



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, March 22, 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 the Morro Bay Chamber of Commerce
- Month of the Child and Child Abuse Prevention Proclamation

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.**
- *Agenda Correspondence received by 10 a.m. on the meeting day will be posted on the City website.*
- *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 DECEMBER 14, 2021, CITY COUNCIL MEETING; (CITY CLERK)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE FEBRUARY 22, 2022, CITY COUNCIL MEETING; (CITY CLERK)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FOR THE MARCH 8, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING: (CITY CLERK)

RECOMMENDATION: Approve as submitted.

- A-4 DESIGNATION OF REPRESENTATIVE(S) TO THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY; (CITY CLERK/HUMAN RESOURCES MANAGER)

RECOMMENDATION: Staff recommends the City Council designate the Mayor as the official representative of the City of Morro Bay on the California Joint Powers Insurance Authority (CJPIA) Board of Directors, designate the Human Resources Manager as first alternate, and designate the City Manager as second alternate.

- A-5 AMENDMENT TO AND RESTATEMENT OF AGREEMENT WITH PARS FOR RETIREMENT SAVINGS FOR PART-TIME EMPLOYEES; (ASSISTANT CITY MANAGER/ADMIN SERVICES DIRECTOR)

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 22-22 authorizing the City Manager to execute an amended and restated agreement with the Public Agency Retirement System (PARS) to facilitate required retirement savings for part-time employees.

- A-6 SECOND READING AND ADOPTION OF ORDINANCE NO. 648 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; (CITY MANAGER/CITY CLERK/HUMAN RESOURCES MANAGER)

RECOMMENDATION Staff recommends the City Council adopt, by second reading and 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.”

A-7 RECEIPT OF INDEPENDENT SINGLE AUDIT AND TRANSPORTATION DEVELOPMENT ACT AUDITS; (FINANCE DEPARTMENT)

RECOMMENDATION: Receive and file the Independent Auditors' Reports and Financial Statements for Transportation Development Act (TDA) Funds and the Single Audit, covering the period of July 1, 2020 through June 30, 2021.

A-8 ADOPT RESOLUTION NO. 23-22 AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR THE HABITAT CONSERVATION FUND PROGRAM FOR THE FRANKLIN RILEY PARK IMPROVEMENTS; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 23-22 authorizing the submission of a grant application for the Habitat Conservation Fund Program (HCF) in the trails project category to help fund improvements at Franklin Riley Park.

A-9 ADOPT RESOLUTION NO. 24-22 AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR STATE RECREATIONAL TRAILS GRANT PROGRAM FOR COLEMAN PARK IMPROVEMENTS; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 24-22 authorizing the submission of a grant application for the State Recreational Trails Program (RTP) for the Coleman Park Improvements project.

A-10 PROCLAMATION DECLARING APRIL 2022 AS FAIR HOUSING MONTH; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-11 PROCLAMATION DECLARING APRIL 2022 AS MONTH OF THE CHILD AND CHILD ABUSE PREVENTION MONTH; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

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

RECOMMENDATION: Staff recommends the City Council authorize the City Manager to execute Amendment No. 3 to the agreement with Anvil Builders, inc. (Anvil) for construction of the WRF Conveyance Facilities for the amount of \$241,317.00.

C-2 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 (INCLUDING PARTIALLY REMOTE) FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

RECOMMENDATION:

1. Staff recommends Council consider adoption of attached Resolution No. 25-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing (including partially remote) for 30 days, thereby allowing the City Council and the City's advisory

bodies to meet remotely (including partially remote) through April 21, 2022. The City has announced in-person Council Meetings will resume on April 12, 2022. Adoption of this resolution would allow advisory body meetings scheduled prior to April 12 to be held remotely and also allow partially remote meetings to continue through April 21, 2022.

2. Staff recommends Council provide direction on in-person vs. remote attendance for both Council and Advisory Body members.
3. Staff recommends Council provide direction on bringing back timely subsequent AB 361 resolutions to allow for prospective hybrid meetings.

C-3 PURPOSE STATEMENT FOR CITY COUNCIL SUBCOMMITTEE ON CLIMATE ACTION; (CITY MANAGER/COMMUNITY DEVELOPMENT DIRECTOR)

RECOMMENDATION: Staff recommends that City Council adopt a purpose statement for the recently formed City Council Climate Action subcommittee.

C-4 CONSIDERATION OF PROCLAMATION IN SUPPORT OF THE PEOPLE OF UKRAINE; (CITY MANAGER)

RECOMMENDATION: As requested by City Council at the March 8, 2022 meeting, staff recommends that City Council consider approval of a Proclamation in support of the people of Ukraine.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, April 12, 2022 at 5:30 p.m.**

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

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

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

City Council conducted this meeting in accordance with California Governor Newsom’s Executive Order N-08-21 issued on June 11, 2021 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Laurel Barton	Council Member
	Jennifer Ford	Council Member
	Jeff Heller	Council Member
ABSENT:	None	
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Dana Swanson	City Clerk
	Sarah Johnson-Rios	Assistant City Manager/Admin Services Dir.
	Greg Kwolek	Public Works Director
	Scot Graham	Community Development Director
	Daniel McCrain	Fire Chief
	Jody Cox	Police Chief
	Eric Endersby	Harbor Director
	Kyle Rhorer	WRF Program Manager
	Cindy Jacinth	Senior Planner
	Janeen Burlingame	Management Analyst
	Damaris Hanson	Acting Utilities Division Manager

ESTABLISH QUORUM AND CALL TO ORDER

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

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION – None

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

MAYOR & COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/g71pZiJG6al?t=183>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/g71pZiJG6al?t=729>

PRESENTATIONS

<https://youtu.be/g71pZiJG6al?t=1648>

Service Pin Presentation to employees who were recognized for their years of service:

Michael Hoes, 10 years, Fire Department
Jeremiah Jacobs, 10 years, Harbor Department
Dawn McLean, 10 years, Fire Department
Tami Ponder, 10 years, Police Department

Dana Stein, 15 years, Police Department
Gene Stuart, 15 years, Police Department
Robert Trout, 25 years, Public Works Department

PUBLIC COMMENT

<https://youtu.be/g71pZiJG6al?t=2278>

Scott Schalde, Morro Bay High School Principal, introduced himself, shared his philosophy toward education and recent student accomplishments.

Kris Roudebush, We are the Care Initiative, provided a program update and announced the Family-friendly Workplace Accelerator Program, an initiative designed to create a strong and inclusive workplace. Visit www.first5slo.org for more information.

Betty Winholtz, Morro Bay, expressed concern that the Council had a closed session discussion regarding the Teen Center and suggested that the community should be able to provide input on whether or not to sell City property.

Michael Erin Woody, Morro Bay commented on Item C-5.

Lori Vaccaro French, Morro Bay, objected to the proposed marine sanctuary and recommended that Council support the position of the Morro Bay Commercial Fishermen's Organization (MBCFO).

Melanie Williams-Mahan, Morro Bay, received notification of appeal for the 2783 Coral Avenue project and stated the Cloisters design committee was put in place because of an agreement between the developers, city and coastal commission. She urged the Council to allow the committee to abide by the design guidelines.

Jeremiah O'Brien, MBCFO Vice President, spoke regarding Item C-5 and urged the Council to approve staff recommendation.

Mayor Heading closed public comment.

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

A. CONSENT AGENDA
<https://youtu.be/g71pZiJG6al?t=3651>

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 9, 2021, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE DECEMBER 1, 2021, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 CLEAN CALIFORNIA MAINTENANCE AGREEMENT FOR LITTER AND GRAFFITI ABATEMENT; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council authorize the Mayor and City Manager to sign the Clean California Maintenance Agreement, subject to City Attorney approval, to receive up to \$35,000 over three years to perform litter and graffiti abatement on Caltrans property along State Route 41 within the City's limits.

A-4 NATIONAL OPIOID SETTLEMENTS; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council consider following actions:

1. Approve Settlement Participation Form for the City of Morro Bay's ("City") participation in the National Opioid Settlement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation.
2. Approve Settlement Participation Form for the City's participation in the National Opioid Settlement with Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.
3. Approve the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Distributor Settlement.
4. Approve the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Janssen Settlement.
5. Adopt Resolution No. 88-21 approving and authorizing the City Manager to execute the documents identified in Nos. 1 through 4 above.
6. Authorize the City Manager to carry out all necessary acts such that the City can participate in the National Opioid Settlements, including, but not limited to, the transmittal of the executed documents in Nos. 1 through 4 above.
7. Approve disbursement of initial partial settlement funds to County (default option) while reserving City option to request direct distribution of further settlement funds to City later in time.

A-5 ADOPT RESOLUTION NO. 82-21 AUTHORIZING THE MORRO BAY FIRE DEPARTMENT TO SUBMIT AN APPLICATION FOR FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE TO FIREFIGHTERS GRANT; (FIRE DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 82-21 Authorizing the Morro Bay Fire Department (MBFD) to submit an application to Federal Emergency Management Agency (FEMA) for an Assistance to Firefighter Grant for hydraulic extrication equipment and mobile radios and accept grant if awarded.

A-6 SECOND READING AND ADOPTION OF ORDINANCE NO. 645 ADDING CHAPTER 8.18 SPECIFIC REGULATIONS FOR COLLECTION, AND DISPOSAL REDUCTION, OF ORGANIC WASTE, RECYCLABLES AND SOLID WASTE TO TITLE 8 ("HEALTH AND SAFETY") OF THE MORRO BAY MUNICIPAL CODE; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt, by second reading and by title only with further reading waived, Ordinance No. 645 adding Chapter 8.18 Specific Regulations for Collection, and Disposal Reduction, of Organic Waste, Recyclables and Solid Waste to Title 8 ("Health and Safety") of the Morro Bay Municipal Code to enact regulations in compliance with Senate Bill (SB) 1383 for the implementation of Mandatory Food and Organics Recycling, and related solid waste and recycling processing and reporting.

A-7 FIRST QUARTER INVESTMENT REPORT (PERIOD ENDING SEPTEMBER 30, 2021) FOR FISCAL YEAR (FY) 2021-22; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Receive the attached First Quarter Investment Report (period ending September 30, 2021) for FY 2021-22.

A-8 DESIGNATION LETTER DELEGATING CITY RESPONSIBILITIES RELATING TO SENATE BILL 1383 COMPLIANCE TO THE SAN LUIS OBISPO INTEGRATED WASTE MANAGEMENT AUTHORITY (IWMA); (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council receive and file the SB 1383 compliance letter of designation delegating various compliance responsibilities to the IWMA.

A-9 PROGRESS CHECK #3, AND ADOPTION OF RESOLUTION NO. 83-21 APPROVING AMENDMENT #2 TO THE MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND TLC FAMILY ENTERPRISES FOR LEASE SITE 87-88/87W-88W, LOCATED AT 833 EMBARCADERO; (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council receive and file this Progress Check #3, and adopt Resolution No. 83-21, approving Amendment #2 to the Master Lease Agreement (MLA) for Lease Site 87-88/87W-88W, as proposed.

A-10 RESOLUTION MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361"; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council consider adoption of Resolution No. 84-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

A-11 PROCLAMATION EXPRESSING APPRECIATION FOR THE DEDICATION AND PUBLIC SERVICE OF FORMER COUNCIL MEMBER MELODY ANNE DEMERITT; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

Mayor Headding opened public comment for the Consent Agenda.

<https://youtu.be/g71pZiJG6al?t=3651>

Betty Winholtz, Morro Bay, spoke to Item A-11 a proclamation honoring Melody DeMeritt and regarding Item A-7, she questioned paragraph three in the discussion section regarding investment options related to WRF Project funding.

The public comment period was closed.

Mayor Headding pulled Item A-7.

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

- A-7 FIRST QUARTER INVESTMENT REPORT (PERIOD ENDING SEPTEMBER 30, 2021) FOR FISCAL YEAR (FY) 2021-22; (ADMINISTRATIVE SERVICES DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=3973>

Assistant City Manager/Administrative Services Director Johnson-Rios responded to questions raised during public comment.

MOTION: Mayor Heading moved approval of Item A-7. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

B. PUBLIC HEARINGS

- B-1 REVIEW AND ADOPT DRAFT FUNDING RECOMMENDATIONS FOR THE 2022 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; (COMMUNITY DEVELOPMENT DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=4069>

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

Mayor Heading opened the Public Hearing.

<https://youtu.be/g71pZiJG6al?t=4599>

Michael Azevedo, 5 Cities Homeless Coalition, Housing Program Manager, stated that the coalition provides housing assistance county wide. The coalition is requesting 10% of all available public services be allocated in case the award amount is increased by HUD. For more information visit www.5chc.org.

Betty Winholtz, Morro Bay, asked if the 15% annual limit was new money allocated this year, or this year's money plus previous year's rollover.

Mayor Heading opened Public Comment.

The Public Hearing was closed.

MOTION: Council Member Heller moved to adopt Resolution No. 85-21 approving draft funding recommendations for the 2022 Community Development Block Grant (CDBG) funds and forward recommendations to the San Luis Obispo County Board of Supervisors for inclusion with the other draft funding requests from the Urban County Consortium. The funding recommendation is for the two applications received from Peoples Self-Help Housing Corp, and 5 Cities Homeless Coalition along with City program administration of \$4,036 and rollover of the balance for a total funding allocation of \$57,656. Additionally, staff recommends the City Council authorize the City Manager to make pro rata adjustments to the allocation based on the final funding amount from San Luis Obispo County based on the approval of the federal budget and HUD's final grant amount to the County. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 HOUSING LEGISLATIVE UPDATE AND STATUS REVIEW OF CURRENT CITY HOUSING EFFORTS; (COMMUNITY DEVELOPMENT DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=5109>

City Manager Collins introduced David Mullinax, League of California Cities Regional Public Affairs Manager for the Channel Counties Division, who provided an overview

housing legislation at the State level. Community Development Director Graham provided a local housing update and responded to Council inquiries.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

The Council did not take any formal action on this item.

C-2 REVIEW WATER RECLAMATION FACILITY (WRF) QUARTERLY UPDATE REPORT;
(PUBLIC WORKS DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=7699>

WRF Program Manager Rhorer provided the report and responded to Council inquiries.

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

Betty Winholtz, Morro Bay, raised several questions and concerns regarding the project.

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

Staff responded to questions raised during public comment.

The Council did not take any formal action on this item.

C-3 UTILITY DISCOUNT PROGRAM AND EXPIRATION OF STATE EXECUTIVE ORDER
REGARDING WATER SERVICE TERMINATION; (ADMINISTRATIVE SERVICES
DEPARTMENT/PUBLIC WORKS DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=9989>

Public Works Director Kwolek provided the report and responded to Council inquiries.

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

MOTION: Mayor Headding moved to 1) Adopt Resolution No. 86-21 to authorize (i) the lapse, by its own terms, of Resolution No. 54-21 which extended a twenty-five percent discount and a COVID-19 discount program through December 31, 2021; and (ii) acknowledgement of the reinstatement of the prior Utility Discount Program outlined in Resolution 64-19, which offers a ten percent discount for income-qualifying customers; and the reinstatement of late payment penalties to fund the program; and 2) Receive and file staff's plan to reinstate water shutoffs in full compliance with California Senate Bill (SB) 998 upon the expiration of the State's Executive Order related to water shutoffs, duly notifying customers according to the adopted Discontinuation of Residential Water Service for Non-Payment policy; and 3) Ask staff to bring back a report in nine months on the viability of the discount program from a financial status and a full review of any shutoffs or procedures associated with shutoffs that have occurred.

