



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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

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## Regular Meeting Tuesday, August 9, 2022 – 5:30 P.M. Veterans Memorial Hall 209 Surf St., Morro Bay, CA

Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 this Meeting will be conducted in a hybrid format with both in-person and virtual public participation. Ways to watch this meeting and submit public comment are provided below.

### **Public Participation:**

Public participation is allowed in the following ways:

- Community members may attend the meeting in person at the Morro Bay Veterans Hall.
- 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.

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

- Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).
- Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at [council@morrobayca.gov](mailto:council@morrobayca.gov) prior to the meeting. Agenda Correspondence received at [council@morrobayca.gov](mailto:council@morrobayca.gov) by 10 a.m. on the meeting day will be posted on the City website.

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

- Friends of the Morro Bay Fire Department Donation / Scholarship Presentation
- Morro Bay Chamber of Commerce Quarterly Update by Erica Crawford

#### PUBLIC COMMENT

Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

Public comment is an opportunity for members of the public to provide input to the governing body. To increase the effectiveness of the Public Comment Period, the City respectfully requests the following guidelines and expectations be followed:

- Those desiring to speak are asked to complete a speaker slip, which are located at the entrance, and submit it to the City Clerk. However, speaker slips are not required to provide public comment.
- When recognized by the Mayor, please come forward to the podium to speak. Though not required, it is helpful if you state your name, city of residence and whether you represent a business or group. Unless otherwise established by the Mayor, comments are to be limited to three minutes.
- All remarks should be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.
- The Council in turn agrees to abide by its best practices of civility and civil discourse according to Resolution No. 07-19.

#### 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 JUNE 14, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE JUNE 14, 2022, CITY COUNCIL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE JUNE 28, 2022, CITY COUNCIL SPECIAL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF MINUTES FOR THE JUNE 28, 2022, CITY COUNCIL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

- A-5 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 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 attached Resolution No. 72-22 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 September 8, 2022.

- A-6 FOURTH QUARTER INVESTMENT REPORT FOR FISCAL YEAR (FY) 2021-22 (PERIOD ENDING JUNE 30, 2022); (ADMINISTRATIVE SERVICES DEPARTMENT)

**RECOMMENDATION:** Receive the attached Fourth Quarter Investment Report for FY 2021-22 (period ending June 30, 2022).

- A-7 ADOPTION OF RESOLUTION NO. 73-22 UPDATING THE CITY'S CONFLICT OF INTEREST CODE; (CITY CLERK)

**RECOMMENDATION:** Staff recommends City Council update the City's Conflict of Interest Code by adopting the proposed Resolution No. 73-22.

- A-8 ADOPTION OF RESOLUTION 74-22 APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MORRO BAY AND MORRO BAY FIREFIGHTERS ASSOCIATION, IAFF LOCAL 3725, RESOLUTION 75-22 APPROVING THE AMENDED FISCAL YEAR 2022-23 COMBINED SALARY SCHEDULE, AND RESOLUTION NO. 76-22 DESIGNATING EMPLOYEES' CONTRIBUTIONS TOWARD EMPLOYER PENSION COSTS AS AN EMPLOYER PICK-UP PER SECTION 414(H)(2) OF THE INTERNAL REVENUE CODE; (CITY MANAGER/CITY CLERK/HUMAN RESOURCES MANAGER)

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 74-22 approving the 2022-24 Memorandum of Understanding between the City of Morro Bay ("City") and the Morro Bay Firefighters Association, IAFF Local 3725 ("MBFFA"), Resolution No. 75-22 approving the amended Fiscal Year ("FY") 2022-23 Combined Salary Schedule, and Resolution No. 76-22 designating Employees' Contributions toward Employer Pension Costs as an Employer Pick-up per Section 414(h)(2) of the Internal Revenue Code.

- A-9 REVIEW AND RATIFICATION OF RINCON CONSULTANTS EIR CONTRACT AND AMENDMENT #3 FOR THE VISTRA BATTERY ENERGY STORAGE SYSTEM (BESS) PROJECT AT 1290 EMBARCADERO; (COMMUNITY DEVELOPMENT DEPARTMENT)

**RECOMMENDATION:** Staff recommends the City Council review the staff report and ratify the EIR contract amendment #3 for the Vistra Battery Energy Storage System (BESS) project at 1290 Embarcadero.

- A-10 CONSIDERATION OF APPOINTMENT OF JOSEPH INGRAFFIA TO THE PUBLIC WORKS ADVISORY BOARD; (CITY CLERK)

**RECOMMENDATION:** Staff recommends the City Council consider the appointment of Joseph Ingraffia to the Public Works Advisory Board (PWAB) for the remainder of a term ending January 31, 2024.

B. PUBLIC HEARING ITEMS - NONE

C. BUSINESS ITEMS

C-1 RESOLUTION DECLARING RESULTS OF THE JUNE 7, 2022 SPECIAL MUNICIPAL ELECTION; (CITY CLERK)

**RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 77-22 declaring the results of the June 7, 2022 Special Municipal Election and allow the City Clerk to administer the Oath of Office.**

C-2 CITY COUNCIL GOALS AND ACTION ITEMS UPDATE; (CITY MANAGER)

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

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, August 23, 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.



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

Property: Lease Site 105.1W & 105.2W, 1001 Front Street, Central Coast Fuel and Ice  
Property Negotiators: Giovanni DeGarimore and Giovanni Comin  
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 Site 102/102W, 1001 Front Street, Giovanni's Central Coast Seafoods  
Property Negotiators: Giovanni DeGarimore and Giovanni Comin  
Agency Negotiators: Eric Endersby, Harbor Director; Scott Collins, City Manager; and Chris Neumeyer, City Attorney  
Negotiation: Price and Terms of Payment

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

ADJOURNMENT - The meeting adjourned at 5:01 p.m.

Recorded by:

Heather Goodwin  
Deputy City Clerk

*Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 this Meeting will be conducted via teleconference for all participants.*

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

ABSENT:            None

STAFF:             Scott Collins                              City Manager  
                         Chris Neumeyer                          City Attorney  
                         Heather Goodwin                        Deputy City Clerk  
                         Sarah Johnson-Rios                     Assistant City Manager/Admin Services Dir.  
                         Greg Kwolek                              Public Works Director  
                         Scot Graham                              Community Development Director  
                         Daniel McCrain                          Fire Chief  
                         Jody Cox                                  Police Chief  
                         Eric Endersby                             Harbor Director  
                         Nancy Hubbard                          Contract Planner  
                         Paul Amico                                WRF Project Manager  
                         Eric Riddiough                          City Engineer

**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/2cbBNV34Qx8?t=193>

Mayor Headding announced Item B-1, previously noticed for this meeting would be continued to the June 28, 2022 Regular Meeting and invited those who wish to speak to that item do so during the General Public Comment.

**CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS**

<https://youtu.be/2cbBNV34Qx8?t=637>

**PRESENTATIONS**

<https://youtu.be/2cbBNV34Qx8?t=665>

- Proclamation honoring Former Council Member Bill Peirce presented to Billy Peirce
- Proclamation declaring Juneteenth Day

**PUBLIC COMMENT**

<https://youtu.be/2cbBNV34Qx8?t=1122>

Linda Winters, thanked staff who voted on election night; spoke on her past Council meeting public comment regarding holding meetings via zoom rather than in-person; expressed appreciation to SLO Foodbank and their hunger awareness event at City Park; and hoped to have in-person meetings soon.

Mayor Heading closed public comment.

- A. CONSENT AGENDA  
<https://youtu.be/2cbBNV34Qx8?t=1405>

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 MAY 18, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE JUNE 8, 2022, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

- A-3 REVIEW AND RATIFICATION OF RINCON CONSULTANTS EIR CONTRACT AND AMENDMENTS 1 AND 2 FOR THE VISTRA BATTERY ENERGY STORAGE SYSTEM (BESS) PROJECT AT 1290 EMBARCADERO; (COMMUNITY DEVELOPMENT DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council review the staff report and ratify the EIR contract and amendments 1 and 2 for the Vistra Battery Energy Storage System (BESS) project at 1290 Embarcadero.**

- A-4 ADOPTION OF RESOLUTION NO. 49-22 APPROVING THE ASSIGNMENT AND ASSUMPTION AND CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY FOR THE ASSIGNMENT AND ASSUMPTION AT LEASE SITE 90/90W (PORT HOUSE RESTAURANT, 885 EMBARCADERO ROAD); (HARBOR DEPARTMENT)

**RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 49-22 allowing the Mayor to authorize the assignment and assumption, and authorizing the Mayor to execute necessary documents, as-approved by the City Attorney, regarding the sale of the leasehold interest at Lease Site 90/90W to Callender Commercial Properties, LLC (Cliff Branch).**

- A-5 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: Staff recommends Council consider adoption of attached Resolution No. 50-22 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing**

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(including partially remote) for 30 days, thereby allowing the City Council and the City's advisory bodies to meet remotely (including partially remote) through July 14, 2022.

- A-6 ADOPTION OF RESOLUTIONS APPROVING THE TENTATIVE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MORRO BAY AND SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 620, APPROVING NEW AND AMENDED JOB CLASSIFICATIONS, AND ESTABLISHING COMPENSATION AND BENEFITS FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL, AND DEPARTMENT HEAD EMPLOYEES OF THE CITY OF MORRO BAY; (CITY MANAGER/CITY CLERK/HR MANAGER)

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

1. Adopt Resolution No. 52-22 approving the 2022-24 Tentative Agreement and the 2022-24 Memorandum of Understanding between the City of Morro Bay ("City") and the Service Employees International Union Local 620 ("SEIU"), and
2. Adopt Resolution No. 53-22 approving new and amended job classifications and job descriptions, and
3. Adopt Resolution No. 54-22 amending and restating compensation and benefits for unrepresented Confidential Employees of the City of Morro Bay, and
4. Adopt Resolution No. 55-22 amending and restating compensation and benefits for unrepresented Management Employees of the City of Morro Bay, and
5. Adopt Resolution No. 56-22 amending and restating maximum compensation and benefits for Department Head Positions.

- A-7 PROCLAMATION EXPRESSING APPRECIATION FOR THE DEDICATION AND PUBLIC SERVICE OF FORMER COUNCIL MEMBER BILL PEIRCE; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-8 PROCLAMATION DECLARING SATURDAY, JUNE 18, 2022 AS JUNETEENTH DAY, 2022; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

City Manager Collins noted a clerical correction was needed on Item A-6.

<https://youtu.be/2cbBNV34Qx8?t=1423>

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

Mayor Headding pulled Item A-6

- A-6 ADOPTION OF RESOLUTIONS APPROVING THE TENTATIVE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MORRO BAY AND SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 620, APPROVING NEW AND AMENDED JOB CLASSIFICATIONS, AND ESTABLISHING COMPENSATION AND BENEFITS FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL, AND DEPARTMENT HEAD EMPLOYEES OF THE CITY OF MORRO BAY; (CITY MANAGER/CITY CLERK/HR MANAGER)

<https://youtu.be/2cbBNV34Qx8?t=1464>

City Manager Collins noted a clerical correction on page 193 of the agenda packet for the Building Inspector I job description under physical demands to read "The employee must occasionally lift and/or move up to 15 pounds."

Council Member Heller pulled Items A-3 and A5.

MOTION: Council Member Addis moved approval of Items A-1, A-2, A-4, A-6 with the correction noted by staff, A-7 and A-8 on the Consent Agenda. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

A-3 REVIEW AND RATIFICATION OF RINCON CONSULTANTS EIR CONTRACT AND AMENDMENTS 1 AND 2 FOR THE VISTRA BATTERY ENERGY STORAGE SYSTEM (BESS) PROJECT AT 1290 EMBARCADERO; (COMMUNITY DEVELOPMENT DEPARTMENT)

<https://youtu.be/2cbBNV34Qx8?t=1576>

Staff responded to questions posed by Council.

MOTION: Council Member Heller moved approval of Item A-3. The motion was seconded by Mayor Headding and carried 5-0 by roll call vote.

A-5 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)

<https://youtu.be/2cbBNV34Qx8?t=1805>

Staff responded to questions posed by Council.

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

B. PUBLIC HEARINGS

<https://youtu.be/2cbBNV34Qx8?t=2004>

B-1 PUBLIC HEARING TO REPORT ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AND ADOPT RESOLUTION NO. 57-22 AUTHORIZING SAN LUIS OBISPO COUNTY ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AS TAX LIENS AGAINST THE PROPERTIES; (PUBLIC WORKS DEVELOPMENT)

This item is to be continued to a date certain, June 28, 2022 Regular Meeting, which will be held via teleconference and, as public health and safety allows, may also be at the Veteran's Hall.

B-2 REQUEST FOR AN AMENDMENT TO THE LAND USE MAP WITHIN THE GENERAL PLAN/LOCAL COASTAL PROGRAM ADOPTED IN 2021 AND RECEIPT AND FILING OF AN ADDENDUM TO THE RELATED ENVIRONMENTAL IMPACT REPORT. THE CHANGE FROM DISTRICT COMMERCIAL TO COMMUNITY COMMERCIAL IS CONSISTENT WITH THE PROPOSED NEW ZONING DESIGNATION FOR THE SITE. THE SITE IS ADJACENT TO SIMILARLY DESIGNATED SITES ALONG MAIN STREET; (COMMUNITY DEVELOPMENT)

<https://youtu.be/2cbBNV34Qx8?t=2016>

Contract Planner Hubbard provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing.

Steve Allen, Applicant/Owner, gave an overview of the project site and his plans for the property.

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

The Public Hearing was closed.

MOTION: Mayor Headding moved to adopt Resolution No. 47-22 approving the MAJ21-006 for a change in the Land Use Map included in the General Plan (GP)/Local Coastal Program (LCP), Land Use Plan from District Commercial to Community Commercial for this parcel and (ii) receive and file the addendum. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 PREPAREDNESS/OPERATIONAL READINESS RELATED TO MORRO BAY POLICE DEPARTMENT (MBPD) RESPONSE TO CRITICAL INCIDENTS (INCLUDING ACTIVE SHOOTER; (POLICE DEPARTMENT)  
<https://youtu.be/2cbBNV34Qx8?t=2660>

Police Chief Cox presented the report and video, along with Ryan Pinkerton from San Luis Obispo Unified School District, responded to Council inquires.

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 CALTRANS HIGHWAY 1 PAVEMENT REHABILITATION AND IMPROVEMENTS PROJECT; (PUBLIC WORKS DEPARTMENT)  
<https://youtu.be/2cbBNV34Qx8?t=6811>

Public Works Director Kwolek presented the report, along with Kevin Jones and Amy Donatello with CalTrans, responded to Council inquires.

The public comment period for Item C-2 was opened; seeing none, the public comment period was closed.

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

- C-3 AUTHORIZE THE CITY MANAGER TO EXECUTE 1) AMENDMENT NO. 2 TO CONTRACT WITH COGSTONE RESOURCE MANAGEMENT; 2) AMENDMENT NO. 7 TO CONTRACT WITH FAR WESTERN ANTHROPOLOGICAL RESEARCH GROUP, INC.; 3) AMENDMENT NO. 4 TO CONTRACT WITH ANVIL BUILDERS FOR THE WRF LIFT STATION AND OFFSITE PIPELINES CONSTRUCTION PROJECT.; AND 4) AMENDMENT NO. 6 TO CAROLLO ENGINEERS, INC.; (PUBLIC WORKS DEPARTMENT)

<https://youtu.be/2cbBNV34Qx8?t=9125>

Public Works Director Kwolek and Water Reclamation Facility Program Manager Amico provided the report and responded to Council inquires.

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

MOTION: Mayor Headding moved to approve: 1) Amendment No. 2 to the agreement with Cogstone Resource Management (Cogstone) for cultural resources monitoring services during construction of the WRF Lift Station and Offsite Pipelines project for a total amount of \$347,210, plus an additional \$43,060 of optional, as-needed services for cultural resources monitoring, as directed by the City's Public Works Director, resulting in a total not to exceed amount of \$1,395,991.22. Allocation of Cogstone Amendment No. 2 between Q4 FY 21/22 and Q1 FY 22/23 is described in the Fiscal Impact section below; 2) Amendment No. 7 to the agreement with Far Western Anthropological Research Group, Inc. (Far Western) to extend their contract expiration date to December 31<sup>st</sup>, 2025. This is a non-compensable contract extension; 3) Amendment No. 4 to the agreement with Anvil Builders, Inc. (Anvil) for the WRF Lift Stations and Offsite Pipelines construction for an overall reduction of \$54,065, which provides a credit to their construction costs resulting in a new reduced total contract amount of \$32,942,914; and 4) Amendment No. 6 to the agreement with Carollo Engineers, Inc. (Carollo) to extend their contract expiration date to June 30<sup>th</sup>, 2023. This is a non-compensable contract extension. The motion was seconded by Council Member Addis and carried 4-1 by roll call vote with Council Member Heller opposed.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
None

E. ADJOURNMENT

The meeting adjourned at 8:28 p.m.

Recorded by:

Heather Goodwin  
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – JUNE 28, 2022  
VETERAN'S MEMORIAL HALL /  
TELECONFERENCE – 3:30 P.M.

AGENDA NO: A-3  
MEETING DATE: August 9, 2022

*Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 this Meeting will be conducted in a hybrid format with both in-person and virtual public participation.*

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  
                         Greg Kwolek                              Public Works Director  
                         Eric Endersby                            Harbor Director  
                         Kirk Carmichael                        Recreation Services Manager  
                         Paul Amico                                WRF Program Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding established a quorum and called the meeting to order at 3:30 p.m. with all but Council Member Barton present. Council Member Barton joined the meeting at 3:42 p.m.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

<https://youtu.be/LBDvCKWtTxA?t=87>

Mayor Headding opened public comment.

Paul Donnelly, Morro Bay, commented on Item III, questioning the accuracy of information provided in the contract amendment.

Betty Winholtz, Morro Bay, concurred with Mr. Donnelly regarding Item III and raised questions regarding Items I and II.

Michael Wambolt, Visit Morro Bay, spoke in favor of Item II.

Doug Smith spoke regarding Item II, inquiring as to the potential environmental impact of the swim portion and funding source for the event.

Council Member Barton joined the meeting at 3:42 p.m.

The public comment period was closed.

SPECIAL MEETING AGENDA ITEMS:

- I. APPROVAL OF COMMUNITY BENEFIT LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND THE BOYS AND GIRLS CLUBS OF THE CENTRAL COAST FOR TEEN CENTER OPERATIONS AT 231 ATASCADERO ROAD  
<https://youtu.be/LBDvCKWtTxA?t=790>

City Manager Collins introduced the item and turned it over to Recreation Services Manager Carmichael who presented the report and responded to Council inquiries.

Michael Boyer and Roberto Rodriguez of the Boys & Girls Club introduced themselves and responded to questions by the Council and during public comment.

MOTION: Mayor Heading moved the Council approve the Community Benefit Lease Agreement between the City of Morro Bay and the Boyd & Girls Clubs of the Central Coast for Teen Center operations at 231 Atascadero Road and authorize the City Manager to execute the agreement. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- II. REVIEW OF A THREE-YEAR AGREEMENT BETWEEN THE CITY OF MORRO BAY, VISIT MORRO BAY, AND WORLD TRIATHLON CORPORATION, INC. FOR THE CITY TO HOST AN IRONMAN 70.3-MILE, SWIM, BIKE AND RUN EVENT  
<https://youtu.be/LBDvCKWtTxA?t=2271>

City Manager Collins provided the report and, along with Michael Wambolt of Visit Morro Bay, responded to Council inquiries.

MOTION: Council Member Addis moved the Council authorize the City Manager to execute a three-year agreement with World Triathlon Corporation, Inc., and Visit Morro Bay, for the City to host the IRONMAN 70.3 Morro Bay Triathlon from 2023 to 2025. The motion was seconded by Council Member Ford and carried 5-0 by roll call vote.

- III. APPROVAL OF AMENDMENT NO. 7 TO THE WATER RECLAMATION FACILITY (WRF) DESIGN-BUILD CONTRACT WITH FILANC BLACK & VEATCH  
<https://youtu.be/LBDvCKWtTxA?t=3701>

Public Works Director Kwolek and WRF Program Manager Amico provided the report and responded to Council inquires.

Council Member Heller asked to table the item until a price was fully negotiated.

MOTION: Mayor Heading moved the Council authorize the City Manager to execute Amendment No. 7 to the design-build contract with Filanc Black & Veatch (FBV). The motion was seconded by Council Member Ford and carried 4-1 by roll call vote with Council Member Heller opposed.

#### ADJOURNMENT

The meeting adjourned at 5:11 p.m.

Recorded by:

Dana Swanson  
City Clerk

*Pursuant to Assembly Bill 361 (2021-22) and Government Code section 54953 this Meeting will be conducted in a hybrid format with both in-person and virtual public participation.*

PRESENT:	John Heading	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
	Kirk Carmichael	Recreation Services Manager
	Eric Riddiough	City Engineer
	Janeen Burlingame	Management Analyst
	Damaris Hanson	Utilities Division Manager
	Dan Heimel	Consultant, Confluence Engineering Solutions

#### ESTABLISH QUORUM AND CALL TO ORDER

Mayor Heading 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/EiYqPztjuYU?t=132>

#### CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/EiYqPztjuYU?t=849>

#### PRESENTATIONS

<https://youtu.be/EiYqPztjuYU?t=992>

- National Parks & Recreation Month Proclamation presented to Recreation Services Manager, Kirk Carmichael.
- Pride Month Proclamation presented to Gala Pride & Diversity Center Board President, Dusty Colyer-Worth, and Treasurer, Gary Borjan

Mayor Heading announced the Chamber of Commerce Quarterly Update was being postponed to the next meeting.

PUBLIC COMMENT

<https://youtu.be/EiYqPztjuYU?t=1643>

Michael Parrish, Long Beach, appreciated the City recognizing the LGBTQ+ community.

Willow Kawamoto, Morro Bay, appreciated the City's support of the LGBTQ+ community and requested the Council raise the Pride flag.

Linda Winters, Morro Bay, announced upcoming 4<sup>th</sup> of July event and Community Dinners held each Monday from 4:30 – 6:00p.m. at the Veterans Hall.

Kevin Atkinson spoke in favor of the Pride Month proclamation and raising a Pride flag at City Hall and around the city.

Betty Winholtz, Morro Bay, commented on items covered during the June 28<sup>th</sup> Special Meeting.

Aaron Ochs, Morro Bay, requested a special meeting to break down increased costs for the WRF project.

Dylan Dean James, Morro Bay, spoke in support of the Pride Month Proclamation and raising a Pride flag in Morro Bay.

Mayor Headding closed public comment.

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

A. CONSENT AGENDA

<https://youtu.be/EiYqPztjuYU?t=2903>

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 APRIL 12, 2022, CITY COUNCIL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE APRIL 26, 2022, CITY COUNCIL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-3 APPROVAL OF MINUTES FOR THE MAY 24, 2022 AND MAY 25, 2022, CITY COUNCIL SPECIAL MEETINGS; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-4 APPROVAL OF MINUTES FOR THE MAY 24, 2022, CITY COUNCIL MEETING; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

- A-5 ADOPTION OF RESOLUTION 58-22 APPROVING THE TENTATIVE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MORRO BAY AND MORRO BAY PEACE OFFICERS' ASSOCIATION; (CITY MANAGER/CITY CLERK/HUMAN RESOURCES MANAGER)

**RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 58-22 approving the 2022-24 Tentative Agreement and the 2022-24 Memorandum of Understanding between the City of Morro Bay ("City") and the Morro Bay Peace Officers' Association ("POA").**

- A-6 GENERAL MUNICIPAL ELECTION RESOLUTIONS FOR NOVEMBER 8, 2022 ELECTION; (CITY CLERK)

**RECOMMENDATION: Staff recommends Council adopt Resolution No. 59-22 calling a general municipal election for November 8, 2022, and requesting consolidation of the election with the County, and Resolution No. 60-22 adopting regulations for candidate statements.**

- A-7 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: Staff recommends Council consider adoption of attached Resolution No. 61-22 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 July 28, 2022.**

- A-8 RESOLUTION NO. 62-22 APPROVING SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT TO ESTABLISH AN INTEGRATED WASTE MANAGEMENT AUTHORITY FOR THE CITIES OF SAN LUIS OBISPO COUNTY, CALIFORNIA; (PUBLIC WORKS)

**RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 62-22 and authorize the Mayor to sign the Second Amended and Restated Joint Powers Agreement in Exhibit A.**

- A-9 APPROVAL OF LEASE AGREEMENTS WITH THE CHAMBER OF COMMERCE AND VISIT MORRO BAY FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (CITY MANAGER)

**RECOMMENDATION: Staff recommends the City Council approve agreements with the Morro Bay Chamber of Commerce and Visit Morro Bay for the renewal of their respective property leases at 695 Harbor Street.**

- A-10 APPROVAL OF AGREEMENTS FOR STATE AND FEDERAL ADVOCACY REPRESENTATION TO SUPPORT CITY OF MORRO BAY PROJECTS AND ECONOMIC DEVELOPMENT INITIATIVES; (CITY MANAGER)

**RECOMMENDATION: Staff recommends the Council authorize the City Manager to:**  
**1. Execute a 12-month (July 1, 2022 – June 30, 2023) agreement with Townsend**

- Public Affairs, to support the City with State of California advocacy efforts, subject to City Manager approval substantively similar to attachment, and
2. Execute 12-month (July 1, 2022 – June 30, 2023) agreement with The Ferguson Group, to support the City with federal advocacy efforts, subject to City Manager approval substantively similar to attachment

A-11 ADOPTION OF RESOLUTION NO. 51-22 AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE UNITED STATES BUREAU OF RECLAMATION (USBR) FOR A GRANT PURSUANT TO THE WATERSMART DROUGHT RESPONSE PROGRAM: DROUGHT RESILIENCY PROJECTS FOR FISCAL YEAR (FY) 2023, FOR THE MORRO WELLFIELD REHABILITATION PROJECT; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION:** Staff recommends City Council adopt Resolution No. 51-22 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 with the United States Bureau of Reclamation (USBR) for a grant pursuant to the WaterSMART Drought Response Program: Drought Resiliency Projects for Fiscal Year (FY) 2023, for the Morro Wellfield Rehabilitation Project”

Specifically, Resolution No. 51-22 authorizes the following action:

1. Authorizes the City Manager to file the application to the USBR for a WaterSMART Drought Response Program: Drought Resiliency Projects for Fiscal Year (FY) 2023, for the Morro Wellfield Rehabilitation Project.
2. Authorizes the City Manager to negotiate and sign the Grant Agreement and related documents including required reports, disbursement requests and certifications.
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-12 PROCLAMATION DECLARING JULY 2022 AS PARKS MAKE LIFE BETTER MONTH; (ADMINISTRATION)

**RECOMMENDATION:** Approve as submitted.

A-13 PROCLAMATION DECLARING JUNE 2022 AS PRIDE MONTH; (ADMINISTRATION)

**RECOMMENDATION:** Approve as submitted.

Mayor Headding opened public comment for the Consent Agenda.

