of Morro Bay do ordain as follows: An addition to the Morro Bay Municipal Code, Chapter 8.24 – Camping, Section 8.24.010 - Prohibited at certain times and in certain places. D. Tent camping and all classes of recreational vehicle camping, dry or otherwise, are prohibited along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots. This shall not affect any current private business.

Written Statement setting forth the reasons for the proposed petition:

February, 2021, the Morro Bay City Council considered several Harbor Front public spaces be available for camping for a fee. The community overwhelmingly rejected the proposal as expressed in written and oral Public Comment. Regardless, the City Council approved some of the sites on an interim basis and stated they would seek CA Coastal Commission approval for permanent camping. The Public's concerns fall into four categories:

1. To protect the natural beauty, sensitivity, and intrinsic value of the named public areas.
2. To prevent the visual and physical degradation of public places by private "housekeeping" in public.
3. To preclude competition with local businesses and State campgrounds.
4. To preserve day use parking.

9608. (a) A proponent of an initiative measure shall execute and submit, along with the request for a title and summary for the proposed measure, a signed statement that reads as follows:

I, Jim Curnutt, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent)

Dated this 14 day of June, 2021

I, Carole Truesdale, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent)

Dated this 14 day of June, 2021

I, Betty Winholtz, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent)

Dated this 14 day of June, 2021



CITY OF MORRO BAY

CITY HALL

595 Harbor Street
Morro Bay, CA 93442

VIA EMAIL & FIRST CLASS MAIL

June 29, 2021

Betty Winholtz
Carole Truesdale
Jim Curnutt
405 Acacia Street
Morro Bay, CA 93442

Subject: Ballot Title and Summary for Proposed Initiative Measure

Dear Betty, Carole & Jim,

The City Attorney has prepared the following title and summary pursuant to State law, including Election Code section 9203, for the proposed measure submitted to my office:

BALLOT TITLE

AN INITIATIVE MEASURE TO PROHIBIT TENT CAMPING AND ALL CLASSES OF RECREATIONAL VEHICLE CAMPING (DRY OR OTHERWISE) IN CERTAIN SPECIFIED AREAS OF THE CITY OF MORRO BAY

SUMMARY

The citizen ballot measure proposes the prohibition of tent camping and all classes of recreational vehicle camping (dry or otherwise) in certain specified areas within the City of Morro Bay.

Tent camping, and all classes of recreational vehicle camping (dry or otherwise), would be prohibited (subject to exception below) in the City of Morro Bay: along Embarcadero Road, including Tidelands Park; and, along Coleman Drive, up to and including Morro Rock parking lots.

The prohibition shall not affect any current private business.

The prohibition is proposed as an addition to Morro Bay Municipal Code ("MBMC") Chapter 8.24 (Camping) through adding new subsection (D) to MBMC section 8.24.010 (Prohibited at certain times and in certain places.).

As proponents of the initiative measure, I encourage you to carefully review California Elections Code Chapter 3, Article 1, to educate yourselves with the legal requirements of circulating an initiative measure. **This letter is being provided consistent with the requirements of State law and is not intended to provide legal advice. I strongly encourage you to seek legal counsel as needed.**

Elections Code section 9203(b) provides:

“The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measures shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 11 point, the ballot title prepared by the city attorney. The text of the measure shall be printed in type not smaller than 8 point. The heading of the proposed measure shall be in a boldface type in substantially the following form:

INITIATIVE MEASURE TO BE DIRECTLY SUBMITTED TO THE VOTERS

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)”

Elections Code section 9205 provides:

“A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Chapter 1 (commencing with Section 6000) of Division 7 of Title 1 of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

This section does not require the publication or posting of the text of the proposed measure.”

Elections Code section 9206 provides:

“Within 10 days after the date of publication or posting, or both, of the notice of intention and title and summary, the proponents shall file a copy of the notice and title and summary as published or posted together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

If the notice and title and summary are both published and posted pursuant to subdivision (b) of Section 9205, the proponents shall file affidavits as required by this section made by a representative of the newspaper in which the notice was published certifying to the fact that the notice was published and by a voter of the city certifying to the fact that the notice was posted.

These affidavits, together with a copy of the notice of intention and title and summary, shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours as posted.”

Elections Code section 9207 provides:

“The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication or posting, or both, as required by Section 9205, of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.”

If you have any questions, please feel free to contact me.

Sincerely,



Dana Swanson
City Clerk/Human Resources Manager

Enc. Notice of Intent to Circulate Petition

JUN 14 2021

City Clerk

June 14, 2021

Dana Swanson
City Clerk
City of Morro Bay
595 Harbor Avenue
Morro Bay, CA 93442

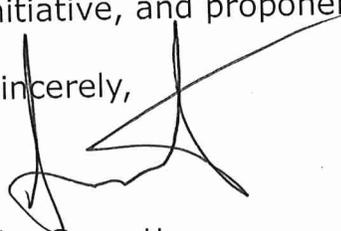
Dear Ms. Swanson:

As the elections official for the City of Morro Bay, this is to notify you that we find it necessary to modify the text of the initiative we submitted on May 12, 2021. Also, a section number has been added as previously suggested by you. Consequently, we withdraw our previously submitted initiative.

As the elections official for the City of Morro Bay, we request a ballot title and summary be prepared for the attached initiative. By way of information, the Notice of Intent to Circulate Petition and the Written Statement setting forth the reasons for the proposed petition remain the same.

The address you may use to furnish us a copy of the ballot title and summary prepared by the City attorney is 405 Acacia, Morro Bay, CA 93442. Please inform us if you need another \$200 for filing. We will deliver original cover letter, the initiative, and proponents declaration.

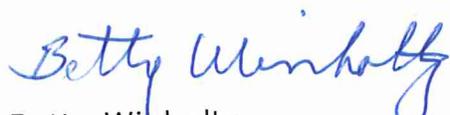
Sincerely,



Jim Curnutt
2056 Bayview Avenue



Carole Truesdale
331 Kodiak Street



Betty Winholtz
405 Acacia Street

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Morro Bay, CA for the purpose of defining unsuitable camp sites. A statement of the reasons for the proposed action as contemplated in the petition is as follows:

1. To protect the natural beauty, sensitivity, and intrinsic value of the named areas.
2. To prevent the visual and physical degradation of public places by private housekeeping.
3. To preclude competition with local businesses and State campgrounds.
4. To preserve day use parking.