The motion was seconded by Council Member Heller for discussion. Following discussion, the motion carried 5-0 by roll call vote.

- C-4 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 646, UPDATES TO CHAPTER 3.08 OF THE CITY'S MUNICIPAL CODE, PURCHASING SYSTEM; (ADMINISTRATIVE SERVICES DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=12527>

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

The public comment period for Item C-4 was opened.

Betty Winholtz, Morro Bay, stated her preference for a centralized purchasing process.

The public comment period for Item C-4 was closed.

MOTION: Mayor Heading moved to introduce, by title only, and waive further reading of Ordinance No. 646: "An Ordinance of the City Council of the City of Morro Bay, California, Amending Morro Bay Municipal Code Chapter 3.08 of Title 3 to Update the City's Purchasing System." The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

- C-5 AUTHORIZE CITY COUNCIL COMMENTS TO THE NATIONAL MARINE SANCTUARIES PROGRAM REGARDING THE POTENTIAL CHUMASH HERITAGE NATIONAL MARINE SANCTUARY DESIGNATION PROCESS AND REITERATE PREVIOUS OPPOSITION TO NATIONAL MARINE SANCTUARY IN LOCAL WATERS UNTIL CRITICAL MANAGEMENT ISSUES ADDRESSED; (HARBOR DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=13242>

Harbor Director Endersby provided the report and responded to Council inquires.

MOTION: Council Member Addis moved the meeting go past 9:30 p.m. with a hard stop at 11:00 p.m. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

The public comment period for Item C-5 was opened.

Wayne Moody and Scott Jarrett shared a video illustrating the challenges faced by fishermen in marine sanctuaries.

Judy Salamacha, Morro Bay, read the letter submitted as agenda correspondence in support of the staff recommendation

Alan Alward, Morro Bay, opposed the marine sanctuary.

Steve Scheiblauber, Retired Harbor Master, urged the Council to support staff recommendation.

Tom Hafer, Morro Bay, president of MBCFO, thanked the City for its past position opposing a Chumash Marine Sanctuary and hoped that would continue.

The public comment period for Item C-5 was closed.

MOTION: Mayor Heading moved to authorize the Mayor to submit comments, as outlined in this staff report, to the National Marine Sanctuary Program regarding the proposed designation of the Chumash Heritage National Marine

Sanctuary. The motion was seconded by Council Member Heller for discussion.

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

- C-6 CONSIDERATION OF RESOLUTION NO. 87-21 FOR 180-DAY WAIT PERIOD EXCEPTION FOR CALPERS RETIRED ANNUITANT / INTERIM CITY ENGINEER APPOINTMENT, APPROVAL OF INTERIM CITY ENGINEER AGREEMENT BETWEEN THE CITY AND ROBERT LIVICK, AND RECEIVE ENGINEERING DIVISION UPDATE; (CITY MANAGER/PUBLIC WORKS DEPARTMENT)
<https://youtu.be/g71pZiJG6al?t=17008>

City Manager Collins and Public Works Director Kwolek provided the report and responded to Council inquires.

The public comment period for Item C-6 was opened.

Betty Winholtz, Morro Bay, questioned the need for three engineers and opined consultants should not be paid for by Measure Q.

The public comment period for Item C-6 was closed.

Staff responded to questions raised during public comment.

MOTION: Council Member Addis moved to 1) Adopt Resolution No. 87-21 approving an exception to the 180-day waiting period for the position of Interim City Engineer; and 2) Approve the Interim City Engineer appointment and Interim City Engineer employment agreement between the City and Mr. Livick, and authorize the City Manager to execute the employment agreement; and 3) Receive Staff Update regarding Engineering Division Resources and Staffing. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
None

- E. ADJOURNMENT

The meeting adjourned at 10:22 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:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Dana Swanson	City Clerk
	Sarah Johnson-Rios	Assistant City Manager/Admin Services Dir.
	Greg Kwolek	Public Works Director
	Scot Graham	Community Development Director
	Daniel McCrain	Fire Chief
	Jody Cox	Police Chief
	Eric Endersby	Harbor Director
	Kyle Rhorer	WRF Program Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 5:31 p.m., with all but Council Member Barton present. Council Member Barton joined the meeting at 5:33 p.m.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION – None

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

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/tu-y1OSlkxg?t=169>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS - None

PRESENTATIONS – None

PUBLIC COMMENT

<https://youtu.be/tu-y1OSlkxg?t=732>

Don Maruska spoke regarding Item C-3 and encouraged the Council to identify two council members with a passion for the climate change initiative to engage citizens and local business and explore potential opportunities and available resources.

Betty Winholtz, Morro Bay, commented on the WRF Project, expressing concern about project delays and the extended closure of the bike trail and South Bay Blvd.

Linda Winters, Morro Bay, requested the City return to in-person council meetings.

Mayor Headding closed public comment.

- A. CONSENT AGENDA
<https://youtu.be/tu-y1OSlkxg?t=1319>

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

- A-1 APPROVAL OF MINUTES FOR THE JANUARY 11, 2022, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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

RECOMMENDATION: Approve as submitted.

- A-3 SECOND QUARTER INVESTMENT REPORT (PERIOD ENDING DECEMBER 31, 2021)
FOR FISCAL YEAR (FY) 2021-22; (ADMINISTRATIVE SERVICES DEPARTMENT)

RECOMMENDATION: Receive the Second Quarter Investment Report (period ending December 31, 2021) for FY 2021-22.

- A-4 ADOPTION OF RESOLUTION NO. 14-22 AUTHORIZING SUBMISSION OF RURAL
TRANSIT FUND (RTF) GRANT APPLICATION AND EXECUTION OF RELATED
DOCUMENTS UPON AWARD; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 14-22 authorizing submission of Rural Transit Fund (RTF) Grant Application and execution of related documents upon award.

- A-5 ADOPTION OF RESOLUTION NO. 15-22 AUTHORIZING THE CITY MANAGER TO FILE
AN APPLICATION AND EXECUTE A GRANT AGREEMENT, IF AWARDED, WITH THE
UNITED STATES BUREAU OF RECLAMATION FOR A WATERSMART: TITLE XVI WIIN
WATER RECLAMATION AND REUSE PROGRAM GRANT OF UP TO \$30 MILLION, AS
AUTHORIZED UNDER SECTION 4009(C) OF THE WIIN ACT AND FUNDING
PURSUANT TO THE BIPARTISAN INFRASTRUCTURE LAW (BIL), P.L. 117-58, FOR
THE WATER RECLAMATION FACILITY PROJECT; (PUBLIC WORKS
DEPARTMENT)

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 15-22 entitled "A Resolution of the City Council of City of Morro Bay, California, authorizing the City Manager to file an application and execute a grant agreement, if awarded, with the United States Bureau of Reclamation for a WaterSMART: Title XVI WIIN Water Reclamation and Reuse Program grant of up to \$30 million, as authorized under Section 4009(C) of the WIIN Act and funding pursuant to the Bipartisan Infrastructure Law (BIL), P.L. 117-58, for the Water Reclamation Facility Project."

Specifically, Resolution No. 15-22 authorizes the following action: 1) Authorizes the City Manager to File the Application to the U.S. Bureau of Reclamation for a Title XVI Water Reclamation and Reuse Program grant, as authorized under section 4009(c) of the WIIN Act and funding pursuant to the Bipartisan Infrastructure Law (BIL), P.L. 117-58 for the Water Reclamation Facility Project; 2) Authorizes the City Manager to negotiate and sign the Grant Agreement and related documents including required reports, disbursement requests and certifications; and 3) Represents that the City has sufficient funds of its own to provide for the required non-Federal cost share, in addition to the Grant.

A-6 RESOLUTION MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council consider adoption of Resolution No. 16-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote conferencing.

Mayor Headding opened public comment for the Consent Agenda.

<https://youtu.be/tu-y1OSlkxg?t=1330>

Betty Winholtz, Morro Bay, concurred with Ms. Winters and urged the City to return to in-person meetings.

The public comment period was closed.

Council Member Heller pulled Item A-6.

MOTION: Council Member Addis moved approval of Items A-1 through A-5. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

A-6 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/tu-y1OSlkxg?t=1492>

Council Member Heller expressed a desire to resume in-person meetings in March. City Manager Collins responded stating COVID-19 testing would continue at the Veterans Hall through the end of March and hybrid meetings were not possible at the Community Center.

MOTION: Mayor Headding moved approval of Item A-6. The motion was seconded by Council Member Barton and carried 4-1 by roll call vote with Council Member Heller opposed.

B. PUBLIC HEARINGS - None

C. BUSINESS ITEMS

C-1 REVIEW WATER RECLAMATION FACILITY (WRF) QUARTERLY REPORT; (PUBLIC WORKS DEPARTMENT)

<https://youtu.be/tu-y1OSlkxg?t=2033>

WRF Program Manager Rhorer provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, questioned why a diesel backup generator is being used near the high school.

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

The Council did not take any formal action on this item.

C-2 REVIEW OF FISCAL YEAR 2021-22 MIDYEAR BUDGET REPORT AND GENERAL FUND FORECAST, APPROVAL OF NEW JOB CLASSIFICATIONS AND AMENDED SALARY SCHEDULE; (CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENT/CITY CLERK/HR MANAGER)

<https://youtu.be/tu-y1OSlkxg?t=5703>

City Manager Collins, Assistant City Manager/Admin Services Director Johnson-Rios and City Clerk/HR Manager Swanson provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, raised various questions regarding the report.

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

MOTION: Mayor Heading moved to 1) receive the Fiscal Year (FY) 2021-22 Midyear Budget Report; 2) adopt Resolution No. 17-22 authorizing the attached staff report Budget Amendments; 3) adopt Resolution No. 18-22 approving new classifications and job descriptions; 4) adopt Resolution No. 19-22 approving the revised salary schedule and authorized Full-Time Equivalent (FTE) staffing list; and 5) receive the annual General Fund forecast and provided input as appropriate. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C-3 ADOPTION OF RESOLUTION NO. 20-22 DECLARING A CLIMATE EMERGENCY IN MORRO BAY; (CITY MANAGER)

<https://youtu.be/tu-y1OSlkxg?t=10386>

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

The public comment period for Item C-3 was opened.

Betty Winholtz, Morro Bay, encouraged the City to be better role models in this area.

The public comment period for Item C-3 was closed.

MOTION: Council Member Addis moved to adopt Resolution No. 20-22, declaring a climate emergency. The motion was seconded by Council Member Barton and, following individual comments, carried 4-1 by roll call vote with Council Member Heller opposed.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
<https://youtu.be/tu-y1OSlkxg?t=11393>

Council Member Ford requested and received full support for a future agenda item regarding formation of a Council subcommittee to assist with the climate emergency initiative.

E. ADJOURNMENT

The meeting adjourned at 8:44 p.m.

Recorded by:

Dana Swanson
City Clerk

This Page Intentionally Left Blank

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
MARCH 8, 2022 – 4:00 P.M.
TELECONFERENCE

AGENDA NO: A-3
MEETING DATE: March 22, 2022

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
Jeff Heller Council Member
Jennifer Ford Council Member

ABSENT: None

STAFF: Scott Collins City Manager
Chris Neumeyer City Attorney
Joe Pannone Special Counsel
Scot Graham Community Development Director
Eric Endersby Harbor Director
Kirk Carmichael Recreation Services Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 4:00 p.m. with all but Council Member Ford present.

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

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

Chuck & Ananda Nettnin thanked the City for their assistance during renovations of the former aquarium and look forward to opening soon.

The public comment period was closed.

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

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

Property: 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

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

Property: Lease Site 78-81/78W-81W, Dutchman’s Seafood House, 701 Embarcadero Rd.
Property Negotiators: Paul and Leon Van Beurden
Agency Negotiators: Eric Endersby, Harbor Director; Scott Collins, City Manager; and Chris Neumeyer,
City Attorney
Negotiation: Price and Terms of Payment

CS-3 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8:

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

Council Member Ford joined the meeting at 4:39 p.m.

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

Property: 307 Morro Bay Blvd. (“Grandma’s Frozen Yogurt”)
Property Negotiators: Scott Meisterlin
Agency Negotiators: Scott Collins, City Manager; Scot Graham, Community Development Director; and Chris Neumeyer, City Attorney
Under 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 4:56 p.m.

Recorded by:

Dana Swanson
City Clerk

CITY COUNCIL RESOLUTION NO. 38-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
COUNTY OF SAN LUIS OBISPO, CALIFORNIA, APPROVING EXECUTION OF THE
JOINT POWERS AGREEMENT CREATING CALIFORNIA JOINT POWERS INSURANCE
AUTHORITY, AND FURTHER APPROVING PARTICIPATION IN ITS JOINT
PROTECTION PROGRAM PROVIDING LIABILITY COVERAGE THROUGH SELF-
INSURANCE, LOSS POOLING AND EXCESS INSURANCE**

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

**THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES HEREBY FIND AND
RESOLVE AS FOLLOWS:**

WHEREAS, pursuant to the provisions of Sections 990, 990.4, 990.8 and 6500 of the Government Code, CALIFORNIA JOINT POWERS INSURANCE AUTHORITY ("CALIFORNIA JPIA") has been created by a Joint Powers Agreement; and

WHEREAS, Article 21 of said Agreement provides for additional members to become parties to the Joint Powers Agreement creating the CALIFORNIA JPIA, after the first year of its operation, and thereupon enter the Joint Protection Program providing General and Automobile Liability Coverage through self-insurance and loss pooling; and

WHEREAS, the self-insurance and loss pooling programs of the CALIFORNIA JPIA, as well as its group insurance coverage programs, offer significant advantages to the City in terms of cost, protection, risk management and loss control advice and assistance, and entering such programs would be and is in the best interest of this City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES
HEREBY RESOLVE, ORDER AND DETERMINE THE FOLLOWING:**

Section 1. That the Mayor of the City of Morro Bay is hereby authorized and directed to execute the Joint Powers Agreement on behalf of the City of Morro Bay binding the Member to the terms and conditions of said Agreement.

Section 2. That the City of Morro Bay hereby joins the Joint Protection Program of CALIFORNIA JPIA, providing self-insurance and loss pooling for General and Automobile Liability for a period of not less than three (3) years.

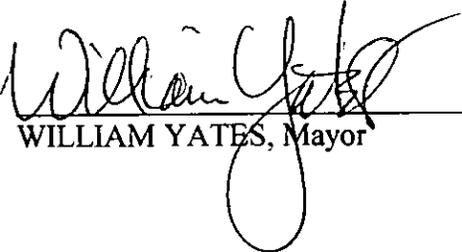
Resolution No. 38-03
Page Two

PASSED AND APPROVED by the City Council of the City of Morro Bay this
23rd day of June 2003 by the following vote:

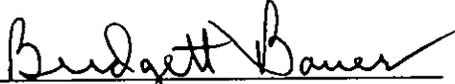
AYES: Elliott, Peirce, Peters, Winholtz, Yates

NOES: None

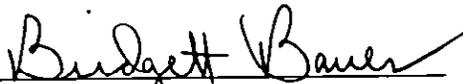
ABSENT: None


WILLIAM YATES, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk

I hereby certify, under the penalty of perjury, that the above and foregoing is a true and correct copy of Resolution No.38-03 as adopted by the City Council of the City of Morro Bay, on the 23rd day of June 2003.


BRIDGETT BAUER, City Clerk

This Page Intentionally Left Blank



AGENDA NO: A-5

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 16, 2022

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

SUBJECT: Amendment to and Restatement of Agreement with PARS for Retirement Savings for Part-Time Employees

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 22-22 authorizing the City Manager to execute an amended and restated agreement with the Public Agency Retirement System (PARS) to facilitate required retirement savings for part-time employees.