<https://youtu.be/EiYqPztjuYU?t=2920>

James Lipsett, Morro Bay, spoke in support of the Pride Month Proclamation.

Betty Winholtz, Morro Bay, commented on Items A-7, A-9, A-10 and A-11.

The public comment period was closed.

The Mayor asked staff to respond to questions raised during public comment.

Council Member Addis pulled Item A-13. Council Member Heller pulled Item A-11.

MOTION: Council Member Addis moved approval Items A-1 through A-10 and A-12 on the Consent Agenda. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

- A-11 ADOPTION OF RESOLUTION NO. 51-22 AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE UNITED STATES BUREAU OF RECLAMATION (USBR) FOR A GRANT PURSUANT TO THE WATERSMART DROUGHT RESPONSE PROGRAM: DROUGHT RESILIENCY PROJECTS FOR FISCAL YEAR (FY) 2023, FOR THE MORRO WELLFIELD REHABILITATION PROJECT; (PUBLIC WORKS DEPARTMENT)  
<https://youtu.be/EiYqPztjuYU?t=3649>

Staff responded to Council questions.

MOTION: Council Member Heller moved approval of Item A-11. The motion was seconded by Mayor Heading and carried 5-0 by roll call vote.

- A-13 PROCLAMATION DECLARING JUNE 2022 AS PRIDE MONTH; (ADMINISTRATION)  
<https://youtu.be/EiYqPztjuYU?t=3792>

Council Member Addis appreciated those who attended the meeting to support this item.

MOTION: Council Member Addis moved approval of Item A-13. The motion was seconded by Council Member Ford and carried 5-0 by roll call vote.

## B. PUBLIC HEARINGS

- B-1 PUBLIC HEARING FOR AND CONSIDERATION OF MORRO BAY GARBAGE SERVICE RATE ADJUSTMENT APPLICATION AND ADOPTION OF RESOLUTION NO. 63-22; (PUBLIC WORKS DEPARTMENT)  
<https://youtu.be/EiYqPztjuYU?t=3979>

Public Works Director Kwolek and Management Analyst Burlingame provided the report and responded to Council inquires.

Mayor Heading opened the Public Hearing.

Mayor Heading opened Public Comment.

Paul Donnelly, Morro Bay, submitted his written protest against the proposed rate increase.

Betty Winholtz, Morro Bay, questioned the formatting of the notice and encouraged staff to use a ballot box for future Prop 218 processes.

The public comment period and Public Hearing were closed.

City Clerk Swanson stated 34 written protests were received by the City Clerk's office by the close of the public hearing and confirmed 2,677 protests were needed to constitute a majority of the customers/property owners.

Jeff Clarin, Morro Bay Garbage, clarified the Prop 218 notice was a separate mailing and not included with the monthly bill.

MOTION: Mayor Headding moved to adopt Resolution No. 63-22, secondary to certification of a failure of majority protest to be logged. The motion was seconded by Council Member Ford and carried 5-0 by roll call vote.

- B-2 PUBLIC HEARING TO REPORT ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AND ADOPT RESOLUTION NO. 57-22 AUTHORIZING SAN LUIS OBISPO COUNTY ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AS TAX LIENS AGAINST THE PROPERTIES; (PUBLIC WORKS DEPARTMENT)

<https://youtu.be/EiYqPztjuYU?t=5156>

Public Works Director Kwolek provided the report and, along with Management Analyst Burlingame and Jeff Clarin from Morro Bay Garbage, responded to Council inquiries.

Mayor Headding opened the Public Hearing.

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

MOTION: Council Member Barton moved to receive the report on delinquent solid waste collection fees and adopt Resolution No. 57-22. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

- B-3 ADOPTION OF RESOLUTION NO. 64-22 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS DEPARTMENT)

<https://youtu.be/EiYqPztjuYU?t=5690>

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

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

Betty Winholtz, Morro Bay, asked when the five new units will pay into the assessment district; she favors the assessment and an increase if there are overruns.

The public comment period and Public Hearing were closed.

MOTION: Council Member Addis moved to adopt Resolution No. 64-22, approving the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District for Fiscal Year 2022/23. The motion was seconded by Mayor Headding and carried 5-0 by roll call vote.

- B-4 ADOPTION OF RESOLUTION NO. 65-22 DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS DEPARTMENT)

<https://youtu.be/EiYqPztjuYU?t=6270>

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

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

Betty Winholtz, Morro Bay, noted North Point residents pay a smaller amount than Cloisters and suggested the City may need to raise their rates.

The public comment period and Public Hearing were closed.

MOTION: Council Member Ford moved to approve the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance District by adopting Resolution No. 65-22. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

B-5 PUBLIC HEARING, AND ADOPTION OF RESOLUTION NO. 66-22, FOR MINOR REVISIONS TO THE ADOPTED FISCAL YEAR 2022-23 (FY 2022-23) MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES DEPARTMENT)

<https://youtu.be/EiYqPztjuYU?t=6719>

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

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment; seeing none, the public comment period and Public Hearing were closed.

MOTION: Council Member Addis moved to approve the proposed amendments to the Master Fee Schedule for FY 2022-23, and adopt Resolution No. 66-22, which updates the City's Master Fee Schedule for FY 2022-23 to correct liveaboard fees. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote

The Council took a brief recess at 7:28 p.m. The meeting reconvened at 7:35 p.m. with all members present.

C. BUSINESS ITEMS

C-1 ADOPT: RESOLUTION NO. 67-22 ADOPTING THE FISCAL YEAR 2022-23 OPERATING AND CAPITAL BUDGETS; RESOLUTION NO. 68-22 ADOPTING THE CITY'S MASTER COMBINED SALARY SCHEDULE; RESOLUTION NO. 69-22 READOPTING THE CITY'S INVESTMENT POLICY; AND, RESOLUTION NO. 70-22 ADOPTING THE FY 2022-23 GANN APPROPRIATIONS LIMIT.; (ADMINISTRATIVE SERVICES DEPARTMENT)

<https://youtu.be/EiYqPztjuYU?t=7498>

Assistant City Manager/Admin Services Director Johnson-Rios provided the report and, along with City Manager Collins and Public Works Director Kwolek, responded to Council inquiries.

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

Betty Winholtz, Morro Bay, commented on information in the City Manager's budget letter, including funding for the Code Enforcement position, projected water delivery from the wells, the city's need for a Bocce Ball court, and outsourcing vs. in-house City services.

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

MOTION: Council Member Ford moved to 1) Adopt Resolution No. 67-22 adopting the Fiscal Year (FY) 2022-23 Operating and Capital Budgets; and Resolution No. 68-22 adopting the FY 2022-23 Master Combined Salary Schedule; and Resolution No. 69-22 readopting the City's Investment Policy; and Resolution No. 70-22 adopting the FY 2022-23 GANN Appropriations Limit with an amendment to designating that the additional \$10,000 go to youth services regarding the grant program (page 352, item 1) to be designated to youth. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C-2 PRESENTATION OF ANNUAL WATER SUPPLY AND DEMAND ASSESSMENT AND ALLOCATION OF WATER EQUIVALENCY UNITS (WEU) FOR FISCAL YEAR (FY) 2022/23; (PUBLIC WORKS DEPARTMENT)  
<https://youtu.be/EiYqPztjuYU?t=9021>

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

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

Paul Donnelly, Morro Bay, commented on the report.

Betty Winholtz, Morro Bay, commented on the report.

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

Staff responded to questions raised during public comment.

MOTION: Mayor Headding moved to 1) Maintain Stage 3 Mandatory Water Conservation Requirements and direct staff to continue monitoring drought impacts on water resources and return to City Council with updated recommendations on water conservation restrictions; 2) Include as a Short-Term Action in its Council Goal for Climate Action a comprehensive long-term water supply analysis and plan to identify long-range water supply strategies; and 3) Approve Resolution No. 71-22, to allocate 50 Water Equivalency Units (WEUs) for residential development and 65 for commercial development for a total of 115 WEUs for FY 2022/23. The motion was seconded by Council Member Addis.

Council Member Addis requested a friendly amendment on the timing of the water conservation recommendations to Council.

AMENDED MOTION: Mayor Headding moved to 1) Maintain Stage 3 Mandatory Water Conservation Requirements and direct staff to continue monitoring drought impacts on water resources and return to City Council with updated recommendations on water conservation restrictions quarterly until such time as we are out of the extended drought; 2) Include as a Short-Term Action in its Council Goal for Climate Action a comprehensive long-term water supply analysis and plan to identify long-range water supply strategies; and 3) Approve Resolution No. 71-22, to allocate 50 Water Equivalency Units (WEUs) for residential development and 65 for commercial development for a total of 115 WEUs for FY 2022/23. The motion was seconded by Council Member Addis.

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

- C-3 APPROVAL OF AMENDMENT NO. 6 TO CONTRACT SERVICES AGREEMENT WITH ALESHIRE & WYNDER, LLP FOR CITY ATTORNEY SERVICES; (CITY ATTORNEY)  
<https://youtu.be/EiYqPztjuYU?t=12614>

City Manager Collins 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 approve Amendment No. 6 to the contract services agreement with Aleshire & Wynder, LLP for city attorney services. The motion was seconded by Council Member Barton and carried 5-0 by roll call vote.

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
<https://youtu.be/EiYqPztjuYU?t=12991>

Council Member Addis requested and received Council consensus to consider an official City policy to raise non-traditional flags with the intent of considering the first flag be the Pride flag raised in June 2023.

Mayor Headding requested and received Council consensus for a recounting of WRF Project cost increases, including the reason for those changes as part of the next WRF Quarterly Report.

- E. ADJOURNMENT

The meeting adjourned at 9:13 p.m.

Recorded by:

Dana Swanson  
City Clerk

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**AGENDA NO: A-5**

**MEETING DATE: August 9, 2022**

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: August 2, 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 30-Day Period Pursuant to the Ralph M. Brown Act as Amended by Assembly Bill No. 361**

## **RECOMMENDATION**

Staff recommends Council consider adoption of attached Resolution No. 72-22 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 September 8, 2022.

## **ALTERNATIVES**

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

## **FISCAL IMPACT**

No immediate fiscal impact.

## **BACKGROUND**

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

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”) into law. AB 361 was made effective on October 1, 2021, on an urgency basis, to correspond to the timing of expiration of the Brown Act Orders. AB 361 provides for the ability to teleconference (whether completely or hybrid) Brown Act meetings of City legislative bodies for public health and safety reasons under

Prepared By:   CFN   Dept Review: \_\_\_\_\_  
City Manager Review:   SC   City Attorney Review:   CFN

certain conditions, akin to the authority to do so under the Brown Act Orders.

## **DISCUSSION**

Assembly Bill 361 allows City legislative bodies 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, through June 28, 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 resolutions authorizing such meetings for an additional thirty days. The most recent resolution, being Resolution 61-22, expired by its own terms on July 28, 2022, as AB 361 resolutions are active for thirty days. At the March 22, 2022 Meeting, the City Council directed staff to continue bringing AB 361 resolutions to provide a remote option for Council Members and Advisory Board members should the need occur.

Assembly Bill 361 allows City legislative bodies 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, provided that **one** of the following three criteria is met with respect to the public meeting:

1. State or local officials have imposed or recommended measures to promote social distancing;  
**or**
2. The legislative body is meeting for the purpose of determining, by majority vote, whether as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; **or**
3. The legislative body has previously determined, by majority vote, pursuant to No 2 above, that, as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

These provisions of AB 361 are effective until January 1, 2024. These provisions may be invoked when there is a proclaimed state of emergency by the Governor, whether for a pandemic, wildfires, or another emergency.

The proclaimed state of emergency related to COVID-19 remains in effect. Accordingly, if one of the three foregoing AB 361 criteria are met, then the City's legislative bodies can conduct meetings remotely, pursuant to Government Code § 54953(e) as amended by AB 361, subject to compliance with certain alternative noticing and public participation requirements as provided by AB 361.

The first criteria of AB 361 listed above is presently satisfied as of the writing of this report. The California Department of Public Health continues to recommend social distancing as one measure to reduce the spread of COVID-19.

Accordingly, adoption of the proposed resolution under AB 361, which contains an affirmative finding to that effect, authorizes the City's legislative bodies to hold public meetings pursuant to Government

Code § 54953(e) for up to 30 days. Additional findings made at subsequent meetings may authorize extensions of this period of time.

**CONCLUSION**

Staff recommends Council consider adoption of the proposed Resolution No. 72-22 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 occur by teleconference (including under a hybrid format) for the public health and safety. Continued reliance on Resolution No. 72-22 under AB 361 will require adoption of a new resolution making the required findings every 30 days thereafter.

**ATTACHMENT**

1. Resolution No. 72-22

**RESOLUTION NO. 72-22**

**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  
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 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 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**, On March 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. 25-22 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On April 12, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing (including partially remote) for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 29-22 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On May 10, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing (including partially remote) for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 40-22 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On May 24, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing (including partially remote) for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 43-22 authorizing such meetings for an additional thirty days; and

**WHEREAS**, On June 14, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing (including partially remote) for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 50-22 authorizing such meetings for an additional thirty days; and **WHEREAS**, On June 28, 2022, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing (including partially remote) for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 61-22 authorizing such meetings for an additional thirty days, and by its own terms Resolution No. 61-22 expired on July 28, 2022; 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**, 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 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 has considered the existing conditions of the state of emergency in the City and, consistent with the provisions of Government Code § 54953(e), hereby find and determine that: (1) a proclaimed statewide state of emergency and a proclaimed local emergency related to COVID-19 are both currently in effect and persist in the jurisdictional boundaries of the City; and (2) State officials have imposed or recommended measures to promote social distancing in connection with the COVID-19 emergency.

**SECTION 3.** 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 4.** 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 5.** 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 6.** This Resolution shall take effect immediately upon its adoption by the City Council and shall be effective for until the earlier of (i) September 8, 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 7.** 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 8.** The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of August 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

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



AGENDA NO: A-6

MEETING DATE: August 9, 2022

# Staff Report

**TO:** Honorable Mayor and Councilmembers **DATE:** August 1, 2022

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

**SUBJECT:** Fourth Quarter Investment Report for Fiscal Year (FY) 2021-22 (period ending June 30, 2022)

## **RECOMMENDATION**

Receive the attached Fourth Quarter Investment Report for FY 2021-22 (period ending June 30, 2022).

## **FISCAL IMPACT**

There is no fiscal impact associated with this recommendation.

## **DISCUSSION**

Attached for Council consideration is the Fourth Quarter Investment Report for FY 2021-22. As of June 30, 2022, the City's weighted portfolio yield of 0.466% for the quarter was slightly below the Local Agency Investment Fund (LAIF) yield of 0.75% for that quarter. This is due to the City's need to hold more cash than normal in the checking account given high cash expenditures on the Water Reclamation Facility (WRF), and the scheduled additional lag in loan disbursements from the State Revolving Loan leading up to the fiscal year end. Yields remain low but are continuing to climb gradually. As of June 30, 2022, the City had recorded \$45,967 in interest earnings for the fiscal year to date.

Staff continues to keep significant cash in the City's LAIF account to ensure cash flow for the ongoing WRF project. Staff continues to replace maturing certificates of deposit with similar instruments as they mature. Staff recommends that no additional investment actions be taken at this time due to the ongoing liquidity needs for the WRF project. Staff plans to evaluate investment options more comprehensively when the WRF project is complete or nearing completion. At that time, staff will focus on renewed assessment of cash flow needs and research the most prudent ways to balance Council adopted investment goals of safety, liquidity, and yield as well as social responsibility in accordance with Resolution No. 50-21.

## **CONCLUSION**

Staff recommends that the City Council receive the Fourth Quarter Investment Report (period ending June 30, 2022) for Fiscal Year 2021-22.

## **ATTACHMENT**

1. Fourth Quarter Investment Report for FY 2021-22 (period ending June 30, 2022)

Prepared By: EC

Dept Review: SJR

City Manager Review: SC

City Attorney Review: CFN

**CITY OF MORRO BAY  
 QUARTERLY PORTFOLIO PERFORMANCE  
 6/30/2022**

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
LAIF	LOCAL AGENCY INVESTMENT FUND	\$ 30,846,403	0.75%	DAILY	DAILY	1
<b>MONEY MARKET ACCOUNT:</b>						
MM	MECHANICS BANK - MONEY MARKET	1,946,229	0.04%	DAILY	DAILY	1
SWEEP	MECHANICS BANK - SWEEP	25,858,299	0.01%	DAILY	DAILY	1
<b>CERTIFICATES OF DEPOSIT:</b>						
856285G21	ZION BANK - State Bank of India NY	250,000	1.750%	2/9/2022	2/9/2027	1,685
02589ABQ4	ZION BANK - American Express Natl	247,000	2.000%	3/9/2022	3/9/2027	1,713
14042TFJ1	ZION BANK - Capital One	246,000	2.700%	4/6/2022	4/13/2027	1,748
61760AUU1	ZION BANK - Morgan Stanley	246,000	3.000%	1/24/2019	1/24/2023	208
61690UDL1	ZION BANK - Morgan Stanley	246,000	3.100%	1/24/2019	1/24/2024	573
1731202F5	ZION BANK - Citibank	246,000	3.200%	1/25/2019	1/25/2024	574
3090683803	US BANK (FORMERLY STATE FARM BANK)	250,435	3.050%	10/21/2013	10/24/2023	481
		<u>\$ 60,382,366</u>				
			<b>RECORDED INTEREST AS OF 6/30/2022</b>	<b>% OF LIQUID PORTFOLIO HOLDINGS</b>	<b>WEIGHTED AVERAGE RATE OF EARNINGS</b>	<b>WEIGHTED AVERAGE MATURITY</b>
			<u>45,967.33</u>	<u>97.133%</u>	<u>0.466%</u>	<u>30</u>

**Portfolio holdings as of the quarter ended June 30, 2022, are in compliance with the current Investment Policy. With 97.133% of the portfolio held in liquid instruments, allowing the City to meet cash flow needs for at least six months, in compliance with the investment policy approved by the City Council in June 2021.**



AGENDA NO: A-7

MEETING DATE: August 9, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** July 15, 2022

**FROM:** Dana Swanson, City Clerk

**SUBJECT:** Adoption of Resolution No. 73-22 Updating the City's Conflict of Interest Code

## RECOMMENDATION

Staff recommends City Council update the City's Conflict of Interest Code by adopting the proposed Resolution No. 73-22.

## ALTERNATIVES

No alternatives are recommended.

## FISCAL IMPACT

None

## BACKGROUND/DISCUSSION

Government Code section 83700 requires all cities to adopt a Conflict of Interest Code. A Conflict of Interest Code shall have the force of law, and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of the Government Code. To simplify the preparation and adoption of Conflict of Interest Codes, the Fair Political Practices Commission has adopted a form Conflict of Interest Code, which is found at 2 California Code of Regulations, section 18730. As such, the City may comply with Government Code section 83700 by doing all of the following: (1) adopting the form Conflict of Interest Code, (2) identifying designated positions and boards that must comply with the requirements of the Conflict of Interest Code and (3) identifying financial disclosure categories to which each designated position and board fall within.

In August 2021, the City established an updated Conflict of Interest Code through the adoption of Resolution No. 57-21. Staff has determined it is necessary to update the City's Conflict of Interest Code to add the newly designated positions of Human Resources/Risk Manager, Chief Building Inspector/Plans Examiner, Fiscal Analyst, Operational Technology Specialist and Utility Support Coordinator. By adopting the attached Resolution No. 73-22, the City Council will ensure the City's Conflict of Interest Code is up to date and reflects the current organization and operations of the City.

## ATTACHMENTS

1. Resolution No. 57-21
2. Proposed Resolution No. 73-22 with Exhibits A & B

Prepared By: DS

Dept Review: \_\_\_\_\_

City Manager Review: SC

City Attorney Review: CFN

**RESOLUTION NO. 57-21**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADOPTING A REVISED CONFLICT OF INTEREST CODE  
AND RESCINDING RESOLUTION NO. 74-20 AND  
EACH OTHER RESOLUTION IN CONFLICT HEREWITH**

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

**WHEREAS**, pursuant to the provisions of the Government Code, sections 87300 *et seq.* (the Code”), each agency is required to adopt a Conflict of Interest Code; and

**WHEREAS**, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Code Reg. section 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments to the Political Reform Act; and

**WHEREAS**, the Fair Political Practices Commission recommends each agency incorporate Commission Regulations 18730 and 18720 by reference as the body of their Code, and all changes to the Political Reform Act and to Regulations 18730 and 18720 will automatically be part of the City’s Conflict of Interest Code; and

**WHEREAS**, the City of Morro Bay incorporated Commission Regulations 18730 and 18720 into its Conflict of Interest Code with the adoption of Resolution No. 74-20 adopted August 11, 2020, and its Conflict of Interest Code is in further need of updating; and

**WHEREAS**, the City Council has determined the documents attached to this Resolution, as Exhibits A and B, accurately set forth the current designated positions regulated by the Conflict of Interest Code, and the respective categories of financial interests which should be made reportable and those boards and commissions which should be designated and the respective categories of financial interests which should be made reportable by their members; and

**WHEREAS**, this action will ensure the City’s Conflict of Interest Code is up to date and in compliance with the law.

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

SECTION 1. Resolution No. 74-20 and any parts or sections of any other resolutions in conflict with this Resolution are hereby rescinded and/or repealed as necessary to resolve such conflict.

SECTION 2. The terms of Title 2, Division 6 of the California Code of Regulations, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, incorporated herein by reference, along with the attached documents entitled Exhibit A, in which members and employees are designated, and Exhibit B in which disclosure

categories are set forth, constitute the Conflict of Interest Code for the City of Morro Bay.

SECTION 3. Pursuant to the Code, any person holding a designated position, including any person holding a designated position in an acting capacity, shall file a Statement of Economic Interest with the City Clerk. Additionally, any person hired for a position not covered by the Code, who makes or participated in making a governmental decision shall file a Statement of Economic Interest with the City Clerk.

SECTION 4. For persons holding the positions of Mayor, Councilmember, City Manager, City Attorney, and Planning Commissioner, the City Clerk may serve as the filing official by accepting the filing, retaining a copy, and forwarding the original to the Fair Political Practices Commission in Sacramento; or, for the persons holding those positions, filings may directly be made electronically with the Fair Political Practices Commission in Sacramento. For all other persons holding designated positions, the City Clerk is the filing officer and retains the statements. The City Clerk will make the statements available for public inspection and reproduction, pursuant to Government Code Section 81008.

SECTION 5. Any future amendments to the City's Conflict of Interest Code including, but not limited to, amendments to the designated positions list or to the financial disclosure categories, shall be made by resolution duly adopted by the City Council of the City of Morro Bay.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 24<sup>th</sup> day of August 2021 on the following vote:

AYES:	Headding, Addis, Barton, Heller
NOES:	None
ABSENT:	None
ABSTAIN:	None

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

ATTEST:

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

EXHIBIT A  
RESOLUTION NO. 57-21

CITY OF MORRO BAY

LIST OF DESIGNATED POSITIONS  
CONFLICT OF INTEREST CODE

<b>Position</b>	<b>Disclosure Category</b>
Mayor, Council Members, City Manager, City Attorney, City Clerk, City Treasurer, Planning Commission Members	As required by State law
<u>Boards, Committees &amp; Commissions</u>	
Citizens Oversight / Citizens Finance Advisory Committee	1,2
Harbor Advisory Board	1,2
Public Works Advisory Board	1,2
Recreation & Parks Commission	1,2
<u>Administration</u>	
Assistant City Manager/Administrative Services Director	1-6
Human Resources Analyst	1,5,6
Information Systems Technician	1,2
Senior Administrative Services Management Analyst	2,3,5,6
<u>Finance</u>	
Finance Manager	1-6
<u>Harbor</u>	
Harbor Director	1-6
Harbor Business Coordinator	1-6
Harbor Patrol Supervisor	2,4,5,6
<u>Fire</u>	
Fire Chief	1-6
Fire Captain	1-6
Fire Marshal	1-6
Administrative Technician	2,5,6
<u>Police</u>	
Police Chief	1-6
Police Commander	1-6
Support Services Manager	2,3,5,6

Public Works

Public Works Director	1-6
Management Analyst	1,2,4,5,6
City Engineer	1-6
Senior Engineer	1-6
Associate Engineer	2,3,4,5,6
Assistant Engineer	2,3,4,5,6
Environmental Programs Manager	1-6
Utilities Division Manager	1-6
Consolidated Maintenance Superintendent	1-6
Wastewater Systems Supervisor	1-6
Lead Utility Operator	1-6
Consolidated Maintenance Field Supervisor	1-6

Community Development

Community Development Director	1-6
Senior Planner	1-6
Associate Planner	1-6
Building Inspector	1-6

Recreation

Recreation Services Division Manager	1-6
Recreation Supervisor – Sports Services	5,6
Recreation Supervisor – Youth Services	5,6

Consultants

1,2

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The City Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code.

EXHIBIT B  
RESOLUTION NO. 57-21

CITY OF MORRO BAY

**DISCLOSURE CATEGORIES**

General Provisions

When a designated employee or individual is required to disclose investments, business positions and sources of income, he or she need only disclose investments in business entities and sources of income which do business in the City, plan to do business in the City or have done business in the City within the past two (2) years. In addition to other activities, a business entity is doing business within the City if it owns real property within the City. When a designated employee or individual is required to disclose real property, he or she need only disclose that which is located in whole or in part within or not more than two (2) miles outside the boundaries of the City or within two (2) miles of any land owned or used by the City.

Designated employees shall disclosed their financial interests pursuant to the appropriate disclosure category as indicated in Exhibit A.