Proponents: Jim Curnutt, Carole Truesdale, Betty Winholtz

Written text of the initiative:

The people of the City of Morro Bay do ordain as follows: An addition to the Morro Bay Municipal Code, Chapter 8.24 – Camping, Section 8.24.010 - Prohibited at certain times and in certain places. D. Tent camping and all classes of recreational vehicle camping, dry or otherwise, are prohibited along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots. This shall not affect any current private business.

Written Statement setting forth the reasons for the proposed petition:

February, 2021, the Morro Bay City Council considered several Harbor Front public spaces be available for camping for a fee. The community overwhelmingly rejected the proposal as expressed in written and oral Public Comment. Regardless, the City Council approved some of the sites on an interim basis and stated they would seek CA Coastal Commission approval for permanent camping. The Public's concerns fall into four categories:

1. To protect the natural beauty, sensitivity, and intrinsic value of the named public areas.
2. To prevent the visual and physical degradation of public places by private "housekeeping" in public.
3. To preclude competition with local businesses and State campgrounds.
4. To preserve day use parking.

9608. (a) A proponent of an initiative measure shall execute and submit, along with the request for a title and summary for the proposed measure, a signed statement that reads as follows:

I, Jim Curnutt, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent) _____

Dated this 14 day of June, 2021

I, Carole Truesdale, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent) _____

Dated this 14 day of June, 2021

I, Betty Winholtz, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent) _____

Dated this 14 day of June, 2021



CITY OF MORRO BAY

CITY HALL

595 Harbor Street
Morro Bay, CA 93442

January 28, 2022

I, Dana Swanson, City Clerk of the City of Morro Bay, County of San Luis Obispo, State of California, hereby certify:

That the petition entitled "An Initiative Measure to prohibit tent camping and all classes of recreational vehicle camping (dry or otherwise) in certain specified areas of the City of Morro Bay" was filed with the City Clerk's office on December 29, 2021;

That said petition consists of 214 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of Morro Bay, California;

That said petition, at the time it was filed, included affidavits purporting to be affidavits of the persons who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her own information and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

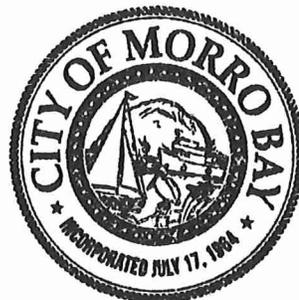
That after proponents filed this petition, based on the County of San Luis Obispo Registrar of Voters' Signature Verification Certificate, and in compliance with the California Elections Code, I have determined the following facts regarding this petition:

1. Total number of signatures filed by proponent raw count: 1,027
2. Total number of signatures verified as sufficient: 869
3. Number of signatures found insufficient (non-duplicate): 120
4. Number of signatures found insufficient because of duplication: 38
5. Total number of signatures required to qualify (10% of 8,196 registered voters): 820

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Morro Bay this 28th day of January 2022.

Dana Swanson, City Clerk
City of Morro Bay



ORDINANCE NO. 648

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
ADDING SUBSECTION (D) TO SECTION 8.24.010
(PROHIBITED AT CERTAIN TIMES AND IN CERTAIN PLACES)
OF CHAPTER 8.24 (CAMPING) OF TITLE 8 (HEALTH AND
SAFETY) OF THE MORRO BAY MUNICIPAL CODE**

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

WHEREAS, on December 29, 2021, an initiative petition entitled “An Initiative Measure to Prohibit Tent Camping and All Classes of Recreational Vehicle Camping (dry or otherwise) in Certain Specified Areas of the City of Morro Bay” (initiative petition) was presented to the City Clerk for filing; and

WHEREAS, the initiative petition provides that: “Tent camping and all classes of recreational vehicle camping, dry or otherwise, are prohibited along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots. This shall not affect any current private business”; and

WHEREAS, Elections Code section 9215 provides in part that an initiative petition qualifies if it “is signed by not less than 10 percent of the voters of the city,” and as of the February 10, 2021, voter registration report to the Secretary of State, there were 8,196 registered voters in the City of Morro Bay; and

WHEREAS, pursuant to Elections Code section 9210, the initiative petition was examined by the City Clerk and it was determined the number of signatures prima facie, was in excess of 10% (820) of the registered voters of the City, and the petition was accepted for filing; and

WHEREAS, The City Clerk’s office coordinated with the County Registrar of Voters to examine signatures and, in accordance with Election Code sections 9114-9115, the initiative petition was determined to contain 869 valid signatures and deemed sufficient on January 28, 2022; and

WHEREAS, Elections Code section 9215 provides in part that when a city council is presented with a qualified petition, the Council shall do one of the following: (a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented; or, (b) Submit the ordinance, without alteration, to the voters pursuant to Election Code section 1405; or, (c) Order a report pursuant to Election Code section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to option (b) above; and

WHEREAS, consistent with the law requires the City Council to choose one of the options provided by Election Code section 9215, the City Council decided to “adopt the

ordinance, without alteration” rather than either submit the ordinance, without alteration, to the voters, or order a report pursuant to Election Code section 9212; and

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. A new subsection (D) is added, to Section 8.24.010 (Prohibited at certain times and in certain places) of Chapter 8.24 (Camping) of Title 8 (Health and Safety) of the Morro Bay Municipal Code, to read as follows:

“D. Tent camping and all classes of recreational vehicle camping, dry or otherwise, are prohibited along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots. This shall not affect any current private business.”

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its passage.

SECTION 4. 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.

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SECTION 5. AMENDMENT OR REPEAL ONLY BY VOTERS. As provided for by California Elections Code section 9217, "No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance."

INTRODUCED at a regular meeting of the City Council held on the ____ day of _____ 2022, by motion of _____ and seconded by _____.

PASSED AND ADOPTED on the ____ day of _____ 2022, by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

CHRIS F. NEUMEYER, City Attorney

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

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number _____ 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

RESOLUTION NO. 14-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION
TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, FOR THE SUBMISSION OF ORDINANCE
NO 648 TO THE QUALIFIED VOTERS OF THE CITY AS A PROPOSED MEASURE; AND,
REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO
CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE
HELD IN THE COUNTY ON TUESDAY, NOVEMBER 8, 2022 PURSUANT TO SECTION
10403 OF THE ELECTION CODE; AND, OTHER ELECTION MATTERS AS REQUIRED BY
LAW**

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

WHEREAS, the City Council of the City of Morro Bay, under the provisions of the laws related to general law cities in the State of California, has called for the holding of a General Municipal Election to be held on November 8, 2022 to consider a ballot measure concerning Ordinance No. 648, and further desires that this election be consolidated with the Statewide General Election to be held on the same date; and