BACKGROUND

The City of Morro Bay (City) is required to contribute to a form of retirement savings for all employees given that the City does not participate in social security. Full time employees are enrolled in CalPERS, a defined benefit pension plan for many governmental and educational employees in California. For part-time employees, the City has chosen to utilize the Public Agency Retirement System (PARS) to facilitate required retirement savings for part-time employees. The City contributes 1.5 percent of employees' compensation to PARS, and employees contribute 6 percent.

DISCUSSION

The agreement with PARS must be amended and restated every six years. This action must be taken prior to June 30, 2022 in order to continue the City's existing system for contributing to part-time employees' retirements, consistent with IRS requirements. The amended agreement does not change the City's participant benefits nor the way the City administers the plan. Among the minor modifications to the agreement are the following:

- Updates the direct rollover provisions (section 6.7) and annual limits (section 9.2) based on model language the IRS requested through their Cumulative List of Changes and List of Required Modifications for the Pre-approved Plan Program.
- Added language giving PARS the authority as the pre-approved plan provider to make amendments to the pre-approved plan to ensure the form of the plan continues to satisfy the requirements of Internal Revenue Code Section 401 (section 8.3).

Required SECURE Act and CARES Act changes have been made as a separate amendment outside of the plan (Exhibit B to Resolution 22-22) since these changes were made after the IRS review

Prepared By: _____SJR Dept Review: ___SJR___
 City Manager Review: _SC_____ City Attorney Review: __MH_____

process and are not captured in the Cumulative List of Changes and List of Required Modifications for the Pre-approved Plan Program. The changes are only to Section 6.1 of the plan document. These required changes will be satisfied through the plan amendment for now and wrapped into the template during the next review and restatement cycle.

The City Attorney's Office reviewed the amended and restated agreements and requested minor language changes that PARS made and are incorporated into the attached agreement.

FISCAL IMPACTS

There are no fiscal impacts associated with the recommended action.

ATTACHMENTS

1. Resolution No. 22-22 Authorizing the City Manager to Execute Amended Agreement
 - a. Exhibit A. Amended and Restated Agreement with PARS
 - b. Exhibit B. CARES/SECURE Plan Amendment (amending only Section 6.1)

RESOLUTION NO. 22-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING AGREEMENT AMENDMENTS WITH PARS AND AUTHORIZING
THE CITY MANAGER TO EXECUTE THE SAME**

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

WHEREAS, the City of Morro Bay is required to contribute to a form of retirement savings for all employees given that the City is not a participate in social security; and

WHEREAS, the City satisfies that requirement for part-time employees through the Public Agency Retirement System (PARS), facilitating employer and employee contributions to retirement savings for part-time employees; and

WHEREAS, the City's agreement with PARS must be amended and restated every six years; and

WHEREAS, the amended agreement does not change the City's participant benefits nor the way the City administers the plan and the City Attorney's Office has fully reviewed the agreement amendment;

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

SECTION 1. The City Council approves the amended and restated agreement with PARS (attached hereto as Exhibit A) and the CARES/SECURE Plan Amendment document for PARS (attached hereto as Exhibit B).

SECTION 2. The City Manager is hereby authorized to execute the amended and restated agreement with PARS and the CARES/SECURE Plan Amendment document for PARS.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March 2022, by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY

PUBLIC AGENCY RETIREMENT SYSTEM

ALTERNATE RETIREMENT SYSTEM

(PARS-ARS)

AMENDED AND RESTATED

EFFECTIVE MARCH 22, 2022

INTRODUCTION

The City of Morro Bay (the "Employer") has adopted this tax qualified governmental profit sharing plan for the benefit of its Eligible Employees as Plan Number: 002. This document is a full and complete amendment and restatement of the City of Morro Bay PARS Alternate Retirement System.

It is intended that this Plan and the Trust established to hold the assets of the Plan shall be qualified under Section 401(a) and tax-exempt under Section 501(a) of the Internal Revenue Code of 1986, together with any amendments thereto (the "Code"). It is also intended that this Plan shall meet the requirements of a governmental plan under Section 414(d) of the Code and of a pension trust. At any time prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries under this Plan, the Trust assets shall not be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries, as prescribed in Section 401(a)(2) of the Code.

ARTICLE I
DEFINITIONS

- 1.1 **"Account"** means, with respect to each Participant, the value of all accounts maintained on behalf of the Participant.
- 1.2 **"Aggregate Account"** means, with respect to each Participant, the value of all accounts maintained on behalf of the Participant, whether attributable to Employer or Employee contributions.
- 1.3 **"Amended Effective Date"** means March 22, 2022.
- 1.4 **"Beneficiary"** means the person, trust, or other entity to whom a share of a deceased Participant's Aggregate Account is payable.
- 1.5 **"Code"** means the Internal Revenue Code of 1986 as amended from time to time.
- 1.6 **"Compensation"** means all compensation for that portion of the Plan Year during which the Employee was a Participant, paid in cash by the Employer to the Participant for personal services. Further, the Employer defines compensation as "Gross Wages" defined as all remuneration to a Participant by the Employer that is reportable on Box 1 of Form W-2, together with (i) any elective deferrals of the Participant to an individual annuity contract under Section 403(b) of the Code and (ii) any amount which is contributed or deferred by the Employer at the election of the Participant and which is not included in the gross income of the Participant to an eligible deferred compensation plan under Section 457 of the Code, a cafeteria plan under Section 125 of the Code or paid as a qualified transportation fringe under Section 132(f)(4) of the Code. The annual compensation of each Participant, as defined above by the Employer, taken into account in determining allocations for any Plan Year beginning after December 31, 2016 shall not exceed \$270,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. For any short Plan Year, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by a ratio obtained by dividing the number of full months in the short Plan Year by twelve (12). The limitation on the maximum amount of Compensation that may be taken into account under the Plan shall not apply to any Participant eligible for a higher limit on annual compensation under the transition rule described in Section 1.401(a)(17)-1(d)(4)(ii) of the Treasury Regulations.
- 1.7 **"Effective Date"** means April 1, 1995.
- 1.8 **"Eligible Class of Employees"** means the eligible class of employees as provided herein and in the applicable governing board policies and regulations promulgated thereunder by the Employer.

- 1.9 **"Eligible Employee"** means all of those Employees of the Employer whose participation in this Plan are not prohibited or restricted by the provisions of a collective bargaining agreement or another plan or retirement system maintained by the Employer. Employees who are exempt from coverage under Social Security by federal law or regulation shall not be Eligible Employees.
- 1.10 **"Employee"** means an employee of the Employer.
- 1.11 **"Employee Contribution Account"** means the account by that name established pursuant to Section 3.2 hereof.
- 1.12 **"Employer"** means the City of Morro Bay that has adopted this Plan. Only an employer eligible to adopt a governmental plan pursuant to Section 414(d) of the Code may be an "Employer" under this Plan.
- 1.13 **"Employer Contribution Account"** means the account by that name established pursuant to Section 3.1 hereof.
- 1.14 **"Inactive Participant"** means a Participant who is no longer eligible to participate because he is no longer in a class of Employees eligible to participate in this Plan but is still employed by the Employer.
- 1.15 **"Ineligible Employee"** means all of those Employees of the Employer whose participation in this Plan is prohibited or restricted by the provisions of a collective bargaining agreement, another plan or retirement system maintained by the Employer, or exempt from coverage under Social Security by federal law or regulation.
- 1.16 **"Investment Manager"** means the entity appointed by the Employer as the investment manager under the Plan.
- 1.17 **"Limitation Year"** means the limitation year under Section 3.5 hereof and shall mean the Plan Year.
- 1.18 **"Normal Retirement Age"** means sixty-two (62) years of age.
- 1.19 **"Participant"** means a Participant under Article II hereof.
- 1.20 **"Participant Aggregate Accounts"** means the accounts by that name established pursuant to Article III hereof.
- 1.21 **"Participant Contributions"** means contributions made on behalf of the Participant by the Employer as Pick Up Contributions and/or Participant after tax contributions.
- 1.22 **"Participant Contribution Account"** means the value of the Participant's interest in this Plan that is attributable to Pick Up Contributions and/or Participant after tax contributions.

- 1.23 **"Pick Up Contributions"** means Participant Contributions made by the Employer on behalf of the Participant pursuant to Section 414(h) of the Internal Revenue Code. Pick Up Contributions shall not under any circumstances be paid to the Participant or be directed by the Participant for any purpose except as Pick Up Contributions to this Plan. The Employer may make Pick Up Contributions through a reduction in salary, an offset against future salary increases, or a combination of the two.
- 1.24 **"Plan"** means the City of Morro Bay PARS Alternate Retirement System.
- 1.25 **"Plan Administrator"** means the individual or position designated by the Employer to act on behalf of the Employer in matters relating to this Plan. If no designation is made, the Employer shall be the Plan Administrator. If a Plan Administrator has been appointed, the word "Employer" as used in this Plan shall mean Plan Administrator unless the context indicates a different meaning is intended.
- 1.26 **"Plan Year"** means the consecutive twelve-month period beginning on July 1 and ending on June 30.
- 1.27 **"Public Agency"** means an Employer authorized to establish a pension trust.
- 1.28 **"Regulations"** means the regulations adopted or proposed by the Department of Treasury from time to time pursuant to the Code.
- 1.29 **"Retirement System"** means any plan that meets the requirements for a retirement system under Section 3121(b)(7)(F) of the Code and the final regulations thereunder.
- 1.30 **"Social Security"** means the Social Security program as set forth in Title 42 of the United States Code, Section 301 et seq.
- 1.31 **"Trust"** means the trust established as part of the Public Agency Retirement System Trust to hold the assets of the Plan.
- 1.32 **"Trustee"** means the trustee of the Trust.
- 1.33 **"Valuation Date"** means the last day of the Plan Year or such other day on which the assets of the Trust are valued and the value of each Participant's Aggregate Account is determined.
- 1.34 **"Vested"** means the nonforfeitable portion of any Account maintained on behalf of a Participant.

ARTICLE II

ELIGIBILITY REQUIREMENTS FOR PARTICIPATION

2.1 Time of Participation

An Eligible Employee shall participate in this Plan on each day during which the Employee is not accruing a benefit under Social Security, or another Retirement System provided and maintained by the Employer.

2.2 Termination of Participation

A Participant shall cease to be a Participant on the date on which the Participant begins to participate in another Retirement System or the date of his or her termination of employment as determined by the Employer.

2.3 Effect of Transfer to Ineligible Employment

If a Participant is no longer an Eligible Employee and becomes an Ineligible Employee, such Employee will participate immediately upon returning to the Eligible Class of Employees. Such participation shall commence as of the first day of such eligible employment.

2.4 In Service Distributions

A Participant who is no longer eligible to participate because he is no longer in the class of Eligible Employees, but who has not terminated employment with the Employer, shall become an Inactive Participant and shall remain such for twenty-four (24) months after which his interest in the Plan will be distributed to him upon consent.

ARTICLE III
CONTRIBUTIONS

3.1 Amount of Employer Contributions

There is hereby created and established and shall be maintained by the Plan Administrator the Employer Contribution Account. For Compensation earned during each day that an Employee remains a Participant under this Plan, the Employer shall make a contribution of one and one-half percent (1.5%) of Compensation. Such contribution shall be made no later than the close of the Plan Year. This amount shall be credited to the Employer Contribution Account. Employer contributions will be allocated to each Participant in the ratio that such Participant's compensation bears to the compensation of all Participants.

3.2 Amount of Employee Contributions

There is hereby created and established and shall be maintained by the Plan Administrator the Employee Contribution Account. For Compensation earned during each day that an Employee remains a Participant under this Plan, the Employee shall make a contribution of six percent (6%) of Compensation. Such contribution shall be credited to the Employee Contribution Account. In accordance with Section 414(h) of the Code and Sections 1.21 and 1.23 of this Plan, the contributions required under this Section 3.2 shall be Pick Up Contributions. Pick Up contributions shall meet the requirements of Revenue Ruling 2006-43.

3.3 Administrative Expenses

The Employer may make contributions to the Trust sufficient to defray all or part of the expenses of administering the Plan or may pay such expenses directly.

3.4 Allocation of Administrative Expenses

If the Employer chooses not to pay the expenses of administering this Plan, such expenses shall be charged ratably against the Participants' Aggregate Accounts.

3.5 Limits on Annual Additions

Annual additions credited to a Participant's Account during a Limitation Year shall not exceed the lesser of \$40,000 (adjusted as permitted by Section 415(d) of the Code and Regulations issued thereunder) or 100 percent of Section 415 Compensation (provided that such 100 percent limitation shall not apply to any contributions for medical benefits after separation from service, within the meaning of Section 401(h) or Section 419A(f)(2) of the Code). This Section 3.5 shall be construed and interpreted in accordance with the provisions of Article IX.

3.6 Vesting

Except as set forth in Section 5.1, a Participant will be fully Vested in his Aggregate Account at all times. If the Plan's vesting schedule is amended or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, each Participant with at least three years of service with the Employer may elect within a reasonable period of time after the adoption of the amendment or change to have his nonforfeitable percentage computed under the Plan without regard to the amendment or change.

3.7 Investment in Accordance with Applicable Law

All contributions, interest earned, and any assets of the Plan shall at all times be invested and managed in accordance with the requirements of applicable law.

3.8 Reversions

The Employer shall have the right to a reversion of assets from this Plan if (1) a contribution is conditioned upon the initial qualification of the Plan, a timely determination letter request is filed, and the Plan receives an adverse determination, or (2) the reversion is due to a good faith mistake of fact, or (3) the contribution is conditioned on its deductibility under Section 404 of the Code. Notwithstanding the foregoing, (i) any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution; (ii) in the event the deduction of a contribution made by the Employer is disallowed under Section 404 of the Code, such contribution (to the extent disallowed) must be returned to the Employer within one year of the disallowance of the deduction; and (iii) in the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made incident to that initial qualification by the Employer must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

ARTICLE IV

FUNDING AND VALUATION

4.1 Funding

The assets of the Plan shall be held in a trust or invested in an insurance contract, which may or may not be held in a trust. For the purpose of funding this Plan, the Employer shall provide the Trustee or Investment Manager with written direction on how to invest the assets of the Plan. Notwithstanding anything to the contrary contained in the Trust Agreement, in-kind contributions shall not be permissible under the Plan. In the case of any conflict between this Plan document and any trust or custodial document under which assets of the Plan are held, this Plan document shall control.

4.2 Valuation

The value of a Participant's Employer Contribution Account and Employee Contribution Account shall be determined annually on a date hereafter referred to as a Valuation Date. As of each Valuation Date there shall be determined the amount of the investment gain or loss to be credited to the total of all assets held for Employer Contribution Accounts and Employee Contribution Accounts during the period since the preceding Valuation Date. The total adjustment shall be allocated among all of the individual Participant and Inactive Participant Accounts as of the current Valuation Date. The assets of the Trust shall be valued annually at fair market value. On the Valuation Date, the earnings and losses of the Trust will be allocated to each Participant and Inactive Participant.