Disclosure Categories

- Category 1: All investments, business positions and sources of income. (See Statement of Economic Interests Schedules A-1, A-2, C, D and E.)
- Category 2: All interests in real property. (See Statement of Economic Interests, Schedule B.)
- Category 3: All investments, business positions, interests in real property and sources of income subject to the regulatory, permit or licensing authority of the department. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 4: Investments in business entities and sources of income which engage in land development, construction or the acquisition of real property. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 5: Investments in business entities and sources of income of the type which contracts with the City to provide services, supplies, materials, machinery or equipment to any City department. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 6: Investments in business entities and sources of income of the type which contracts with the City to provide to the designated employee's department services, supplies, materials, machinery, or equipment. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)

**RESOLUTION NO. 73-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADOPTING A REVISED CONFLICT OF INTEREST CODE  
AND RESCINDING RESOLUTION NO. 57-21 AND  
EACH OTHER RESOLUTION IN CONFLICT HEREWITH**

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

**WHEREAS**, pursuant to the provisions of the Government Code sections 87300 *et seq.* (“the Code”), each agency is required to adopt a Conflict of Interest Code; and

**WHEREAS**, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Code Reg. section 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments to the Political Reform Act; and

**WHEREAS**, the Fair Political Practices Commission recommends each agency incorporate Commission Regulations 18730 and 18720 by reference as the body of their Code, and all changes to the Political Reform Act and to Regulations 18730 and 18720 will automatically be part of the City’s Conflict of Interest Code; and

**WHEREAS**, the City of Morro Bay incorporated Commission Regulations 18730 and 18720 into its Conflict of Interest Code with the adoption of Resolution No. 57-21 adopted August 24, 2021, and its Conflict of Interest Code is in further need of updating; and

**WHEREAS**, the City Council has determined the documents attached to this Resolution, as Exhibits A and B, accurately set forth the current designated positions regulated by the Conflict of Interest Code, and the respective categories of financial interests which should be made reportable and those boards and commissions which should be designated and the respective categories of financial interests which should be made reportable by their members; and

**WHEREAS**, this action will ensure the City’s Conflict of Interest Code is up to date and in compliance with the law.

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

SECTION 1. Resolution No. 57-21 and any parts or sections of any other resolutions in conflict with this Resolution are hereby rescinded and/or repealed as necessary to resolve such conflict.

SECTION 2. The terms of Title 2, Division 6 of the California Code of Regulations, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, incorporated herein by reference, along with the attached documents entitled Exhibit A, in which members and employees are designated, and Exhibit B in which disclosure

categories are set forth, constitute the Conflict of Interest Code for the City of Morro Bay.

SECTION 3. Pursuant to the Code, any person holding a designated position, including any person holding a designated position in an acting capacity, shall file a Statement of Economic Interest with the City Clerk. Additionally, any person hired for a position not covered by the Code, who makes or participated in making a governmental decision shall file a Statement of Economic Interest with the City Clerk.

SECTION 4. For persons holding the positions of Mayor, Councilmember, City Manager, City Attorney, City Treasurer, and Planning Commissioner, the City Clerk may serve as the filing official by accepting the filing, retaining a copy, and forwarding the original to the Fair Political Practices Commission in Sacramento; or, for the persons holding those positions, filings may directly be made electronically with the Fair Political Practices Commission in Sacramento. For all other persons holding designated positions, the City Clerk is the filing officer and retains the statements. The City Clerk will make the statements available for public inspection and reproduction, pursuant to Government Code Section 81008.

SECTION 5. Any future amendments to the City's Conflict of Interest Code including, but not limited to, amendments to the designated positions list or to the financial disclosure categories, shall be made by resolution duly adopted by the City Council of the City of Morro Bay.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 9<sup>th</sup> day of August 2022 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

JOHN HEADDING, Mayor

ATTEST:

---

DANA SWANSON, City Clerk

EXHIBIT A  
RESOLUTION NO. 73-22

CITY OF MORRO BAY

LIST OF DESIGNATED POSITIONS  
CONFLICT OF INTEREST CODE

<b>Position</b>	<b>Disclosure Category</b>
Mayor, Council Members, City Manager, City Attorney, <del>City Clerk</del> , City Treasurer, Planning Commission Members	As required by State law
<u>Boards, Committees &amp; Commissions</u>	
Citizens Oversight / Citizens Finance Advisory Committee	1,2
Harbor Advisory Board	1,2
Public Works Advisory Board	1,2
Recreation & Parks Commission	1,2
<u>City Manager's Office</u>	
<del>City Clerk</del>	<del>1-6</del>
<u>Human Resources/Risk Manager</u>	<u>1-6</u>
Human Resources Analyst	1,5,6
<u><del>Administration</del>Administrative Services</u>	
Assistant City Manager/Administrative Services Director	1-6
Finance Manager	1-6
Information Systems Technician	1,2
Senior Administrative Services Management Analyst	2,3,5,6
<u>Fiscal Analyst</u>	<u>2,3,5,6</u>
<u>Harbor</u>	
Harbor Director	1-6
Harbor Business Coordinator	1-6
Harbor Patrol Supervisor	2,4,5,6
<u>Fire</u>	
Fire Chief	1-6
Fire Captain	1-6
Fire Marshal	1-6
Administrative Technician	2,5,6
<u>Police</u>	
Police Chief	1-6
Police Commander	1-6
Support Services Manager	2,3,5,6

Public Works

Public Works Director	1-6
Management Analyst	1,2,4,5,6
City Engineer	1-6
Senior Engineer	1-6
Associate Engineer	2,3,4,5,6
Assistant Engineer	2,3,4,5,6
Environmental Programs Manager	1-6
Utilities Division Manager	1-6
Consolidated Maintenance Superintendent	1-6
Wastewater Systems Supervisor	1-6
Lead Utility Operator	1-6
Consolidated Maintenance Field Supervisor	1-6
<u>Operational Technology Specialist</u>	<u>5.6</u>
<u>Utility Support Coordinator</u>	<u>5.6</u>

Community Development

Community Development Director	1-6
Senior Planner	1-6
Associate Planner	1-6
<u>Chief Building Inspector/Plans Examiner</u>	<u>1-6</u>
Building Inspector	1-6

Recreation

Recreation Services Division Manager	1-6
Recreation Supervisor – Sports Services	5,6
Recreation Supervisor – Youth Services	5,6

Consultants

1,2

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The City Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code.

EXHIBIT B  
RESOLUTION NO. 73-22

CITY OF MORRO BAY

**DISCLOSURE CATEGORIES**

General Provisions

When a designated employee or individual is required to disclose investments, business positions and sources of income, he or she need only disclose investments in business entities and sources of income which do business in the City, plan to do business in the City or have done business in the City within the past two (2) years. In addition to other activities, a business entity is doing business within the City if it owns real property within the City. When a designated employee or individual is required to disclose real property, he or she need only disclose that which is located in whole or in part within or not more than two (2) miles outside the boundaries of the City or within two (2) miles of any land owned or used by the City.

Designated employees shall disclosed their financial interests pursuant to the appropriate disclosure category as indicated in Exhibit A.

Disclosure Categories

- Category 1: All investments, business positions and sources of income. (See Statement of Economic Interests Schedules A-1, A-2, C, D and E.)
- Category 2: All interests in real property. (See Statement of Economic Interests, Schedule B.)
- Category 3: All investments, business positions, interests in real property and sources of income subject to the regulatory, permit or licensing authority of the department. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 4: Investments in business entities and sources of income which engage in land development, construction or the acquisition of real property. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 5: Investments in business entities and sources of income of the type which contracts with the City to provide services, supplies, materials, machinery or equipment to any City department. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)
- Category 6: Investments in business entities and sources of income of the type which contracts with the City to provide to the designated employee's department services, supplies, materials, machinery, or equipment. (See Statement of Economic Interests Schedules A-1, A-2, B, C, D and E.)

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AGENDA NO: A-8  
MEETING DATE: August 9, 2022

## Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** July 31, 2022

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

**SUBJECT:** Adoption of Resolution 74-22 Approving the Memorandum of Understanding between the City of Morro Bay and Morro Bay Firefighters Association, IAFF Local 3725, Resolution 75-22 Approving the Amended Fiscal Year 2022-23 Combined Salary Schedule, and Resolution No. 76-22 Designating Employees' Contributions Toward Employer Pension Costs as an Employer Pick-up per Section 414(h)(2) of the Internal Revenue Code

### **RECOMMENDATION**

Staff recommends the City Council adopt Resolution No. 74-22 approving the 2022-24 Memorandum of Understanding between the City of Morro Bay ("City") and the Morro Bay Firefighters Association, IAFF Local 3725 ("MBFFA"), Resolution No. 75-22 approving the amended Fiscal Year ("FY") 2022-23 Combined Salary Schedule, and Resolution No. 76-22 designating Employees' Contributions toward Employer Pension Costs as an Employer Pick-up per Section 414(h)(2) of the Internal Revenue Code.

### **FISCAL IMPACT**

The total cost to the City in FY 2022-23 for salary and benefit adjustments is approximately \$107,000, which is included in the approved FY 2022-23 budget.

### **BACKGROUND**

The Morro Bay community is best served by attracting and retaining experienced, talented, and well-trained staff, minimizing turnover to the greatest extent possible. One outfall from the pandemic is the "great resignation" or "great reshuffling" in the labor market as employees quit their jobs at rates far greater than the pre-COVID-19 period. Whether employees grew overwhelmed with the challenges of working during the global pandemic or sought better working conditions or better pay in different organizations, or changed careers, we are now experiencing a very low unemployment rate nationwide and quit rates remain high. This is creating labor shortages and intense competition for talent in all sectors and volatility for organizations.

The public sector, particularly state and local government, has been hit hard by the labor shortage, and the trend could worsen in the near-term. According to a December 2021 survey by

Prepared By:   DS                        Dept Review:         
City Manager Review:   SC                City Attorney Review:   MH

MissionSquare Research Institute, more than half of state and local workers said they were considering leaving their positions to retire, change jobs, or leave the workforce entirely. It is becoming harder to hire talent and keep talent in local government. The inability to hire and retain talent is both expensive for cities in terms of the hiring and training process, but vacancies also negatively impact local government's ability to provide core services to the community, and increases the burden on the remaining employees, thus creating a cycle of burnout and greater turnover. This broad challenge for local governments is most particularly felt in the hiring and retaining of safety personnel, that have the added impact of significantly less individuals choosing safety careers compared to pre-pandemic times. Thus, it is key to create a competitive compensation system to maintain staffing levels in the public safety ranks.

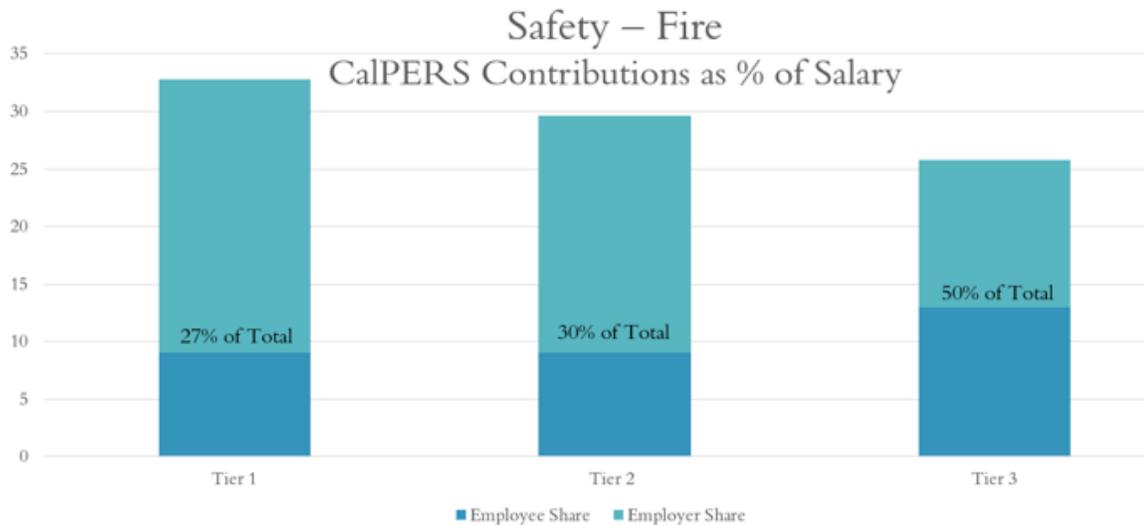
The Council recognizes the key to delivering services to our community and achieving City goals is attracting and retaining highly qualified employees and is committed to providing competitive and fair compensation that will facilitate recruitment and retention of City employees. The ongoing financial recovery from the COVID-19 pandemic, aided by increases in sales and transient occupancy taxes as well as the community's support by passage of Measure E in 2020, enables the City to begin addressing internal and external equity issues to help recruit and retained well-trained officers and ensure compensation does not dissuade people from beginning or continuing to work for the City.

**CalPERS Retirement Benefits**

Citywide, full-time employees are enrolled in one of nine CalPERS retirement benefit tiers with varying benefit formulas and required employee contribution rates. Tier 1 and 2 "Classic" employees have a higher benefit formula and a lower employee contribution rate. Tier 3 or "PEPRA" employees (employees who entered the system after pension reform in 2012) have a lower benefit formula and are required to contribute 50% of the "normal" costs, which is projected to increase over time, including during the proposed contract period.

	Tier 1 "Classic"			Tier 2 "Classic"			Tier 3 "PEPRA"		
	Benefit Formula	Employee Rate	Employer Rate	Benefit Formula	Employee Rate	Employer Rate	Benefit Formula	Employee Rate	Employer Rate
Fire Safety	3% @ 50	9%	23.8%	3% @ 55	9%	20.7%	2.7% @ 57	13%	12.8%

The charts below demonstrate that the six MBFFA members in Tier 1 and 2 plans pay a lower share of higher-cost benefits than the other six MBFFA members pay for their PEPRA tier retirement benefits. Tier 1 Safety members pay 27% of the normal cost of their benefits and Tier 2 Safety members pay 30% of normal CalPERS costs, while PEPRA miscellaneous members pay 50%.



In July 2021 CalPERS lowered its discount rate, or projected rate of return, from 7.0% to 6.8%, which will result in mandatory increases in employer's PERS costs for all employees, and likely increases to employee costs for PEPRAs employees. Employer costs are projected to rise by 2-5 percent for public safety employees in FY 2023-24.

Public safety employees who are in the PEPRAs tier will experience a cost increase estimated to range from 0.5% – 1.3% in FY 2023-24 as required by the pension reform law that governs their benefits. This has the potential to further widen the gap between total compensation for City employees in the "Classic" CalPERS tiers and the PEPRAs pension reform tier, which is an inequitable dynamic this agreement begins to address.

More recent CalPERS rates of returns, announced by CalPERS in late July, could result in further reductions to the discount rate and additional costs to employers and PEPRAs employees in FY 2024-25 and beyond. This would further the inequitable situation across employees as outlined above.

**DISCUSSION**

City representatives met and conferred with each of the City's bargaining groups and reached a successor Memorandum of Understanding (MOU) for July 1, 2022 – June 30, 2024 with MBFFA which has been ratified by the bargaining group and is presented for Council approval. No tentative agreement (TA) was prepared since the parties had already been working on drafting the successor MOU.

The cost of living increases (COLAs) and terms agreed to with MBFFA, which are reflected in the successor MOU, include:

1. 8% COLA for all Association members in FY 2022-23, retroactive to the pay period including July 1, 2022, with all members contributing 2% to the employer's contribution to CalPERS. This CalPERS "cost sharing" agreement will be implemented effective the pay period including July 1, 2022, in accordance with Government Code section 20516(f) and then formalized by way of a CalPERS contract amendment.
2. Effective the pay period including July 1, 2022, Paramedic incentive pay will be calculated

as 10% of the employee's base salary, rather than fixed at 9% of a Step 5 Firefighter salary.

3. Effective the pay period including July 1, 2022, the City will contribute, on a 2:1 basis (i.e., employee contributes \$2, and City contributes \$1) with City maximum of \$1,200 per employee in any calendar year, to a deferred compensation 457 plan.
4. Effective the pay period July 1, 2022, Association members required to use their personal cell phone for City business will receive a monthly stipend of \$50.00.
5. 4% COLA for all Association members in FY 2023-24 contingent upon the following:
  - a. CalPERS Classic member Tier 1 & 2 Association represented members shall contribute an additional 1% to the employer's contribution to CalPERS (for a total of 3% cost sharing).

City staff anticipates that the CalPERS contract amendment to reflect cost sharing referenced in #1 above will return to the City Council for consideration later in August or in September.

From the effective date of MBFFA 2022-24 MOU until the City's contract with CalPERS is amended to reflect the cost sharing arrangement, the City and MBFFA have mutually agreed all MBFFA members will contribute 2% to the employer's cost as cost sharing pursuant to Government Code section 20516(f), and that the 2% contribution will be pre-tax. Because such contributions are designated by CalPERS as *employer* contributions, it is the City's position that they are not subject to income tax withholding. However, if the Internal Revenue Service (IRS) were at some point to determine that such contributions are *employee* contributions rather than *employer* contributions it is recommended the City Council adopt a resolution to treat the employee cost sharing contributions as "picked up" by the employer and, therefore, not subject to income tax withholding. Resolution 76-22 is intended to serve this purpose for MBFFA employees as well as any groups of City employees who may in the future make employee cost sharing contributions pursuant to Government Code section 20516(f).

## **CONCLUSION**

In order to maintain competitive compensation levels, as compared to surrounding fire agencies, staff recommends the City Council adopt the proposed Resolutions, which would approve the successor MOU with the Morro Bay Firefighters' Association implementing the terms discussed above, approve an updated salary schedule reflecting the new salaries, and designate employee's contributions toward employer pension costs as employer "pick-up" per Section 414(h)(2) of the IRC.

## **ATTACHMENT**

1. Resolution No. 74-22 approving the MBFFA 2022-24 Successor MOU
2. Resolution No. 75-22 approving the amended FY 22-23 Combined Salary Schedule
3. Resolution No. 76-22 designating Employees' Contributions toward Employer Pension Costs as an Employer Pick-up per Section 414(h)(2) of the Internal Revenue Code

**RESOLUTION NO. 74-22**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
APPROVING THE SUCCESSOR MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF MORRO BAY AND THE  
MORRO BAY FIREFIGHTERS ASSOCIATION, IAFF LOCAL 3725  
FOR THE PERIOD OF JULY 1, 2022 THROUGH JUNE 30, 2024**

**THE CITY COUNCIL  
Morro Bay, California**

**WHEREAS**, the City of Morro Bay (“City”) has, and continues to, recognize the Morro Bay Firefighters Association, IAFF Local 3725 (“MBFFA”), as the sole exclusive employee organization representing the City’s fire fighting employees as defined by the parties in their labor agreements, for all matters concerning wages, hours and other terms and conditions of employment; and

**WHEREAS**, the current Memorandum of Understanding (“MOU”) between the City and MBFFA (“MBFFA MOU 2020-2022”), which was duly approved by the City Council on June 22, 2021, expired June 30, 2022; and

**WHEREAS**, the City and MBFFA entered into negotiations for a successor MOU covering the period of July 1, 2022 through June 30, 2024; and

**WHEREAS**, the City’s labor relations representatives and the MBFFA representatives successfully met and conferred to negotiate a successor MOU between the parties, pursuant to both the Meyers-Milias-Brown Act (“MMBA”) (Gov’t Code Section 3500-3511) and the City’s Employer-Employee Relations Resolution, Resolution No. 08-17, and have jointly prepared and executed the attached successor MOU between the City and MBFFA, for the period July 1, 2022 through, and including, June 30, 2024 (“MBFFA MOU 2022-2024”), which was ratified by MBFFA on or about August 2, 2022; and

**WHEREAS**, the MBFFA MOU 2022-24 is subject to City Council acceptance and approval, which are made a part hereof by this reference; and

**WHEREAS**, once approved by the City Council, the MBFFA MOU 2022-24 shall become a binding agreement between the City and MBFFA.

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

**Section 1.** The above recitals are true and correct.

**Section 2.** The City Council approves the MBFFA MOU 2022-2024 as the successor MOU between the City and MBFFA for the period of July 1, 2022 through, and including, June 30, 2024, a copy of which is attached hereto as Exhibit 1.

**Section 3.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**Section 4.** This resolution shall be effective immediately upon its passage and adoption.

**PASSED AND ADOPTED**, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 9<sup>th</sup> day of August 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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JOHN HEADDING, Mayor

ATTEST:

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DANA SWANSON, City Clerk

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE MORRO BAY**  
**FIREFIGHTERS ASSOCIATION,**  
**IAFF LOCAL 3725**  
**AND**  
**THE CITY OF MORRO BAY**

**JULY 1, 2022 – JUNE 30, 2024**

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE MORRO BAY FIRE FIGHTERS ASSOCIATION, IAFF LOCAL 3725  
AND THE CITY OF MORRO BAY 2022 - 2024**

**ARTICLE I PURPOSE**

**WHEREAS**, the City of Morro Bay is a municipal corporation, existing under the laws of the State of California as a general law city (hereinafter referred to as the “CITY”); and

**WHEREAS**, the CITY is limited, insofar as funds are concerned, because of a fixed tax rate, and in structure because it is a public entity, rather than a profit-making business; and

**WHEREAS**, the Morro Bay Fire Fighters Association (hereinafter referred to as the “MBFFA”) is an unincorporated association under the laws of the State of California, and is affiliated with the International Association of Fire Fighters (IAFF) as IAFF Local 3725; and

**WHEREAS**, the CITY and the MBFFA recognize that the mission and the purpose of the CITY are to provide high-quality and economical municipal services and facilities to the residents of the City of Morro Bay; and

**WHEREAS**, the prior Memorandum of Understanding between the CITY and MBFFA, which was approved June 22, 2021 pursuant to Resolution No. 33-21 and covered the period July 1, 2020 through June 30, 2022 (“MBFFA MOU 2020-22”) expired by its own terms on June 30, 2022; and

**WHEREAS**, the CITY and MBFFA now desire to enter into a successor MOU to the MBFFA MOU 2022-2024.

**THEREFORE**, this Memorandum of Understanding (hereinafter referred to as the “MOU”) is entered into as of July 1, 2022, between the CITY and the MBFFA.

It is the intent and purpose of this MOU to assure sound and mutually-beneficial working and economic relations and conditions between the parties hereto, to provide for an orderly and peaceable method and manner of resolving any differences, which may arise, and to negotiate any misunderstanding, which could arise, and to set forth, herein, the basic and full agreement between the parties, concerning the pay, wages, hours of employment, and other terms and conditions of employment.

**ARTICLE 2 MANAGEMENT**

2.1 In order to ensure that the CITY shall continue to carry out its public safety functions, programs, and responsibilities to the public, imposed by law, and to maintain efficient public safety service for the citizens of Morro Bay, the CITY continues to reserve and retain solely and exclusively all management rights, regardless of the frequency of use, including those rights and responsibilities set forth by law, and those CITY rights set forth in the CITY’s Personnel Rules and Regulations and including, but not limited to, the following:

- 2.1.1 To manage the Fire Department, and determine policies and procedures and the right to manage the affairs of the Department.
- 2.1.2 To determine the existence, or nonexistence, of facts which are the basis of the management decision, in compliance with State law.
- 2.1.3 To determine the necessity, organization, implementation, and termination of any service or activity conducted by the CITY or other government jurisdiction, and to expand or diminish fire services.
- 2.1.4 To direct, supervise, recruit, select, hire, evaluate, promote, transfer, discipline, discharge, terminate, demote, reduce, suspend, reprimand, withhold salary increases and benefits for disciplinary reasons, or otherwise discipline employees, in accordance with Department or CITY Rules, Regulations, or Ordinances.
- 2.1.5 To determine the nature, manner, means, extent, type, time, quantity, quality, technology, standard, and level of fire services to be provided to the public.
- 2.1.6 To require performance of other public safety services not specifically stated herein, in the event of emergency or disaster, as deemed necessary by the CITY.
- 2.1.7 To lay off employees of the Fire Department because of lack of work or funds or under conditions where continued work would be inefficient or nonproductive or not cost effective, as determined by the CITY.
- 2.1.8 To determine and/or change the fire facilities, methods, technology, equipment, operations to be performed, organization structure, and allocate or assign work by which the CITY fire operations and services are to be conducted.
- 2.1.9 To determine method of financing.
- 2.1.10 To plan, determine, and manage Department's budget, which includes, but is not limited to, changes in the number of locations and types of operations, processes, and materials to be used in carrying out all Fire Department functions and the right to contract or subcontract any work or operations of the Fire Department.
- 2.1.11 To determine the size and composition of the Fire Department work force, assign work to employees of the Fire Department, in accordance with requirements determined by the Fire Department, and to establish and require compliance to work hours and changes to work hours, work schedules, including call back, standby, and overtime, and other work assignments, except as otherwise limited by this MOU, or subsequent MOUs.
- 2.1.12 To establish and modify goals and objectives related to productivity and performance programs and standards, including, but not limited to, quality and quantity, and required compliance therewith.

- 2.1.13 To determine qualifications, skills, abilities, knowledge, selection procedures and standards, job classification, job specifications, and to reallocate and reclassify employees, in accordance with division and/or CITY Rules and Regulations.
- 2.1.14 To determine the issues of public policy, and the overall goals and objectives of the Fire Department, and to take necessary action to achieve the goals and objectives of the Fire Department.
- 2.1.15 To hire, transfer (intra- or inter- Department), promote, reduce in rank, demote, reallocate, terminate and take other personnel action for non-disciplinary reasons, in accordance with Department and/or CITY Rules, Regulations and Ordinances.
- 2.1.16 To determine policies, procedures and standards for recruiting, selecting, training, and promoting employees.
- 2.1.17 To establish, implement, and/or modify rules and regulations, policies, and procedures, related to productivity, performance, efficiency, personal appearance standards, code of ethics and conduct, safety, health, and order, and to require compliance therewith.
- 2.1.18 To maintain order and efficiency in Fire facilities and operation.
- 2.1.19 To restrict the activity of an employee organization on CITY facilities, except as set forth in this MOU.
- 2.1.20 To take any, and all, necessary steps and actions to carry out the service requirements and mission of the CITY in emergencies or any other time deemed necessary by the CITY, and not specified above.
- 2.2 Nothing herein is meant to diminish CITY rights provided by the Government Code.
- 2.3 Nothing herein is meant to diminish employee rights as provided by the Government Code, including the right to meet and confer on changes in standards for promotion.