WHEREAS, pursuant to authority provided by the California Constitution and the State Elections Code, on December 29, 2021, an initiative petition was presented for filing entitled, "An Initiative Measure to Prohibit Tent Camping and All Classes of Recreational Vehicle Camping (dry or otherwise) in Certain Specified Areas of the City of Morro Bay"; and

WHEREAS, Election Code Section 9215 provides in part that an initiative petition qualifies if it "is signed by not less than 10 percent of the voters of the city,"; and

WHEREAS, in accordance with Election Code Section 9210, it was determined that the County Clerk's last official report of City of Morro Bay voter registration to the Secretary of State was 8,196 registered voters and that 10% of said registration would require 820 valid signatures to qualify the initiative petition; and

WHEREAS, on December 29, 2021, pursuant to the provisions of Election Code section 9210, the initiative petition was examined by the City's Elections Official and it was determined the number of signatures, prima facie, was in excess of the number of signatures required, and the City's Elections Official accepted the petition for filing; and

WHEREAS, based on the County of San Luis Obispo Registrar of Voters' Signature Verification Certificate and, in accordance with Election Code Sections 9114 – 9115, the initiative petition was determined to contain 869 valid signatures and deemed to be sufficient on January 28, 2022; and

WHEREAS, in accordance with Election Code Section 9215, the Elections Official certified the results of the examination to the City Council at the next regular meeting held on February 8, 2022; and

WHEREAS, Election Code Section 9215 provides in part that when a city council is presented with a qualified initiative petition, the City Council “shall do one of the following: (a) Adopt the ordinance, without alteration, at the regular meeting at which the certification was presented. (b) Submit the ordinance, without alteration, to the voters pursuant to Section 1405. (c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented.”;

WHEREAS, because the City Council has not voted in favor of the adoption of the ordinance, the City Council is authorized and directed by statute to submit the ordinance to the voters; and

WHEREAS, the City Council desires to have the voters consider this measure at the next statewide general election to be held on November 8, 2022; and

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

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

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, including California Elections Code Sections 306, 9222 and 1301, there is called and ordered to be held in the City of Morro Bay, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of submitting to the voters of the City of Morro Bay a ballot measure. Pursuant to Elections Code Section 9222, it is the intent of the City Council the measure be submitted to the voters of Morro Bay at the aforementioned General Election. The full text of the measure is attached hereto and marked as Exhibit A. The San Luis Obispo County Registrar of Voters is requested to print the Full Text of the Measure contained on Exhibit A in the sample ballot pamphlet. As required by Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is specified below in Section 2. The City Clerk is hereby authorized and directed to make any changes to the text of the proposition or this resolution as required to conform to any requirements of the San Luis Obispo County Registrar of Voters.

SECTION 2. That the City Council hereby orders the following measure be submitted to the voters at the aforementioned General Election:

Shall the measure, to prohibit tent camping and all classes of recreational vehicle camping, dry or otherwise, along Embarcadero Road, including Tidelands Park, and along Coleman Drive, up to and including Morro Rock parking lots, not to affect any current private business, be adopted?	YES
	NO

SECTION 3. That the text of Ordinance No. 648 to be submitted to the voters as a proposed measure is attached as Exhibit “A” to this resolution.

SECTION 4. That the ordinance shall not take effect unless and until the ordinance receives the approval of a majority of the votes cast by the qualified voters of the City voting upon the ballot measure on the proposed ordinance at the November 8, 2022 General Municipal Election.

SECTION 5. That the vote requirement for the ballot measure to pass is a majority (50% + 1) of the votes cast.

SECTION 6. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 7. That the City Clerk is authorized, instructed and directed to coordinate with the County of San Luis Obispo Clerk-Recorder to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 9. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding a General Municipal Election consolidated with a Statewide General Election.

SECTION 10. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 11. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Luis Obispo is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of submitting to the voters a ballot measure concerning City of Morro Bay Ordinance No. 648.

SECTION 12. That the County Election Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 13. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 14. That the City of Morro Bay recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs incurred by reason of this consolidation.

SECTION 15. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Department of the County of San Luis Obispo.

SECTION 16. That the City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 17. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

SECTION 18. That this Resolution is effective on the day of its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the ____ day of February 2022 following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

RESOLUTION NUMBER 15-22

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) AND
DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL
ANALYSIS, REGARDING THE SUBMISSION OF ORDINANCE NO 648
TO THE QUALIFIED VOTERS OF THE CITY AS A PROPOSED
MEASURE**

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

WHEREAS, a General Municipal Election is to be held in the City of Morro Bay, California, on November 8, 2022, at which there will be submitted to the voters a ballot measure to consider adopting Ordinance No 648 prohibiting tent camping and all classes of recreational vehicle camping (dry or otherwise) in certain specified areas of the City of Morro Bay.

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

Section 1. That pursuant to Elections Code § 9282, for measures placed on the ballot by petition, the persons filing the initiative petition may file a written argument in favor of the ordinance.

Section 2. That pursuant to Elections Code § 9282, for measures placed on the ballot by petition, the City Council may submit an argument against the proposed ordinance, and the City Council hereby authorizes the following Councilmember(s) to prepare a written argument against the foregoing measure:

1. Council Member
2. Council Member

Section 3. That in the event that more than one argument for or against the foregoing measure is timely submitted, then consistent with Elections Code § 9282, the City's elections official shall give preference and priority first, to arguments submitted by member(s) of the City Council, and second, to individual voters, or bona fide associations of citizens, or a combination thereof, in the order set forth at California Elections Code § 9287.

Section 4. That in accordance with the requirements of Division 9, Chapter 3, Article 4 of the California Elections Code, all written arguments for or against the foregoing measure: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the City's elections official; (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. **All written arguments may be changed or withdrawn until and including the date fixed by the City's**

elections official, being the close of business on Tuesday, July 22, 2022, after which time no arguments for or against the foregoing measure may be submitted to the elections official.

Section 5. That the City Council hereby directs the City's elections official to transmit a copy of the foregoing measure to the City Attorney. In accordance with California Elections Code § 9280, the City Attorney is hereby directed to prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure _____ (letter to be determined by the County Clerk Recorder). If you desire a copy of the ordinance or measure, please call the elections official's office at (805) 772-6205 and a copy will be mailed at no cost to you." The impartial analysis shall be filed by the date set by the City's elections official for the filing of primary arguments.

Section 6. That the City's elections official shall cause the City Attorney's Impartial Analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding same.