4.3 Type and Nature of Plan

Neither the faith and credit nor the taxing power of the Employer, the State of California or any other political subdivision thereof other than the Employer is pledged to the distribution of benefits hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of the Employer, but are payable solely from contributions, as more fully described herein. No Employee or Beneficiary may compel the exercise of the taxing power by the Employer. Distributions of benefits are not a debt of the Employer, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. Distributions are not a legal or equitable pledge, charge, lien, or encumbrance, upon any of the Employer's property, or upon any of its income, receipts, or revenues, except amounts in the accounts which are, under the terms of this Plan, set aside for distributions of benefits. Neither the Participants of the legislative body of the Employer nor its officers, employees, agents, or volunteers are liable hereunder. Benefits under the Plan may not be assigned or alienated except to the extent allowable under Sections 401(a)(13) and 414(p) of the Code.

ARTICLE V

VESTING

5.1 Vesting in Employer Contribution Account

Each Participant shall be one hundred percent (100%) Vested in his Employer Contribution Account at all times.

5.2 Vesting in Employee Contribution Account

Each Participant shall be one hundred percent (100%) Vested in his Employee Contribution Account at all times.

5.3 Full or Partial Termination

Notwithstanding the vesting schedule in 5.1 and 5.2, upon the complete discontinuance of Employer contributions to the Plan or upon any full or partial termination of the Plan, all amounts credited to the Account of any affected Participant shall become one hundred percent (100%) Vested and shall not thereafter be subject to forfeiture for any reason.

ARTICLE VI

DISTRIBUTION OF BENEFITS

6.1 Incidental Death Benefits

(a) Distributions from the Plan shall be made in accordance with Section 401(a)(9) of the Code, including the incidental death benefits under Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the Participant shall be as follows:

(b) A Participant shall have the option of commencing distributions by April 1 following age 70½ or deferring payment until actual retirement. For avoidance of doubt, a Participant is not required to receive a distribution while an Employee (in 2009 or any other year).

(c) Time and Manner of Distribution.

(i) Required Beginning Date. The Participant's entire interest will be distributed to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed no later than December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) Forms of Distribution. The Participant's interest shall be distributed in the form of a single sum on or before the Required Beginning Date.

(iv) Required Beginning Date. The April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or, if the Participant opts to defer payment until retirement, the April 1 of the calendar year following the calendar year in which the Participant actually retires.

6.2 Amount of Distribution

A Participant who terminates employment for any reason shall be entitled to one hundred percent (100%) of the value of his Aggregate Account determined as of the most current Valuation Date.

6.3 Lump Sum Distributions

All distributions shall be made in a lump sum payment in cash constituting the entire value of the distributee's Aggregate Account.

6.4 Time of Distribution

Unless otherwise specified herein, benefits shall become distributable to a Participant (or the Participant's Beneficiary in any case of the Participant's death) upon any termination of the Participant's employment by reason of resignation, discharge, retirement, disability, or death. This Plan does not provide for mandatory distributions of any amount. Therefore, no distribution is made (regardless of the amount of the distribution) without the consent of the Participant (or the Participant's Beneficiary in any case of the Participant's death).

6.5 Participant's Rights Not Subject to Execution

The right of a Participant to a benefit under this Plan is not subject to execution or any other process whatsoever, except to the extent permitted and is unassignable.

6.6 Unclaimed Benefits

Each Participant and Beneficiary of a deceased Participant shall file with the Plan Administrator from time to time in writing, his home address and each change of home address. Any communication shall be addressed to the Participant or the Beneficiary at his last home address filed with the Plan Administrator, or if no such address was filed, then at his last home address as shown on the Employer's records, shall be binding on the Participant or Beneficiary for all purposes of the Plan. The Participant's Account balance shall be subject to the abandoned property law of the applicable jurisdiction.

6.7 Direct Rollovers

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Plan, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(b) A Beneficiary who is not the spouse of the Participant may elect a direct trustee to trustee transfer that qualifies as an eligible rollover distribution under this Section 6.7. Such transfer shall be made to an individual retirement plan described in Section 408(a) of the Code or an individual retirement account that is established for the purpose of receiving the distribution on behalf of such Beneficiary. Such individual retirement account shall be deemed an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Code. Also, in this case, the determination of any required minimum distribution under Code Section 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

(c) Definitions

(i) Eligible Rollover Distribution

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (iii) any hardship distribution; (iv) and any other distribution(s) that is reasonably expected to total less than \$200 during a year. For purposes of the \$200 rule, a distribution from a designated Roth account and distributions from other accounts under the Plan are treated as made under separate plans. Any portion of a distribution that consists of after-tax employee contributions which are not includable in gross income may be transferred only to (A) a traditional individual retirement account or annuity described in Section 408(a) or (b) of the Code or Roth individual retirement account or annuity described in Section 408A of the Code; or (B) to a qualified plan described in Section 401(a) of the Code or to an annuity contract described in Section 403(b) of the Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable.

(ii) Eligible Retirement Plan

An eligible retirement plan is an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, a traditional IRA, a Roth IRA, an annuity plan described in Section 403(b) of the Code or a qualified plan described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

(iii) Direct Rollover

A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

6.8 Military Service

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. In addition, the survivors of any Participant who dies on or after January 1, 2007 while performing qualified military service, are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.

ARTICLE VII

DEATH BENEFITS

7.1 Designation of Beneficiary

Each Participant and Inactive Participant shall have the right to designate a Beneficiary to receive the death benefits that are payable from this Plan. Such designation must be evidenced by a written instrument filed with the Employer on a form prescribed by the Employer and signed by the Participant.

7.2 Married Participant

The Beneficiary for a married Participant shall at all times be the Participant's spouse and may not be changed to someone other than such spouse unless the consent of such spouse is provided upon a written form witnessed by a duly authorized Plan representative or a notary public and acceptable to the Employer. If no such designation is on file with the Employer at the time of the death of the Participant, or if for any reason at the sole discretion of the Employer such designation is defective, then the spouse of such Participant shall be conclusively deemed to be the Beneficiary designated to receive such benefit.

7.3 Spouse's Signature

The signature of the Participant's spouse shall be required on a designation of beneficiary form if the spouse is not the Beneficiary, unless the Participant declares in writing that one of the following conditions exists:

- (a) The Participant is not married;
- (b) The Participant does not know and has taken all reasonable steps to determine the whereabouts of the spouse;
- (c) The spouse is incapable of executing the acknowledgement because of an incapacitating mental or physical condition.

7.4 Default Beneficiary

In the event the Participant dies and is not survived by a spouse, the Aggregate Account shall pass by the laws of intestacy.

7.5 Domestic Partners

For purposes of this Article VII only: (1) all references to “marriage” shall also include “registered domestic partnerships,” (2) individuals in a “registered domestic partnership” shall be considered “married,” and (3) all references to a “spouse” shall also include a “registered domestic partner.” A “registered domestic partner” and a “registered domestic partnership” refer to persons and partnerships satisfying the requirements of applicable law (including any registration requirements) as of the date of death.

ARTICLE VIII

ADMINISTRATION AND AMENDMENT OF PLAN

8.1 Designation of Plan Administrator

The Employer is the Plan Administrator under this Plan unless an individual employed by, or a position within the Employer, has been appointed by the Employer as Plan Administrator. In addition to a Plan Administrator the Employer may designate a delegatee to perform those activities relating to the Plan as specified in the written appointment of such delegatee. The term "Employer" as used in this Article VIII shall mean the Plan Administrator or delegatee where responsibility for administration of the Plan has been given to such parties.

8.2 Rules and Regulations

The Employer shall supervise and control the operation of this Plan in accordance with its terms and may make rules and regulations for the administration of this Plan that are not inconsistent with the terms and provisions hereof. The Employer shall determine any questions arising in connection with the interpretation, application, or administration of the Plan (including any question of fact relating to age, employment, Compensation, or eligibility of Employees) and its decisions or actions in respect thereof shall be conclusive and binding upon any and all persons and parties. The Employer's interpretations, determinations and actions taken under the Plan shall in all cases result in like treatment for Employees who are similarly situated. In the event of any conflict between the terms of this Plan and conflicting provision contained in the Trust, the terms of this Plan will govern.

8.3 Amendment and Termination

The Employer shall have the right to amend, modify or terminate this Plan at any time. In the event of a termination or the complete discontinuance of this Plan, the entire interest of each Participant affected thereby shall immediately become 100% Vested. The Employer shall not be liable for the payment of any benefits under this Plan and all benefits hereunder shall be payable solely from the assets of the Trust. The Provider, as defined in section 4.08 of Rev. Proc. 2017-41, may amend any part of the Plan solely for purposes of the Plan continuing to satisfy the requirements of Internal Revenue Code Section 401. However, for purposes of reliance on an Opinion Letter, the Provider will no longer have the authority to amend the Plan on behalf of the Employer as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-approved Plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan. The Provider will inform the Employer of any amendments made to the Plan or of the discontinuance of the Plan.

ARTICLE IX

ANNUAL ADDITION LIMITS

9.1 Construction

Section 3.5 of the Plan shall be construed in accordance with this Article IX. Unless the context clearly requires otherwise, words and phrases used in this Article IX shall have the same meanings that are assigned to them under the Plan.

9.2 Definitions

As used in this Article IX, the following terms shall have the meanings specified below.

(a) **"Annual Additions"** shall mean the sum credited to a Participant's Accounts for any Plan Year of (i) Employer contributions, (ii) Employee contributions, (iii) forfeitures, (iv) amounts credited after March 31, 1984 to an individual medical account, as defined in Section 415(1)(2) of the Code which is part of a pension and annuity maintained by the Employer, (v) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits, allocated to the separate account of a key employee, as defined in Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer, and (vi) allocations under a simplified employee pension.

(b) **"Defined Benefit Plan"** means a plan described in Section 414(j) and 414(k)(2) of the Code.

(c) **"Defined Contribution Plan"** means a plan described in Section 414(i) and 414(k)(2) of the Code.

(d) **"Section 415 Compensation"** shall mean a Participant's wages within the meaning of Code Section 3401(a) and all other payments of compensation to the Participant by the Employer (in the course of the Employer's business) for which the Employer is required to provide the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Section 415 Compensation shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Compensation for any Limitation Year is the compensation actually paid or includible in gross income during such year. Compensation paid or made available during a Limitation Year shall include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b). After December 31, 2008, differential wage payments shall be treated as payment of wages under Code Section 3401(a) for purposes of Code Section 415(c)(3). Section 415 Compensation does not include any amounts paid following a severance from employment, except amounts paid or includible in gross income by the later of 2 1/2 months after a severance from employment or the end of the Plan Year that includes the severance from employment shall be included if, (i) absent the severance

from employment, such compensation would have been paid to the Participant while the Participant continued in employment with the Employer, and such payments represent regular compensation for services during the Participant's regular working hours (or compensation for services outside the Participant's regular working hours, such as overtime or shift differential), commissions, bonuses or similar compensation, (ii) the payment is for unused accrued bona fide sick, vacation or other leave that the Participant would have been able to use if employment had continued, or (iii) the payment is received by the Participant pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income. Any payments not described above shall not be considered Section 415 Compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment.

9.3 Annual Addition Limitations

(a) Annual Additions shall not exceed the limit set forth in Section 3.5 of Article III of the Plan.

(b) The compensation limitation of Section 3.5 of the Plan shall not apply to any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is treated as an Annual Addition.

(c) If any Employer contributes amounts, on behalf of Participants covered by the Plan, to other defined contribution plans, the limitation on Annual Additions provided in Article III of the Plan shall be applied to Annual Additions in the aggregate to the Plan and such other plans. Reduction of Annual Additions, where required, shall be accomplished by reducing contributions under such other plans pursuant to the directions of the fiduciary for administration of such other plans or under priorities, if any, established by the terms of such other plans, and then, if necessary, by reducing contributions under the Plan.

(1) This Section 9.3(c)(1) applies if, in addition to this Plan, the Participant is covered under another qualified pre-approved Defined Contribution Plan maintained by the Employer, a welfare benefit fund maintained by the Employer, an individual medical account maintained by the Employer, or a simplified employee pension maintained by the Employer, that provides an Annual Addition during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the maximum permissible amount reduced by the Annual Additions credited to a Participant's Account under the other qualified pre-approved Defined Contribution Plans, welfare benefit funds, individual medical accounts, and simplified employee pensions for the same Limitation Year. If the Annual Additions with respect to the Participant under other qualified pre-approved Defined Contribution Plans, welfare benefit funds, individual medical accounts, and simplified employee pensions maintained by the Employer are less than the maximum permissible amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the

Limitation Year will equal the maximum permissible amount. If the Annual Additions with respect to the Participant under such other qualified pre-approved Defined Contribution Plans, welfare benefit funds, individual medical accounts, and simplified employee pensions in the aggregate are equal to or greater than the maximum permissible amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(2) If the Participant is covered under another qualified Defined Contribution Plan maintained by the Employer which is not a pre-approved plan, Annual Additions which may be credited to the Participant's Account under this Plan for any Limitation Year will be limited in accordance with this section as though the other plan were a pre-approved plan.

(d) If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive month period, the maximum permissible amount will not exceed the limitation in Section 3.5 multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year, and the denominator of which is 12.

(e) In the event the limitations of Section 3.5 of the Plan or Sections 9.3(a) through (d) of this Article IX are exceeded such excess may be corrected through the Employee Plans Compliance Resolution System as permitted by applicable IRS guidance (such as under Rev. Proc. 2016-51 or its successors).

**ADOPTION OF THE
AMENDED AND RESTATED
CITY OF MORRO BAY
PARS ALTERNATE RETIREMENT SYSTEM**

The Employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code except to the extent provided in Rev. Proc. 2017-41.

An Employer who has ever maintained or who later adopts any plan (including a welfare benefit fund, as defined in Section 419(e) of the Code, which provides post-retirement medical benefits allocated to separate accounts for key employees, as defined in Section 419A(d)(3) of the Code, or an individual medical account, as defined in Section 415(1)(2) of the Code) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Section 415.

The Employer may not rely on the opinion letter in certain other circumstances, which are specified in the opinion letter issued with respect to the plan or in Rev. Proc. 2017-41.

The Amended and Restated City of Morro Bay PARS Alternate Retirement System is hereby adopted.

BY: _____
Scott Collins

TITLE: City Manager _____

DATE: _____

Provider: Public Agency Retirement Services
P.O. Box 11119
Newport Beach, CA 92658-5019

(800) 540-6369

Opinion Letter Serial No: Q702335a

TABLE OF CONTENTS

	Page
INTRODUCTION.....	2
DEFINITIONS.....	3
ELIGIBILITY REQUIREMENTS FOR PARTICIPATION	6
2.1 Time of Participation.....	6
2.2 Termination of Participation	6
2.3 Effect of Transfer to Ineligible Employment.....	6
2.4 In Service Distributions.....	6
CONTRIBUTIONS.....	7
3.1 Amount of Employer Contributions.....	7
3.2 Amount of Employee Contributions	7
3.3 Administrative Expenses.....	7
3.4 Allocation of Administrative Expenses	7
3.5 Limits on Annual Additions.....	7
3.6 Vesting	8
3.7 Investment in Accordance with Applicable Law	8
3.8 Reversions.....	8
FUNDING AND VALUATION.....	9
4.1 Funding	9
4.2 Valuation.....	9
4.3 Type and Nature of Plan	9
VESTING	10
5.1 Vesting in Employer Contribution Account	10
5.2 Vesting in Employee Contribution Account.....	10
5.3 Full or Partial Termination.....	10
DISTRIBUTION OF BENEFITS	11
6.1 Incidental Death Benefits.....	11
6.2 Amount of Distribution.....	11
6.3 Lump Sum Distributions.....	11
6.4 Time of Distribution.....	12
6.5 Participant's Rights Not Subject to Execution	12

TABLE OF CONTENTS
(continued)

	Page
6.6 Unclaimed Benefits.....	12
6.7 Direct Rollovers	12
6.8 Military Service.....	14
DEATH BENEFITS.....	15
7.1 Designation of Beneficiary	15
7.2 Married Participant.....	15
7.3 Spouse's Signature.....	15
7.4 Default Beneficiary	15
7.5 Domestic Partners	16
ADMINISTRATION AND AMENDMENT OF PLAN.....	17
8.1 Designation of Plan Administrator.....	17
8.2 Rules and Regulations.....	17
8.3 Amendment and Termination.	17
ANNUAL ADDITION LIMITS	18
9.1 Construction.	18
9.2 Definitions.....	18
9.3 Annual Addition Limitations.	19

**AMENDMENT TO THE
CITY OF MORRO BAY
PARS ALTERNATE RETIREMENT SYSTEM**

WHEREAS, the City of Morro Bay (the "Employer") adopted the City of Morro Bay PARS Alternate Retirement System (the "Plan"), amended and restated effective March 22, 2022; and

WHEREAS, the Employer desires to amend the Plan in response to the Setting Every Community up for Retirement Act (the "SECURE Act") to increase the Required Beginning Date age to 72 for participants who turn 70½ in the calendar year 2020 and after; and

WHEREAS, the Employer further desires to amend the Plan in response to the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to waive 2020 required minimum distributions; and

WHEREAS, the Employer has the right to amend the Plan in accordance with Section 8.3 of the Plan.