**ARTICLE 3 MBFFA RECOGNITION**

- 3.1 Pursuant to Resolution No. 08-17, the Employer-Employee Relations Resolution of the City of Morro Bay and applicable state law, the MBFFA was designated by the CITY as the representative of CITY fire fighting employees. The term “employee” or “employees” as used herein is comprised of the following classifications:

- Captain/Paramedic
- Captain
- Engineer/Paramedic
- Engineer

Fire Marshal  
Firefighter/Paramedic  
Firefighter

3.2 Employees working on a regular basis in a classified position, but less than full-time, shall receive vacation and sick leave accruals on a pro-rated basis, commensurate with hours worked. All benefits for new hires, including insurance benefits, will be allocated on a pro-rated basis, commensurate with hours worked.

### 3.3 FIRE ENGINEER RATING

3.3.1 It is recognized, in principle, as long as the full-time MBFFA personnel complement of the Morro Bay Fire Department remains at ten (10) or less, that efficient operation of the Department requires an increase in the authorized number of Fire Engineers. Accordingly, CITY agrees to promote to Fire Engineer all personnel classified as Fire Fighter hired after the effective date of this MOU provided that they have served for eighteen (18) months with the CITY in the Fire Fighter classification; that at the completion of eighteen months of employment, they have been recommended by the Fire Chief for promotion and have demonstrated, through successful completion of written and practical examinations that they have successfully completed six semester units of Fire Science courses at an institution approved by the Fire Chief. The CITY shall make every effort to schedule the examination to be completed prior to the expiration of eighteen months. The content and passing grade of the written and practical examinations will be determined by the Fire Chief subject to the approval of the City Manager.

3.3.2 An individual recommended for promotion, and failing to attain a passing grade in either the written or practical examination, shall not be eligible for reexamination until six (6) months after the date of failure.

## **ARTICLE 4 MBFFA BUSINESS**

4.1 Employee representatives, designated by the MBFFA, shall be granted time off, without loss of pay, to attend "meet and confer" sessions with the City Manager, and/or their designee(s), on subjects within the scope of representation, when such meetings are scheduled during regular working hours. Should such meeting extend beyond an employee representative's regular working hours, the employee representative shall be paid for only the regular working hours.

4.2 It is understood that this time-off provision shall only apply to a maximum of two employees attending any one meeting between CITY and MBFFA; where exceptional circumstances warrant, the City Manager may approve the attendance, at such meetings, of additional employee representatives. The MBFFA shall, whenever practicable, submit the names of all employee representatives to the City Manager, or their designee(s), at least two working days in advance of such meetings. Provided further: 1) no employee representative shall leave his or her duty or work station or assignment without specific approval of the department head

or other authorized CITY management official; and 2) any such meeting is subject to scheduling by CITY management, in a manner consistent with operational needs and work schedules.

- 4.3 Off-duty employees will not be paid for attending meet and confer sessions, nor will over-time be paid for same. The parties agree to consider the shift schedules of team members in scheduling meetings.
- 4.4 MBFFA may hold unit meetings at the Fire Station, 715 Harbor Street, after 1700 hours, with two days' prior notice to Fire Chief. The Fire Chief has the authority to deny and/or cancel said meeting, if it conflicts with official CITY activities for MBFFA duties.
- 4.5 New Hire Information and Orientation per AB 119. The CITY will notify MBFFA's designated representative in writing or via email regarding all new hires at least ten (10) days prior to the employee's orientation unless there is an urgent need that was not reasonably foreseeable. Within the earlier of thirty (30) days after the date of hire or by the first pay period of the month following the hire of each newly hired employee, the CITY will provide the MBFFA's designated representative with the new employee's name, job title, department, work location, home mailing address, personal email, and work, home and personal cell phone numbers.

The new hire will receive a copy of this MOU with their new employee orientation packet. MBFFA shall be permitted one (1) hour for each orientation session to talk to new Unit members to explain the rights and benefits under this MOU.

The CITY will provide MBFFA's designated representative a quarterly list of all employees in the represented bargaining unit, including the employee's name, job title, department, work location, home mailing address, personal email, and work, home and personal cell phone numbers.

Notwithstanding the foregoing, the CITY will not provide MBFFA with the home address, home telephone number, personal cellular telephone number, or personal email address or date of birth of any employee who has made a written request to the CITY regarding non-disclosure of said information.

The parties will mutually agree on a form to use to track said employee information and whether any employee requests that such information not be disclosed.

MBFFA shall indemnify and hold harmless the CITY, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses, or liability arising out of this Article.

## **ARTICLE 5 AUTHORIZED AGENTS**

For the express purpose of administering the terms and provisions of this MOU:

- 5.1 Management's principal authorized agent shall be the City Manager, or their duly authorized representative(s), (address: 595 Harbor Street, Morro Bay, CA 93442; telephone (805) 772-6201), except where a particular management representative is specifically designated in the MOU.
- 5.2 The MBFFA principal authorized representative shall be the shop steward of the unit, or their duly authorized representative(s) (address 715 Harbor St., Morro Bay, CA 93442).

## **ARTICLE 6 WITHHOLDING OF MBFFA DUES AND INSURANCE**

- 6.1 As the recognized majority and/or exclusive employee organization, the MBFFA requests that the CITY deduct membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the MBFFA, from the wages and salaries of members of the MBFFA. The MBFFA hereby certifies that it has and shall maintain all such deduction authorizations signed by the individual from whose salary or wages the deduction is to be made and shall not be required to provide a copy of an individual authorization to the CITY unless a dispute arises about the existence or terms of the authorization. The MBFFA membership dues shall be deducted each pay period in accordance with CITY procedures and provisions of applicable law from the salary of each employee whose name is provided by the MBFFA. CITY does not accept responsibility for computing the amounts of deductions or for meeting payment dates, which may not coincide with established pay periods. CITY will issue a single check to the MBFFA for the total amount of deductions withheld from the individual employees' pay. The MBFFA will be responsible for the accounting and disbursing of all such funds received from CITY. MBFFA will be responsible for properly notifying CITY of any changes in deductions, and will be the sole agent, through which CITY will act, in explaining, initiating, executing, or terminating the provisions of this Article. Such notification must be received by the CITY at least two weeks prior to the effective date of the change. Also, such change notice must include a copy of the notice sent to the employees officially, telling them of the change.
- 6.2 MBFFA shall indemnify and hold harmless the CITY, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses, or liability arising out of this Article.
- 6.3 It is agreed that CITY will deposit payroll deductions made payable to a CITY-approved Credit Union, providing the MBFFA makes arrangements for such services that are acceptable to both members and CITY.

## **ARTICLE 7 TERM**

Except as otherwise specifically provided herein, the term of this MOU shall be from July 1, 2022 through June 30, 2024.

## **ARTICLE 8 RENEGOTIATIONS**

- 8.1 In the event either party wants to renegotiate a successor MOU, such party shall serve upon the other, during the period of December 1, 2023 to January 31, 2024, its written request to begin negotiations, as well as its full and entire written proposals amending this MOU. Negotiations shall commence no later than March 15, 2024.
- 8.2 The parties agree that, except by mutual agreement, no new subjects may be introduced into the process after the third (3<sup>rd</sup>) negotiations meeting.
- 8.3 Should the parties be unable to reach agreement on a new contract before the current contract expires, all applicable provisions of this MOU shall remain in full force and effect until such time as a new MOU is reached, or September 30, 2024, whichever first occurs.

## **ARTICLE 9 ANTI-DISCRIMINATION**

The CITY and MBFFA mutually agree they will not discriminate against employees for the exercise of their rights under the State of California Government Code Section 3502.

## **ARTICLE 10 WORK SCHEDULE (FOR FIRE MARSHAL, SEE ARTICLE 29)**

This article is intended to define the normal hours of work, and shall not be construed as a guarantee of work per day or work per week or of days of work per week.

### 10.1 WORKDAY

The normal workday shall be a twenty-four (24) consecutive hour period, except in cases of emergency or for reasons of attendance at extended training opportunities, or temporary duty assignments while on light duty, when other shifts may be assigned by the Chief, provided there is mutual agreement between the parties.

### 10.2 WORKSHIFT

Employees shall be scheduled to work on regular work shifts having regular starting and quitting times. Except for emergencies, employees' work shifts shall not be changed without four days (96 hours) prior written notice to the employee. Call out or overtime does not constitute a change in work shift.

### 10.3 WORKWEEK

The normal workweek shall average fifty-six (56) hours of work in a seven (7) consecutive day period, except in cases of emergency.

### 10.4 OVERTIME

10.4.1 Overtime is defined as all hours worked in excess of 106 hours worked in a 14-day work period. For those assigned to an 8-hour day, overtime shall be defined as all hours worked in excess of forty hours per week. Vacation time and compensatory time off shall be treated as hours worked.

- 10.4.2 All overtime, as defined above, shall be paid at one and one-half (1.5) times the employee's regular rate of pay. Compensatory time off earned, pursuant to 10.4.4 below, will accrue at one and one-half (1.5) times hours worked.
- 10.4.3 Employees, required to return to work on a scheduled vacation day, shall be paid at the rate of 1.5 times their regular rate of pay for the hours actually worked.
- 10.4.4 Employees may elect compensatory time off (CTO) in lieu of paid overtime, subject to the following provisions.
  - 10.4.4.1 CTO may be elected for overtime incurred due to training time only.
  - 10.4.4.2 Maximum CTO accrual will be 140 hours. All overtime earned after CTO is accrued to the 140-hour maximum will be paid in cash.
  - 10.4.4.3 Accrued CTO may be cashed out upon the request of the employee and the approval of the department. CTO accrued at time of separation will be paid off.
  - 10.4.4.4 CTO may be taken off upon employee request and department approval.
  - 10.4.4.5 Other overtime provisions notwithstanding, employees forced to hold over for 12 hours or more will receive time and one-half compensation for the hours worked on that day.

## 10.5 EMERGENCIES

- 10.5.1 Nothing herein shall be construed to limit or restrict the authority of management to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting an emergency.
- 10.5.2 Such emergency assignments shall not extend beyond the period of said emergency.
- 10.5.3 Short-staffing, caused solely by absences due to employees taking approved paid leave, shall not be considered an emergency.

## **ARTICLE 11 VACATIONS AND HOLIDAYS**

- 11.1 CITY and MBFFA agree that difficulties exist in equating the work schedules of fire fighters to the work schedule of non-shift personnel, i.e., shift periods compared to hours and days worked by other CITY employees. Therefore, a formula is agreed to for computing the vacations and holiday periods for fire fighters. Such formula is agreed to be a ratio as follows: Fire Fighter's total available shifts per year is to the general employees' total available work days per year (260) as X is to the number of authorized vacation and holidays days of the general employees, when X equals the amount of shifts off for Fire Fighters comparing Fire Fighters to employees of equal tenure.

11.2 Pursuant to Section 11.1, the following lists the vacation and holiday annual accrual schedule for members of the MBFFA assigned to shift work:

<u>SERVICE YEARS</u>	<u>VACATION ACCRUAL</u>	<u>HOLIDAY ACCRUAL</u>	<u>TOTAL ANNUAL ENTITLEMENT</u>	<u>SHIFTS/ YEAR</u>
0 thru 2	112.0 hrs.	146.96 hrs.	258.96 hrs.	10.792
3 thru 4	123.2 hrs.	146.96 hrs.	270.16 hrs.	11.257
5 thru 6	134.4 hrs.	146.96 hrs.	281.36 hrs.	11.723
7 thru 8	145.6 hrs.	146.96 hrs.	292.52 hrs.	12.19
9 thru 10	156.8 hrs.	146.96 hrs.	303.76 hrs.	12.657
11 thru 12	168.0 hrs.	146.96 hrs.	314.96 hrs.	13.123
13 thru 14	179.2 hrs.	146.96 hrs.	326.16 hrs.	13.59
15 thru 16	190.4 hrs.	146.96 hrs.	337.36 hrs.	14.057
17 thru 18	201.6 hrs.	146.96 hrs.	348.56 hrs.	14.523
19 thru 20	212.8 hrs.	146.96 hrs.	359.76 hrs.	14.99
21 +	224.0 hrs.	146.96 hrs.	370.96 hrs.	15.547

### 11.3 MAXIMUM ACCUMULATION

It is recognized long-standing accumulations of vacation/holiday time exist for some employees. In order to compensate employees for this unused time, CITY and MBFFA agree on the following policy:

11.3.1 Unused vacation/holiday leave may be carried over into the following year to a maximum of two times an employee's annual accumulation of vacation time plus one year of holiday time. Employees exceeding the maximum, as of the pay period containing November 1 of each year, will be paid off for time exceeding the maximum. The CITY shall make said payment with the pay period containing December 1 of each year. Payment shall be computed, based upon the employee's base hourly rate of pay as of June 30 of the same calendar year.

11.3.2 Employees separating from the CITY are entitled to pay for the accumulated vacation based upon employee's base hourly rate of pay at separation.

11.3.3 A member of the MBFFA may exercise an option to convert into cash a maximum of one hundred twelve (112) hours of accrued vacation leave each fiscal year. Such conversion shall be computed at the employee's current base hourly rate, on an hour-per-hour basis. This provision shall expire on December 31, 2022 with the implementation of Section 11.3.4.

11.3.4 Effective January 1, 2023, employees will be provided an option to convert up to one hundred twelve (112) hours of accrued vacation into compensation per calendar year, subject to meeting the requirements of Section 11.3.4.1.

11.3.4.1 To be eligible for cash out of accrued vacation leave pursuant to

Section 11.3.4, an MBFFA employee must pre-elect the number of vacation hours they will cash out, up to a maximum of one hundred twelve (112) hours, by December 15 of the preceding calendar year (***with December 15, 2022 being the election deadline for cash out in 2023***). The election will apply only to vacation hours to be accrued in the next calendar year. The election to cash out vacation hours in each designated year is irrevocable once made. MBFFA employees who elect to cash out vacation leave hours must cash out the number of accrued hours pre-designated on the irrevocable election form provided by the City. MBFFA employees who pre-designate cash out vacation leave hours may request a cash out at any time in the designated calendar year by submitting a cash out request at least 30 days in advance to Human Resources. Human Resources will confirm the cash out vacation hours have been accrued and is consistent with the amount the MBFFA employee pre-designated, then forward to payroll to complete the cash out request. If the full amount of vacation leave hours designated for cash out is not available at the time of cash out request, the maximum available will be paid, but the remaining pre-designated vacation leave hours will have to be cashed out before year end.

For MBFFA employees who have not requested payment of the elected cash out amount by November 1 of each year, payroll will automatically cash out the pre-designated amount in a paycheck issued on or after the payroll date including November 1. Additionally, the City may, prior to the end of the calendar year, automatically cash out the vacation leave accrued each pay period by a MBFFA employee such that the vacation leave cash out is consistent with the employee’s pre-elected number of vacation leave cash out hours for that year.

*MBFFA employees who do not pre-designate vacation leave cash out hours or who decline the cash opt option by the December 15 deadline will be deemed to have waived the right and will not be eligible to cash out any vacation leave in that year.*

- 11.4 The following holidays are used in Section 11.2 above, to determine total annual entitlement. Employees may be scheduled to work on holidays. All employees, except those assigned to 8-hour shifts, shall be compensated for holidays as provided in 11.2 above.

New Year’s Day.....	January 1
Martin Luther King, Jr., Day.....	3 <sup>rd</sup> Monday in January
Lincoln’s Birthday.....	February 12
President’s Day.....	3 <sup>rd</sup> Monday in February
Memorial Day.....	Last Monday in May
Independence Day.....	July 4
Labor Day.....	1 <sup>st</sup> Monday in September
Veteran’s Day.....	November 11
Thanksgiving Day.....	4 <sup>th</sup> Thursday in November
Day after Thanksgiving Day.....	4 <sup>th</sup> Friday in November

Christmas Day.....	December 25
Floating Holiday.....	Varies
Floating Holiday.....	Varies

11.5 For any additional holiday proclaimed by the Mayor, shift employees shall be paid (not banked) for 11.2 hours of work, and employees assigned to eight-hour duty shall receive the holiday off. Employees may be scheduled to work on such holidays.

**ARTICLE 12 SICK LEAVE**

12.1 It is agreed that the firefighters will earn sick leave per month at the same ratio that their assigned shift schedule compares to other full-time employees (1.4:1) for 24-hour shift workers or (1.0:1) for eight-hour shift employees. There shall be no maximum number of sick leave hours that a member of MBFFA may accrue.

12.2 All use of sick leave shall be charged on an hour-for-hour basis.

12.3 At termination, accumulated in the sick leave accrual is not compensable; however, upon retirement, sick leave accrual may be converted to additional time, as provided by California Public Employees Retirement System (CalPERS) unused sick leave credit.

12.4 Any use of sick leave, covering a period beyond seven calendar days, may require approval by a qualified medical authority for release to resume regular duties.

12.5 Recognizing Section 12.1 above requires a transition from the method of accruing and charging sick leave contained in earlier Memoranda of Understanding, the following conversion of previously accrued sick leave shall be made:

12.5.1 For shift workers, all Sick Leave hours accrued, but unused, as of December 31, 2002, shall be multiplied by a factor of three (3) and shall become the employee's Sick Leave Accrual account, until utilized on an hour for hour basis.

12.5.2 Credits added to the Sick Leave Accrual account for full-time employees, after the date above, shall be 11.2 hours per month, or 0.046154 hours, for each regular hour worked for part-time employees on shift work or eight (8) hours per month for employees assigned to an eight-hour day.

12.6 Based on individual utilization of paid sick leave in the preceding calendar year, employee may convert unused accumulated sick leave into paid vacation leave once per calendar year, pursuant to the formula below:

<u>Sick Leave Utilization</u>	<u>Maximum Conversion</u>	
	<u>Sick Leave</u>	<u>To</u> <u>Vacation Leave</u>
0 hours	96 hours	48 hours
.25 to 8 hours	72 hours	36 hours
8.25 to 16 hours	48 hours	24 hours

16.25 to 25 hours	24 hours	12 hours
Over 25 hours	0 hours	0 hours

At least 160 accrued hours must remain in employee’s sick leave bank for any employee to be eligible for conversion, or for any conversion to be authorized. In addition, the right to convert does not carry over or rollover from calendar year to calendar year; failure to request conversion, in the current calendar year, eliminates the right to do so for that calendar year, and does not permit employees to aggregate conversion hours in any other calendar year.

**ARTICLE 13 RETIREMENT BENEFITS**

13.1 It is the employee’s obligation to contribute the employee’s contribution to CalPERS. The employee shall pay their own contribution by payroll deduction, consistent with the provisions of 414 (h) 2 of the Internal Revenue Code.

13.1.1 Following City Council approval of the MBFFA MOU 2022-24, the CITY will implement cost sharing retroactive to the first full payroll period including July 1, 2022. Pursuant to Government Code section 20516(f), all MBFFA members will contribute an additional 2% to CalPERS as cost sharing for a total CalPERS Classic Tier 1 & Tier 2 contribution of 11% and PEPRAs Members (Tier 3) paying the statutorily mandated employee contribution rate of one half of the total normal cost plus 2% of the employer cost. The 2% contribution will be pre-tax pending approval by City Council and implementation a CalPERS Contract Amendment pursuant to Government Code section 20516. Following implementation of the CalPERS Contract Amendment, the 2% contribution will be pre-tax. It is expressly understood and agreed that the City has no authority or jurisdiction by which to bind CalPERS, the Internal Revenue Service (IRS), the Franchise Tax Board or any other agency (collective “Entities) to a determination that such contributions are indeed pre-tax. Thus the parties acknowledge and agree that the City shall have no liability to any individual unit employee or the collective bargaining unit should any of the aforementioned Entities reject treatment of said contributions as pre-tax

13.1.2 Effective no sooner than the pay period including July 1, 2023, CalPERS Classic Member Tier 1 & 2 MBFFA members shall make an additional 1% cost sharing contribution to the employer’s contribution to CalPERS for a total CalPERS contribution of 12%.

13.2 The CITY agrees to continue to provide MBFFA, hired prior to March 19, 2011, with a retirement benefit program through the CalPERS as follows:

- 13.2.1 3% @ 50 formula (Section 21362.2)
- 13.2.2 Unused Sick Leave Credit (Section 20965)
- 13.2.3 Military Service Credit (Section 21023.5, 21024 & 21027)
- 13.2.4 Final Compensation 1 year (Section 20042)
- 13.2.5 1959 Survivor Benefit Level 4 (Section 21574)
- 13.2.6 Pre-Retirement Death Benefits (Section 21548 Option 2W & 21551)
- 13.2.7 Retired Death Benefit \$500 (Section 21620)
- 13.2.8 Prior Service (Section 20055)

- 13.2.9 Public Service Credit for Periods of Layoff (Section 21022)
- 13.3 All employees, hired on or after March 19, 2011, but before January 1, 2013, and those hired on or after January 1, 2013, who meet the definition of *classic member*, pursuant to the California Public Employee's Pension Reform Act of 2013 (PEPRA), in the regular, full-time classifications listed in Article 3.1 of this MOU between the CITY and the MBFFA, shall be provided with the following CalPERS retirement benefits:
  - 13.3.1 3% @ 55 formula (Section 21363.1)
  - 13.3.2 Unused Sick Leave Credit (Section 20965)
  - 13.3.3 Military Service Credit (Section 21023.5, 21024 & 21027)
  - 13.3.4 Final compensation 3 Year (Section 20037)
  - 13.3.5 1959 Survivor Benefit Level 4 (Section 21574)
  - 13.3.6 Pre-Retirement Death Benefits (Section 21548 Option 2W & 21551)
  - 13.3.7 Retired Death Benefit \$500 (Section 21620)
  - 13.3.8 Prior Service (Section 20055)
  - 13.3.9 Public Service Credit for Periods of Layoff (Section 21022)
- 13.4 Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), effective January 1, 2013, Sworn employees hired, who meet the definition of *new member* under PEPRA and are not eligible for reciprocity, will be provided the following CalPERS benefits:
  - 13.4.1 2.7% @ 57 formula (Section 7522.25(d))
  - 13.4.2 Unused Sick Leave Credit (Section 20965)
  - 13.4.3 Military Service Credit (Sections 21023.5, 21024 & 21027)
  - 13.4.4 Final compensation 3 Year (Section 20037)
  - 13.4.5 1959 Survivor Benefit Level 4 (Section 21574)
  - 13.4.6 Pre-Retirement Death Benefits (Section 21548 Option 2W and 21551)
  - 13.4.7 Retired Death Benefit \$500 (Section 21620)
  - 13.4.8 Prior Service (Section 20055)
  - 13.4.9 Public Service Credit for Periods of Layoff (Section 21022)
- 13.5 CITY and MBFFA to jointly explore the establishment of an employee-funded Retirement Health Savings Account.
- 13.6 Effective the pay period including July 1, 2022, the CITY will contribute, on a 2:1 basis (i.e., employee contributes \$2, and CITY contributes \$1) with CITY maximum of \$1,200.00 per employee in any calendar year, to an employee's deferred compensation 457 plan.

**ARTICLE 14 HEALTH BENEFITS**

- 14.1 CITY shall pay, to each active employee by each pay period, the monthly sum of the health plan selected by the employee, and dental/life and vision plans. CITY and MBFFA agree that CITY payment of this lump sum is to be used to provide medical care coverage for the employee and/or employees dependents, and that the employees hold harmless the CITY, its officers and agents, including, but not limited to, liability arising out of this MOU.

Employees will be supplied with the current division of payment for medical, dental/life, and vision insurance between CITY and each employee in MBFFA, as changes occur during this MOU.

14.2 HEALTH INSURANCE

For 2022, MBFFA shall receive a cafeteria plan contribution, including the minimum contribution amount required by CalPERS, as follows:

- Employee only - up to \$767/month or cost of insurance, whichever is less
- Employee + 1 – up to \$1,232/month or cost of insurance, whichever is less
- Employee + family - up to \$1,589/month or cost of insurance, whichever is less

14.3 DENTAL/LIFE AND VISION INSURANCE

Life Insurance is provided at \$50,000 per employee. The following rates were effective January 1, 2022 and continue through June 30, 2024 unless other renegotiated between the parties by means of a re-opener:

	<u>Vision</u>	<u>Dental</u>	<u>Life</u>	<u>Totals</u>	<u>City pays</u>	<u>EE pays</u>
Employee only	\$ 8.29	\$ 57.81	\$8.70	\$ 74.80	\$ 71.87	\$ 2.93
Employee + 1	\$ 15.58	\$159.98	\$8.70	\$ 184.26	\$ 172.51	\$11.75
Employee + 2+	\$ 22.17	\$159.98	\$8.70	\$ 190.85	\$ 178.64	\$12.21

CITY will pay the remaining premium for dental, life and vision.

14.4 The provisions of this ARTICLE shall be binding on the parties through the remainder of the term of this MOU, which will be effective upon City Council approval. The parties agree herewith to re-open discussion with respect to this ARTICLE, for any changes to the 2024 health rates.

**ARTICLE 15 UNIFORM ALLOWANCE**

The uniform for the Fire Department is a two-piece work uniform and two T-shirts, of a style, material and manufacture determined by the Fire Chief. Two (2) complete uniforms will be provided upon initial employment with the Fire Department, and replacements provided are on an "as needed basis," as determined by the Fire Chief. The CITY will provide safety footwear of a type, style, and manufacture, as recommended by the Fire Chief. CITY is responsible for normal upkeep, i.e., heels and soles, with replacement as determined by the Fire Chief.

**ARTICLE 16 SALARIES**

16.1 Effective the pay period including July 1, 2022, the CITY shall provide a Cost of Living Adjustment (COLA) increase to base salaries for all MBFFA represented members of eight percent (8.00%) contingent upon the implementation and commencement of payment of the

2% cost sharing contribution by all MBFFA represented employees to the employer's contribution to CalPERS as provided in Section 13.1.1 (see Exhibit A).

- 16.2 Effective the pay period including July 1, 2023, the CITY shall provide a COLA increase to base salaries for all MBFFA members of four percent (4.00%) contingent upon the implementation and commencement of payment of an additional 1% cost sharing contribution to the employer's contribution to CalPERS by CalPERS Classic Tier 1 & 2 MBFFA members as provided in Section 13.1.2 (see Exhibit B).
- 16.3 Any and all education/ special pay incentives will be added to base salary.
- 16.4 Electronic Deposit. All employees hired after January 1, 2003, shall receive their pay by electronic methods. New hires must present account information for a checking or a savings account, with an ACH member financial institution.

## **ARTICLE 17 SPECIAL PAY PRACTICES**

### **17.1 MEDIC DIFFERENTIAL**

17.1.1 Effective the pay period including July 1, 2022, an employee, certified as an EMT-P (Paramedic), shall receive Paramedic Incentive Pay calculated as 10% of base salary to be paid on a bi-weekly basis.