Section 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting held on the _____ day of February 2022.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

JOHN HEADDING, Mayor

DANA SWANSON, City Clerk

RESOLUTION NUMBER 16-22

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING
THE SUBMISSION OF ORDINANCE NO 648 TO THE QUALIFIED VOTERS OF
THE CITY AS A PROPOSED MEASURE**

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

WHEREAS, a General Municipal Election is to be held in the City of Morro Bay, California, on November 8, 2022, at which there will be submitted to the voters a ballot measure to consider adopting Ordinance No 648 entitled, "An Initiative Measure to Prohibit Tent Camping and All Classes of Recreational Vehicle Camping (dry or otherwise) in Certain Specified Areas of the City of Morro Bay"; and

WHEREAS, California Elections Code § 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments regarding city measures submitted at municipal election;

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

Section 1. That pursuant to Elections Code § 9285, when the City's elections official has selected the arguments for and against the foregoing measure which will be printed and distributed to the voters, the City's elections official shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The author or a majority of the authors of an argument relating to the foregoing city measure may prepare and submit a rebuttal argument not to exceed two hundred and fifty (250) words in length. A rebuttal argument may not be signed by more than five (5) authors. The rebuttal arguments shall be filed with the City Clerk not more than ten (10) days after the final date for filing direct arguments. The final date for filing direct arguments is July 22, 2022, and as **such rebuttal arguments shall be filed with the City Clerk no later than the close of business on August 2, 2022.** The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Section 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

Section 3. That the provisions of Section 1 of this Resolution shall apply only to the General Municipal Election to be held on November 8, 2022, and shall then be repealed.

Section 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting held on the _____ day of February 2022.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

JOHN HEADDING, Mayor

DANA SWANSON, City Clerk

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AGENDA NO: C-2

MEETING DATE: February 8, 2022

Staff Report

TO: Honorable Mayor & City Council

DATE: February 1, 2022

FROM: Eric Endersby, Harbor Director

SUBJECT: Authorization for Attendance at the C-MANC Annual Washington D.C. "Washington Week" Meetings, and Discussion of the Washington Week Agenda

RECOMMENDATION

Staff recommends the City Council authorize up to a three-person delegation consisting of the Mayor, Harbor Director and Public Works Director to attend the California Marine Affairs and Navigation conference (C-MANC) 2022 "Washington Week" meetings virtually and in Washington D.C. to represent the City's interests in the nation's capital, and to provide any desired input on the elements herein.

ALTERNATIVES

Not applicable.

FISCAL IMPACT

The total hard costs for airfare, hotel, and monetary contribution to the Golden State Reception for the in-person portion of the Washington Week meetings are estimated at \$7,000-\$8,000 for two persons, not including approximately \$2,000 in staff time in preparatory meeting attendance, grant preparation, and travel/meeting logistics. Staff expenses for the Mayor and Harbor Director will be assumed by the Harbor Fund. 2020's actual costs for the two-person C-MANC delegation, including the Golden State Reception contribution, were approximately \$7,800. Due to the COVID-19 pandemic, 2021's meetings were all virtual.

The Harbor Department will again be applying for a grant for up to \$8,000 from the Central Coast Joint Cable Fisheries Liaison Committee which, if granted, will be used for reimbursement of actual travel, attendance and associated costs of attendance for the two-person C-MANC delegation. The City was successful in obtaining the Cable Committee Grants for many years, and staff is confident this year will be no different. If we are not successful in obtaining the grant, however, staff will come back to Council for a budget adjustment and/or change in itinerary, as those funds are not currently budgeted. If the Public Works Director attends the DC trip, his travel and accommodation costs will be absorbed into the FY 2022-23 Public Works Budget. His attendance will be based upon schedule availability.

BACKGROUND

C-MANC annually hosts Washington Week meetings, where representatives of California Ports and

Prepared By: EE

Dept Review: EE

City Manager Review: SC

City Attorney Review: CFN

Harbors have the opportunity to remind Congress and various other agencies of the importance of dredging projects, commercial fishing, ocean and coastal management and other coastal-related issues in California.

The City is a founding member of C-MANC, and for over 25 years, the City has sent representatives to the Washington Week meetings. Attachment 1 to this report is last year's C-MANC Washington Week virtual agenda.

From an Army Corps of Engineers (Corps) priority standpoint, Morro Bay is considered a small or "subsistence" harbor. In terms of commerce, although we do generate approximately \$8 Million in ex-vessel value out of approximately 3.5 million pounds in commercial fishing landings per year, we are quite low on the totem pole compared to powerhouses like Los Angeles/Long Beach and Oakland. Because of our relative isolation, however, "harbor of safe refuge" status, United States Coast Guard presence and periodically dangerous harbor entrance, Morro Bay's rank in priority for funding is elevated above a "subsistence" harbor, and we have been successful in having our dredging needs met.

The City could not afford to dredge our harbor without the Corps, as annually the Corps spends \$2.5-\$3 Million to dredge our entrance, and \$7-\$8 Million every 6-8 years to dredge the remainder of our inner channels. Continued dredging of ours and others' Federally-authorized harbor entrance and channels remains a top priority of C-MANC, and our work with the Corps and our Washington D.C. visits remain a vital component to secure the necessary funding that will ensure our harbor remains not only safe for passage, but fully navigable from a commerce and operational standpoint.

In addition to the dredging funding, advocacy for our commercial fishing industry and its many facets remain a very high priority during Washington Week, and in recent years visits with the Bureau of Ocean Energy Management (BOEM) regarding the proposed offshore wind energy power generation projects on the Central Coast have been on the agenda. In previous years, the City team also met with the U.S. Environmental Protection Agency (EPA) and other agencies to discuss the Water Reclamation Facility. City staff recommend sending the Public Works Director to discuss funding opportunities for the WRF and other capital project needs.

DISCUSSION

Plans for this year's Washington Week meetings are a hybrid of virtual and in-person. One day of virtual meetings is tentatively planned for the week of February 21st with appropriations and authorizing committee staff members and Members of Congress and their staff concerning the FY2023 appropriations and CMANC's recommendations. Later in the year (April/May), in-person meetings in D.C. with Executive Branch staff, such as Executive Office of the President, Departments of Commerce, Defense, and Transportation are tentatively planned in Washington. The in-person Washington meetings are still quite tentative pending the reopening of the Capitol for in-person meetings.

Whether in-person or virtually, it is vitally important for the City to maintain its relationships at all levels of the Corps' organization and with our legislators in Washington D.C. Our membership and involvement with C-MANC is one key to our and other California ports and harbors' voices being heard and needs being met.