NOW THEREFORE, BE IT RESOLVED, effective January 1, 2020, the Plan is hereby amended as follows:

1. Section 6.1, **Incidental Death Benefits**, is hereby amended in its entirety to read.

6.1 Incidental Death Benefits

(a) Distributions from the Plan shall be made in accordance with Section 401(a)(9) of the Code, including the incidental death benefits under Section 401(a)(9)(G) and the regulations thereunder. The Required Beginning Date of benefit payments that represent the entire interest of the Participant shall be as follows:

(b) A Participant shall have the option of commencing distributions by (i) April 1 following (A) age 70½, if the Participant was born before July 1, 1949, or (B) age 72 if the Participant was born after June 30, 1949, or (ii) deferring payment until actual retirement. For avoidance of doubt, a Participant is not required to receive a distribution while an Employee (in 2009 or any other year).

(c) Time and Manner of Distribution.

(i) Required Beginning Date. The Participant's entire interest will be distributed to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed no later than December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) Forms of Distribution. The Participant's interest shall be distributed in the form of a single sum on or before the Required Beginning Date.

(iv) Required Beginning Date. The April 1 of the calendar year following the calendar year in which the Participant attains (A) age 70½, if the Participant was born before July 1, 1949, or (B) age 72 if the Participant was born after June 30, 1949, or, if the Participant opts to defer payment until retirement, the April 1 of the calendar year following the calendar year in which the Participant actually retires.

(d) Notwithstanding any contrary provision in this Section 6.1, in accordance with section 2203 of the CARES Act, any distribution that is required in 2020 by Section 6.1(c) (which implements the minimum distribution requirements of Section 401(a)(9) of the Code) will not be made. In addition, notwithstanding Section 6.7 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, any amount that would otherwise be a minimum distribution under Code section 401(a)(9) in 2020 will be treated as an eligible rollover distribution.

2. All other terms and conditions under the Plan shall remain in full force and effect.

IN WITNESS WHEREOF, this amendment is hereby adopted effective as of the date executed below.

CITY OF MORRO BAY

By: _____
Scott Collins

Title: City Manager

Dated: _____

This Page Intentionally Left Blank



AGENDA NO: A-6

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: March 15, 2022

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

SUBJECT: Second reading and Adoption of Ordinance No. 648 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

RECOMMENDATION

Staff recommends the City Council adopt, by second reading and 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."

FISCAL IMPACT

If adopted, Ordinance No. 648 will take effect in 30 days ending the City's Waterfront RV Camping Program, reducing revenues to the Harbor Fund by approximately \$115,000 - \$155,000 annually and reducing revenues to the General Fund by \$13,500 to \$18,500 annually.

BACKGROUND/DISCUSSION

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." 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.

At the February 8, 2022 Meeting, the City certified the results of the initiative petition and the Council directed staff to evaluate on a Citywide basis the effects of the proposed initiative in accordance with Elections Code Section 9212, and present that report at the March 8, 2022 Regular Meeting. The report would consider any of the following that might apply:

- a) Its fiscal impact.
- b) 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](#).
- c) Its effect on the use of land, the impact on the availability and location of housing, and the

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

- ability of the city to meet its regional housing needs.
- d) 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.
 - e) Its impact on the community's ability to attract and retain business and employment.
 - f) Its impact on the uses of vacant parcels of land.
 - g) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - h) Any other matters the legislative body requests to be in the report.

Staff prepared a report that evaluated the potential impacts of the proposed initiative (Attachment 2) and presented the report to Council on March 8, 2022. Numerous conclusions were reached in the Election Code section 9212 report requested by Council.

The proposed initiative as concluded in Impact No. 1 of the report would reduce revenues to the Harbor Fund, an enterprise fund that supports the Harbor Department operations and waterfront infrastructure by approximately \$115,000 - \$155,000 annually and reduce revenues to the General Fund by \$13,500 to \$18,500.

As concluded in Impact No. 2 of the report, a thorough review of proposed new zoning classifications provided for in Plan Morro Bay (those new zoning classifications considered and reviewed years ago pursuant to the multi-year process for development of Plan Morro Bay) concludes that these ***new zoning classifications in Plan Morro Bay are scheduled to already eliminate all but the current Tidelands campsite (of the current campsites run by the City).*** Plan Morro Bay as currently written would prevent operation of approximately 85% of the current City run camping sites (otherwise subject to the proposed measure).

Pursuant to the Election Code section 9212 report, in the remaining six areas identified in Elections Code Section 9215, the proposed measure would have no impacts or negligible impacts in the remaining six areas.

Following receipt of the report, the Council considered alternatives and voted 4-1 to introduce 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.

CONCLUSION

Staff recommends the City Council adopt, by second reading and 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."

ATTACHMENTS

1. Ordinance No. 648 Prohibiting Camping in Certain Areas of the City
2. Elections Code 9212 Report

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, the City Council requested a report pursuant to Election Code section 9212 at the regular meeting held on February 8, 2022, and that report was presented to the City Council at its regular meeting held on March 8, 2022;

01181.0001/766026.1

WHEREAS, consistent with the law requires the City Council to either adopt the ordinance or order an election, subsequent to submission of an Election Code section 9212 report, the City Council decided to “adopt the ordinance, without alteration.”; 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.

//
//
//
//
//
//
//
//
//
//
//
//

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 8th day of March 2022, by motion of Mayor Heading and seconded by Council Member Addis.

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



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

REPORT TO MAYOR AND CITY COUNCIL March 8, 2022

The City Council requested that City staff provide a report on potential impacts of the proposed initiative related to recreational vehicle camping and tent camping along Embarcadero Road, including Tidelands Park, and along Coleman Drive, including Morro Rock parking lot. Pursuant to California Elections Code Section 9212, staff prepared responses to the eight areas of potential impact. Below is a summary of potential impacts:

1) Fiscal Impact

Staff response - as currently configured, the Waterfront RV Camping Program revenues continue to track closely to what was estimated during the pilot phase of the program and would generate approximately \$135,000 to \$185,000 in annual gross revenues if permanently established. The program would net approximately \$115,000 to \$155,000 in revenues for the Harbor Fund, \$13,500 to \$18,500 in General Fund transient occupancy tax (TOT) revenues, and \$2,000 to \$2,800 for the County Tourism Marketing District on a long-term annual basis. Although the program has yet to span a full fiscal year, a combination of 2021 and 2022 calendar year monthly data netted the Harbor Fund \$134,000. This proposed initiative would negate the entirety of those anticipated revenues for the Harbor Fund and General Fund.

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](#) –

Staff response – This is no impact on the housing element. There was also no impact on Section 65008 because there are no disproportionate environmental burdens created on low-income neighborhoods or neighborhoods of color. There is no impact to Section 65913 because affordable housing is not being created nor taken away as a result of this measure. There is no impact to 65915 because the measure does not apply to density bonuses or other housing incentives, but refers to commercial uses of property for camping or overnight RV camping accommodations.

With regard to consistency with planning and zoning, there are eight zoning districts in the area where the RV initiative would cover (three of which are incorporated in the Harbor Department's current waterfront campsite program). These are noted below followed by whether or not RV facilities or tent camping is an allowed use. Only two areas would be impacted by the initiative as the other areas either specifically excludes overnight RV or camping or is not a listed allowed use. No specific plans are in this area.

- 1. Morro Creek area is zoned OA-2/CF/PD (dual zone designation): Campgrounds are **allowed** in Open Area 2 zoning. Camping/ RV camping/ tents are not a listed allowed use in CF zoning. Site changes to Open Space (OS) zoning in the draft zoning code, which does not allow campgrounds, but adjacent property south of Morro Creek at the northeast corner of Coleman and Embarcadero changes zoning from Open Area 2 to Parks and Recreation (PR) zoning which allows campground uses.*
- 2. Maritime Museum area is M-2/PD/I, Camping/ RV camping is not a listed allowed use. However, the Interim (I) use overlay does **allow** camping/RV camping pursuant to Morro Bay Municipal Code section 17.24.080. The site changes to Public Facility (PF) zoning in the new code. Campgrounds are not a permitted use under the draft PF zoning.*
- 3. Tidelands Parking lot is OA-2. Camping or RV camping is a listed allowed use. The draft zoning code changes this area to Parks and Recreation (PR) zoning. Camping and RV camping would be allowed under the draft PR zoning.*
- 4. Coleman Drive area is zoned Commercial Fishing (CF) and camping is not an allowed use in this zone. Zoning remains CF under the draft zoning code and camping remains prohibited.*
- 5. Morro Rock parking area is zoned Open Space 2/Planned Development (OA-2/PD) and allows for camping. Under draft zoning code area changes to Open Space (OS) and camping is not an allowed use.*

Other zoning classifications located along Embarcadero and Coleman Drive include:

- 6. Waterfront (WF) zoning specifically excludes overnight R-V, camping use. Draft zoning code keeps the same WF zoning and same camping prohibition.*
- 7. Commercial visitor-serving (C-VS) zoning **allows** overnight RV camping. Draft zoning code keeps the same VSC zoning and same allowance for camping.*

8. *Commercial Fishing (CF) zoning does not include camping as an allowed use. Draft zoning code keeps the same CF zoning and does not include camping as an allowed use.*

The attached map provided below identifies all areas in Morro Bay where camping is permitted under the current Zoning Code in addition to showing the areas/zones that would be impacted by the initiative. A map showing the draft proposed Zoning Code will be prepared and published prior to the March 8th Council Meeting.

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.

Staff response – There is no impact because no permanent housing would be created nor taken away as a result of the initiative. It also does not restrict any residentially zoned property.

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.

Staff response – The Harbor Department’s capital program is underfunded by approximately \$600,000 - \$800,000 per year over the next ten years. The Waterfront RV Camping Program was part of a larger Harbor Advisory Board initiative over the last five years to explore new and/or enhanced revenue options to generate additional funds to help support that capital program. While the revenues generated by the RV program alone will not solve the department’s capital needs, they would be a contributor. If not properly funded, the Harbor Department’s municipal wharves, commercial fishing vessel slips, public boat launch ramp facility, public access and view infrastructure will continue to deteriorate, and if not properly repaired and/or replaced, could be rendered unusable. This proposed initiative would negate the entirety of those anticipated revenues for the Harbor Fund through the RV Program, of which some or all those funds could be dedicated to Harbor infrastructure needs.

5) Its impact on the community’s ability to attract and retain business and employment.

Staff response – The impact would be negligible. While properties within the area affected by the initiative would in the future would be excluded from being able to get approval for overnight RV camping/ other camping, other uses and enjoyment of said property would still exist. The community would still have the ability to attract businesses elsewhere in town.

6) Its impact on the uses of vacant parcels of land.

Staff response – The impact would be negligible. Vacant parcels of land in this vicinity would still be able to develop with other allowed uses in the zoning district that they are located.

7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization

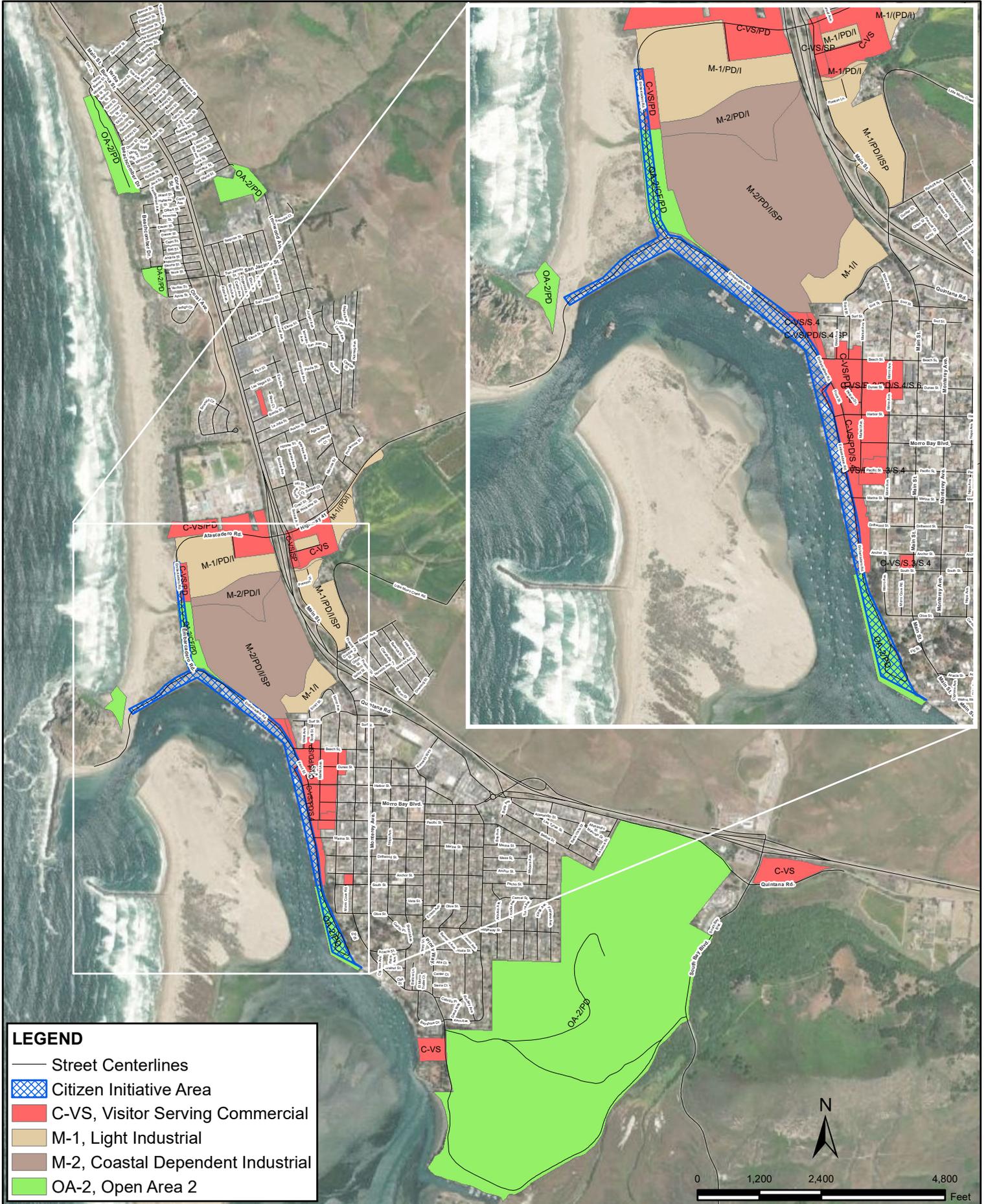
Staff response – There is no impact on agricultural lands. Impact to open space, traffic congestion, existing business districts, and developed areas designated for revitalizations would also be negligible because the amount of lands covered by the initiative would be small in overall combined size. These areas would not be developed and therefore would have corresponding less impacts, but the existing areas have minimal impacts currently with Morro Creek site at 9 spaces, Maritime site as 7 spaces, and Tidelands parking lot area as 3 spaces.