17.1.2 The CITY may require any employee to attend EMT-P training.

### **17.2 CALL-OUT PAY**

17.2.1 It is agreed that the CITY will guarantee a minimum of three (3) hours pay, computed at straight hourly rates, for any MBFFA member called back to duty from an off-duty status.

17.2.2 If an employee is called to return to duty, such call-out shall not be canceled until the employee reports to the Fire Station. To be eligible to receive the minimum, the employee must report to the Fire Station.

17.2.3 If an employee is on-duty and held beyond the end of the work period, time worked will be paid as actual hours worked, under Section 10.4 of this MOU. Such holdover shall not qualify for Call-out Pay.

### **17.3 WORKING OUT-OF-CLASS**

Employees may be worked on an out-of-class assignment only as provided in the Personnel Rules and Regulations of the CITY, except as provided herein below:

17.3.1 Employees shall receive an additional 5% compensation for out-of-class assignments that last 24 consecutive hours. Such additional 5% pay shall start on the 25th hour,

retroactive to the first hour of the out-of-class assignment. Such additional compensation shall be paid during the first six (6) months of the out-of-class assignment.

17.3.2 If the assignment is extended by six (6) months, then starting on the first day of the extension:

17.3.2.1 The employee shall continue to receive the 5% compensation, if the out-of-class assignment is required to fill an absence due to an employee who is out on 4850 leave.

17.3.2.2 The employee shall receive an additional 5% for a total of 10% additional compensation, if the out-of-class assignment is required to fill a vacant position.

17.3.3 An employee placed in an out-of-class assignment will not be taken off that assignment for the sole purpose of avoiding the payment provided above.

17.3.4 Whenever possible, CITY intends to fill vacancies with qualified employees.

17.3.5 Short-term out-of-class assignments (such as acting captain) will be paid on an hour-for-hour basis.

#### 17.4 STANDBY PAY

Compensation for standby duty for acting Fire Chief position, when not called back to duty, shall be paid two (2) hours of overtime pay (acting rate) per full 24-hour shift.

#### 17.5 SPECIAL ASSIGNMENT PAY

17.5.1 Unit members, possessing the appropriate certification as determined by the City, and assigned to work as part of the Rescue Water Craft program operating specialized equipment, shall receive additional compensation of two percent (2%) of base pay. This incentive is limited to a maximum of six (6) designated employees, starting upon approval of this MOU, but may be expanded to eight (8) designated employees, upon approval of City Manager and City Council approval of the additional budgeted funds. City makes no representations as to whether this special pay may be included in a Unit member's "compensation earnable" for purposes of determining the Unit member's CalPERS retirement allowance.

17.5.2 Unit members, possessing the appropriate certification as determined by the City, and assigned to work as part of the San Luis Obispo County Hazardous Materials Team shall receive additional compensation of two percent (2%) of base pay. This incentive is limited to a maximum of two (2) designated employees, starting upon approval of this MOU.

## 17.6 CELL PHONE STIPEND

Effective July 1, 2022, CITY will provide a monthly stipend of \$50.00 to MBFFA represented employees required to use their personal cell phone for CITY business. This provision shall not apply to employees who have been issued a CITY-owned cell phone or table that serves the same business purpose.

## **ARTICLE 18 HEALTH AND SAFETY ARTICLE**

- 18.1 Management shall provide and maintain safe and healthy work facilities and equipment.
- 18.2 Safety and health conditions in employment in the CITY are subject to the provisions of State and Federal legislation, which regulates the health environment and safety conditions of the work place.
- 18.3 A Citywide Safety/Loss Control Committee shall be established, and shall review accidents, review alleged safety deficiencies, and recommend safety training and safety equipment. The MBFFA may appoint one Unit representative to serve on the committee. If the committee meets, during the designated employee's normal working hours, the employee shall receive paid release time to attend the meeting.
- 18.4 If an employee becomes alerted to an unsafe condition or health hazard, they shall report such condition to their immediate supervisor. If such conditions cannot be satisfactorily remedied by the immediate supervisor, an employee has the right to submit the matter either personally, or through the steward, to their Department Head, or designated safety representative. On any matter of safety not resolved, after proceeding through the above process, consultation will take place between management and the MBFFA, if requested.
- 18.5 A first aid kit shall be furnished and maintained at work facilities readily and conveniently accessible to MBFFA employees.
- 18.6 Management agrees to provide to employees, who are exposed to potentially toxic agents or toxic materials, the appropriate medical services at no cost to the employee.
- 18.7 Any safety equipment required by the CITY shall be furnished by the CITY.

## **ARTICLE 19 MINIMUM STAFFING**

- 19.1 CITY agrees to provide minimum staffing of three full-time personnel except in cases of emergency as determined by the Fire Chief.
  - a. Exception: For brief transitional periods lasting 10 hours or less, minimum staffing may be allowed to drop to a minimum of two with the Chief's approval.
- 19.2 Prior City Strategic Plans have recommended the CITY provide 4-person daily staffing in the Fire Department.

- a. The CITY and MBFFA agree that 4-person full-time minimum staffing will be provided in the MOU, when a second fire station or second company is staffed and operational. The 4-person minimum refers to the total on-duty staffing of full-time firefighters in the CITY.
  - b. The CITY currently staffs a single, two-piece suppression company consisting of an engine and a rescue. This response configuration is not affected by item a. above.
- 19.3 The CITY agrees to cap the total number of part-time, unrepresented firefighters to one per scheduled 24-hour shift.
- a. Exception: In an emergency, and for mutual aid response coverage, the CITY may have more than one reserve firefighter working 24-hour shifts, provided the CITY is meeting its minimum staffing requirements.
- 19.3.1 The Fire Chief may assign the least senior qualified Engineer as a floater to fill shifts when other Unit members are off on leave, training, or otherwise unable to cover their assigned shifts. There may also be some situations whereby it may be a benefit to both parties wherein the Fire Chief may assign a represented member who may need to flex their schedule as the floater upon the agreement of both the Fire Chief and the member.
- 19.3.2 The CITY will post a work schedule every 30 days for the vacation relief position, and provide 96 hours notice prior to making schedule changes. There will be no more than two schedule changes within each 30-day schedule.

**ARTICLE 20 PERSONNEL RULES**

Parties recognize the applicability and agreement with the Personnel Rules utilized by the CITY for all employees. From time to time, the Personnel Rules may be amended, and the CITY will offer the opportunity to meet and confer on those items, within the scope of bargaining. Nothing in this article shall make the CITY's Personnel Rules subject to the Grievance Procedure.

**ARTICLE 21 LAYOFFS**

The parties agree to use the layoff procedure as set forth in 2.32.120 of the CITY's Municipal Code and the CITY's Personnel Rules.

For purposes of workforce reductions, as outlined by the CITY's Personnel Rules and Regulations, shifts worked by part-time, unrepresented employees will be eliminated prior to a reduction in full-time MOU-represented personnel.

## **ARTICLE 22 PROCESSING OF FORMAL GRIEVANCES**

- 22.1 The MBFFA agrees that whenever investigation or processing of a grievance is to be transacted during working hours, only the amount of time necessary to bring about a prompt disposition of the matter will be utilized. It is further agreed that the time spent on an investigation and processing of grievances will not interfere with the normal operation of the department. CITY agrees to provide a reasonable amount of time for the investigation and the processing of a grievance, but by so agreeing does not imply that the processing or investigation of a grievance shall take priority over normal functions of the department.
- 22.2 CITY further agrees that any payment of overtime arising because of MBFFA personnel's involvement in grievance investigation or processing shall not be authorized. Time spent on the investigation and processing of grievances will be recorded on a form provided by CITY. Stewards will be permitted reasonable time-off with pay for the investigation and processing of grievances provided, however, stewards shall first obtain permission from the department head and/or their designee and inform him/her of the nature of their business. CITY shall grant such permission promptly unless such absence would cause an undue interruption of work or would require the CITY to pay overtime in order to maintain the normal operation of the department.
- 22.3 Upon entering the work location, the steward shall inform the department head and supervisor of the nature of their business. Permission to leave a job will be granted to the employee involved unless such absence would cause an interruption of work. If the employee cannot be made available, the steward will seek an alternate time for employee availability with the department head or supervisor.
- 22.4 It is agreed that in some instances the investigation and processing of a grievance may be accomplished on the employee's time. This MOU is in recognition of the mutual sharing of costs involved in the handling of employee-initiated actions.
- 22.5 Procedures shall be in accordance with Resolution No. 46-74 and any amendments thereto.

## **ARTICLE 23 ELIMINATION OF FIRE SERVICE**

If the fire service function of the CITY is merged into another agency, or if another agency assumes said function, then prior to such action, the CITY shall meet and confer with MBFFA concerning the effects of such action.

## **ARTICLE 24 NO STRIKE, NO LOCK-OUT**

- 24.1 During the life of this MOU, the CITY will not lock out any employees nor will the MBFFA cause, authorize, advise or encourage any interruption of work or any other concerted refusal to render services or to work, including overtime or any other curtailment or restriction of work at any time during the term of this MOU. The term "interruption of work" shall mean any work stoppage or strike (including economic and unfair labor practice strikes) or any intentional slow down of work.

- 24.2 There shall be no refusal to work on, handle or produce any materials or equipment because of a labor dispute.
- 24.3 Any employee engaging in any action prohibited by this Article shall be subject to immediate discharge or such other discipline as the CITY may assess. Such discharge or discipline shall not be reviewable through the Grievance Procedure.

#### **ARTICLE 25 FULL UNDERSTANDING, MODIFICATION, WAIVER**

- 25.1 This MOU sets forth the full and entire understanding of the parties, regarding the matters set forth herein, and any other prior or existing understanding or MOUs by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.
- 25.2 It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein.
- 25.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved by the CITY and ratified by the membership of the MBFFA.
- 25.4 The waiver of any breach of any term, or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

#### **ARTICLE 26 SEVERABILITY**

If any provision(s) are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

#### **ARTICLE 27 – JOINT DRAFTING**

Each party has cooperated in the drafting and preparation of this MOU. Hence, in any legal construction or interpretation to be made of this MOU, the same shall not be construed against any party.

#### **ARTICLE 28 – CITY COUNCIL APPROVAL**

The CITY's labor relations representatives and the MBFFA's representatives have met and conferred in good faith on wages, hours and other terms and conditions of employment for the unit members represented by the MBFFA and have reached agreements which are set forth in this MOU. This MOU when executed by the CITY's labor relations representatives and the MBFFA's representatives constitutes a joint recommendation therefrom, after ratification of the MBFFA's

membership, to be submitted to the City Council for its determination and approval by resolution, as the City Council may deem fit and proper. This Memorandum of Understanding is of no force or effect unless or until approved and adopted by a resolution of the City Council.

## **ARTICLE 29 WORK SCHEDULE AND LEAVE PROVISIONS SPECIFIC TO THE POSITION OF FIRE MARSHAL**

The foregoing sections in this Article 29 shall apply only to the position of Fire Marshal. The Fire Marshal's work schedule, and entitlement to overtime, compensatory time off, vacation leave, and holiday leave shall only be as provided in this Article 29.

### 29.1 Work Schedule.

29.1.1. Workday. The normal workday shall be eight hours of work in a 24-consecutive hour period, except in cases of emergencies. That work schedule may be altered to conduct inspections during special CITY events and is subject to call back for emergencies. In no case shall the Fire Marshal cover 24-hour shifts.

29.1.2. Work Shift. The Fire Marshal shall be scheduled to work on regular work shifts having regular starting and quitting times.

29.1.3. Work Week. The normal workweek shall be five workdays and two consecutive days of rest in a seven-day period, beginning Saturday, 12:00 a.m., and ending seven days later on Friday night at 11:59 p.m., except in cases of special CITY events or emergencies, or at the specific request of the Fire Marshal and approval of the fire chief.

29.1.4. Overtime Compensation. Overtime for the Fire Marshal is defined as all work required by the CITY, and actually performed beyond 40 hours worked in a workweek, as defined by FLSA, and shall be compensated at one and one-half times the employee's regular rate of pay, as defined by FLSA. The Fire Marshal shall not be eligible for daily overtime. Vacation time and compensatory time off shall be treated as hours worked. The Fire Marshal shall not be entitled to a premium rate of pay for work on Saturdays, Sundays, holidays, or regular days of rest, provided they do not work beyond 40 hours in a workweek. (For example, if due to a special CITY event, the Fire Marshal works five, eight-hour work days from Wednesday through Sunday, they will not be entitled to any premium rate of pay.)

29.1.5 Compensatory Time. The Fire Marshal shall be eligible to elect for compensatory time off (CTO) in lieu of paid overtime, subject to the foregoing requirements and restrictions. Compensatory time off earned will accrue at one and one-half (1.5) times hours worked. CTO may be elected for overtime incurred due to professional training time only. Maximum CTO accrual will be 100 hours. All overtime earned after CTO is accrued to the 100-hour maximum will be paid in cash. Accrued CTO may be cashed out upon the request of the Fire Marshal and the approval of the department. CTO accrued at time of separation will be paid off. CTO may be taken

off upon Fire Marshal request and department approval. CTO will not be approved if it will require overtime.

29.2. Vacation Leave. All leave time (vacation, sick leave, holiday, etc.) must be taken on an hour-for-hour basis, equaling actual time off, regardless of accumulation rates.

During the term of this AGREEMENT, paid vacation leave for the Fire Marshal position shall be earned at the following rate:

SERVICE YEARS	ENTITLEMENT IN DAYS
1 thru 2	10
3 thru 4	11
5 thru 6	12
7 thru 8	13
9 thru 10	14
11 thru 12	15
13 thru 14	16
15 thru 16	17
17 thru 18	18
19 thru 20	19
21 or more	20

The standard for vacation time is eight (8) hours equals one (1) day.

The Fire Marshal may exercise an option to convert into cash a maximum of forty (40) hours of accrued vacation leave each fiscal year. Such conversion shall be computed at the employee's current base hourly rate, on an hour-per-hour basis.

Unused vacation leave may be carried over, into the following year, to a maximum of two hundred twenty (220) hours. In the event the Fire Marshal exceeds the 220-hour maximum as of the pay period containing November 1 of each year, they will have the following options related to the excess hours:

- a. Cash out;
- b. Convert hours to sick leave on an hour-for-hour basis; and/or
- c. Paid to deferred compensation.

The CITY shall take said action(s) with the pay period containing December 1 of each year. Payment shall be computed, based upon the employee's base hourly rate of pay as of June 30 of the same calendar year.

In the event of separation from the CITY, the Fire Marshal shall be entitled to pay for accumulated vacation, prior to separation, at their current base hourly rate of pay.

29.3 Holiday Leave. For the purpose of this AGREEMENT, the following days are the holidays for the employee in the Fire Marshal position:

Independence Day.....	July 4
Labor Day.....	1st Monday in September
Veteran’s Day.....	November 11
Thanksgiving Day.....	4th Thursday in November
Day after Thanksgiving Day.....	4th Friday in November
Christmas Day.....	December 25
New Year’s Day.....	January 1
Martin Luther King, Jr., Day.....	3rd Monday in January
Lincoln’s Birthday.....	February 12
President’s Day.....	3rd Monday in February
Memorial Day.....	Last Monday in May
Floating Holiday.....	Varies
Floating Holiday.....	Varies

Holidays falling on Saturday shall be observed on the preceding Friday and holidays falling on Sunday shall be observed on the following Monday. Such observed holidays shall be considered designated holidays for purposes of overtime.

One holiday equals eight (8) hours. It is agreed that when a holiday is proclaimed by the Mayor of the CITY, the Fire Marshal shall be granted time-off in the same number of equivalent work hours. Such time-off shall authorized by the Fire Chief.

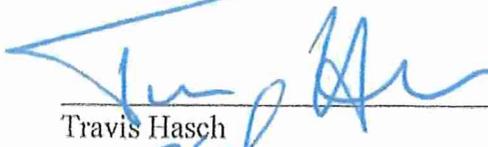
The Fire Marshal may accumulate up to a maximum of forty-eight (48) hours of holiday time. Hours of holiday time, accumulated over 48 hours will be paid off. When the Fire Marshal terminates employment with the CITY, they shall receive pay for their current holiday balance, up to a maximum of 48 hours, at their current base hourly rate.

CITY’s denial of requested holiday time off shall be neither arbitrary nor capricious.

The first payroll including July 1, the Fire Marshal’s leave bank will be credited with 16 hours floating holiday.

--SIGNATURES ON NEXT PAGE--

MORRO BAY FIRE FIGHTERS ASS'N,  
IAFF LOCAL 3725



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Travis Hasch



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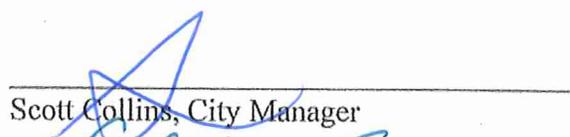
Jeff Simpson



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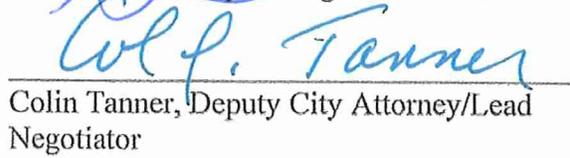
Michael Kelly

CITY OF MORRO BAY



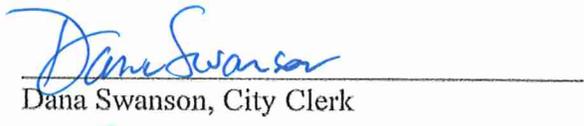
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Scott Collins, City Manager



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Colin Tanner, Deputy City Attorney/Lead  
Negotiator



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Dana Swanson, City Clerk



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Laurie Goforth, Human Resources Analyst

**EXHIBIT A**  
**CITY OF MORRO BAY**  
**FY 22/23 MBFFA SALARY SCHEDULE**

**Retroactive to pay period including July 1, 2022**

<b>TITLE</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
Firefighter	66,979	70,328	73,845	77,537	81,414
Fire Engineer	73,226	76,887	80,732	84,768	89,007
Firefighter/Paramedic	73,677	77,361	81,229	85,291	89,555
Fire Engineer/Paramedic	80,549	84,576	88,805	93,245	97,908
Fire Captain	84,173	88,382	92,801	97,441	102,313
Fire Captain/Paramedic	92,590	97,220	102,081	107,185	112,544
Fire Marshal	99,922	104,918	110,164	115,672	121,455

**EXHIBIT B**  
**CITY OF MORRO BAY**  
**FY 23/24 MBFFA SALARY SCHEDULE**

<b>TITLE</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
Firefighter	69,658	73,141	76,798	80,638	84,670
Fire Engineer	76,155	79,963	83,961	88,159	92,567
Firefighter/Paramedic	76,624	80,455	84,478	88,702	93,137
Fire Engineer/Paramedic	83,771	87,959	92,357	96,975	101,824
Fire Captain	87,540	91,917	96,513	101,338	106,405
Fire Captain/Paramedic	96,294	101,109	106,164	111,472	117,046
Fire Marshal	103,919	109,115	114,571	120,299	126,314

**RESOLUTION NO. 75-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
APPROVING AN AMENDED FISCAL YEAR 2022-2023 SALARY SCHEDULE**

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

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

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

**WHEREAS**, the City Council approved a Memorandum of Agreement between the City of Morro Bay and the Morro Bay Firefighters Association ("MBFFA") on August 9, 2022 implementing an 8% cost of living increase and modifying Paramedic Incentive Pay from a fix amount to a percentage of base salary; and

**WHEREAS**, the Council now desires to amend its publicly available Salary Schedule for Fiscal Year 2022-23, attached as Exhibit A, to reflect the salaries for MBFFA members effective the payroll including July 1, 2022; and

**WHEREAS**, the formal approval of the pay schedules requires that they are duly approved and adopted by the City Council, and the 2 CCR 570.5 regulation requires the adoption of the Salary Schedule for Fiscal Year 2022-23, attached as Exhibit A and incorporated herein by reference.

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Morro Bay does hereby approve the Master Salary Schedules attached hereto as Exhibit A.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9<sup>th</sup> day of August 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

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

<b>CITY OF MORRO BAY</b>							
<b>COMBINED SALARY SCHEDULE</b>							
<b>FISCAL YEAR 2022-23: Effective 7/1/22</b>							
<b>TITLE</b>	<b>GROUP</b>	<b>STEP 1 Annual</b>	<b>STEP 2 Annual</b>	<b>STEP 3 Annual</b>	<b>STEP 4 Annual</b>	<b>STEP 5 Annual</b>	<b>STEP 6 Annual</b>
ACCOUNT CLERK IN-TRAINING	S	36,128	37,934	39,831	41,823	43,914	
ACCOUNT CLERK I	S	43,677	45,861	48,154	50,562	53,090	
CONSOLIDATED MAINTENANCE WRK I	S	43,677	45,861	48,154	50,562	53,090	
OFFICE ASST. III	S	43,677	45,861	48,154	50,562	53,090	
OFFICE ASST. IV	S	47,222	49,583	52,062	54,665	57,399	
ACCOUNT CLERK II	S	49,060	51,513	54,089	56,793	59,633	
CONSOLIDATED MAINTENANCE WRK II	S	49,060	51,513	54,089	56,793	59,633	
ACCOUNT CLERK III	S	52,545	55,173	57,931	60,828	63,869	
CONSOLIDATED MAINTENANCE WRK III	S	52,545	55,173	57,931	60,828	63,869	
ADMINISTRATIVE TECHNICIAN	S	53,473	56,146	58,954	61,901	64,996	
BUILDING PERMIT TECHNICIAN I	S	53,473	56,146	58,954	61,901	64,996	
SUPPORT SERVICES TECHNICIAN	S	53,473	56,146	58,954	61,901	64,996	
PROPERTY EVIDENCE CLERK	S	53,473	56,146	58,954	61,901	64,996	
COMMUNITY SERVICES OFFICER		53,473	56,146	58,954	61,901	64,996	
MECHANIC	S	55,184	57,943	60,840	63,882	67,076	
RECREATION COORDINATOR	S	55,184	57,943	60,840	63,882	67,076	
ENGINEERING TECHNICIAN III	S	62,504	65,629	68,911	72,356	75,974	
MAINTENANCE LEADWORKER	S	62,504	65,629	68,911	72,356	75,974	
RECREATION SUPERVISOR	S	62,504	65,629	68,911	72,356	75,974	
BUILDING PERMIT TECHNICIAN II	S	62,504	65,629	68,911	72,356	75,974	
UTILITY OPERATOR	S	62,600	65,730	69,017	72,468	76,091	
UTILITY SUPPORT COORDINATOR	S	62,600	65,730	69,017	72,468	76,091	
ASSISTANT PLANNER	S	62,893	66,038	69,340	72,806	76,447	
HARBOR PATROL OFFICER	S	63,870	67,064	70,417	73,938	77,635	
BUILDING INSPECTOR	S	65,405	68,675	72,109	75,715	79,500	
BUILDING INSPECTOR/CODE ENF OFFICER	S	65,405	68,675	72,109	75,715	79,500	
UTILITY OPERATOR MC (MULTIPLE CERT)	S	66,982	70,332	73,848	77,541	81,418	
HARBOR BUSINESS COORD	S	71,323	74,889	78,634	82,565	86,694	
IT SYSTEMS ANALYST	S	73,196	76,856	80,699	84,734	88,970	
ENGINEERING TECHNICIAN IV	S	73,196	76,856	80,699	84,734	88,970	
ASSISTANT ENGINEER	S	73,196	76,856	80,699	84,734	88,970	
ASSOCIATE PLANNER	S	73,196	76,856	80,699	84,734	88,970	
BUILDING INSPECTOR/PLANS EXAMINER	S	73,196	76,856	80,699	84,734	88,970	
CONSOLIDATED MAINT FIELD SUPV	S	73,196	76,856	80,699	84,734	88,970	
LEAD UTILITY OPERATOR	S	74,660	78,393	82,313	86,428	90,750	
HARBOR PATROL SUPERVISOR	S	75,234	78,995	82,945	87,092	91,447	
OPERATIONAL TECHNOLOGY SPECIALIST	S	78,318	82,234	86,346	90,663	95,196	
ASSOCIATE ENGINEER	S	84,175	88,383	92,802	97,443	102,315	
WASTEWATER SYSTEMS SUPV	S	84,175	88,383	92,802	97,443	102,315	
<b>MORRO BAY PEACE OFFICERS ASSOC.</b>							
POLICE OFFICER	P	73,199	76,859	80,702	84,737	88,973	93,422
POLICE DETECTIVE	P	76,859	80,702	84,737	88,974	93,423	98,094
POLICE SCHOOL RESOURCE OFFICER	P	76,859	80,702	84,737	88,974	93,423	98,094
POLICE SENIOR OFFICER	P	76,859	80,702	84,737	88,974	93,423	98,094
POLICE SERGEANT	P	93,845	98,538	103,465	108,638	114,070	119,773