Although this year will be different with a hybrid of virtual and in-person meetings, the C-MANC organized meetings will still occur with members attending online *en-masse*, and separate from that our Morro Bay delegation will set-up private Morro Bay-only meetings with key legislators and others, including the Corps, to discuss specific Morro Bay and Central Coast regional issues. Attachment 2

to this report is Morro Bay's private virtual meetings agenda from 2021. Our legislative advocate in D.C., Julie Minerva with Carpi and Clay, is currently working on our draft D.C. agenda for this year.

Primary topics this year, for which we will be writing "leave-behind" white papers for our Congressional delegation and others, will include:

- **Dredging.** This federal fiscal year (FY22) the Corps is funded for \$2.8 Million to dredge Morro Bay's harbor entrance with the Corps dredge ship *Yaquina*. Although the new President's draft FY23 federal budget is due to be released later this month, \$2.8 to \$3.0 Million is being requested for Morro Bay entrance dredging. For the remainder of the channels in the harbor, it is not anticipated that dredging will be required until approximately 2024-2025. We must, however, stay attentive to our harbor's crucial and on-going needs and continue to press for adequate funding.
- **Chumash Heritage National Marine Sanctuary (CHNMS).** With the current administration on track to designate and establish the proposed CHNMS through a public process over the next ~18-24 months, it is vitally important that the City is at the National Oceanic and Atmospheric Administration (NOAA) table throughout the process to ensure the City's concerns are heard and needs met. In December 2021 the City Council adopted its position on the establishment of the CHNMS, and in January its first set of comments to NOAA on the proposed sanctuary were submitted.
- **Fisheries.** Of significant concern this year is how the proposed CHNMS will treat and potentially affect commercial and recreational fisheries and fishers. The City's initial comments regarding fisheries and the sanctuary were provided to NOAA in January.

Also of concern to the commercial fishing industry is how the proposed offshore wind (OSW) power generation farms will affect fisheries and fishers. While the City is supportive of OSW, it is equally concerned how it will affect the fishing industries, and that proper and adequate mitigations be employed.

- **Bureau of Ocean Energy Management (BOEM) and Department of the Interior.** As BOEM continues to pursue the Federal leasing and permitting process for floating offshore wind electrical production off our coast, with lease area auctions likely to occur in the second half of 2022, we will be staying closely engaged with Congressman Carbajal and other legislators, departments and agencies in order to convey not only Morro Bay's support of OSW, but also our concerns with the effects on communities, fisheries and the leasing process itself.
- **United States Coast Guard (USCG).** With the importance of the continued presence and operational effectiveness of Coast Guard Station Morro Bay, we will continue to convey support for the USCG's station and mission in Morro Bay. Because their new building expansion project was recently completed, two new female Coast Guard personnel were recently stationed in Morro Bay.

In addition, Congressman Carbajal continues his Chairmanship of the Coast Guard and Maritime Transportation Subcommittee of the House Committee on Transportation and Infrastructure, and Vice-Chairmanship of the Strategic Forces Subcommittee of the House Committee on Armed Services.

- **National Estuary Program.** With the importance of our bay’s ecological and environmental health and the great work the Morro Bay National Estuary Program and the Bay Foundation do to support and enhance those things, support for continued federal funding of our nation’s National Estuary Programs is always a priority.
- **Legislators.** Each year we meet personally with our Congressional delegation and/or their key staffers, in addition to forging relationships with other key Congresspeople. Those meetings typically are both of a general nature and to focus on specific projects, issues and recent news and happenings of a noteworthy nature. Those personal meetings are important and do make a difference in matters and funding important to Morro Bay. These meetings will also provide an opportunity to discuss other capital project needs and funding opportunities.

CONCLUSION

It is important for the City, as well as for the California C-MANC delegation, to maintain its many relationships in Washington D.C. which promote the interests of Morro Bay, and in addition it is important to bring a unified voice to our Capitol on the importance of all of California’s ports and harbors as an integrated “system” to the national economy and security. As evidenced by continued annual Corps dredging as well as past year Corps funding “plus-ups,” Morro Bay’s concerns and voice – especially when there is an opportunity to be heard in our Capitol - do matter and do make a difference in legislation, funding and other issues important to our community.

ATTACHMENTS

1. 2021 C-MANC Washington D.C. virtual agenda
2. 2021 City of Morro Bay Washington D.C. private virtual meetings agenda



CMANC Virtual Fly-In Agenda

February 25 & 26, 2021

DAY 1 CAPITOL HILL: Thursday, February 25th

TIME	TEAM DREDGE (WebEx Info to Follow)	TEAM CALIFORNIA (WebEx Info to Follow)
8:00 AM PST/ 11:00 AM EST	Day 1 Welcome & Capitol Hill Meetings Pre-Brief (Use TEAM DREDGE WebEx Info)	
8:30 AM PST/ 11:30 AM EST	House Energy & Water Appropriations Subcommittee professional staff: Mike Brain (majority) and Angie Giancarlo (minority) TOPIC: FY22 Corps navigation appropriations	Office of Management & Budget: Kelly Colyar, Branch Chief and Maria Kim, Program Examiner, Water & Power TOPIC: FY22 Corps navigation appropriations NOTE: Audio only meeting and limited to 22 CMANC participants
9:00 AM PST/ 12:00 PM EST	Senate Energy & Water Appropriations Subcommittee: Jen Armstrong, professional staff TOPIC: FY22 Corps navigation appropriations	Senate Subcommittee on Sciences, Oceans, Fisheries, and Weather: Eric Vryheid, US Coast Guard Fellow (majority) TOPIC: Ocean Climate Legislation, Magnuson-Stevens reauthorization
9:30 AM PST/ 12:30 PM EST	TBD	TBD
10:00 AM PST/ 1:00 PM EST	TBD	TBD
10:30 AM PST/ 1:30 PM EST	30 MINUTE BREAK	30 MINUTE BREAK