8) Any other matters the legislative body request to be in the report.

Staff response – Council did not request staff to look into other potential matters or impacts related to the proposed initiative.

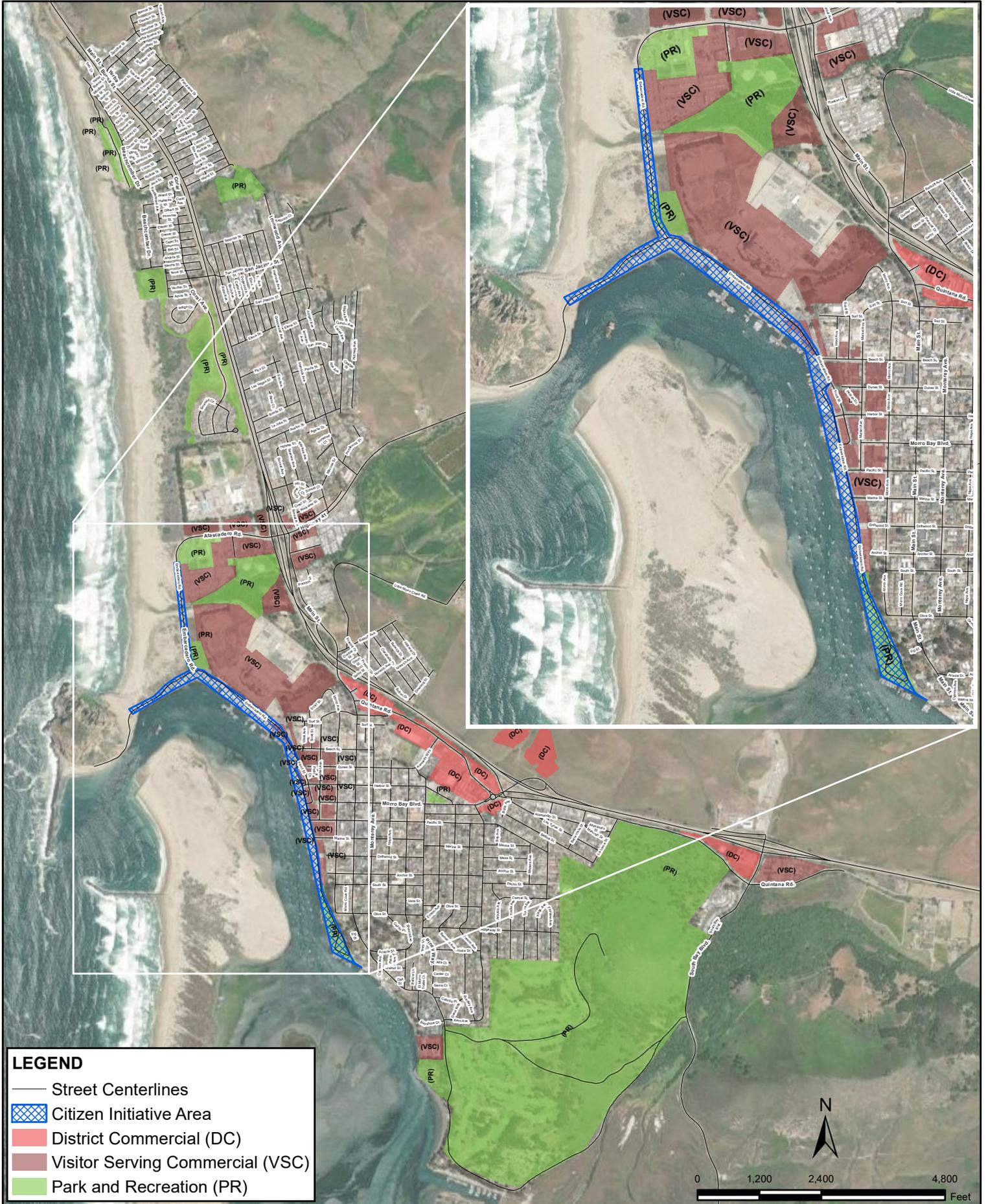


Current Zoning Areas That Allow Camping/RV Parks





Draft Zoning Areas That Allow Camping/RV Parks





Draft Zoning Areas That Prohibit Camping/RV Parks



This Page Intentionally Left Blank



AGENDA NO: A-7
MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 16, 2022
FROM: Sarah Johnson-Rios, Assistant City Manager & Admin Services Director
Emily Conrad, Finance Manager
SUBJECT: Receipt of Independent Single Audit and Transportation Development Act Audits

RECOMMENDATION

Receive and file the Independent Auditors' Reports and Financial Statements for Transportation Development Act (TDA) Funds and the Single Audit, covering the period of July 1, 2020 through June 30, 2021.

BACKGROUND

City staff and Brown Armstrong Accountancy Corporation (Brown Armstrong) presented the results of the Annual Comprehensive Financial Report (ACFR) to City Council on March 8, 2022 and indicated that additional stand-alone audit reports were still pending and would be brought back to Council when completed.

DISCUSSION

Lindsey Zimmerman, Certified Public Accountant (CPA) and Partner at Brown Armstrong, was the partner-in-charge of this year's audit. Ms. Zimmerman has over 16 years of auditing experience including over 8 years of governmental auditing experience. She will present the FY 2020-21 auditor's report to the City Council on March 22nd.

All of the audits resulted in "clean" audit opinions with no material misstatements or incidences of noncompliance with funding requirements.

Single Audit

A Single Audit is required only if the total expenditure of federal awards meets or exceeds \$750,000 in a fiscal year, therefore this audit is not conducted every year. This report presents the Schedule of Federal Expenditures for the year ended June 30, 2021. Expenditures of the Environmental Protection Agency WIFIA loan increased from June 30, 2020 to June 30, 2021 from \$1,151,431 to \$27,042,231. The City was found to be in compliance with federal requirements that could have a direct and material effect on major federal programs for the year ended June 30, 2020 and the year ended June 30, 2021. There were no audit findings in the Single Audit for the year ended June 30, 2020. There was one audit finding for the year ended June 30, 2021 which was presented with the ACFR. The Corrective Action Form is attached.

Prepared By: <u>EC/SJR</u>	Department Review: <u>SJR</u>
City Manager Review: _____	City Attorney Review: <u>CFN</u>

TDA Audit – Transit Enterprise Fund

This report presents the financial statements of the Transit Enterprise Fund of the City, demonstrating an improved net position from June 30, 2020 to June 30, 2021 from approximately \$456,000 to \$527,000. There were no audit findings in the Transit Fund for the year ended June 30, 2020 nor for the year ended June 30, 2021. The City operates a public transportation system, and is eligible for Transportation Development Act (TDA) funds. These funds are allocated by the San Luis Obispo Council of Governments to supplement the City's transit operations.

TDA Audit - Local Transportation Fund – Roads Special Revenue Funds

This report presents the financial statements of the Local Transportation Fund Roads Special Revenue Fund (Roads Fund) of the City, demonstrating a stable net position from June 30, 2020 to June 30, 2021 of approximately \$73,000. There were no audit findings in the Roads Fund for the year ended June 30, 2020 nor for the year ended June 30, 2021. The City is eligible for Transportation Development Act (TDA) funds. These funds are allocated by the San Luis Obispo Council of Governments to supplement the City's roads capital projects.

TDA Audit - Local Transportation Fund – Non-Transit Bike Path Special Revenue Fund

This report presents the financial statements of the Bike Path Special Revenue Fund of the City, demonstrating an improved net position from June 30, 2020 to June 30, 2021 from approximately \$40,000 to \$48,000. There were no audit findings in the Bike Path Special Revenue Fund for the year ended June 30, 2020 nor for the year ended June 30, 2021. The City is eligible for Transportation Development Act (TDA) funds. These funds are allocated by the San Luis Obispo Council of Governments to supplement the City's bike path capital projects.

ATTACHMENTS

1. [2021 Single Audit Report](#)
2. [2021 Transit Audit Report](#)
3. [2021 LTF Roads Audit Report](#)
4. [2021 LTF Non-Transit Bike Path Audit Report](#)
5. [2021 TDA Auditor's Communication](#)



Staff Report

TO: Honorable Mayor and City Council **DATE:** March 15, 2022

FROM: Greg Kwolek, Public Works Director
Pamela Newman, Associate Engineer

SUBJECT: Adopt Resolution No. 23-22 Authorizing the Submission of a Grant Application for the Habitat Conservation Fund Program for the Franklin Riley Park Improvements

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 23-22 authorizing the submission of a grant application for the Habitat Conservation Fund Program (HCF) in the trails project category to help fund improvements at Franklin Riley Park.

ALTERNATIVES

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

FISCAL IMPACT

City staff has identified a grant funding opportunity through the Habitat Conservation Fund Program (HCF) offered by the State Parks and Recreation Department in the trails project category for improvements in Franklin Riley Park and intends to apply for \$25,000-\$50,000 in funding. If awarded, the grant will require a local match of 50%. The Historical Society of Morro Bay has offered \$10,000-\$35,000 for potential matching funds, and the staff is currently exploring other sources of grant match, such as donated materials and in-kind services. Staff will determine the amount of the grant application based on total available grant match secured. Maintenance of any improvements will be performed by a combination of existing maintenance staff and an "Adopt-a-Park" maintenance agreement with the Morro Cove HOA. Staff will not learn about the grant award until after budget development for Fiscal Year (FY) 2022-23.

BACKGROUND

In 2017, at the advocacy of the Historical Society of Morro Bay (HSMB) and prompted by the then City Council Member Red Davis, the City Council named the City park on the bluffs across the street from Morro Cove development "Franklin Riley Park" in honor of Mr. Franklin Riley, who is recognized as the founder of modern Morro Bay. The Morro Cove Homeowner's Association then adopted the park through the City's "Adopt-a-Park Program" and assists in

Prepared By: PN Department Review: GK
City Manager Review: SC City Attorney Review: CFN

the maintenance of the park.

HSMB board members have held several meetings (in-person and via zoom) with the Morro Cove Homeowner's Association, City staff, and a Salinan tribal representative to develop recommended improvements including installation of:

1. drought tolerant/native plantings compatible with acidic soils,
2. a wider walking path for ADA accessibility,
3. an art sculpture consisting of rocks to stone commemorating the Nine Sisters,
4. new comfortable low maintenance benches with the potential for memorial plaques,
5. a potential low-impact community gathering place,
6. three hidden historical panels:
 - a. a background on Franklin Riley
 - b. a Salinan legend of Morro Rock, Falcon and Raven, Serpent and 7 Sisters formation
 - c. Geologic/identification of 7-9 Sisters,
7. a bike rack with plaque for the late City Council Member Red Davis,
8. a smaller sign for heritage tree(s),
9. two-sided interpretive panels, and
10. replacement stairs (connecting to the Embarcadero) and a park sign at bottom of the stairs.

DISCUSSION

The HCF allocates approximately \$2 million each year to cities, counties, and districts to provide grants to local entities to protect fish, wildlife, and native plant resources, to acquire or develop wildlife corridors and trails, and to provide for nature interpretation programs and other programs which bring urban residents into park and wildlife areas. HCF is a competitive grant that requires a 50% match and funds are separated into seven unique categories, with the trails category having its own application process. The application guidelines define "trails" as a thoroughfare or track for pedestrians (including assistive mobility devices), equestrian, or bicycling activities to access wildlife areas. Grant applications must be submitted by April 7, 2022, with the project awards notification released in Summer 2022. Projects must be completed within five years from the fiscal year following the application, which would require all grant eligible work to conclude by June 30, 2027.

The City is requesting authorization to apply for HCF funds to fund some of the community recommended improvements. If awarded, staff will engage the HSMB, Morro Cove HOA, and Public Works Advisory Board for community guidance on design development.

CONCLUSION

Staff recommends the Council adopt Resolution No. 23-22 authorizing staff to submit an application for the Habitat Conservation Fund Program (HCF) Grant.

ATTACHMENT

1. Resolution No. 23-22: Habitat Conservation Fund Grant Authorization.

RESOLUTION NO. 23-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THE APPLICATION FOR
GRANT FUNDS FROM THE HABITAT CONSERVATION FUND PROGRAM**

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

WHEREAS, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes; and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the Habitat Conservation Fund (“HCF”) Program, setting up necessary procedures governing project applications under the HCF Program; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, if grant funds are awarded, the Applicant will enter into a Contract with the State of California to complete the Project(s).

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

1. Approves the filing of an application for the HCF Program; and
2. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the required match and sufficient funds to complete the project; and
3. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that the applicant has reviewed, understands, and agrees to the provisions contained in the contract shown in the Grant Administration Guide; and
5. Delegates the authority to the Public Works Director or his designee to conduct all negotiations, execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project; and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

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

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADING, Mayor

ATTEST:

DANA SWANSON, City Clerk

This Page Intentionally Left Blank



Staff Report

TO: Honorable Mayor and City Council **DATE:** March 15, 2022

FROM: Greg Kwolek, Public Works Director
Pamela Newman, Associate Engineer

SUBJECT: Adopt Resolution No. 24-22 Authorizing the Submission of a Grant Application for State Recreational Trails Grant Program for Coleman Park Improvements

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 24-22 authorizing the submission of a grant application for the State Recreational Trails Program (RTP) for the Coleman Park Improvements project.

ALTERNATIVES

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

FISCAL IMPACT

City staff is in the process of preparing a grant application for \$600,000 to \$1,000,000 in grant funding from RTP. If awarded, the grant will require a local match of 12%. The City plans to leverage funding for the Coleman Park Restroom Demolition and Reconstruction Project as matching funds. These funds are already included in the Fiscal Year (FY) 2021-22 Adopted Budget and approved by City Council. Using these funds as matching funds would require part of the RTP application to include additional support to the restroom project, which will help cover increased costs due to recent increases in construction costs that were not anticipated in the original restroom project budget. The \$318,000 of potential matching funds are comprised from Prop 68 State Parks Per Capita Grant Program funds (\$177,000), Deferred Maintenance Funds (\$31,500), Castle Winds Community Development Funds (\$40,000), and Park in Lieu Fees (\$69,500). Operations of any improvements will be handled by existing City maintenance staff. No additional funding is requested at this time.

BACKGROUND

The improvement of Coleman Park has been identified by Council as a priority because of its favorable existing elements and its proximity to other major City attractions. The park already

Prepared By: <u>PN</u>	Department Review: <u>GK</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>CFN</u>

draws local and regional visitors who enjoy its swing sets, picnic tables, and barbeque pits, and it sits at the crossroads between three of Morro Bay's best-known attractions: the Embarcadero, Morro Rock, and Morro Rock Beach. Because some areas of Coleman Park stand in disrepair staff has been monitoring grant funding opportunities to fund Coleman Park improvements.