<b>CITY OF MORRO BAY</b>							
<b>COMBINED SALARY SCHEDULE</b>							
<b>FISCAL YEAR 2022-23: Effective 7/1/22</b>							
<b>TITLE</b>	<b>GROUP</b>	<b>STEP 1 Annual</b>	<b>STEP 2 Annual</b>	<b>STEP 3 Annual</b>	<b>STEP 4 Annual</b>	<b>STEP 5 Annual</b>	<b>STEP 6 Annual</b>
<b>MORRO BAY FIRE FIGHTERS ASSOCIATION</b>							
FIREFIGHTER	F	66,979	70,328	73,845	77,537	81,414	
FIRE ENGINEER	F	73,226	76,887	80,732	84,768	89,007	
FIREFIGHTER/PARAMEDIC	F	73,677	77,361	81,229	85,291	89,555	
FIRE ENGINEER/PARAMEDIC	F	80,549	84,576	88,805	93,245	97,908	
FIRE CAPTAIN	F	84,173	88,382	92,801	97,441	102,313	
FIRE CAPTAIN/PARAMEDIC	F	92,590	97,220	102,081	107,185	112,544	
FIRE MARSHAL	F	99,922	104,918	110,164	115,672	121,455	
<b>UNREPRESENTED CONFIDENTIAL</b>							
HUMAN RESOURCES ANALYST I	C	60,871	63,914	67,110	70,465	73,988	
EXECUTIVE ASSISTANT/DEPUTY CLERK	C	65,405	68,675	72,109	75,715	79,500	
SENIOR ACCOUNTING TECHNICIAN	C	67,989	71,389	74,958	78,706	82,642	
FISCAL ANALYST	C	73,196	76,856	80,699	84,734	88,970	
HUMAN RESOURCES ANALYST II	C	73,196	76,856	80,699	84,734	88,970	
<b>UNREPRESENTED MANAGEMENT</b>							
MANAGEMENT ANALYST	M	74,742	78,479	82,403	86,523	90,849	
POLICE SUPPORT SERVICES MANAGER	M	74,742	78,479	82,403	86,523	90,849	
CITY CLERK	M	87,407	91,777	96,366	101,184	106,243	
MAINTENANCE SUPERINTENDENT	M	87,407	91,777	96,366	101,184	106,243	
ENVIRONMENTAL PROGRAMS MANAGER	M	87,407	91,777	96,366	101,184	106,243	
INFORMATION SYSTEMS TECHNICIAN	M	87,407	91,777	96,366	101,184	106,243	
RECREATION SERVICES MANAGER	M	87,407	91,777	96,366	101,184	106,243	
SR. ADMINISTRATIVE SERVICES ANALYST	M	87,407	91,777	96,366	101,184	106,243	
SENIOR PLANNER	M	87,407	91,777	96,366	101,184	106,243	
CHIEF BUILDING INSP/PLANS EXAMINER	M	87,407	91,777	96,366	101,184	106,243	
PLANNING MANAGER	M	96,148	100,956	106,004	111,304	116,869	
HUMAN RESOURCES/RISK MANAGER	M	96,148	100,956	106,004	111,304	116,869	
FINANCE MANAGER	M	96,148	100,956	106,004	111,304	116,869	
SENIOR CIVIL ENGINEER	M	96,148	100,956	106,004	111,304	116,869	
CITY CLERK/HR MANAGER	M	111,971	117,570	123,448	129,620	136,101	
CITY ENGINEER	M	113,312	118,977	124,926	131,173	137,731	
UTILITY DIVISION MANAGER	M	113,312	118,977	124,926	131,173	137,731	
OPERATIONS INTERFACE MANAGER	M	113,312	118,977	124,926	131,173	137,731	
FIRE MARSHAL/DIVISION CHIEF	M	116,798	122,638	128,770	135,209	141,969	
POLICE COMMANDER	M	127,216	133,577	140,256	147,268	154,632	
<b>DEPARTMENT HEADS / EXECUTIVE</b>							
COMMUNITY DEVELOPMENT DIRECTOR	E	138,885	145,830	153,121	160,777	168,816	
ASST CITY MANAGER/ADMIN SERVICES DIR	E	144,066	151,269	158,832	166,774	175,113	
PUBLIC WORKS DIRECTOR	E	144,066	151,269	158,832	166,774	175,113	
HARBOR DIRECTOR	E	146,753	154,090	161,795	169,885	178,379	sworn
FIRE CHIEF	E	146,753	154,090	161,795	169,885	178,379	sworn
POLICE CHIEF	E	146,753	154,090	161,795	169,885	178,379	sworn
CITY MANAGER	E	194,179	199,034	204,010	209,110	214,338	
<b>*Approved by Council 08/XX/2022</b>							

**RESOLUTION NO. 76-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
DESIGNATING EMPLOYEES' CONTRIBUTIONS  
TOWARD EMPLOYER PENSION COSTS AS  
AN EMPLOYER PICK-UP PER SECTION 414(h)(2)  
OF THE INTERNAL REVENUE CODE**

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

**WHEREAS**, the City of Morro Bay has the authority to implement Government Code ("GC") section 20516(f), which authorizes, under certain specified conditions, the City and its employees to share the costs of the employer contribution towards retirement benefits under the CalPERS retirement benefit plan ("CalPERS Plan"); and

**WHEREAS**, pursuant to section GC 20516(f), certain City employees will contribute an agreed percentage of their base salary ("Contributions") towards the City's cost of the CalPERS retirement benefits provided for such employees; and

**WHEREAS**, GC section 20516(f) authorizes the City to implement cost-sharing arrangements without amending its existing pension contract with CalPERS; and

**WHEREAS**, section 3401(a)(12)(A) of the Internal Revenue Code ("Code") excludes employer contributions from an employee's wages until such time as such contributions are distributed to the employee; and

**WHEREAS**, as a result of the preceding, the Contributions will be taken on a pre-tax basis since the Contributions are considered by the CalPERS Plan to be employer contributions; and

**WHEREAS**, notwithstanding its position that the Contributions are deemed to be employer contributions by the CalPERS Plan and, therefore, excludable from an employee's income until distributed, the City wishes to implement the provisions of section 414(h)(2) of the Code; and

**WHEREAS**, pursuant to section 414(h)(2), employee contributions to a public employer pension plan may be picked up on a pre-tax basis by the public employer and excluded from an employee's gross income if the employer specifies that the contributions, although designated as employee contributions to the plan, are being paid by the employer in lieu of contributions by the employee, and the employee cannot choose to receive the amounts directly instead of having them paid by the employer; and

**WHEREAS**, the City has determined that, even though the implementation of the provisions of section 414(h)(2) is not required by law, the tax benefits of section 414(h)(2) in reducing taxable employee gross income should be provided to its employees who are member of CalPERS; and

**WHEREAS**, Internal Revenue Service Revenue Ruling 2006-43 requires the City take contemporaneous action evidencing an intent to establish a proper pick-up under section 414(h)(2).

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** Certain employees (“Employees”) of the City are contributing or will be contributing a percentage of their PERSable compensation toward the City’s cost for retirement benefits provided to said employees under the CalPERS Plan, as specified in an applicable memoranda of understanding or any successor thereto or benefits resolutions.

**SECTION 2.** Employees covered by a collective bargained agreement or benefits resolution shall be required to contribute such Contributions as specified therein. “Contributions” shall mean those contributions to the Public Employees’ Retirement System which are deducted from the salary of employees and are credited to the employer account pursuant to GC section 20516(f).

**SECTION 3.** That the City will implement the provisions of Code section 414(h)(2) with respect to the Contributions.

**SECTION 4.** The Contributions, which may be designed as employee contributions by the Internal Revenue Service, will be picked up on a pre-tax basis by the City in lieu of employee contributions so that such Contributions are treated as employer contributions.

**SECTION 5.** An Employee may not elect to receive Contributions directly instead of having them paid by the City to the CalPERS Plan.

**SECTION 6.** Amounts picked up by the City shall be paid from the same sources of funds as used in paying salary.

**SECTION 7.** The effective date of the pick-up by the City shall be the June 27, 2022 and the pick-up applies only to contributions made after this effective date.

**SECTION 8.** The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of August 2022 by the following vote:

AYES:  
NOES:  
ABSENT:

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

ATTEST:

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



**AGENDA NO: A-9**

**MEETING DATE: August 9, 2022**

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: July 27, 2022**

**FROM: Cindy Jacinth, Senior Planner**

**SUBJECT: Review and Ratification of Rincon Consultants EIR Contract and Amendment #3 for the Vistra Battery Energy Storage System (BESS) Project at 1290 Embarcadero**

## RECOMMENDATION

Staff recommends the City Council review the staff report and ratify the EIR contract amendment #3 for the Vistra Battery Energy Storage System (BESS) project at 1290 Embarcadero.

## ALTERNATIVES

None

## FISCAL IMPACT

There is no fiscal impact to the City as the Rincon EIR contract is a reimbursable contract which is covered by the executed Vistra Deposit and Reimbursement Agreement (Attachment 2).

## SUMMARY / BACKGROUND:

The City has an original March 19, 2021 contract with Rincon Consultants to perform the environmental work and prepare an Environmental Impact Report (EIR) for the Battery Energy Storage System (BESS) project. Since execution of that contract, two amendments have been authorized to add work scope to include demolition of the decommissioned power plant and smoke stacks (stacks) and additional environmental studies related to hazards and hazardous materials, geohazard, and paleontological resources review. City Council ratified these contracts at its June 14, 2022 meeting ([link](#)). These two contract amendments brought the total Rincon contract amount to \$304,931.

The City's newly adopted General Plan/LCP Policy LU5.4 requires development of a Master Plan prior to approval of development on the Vistra property site. Rincon Consultants prepared a fee authorization request for added work scope to prepare the Master Plan in a phased approach at a cost of \$172,342. To ensure the project remained on schedule, a contract amendment for this work was executed July 25, 2022 by the City Manager (Attachment 1).

Under the terms of the Vistra Deposit and Reimbursement Agreement, the cost of the Master Plan is paid for by Vistra. Similar to amendments #1 and #2, the amendment #3 is covered by Deposit and Reimbursement Agreement executed in January 2022.

## DISCUSSION

The total contract amount with the third amendment is for an amount not to exceed \$478,000. According to the City's Purchasing Ordinance No. 646, such an amount exceeds City Manager

Prepared By:   CJ  

Dept Review:   SG  

City Manager Review:   SC  

City Attorney Review:   CFN

authority for signing. However, the contract amount is fully reimbursable under the terms of the Deposit Reimbursement Agreement executed between the City and Vistra (Attachment 2). As the purchasing ordinance does not specifically exempt a contract that is fully reimbursable from requiring City Council approval, staff is bringing forth this item to seek ratification of the signed amendment 3 to ensure compliance with Ordinance 646 regardless of the contract's reimbursable nature.

### **CONCLUSION**

Staff is recommending Council ratify the Rincon Consultants Contract Amendment No. 3 for Consultant Services which is for an amount not to exceed \$478,000.

### **ATTACHMENTS**

1. Rincon Consultants Amendment No. 3, July 25, 2022
2. Vistra Deposit and Reimbursement Agreement, January 24, 2022

### **Link:**

City Council meeting June 14, 2022, Agenda item A-3:

<https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/5942>

AMENDMENT NO. 3 TO THE AGREEMENT  
FOR CONSULTANT SERVICES  
BETWEEN THE CITY OF MORRO BAY AND RINCON CONSULTANTS, INC.

This Amendment No. 3 to the Agreement for Consultant Services (“Amendment”) is entered by and between the City of Morro Bay, a municipal corporation (“City”) and Rincon Consultants, Inc., a California corporation (“Consultant”), effective as of July 25, 2022 (the “Effective Date”). City and Consultant are sometimes referred to herein collectively, as the “Parties”.

**RECITALS**

WHEREAS, City and Consultant entered into an Agreement for Consultant Services dated effective as of March 19, 2021 (as amended by that certain Amendment No. 1 to the Agreement for Consultant Services, dated April 4, 2022,, and that certain Amendment No. 2 to the Agreement for Consultant Services, dated May 1, 2022, the “Agreement”), for certain services to be performed by Consultant to prepare CEQA documents and studies in connection with a proposed Battery Energy Storage project (“Project”) by Morro Bay Power Company, LLC, a California limited liability company (“MBPC”) to be located at 1290 Embarcadero Road, in the City of Morro Bay (i.e., the former Morro Bay Power Plant (the “Site”); and

WHEREAS, the Parties now agree to amend the Agreement to provide for certain additional services that have been determined to be required under Plan Morro Bay in order to prepare a Master Plan for the Site in connection with the proposed environmental impact report (“EIR”) required for the Project, which requires an expansion of the tasks to be provided by Consultant under the Agreement; and

WHEREAS, due to the expansion of the tasks required to be provided under the Agreement, the scope of work and the compensation payable pursuant to the Agreement must be amended, and therefore, the Parties desire to amend the Agreement as set forth herein.

**TERMS**

NOW THEREFORE, the Parties mutually agree to amend the Agreement as follows:

1. Additional Services and Tasks Required Under the Agreement: The additional services to be provided by Consultant, pursuant to the Agreement as amended by this Amendment, shall include those set forth on Exhibit A, attached hereto and incorporated herein by this reference (the “Additional Work”). The Additional Work shall be commenced immediately upon execution of this Amendment, and satisfactorily completed in accordance with the schedule set forth in Exhibit A attached hereto. The terms and provisions set forth on Exhibit A attached hereto shall supplement and be added to the terms of the Exhibit A set forth in the Agreement.
2. Amendment to Compensation: The compensation to be paid for the Additional Work described in Exhibit A shall not exceed \$172,342, as set forth on Exhibit A. The total not to exceed amount stated in Section 5(a) of the Agreement shall be amended and revised to be \$478,000.

3. Amendment to Term of the Agreement. The Agreement shall remain and continue in effect until all tasks required under the Agreement (including the Additional Work) are satisfactorily completed, but in no event later than April 30, 2023, unless sooner terminated pursuant to the provisions of the Agreement.

4. Continuing Effect of Agreement. Except as expressly amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment.

5. Affirmation of Agreement. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

6. Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

7. Authority. The persons executing this Amendment on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

8. Counterparts. This Amendment may be executed in counterparts, and all so executed shall constitute an agreement binding on the Parties. The Parties further agree that a digital or electronic signature shall have the same force and effect as a manual or wet-ink signature, and that a facsimile copy or a copy in pdf format of the executed counterparts shall have the same force and effect as an original.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties shall be deemed to have caused this Amendment to be executed by their duly authorized representatives as of the Effective Date.

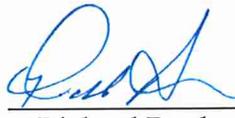
**CITY**

CITY OF MORRO BAY

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

**CONSULTANT**

RINCON CONSULTANTS, INC.

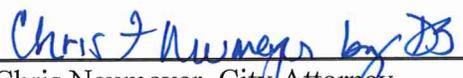
By:   
\_\_\_\_\_  
Name: Richard Daulton,  
Title: Principal / Vice President

By:   
\_\_\_\_\_  
Name: Colby Boggs  
Title: Principal

**Attest:**

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

**Approved As To Form:**

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

**EXHIBIT A**

[ATTACHED]



**Rincon Consultants, Inc.**

1530 Monterey Street, Suite D  
San Luis Obispo, California 93401

805 547 0900 OFFICE AND FAX

info@rinconconsultants.com  
www.rinconconsultants.com

June 9, 2022

Project No: 19-08915

Attn: Cindy Jacinth, Senior Planner

595 Harbor Street

Morro Bay, California 93442

805-772-6577 | [cjacinth@morrobayca.gov](mailto:cjacinth@morrobayca.gov)

**Subject: Fee Authorization Request #3 to prepare a Master Plan (Phase I) for the 1290 Embarcadero Road Battery Energy Storage System Project**

Dear Ms. Jacinth,

The purpose of this letter is to request an authorization of additional fees and work scope beyond those specified in the contract scope of work and budget between Rincon Consultants, Inc. (Rincon) and the City of Morro Bay for planning and environmental services for the 1290 Embarcadero Road Battery Energy Storage System (BESS) Project. It is Rincon's understanding that the applicant is required to prepare a Master Plan for the project site and surrounding area per Policy LU-5.4 of Plan Morro Bay, the City's General Plan. Additional guidance and direction has been provided by the California Coastal Commission (CCC). The City's goal is to prepare a comprehensive Master Plan for the project site in two phases. Phase I will be focused on the battery storage project that is proposed for a portion of the former Morro Bay Power Plant property and will serve the following key purposes:

- Establish the basis for changes and amendments to the General Plan/LCP to accommodate the proposed battery storage use on the project site.
- Create a vision for physical development within the former Morro Bay Power Plant property that will address site specific planning, design and improvements for the battery storage area.
- Ensure that development on the site addresses public access connections and any public recreation opportunities, in particular creating a stronger connection between the two sides of the Embarcadero at the Vistra site and creating a pedestrian-friendly atmosphere along the Embarcadero street frontage.
- Serve as a guide to support framework elements and compatibility between Phase I and the future planning and programming of the remainder of the former Morro Bay Power Plant property which will be established in Phase II of the Master Plan.
- Support robust community engagement in the overall master planning process.

Phase II of the master planning process is planned to address future development of the remainder of the former Morro Bay Power Plant property.

The preparation of the Master Plan is beyond the scope of work and budget included in Rincon's existing contract. This authorization would add services to our existing contract scope of work to prepare Phase I of the required Master. This work program for Phase I of the master planning process would be structured with the creation of a land use plan, development of design guidelines, analysis of pedestrian connections and circulation patterns, and identification of infrastructure improvements. This scope of work does not include preparation of a second phase of the master planning effort for the former Morro Bay Power Plant property.



The primary services described in this authorization request are:

- Preparation of the initial phase of a Master Plan (Phase I)
- Incorporation of the Master Plan into the BESS Project EIR Project Description and programmatic EIR analysis of the Phase I Master Plan
- Additional project management and contract administration

Our proposal assumes that the battery storage project applicant will provide all documents required to support the scope of work described herein, including but not limited to, technical studies, visual assessments, illustrations, and other background information.

A proposal for a scope of work to support Phase II of the Master Plan can be provided at a later date (to be determined) at the request of the City of Morro Bay.

## Scope of Work

### Task 12 Morro Bay Power Plant Property Master Plan (Phase I)

#### Task 12.1 Project Initiation

##### *Task 12.1.1 Kick Off Meeting and Data Sharing*

Upon authorization to proceed, Rincon will facilitate a kickoff meeting with City of Morro Bay staff and one or more applicant representative(s). The purpose of the kickoff meeting is to discuss data needs and initial community issues and opportunities, set project expectations, and explain our proposed approach to the various components of the work program. The kickoff meeting is envisioned as a 1.5-hour virtual event.

##### **Deliverables**

- Kickoff meeting agenda and data needs list (electronic format)
- Memorandum/meeting notes from kickoff meeting in (electronic format)

##### *Task 12.1.2 Review Existing Studies*

As a first step, following our Project Kick-Off Meeting, Rincon will gather and review all relevant planning and design materials prepared by others and inventory them. Following our review of these materials, Rincon will develop a list of studies and analyses required to support the most current development plan being considered. This list will meaningfully guide the timely creation of the Master Plan by identifying gaps in information that can be filled prior to development of the Master Plan.

##### **Deliverables**

- List of required studies and analyses in electronic format (Word and PDF)

#### Task 12.2 Morro Bay Power Plant Property Master Plan - Phase I

##### *Task 12.2.1 Land Use Analysis*

Rincon will prepare a land use analysis that will evaluate all potential uses that could be located at the project site. Plan Morro Bay states that the former Morro Bay Power Plant property is anticipated to



include a mix of visitor-serving commercial, open space, and public facility uses, and may include some potential for future housing. The relationship of the site to the waterfront area as a whole is important to the viability of identified potential land uses. The analysis will also analyze the plans for a battery storage use on a portion of the site to ensure that the proposed use would contribute to the economy and character of Morro Bay (Goal LU-5).

The land use analysis will include, but is not limited to, the following information:

- Analysis of the proposed BESS project's conformance with the General Plan Goals and Policies.
- Evaluation of a range of proposed uses that could be located at the former Morro Bay Power Plant property. This will include a discussion of the battery storage project and a determination of which land use designation is most appropriate for the site based on development capacities presented in Plan Morro Bay. It is our current understanding that the City anticipates the appropriate land use designation will be General (Light) Industrial.
- Analysis of the proposed BESS project's compatibility with adjacent existing and planned land uses, the remainder of the former Morro Bay Power Plant property, and the broader North Embarcadero Community Character Area, as it relates to development pattern, architectural elements, and mobility choices.
- Discussion of how pedestrian connections will be established between the two sides of the Embarcadero at the former Morro Bay Power Plant property, and along the Embarcadero street frontage, and which land uses will best accomplish this goal.
- Discussion of alternative site uses and why the proposed BESS project is an appropriate use of the BESS site within the context of the former Morro Bay Power Plant property.
- Evaluation of the climate resiliency of the proposed land use plan, complete with suggestions on opportunities for renewable energy as well as design techniques and amenities that will increase the resiliency of future development.
- Land Use Map which covers the complete Morro Bay Power Plant Property.

Rincon assumes one round of City review of the land use analysis, with one set of consolidated comments provided by City staff.

#### **Deliverables**

- Administrative Draft Land Use Analysis section of the Master Plan (electronic delivery)
- Draft Land Use Analysis section of the Master Plan (electronic delivery)

#### *Task 12.2.2 Existing Conditions and Constraints Analysis*

Rincon will prepare a constraints analysis that will evaluate the former Morro Bay Power Plant property's existing conditions and any constraints tied to these conditions. The analysis of constraints is intended to facilitate the BESS project planning process. As much as possible, the analysis will evaluate and suggest solutions to correct or address identified problems.

The constraints analysis will include discussions on:

- Deed restrictions
- Ownership structure
- Roadway(s) and mobility



- Drainage
- Water retention
- Utilities
- Coastal hazards and flooding potential, based on a review of information available at the time of analysis
- Other environmental factors, including Environmentally Sensitive Habitat Areas (ESHA)

Rincon assumes one round of City review of the existing conditions and constraints analysis, with one set of consolidated comments provided by City staff.

**Deliverables**

- Administrative Draft Existing Conditions and Constraints Analysis section of the Master Plan (electronic delivery)
- Draft Existing Conditions and Constraints Analysis section of the Master Plan (electronic delivery)

*Task 12.2.3 Design Alternatives*

Once the former Morro Bay Power Plant property and BESS project constraints have been identified and the data is collected and analyzed, Rincon will characterize the unifying vision of the Master Plan and develop the goals that will guide future development of the entire property. Rincon will build off of visioning work previously prepared by the Vistra team and will create a guidance document that will describe the vision and the essential spatial characteristics (the pedestrian realm) and will develop project goals that will assist with future implementation of the vision. This section will also provide structure for Phase II of the Master Plan through the development details on elements to be considered essential to the Master Plan framework.

Rincon assumes one round of City review of the design alternatives section, with one set of consolidated comments provided by City staff.

**Deliverables**

- Administrative Draft Design Alternatives section of the Master Plan (electronic delivery)
- Draft Design Alternatives section of the Master Plan (electronic delivery)

*Task 12.2.4 Action Plan*

Rincon will develop an Action Plan that supports the development of Phase I of the Master Plan. This framework will provide a roadmap for future development of the BESS site through an outline of the entitlement process, phasing details to be provided by the project developer, and recommendations on financing strategies for any suggested public improvements. It is imperative that the action plan provides a set of actions that align with the land use vision and are financially viable. Our scope of work assumes that this section will mainly address the proposed BESS project but will also support future action planning for Phase II of the Master Plan.

Rincon assumes one round of City review of the action plan, with one set of consolidated comments provided by City staff.

**Deliverables**

- Administrative Draft Action Plan section of the Master Plan (electronic delivery)



- Draft Action Plan section of the Master Plan (electronic delivery)

#### *Task 12.2.5 Draft Phase I Master Plan*

Following receipt of comments from the City and project team on Tasks 12.2.1 through 12.2.4, Rincon will combine the documents to create the Draft Phase I Master Plan. At this point in the process, Rincon will add all graphics and exhibits to the Draft Phase I Master Plan, and this version of the document will be produced in Adobe Illustrator. For budgeting purposes, we have assumed one round of review and edits to the Public Review Draft version of the Phase I Master Plan.

#### **Deliverables**

- Draft Phase I Master Plan (electronic delivery)

#### *Task 12.2.6 Final Phase I Master Plan*

Following public review of the Draft Phase I Master Plan we will incorporate suggested comments and edits and provide a Final Phase I Master Plan in electronic (PDF) format for adoption. Attendance at the public hearings for adoption of the document is included as part of Task 12.3.4.

#### **Deliverable**

- Final Phase I Master Plan in electronic format (Web-ready pdf)

### **Task 12.3 Community Engagement**

#### *Task 12.3.1 Stakeholder List and Interviews*

The Rincon team will assist the City in maintaining a stakeholder tracking matrix that will assist in outreach efforts during Phase I of the master planning process (we anticipate the stakeholder tracking matrix will continue to provide value and utility to the City during Phase II of the master planning process). Rincon will collect points of contact, mailing addresses, and email addresses of groups, agencies, and other stakeholders likely to be interested in or affected by the Master Plan. Key stakeholders may include local community leaders or representatives, local businesses, Community Based Organizations (CBOs), and environmental agency representatives.

Stakeholder interviews will be conducted virtually in one-on-one or small group format with key members of the planning process. The Rincon team proposes up to two virtual stakeholder interview sessions.

#### **Deliverables**

- Stakeholder interview questions for review (electronic format)
- Stakeholder interview sessions' summary (electronic format)

#### *Task 12.3.2 Community Survey*

The team will design and conduct an online survey at a key point in the planning process. The survey will be advertised on the project website, City website, and by the City on City-run social media channels. The survey will be designed to help stakeholders and citizens identify and rank their top issues and priorities for the future of the BESS site and the former Morro Bay Power Plant property. The survey will use visuals and maps created as part of Tasks 12.2.1 and 12.2.2, and illustrations provided by the



applicant (if available), to help community members participate in the survey in a visually engaging manner.

**Deliverables**

- Survey Materials
- Survey Outcome Summary

*Task 12.3.3 Community Meetings*

Rincon will facilitate and attend two community meetings to seek input on objectives and needs for the Morro Bay Power Plant Property Master Plan. To ensure future success of the Master Plan, it is important to obtain input from the community on the future of the property. The meetings will be held in an open house style/format to engage attendees at different stations. Rincon proposes two community meetings, to be held in the evening. The schedule for these meetings will be developed during the kickoff meeting. This task includes a \$2,000 printing budget for meeting presentation boards and comment forms, which will not be billed if not utilized or if virtual meetings are scheduled instead of in-person meetings.

**Deliverables**

- Workshop Materials

*Task 12.3.4 Public Hearings*

Two members of the Rincon team will attend up to two public hearings with the Planning Commission or City Council to approve the Master Plan. We have budgeted for the Principal or Director-in-Charge and the Project Manager responsible for this task will attend both hearings. Additional hearings will be billed on a time and materials basis based on service rates in effect at the time of the hearing.

**Task 12.4 Project Management/Contract Administration**

Rincon’s Project Manager for the work described in this proposal will attend biweekly status meetings via conference call or virtual meeting with the City’s Project Manager and will attend up to 2 additional in-person meetings with City staff (and the project applicant team, if required). These meetings can be scheduled and selected at the City’s discretion. We can conduct additional coordination with the City and complete other project management or technical tasks on a time-and-materials basis, in accordance with our schedule of fees, as authorized by the City.

**Task 13 BESS Project EIR: Incorporation of Phase I Master Plan**

**Task 13.1 Revised EIR Introduction and Project Description**

Rincon will coordinate with City staff and the project applicant team to prepare a revised EIR Introduction and Project Description based on the Phase I Master Plan scope of work accepted by City staff, which we understand will describe the relationship of the Phase I Master Plan to Policy LU-5.4 of Plan Morro Bay and the certified EIR for Plan Morro Bay. The EIR Introduction will include a discussion of tiering pursuant to Sections 15168, 15152, and 15385 of the CEQA Guidelines, and the applicability of available tiering opportunities for the project, including the Phase I Master Plan, in relation to the certified EIR for Plan Morro Bay.