<p>11:00 AM PST/ 2:00 PM EST</p>	<p>Office of Rep. Napolitano, Chair of the House Transportation & Infrastructure Water Resources & Environment Subcommittee (D-CA-32), Joe Sheehy, Legislative Director TOPICS: WRDA 2020 thank you, FY22 Corps navigation appropriations</p>	<p>House Natural Resources Water, Oceans & Wildlife Subcommittee: Rachel Gentile, Professional Staff (majority) TOPIC: Ocean Climate Legislation (HR 8632 Titles 8/14), Magnuson-Stevens</p>
<p>11:30 AM PST/ 2:30 PM EST</p>	<p>Office of Senator Feinstein (D-CA), Alexis Segal, Legislative Assistant TOPIC: FY22 Corps navigation appropriations</p>	<p>Office of Rep. Valadao (R-CA-21), Kellie Hartl, Legislative Assistant TOPIC: CMANC 101</p>
<p>12:00 PM PST/ 3:00 PM EST</p>	<p>30 MINUTE BREAK</p>	<p>Office of Rep. Issa (R-CA-50), Jennifer Haynes, Legislative Director TOPIC: CMANC 101</p>
<p>12:30 PM PST/ 3:30 PM EST</p>	<p>Office of Senator Padilla (D-CA), Josh Esquivel Legislative Director TOPIC: FY22 Corps navigation appropriations</p>	<p>30 MINUTE BREAK</p>
<p>1:00 PM PST/ 4:00 PM EST</p>		<p>Rep. Kim (R-CA-39) TOPIC: CMANC 101</p>
<p>1:30 PM PST/ 4:30 PM EST</p>		<p>Rep. Jacobs (D-CA-53) TOPIC: CMANC 101</p>
<p>2:00 PM PST/ 5:00 PM EST</p>	<p>Office of Speaker Pelosi (D-CA-12), Robert Edmonson, Chief of Staff TOPICS: FY22 Corps navigation appropriations & Special District inclusion for COVID relief</p>	<p>Rep. Huffman (D-CA-2) TOPIC: Ocean Climate Legislation, Magnuson-Stevens Reauthorization</p>
<p>2:30 PM PST/ 5:30 PM EST</p>	<p>ALL MEMBER De-Brief & Action Item Read-Out (Use TEAM DREDGE WebEx Info)</p>	

DAY 2 AGENCIES: Friday, February 26th

TIME	<p align="center">ALL CMANC PARTICIPANTS (WebEx Info to Follow)</p>
<p>7:30 AM PST/ 10:30 AM EST</p>	<p align="center">Day 2 Agency Meetings Pre-Brief</p>
<p>8:00 AM PST/ 11 AM EST until 10:00 AM PST/ 1:00 PM EST</p>	<p>US Army Corps of Engineers Headquarters invited: General Graham, Al Lee, Tom Smith, Stacey Brown, Eric Bush, Tiffany Burrows, SPD RIT</p> <p>Agenda (PST)</p> <ul style="list-style-type: none"> ▪ 8:00-8:15 – Introductions and Opening Remarks ▪ 8:15-8:45 – Port “Around the Horn” ▪ 8:45-9:15 – Navigation Update – HQUACE Navigation Operations ▪ 9:15-9:30 – The Budget Development Process – How the Corps Budget is developed from District to OMB. How a Work Plan is developed. – HQUACE PID ▪ 9:30-9:45 – WRDA – Implementation Guidance development – HQ Planning ▪ 9:45-10:00 – Questions and Answers, wrap up <p>NOTE: Two hour meeting</p>
<p>10:00 AM PST/ 1:00 PM EST</p>	<p align="center">30 MINUTE BREAK</p>
<p>10:30 AM PST/ 1:30 PM EST until 11:30 AM PST/ 2:30 PM EST</p>	<p>White House Council on Environmental Quality Sara Gonzalez-Rothi, Senior Director for Water TOPICS: Oceans Policy, 30x30 rule</p> <p>NOTE: One hour meeting</p>
<p>11:30 AM PST/ 2:30 PM EST</p>	<p align="center">ONE HOUR BREAK</p>
<p>12:30 PM PST/ 3:30 PM EST</p>	<p>Bureau of Ocean Energy Management (BOEM) Regional Office Jean Thurston-Keller, Renewable Energy Specialist & California Task Force Coordinator TOPICS: Wind energy policy considerations</p>
<p>1:00 PM PST/ 4:00 PM EST to 2:00 PM PST/ 5:00 PM EST</p>	<p align="center">De-Brief & Action Item Read-Out</p>



**CITY OF MORRO BAY
WASHINGTON AGENDA
MARCH 17, 2021**

9:00-9:30 am PST/

12:00-12:30 pm EST Pre-Briefing with Julie Minerva

WebEx:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

10:00 am PST/

1:00 pm EST

**Brad Schwichtenberg, Civil Deputy SPD RIT
Julia Harvey, Assistant Director Civil Works at HQ
U.S. Army Corps of Engineers**

WebEx:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

POC:

bradd.r.schwichtenberg@usace.army.mil, julia.a.harvey@usace.army.mil

10:30 am PST/

1:30 pm EST

Representative Salud Carbajal (CA-24)

WebEx:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

POC: Erin Sandlin, Scheduler

[\(202\) 225-3601](tel:2022253601) erin.sandlin@mail.house.gov

12:45 pm PST/

3:45 pm EST

**Angela Ebiner, Policy Advisor
Office of Senator Alex Padilla (CA)**

WebEx:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

POC: [REDACTED] angela_ebner@padilla.senate.gov

Meetings in Progress

TBD

Alexis Segal, Legislative Assistant
Kacie Rettig, Legislative Correspondent
Office of Senator Dianne Feinstein (CA)

WebEx:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

POC: [REDACTED], alexis_segal@feinstein.senate.gov,
kacie_rettig@feinstein.senate.gov

WEBEX OUTLOOK INFORMATION

Join from the Meeting Link:

<https://carpiclayinc.my.webex.com/carpiclayinc.my/j.php?MTID=m6ea45ae512bcaca1c4635da35ed9ec60>

Join by Meeting Number:

Meeting number (access code): 182 705 1252

Meeting password: ekH24XiJp4 (35424945 from phones and video systems)

Tap to join from a mobile device (attendees only):

+1-415-655-0001,,1827051252#35424945# US Toll

Some mobile devices may ask attendees to enter a numeric password.

Join by Phone:

+1-415-655-0001 US Toll

Global call-in numbers

Join by Video System:

Dial 1827051252@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

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AGENDA NO: C-3

MEETING DATE: February 8, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: February 3, 2022

FROM: Scott Collins, City Manager

SUBJECT: City Council Goals and Action Items Update

RECOMMENDATION

Staff recommends the City Council receive an update from staff on the City’s progress on City goals and related short-term action items and provide direction as appropriate.

ALTERNATIVES

None.

FISCAL IMPACT

There is no fiscal impact related to the recommendation. However, many of the action items have associated fiscal impacts, some of which will result in costs to the City when implemented and others which will bring revenue enhancements to the City if implemented. These items will be discussed on an individual basis with Council as they progress forward over the next year or so.

BACKGROUND

Following two goal forums and after consideration of community input received through a survey and the City’s various advisory commission and boards and relevant business boards, City Council adopted City goals and short-term action items to carry through 2022 and into the early part of 2023 at their November 10, 2021, Special Meeting.