On October 8, 2019, the City Council adopted Resolution No. 92-19 to authorize staff to apply for the Prop 68 Per Capita Grant to partially fund a new, prefabricated restroom for Coleman Park that includes four gender-neutral bathroom stalls, each with their own sink as well as a concession stand. As a non-competitive grant, the Per Capita Grant offers city applicants \$177,952 towards park related improvements. Staff received an award notification and has entered into a contract with the State for the Per Capita Grant to complete the Coleman Park restroom reconstruction by December 31, 2023.

On January 11, 2022, the City Council adopted Resolution No. 04-22 authoring staff to apply for the State Rural Recreation and Tourism Grant Program (RRT) for the improvements to Coleman Park. The competitive RRT through the State of California Department of Parks and Recreation, was developed to create new recreation opportunities within rural communities to support health-related and economic goals. The RRT guidelines define "rural" communities as being a City with a population of less than 80,000 within a county with a population of less than 500,000. The grant application was submitted on January 20, 2022, with the project awards notification released in Spring 2022.

DISCUSSION

Staff has identified another competitive grant funding opportunity through the State of California Department of Parks and Recreation. This grant is the Recreational Trails Program (RTP) and was developed to provide funds to create and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. The RTP guidelines define "recreational trails" as a thoroughfare or track across land or snow, used for recreational purposes, such as pedestrian activities (including assistive mobility devices), skating or skateboarding, equestrian activities, skiing, and/or bicycling. Seventy percent (70%) of funds are available for non-motorized projects on competitive basis to cities, counties, districts, state agencies, federal agencies, and nonprofit organizations with management responsibilities over public lands. Grant applications must be submitted by April 7, 2022, with the project awards notification released in summer 2022 and completed grant contracts in Fall 2023.

Staff is requesting Council authorization to apply for RTP funds to repair and/or construct pedestrian walkways, multi-use trail, playgrounds, cultural amenities, exercise stations, parking lot improvements, and/or landscaping. If awarded, staff will engage the Public Works Advisory Board and Recreation and Parks Commission for community guidance on design development.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 24-22 authorizing staff to submit an

application for the Recreational Trails Program (RTP) Grant.

ATTACHMENT

1. Resolution No. 24-22: Recreational Trails Program Grant Authorization.

RESOLUTION NO. 24-22

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THE APPLICATION FOR
GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM**

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

WHEREAS, the Fixing America's Surface Transportation Act (FAST-ACT) provides funds to the State of California for Grants to federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects; and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing Project Application under the program; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of Application(s) before submission of said Application(s) to the State; and

WHEREAS, the Applicant will enter into a Contract with the State of California to complete the Project(s);

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

1. Approved the filing of an Application for the Recreational Trails Program; and
2. Certifies that the Project is consistent with the Applicant's general plan or the equivalent planning document; and
3. Certifies that said Applicant has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
5. Appoints Gregory Kwolek, Public Works Director, or his designee, as agent to conduct all negotiations, execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project; and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

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

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING THE MONTH OF APRIL
“FAIR HOUSING MONTH”**

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

WHEREAS, the City of Morro Bay is joining with the United States Department of Housing and Urban Development (HUD) and other housing agencies in celebrating the anniversary of the National Fair Housing Law, Title VII of the Civil Rights Act of 1968.

WHEREAS, the City of Morro Bay encourages fair housing through its support for affordable housing both through housing rehabilitation programs and its affordable housing in-lieu program;

WHEREAS, discrimination in housing is against the law, no person shall be discriminated against because of race, color, religion, sex, handicaps, familial status, or national origin in the sale, rental, or advertising of dwelling, in the provisions of brokerages services, or in the availability of residential real estate related transactions;

WHEREAS, if any City resident believes he or she has been discriminated against, the resident should contact the Department of Fair Employment and Housing District Office at 1732 Palma Dr., #200, Ventura, CA 93003, (805) 654-4514 or online at www.dfeh.ca.gov. The Fair Housing Information Office helps to ensure that all residents of the City of Morro Bay and surrounding communities are treated fairly and that all the property owners and landlords abide by the letter and spirit of the Fair Housing Law. The Department of Fair Employment and Housing (DFEH) is responsible for enforcing state fair housing laws that make it illegal to discriminate because of a protected characteristic. The law applies to landlords, tenant screening companies, property management companies, real estate agents, home sellers, builders, mortgage lenders, and others. The law prohibits discrimination in all aspects of the housing business, including renting or leasing, sales, mortgage lending and insurance, advertising, practices such as restrictive covenants, and new construction; and

WHEREAS, the City of Morro Bay, the State of California, HUD and various local agencies are working together to ensure equal treatment of all citizens, we urge everyone to practice the Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that I, Mayor John Headding and the City Council of the City of Morro Bay, declare the month of April as Fair Housing Month in the City of Morro Bay.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 22nd day of March, 2022

JOHN HEADDING, MAYOR

This Page Intentionally Left Blank

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING APRIL 2022 AS “MONTH OF THE CHILD”
AND “CHILD ABUSE PREVENTION MONTH”**

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

WHEREAS, the Morro Bay City Council recognizes that every moment in a child's life is an opportunity for that child to learn, that the quality of these experiences may determine whether a child succeeds in school and in life, and that all children need caring and loving adults in their lives; and

WHEREAS, April - Month of the Child and Child Abuse Prevention Month - marks a time to recognize that our community's children are precious assets, that the quality of their early years is our collective responsibility, and that we commit ourselves to ensuring that each and every child has access to a high quality early environment – at home, at child care, at school and in the community – that will promote their optimal growth and development; and

WHEREAS, in solidarity of the We Are The Care Initiative, we as a community of partners and leaders, envision a San Luis Obispo County where all families can find and afford quality care for their children, and where child care professionals are valued for their critical role in building a solid foundation for children and families to thrive in the world; and

WHEREAS, Saturday, April 2, 2022, will commemorate “Day of the Child” at the Annual Children’s Day in the Plaza celebration from 10:00 am to 3:00 pm in the San Luis Obispo Mission Plaza, this year’s celebration where children and families will have the opportunity to discover creativity, individuality, diversity and the arts while exploring community resources; and

WHEREAS, Friday, April 22, 2022 our County will participate in the statewide raising of the Children’s Memorial Flag to honor and raise awareness about the many children in our midst who suffer daily from abuse and neglect, and pledge our support for strategies that strengthen families and protect our young ones; and

WHEREAS, April is National Child Abuse Prevention Month, raising awareness and recognizing that each of us has a role to play in ensuring the safety of our children, as we pledge our support for strategies that strengthen families and protect our young ones; by promoting our “Normalizing Parenting” campaign and introduce Children’s Memorial Day on Friday April 22, 2022 at 10:00 am with our Child Abuse Prevention Council colleagues throughout California.

NOW, THEREFORE, BE IT RESOLVED that the Morro Bay City Council is proclaiming April 2022 as the "Month of the Child" and “Child Abuse Prevention Month.”

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 22nd day of March 2022.

JOHN HEADDING, MAYOR
City of Morro Bay, California

This Page Intentionally Left Blank



AGENDA NO: C-1

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor & City Council **DATE:** March 15, 2022

FROM: Greg Kwolek – Public Works Director
Paul Amico – Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines (Conveyance Facilities) Program Manager

SUBJECT: Approval of Amendment No. 3 to Contract with Anvil Builders, Inc., for Construction Services for the Water Reclamation Facility (WRF) Lift Station and Offsite Pipelines

RECOMMENDATION

Staff recommends the City Council authorize the City Manager to execute Amendment No. 3 to the agreement with Anvil Builders, inc. (Anvil) for construction of the WRF Conveyance Facilities for the amount of \$241,317.00.

FISCAL IMPACT

The table below outlines Anvil’s current contract Amendments, with the inclusion of this Amendment No. 3. The total cost for Amendment No. 3 to Anvil’s Contract is \$241,317.00. The total value of all three Amendments is \$1,503,304. With execution of this Amendment No. 3, Anvil’s new total contract amount will be \$32,996,979.00, which will not result in an increase to the WRF Project overall budget or the rates paid by the City’s water or wastewater customers. The remaining contingency as a result of Amendment No. 2 was \$17,028, therefore the value of Amendment No. 3 will be covered partially by \$224,289 of reallocated funds to the Conveyance Facilities budget contingency from the WRF Project contingency. As of the FY21/22 Q2 quarterly report, there is approximately \$304,859 in the WRF Project contingency; therefore, this reallocation results in \$80,570 remaining in the WRF contingency budget. The WRF Program Manager will coordinate with City staff on evaluating additional budget needs and may be recommending a revised WRF budget that replenishes contingencies for each of the Program components.

As a result of Amendment No. 3, Anvil’s total contract value is approximately 4.8% above their baseline approved budget.

Anvil Base Contract Value	\$31,493,675	November 10 th , 2020
Amendment No. 1	\$674,485	October 12 th , 2021
Amendment No. 2	\$587,502	January 11 th , 2022
Amendment No. 3	\$241,317	TBD
New Contract Value	\$32,996,979	TBD

01181.0001/743380.1	
Prepared By: <u>AC</u>	Dept Review: <u>GK</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>JWP</u>

DISCUSSION

The City of Morro Bay and Anvil entered into an agreement as of November 10, 2020, for construction of the WRF conveyance facilities (the “Contract”). Amendment No. 3 consists of six potential change orders (PCO) that were negotiated between Anvil and the construction management team. The recommended change orders associated with Amendment No. 3 are listed and described below.

PCO #	DESCRIPTION	Amount
8	Additional Project Signage Costs	\$ 9,196.00
9.2	SoCal Gas Delays and Disruptions (Part 2)	\$ 20,750.00
13.1	CA-SLO-16 Revisions (Time Extension) – Add 153 Cal. Days	\$ 0.00
16	Reroute Joint Trench below State Water Line at 121+75	\$ 144,616.00
20	Pothole Utilities for WRF Pilot Injection Well Layout	\$ 15,291.00
32	Broken Water Line at Quintana Road and Kings Avenue	\$ 6,198.00
39	Cultural Monitor Extra Work at MTBM Launch Pit	\$ 45,266.00
	Total	\$ 241,317.00

PCO No. 8 - Additional Project Signage Costs

The original contract included a \$5,000 allowance for additional signage not shown on the plans or required by the specifications. Anvil has exhausted this original budget responding to signage requests from City staff to date. This change order item provides reimbursement of Anvil costs to date to provide additional signage, including custom signs, above the \$5,000 allowance as directed by the City. These additional signs are deemed necessary for public safety, public information, enhanced traffic flow, and/or to enhance access to businesses open during construction.

PCO No. 9.2 - SoCal Gas Delays and Disruptions (Part 2)

The project’s joint trench, containing multiple pipelines, parallels an existing 16" diameter SoCal Gas high pressure gas main for nearly the entire alignment along Quintana Road. SoCal Gas requires a representative to be on site during all digging activities as well as other work activities occurring within 10 feet of the high-pressure gas main (i.e., that could potentially damage or otherwise impact the main). There have been several occurrences where the SoCal Gas representative did not show up for scheduled assignments, which prevented Anvil from performing contract work and/or progressing the joint trench. In these cases, Anvil's entire crew was forced to stand-by and wait for the SoCal Gas representative to arrive. Anvil was negatively impacted on the following days: 8/25/21 for 2 hours, 8/26/21 for 3.5 hours, 9/16/21 for 1.5 hours, 10/7/21 for 2 hours. This is the second change order to reimburse Anvil costs for SoCal Gas monitor no-shows and resulting disruptions, the previous change order amount was \$43,017.00. Staff is investigating whether the City can seek reimbursement for this second change order resulting from SoCal Gas’ delays. No grounds for reimbursement were found for the previous change order.

PCO No. 13.1 - CA-SLO-16 Work Revisions (Time Extension)

Anvil is provided a 153 calendar day non-compensable time extension due to impacts caused by SHPO mandated work restriction at the Morro Creek Utility Bridge, based on the following analysis and terms: Per Anvil’s approved Baseline Schedule, the Utility Bridge was to start Feb 1, 2021 with 23 days of float. Per Anvil’s Feb 2022 Update, the Utility Bridge was actually started Feb 24, 2022, now with 153 days of negative float (delay). It is acknowledged that SHPO restrictions prevented Anvil from starting any work at the Utility Bridge prior to Feb 24, 2022. It is acknowledged that the on-going

01181.0001/743380.1

(through March 2022) archeologist supervised work on site, required by SHPO, continues to impact Anvil's schedule. Direct cost impacts resulting from these circumstances are being tracked separately from this analysis. Anvil is provided the 153 calendar day non-compensable time extension at this time based on the applicable Critical Path Schedule Update negative float duration discussed herein above. Anvil has submitted a Time Impact Analysis requesting 201 calendar days. Anvil and the City agree to allow Anvil to seek additional time extensions if warranted in the future when the full extent of this on-going impact is known. The current Contract completion date is 4/3/2022 (through Amendment No. 3). With 153 calendar days added, the new Contract Completion Date will be Sept 3, 2022. The City currently views the SHPO restrictions at the utility bridge as concurrent with other Anvil-caused delays. As such, the City considers this delay as non-compensable at this time (no extended overhead merit). Similar to the above, Anvil and the City agree to allow Anvil the opportunity to present substantiating documentation of extended overhead merit in the future when the full extent of this on-going impact is known.

PCO No. 16 - Reroute Joint Trench below State Water Line at 121+75

Prior to starting the Joint Trench excavation near Sta 121+75, an existing 10" State water line was marked incorrectly in the field by the pipeline operator. Anvil excavated (potholed) the pipeline at the location marked in the field to verify its position. The State water line was not found at the marked location. The pipeline operator re-marked the line again in the field, this time where shown on the Contract Drawings at Sta 121+75. A pipeline was located at this location and the pipeline operators confirmed the line as the correct pipe in the field. Anvil then began excavating the 8-ft wide by 10-ft deep Joint Trench through the area. While excavating the Joint Trench, Anvil discovered another existing pipeline running adjacent to and below the pipe previously identified as the State water line shown on the plans. The pipeline operator subsequently confirmed the adjacent lower pipe was actually the State water line to be protected in place. This caused Anvil to have to move back, re-excavate, and deepen the Joint Trench excavation from 10 ft to approximately 14 ft deep. This would allow the Joint Trench pipelines to pass below the lower pipe with required DDW clearances. In doing so, Anvil was also required to provide additional trench shoring measures and trench dewatering for the deeper trench; then Anvil encountered additional difficulties and inefficiencies installing the Joint Trench pipelines in the deeper trench, with additional groundwater, with increased soil instabilities, and additional shoring to work around, etc. Anvil was subsequently required to also provide additional Controlled Low Strength Material (CLSM) backfill and then additional select fill compaction as well. Anvil's pipe installation operation was significantly impacted over the period from 8/4/21 to 8/16/21. Staff is investigating whether the City can seek reimbursement from the pipeline operator due to the incorrect information provided.

PCO No. 20 - Pothole Utilities for WRF Pilot Injection Well Layout

Anvil provided additional potholing and utility locating at the request of the City, near Anvil's stockpile and staging area on Vistra property (along Bike Path). This additional potholing and utility locating was required to determine the best location and layout for the future Pilot Injection Well to be installed under a separate City contract, as part of the Recycled Water facilities associated with the Morro Bay OneWater Plan. At the City's direction, Anvil contacted Underground Service Alert (USA), had the area underground utilities marked by utility owners, potholed several critical utilities, backfilled and restored the area, and provided resulting survey data to the City.