The revised Introduction and Project Description will be provided to the City and project applicant for review and revised based on one consolidated set of comments from City staff and the project applicant. One electronic version of this deliverable will be provided in MS Word and PDF formats. Rincon will submit a draft of the revised Introduction and Project Description EIR section within two weeks of approval of this authorization request and receipt of consolidated comments and recommended revisions from City staff and the project applicant team.

### **Task 13.2: Administrative Draft EIR Master Plan Programmatic Analysis**

Rincon will prepare the Administrative Draft EIR in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. This task supplements the approved scope of work for an Administrative Draft EIR evaluating the 22-acre portion of the MBPP property planned for the proposed BESS project (refer to Task 4 of Rincon's original contract scope of work) and the approved scope of work to expand the EIR analysis to include demolition and removal of the existing Morro Bay Power Plant facility and stacks (refer to Task 11.5 of Rincon's first contract amendment authorized by the City in April 2022).

Based on the Phase I Master Plan scope of work (Task 12 described in this contract amendment request), we anticipate that the Administrative Draft EIR will tier from the certified EIR for Plan Morro Bay (pursuant to Sections 15168, 15152, and 15385 of the CEQA Guidelines). The Administrative Draft EIR analysis will be supported by a programmatic evaluation of the potential environmental effects of the Phase I Master Plan relative to an environmental baseline established at the time of the release of the Notice of Preparation for the Project EIR (i.e., existing on-the-ground conditions circa May 2022). Rincon anticipates expanded discussion of the following environmental topics in the Administrative Draft EIR to fully address the potential environmental effects of the Phase I Master Plan:

- Aesthetics/visual resources
- Air quality
- Biological resources
- Cultural resources and tribal cultural resources
- Greenhouse gas emissions, climate change, and sea level rise
- Land use and planning
- Noise
- Transportation
- Cumulative impacts and mandatory findings of significance

The Administrative Draft EIR will include analysis of project impacts anticipated to be potentially significant based on a programmatic evaluation of the potential environmental effects of the Phase I Master Plan relative to baseline conditions, as well as public input received during the scoping period (refer to Task 3 of Rincon's contract scope of work). This scope of work assumes that the programmatic analysis will be supported by an analysis of potential new VMT within the Master Plan area, including both the proposed BESS project as well as buildout of the land use designations within the Master Plan area, and a discussion of transportation impacts resulting from the generation of new VMT, consistent with the requirements of the most recent update to the CEQA Guidelines, which will be developed by the project applicant and their transportation consultant. Rincon will incorporate the findings of the programmatic VMT analysis into the Transportation chapter of the EIR. This scope of work assumes that



no further analysis of potential traffic impacts will be necessary, and that the remaining environmental topics where the Phase I Master Plan may result in new impacts would be evaluated based on information in the certified EIR for Plan Morro Bay. A determination of significance will be made for each issue area and mitigation measures will be provided as necessary for identified significant effects.

In the original contract scope of work and budget between Rincon and the City, Rincon proposed to address up to three alternatives, including the required "No Project Alternative." The first contract amendment authorized by the City expanded the scope of the EIR Alternatives analysis to include up to four alternatives. The key consideration for potential alternatives to the project is the ability of each alternative to avoid or mitigate the significant environmental impacts identified in the EIR while satisfying most of the basic project objectives. As a result of the addition of the Phase I Master Plan, this additional scope of work anticipates that the Administrative Draft EIR would address one additional project alternative (for a total of up to five alternatives). Each environmental issue area will be briefly evaluated in a qualitative manner to determine whether the alternative would have the potential to result in greater, similar, or reduced environmental impacts when compared to the impacts of the proposed project. This section will also identify the "environmentally superior alternative." If the No Project Alternative is determined to be environmentally superior, the EIR will identify the environmentally superior alternative among the remaining scenarios.

Rincon will submit the Administrative Draft EIR to the City for review in electronic format within twelve weeks of the close of the NOP Scoping Period and receipt of any final technical documentation from the applicant.

### **Task 13.3: Additional Response to Comments**

In the original contract scope of work and budget between Rincon and the City, Rincon budgeted a total of 60 hours of professional staff time to prepare responses to comments received on the Public Review Draft EIR and 16 hours of staff time to address City comments on the draft responses and prepare the Administrative Final EIR, including Responses to Comments on the Draft EIR. The first contract amendment authorized by the City increased the scope to include an additional 30 hours of professional staff time to prepare responses to comments and 12 hours of staff time to address City comments on the draft responses and prepare the Administrative Final EIR.

As a result of the modified project description and Draft EIR programmatic analysis to account for the Phase I Master Plan we anticipate an increase in the level of technical detail in the Draft EIR (associated with the work completed under Task 13.2) as well as a heightened level of public scrutiny on the Draft EIR that may result in a larger volume of public comments, as well as more detailed public comments.

This scope of work includes 24 additional hours of professional staff time to prepare responses to comments received on the Public Review Draft EIR and an additional 8 hours of staff time to address City comments on the draft responses. If we identify that the public comments received during public review require additional staff time to adequately address, Rincon will request a budget augmentation to provide the required resources to ensure the Final EIR provides a through discussion of all environmental topics raised by commenters. The scope of work also assumes that the City and/or applicant will provide assistance addressing any comments pertaining to information, data, analysis, or technical studies provided by City staff and/or the applicant.



## Cost and Schedule

We anticipate that the work described in this proposal can be completed within 6 months of receipt of authorization to proceed. This scope of work would proceed alongside the Draft BESS Project EIR. Based on the current schedule for the BESS Project EIR, Rincon anticipates the Final Phase I Master Plan would be complete during or immediately following the statutory 45-day public review period for the BESS Project Draft EIR.

Rincon is requesting an additional \$172,342 to complete the scope of work tasks described in this request, as shown in the attached cost spreadsheet. The Rincon team is prepared to begin the amended work program described in this proposal immediately upon authorization to proceed with this contract amendment request.

We are committed to working with the City of Morro Bay through the successful completion of this project. Please contact us if you have any questions regarding this scope and cost augmentation.

Sincerely,

**Rincon Consultants, Inc.**

Chris Bersbach, MESM  
Supervising Environmental Planner/Project Manager

Richard Dapton, MURP  
Vice President/Principal-in-Charge

**Attachments: Cost Spreadsheet**

Director I	285.00	16.00	4,560.00		
Senior Planner I	208.00	16.00	3,328.00		
Planner II	153.00	50.00	7,650.00		
GIS/CADD Specialist II	146.00	10.00	1,460.00		
<b>Task 12.2.2 Existing Conditions and Constraints Analysis</b>		<b>100.00</b>	<b>18,166.00</b>	<b>0.00</b>	<b>18,166.00</b>
Director I	285.00	16.00	4,560.00		
Senior Planner I	208.00	16.00	3,328.00		
Planner II	153.00	50.00	7,650.00		
GIS/CADD Specialist II	146.00	18.00	2,628.00		
<b>Task 12.2.3 Design Alternatives</b>		<b>70.00</b>	<b>13,130.00</b>	<b>0.00</b>	<b>13,130.00</b>
Director I	285.00	10.00	2,850.00		
Senior Planner I	208.00	20.00	4,160.00		
Planner II	153.00	40.00	6,120.00		
<b>Task 12.2.4 Action Plan</b>		<b>74.00</b>	<b>14,270.00</b>	<b>0.00</b>	<b>14,270.00</b>
Director I	285.00	14.00	3,990.00		
Senior Planner I	208.00	20.00	4,160.00		
Planner II	153.00	40.00	6,120.00		
<b>Task 12.2.5 Draft Master Plan</b>		<b>92.00</b>	<b>15,306.00</b>	<b>0.00</b>	<b>15,306.00</b>
Director I	285.00	6.00	1,710.00		
Senior Planner I	208.00	16.00	3,328.00		
Planner II	153.00	16.00	2,448.00		
GIS/CADD Specialist II	146.00	50.00	7,300.00		
Technical Editor	130.00	4.00	520.00		
<b>Task 12.2.6 Final Master Plan</b>		<b>30.00</b>	<b>5,268.00</b>	<b>0.00</b>	<b>5,268.00</b>
Director I	285.00	4.00	1,140.00		
Senior Planner I	208.00	4.00	832.00		
Planner II	153.00	12.00	1,836.00		
GIS/CADD Specialist II	146.00	10.00	1,460.00		
<b>Task 12.3 Community Engagement</b>		<b>136.00</b>	<b>27,822.00</b>	<b>2,300.00</b>	<b>30,122.00</b>
<b>Task 12.3.1 Stakeholder List and Interviews</b>		<b>28.00</b>	<b>5,252.00</b>	<b>0.00</b>	<b>5,252.00</b>
Director I	285.00	4.00	1,140.00		
Senior Planner I	208.00	8.00	1,664.00		
Planner II	153.00	16.00	2,448.00		
<b>Task 12.3.2 Community Surveys</b>		<b>18.00</b>	<b>3,046.00</b>	<b>0.00</b>	<b>3,046.00</b>
Director I	285.00	2.00	570.00		
Senior Planner I	208.00	4.00	832.00		
Planner II	153.00	8.00	1,224.00		
Production Specialist I	105.00	4.00	420.00		
<b>Task 12.3.3 Community Meetings</b>		<b>60.00</b>	<b>11,744.00</b>	<b>2,300.00</b>	<b>14,044.00</b>
Director I	285.00	16.00	4,560.00		
Senior Planner I	208.00	10.00	2,080.00		
Planner II	153.00	20.00	3,060.00		
GIS/CADD Specialist II	146.00	14.00	2,044.00		
Supplies - Job				2,300.00	
<b>Task 12.3.4 Public Hearings</b>		<b>30.00</b>	<b>7,780.00</b>	<b>0.00</b>	<b>7,780.00</b>
Director I	285.00	20.00	5,700.00		
Senior Planner I	208.00	10.00	2,080.00		
<b>Task 12.4 Project Management/Contract Administration</b>		<b>82.00</b>	<b>17,746.00</b>	<b>0.00</b>	<b>17,746.00</b>
Principal II	295.00	6.00	1,770.00		
Director I	285.00	12.00	3,420.00		
Senior Supervisor/Planner II	258.00	12.00	3,096.00		
Senior Planner I	208.00	40.00	8,320.00		
Admin Assistant/Billing Specialist	95.00	12.00	1,140.00		
<b>Task 13: BESS Project ER: Incorporation of Phase I Master Plan</b>		<b>181.00</b>	<b>36,661.00</b>	<b>0.00</b>	<b>36,661.00</b>
<b>Task 13.1: Revised ER Introduction and Project Description</b>		<b>27.00</b>	<b>5,942.00</b>	<b>0.00</b>	<b>5,942.00</b>
<b>Task 13.1.1: Revised ER Introduction</b>		<b>12.00</b>	<b>2,798.00</b>	<b>0.00</b>	<b>2,798.00</b>
Principal II	295.00	2.00	590.00		
Supervisor/Planner I	240.00	4.00	960.00		
Senior Planner I	208.00	6.00	1,248.00		
<b>Task 13.1.2: Revised ER Project Description</b>		<b>15.00</b>	<b>3,144.00</b>	<b>0.00</b>	<b>3,144.00</b>
Principal II	295.00	2.00	590.00		
Supervisor/Planner I	240.00	2.00	480.00		
Senior Planner I	208.00	6.00	1,248.00		
Planner III	170.00	4.00	680.00		
GIS/CADD Specialist II	146.00	1.00	146.00		
<b>Task 13.2: Administrative Draft ER Master Plan Programmatic Analysis</b>		<b>122.00</b>	<b>24,387.00</b>	<b>0.00</b>	<b>24,387.00</b>
<b>Task 13.2.1: Environmental Impacts and Mitigation Measures</b>		<b>104.00</b>	<b>20,980.00</b>	<b>0.00</b>	<b>20,980.00</b>
Principal II	295.00	4.00	1,180.00		
Senior Supervisor/Planner II	258.00	16.00	4,128.00		
Senior Planner I	208.00	40.00	8,320.00		
Planner III	170.00	40.00	6,800.00		
GIS/CADD Specialist II	146.00	2.00	292.00		
Technical Editor	130.00	2.00	260.00		
<b>Task 13.2.2: Alternatives</b>		<b>18.00</b>	<b>3,407.00</b>	<b>0.00</b>	<b>3,407.00</b>
Principal II	295.00	1.00	295.00		
Supervisor/Planner I	240.00	1.00	240.00		
Senior Planner I	208.00	4.00	832.00		
Planner III	170.00	12.00	2,040.00		
<b>Task 13.3: Additional Response to Comments</b>		<b>32.00</b>	<b>6,332.00</b>	<b>0.00</b>	<b>6,332.00</b>
<b>Task 13.3.1 Draft Response to Comments</b>		<b>32.00</b>	<b>6,332.00</b>	<b>0.00</b>	<b>6,332.00</b>

## Morro Bay BESS Project EIR and Master Plan Phase I Schedule

Key Task (EIR)	Key Task (Master Plan)	Schedule	Potential Date Complete
<b>Initial Study Update</b>		<b>Complete</b>	<b>May 26</b>
<b>Initiate NOP Scoping Period</b>		<b>Complete</b>	<b>June 3</b>
<b>City/Applicant Review of Initial Study</b>		4 weeks after submittal of Initial Study	June 23
<b>Close of NOP Scoping Period</b>		4 weeks (30 day statutory requirement)	July 3
<b>Final Initial Study</b>		Within 2 weeks of receiving consolidated City/applicant comments on Initial Study	July 8
	<b>Kick Off Meeting</b>		July 13
<b>Rincon Completes Supplementary Technical Studies<sup>1</sup></b>		Within 6 weeks of receiving City comments on PD/IS	July 15
<b>Receipt of Draft Applicant Technical Studies</b>		<i>Assumption</i>	July 15
<b>City Review of Rincon Technical Studies</b>		2 weeks after submittal of Rincon Technical Studies	July 29
<b>Peer Review of Applicant Technical Studies<sup>2</sup></b>		Within 2 weeks of receiving applicant-prepared technical studies (assumed to follow Project Description Update)	July 29
	<b>Review Existing Studies</b>	Within 3 weeks of kickoff meeting	August 1
	<b>Community Workshop</b>	5 weeks following kickoff meeting	August 17
	<b>Community Survey</b>	2 week survey period beginning 5 weeks following kickoff meeting	August 26
<b>Complete Rincon Technical Studies</b>		4 weeks after receiving City comments on Rincon Technical Studies	August 26
<b>Receipt of Final Applicant Technical Studies</b>		Within 4 weeks of peer review of applicant technical studies	August 26
<b>Administrative Draft EIR (ADEIR) Batch 1/3</b>		Within 8 weeks of close of NOP Scoping Period	August 26

<sup>1</sup> Includes historical resources evaluation of existing stacks/MBPP facility as well as geohazards and paleontological evaluations included in contract amendment request #2.

<sup>2</sup> Assumed to include project boundary updates of technical evaluations previously provided by Vistra and peer-reviewed by Rincon. Rincon's scope of work assumes applicant-prepared technical studies will account for direct impact areas associated with BESS project, demolition of MBPP structures and stacks, Phase I Master Plan, and any required off-site improvements (e.g., roadway ROW/utility improvements along Embarcadero).

Exhibit A

City of Morro Bay

Battery Energy Storage System at 1290 Embarcadero Road – Environmental Impact Report

Key Task (EIR)	Key Task (Master Plan)	Schedule	Potential Date Complete
	<b>Administrative Draft Master Plan sections to City for review</b>	8 weeks after kickoff meeting	September 7
<b>First City Review of ADEIR Batch 1/3</b>		3 weeks after submittal of ADEIR Batch 1/3	September 16
<b>ADEIR Batch 2/3</b>		Within 4 weeks of completion of Rincon Technical Studies	September 23
<b>ADEIR Batch 3/3</b>		Within 4 weeks of completion of Applicant Technical Studies	September 23
<b>First City Review of ADEIR Batch 2/3</b>		3 weeks after submittal of ADEIR Batch 2/3	September 30
<b>First City Review of ADEIR Batch 3/3</b>		3 weeks after submittal of ADEIR Batch 3/3	September 30
	<b>City review of Admin Draft Master Plan sections</b>	4 weeks after submittal of Administrative Draft	October 5
<b>Complete Revised ADEIR</b>		3 weeks after receiving City comments on ADEIR (Batches 1-3)	October 21
<b>Second City Review of Complete ADEIR</b>		1 week after submittal of Revised ADEIR	October 28
	<b>Draft Phase I Master Plan</b>	4 weeks after receipt of City comments	November 2
<b>Public Draft EIR (DEIR) Production</b>		2 weeks after receiving City comments on ADEIR	November 11
	<b>Community Workshop</b>	2.5 weeks after beginning of public review period	November 30
<b>Public Review Period</b>		6.5 weeks (45 day statutory requirement)	December 26
<b>Administrative Draft Responses to Comments (ADRTC)</b>		6 weeks after close of Public Review Period	February 3
	<b>Final Phase I Master Plan</b>	6 weeks after close of Public Review Period	February 3
<b>City review of ADRTC</b>		2 weeks after submittal of ADRTC	February 17
<b>Final Comments and Responses</b>		2 weeks from receiving City comments on ADRTC	March 3
<b>CEQA Findings and Statement of Overriding Considerations</b>		4 weeks from receiving City comments on ADRTC (includes City review)	March 31
<b>Final EIR Production (DEIR, RTC, and MMRP)</b>		2 weeks after City approval of Final Comments and Responses	April 14
<b>Meetings and Presentations</b>		To be determined based on City hearing schedule	TBD

## DEPOSIT AND REIMBURSEMENT AGREEMENT

This **DEPOSIT AND REIMBURSEMENT AGREEMENT** (“**Agreement**”) is executed as of this 27<sup>th</sup> day of January, 2022 (“**Effective Date**”), by and among the **CITY OF MORRO BAY**, a California municipal corporation (“**City**”), and **MORRO BAY POWER COMPANY LLC**, a Delaware limited liability company (“**Vistra**”). City and Vistra are sometimes referred to herein, individually as a “**Party**” or together as the “**Parties**.”

### RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

## **TERMS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Conflicts of Interest.**

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

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

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

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

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

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

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

**8. Indemnification and Hold Harmless.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[signatures on the following page]

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

**VISTRA:**

MORRO BAY POWER COMPANY LLC, a  
Delaware limited liability company

**CITY:**

CITY OF MORRO BAY, a California  
municipal corporation

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

By:   
Scott Collins, City Manager

**ATTEST:**

By:   
Dana Swanson, City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By:   
Chris Neumeyer (Feb 10, 2022 16:54 PST)  
Chris Neumeyer, City Attorney

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

**MORRO BAY POWER COMPANY LLC**  
**ASSISTANT SECRETARY'S CERTIFICATE**

---

I, Seth Rasmussen, Assistant Secretary of Morro Bay Power Company LLC (formerly known as Dynegy Morro Bay, LLC, the "Company"), a Delaware limited liability company, hereby certify, solely in my official capacity and not in any individual capacity, to the following as of the date hereof:

- (1) The following individuals are duly elected, qualified, and acting officers of the Company (collectively, the "Officers" and each, an "Officer") and that each Officer is now serving in the official capacity set opposite his or her name:

Morgan, Curtis A.	Chief Executive Officer
Burke, James A.	President and Chief Financial Officer
Kirby, Carrie L.	Executive Vice President and Chief Administrative Officer
Moore, Stephanie Zapata	Executive Vice President, General Counsel, and Chief Compliance Officer
Muscato, Stephen J.	Executive Vice President and Chief Commercial Officer
Boswell, Barry T.	Executive Vice President-Generation Operations and Services
Moldovan, Kristopher E.	Senior Vice President and Treasurer
Howard, Carla A.	Senior Vice President and General Tax Counsel
Farah, Tom	Senior Vice President and Chief Information Officer
Dobry, Christy	Senior Vice President and Controller
Vodopivec, Cynthia	Senior Vice President
Kelly, Daniel J.	Senior Vice President and Deputy General Counsel
Goering, Matthew A.	Senior Vice President
Whitmire, Yuki	Vice President, Associate General Counsel, and Corporate Secretary
Dusek, Brad	Vice President
Elliott, Ben	Vice President
Siegel, Sam	Vice President
Reyes, Paul H.	Vice President
Garcia, Ruben	Vice President of Finance and Assistant Treasurer
Rasmussen, Seth	Assistant Secretary

- (2) All necessary internal governance approvals have been obtained in connection with full and final approval by the Company of that certain Deposit and Reimbursement Agreement (the "DRA") between the City of Morro Bay and the Company.
- (3) Each Officer, signing singly, is duly authorized by the Company to execute and deliver agreements (including the DRA), certificates, and instruments, or otherwise take necessary actions, on and in behalf of the Company.

*[Signature Page Follows]*

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January, 2022



Seth Rasmussen  
Assistant Secretary  
*Morro Bay Power Company LLC*

State of Texas

County of Dallas

Before me, Dorian Moore, on this day appeared Seth Rasmussen, Assistant Secretary, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, in his capacity as Assistant Secretary for Morro Bay Power Company LLC

Given under my hand and seal of office this 24th day of January 2022.

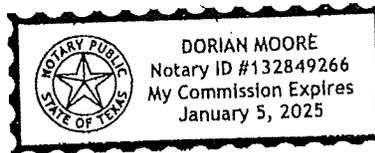


Dorian Moore,

Texas Notary Public

My Commission Expires

January 5, 2025



# Vistra\_Morro Bay Power Co. LLC Deposit & Reimbursement Agreement\_2022

Final Audit Report

2022-02-11

Created:	2022-02-10
By:	Heather Goodwin (hgoodwin@morrobayca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAzP2O7WD8PXIfmqPls_7CiOoDXeB0tl4X

## "Vistra\_Morro Bay Power Co. LLC Deposit & Reimbursement Agreement\_2022" History

-  Document created by Heather Goodwin (hgoodwin@morrobayca.gov)  
2022-02-10 - 6:21:35 PM GMT- IP address: 72.29.177.94
-  Document emailed to Chris Neumeyer (cneumeyer@morrobayca.gov) for signature  
2022-02-10 - 6:23:40 PM GMT
-  Email viewed by Chris Neumeyer (cneumeyer@morrobayca.gov)  
2022-02-11 - 0:54:05 AM GMT- IP address: 50.112.162.3
-  Document e-signed by Chris Neumeyer (cneumeyer@morrobayca.gov)  
Signature Date: 2022-02-11 - 0:54:59 AM GMT - Time Source: server- IP address: 50.112.162.3
-  Agreement completed.  
2022-02-11 - 0:54:59 AM GMT



AGENDA NO: A-10

MEETING DATE: August 9, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** August 3, 2022

**FROM:** Dana Swanson, City Clerk  
Heather Goodwin, Deputy City Clerk

**SUBJECT:** Consideration of Appointment of Joseph Ingraffia to the Public Works Advisory Board

## RECOMMENDATION

Staff recommends the City Council consider the appointment of Joseph Ingraffia to the Public Works Advisory Board (PWAB) for the remainder of a term ending January 31, 2024.

## ALTERNATIVES

Direct staff to continue to recruit and re-advertise the vacant position.

## FISCAL IMPACT

There is no fiscal impact.

## BACKGROUND/DISCUSSION

### ***Public Works Advisory Board***

On June 29, 2022, Steven Francis notified staff that he was resigning from the Public Works Advisory Board ("PWAB") effective immediately. Mr. Francis's term would have expired on January 31, 2024. Staff conducted an open recruitment to fill the unscheduled vacancy from June 30 – July 29, 2022, providing public notice in City kiosks, and the City's website, local radio station and social media sites.

As of the July 29, 2022, application deadline, the City received one application submitted by Joseph Ingraffia to serve on the PWAB. It is noteworthy to mention that Mr. Ingraffia has served on the Planning Commission since February 2016 and his current terms expires January 31, 2024. Council Policy and Procedures Section 6.6.2.4 states the following:

*"As a general policy, an applicant shall not be appointed to serve on more than one advisory body, except that a member may also serve on one technical or special-purpose committee at the same time. If appointed to another committee, then he/she will be expected to resign from one body upon being appointed to another. The City Council retains the discretion to make an exception to this policy."*

It should be noted the City Council has made exceptions in the past as allowed by this policy by appointing residents to serve on both the PWAB and Citizens Finance Advisory Committee concurrently, as well as dual appointments to a standing committee and special purpose committee.

Staff researched and found no State or other regulations prohibiting such person from serving on

Prepared By:   HG/DS  

Dept Review:   DS  

City Manager Review:   SC  

City Attorney Review:   CFN

both Planning Commission and Public Works Advisory Board. Given his dedication to the Morro Bay community and advisory body experience, staff recommends the City Council consider appointment of Mr. Ingrassia to fill the current unscheduled vacancy on the PWAB.

Advisory board qualifications and the appointment process is defined in the Advisory Bodies Handbook and Section 6.6 of the Council Policies & Procedures:

### ***Advisory Bodies Handbook***

#### 2) Qualifications for Service

Advisory body members may be required to wear "different hats" at different times. The ability to suitably perform the varied roles requires specialized skills and knowledge. Qualification for service can be divided into four general areas:

##### ◆ **LONG-RANGE INTEREST IN THE COMMUNITY**

The ability to conceive and be concerned with the impact of current decisions on future citizens is paramount. Advisory body members are required to analyze issues, to listen to public comment through formal hearings or informal discussion, to interpret and apply mandates of the General Plan, and to analyze all the pertinent data before arriving at objective decisions which will be in the best interest of the community as a whole.

##### ◆ **FAIRNESS, COMMON SENSE, HONESTY AND GOOD CHARACTER**

Keeping the public interest in mind, an advisory body member will be called upon to use every day good sense in balancing the need of public and private groups. Controversial issues do arise, and the ability to make decisions based on merit rather than personalities is a must. Other traits include imagination, flexibility and the ability to act in a judicial vs. legislative capacity.

##### ◆ **KNOWLEDGE OF THE COMMUNITY MARKETPLACE, PROCESS, OBJECTIVES, AND LAWS**

A first-hand knowledge of economic systems, the general operation of government, and a basic understanding of the legal process is important. This knowledge will be of tremendous value, especially on the Planning Commission where members are required to conduct public hearings, analyze and receive testimony and make meaningful decisions.