The Council approved five major goal areas and goal statements for each of the goals, and further approved 35 short-term action items to help achieve those goals. Council also re-emphasized the City’s Purpose Statement (see below) on November 10, 2021. Finally, Council requested that staff provide quarterly updates to Council and the community on progress toward completed the short-term action items.

DISCUSSION

City Purpose and Related Citywide Efforts

As a reminder, the City’s Purpose Statement (or mission) is as follows:

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 entire City organization, from Police, Fire, and Harbor to Public Works, Community Development,

Prepared By: SC

Dept Review: _____

City Manager Review: SC

City Attorney Review: CFN

and Recreation, from the City Attorney and City Manager's Office to Finance, Information Technology, and Human Resources is dedicated to that purpose in all things we do. The City Council goals that are discussed below are also aimed at achieving the City's purpose but are more narrowly and strategically focused. It is common for cities to develop goals that are future oriented as is the case for Morro Bay. The City is able to focus on the future because it has been able to provide those core services to the community consistently, and the community has supported these services through fees and increases in City taxes.

It should be noted that many of the City's core services do not fall under the proposed Council goals, and staff is working to develop a clearer way to communicate key elements of broader City work plans and associated objectives that go beyond the five Council goals. The intent is to capture and communicate all of the important day-to-day City functions that our community depends upon. Staff will bring forward those objectives and work plan summaries through the Fiscal Year (FY) 2022-23 Budget process. Further, staff is currently analyzing our capacity to deliver core services, and that analysis will be brought forward as part of the FY 2021-22 mid-year Budget review and the FY 2022-23 Budget process.

Approved City Council Goals

City Council developed consensus at the September 29, 2021 Workshop to pursue the following goals for the next 2 to 4 years:

- 1) Improve Public Infrastructure
- 2) Achieve Fiscal Sustainability and Economic Vitality
- 3) Address Housing Needs
- 4) Climate Action
- 5) Improve Community Health

Proposed City Goals' Statements

The approved goal statements help define the goals and focus City actions and initiatives. Below are the statements for each of the goals:

Improve Public Infrastructure

- 1) Address cleanliness (while maintaining sensitivity to wildlife) and safety issues in heavy tourism areas and business corridors
- 2) Conduct a capital needs assessment
- 3) Address traffic circulation in Embarcadero

Achieve Fiscal Sustainability and Economic Vitality

- 4) Create a 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)
- 6) Support expedient catalyst site development

Address Housing Needs

- 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
- 9) Continue the Community Development Department's efforts to expedite the development review process

Climate Action

- 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
- 12) Consider opportunities to reduce reliance on carbon producing energy sources

Improve Community Health

- 13) Create a 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

Progress on Short-Term Action Items

Staff has begun work on several of the 35 short-term action items approved by Council. Staff will attempt to pursue all of the short-term action items over the next 12 – 14 months to achieve the City goals. The full list of approved action items can be found in the attachment to this report. Below is a review of progress that has been achieved to date on specific action items, categorized by the five goal areas. There is no progress to report at this time on the action items that are not listed below.

Improve Public Infrastructure

- *“Review options and develop optimal staffing for City maintenance efforts.”* Staff will bring forward staffing enhancements to City Council at the FY 2021-22 mid-year Budget review later in February.
- *“Initiate work on paid parking pilot program and continue work on long-term plan.”* Staff is working with Walker Consultants on the next phase of the pilot program, which includes seeking further input from the parking stakeholder group. It is expected that Council will review results of this next phase on the pilot around summer 2022.
- *“Pursue grant opportunities for the Coleman Beach area.”* City Council authorized staff to apply for California State Prop 68 grant for improvements at the Coleman Beach park area. It is unknown when grant decisions will be made.

Achieve Fiscal Sustainability and Economic Vitality

- *“Seek state lobbyist contract to assist in obtaining state funding for City projects.”* City Council approved a contract with Townsend Public Affairs to represent the City on important state matters and pursue funding for City projects.
- *“Prepare and review policy options on liabilities (pension and health care).”* City Council received a comprehensive update on the City’s pension liabilities and directed staff to seek out a 115 Trust Fund and bring back investment policy updates later this year for Council review.

Address Housing Needs

- *“Provide update to Council on new state housing legislation (such as SB 9) and general education on housing.”* Council received an update on housing legislation and a general overview of City efforts to address housing needs in Morro Bay.
- *“Develop stock Accessory Dwelling Unit (ADU) templates to provide to public for free.”* City staff is working with County partners to finalize the ADU templates.

Climate Action

- *“Elevate ‘Climate Crisis’ to ‘Climate Emergency’ by way of resolution and seek funding to*

move forward in this area.” Staff will bring forward a resolution to City Council to that effect later in February.

- *“Initiate implementation of SB 1383 (organic waste for residents and businesses).”* Staff continues to work with Integrated Waste Management Authority of SLO County in implementing SB 1383.

Improve Community Health

- *“Support SLO County Public Health communication efforts to vaccinate members of the Morro Bay community, particularly underrepresented communities.”* The City continues to supplement County communications to the public regarding COVID-19 and vaccines/boosters through the City website, social media, local media, and at City Council meetings.
- *“Inform the County process to update the 10-year plan on homelessness.”* The City Manager is representing Morro Bay on the countywide group charged with updating the long-term plan to reduce homelessness.
- *“Support Filipino-American group (FANHS) rededication event of their historic monument at Coleman Beach.”* City staff is working with FANHS on their event and to help improve the monument area.

Organizational Capacity

While staff believes we can execute on the proposed short-term action items in the next 12 – 14 months, we will continue to monitor staffing and other needs to achieve the action items and carry out the remainder of staff duties. As members of Council acknowledged in the Goals Workshop, the City has limited staffing and very ambitious goals and workplans. Adjustments may need to be made to staffing, training and equipment moving forward to ensure these goals can be achieved and workplans completed.

ATTACHMENT

1. City Goals, Goals’ Statements, Action Item Worksheet

CITY OF MORRO BAY 2022

GOALS AND SHORT TERM ACTIONS



CITY PURPOSE

In order to preserve the high quality of life in Morro Bay, the City's purpose is to provide essential public service and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play. To achieve that purpose, the City invests the vast majority of its resources in services such as public safety, public utilities, recreation services, city planning, infrastructure maintenance and improvement, and the internal financial, human resources, and technology to support these public services.