PCO No. 32 - Broken Water Line at Quintana Road and Kings Avenue

On Saturday, 10/29/21, City of Morro Bay staff observed a water line leak where the water line crosses the Anvil trench in the intersection of Quintana Road at Kings Avenue. The City subsequently confirmed that a 6" water line, made of Transite (AC) pipe, had deflected and come apart just beyond Anvil's trench line. Anvil had been working in this intersection the previous week and there was strong

01181.0001/743380.1

indication that Anvil activities caused the line brake. Anvil indicated their position that they have no reason to assume they caused the water line break. The City has no reason to believe the rupture would have occurred if not for Anvil trenching across and backfilling around the existing pipe. After additional discussion and negotiation, it was agreed the City would pay a portion of the Anvil crew expenses for repairs. The settlement amount is less than half of the actual costs to Anvil. City staff also incurred costs for various activities including temporary repairs made when the leak was first discovered.

PCO No. 39 - Cultural Monitor Extra Work at MTBM Launch Pit

Trenching operations just north of the Microtunnel launch pit on Quintana Road near the Morro Bay Boulevard Roundabout (Sta 94 to Sta 95) was significantly impacted by a known archaeological site. Anvil work was significantly impacted by instructions provided and enforced by State mandated archeological and tribal monitors assigned to the project. During trenching in the subject area, all excavated spoils were treated differently in that direct loading of trucks was not allowed without first confirming the soil was negative for resources or remains by hand investigations performed by the archeological and tribal monitors. Anvil's trenching and shoring operation was significantly impacted over the period from 10/21/21 to 11/8/21.

CONCLUSION

The requested change orders have been thoroughly reviewed and refined by the project management team. With those changes to the Contract, the WRF conveyance facilities project will continue to meet the timing requirements of the entire WRF project.

ATTACHMENT

1. Amendment No. 3 and CCO No. 3 execution form and description of change document.

CITY OF MORRO BAY

AMENDMENT NO. 3 TO THE AGREEMENT
FOR CONSTRUCTION SERVICES
BETWEEN THE CITY OF MORRO BAY
AND ANVIL BUILDERS, INC.

This Amendment No. 3 is entered by and between the City of Morro Bay, a municipal corporation (“City”) and Anvil Builders, Inc., a California corporation (“Contractor”).

RECITALS

WHEREAS, City and Contractor (collectively, the “Parties”) entered into an agreement as of November 10, 2020, for construction services for Contractor to complete the work for the Water Reclamation Facility Lift Station and Offsite Pipelines Project, (the “Project”) which was approved by the City Council for a not to exceed amount of \$31,493,675 (the “Agreement”).

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

WHEREAS, the Parties amended the Agreement, as of January 11, 2022, to expand the tasks to be provided by Contractor and to increase the compensation payable in the amount of \$587,502 (Amendment No. 2), increasing the total compensation payable pursuant to the Agreement to \$32,755,662;

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

WHEREAS, the Parties again agree to amend the Amended Agreement because the construction services for the Project require an expansion of the tasks to be provided by Contractor pursuant to the Amended Agreement and delays not caused by Contractor;

WHEREAS, due to the expansion of tasks to be provided and delays not caused by Contractor, the compensation payable pursuant to the Amended Agreement must be increased.

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

1. The additional services to be provided by Contractor, pursuant to the Amended Agreement, as hereby further amended, shall include Change Orders 8, 9.2, 13.1, 16, 20, 32, and 39 for the out of scope items, as set forth in Exhibit A, attached hereto and incorporated herein by this reference ("Change Order No. 3"). The work necessitated by Change Order No. 3 has already been satisfactorily commenced as of the date of this Amendment No. 3 or shall be satisfactorily

commenced immediately after March 22nd, 2022, and, to the extent not completed by that March date, completed no later than September 30, 2022.

2. The compensation for Change Order No. 3 shall not exceed \$241,317. The work necessitated by for Change Order No. 3 and satisfactorily completed shall be paid in accordance with (i) the amounts set forth in Exhibit A, and (ii) the process established by the Amended Agreement on a lump sum basis. With the amount added for the work necessitated by Change Order No. 3 and satisfactorily completed; the total compensation paid pursuant to the Amended Agreement shall not exceed \$32,996,979.

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

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

5. The effective date of this Amendment No. 3 shall be deemed to be March 22, 2022.

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

CITY OF MORRO BAY

CONTRACTOR

By: _____
Scott Collins,
City Manager

By: _____
Its _____

Attest:

Dana Swanson, City Clerk

By: _____
Its _____

Approved As To Form:

Chris Neumeyer, City Attorney



AGENDA NO: C-2

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: March 17, 2022

FROM: Chris F. Neumeyer, City Attorney

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

RECOMMENDATION

1. Staff recommends Council consider adoption of attached Resolution No. 25-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing (including partially remote) for 30 days, thereby allowing the City Council and the City’s advisory bodies to meet remotely (including partially remote) through April 21, 2022. The City has announced in-person Council Meetings will resume on April 12, 2022. Adoption of this resolution would allow advisory body meetings scheduled prior to April 12 to be held remotely and also allow partially remote meetings to continue through April 21, 2022.
2. Staff recommends Council provide direction on in-person vs. remote attendance for both Council and Advisory Body members.
3. Staff recommends Council provide direction on bringing back timely subsequent AB 361 resolutions to allow for prospective hybrid meetings.

ALTERNATIVES

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

FISCAL IMPACT

No immediate fiscal impact.

BACKGROUND

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California because of the spread of COVID-19. Beginning in March, 2020 the Governor also issued a number of Executive Orders (e.g., N-25-20, N-29-20, N-35-20) (the “Brown Act Orders”) for the public health and safety that waived requirements in the Brown Act that expressly or impliedly required the physical presence of City Councilmembers, staff, or the public at meetings of the City Council, Planning Commission and other City boards, commissions and committees (“legislative bodies”) that are subject to the Brown Act. The Brown Act Orders allowed City legislative bodies that are subject to the Brown Act to

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

modify how meetings were conducted to protect the health and safety of staff and the public while ensuring transparency and accessibility for open and public meetings. The most recent Brown Act Order expired on September 30, 2021.

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

The COVID-19 emergency that began March 2020 has recently been abating as measured by metrics such as new reported cases, hospitalizations and deaths.

In line with these recent events, the California Department of Public Health on February 28, 2022 issued Guidance for the Use of Face Masks which reads in part “Effective March 1, 2022, the requirement that unvaccinated individuals mask in indoor public settings will move to a strong recommendation that all persons, regardless of vaccine status, continue indoor masking.” (See <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>)

As part of the City’s response to the COVID-19 pandemic, the Veterans Hall, where in-person City Council meetings are held, has been made available as a COVID-19 test site. The San Luis Obispo County Department of Health will continue to offer testing at this location through the end of March. The City is of the understanding that beginning in April the test site at Veterans Hall will no longer be requested for use by the County.

DISCUSSION

Assuming the County will continue to no longer need Veterans Hall for testing in April, and consistent with both current COVID-19 conditions as well as recent action by the State of California, the City’s legislative bodies intend to transition to hybrid meetings starting April 12th, where the legislative body members, staff and the public prospectively may attend the meeting either in person or virtually.

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

On October 26, 2021, the City Council adopted Resolution No. 70-21 making findings related to the continued existence of a state of emergency due to COVID-19 and re-authorizing for public health and safety the conduct of public meetings of City’s legislative bodies via remote teleconferencing for an initial 30-day period pursuant to the Ralph M. Brown Act as amended by Assembly Bill No. 361. On November 9, 2021, and no later than every 30 days thereafter, the City Council reviewed the need for continuing the conduct of public meetings of City’s legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted resolutions authorizing such meetings for an additional thirty days.

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

Government Code section 54953(e)(3) provides that “not later than 30 days after teleconferencing

01181.0001/752017.1

for the first time pursuant” to AB 361, “and every 30 days thereafter,” the City Council shall make the following findings by majority vote for the City to continue using the teleconferencing provisions of AB 361:

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

At this time, the hybrid option is audio only, providing members of the public to continue providing public comment via Zoom and potentially limiting the number of staff persons in the building. **The Council should consider whether its desire is that all Council and Advisory Body members will attend in person, or have the option to participate remotely without an on-camera presence (for instance, if a Council member or Advisory Body member was sick or was in quarantine). Further, staff asks Council to provide direction on bringing back timely subsequent AB 361 resolutions to allow for prospective hybrid meetings.** Adoption of the attached resolution is necessary to conduct remote meetings through April 21, and would be required every 30 days thereafter in order for these hybrid meetings with a remote option for Council Members and advisory body members.

CONCLUSION

Staff recommends Council consider adoption of the proposed Resolution No. 25-22 making the findings required to re-authorize use of AB 361. Doing so will allow meetings of the City Council, City boards and City commissions to continue to occur by teleconference (including under a hybrid format) for the public health and safety. Continued reliance on AB 361 will require adoption of a new resolution making the required findings every 30 days thereafter.

ATTACHMENT

1. Resolution No. 25-22

RESOLUTION NO. 25-22

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

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

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

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

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

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

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

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

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

WHEREAS, on March 19, 2020, the City Council adopted Resolution No. 23-20, proclaiming and affirming the existence of a local emergency, and confirming and ratifying proclamation by City’s Director of Emergency Services of Existence of a Local Emergency, in

response to COVID-19 (Coronavirus). The Legislative Bodies have since conducted meetings via remote teleconferencing consistent with the declaration of local emergency and executive orders issued by the Governor; and

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

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

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

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

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

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

WHEREAS, On January 11, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 03-22 authorizing such meetings for an additional thirty days; and

WHEREAS, On January 25, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 07-22 authorizing such meetings for an additional thirty days; and

WHEREAS, On February 22, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public

health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 16-22 authorizing such meetings for an additional thirty days; and

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

WHEREAS, the California Department of Public Health continues to impose or recommend measures to promote social distancing, and the Centers for Disease Control and Prevention ("CDC") continues to impose or recommend measures to promote social distancing; and

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

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

WHEREAS, the City Council does hereby intend that, as a consequence of the persisting state of emergency and the imposed or recommended social distancing measures, the Legislative Bodies shall be authorized to continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code § 54953, as authorized by subdivision (e) of Government Code § 54953, and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Government Code § 54953; and

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

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

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

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

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

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

SECTION 5. This Resolution shall take effect immediately upon its adoption by the City Council and shall be effective for until the earlier of (i) April 21, 2022, or (ii) such time as the City Council adopts a subsequent resolution in accordance with Government Code § 54953(e)(3) to extend the time during which the Legislative Bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Government Code § 54953.

SECTION 6. Should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 22nd day of March 2022 by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

This Page Intentionally Left Blank



AGENDA NO: C-3

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 17, 2022

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

SUBJECT: Purpose Statement for City Council Subcommittee on Climate Action

RECOMMENDATION

Staff recommends that City Council adopt a purpose statement for the recently formed City Council Climate Action subcommittee.

ALTERNATIVES

None.

FISCAL IMPACT

There will be no immediate fiscal impact related to the recommendation.

BACKGROUND

City Council approved the creation of a Council subcommittee on climate action at their March 8, 2022 meeting. Council directed the subcommittee members (Councilmembers Laurel Barton and Jen Ford) and staff to develop a general-purpose statement for the subcommittee and bring that back to City Council for consideration and approval.

DISCUSSION

The subcommittee met with staff and developed a recommended subcommittee purpose statement and recommended subcommittee activities which are discussed below.

Purpose of the Council Climate Action Subcommittee:

Engage the community (residents, businesses, and visitors) to support successful implementation of the City's climate action goals and reduce the adverse impacts of climate change on our quality of life.

Targeted Subcommittee Activities (working with Morro Bay City staff, community organizations, and jurisdictions elsewhere):

1. Update the community about the City's climate actions to date and results achieved
2. Inform the community about resources and incentives for climate actions available from Central Coast Community Energy (3CE), Pacific Gas & Electric (PG&E), San Luis Obispo

Prepared By: SC

Dept Review: _____

City Manager Review: SC

City Attorney Review: CFN

- County Air Pollution Control District (APCD), and San Luis Obispo Council of Governments (SLOCOG) and others and encourage residents, businesses, and visitors to benefit from them
3. Share relevant insights from successful efforts in other communities to identify opportunities of value for the Morro Bay community
 4. Convene a stakeholders roundtable to identify ways to inform and engage the community. Groups that have already expressed interest and others who may be interested or provide valuable perspectives
 5. Explore opportunities to stimulate expanded community brainstorming and climate action initiatives
 6. Support the development of an attainable and sustainable Morro Bay Community Climate Action Plan

Staff recommends adoption of the general statement and activities identified above for the climate action subcommittee.

ATTACHMENT

None



AGENDA NO: C-4

MEETING DATE: March 22, 2022

Staff Report

TO: Honorable Mayor and City Council

DATE: March 17, 2022

FROM: Scott Collins, City Manager

SUBJECT: Consideration of Proclamation in Support of the People of Ukraine

RECOMMENDATION

As requested by City Council at the March 8, 2022 meeting, staff recommends that City Council consider approval of a Proclamation in support of the people of Ukraine.

ALTERNATIVES

1. The Council may choose to make edits to the draft proclamation being presented.
2. The Council may choose not to approve the proclamation.

FISCAL IMPACT

There is no fiscal impact associated with this item.

BACKGROUND

During Future Agenda Items discussion at the March 8, 2022 Regular Meeting, Mayor Headding announced SLO County Mayors had signed a joint proclamation in support of the people of Ukraine as individuals and not on behalf of their cities, and requested the Council consider approving a similar proclamation. There was unanimous support for this item to be brought back at a future meeting for discussion.

A draft proclamation has been provided for review and consideration of approval with or without changes.

ATTACHMENT

1. Proclamation in Support of the People of Ukraine

Prepared By: _____

Dept Review: _____

City Manager Review: SC

City Attorney Review: CFN

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
IN THE SUPPORT OF THE PEOPLE OF UKRAINE**

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

WHEREAS, the people of Ukraine have established their nation as a free, independent and democratic state; and

WHEREAS, the people of Ukraine, through unity of purpose and dedication of will have endeavored to remain free and independent of the former Soviet Union and the nation of Russia; and

WHEREAS, Russia has violated international law and fanned global tensions by its unwarranted incursions and attacks on neighboring nations and abrogation of various agreements; and

WHEREAS, the Russian Federation repeatedly lied about its massive buildup of military forces around Ukraine and claimed that reports Russia would invade Ukraine were hysteria; and

WHEREAS, Russia has now invaded Ukraine, a non-belligerent neighbor; and

WHEREAS, Russia has threatened the world with nuclear conflict if it is opposed in its unlawful actions; and

WHEREAS, Russia has committed war crimes by targeting civilians as a part of its brutal assault on the people of Ukraine and forced more than a million people to suffer as they flee their homes to avoid unprovoked attacks; and

WHEREAS, the Ukrainian people and military have shown unfailing strength and courage in the defense of their nation; and

WHEREAS, Ukrainian President Volodymyr Zelenskyy continues to lead and inspire his people in the face of daily mortal danger; and

WHEREAS, the City of Morro Bay opposes the brutal actions of Russia and its leader, Vladimir Putin; stands with the leadership, military and people of the free nation of Ukraine; and calls upon all of our residents to support a quick end to hostilities in Ukraine and work together to provide aid and comfort to its people.

NOW, THEREFORE, BE IT RESOLVED, that I, Mayor John Headding and the City Council of the City of Morro Bay, proclaim solidarity with the people of Ukraine as they bravely defend their country and fight for freedom and their lives, and I commend them for their strength, courage and bravery today and every day throughout this conflict.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 22nd day of March 2022

JOHN HEADDING, Mayor
City of Morro Bay, California