##### ◆ **TIME TO SERVE IN APPOINTED CAPACITY**

The amount of time an advisory body member devotes to his/her duties varies with each advisory group. Before making a personal commitment, a prospective applicant should honestly evaluate whether he/she has adequate free time to attend the meetings, to review and be familiar with meeting materials, and to communicate with the public as well as with department staff.

### ***Council Policies & Procedures***

#### **6.6 PROCESS**

##### **6.6.1 QUALIFICATIONS**

6.6.1.1 The applicant must be a resident and registered voter of the City at the time and during the entire term of appointment, unless excepted by State law or Council-approved special requirements in advisory committee by-laws.

6.6.1.1.1 The applicant must be at least 18 years of age at the time of appointment; provided, that the Council may appoint one area high school student to an advisory body, if allowed by the

Advisory Body By-Laws and they meet the other qualification requirements.

- 6.6.1.1.2 Elected Officials, Officers and Employees of the City of Morro Bay shall not be considered for appointment, unless otherwise approved unanimously by the City Council.

### **CONCLUSION**

Staff recommends the City Council review Mr. Ingrassia's application, and by vote, decide if they wish to fill the vacant position on the Public Works Advisory Board with Mr. Ingrassia. This term will expire on January 31, 2024.

### **ATTACHMENTS**

1. Joseph Ingrassia PWAB Application
2. [Link](#) to Council Policies & Procedures
3. [Link](#) to Advisory Bodies Handbook & By-laws



# CITY OF MORRO BAY ADVISORY BODY APPLICATION

RECEIVED  
City of Morro Bay

JUL 28 2022

Administration

### Contact Information

<b>Full Name</b> Joseph A. Ingrassia	<b>Home Phone</b> [REDACTED]
<b>Street Address</b> [REDACTED]	<b>Cell Phone</b> [REDACTED]
<b>Mailing Address (if different than above)</b>	<b>Work Phone</b> retired
<b>City, State, Zip Code</b> Morro Bay, CA 93442	<b>Email Address</b> [REDACTED]

Do you live within the Morro Bay City Limits?  Yes  No

Are you registered to vote in the City of Morro Bay?  Yes  No

### Advisory Body Information

I would like to be considered for appointment to the following Commission/Advisory Body:

- Citizens Oversight and Citizens Finance Advisory Committee\*
- Harbor Advisory Board
  - Marine-Oriented Business
  - Waterfront Leaseholder
  - Recreational Boating
  - Member-at-Large
  - South Bay/Los Osos Representative
  - Morro Bay Commercial Fisherman's Association (MBCFO)
  - Alternate Member to MBCFO
- Planning Commission\*
- Public Works Advisory Board\*
- Recreation & Parks Commission
- Tourism Business Improvement District Advisory Board
  - Hotelier (Member-at-Large)
  - Hotelier (No. of rooms \_\_\_\_\_)
  - Vacation Rental Representative
  - Community Member-at-Large\*
- SLOCOG Citizens Transportation Advisory Committee (CTAC) - County and Regional Board

\* Must be a resident and registered to vote in the City of Morro Bay during the term of appointment.

**Employment Information**

<b>Present or Last Employer</b> Providence High School	<b>Position or Occupation</b> Director-Cinema Arts
<b>Employer Address</b> 511 S. Buena Vista Blvd	<b>How Many Years</b> 2007-2015
<b>City, State, Zip Code</b> Burbank, CA 91501	

**Education and Training**

<b>Institution Name, City and State</b>	<b>Major, Degree or Area of Study</b>
UCLA, Los Angeles, CA	Pol. Sci./ Econ
UCLA School of Law	JD,
	CAI BAR Assoc

**Qualifications and Interests**

Please use the space provided, or attach a separate document, responding to the questions below. If desired, you may attach a resume or other additional documentation for consideration.

1. Are you currently or have you previously served on a board, commission, committee, or other public body, if so, which one and when? What do you feel were the advisory body's major accomplishment(s) during your tenure?  
I have served as a Morro Bay Planning Commissioner beginning in February, 2016 and continuing to this date.  
During that tenure, I have sought to balance the interests of diverse applicants seeking development of private properties and the community seeking community improvements and cultural preservation.
2. What experience, technical training, and skill qualify you for an appointment, considering your experience and activities in business, labor, professional, social, or other organization?  
Appreciation for law & precedence; appreciation for planning & for the inevitable unintended consequences that always arise; appreciation for respect & example when when leading a group or project.
3. Why are you interested in serving on this advisory board, commission, or committee?  
Among many concerns, very interested in ensuring long term water sustainability for Morro Bay, ensuring that the Embarcadero infrastructure is improved to make it a more attractive pedestrian destination; ensuring the continued viability of trees on public property.

I have read the Advisory Bodies Handbook regarding the expectations and responsibilities of this Commission/Advisory Board/Committee and, should I be appointed, am able and willing to devote the necessary time to perform the required duties.

  
\_\_\_\_\_  
(Signature)

7-28-2022  
\_\_\_\_\_  
(Date)

This application is a public record that be disclosed to the public upon request. All appointees to a City Commission, Advisory Board, or Committee will be required, in accordance with State law to file a "Statement of Economic Interest Form 700" which remains available for public inspection.

Completed applications may be emailed to [cityclerk@morrobayca.gov](mailto:cityclerk@morrobayca.gov) or mailed to: Office of the City Clerk, City Hall, 595 Harbor Street, Morro Bay, CA 93442

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AGENDA NO: C-1

MEETING DATE: August 9, 2022

## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** July 15, 2022  
**FROM:** Dana Swanson, City Clerk/Human Resources Manager  
**SUBJECT:** Resolution Declaring Results of the June 7, 2022 Special Municipal Election

### **RECOMMENDATIONS**

Staff recommends the City Council adopt Resolution No. 77-22 declaring the results of the June 7, 2022 Special Municipal Election and allow the City Clerk to administer the Oath of Office.

### **ALTERNATIVES**

No alternatives are being recommended.

### **FISCAL IMPACT**

There is no fiscal impact associated with this action.

### **BACKGROUND/DISCUSSION**

On June 7, 2022, a Special Municipal Election was conducted in the City of Morro Bay for the purpose of electing one City Council Member to fill the remainder of the term ending December 2024. In accordance with Resolutions 01-22 and 02-22, the City's election was consolidated with the Statewide Primary Election that was conducted on the same day by the County of San Luis Obispo. The County Clerk-Recorder was responsible for canvassing all votes cast and certifying the election results.

Total voter registration for the City of Morro Bay was 8,134 and the number of total ballots cast was 4,453 resulting in a 54.75% voter turnout, with 4,140 votes cast for the office of City Council Member. Results of the election are as follows:

#### **City Council (Vote for 1):**

Jennifer "Jen" Ford received 2,378 votes (57.44%)

James Costanzo received 1,762 votes (42.56%)

Based on these results, Jennifer Ford received the highest number of votes and is the candidate elected as a member of the City Council.

The County Clerk-Recorder has conducted the official canvass of the returns of the votes cast in the election and has certified the results. In accordance with California Elections Code Section 10262, the City Council is requested to adopt a Resolution declaring the results of the General Municipal Election and the final Certificates of the Canvas, as shown in Exhibit A.

### **ATTACHMENT**

1. Resolution No. 77-22 certifying results of the 2022 Special Municipal Election

01181.0001/808729.1 Prepared By: DS

City Manager Review: SC City Attorney Review: CFN

**RESOLUTION NO. 76-22**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION  
HELD IN THE CITY OF MORRO BAY ON THE 7<sup>th</sup> DAY OF JUNE 2022,  
DECLARING THE RESULTS THEREOF,  
AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

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

**WHEREAS**, a Special Municipal Election was held and conducted in the City of Morro Bay (City), County of San Luis Obispo, State of California, on Tuesday, June 7, 2022, as required by law (the "Election"); and

**WHEREAS**, notice of the Election was duly and regularly given in time, form and manner as provided by law; voting precincts were properly established; election officers were appointed; and in all respects the Election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for holding elections in general law cities; and

**WHEREAS**, the San Luis Obispo County Elections Division canvassed the returns of the election and the County Clerk has certified the results to this City Council, and the results are received, attached and made part hereof as Exhibit "A."

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

1. The whole number of votes (ballots) cast in the precincts was 141 and the whole number of vote by mail voter ballots cast in the City was 4,312, making a total of 4,453 votes (ballots) cast in the City, with multiple elections before the voters on the ballots, and a total of 4,140 votes (ballots) were cast in the Election for Council Member.
2. The names of the persons voted for at the Election for Council Member are as follows:

Jennifer "Jen" Ford  
James Costanzo
3. The number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective office for which the persons were candidates were as listed in Exhibit "A," attached, being 2,378 votes cast for Jennifer "Jen" Ford and 1,762 votes cast for James Costanzo.
4. The City Council does declare and determine:

- a. **JENNIFER “JEN” FORD** was elected as Council Member of the City for the remainder of a term ending December 2024.
5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the Election, showing: (1) the whole number of votes (ballots) cast in the City, (2) the names of the persons voted for, (3) for what office each person was voted for, (4) the number of votes given at each precinct to each person, and (5) the total number of votes given to each person.
6. The City Clerk shall make and deliver to each of such persons so elected a Certificate of Election signed by the City Clerk and authenticated; and the City Clerk shall administer to each person elected, the Oath of Office prescribed in the State Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.
7. The City Clerk shall certify to the passage and adoption of this Resolution and shall 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 9<sup>th</sup> day of August 2022 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

JOHN HEADDING, Mayor

ATTEST:

---

DANA SWANSON, City Clerk



**COUNTY OF SAN LUIS OBISPO  
OFFICE OF THE CLERK-RECORDER**

*Elaina Cano - County Clerk Recorder*

---

**CERTIFICATE OF THE COUNTY CLERK  
RESULTS OF CANVASS OF ALL VOTES CAST  
JUNE 7, 2022, STATEWIDE DIRECT PRIMARY ELECTION  
CITY OF MORRO BAY**

I, **ELAINA CANO**, County Clerk-Recorder of the County of San Luis Obispo, do hereby certify that pursuant to law I did canvass the returns of the votes cast at the above referenced election in the City of Morro Bay on June 7, 2022, and that a copy of the Statement of Votes Cast to which this certificate is attached, shows the number of votes cast in said city for each candidate for the office of Member of the City Council and that the totals shown for each candidate for the office of Member of the City Council in said city and in each of the respective precincts therein, are full, true and correct.

**WITNESS**, my hand and Official Seal this 7th day of July 2022.

A handwritten signature in blue ink that reads "Elaina Cano".

---

**ELAINA CANO, County Clerk-Recorder**

SOVC for: Member, City Council (Partial Term), City Of Morro Bay, All Counting Groups  
 STATEMENT OF VOTES CAST - SPLIT BY PRECINCT  
 JUNE 7, 2022, STATEWIDE DIRECT PRIMARY ELECTION  
 COUNTY OF SAN LUIS OBISPO  
 FINAL OFFICIAL ELECTION RESULTS - MORRO BAY CITY COUNCIL

Precinct	Registered Voters	Voters Cast	% Turnout
<b>Countywide</b>			
<b>Electionwide</b>			
304			
Polling	1,988	32	1.61%
Vote by Mail	1,988	1,119	56.29%
Total	1,988	1,151	57.90%
305			
Polling	2,089	30	1.44%
Vote by Mail	2,089	1,046	50.07%
Total	2,089	1,076	51.51%
306			
Polling	1,681	29	1.73%
Vote by Mail	1,681	823	48.96%
Total	1,681	852	50.68%
307			
Polling	2,376	50	2.10%
Vote by Mail	2,376	1,324	55.72%
Total	2,376	1,374	57.83%
Electionwide - Total	8,134	4,453	54.75%
Countywide - Total	8,134	4,453	54.75%
Polling	8,134	141	1.73%
Vote by Mail	8,134	4,312	53.01%

### Member, City Council (Partial Term) (Vote for 1)

Precinct		Times Cast	Registered Voters	Undervotes	Overvotes
<b>Countywide</b>					
<b>Electionwide</b>					
304					
	Polling	32	1,988	2	0
	Vote by Mail	1,121	1,988	72	0
	<b>Total</b>	<b>1,153</b>	<b>1,988</b>	<b>74</b>	<b>0</b>
305					
	Polling	30	2,089	2	0
	Vote by Mail	1,040	2,089	75	0
	<b>Total</b>	<b>1,070</b>	<b>2,089</b>	<b>77</b>	<b>0</b>
306					
	Polling	29	1,681	4	0
	Vote by Mail	818	1,681	61	0
	<b>Total</b>	<b>847</b>	<b>1,681</b>	<b>65</b>	<b>0</b>
307					
	Polling	50	2,376	7	0
	Vote by Mail	1,321	2,376	78	0
	<b>Total</b>	<b>1,371</b>	<b>2,376</b>	<b>85</b>	<b>0</b>
	<b>Electionwide - Total</b>	<b>4,441</b>	<b>8,134</b>	<b>301</b>	<b>0</b>
	<b>Countywide - Total</b>	<b>4,441</b>	<b>8,134</b>	<b>301</b>	<b>0</b>

Precinct		JAMES COSTANZO		JENNIFER "JEN" FORD		Total Votes
<b>Countywide</b>						
<b>Electionwide</b>						
304						
	Polling	15	50.00%	15	50.00%	30
	Vote by Mail	467	44.52%	582	55.48%	1,049
	<b>Total</b>	<b>482</b>	<b>44.67%</b>	<b>597</b>	<b>55.33%</b>	<b>1,079</b>
305						
	Polling	8	28.57%	20	71.43%	28
	Vote by Mail	372	38.55%	593	61.45%	965
	<b>Total</b>	<b>380</b>	<b>38.27%</b>	<b>613</b>	<b>61.73%</b>	<b>993</b>
306						
	Polling	17	68.00%	8	32.00%	25
	Vote by Mail	345	45.57%	412	54.43%	757
	<b>Total</b>	<b>362</b>	<b>46.29%</b>	<b>420</b>	<b>53.71%</b>	<b>782</b>
307						
	Polling	21	48.84%	22	51.16%	43
	Vote by Mail	517	41.59%	726	58.41%	1,243
	<b>Total</b>	<b>538</b>	<b>41.84%</b>	<b>748</b>	<b>58.16%</b>	<b>1,286</b>
	<b>Electionwide - Total</b>	<b>1,762</b>	<b>42.56%</b>	<b>2,378</b>	<b>57.44%</b>	<b>4,140</b>
	<b>Countywide - Total</b>	<b>1,762</b>	<b>42.56%</b>	<b>2,378</b>	<b>57.44%</b>	<b>4,140</b>

Precinct	Unresolved Write-In
<b>Countywide</b>	
<b>Electionwide</b>	
304	
Polling	0
Vote by Mail	0
Total	0
305	
Polling	0
Vote by Mail	0
Total	0
306	
Polling	0
Vote by Mail	0
Total	0
307	
Polling	0
Vote by Mail	0
Total	0
Electionwide - Total	0
Countywide - Total	0

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AGENDA NO: C-2

MEETING DATE: August 9, 2022

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** August 4, 2022

**FROM:** Scott Collins, City Manager

**SUBJECT:** City Council Goals and Action Items Update

## RECOMMENDATION

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

## ALTERNATIVES

None.

## FISCAL IMPACT

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

## BACKGROUND

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

The Council approved five major goal areas and goal statements for each of the goals, and further approved 35 short-term action items to help achieve those goals. Council also re-emphasized the City’s Purpose Statement (see below) on November 10, 2021. Additionally, Council requested that staff provide quarterly updates to Council and the community on progress toward completing the short-term action items. Lastly, at the June 28, 2022 Regular City Council meeting, Council added a short-term action item related to the City’s water resources.

## DISCUSSION

### **City Purpose and Related Citywide Efforts**

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

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

Prepared By: SC

Dept Review: \_\_\_\_\_

City Manager Review: SC

City Attorney Review: \_\_\_\_\_

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

It should be noted that many of the City's core services do not fall under the proposed Council goals, and staff continues to work to develop clearer ways to communicate key elements of broader City work plans and associated objectives that go beyond the five Council goals. The intent is to capture and communicate all of the important day-to-day City functions that our community depends upon. Further, staff continues to analyze our capacity to deliver core services and brought forward recommendations to Council as part of the (FY) 2022-23 Budget process and will do so again if needed through the mid-year budget process.

### **Approved City Council Goals**

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

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

### **Proposed City Goals' Statements**

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

#### Improve Public Infrastructure

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

#### Achieve Fiscal Sustainability and Economic Vitality

- 4) Create a plan to address the City's unfunded liabilities while striving to achieve competitive compensation
- 5) Determine potential paths to secure funding for capital needs (Harbor and other needs)
- 6) Support expedient catalyst site development

#### Address Housing Needs

- 7) Educate the Council on new and existing State legislation related to housing
- 8) Identify the opportunities for additional housing options and/or explore partnerships to support these efforts
- 9) Continue the Community Development Department's efforts to expedite the development review process

### Climate Action

- 10) Participate with other cities in SLO County to support climate action planning efforts
- 11) Educate Council on the technical terms around climate action to support policy advocacy and the identification of critical next steps for Morro Bay
- 12) Consider opportunities to reduce reliance on carbon producing energy sources

### Improve Community Health

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

### **Progress on Short-Term Action Items**

Staff has begun work on many of the 35 short-term action items approved by Council (which was brought to a total of 36 items following Council action to add water resource planning as an action item at the June 28, 2022 Council meeting). Staff will attempt to pursue all of the short-term action items over the remainder of 2022 and into early 2023 to make progress on the City goals. The full list of approved action items can be found in the attachment to this report (the attachment has not yet been updated to include the new action item). Below is a review of progress that has been achieved to date on specific action items, categorized by the five goal areas. There is no progress to report at this time on the action items that are not listed below.

### Improve Public Infrastructure

- *“Conduct a traffic speed survey.”* Council approved funding to conduct a traffic speed survey during FY 2022-23.
- *“Initiate a capital assessment effort.”* Council approved funding to conduct a capital assessment of the Harbor and other areas of the City during FY 2022-23.
- *“Review options and develop optimal staffing for City maintenance efforts.”* Council approved staffing enhancements at the FY 2021-22 mid-year Budget review in February 2022.
- *“Initiate work on paid parking pilot program and continue work on long-term plan.”* Walker Consultants is under contract for the next phase of the pilot program, which includes seeking further input from the parking stakeholder group. It is expected that Council will review results of this next phase on the pilot around fall/winter 2022.
- *“Pursue grant opportunities for the Coleman Beach area.”* City Council authorized staff to apply for California State Prop 68 grants for improvements at the Coleman Beach park area. It is unknown when grant decisions will be made.

### Achieve Fiscal Sustainability and Economic Vitality

- *“Seek state lobbyist contract to assist in obtaining state funding for City projects.”* City Council approved a contract with Townsend Public Affairs to represent the City on important state matters and pursue funding for City projects. Council extended their contract, as well as the contract for the City’s federal lobbyist (The Ferguson Group) through FY 2022-23.
- *“Assess viability for business improvement districts (BID) for Downtown and Embarcadero.”* The City and Chamber are partnered to review this opportunity and currently are conducting survey of businesses in those areas to assess needs and potential support for creation of a BID.
- *“Review development opportunities for the Market Plaza property.”* The City completed its

Notice of Availability timeframe with regard to the State's surplus land act (AB 1486), and can now pursue redevelopment opportunities on that site.

- *"Complete fee study (development impact fees)."* City staff is in process of completing review of the draft study, and will present to Council this fall.
- *"Continue review of Vistra proposed battery project (BESS)."* Vistra has submitted a project application for the BESS project and removal of the decommissioned power plant and smoke stacks, and environmental review for the project is underway.
- *"Assess cyber security needs."* City staff conducted an assessment recently and implemented several additional security measures. Assessments of needs will be on-going.
- *"Prepare and review policy options on liabilities (pension and health care)."* City Council approved the City moving forward with the creation of a 115 Trust Fund for pension liabilities and other post-retirement benefits. Council formed a sub-committee of two Councilmembers and a member of the Citizen Finance Advisory Committee to review proposals for a 115 Trust Fund. That will be brought back for Council consideration this fall.

### Address Housing Needs

- *"Complete zoning code update."* City staff finalizing draft with review by Coastal Commission staff. Planning Commission to review this summer/fall, followed by City Council this fall.
- *"Develop stock Accessory Dwelling Unit (ADU) templates to provide to public for free."* City staff is working with County partners to finalize the ADU templates. Staff anticipates this work to complete this summer, and relevant documents will be placed on the City website.
- *"Provide update to Council on new state housing legislation (such as SB 9) and general education on housing."* Council received an update on housing legislation and a general overview of City efforts to address housing needs in Morro Bay.
- *"Implement Housing Element."* Staff is working to finalize core components of the housing element, including inclusionary housing, objective design standards, and density bonus. Council will likely review these components this fall.
- *"Seashell Estate land use amendment regarding density."* City staff presented to Planning Commission in June and may bring forward to City Council this summer/fall.
- *"Complete Cityworks online plan check application."* City staff has implemented the online application and is currently testing the systems.
- *"Initiate work with the Planning Commission ad hoc committee for the review of the planning process."* The committee is formed and will begin meeting once the Cityworks online application is fully implemented and zoning code review is completed.

### Climate Action

- *"Pursue electric vehicle charging station funding."* The City has received grant funding for several chargers on the waterfront and staff is working through implementation efforts.
- *"Initiate implementation of SB 1383 (organic waste for residents and businesses)."* Staff is coordinating roles and responsibilities for organic waste management with the Integrated Waste Management Authority of SLO County and Morro Bay Garbage, the City's franchise waste hauler. These roles include food recovery program management, business waiver program, implementation of paper and organic procurement requirements, contamination monitoring, education and outreach, and changes in the collection system that ensure residents and business can comply with SB 1383. These local changes will support the State's efforts to realize a 75% reduction in organic waste going to the landfill. This, in turn, will support reduction of greenhouse gases being emitted from decomposing organic material. Trash rate increases were approved following a Proposition 218 process in June 2022, to support this effort.
- *"Promote Central Coast Community Energy (3CE) new construction electrification program."*

- City staff published a climate action webpage where this information resides.
- *“Create city webpage with links to energy efficient websites.”* City staff published a climate action webpage where this information resides.
  - *“Elevate ‘Climate Crisis’ to ‘Climate Emergency’ by way of resolution and seek funding to move forward in this area.”* City Council approved a resolution to that effect in February 2022.
  - *“Implement 3CE Reach Code Incentive Program for new residential development.”* City Staff is working with the Tri-County Energy network (3C-REN) on development of a REACH code related to electrification of new residential development. 3C-REN is developing background material for preparation of a draft code that will be brought forward as part of the adoption of the 2022 Building Code that will be brought to City Council for review this upcoming winter.

### Improve Community Health

- *“Support SLO County Public Health communication efforts to vaccinate members of the Morro Bay community, particularly underrepresented communities.”* The City continues to supplement County communications to the public regarding COVID-19 and vaccines/boosters through the City website, social media, local media, and at City Council meetings.
- *“Inform the County process to update the 10-year plan on homelessness.”* The City Manager is representing Morro Bay on the countywide group charged with updating the long-term plan to reduce homelessness. The plan will be presented to the SLO County Board of Supervisors at their August 9, 2022 meeting.
- *“Support Filipino-American group (FANHS) rededication event of their historic monument at Coleman Beach.”* City staff is working with FANHS on their Saturday, October 22, 2022 public event (at Coleman Beach) and to help improve the monument area.

### **Organizational Capacity**

While staff believes we can execute on the proposed short-term action items over the remainder of 2022 into early 2023, we will continue to monitor staffing and other needs to achieve the action items and carry out the remainder of staff duties. As members of Council acknowledged in the Goals Workshop, the City has limited staffing and very ambitious goals and workplans. Adjustments may need to be made to staffing, training and equipment moving forward to ensure these goals can be achieved and workplans completed.

### **ATTACHMENT**

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

# CITY OF MORRO BAY 2022

## GOALS AND SHORT TERM ACTIONS



### CITY PURPOSE

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

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

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

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

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



## PUBLIC INFRASTRUCTURE

**GOAL STATEMENT:** Address (1) cleanliness (while maintaining sensitivity to wildlife) and safety issues in heavy tourism areas, (2) conduct a capital needs assessment, and (3) traffic circulation in Embarcadero.

### SHORT-TERM ACTIONS

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



# FISCAL SUSTAINABILITY & ECONOMIC VITALITY

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

## SHORT-TERM ACTIONS

- Seek state lobbyist contract to assist in obtaining state funding for City projects
- Assess viability for business improvement districts for Downtown and Embarcadero
- Review development opportunities for the Market Plaza property
- Complete fee study (development impact fees)
- Continue review of Vistra proposed battery project
- Assess cyber security needs
- Prepare and review policy options on liabilities (pension and health care)



# HOUSING

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

## SHORT-TERM ACTIONS

- Complete Zoning Code update
- Development of stock Accessory Dwelling Units (ADU) to provide to public for free
- Provide update to Council on new state housing legislation (such as SB 9) and general education on housing
- Implement Housing element, including reviewing housing by right, objective design guidelines, ADU ordinance update with incentives, update Density Bonus and inclusionary housing requirements
- Bring land use amendment forward for the Seashell estates property to increase density to 7 – 15 units per acre for a future multifamily housing project
- Complete Cityworks online plan check application
- Initiate work with the Planning Commission ad hoc committee for the review of the planning process



# CLIMATE ACTION

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

## SHORT-TERM ACTIONS

- Pursue funding to complete Climate Action Plan update
- Continue review of Vistra proposed battery project
- Pursue electric vehicle charging station funding
- Initiate implementation of SB 1383 (organic waste for residents and businesses)
- Promote Central Coast

- Community Energy (3CE) New Construction Electrification Program and include in planning materials and on website
- Designate 1 week a year to conduct a renewable energy outreach campaign targeting a specific group
- Create city webpage with links to energy efficient websites

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



# COMMUNITY HEALTH

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

## SHORT-TERM ACTIONS

- Provide education to City Council and staff about DEI issues
- Support SLO County Public Health communication efforts to vaccinate members of the Morro Bay community, particularly underrepresented communities
- Inform the County process to update the 10-year plan on homelessness
- Explore opportunities to

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

- Provide community information and resources regarding access to mental health resources to address behavioral health or mental health crises: substance abuse issues, depressive illnesses and exacerbation of previously controlled mental health issues