CITY GOALS, GOAL STATEMENTS, AND SHORT-TERM ACTION ITEMS

The City is able to successfully provide these core services thanks to community support and

volunteerism that resource and supplement the City's talented professional staff. As a result of this success, the City is also able to dedicate some resources to address emerging challenges and future-facing opportunities. In late 2021, the City Council adopted five (5) City goals and thirty-five (35) corresponding short-term action Items to meet emerging needs and opportunities. The City goals each have goal statements that outline what the City aims to achieve. The short-term action items are the areas of focus related to the goals that the City will work on in 2022 and into early 2023 (all listed below).

Combining the City's work on core services with future oriented goals will help ensure our community remains a great place to live, work and play for current and future generations.



PUBLIC INFRASTRUCTURE

GOAL STATEMENT: 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.

SHORT-TERM ACTIONS

- Conduct a traffic speed survey
- Initiate a capital assessment effort (Harbor, facilities, stormwater, etc.)
- Review options and develop optimal staffing for City maintenance efforts
- Continue work to implement paid parking program and continue work on long-term plan
- Pursue grant opportunities for the Coleman Beach area improvements



FISCAL SUSTAINABILITY & ECONOMIC VITALITY

GOAL STATEMENT: (1) Create plan to address the City’s unfunded liabilities while striving to achieve competitive compensation, (2) determine potential paths to secure funding for capital needs (Harbor and other needs), and (3) support expedient catalyst site development.

SHORT-TERM ACTIONS

- 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
- Assess cyber security needs
- Prepare and review policy options on liabilities (pension and health care)



HOUSING

GOAL STATEMENT: (1) Educate the Council on new and existing State legislation related to housing, (2) identify the opportunities for additional housing options and/or explore partnerships to support these efforts, and (3) continue the Community Development Department’s efforts to expedite the development review process.

SHORT-TERM ACTIONS

- 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 Density Bonus and inclusionary housing requirements
- Bring land use amendment forward for the Seashell estates property to increase density to 7 – 15 units per acre for a future multifamily housing project
- Complete Cityworks online plan check application
- Initiate work with the Planning Commission ad hoc committee for the review of the planning process



CLIMATE ACTION

GOAL STATEMENT: (1) Participate with other cities in SLO County to support climate action planning efforts, (2) educate Council on the technical terms around climate action to support policy advocacy and the identification of critical next steps for Morro Bay, and (3) consider opportunities to reduce reliance on carbon producing energy sources.

SHORT-TERM ACTIONS

- 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 and include in planning materials and on website
- Designate 1 week a year to conduct a renewable energy outreach campaign targeting a specific group
 - Create city webpage with links to energy efficient websites

- Elevate “Climate Crisis” to “Climate Emergency” by way of resolution and seek funding to move forward in this area
- Implement 3CE Reach Code Incentive Program electrification of new residential construction with the adoption of 2022 Building Code in Jan 2023



COMMUNITY HEALTH

GOAL STATEMENT: (1) Create plan to address immediate need for increasing COVID vaccination rates with an emphasis towards target populations with inequitable access or education. (2) Educate Council and staff about Diversity, Equity, and Inclusion (DEI) and engage in a community conversation.

SHORT-TERM ACTIONS

- 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 homeless issues on the North Coast
- Support Filipino-American group (FANHSA) rededication event of their historic monument at Coleman Beach
 - Review opportunity for Boys and Girls Club to offer enrichment activities for teens in the Estero Bay region

- 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

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AGENDA NO: C-4

MEETING DATE: February 8, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 1, 2022

FROM: Scott Collins, City Manager
Dana Swanson, City Clerk/Human Resources Manager

SUBJECT: Consideration of Resolution of Support for Statewide Efforts to Expand Health Care for All in California

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 13-22, supporting efforts to expand health care for all in California.

ALTERNATIVES

The Council may choose to not adopt Resolution No. 13-22 or provide other direction to staff.

FISCAL IMPACT

None.

BACKGROUND/DISCUSSION

At the January 25, 2022 Meeting, the City Council directed staff to bring back an item for Council discussion of California Assembly Bill 1400 (AB 1400). AB 1400, titled Health Care for All, seeks to expand medical/health care to all residents in California, including, but not limited to, hospital, surgical and outpatient services; primary and preventive care; emergency services; women's reproductive care; dental and vision care; and long-term care. AB 1400 requires approval by the end of February or it will be tabled until the next legislative session. At this time, it appears that AB 1400 is stalled in the Appropriations Committee.

City Council recently adopted goals for the next several years. Included in that approval, is a new goal to support community health in Morro Bay. While AB 1400 may not move forward at this time, the Council may consider formalizing support for that type of legislation by adoption Resolution No. 13-22 and authorizing staff to submit letters of support when appropriate.

ATTACHMENT(S)

1. Resolution No. 13-22

Prepared By: ___DS/SC___ Dept Review: _____
City Manager Review: ___SC___ City Attorney Review: ___CFN___

RESOLUTION NO. 13-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
IN SUPPORT OF GUARANTEED HEALTH
CARE FOR ALL CALIFORNIANS**

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

WHEREAS, every person in the City of Morro Bay deserves high quality health care;
and

WHEREAS, the rising cost of health care challenges City of Morro Bay's municipal budget and the budgets of our small businesses which keep our communities thriving; and

WHEREAS, many of our residents have lost their employer-sponsored health insurance during the current pandemic; and

WHEREAS, studies by conservative and liberal economists show nearly all residents and all employers would spend far less with a program like that described in the text of AB 1400 than they do today for health coverage and medical, dental, vision, hearing, and other care and prescription drugs; and

WHEREAS, legislation like AB 1400 that guarantees health care for all Californians would provide every person in Morro Bay all necessary medical care including prescription drugs; hospital, surgical and outpatient services; primary and preventive care; emergency services; women's reproductive care; dental and vision care; and long-term care; and

WHEREAS, legislation that guarantees health care for all Californians would improve the existing Medicare program, provide coverage without co-pays, deductibles, or other out-of-pocket costs, and would slash bureaucracy, protect the medical decisions made by patients and their doctors, and assure patients an unrestricted choice of doctors; and

WHEREAS, legislation that guarantees health care for all Californians would provide equitable access to high-quality health care regardless of income, race, gender identity, etc. by eliminating financial barriers to seeking care and the inequitable distribution of health care resources, two of the most insidious causes of the spread of COVID-19.

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NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Morro Bay supports State legislation that would guarantee health care for all Californians, similar in substance to the provisions of AB 1400, and both instructs staff to contact our representatives in Sacramento to communicate such support from the City Council, and also for the Mayor to submit letters of support on behalf of the City Council when such legislation comes to a vote.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of February 2022 by the following vote:

AYES:

NOES:

ABSENT:

RECUSED:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk