

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

REGULAR MEETING – TUESDAY, MAY 24, 2011

**CLOSED SESSION – TUESDAY, MAY, 2011
CITY HALL CONFERENCE ROOM - 4:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to three (3) parcels:

- Property: Embarcadero Grill - Lease Site 86-86W
Negotiating Parties: Caldwell and City of Morro Bay.
Negotiations: Sub Lease Terms and Conditions.
- Property: Lease Site 65-66/65W-66W, 571 Embarcadero,
Negotiating Parties: Imani and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: Sea One Solutions; Lease Site 124-128/124W-128W and 113W,
1215 Embarcadero.
Negotiating Parties: Sea One Solutions, LLC and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**THE CITY COUNCIL WILL ADJOURN TO A SPECIAL OPEN SESSION MEETING TO
HOLD INTERVIEWS TO FILL VACANCIES ON THE CITY'S PLANNING
COMMISSION, PUBLIC WORKS ADVISORY BOARD AND COMMUNITY
PROMOTIONS COMMITTEE. THE INTERVIEWS WILL TAKE PLACE BEGINNING AT
5:00 P.M. AND WILL BE LOCATED AT THE VETERANS' MEMORIAL BUILDING,
209 SURF STREET, MORRO BAY, CA**

PUBLIC SESSION – TUESDAY, MAY 24, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall 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.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF MAY 10, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF CONTRACT WITH BARNETT COX & ASSOCIATES FOR ADVERTISING AND MARKETING SERVICES; (CITY ATTORNEY)

RECOMMENDATION: Approve and authorize the Mayor to execute the contract.

A-3 RESOLUTION NO. 35-11 AUTHORIZING SAN LUIS OBISPO COUNTY ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT SOLID WASTE COLLECTION ACCOUNTS AS TAX LIENS AGAINST THE PROPERTIES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 35-11.

A-4 ADOPTION OF ORDINANCE NO. 567 REPEALING, AMENDING AND REENACTING CHAPTER 14.48 OF THE CITY OF MORRO BAY MUNICIPAL CODE, ENTITLED ILLICIT DISCHARGE AND STORMWATER MANAGEMENT CONTROL; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Ordinance No. 567.

A-5 RESOLUTION AUTHORIZING MONTHLY PAYMENT OPTION FOR EMBARCADERO LEASEHOLDERS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 37-11.

A-6 RESOLUTION AUTHORIZING EXECUTION OF THE "DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES" FOR THE CITY'S APPLICATION FOR CALIFORNIA DISASTER ASSISTANCE ACT PROGRAM; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 38-11.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 REVIEW OF DRAFT SIGN ORDINANCE AND CONSIDERATION OF ADOPTION OF INTERIM URGENCY ORDINANCE ESTABLISHING RULES REGULATING THE APPROVAL PROCESS AND CONSTRUCTION OF PROJECTING SIGNS PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY'S ZONING CODE; (CITY ATTORNEY)

RECOMMENDATION: Review and discuss the draft Sign Ordinance, open the public hearing, and then adopt Interim Urgency Ordinance No. 568 which would establish interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's zoning code.

B-2 REVIEW AND ADOPTION OF A REVISED TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

RECOMMENDATION: Review and discuss the proposed options for the Teen Center Master Plan and adopt either Option Five or Six based on public input and consensus.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 RESOLUTION NO. 36-11 APPROVING A COOPERATION AGREEMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO AND THE CITY OF MORRO BAY FOR JOINT PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, THE EMERGENCY SOLUTIONS GRANT PROGRAM, AND THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM FOR FISCAL YEARS 2012-2014; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 36-11.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

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 772-6200 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 AT CITY HALL LOCATED AT 595 HARBOR STREET DURING NORMAL BUSINESS HOURS OR AT THE SCHEDULED MEETING.

AGENDA NO: A-1

MEETING DATE: 05/24/11

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – MAY 10, 2011
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Yates called the meeting to order at 5:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Johnson moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

Mayor Yates read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:40 p.m.

MOTION: Councilmember Borchard moved the meeting be adjourned. The motion was seconded by Councilmember Leage and unanimously carried. (5-0)

The meeting adjourned at 5:40 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates called the meeting to order at 6:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessler	City Clerk
	Damaris Hanson	Engineering Technician III
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Kathleen Wold	Planning Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Bob Gayle, Met Life Bank, reviewed the reverse mortgage home loans that are offered by Met Life Bank.

Christine Johnson, President of Friends of the Library, announced an Open House at the Morro Bay Wine Cellar on May 13th which 20% of the proceeds for that evening go towards the library; and, a library book sale which will be held at the Community Center on May 14th.

John Solu demonstrated how different boards and organizations in Morro Bay tend to promote tourism in various ways and said it needs to be redirected. He also reviewed fees that are paid by the Morro Bay Tourism Business Improvement District.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Gary Hixon announced his shows that air on a local television channel, and that he will be performing in some local plays.

Bill Martony referred to the Navy off-loading facility property on Zanzibar Street and noted the City did have correspondence on file with the U.S. Government regarding this property.

Barry Branin stated the JPA meeting agenda for Thursday, May 12th is on the website CWWMB.INFO “Citizens for a More Affordable Waste Water Treatment Plant in Morro Bay.” He said this website is a place where people can share ideas on this issue.

David Nelson referred to the initiative on the power plant as well as the 2010 initiative regarding the ban on medical marijuana dispensaries in Morro Bay. He said Council’s action at the April 26th meeting regarding medical marijuana dispensaries went against the majority vote of the citizens in Morro Bay and was an embarrassment of the democratic process.

John Weiss referred to Item D-1 (Draft Sign Ordinance) stating there may be some need for outreach, and he hopes Council will work with the businesses in the City regarding this issue.

Betty Winholtz asked when Council will be reviewing the fiscal year budget; she’s interested in the Harbor budget especially with the recent improvements on the Embarcadero. She addressed Item D-1 and expressed concern that there was a meeting held without public notice to discuss this issue. Ms. Winholtz referred to new generators being installed at the power plant, and asked if a permit from the City was issued and what impact will this have on the outfall lease.

John Barta addressed Item D-1 stating the Planning Commission spent several years reviewing the City’s Sign Ordinance in great detail prior to 2004. He requested Council acknowledge the different districts in the City which have various signage needs.

Liz Bednorz, Beach House Bistro, addressed Item D-1 and requested Council considers the different signage needs of the businesses in various parts of the City.

Andreas Model, Pedals and Paddles, announced he opened a new store in Morro Bay that carries bikes and kayaks.

Garry Johnson expressed concern over the negative publicity received by a Councilmember for not attending a recent JPA meeting but instead going to Washington DC and meeting with City representatives.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Barbara Doerr addressed Item D-1 and stated although she does not like sandwich board signs, sometimes they are needed to promote business.

Susan Stewart gave an update on the Community Promotions Committee, including: the transition with the new advertising agency, review of the Community Promotions Committee By-Laws, consideration of working with a film commission, and streamlining the process with the Tourism Business Improvement District Advisory Board.

Mayor Yates closed the hearing for public comment.

Mayor Yates called for a break at 6:52 p.m.; the meeting resumed at 7:05 p.m.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS OF APRIL 12, 2011 AND APRIL 26, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO AND REPORT ON CALIFORNIA LEGISLATIVE ACTION DAYS; (CITY ATTORNEY)

RECOMMENDATION: Review the report, and if there are any pending Legislative Bills that are of interest or concern, discuss them with the City Attorney.

A-3 ACCEPTANCE OF OFFERS OF DEDICATION FOR PROJECTS LOCATED AT 962 PINEY WAY (ST. TIMOTHY'S) AND 1478 QUINTANA ROAD (ROCK HARBOR CHRISTIAN FELLOWSHIP); (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 34-11 accepting the Offer of Dedication for public pedestrian easement purposes for 962 Piney Way; and, adopt Resolution No. 31-11 for Right of Way and Utility Easement purposes for 1478 Quintana Road.

A-4 AWARD OF MARKETING CONTRACT TO BARNETT COX;
(ADMINISTRATION)

RECOMMENDATION: This item has been pulled from the agenda.

A-5 PROCLAMATION DECLARING MAY 2011 AS "NATIONAL DROWNING
PREVENTION MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-6 PROCLAMATION DECLARING THE WEEK OF MAY 15 – 21, 2011 AS
“POLICE WEEK”; (POLICE)

RECOMMENDATION: Adopt Proclamation.

Councilmember Borchard pulled Item A-1 from the Consent Calendar.

MOTION: Councilmember Borchard moved the City Council approve the Consent Calendar with the exception of Item A-1. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS
OF APRIL 12, 2011 AND APRIL 26, 2011; (ADMINISTRATION)

Councilmember Borchard requested a correction to the minutes of April 26, 2011, page 7 as follows:

MOTION: Councilmember Smukler moved the City Council direct staff to initiate an amendment to the zoning ordinance that will give a better management policy for location of the potential medicinal marijuana dispensaries. The motion was seconded by Councilmember **Borchard Johnson**.

Mayor Yates stated he will not support this motion.

VOTE: The motion failed with Councilmember **Borchard Johnson**, Councilmember Leage and Mayor Yates voting no. (2-3)

MOTION: Councilmember Borchard moved the City Council approve Item A-1 of the Consent Calendar as amended. The motion was seconded by Mayor Yates and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 REQUEST FOR APPROVAL TO CONSTRUCT A 23-UNIT COMMUNITY HOUSING PROJECT WITH EXCEPTIONS AND ASSOCIATED ENVIRONMENTAL DOCUMENTS LOCATED AT 2400 MAIN STREET (UP0-086, CP0-130, SOO-048); (PUBLIC SERVICES)

Planning Manager Kathleen Wold stated the project consists of the construction of a 23-unit community housing project on individual lots clustered in seven groups and one lot for common access, landscaping and general common area. The proposed project seeks exceptions for the following: interior yard setbacks between units, lot coverage, lot size, reduced open space, reduced parking and the commercial requirement for mixed-use (commercial/residential) area "F". The proposal includes the provision of 2.3 units of affordable housing to meet the City's inclusionary requirements with two affordable units at the moderate rate and the .3 unit to be provided via the City's in-lieu fee program. As designed, the proposed residential development requires multiple exceptions to City standards including by not limited to elimination of commercial uses, reduced common open space, zero-setbacks between units, reduction of parking stalls below the minimum requirement. Ms. Wold recommended the City Council conditionally approve the Tentative Subdivision Map (S00-048), Use Permit (UP0-086) and Coastal Development Permit (CP0-130) subject to the Findings contained in the Exhibits and Conditions of Approval provided in the staff report.

Cathy Novak, representing the applicant, stated this project is zoned MCR/R-4 with the North Main Street Specific Plan Overlay; which means a project can be a mixed commercial residential or high density residential project. The project proposes a zero lot line concept, and the townhouse design will have a small air space between units and ownership of the ground below. The project as proposed has a total of 24 lots. There are 23 individual lots that vary in size from 925 sq. ft. to approximately 2,500 sq. ft. and the 24th lot is the access and common open area. The Compact In-Fill Development requires a minimum of 1,500 sq. ft. while the Community Housing does not specifically address this. The project design has the ability to eliminate the 24th lot and by doing so, each lot would then meet the standard (this would create the need for multiple easements for access and maintenance and would become very difficult for each of the owners.) The project has been designed with roofline variations and open space between the building clusters. There are no regulations that protect private views but, there are codes in place to protect public views in the scenic areas. The parking requirements for the Community Housing and the Compact In-Fill Development are different. Under the Community Housing standard the project as modified by the Planning Commission has 9 more spaces on-site than required. Under the Compact In-Fill Development standard, the project is 3 spaces short of the requirement. The applicant agrees with the Planning Commission and believes there is adequate parking on-site to accommodate the units. The code requires a 50% commercial component; there are regulations and policies that allow for an exception to this standard.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Ms. Novak stated as an incentive to provide affordable housing, the Council may grant an exception to the standard. There are General Plan and Housing Element Policies that support a 100% residential project. She said the North Main Street Specific Plan states, more than once in the document, that “The MCR Zone allows retail and service commercial uses, mixed commercial and residential or exclusive residential use”. Ms. Novak noted the traffic; parking and visual impact on a project with 50% commercial would be more significant than 100% residential. She requested Council look at the overall objectives and intent of the General Plan, Housing Element and other City policies. Ms. Novak stated the community is benefiting from this project in many ways and therefore the exceptions the applicant is requesting are reasonable and should be supported as designed and reiterated it is impossible for a project such as this to meet the City codes without requesting any exceptions. She noted the applicant is supportive of the project conditions as recommended by the Planning Commission and requested the City Council’s support.

Mayor Yates opened the hearing for public comment.

Liz Bednorz expressed concern with this proposed housing project stating this part of town is getting overly congested with compact housing. She asked why approve to build more housing when there are already so many houses on the market for sale.

David Nelson stated this proposed project has many deficiencies in City policies. He said this is a commercially-zoned lot which a hotel could be built that would collect transient occupancy tax for the City. Mr. Nelson stated this proposed project is going to create a congested ugly neighborhood.

Conrad Michel stated he submitted a petition to the Planning Commission in opposition to this proposed project, which was also submitted to the City Council along with an addendum. He said a proposed project has to be compatible and blend in with the neighborhood which this project does not. Mr. Michel requested the City Council overturn this project.

Betty Winholtz requested clarification on the abandonment on a portion of Main Street. She asked if the 25-foot height limit was based on natural grade. Ms Winholtz asked what the purpose of the retaining wall was, and where and how high would the wall be. She said this project does not meet City General Plan and Local Coastal Plan codes. Ms. Winholtz stated in order to be business friendly this property should remain a commercially-zoned property.

Mayor Yates closed the hearing for public comment.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Councilmember Smukler stated there are a lot of concessions being given to this applicant with not a lot of guarantees being returned. He said he does not like giving away the commercial usage of this lot which is located on a very scenic and visible area of Highway One and Main Street. He also expressed concern with the public transportation component. Councilmember Smukler stated in order to make this a viable project he would like to place conditions such as addressing resource efficiencies with water retrofitting the toilets and irrigation systems; and increase the number of affordable units.

Councilmember Leage stated there are projects needed in this part of North Morro Bay. He said he would like to see some changes made to this project, noting there are too many units being proposed. Councilmember Leage stated this property should either be all commercial or all residential use.

Mayor Yates stated he does not support mixed-use commercial/residential zoning in this location, and noted the residential use would be appropriate.

Councilmember Johnson stated she would like to see North Morro Bay become a walk-able community. She said the use of public transportation is important and there should be a bus stop with a covered bench and trash can near this location. Councilmember Johnson stated infill development is better than building up on the beautiful green hills within the City. She said the one-bedroom units should be built within one year, and those funds should go into the City's Affordable Housing In-Lieu Fund.

Councilmember Borchard stated commercial uses have struggled to stay viable in the recent economy. She said she would rather place the funds from the smaller units into the City's Affordable Housing In-Lieu Fund, which could assist with low-income housing in the future. Councilmember Borchard stated she would prefer the project offer 2.5 units in value of affordable housing to go into the fund. She said she would like pavers to be used in the common area. Councilmember Borchard stated she supports a residential project in this area.

Mayor Yates called for a break at 8:43 p.m.; the meeting resumed at 8:57 p.m.

Councilmember Leage stated he would like the proposed retaining wall on Bonita Street to be made more aesthetically pleasing, reduce the amount of units and add more parking.

Councilmember Smukler stated conditions need to be made on the density of this project by reducing the size of some of the units that will increase parking and open space of the project.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Councilmember Johnson stated she would support a reduction in square footage of the larger units by a specific amount. She would also support giving the applicant the option of paying 2.5% towards affordable housing or deed restricting the two affordable housing units.

Mayor Yates stated the parking spaces should go with the property or it should be the equivalent of guest parking. He said he agrees the retaining wall on Bonita Street should be reconfigured to be more appealing to the neighborhood.

Councilmember Borchard stated by reducing the square footage of the four larger units would add three more parking spaces.

MOTION: Councilmember Borchard moved the City Council approve the construction of a 23-unit community housing project with exceptions and associated environmental documents located at 2400 Main Street, Tentative Subdivision Map (SOO-048), Use Permit (UPO-086) and Coastal Development Permit (CPO-130), with the additional conditions: 1) type of landscape and façade articulation on the Bonita Street side of the project; 2) add an additional three (3) parking spaces of approximately 600 square feet and approximately 600 square feet of additional open space ; 3) the affordable housing units to be 2.5, either two (2) units on-site at moderate rate and half (.5) of a unit paid into the City's Affordable Housing In-Lieu Fund, or the option of the developer to pay the 2.5 into the Affordable Housing In-Lieu Fund; and, 4) the project would be built no later than one (1) year from the date of the first Certificate of Occupancy of the housing project. The motion was seconded by Councilmember Johnson.

Councilmember Smukler requested a condition be added addressing public transportation.

Councilmember Borchard amended her motion to include a larger bike rack on-site; Councilmember Johnson amended her seconded.

VOTE: The motion carried with Councilmember Leage and Councilmember Smukler voting no. (3-2)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

B-2 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 567
REPEALING, AMENDING AND REENACTING CHAPTER 14.48 OF THE
CITY OF MORRO BAY MUNICIPAL CODE, ENTITLED ILLICIT
DISCHARGE AND STORMWATER MANAGEMENT CONTROL; (PUBLIC
SERVICES)

Public Services Director Rob Livick stated the National Pollutant Discharge Elimination System (NPDES) permit for Stormwater discharges requires the City to adopt an ordinance prohibiting illicit discharges with enforcement provisions. The ordinance is required to include provisions for non-stormwater illicit discharges, animal wastes and stormwater management control. Since the City's adopted Stormwater Management Plan was adopted by the City Council and permitted by the Water Board on February 17, 2009, the City has been implementing the Stormwater Management Plan. One of the implementing measures required in the Stormwater Management Plan is the Illicit Discharge Ordinance. Mr. Livick recommended the City Council approve the introduction and first reading of Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control by number and title only.

Mayor Yates opened the hearing for public comment.

John Barta stated the City is required to pass an ordinance, but it is not required to pass this Ordinance. He reviewed regulations for different areas noting it is only necessary for Morro Bay to meet the minimum requirements. He said this Ordinance will create a problem for future development in the City.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Johnson moved the City Council approve the introduction and first reading of Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control by number and title only. The motion was seconded by Councilmember Smukler.

Councilmember Borchard requested the motion include the amendment that the engineering standards meet the minimum rainfall requirements.

Councilmember Johnson accepted the amendment to her motion; Councilmember Smukler accepted the amendment to his second.

VOTE: The motion carried with Councilmember Leage and Mayor Yates voting no. (3-2)

City Manager Andrea Lueker read Ordinance No. 567 by number and title only.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

B-3 RESOLUTION NO. 25-11 DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2011/12 FISCAL YEAR FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT; (ADMINISTRATIVE SERVICES)

City Manager Andrea Lueker stated State law requires the City Council to annually renew business improvement districts and receive annual reports for each fiscal year; those reports were provided to Council at the April 12th Council meeting. Ms. Lueker recommended the City Council hold the public hearing to receive testimony for and/or against the renewal of the Morro Bay Tourism Business Improvement District, then adopt, reject or amend Resolution No. 25-11 as appropriate.

Mayor Yates opened the hearing for public comment; there were no comments, and Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 25-11 declaring the Intention to Continue the Program and Assessments for the 2011/12 Fiscal Year for the Morro Bay Tourism Business Improvement District. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

B-4 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods on April 12, 2011, the City Council adopted Resolution No. 28-11, which initiated the proceedings to levy the annual assessment to fund the maintenance of the Cloisters Park and Open Space. Additionally, staff was directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2011/12. Upon adoption of Resolution No. 32-11, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report.

Mayor Yates opened the hearing for public comment.

Robert Bacon showed pictures of landscaping in Cloisters Park and Open Space noting weeds shown in 2010 are still there in 2011.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

Dawn Beattie stated the homeowners would like to have a meeting with staff regarding the assessment prior to it being levied.

Mayor Yates closed the hearing for public comment.

Mayor Yates stated after receiving numerous complaints from residents and driving through the Cloisters to view the Park and Open Space, he is going to stop supporting this assessment. He noted this decision is made after many years of receiving the same complaints and he has lost patience with this assessment. Mayor Yates stated he is not in favor of this type of assessment in general because he does not pay an assessment for the use of parks throughout the City.

Councilmember Smukler stated the Recreation & Parks Department has had to make some changes due to depleted resources and an increase in costs. He said there are going to be higher costs due to the age of the landscape and to maintain the quality of the area.

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report. The motion was seconded by Councilmember Borchard.

VOTE: The motion failed with Councilmember Johnson, Councilmember Leage and Mayor Yates voting no. (2-3)

Council discussed the ramification of the motion.

City Attorney Robert Schultz recommended the City Council approve Resolution No. 32-11; give staff 30 days to meet with homeowners of Cloisters to discuss the needs of the assessment district; and, consider giving staff six months with perhaps a six month extension before eliminating the assessment district.

Mayor Yates reiterated staff has 30 days before the final assessment comes before Council, and must show some evidence to gain his support.

MOTION: Mayor Yates moved the City Council reconsider the Resolution Approving the Engineers Report and Declaring the Intent to Levy the Annual Assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report; and, direct staff to move forward with communications with the homeowners of Cloisters to develop priorities and plans for the maintenance of this assessment district. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

B-5 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated on April 12, 2011, the City Council adopted Resolution No. 29-11, which initiated the proceedings to levy the annual assessment to fund the maintenance of the North Point Natural Area. Additionally, staff was directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2011/12. Upon adoption of Resolution No. 33-11, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 33-11 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report.

Mayor Yates opened the hearing for public comment.

Taylor Newton stated as a landscaper there are inefficiencies in the landscape scheme at the North Point Natural Area.

Mayor Yates closed the hearing for public comment.

MOTION: Mayor Yates moved the City Council adopt Resolution No. 33-11 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 DRAFT SIGN ORDINANCE; (PUBLIC SERVICES)

This item was continued to the May 24, 2011 City Council meeting as a public hearing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 10, 2011

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendaize a discussion on the toilet retrofit program;
Council concurred.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Recorded by:

Bridgett Kessling
City Clerk

The Selection Committee invited the remaining four proposers to make presentations to and be interviewed by the Marketing Selection Committee on February 16, 2011. The Selection Committee then discussed the presentations and interviews and unanimously decided to forward two agencies, Barnett Cox and TJA Advertising to the next step of the process, a presentation to the full CPC and TBID Boards.

On March 1, 2011, the CPC and TBID heard presentations and asked questions of the proposers. Both the CPC and the TBID, by a vote of 4-2, recommended the City Council award the Marketing and Advertising Services Contract to TJA Advertising.

On March 8, 2011, the City Council reviewed the recommendations from CPC and TBID and proposals of TJA and Barnett Cox. By a vote of 4-1, the Council awarded the Marketing and Advertising Services Contract to Barnett Cox & Associates.

Staff has completed the negotiations of the contract with Barnett Cox and it is attached for your review and approval.

DISCUSSION

Barnett Cox & Associates is a local full service company that has had multiple years of municipal experience working for the City of San Luis Obispo from 1993-2007. They are very familiar with the local tourism industry with over 21 years of experience. Other clients include Justin Winery, Cal Poly, City of Arroyo Grande, Mid-State Fair and the Performing Arts Center.

Barnett Cox would assign Sheri Clark as the Account Manager for the City of Morro Bay. She will be the primary contact with the City, CPC and TBID, handling day to day issues and public meetings. Ms. Clark has been with Barnett Cox for 8 years. Barnett Cox has a team of employees that can work in specialized areas such creative design and web design.

The Contract that is attached between the City and Barnett Cox is for a flat rate plus commission. Barnett Cox will receive a flat rate of \$7,000 per month. Services covered under this fee include development of a strategic marketing plan, brand strategies, advertising campaigns and budgets, continuous, as-needed account service and consultation to ensure prompt completion of projects, develop and implement specialized areas of promotion as needed, such as internal communications with stakeholders, maintain internal procedures that ensure budget controls, prompt billing and quality control. Additionally this fee covers meeting attendance, marketing reports, positive relationship building, and other activities as specified in the contract. In addition to the flat rate, Barnett Cox will be compensated the standard agency commission from media.

CONCLUSION:

It is Staff's recommendation that Council approve the attached contract and authorize the Mayor to execute the contract.

**AGREEMENT BETWEEN THE CITY OF MORRO BAY AND
BARNETT COX & ASSOCIATES FOR
ADVERTISING AND MARKETING SERVICES**

THIS AGREEMENT is made and entered into this 1st day of June, 2011, by and between the CITY OF MORRO BAY, a municipal corporation, hereinafter referred to as "CITY", and BARNETT COX & ASSOCIATES, hereinafter referred to as "CONSULTANT."

RECITALS

WHEREAS, the CITY has need for the services of experienced consultant(s) and advertising agent(s) to commercially advertise and promote Morro Bay as a tourist destination point on television, in print, and other mediums; and

WHEREAS, the CITY requested proposals for professional marketing and advertising services; and

WHEREAS, pursuant to said request, CONSULTANT submitted a proposal which was accepted by the City Council at the City Council meeting on March 8, 2011; and

WHEREAS, the CONSULTANT is specially trained and possesses special skills, education, experience, and competency to perform the services requested and provide the advice needed for the CITY's advisory groups, as it relates to marketing, advertising and public relations.

AGREEMENT

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, CITY and CONSULTANT agree as follows:

1. The above recitals are true and correct.
2. **INCORPORATION BY REFERENCE.**

CONSULTANT's original proposal dated January 25, 2011, is hereby incorporated in and made a part of this Agreement along with a revised budget that is attached hereto as Exhibit "A".

3. **Services To Be Provided By CONSULTANT**

The CONSULTANT shall provide the following services:

- A. Using a variety of advertising venues, including but not limited to print, broadcast, internet, outdoor and public relations, implement a cost-effective marketing campaign for the CITY during the time period July 1, 2011 through June 30, 2014, in selected areas and in key targeted markets. All campaigns will aggressively market the CITY's tourism website. All campaigns are subject to TBID Board and/or Community Promotions Committee review and approval prior to implementation.
- B. Explore and implement cooperative marketing opportunities with the San Luis Obispo County Visitors and Conference Bureau, the Chamber of Commerce, the Merchants Association, etc.
- C. Maintain an effective working relationship with the Tourism Business Improvement District Board (TBID) and Community Promotions Committee (CPC). Scheduled meetings will normally be on a monthly basis with the TBID and CPC and CONSULTANT shall attend all meetings and provide input, refine, and adjust marketing objectives and strategies as recommended by the TBID and CPC. CONSULTANT shall also attend all Subcommittee meetings of the TBID or CPC if requested by CITY.
- D. Provide separate budget management for CPC & TBID. Pay invoices and account for all such activity conducted for the CPC and TBID in monthly billing materials by providing original invoices, copies of produced material, tear-sheets of advertisements or affidavits of performance as appropriate for broadcast media.
- E. Provide account services such as, but not limited to, marketing concept, design and production, events promotion, media buys and placement, account budget and additional services as needed. Provide status reports on the account budget including standing to date monthly reports.
- F. Provide the TBID and CPC with timely, written reports, one week prior to their regular monthly meeting, which are held the third Thursday of each month, on the status of all aspects of the marketing campaign. Personally present a monthly report on past activities and continuation of plan at the regular CPC and TBID board meetings. The reports should encompass:
 - 1. Summary of all marketing activities in the reporting period.
 - 2. Summary of advertising placed during the reporting period.
 - 3. Summary of direct consumer marketing placed during the reporting period.

4. Summary of results and responses to materials during the reporting period.
 5. Examples of materials distributed during the reporting period including proof of advertising.
 6. Summary of strategic alliances supported during the reporting period.
 7. Website statistics.
- G. Planning and commissioning any research activity that the TBID and CPC may require, including suggestions for and methods of continuing evaluation of the effectiveness of the commissioned marketing campaign.
- H. Coordinating activities of the marketing campaign with the TBID and CPC, and establish an effective working relationships with its members and assigned staff to achieve coordinated and efficient use of all available resources, thus avoiding duplication of efforts with other CITY promotional efforts.
- I. Provide creative assistance and production of this material from within the TBID budget for advertising and cooperate with the Morro Bay Chamber of Commerce on "fulfillment" services in response to requests for material arising out of the TBID's marketing program.
- J. Provide the CITY support and assistance in maintenance and improvement of the Visitor Website portion of the website located at URL described as morrobay.org.
- K. Extra work beyond that described in the Scope of Services is not authorized without the express written approval of CITY. CONSULTANT shall request and receive written approval prior to performing any extra work. Any work beyond that reflected in the approved Scope of Services shall not be compensated by CITY unless prior written approval is obtained from the City Manager.

4. **Assistance By CITY**

Subject to other provisions of this Agreement, CITY shall provide the CONSULTANT with copies of any documents, forms, records, or other information that are required by the CONSULTANT in order to perform the services specified herein. CITY shall provide all further reasonably necessary information to CONSULTANT upon CONSULTANT's request.

5. **Termination Of Agreement**

Either party may terminate this Agreement at any time by giving to the other party thirty (30) days written notice of such termination, specifying the effective date of such termination. In such event, or upon request of the CITY, CONSULTANT shall assemble all CITY documents in the CONSULTANT's possession, and put them in order for proper filing and closing, and deliver said documents to CITY. In the event of termination, CONSULTANT shall be paid for work performed to the termination date.

CITY shall make the final determination as to the portion of tasks completed and the compensation to be made.

6. **Compensation**

Compensation shall be as follows:

For providing services as specified in this Agreement, CITY will pay, and CONSULTANT shall receive, compensation in a total sum not to exceed \$ 7,000 per month. Services covered under fee include development of a strategic marketing plan, develop brand strategies, advertising campaigns and budgets, provide continuous, as-needed, account service and consultation to ensure prompt completion of projects, develop and implement specialized areas of promotion as needed, such as internal communications with stakeholders, maintain internal procedures that ensure budget controls, prompt billing and quality control. Additionally this fee covers meeting attendance, marketing reports, positive relationship building, and other activities as specified in Section 3. Items A-K.

CONSULTANT will serve as a commissionable agent on behalf of the CITY, with media used for the CITY's services, where commissions are applicable. CONSULTANT will be compensated the standard agency commission from media only in the instance where the media normally pays a commission.

Vendor or material costs including media, licensing fees, music fees, talent fees, production charges and handling charges where applicable, are not included in the monthly fee. Large production projects may be subject to deposits.

7. **Indemnification**

During all phases of this agreement, CONSULTANT agrees to indemnify and save harmless the CITY, its officers, agents, and employees from any and all claims, demands, losses, or expenses including attorney fees which the CITY, its officers, agents, and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, arising out of, or connected with CONSULTANT's alleged negligent acts or omissions under the terms of this Agreement, excepting, however, any such claims and demands which are the result of the sole negligence or willful misconduct of the CITY, its officers, agents, or employees.

8. **Insurance Requirements**

CONSULTANT shall meet the following insurance requirements:

- (a) Without limiting CONSULTANT's responsibility to defend and indemnify the CITY, it is agreed that CONSULTANT shall maintain in full force and effect, at

all times during the performance of this Agreement, the following policy or policies of insurance covering its operations:

(1) Comprehensive General Liability, including contractual liability, business automobile liability, broad form property damage, and products and completed operations, all of which shall include coverage for both bodily injury and property damage, with a combined single limit of one million dollars (\$1,000,000) per occurrence. CONSULTANT's comprehensive general liability insurance policy shall contain the following clauses:

- a) "The CITY is named as an additional insured as respects operations of the named insured performed under contract with the CITY."
- b) "It is agreed that any insurance maintained by the CITY shall apply in excess of, and not contribute with insurance provided by this policy."

(2) Workers' Compensation coverage at statutory limits.

(b) All insurance policies required by this section shall not be canceled, limited or non-renewed without first giving 30 days written notice to the CITY. Additionally, the policy shall specifically contain the following clause:

"This insurance shall not be canceled until after thirty days written notice has been given to the CITY."

(c) Certificates of insurance evidencing the coverages required by the clauses set forth above shall be filed with the CITY prior to the effective date of this Agreement. This is a condition precedent to the formation of any obligation by the CITY to compensate CONSULTANT under this Agreement.

(d) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of section 2782 of the California Civil Code.

9. **Ownership of Documents**

With payment in full for work completed, all materials generated, edited and provided in finished form by CONSULTANT under contract, including rough video tape footage and other materials necessary for completion of this work as herein required, are the property of the CITY, whether the work for which they are made be executed or not. In the event this contract is terminated, and at the end of the term of this contract, all such materials shall be delivered immediately to the CITY. CONSULTANT may retain one copy of each document for his/her records, but shall have no proprietary rights to them. The

CITY agrees to indemnify CONSULTANT against any damages caused by the unauthorized re-use of said documents.

BCA retains the right to show materials, not deemed confidential and retain rights to appropriate credit identification for artwork completed, for promotional purposes only.

10. **Retention of Materials**

CONSULTANT will retain on behalf of the client artwork, video and audio master files, underlying programming, print files and other vendor related materials for a period of three years. After this period, the client may request the master files. The Client may incur costs associated with library search and assembly of such materials. By providing master files and materials to the Client, CONSULTANT relinquishes all responsibility for the material.

11. **Status of the CONSULTANT**

CONSULTANT shall perform the services provided for herein in CONSULTANT's own way as an independent contractor and in pursuit of CONSULTANT's independent calling. CONSULTANT is not to be considered an employee of the CITY, nor shall any employees of CONSULTANT be considered employees of the CITY, for any purpose. CONSULTANT shall be under the direction and control of CITY staff only as to the results to be accomplished. CONSULTANT shall be free to pursue his/her calling excepting only to the extent contained in this Agreement or in conflict with same.

12. **Assignment and Subcontracting**

CONSULTANT is being retained due to its special qualifications to perform services as described in this Agreement. Therefore, CONSULTANT shall not assign this contract, any part thereof, or any compensation due thereunder. CONSULTANT shall be fully responsible to the CITY for any acts and omissions of CONSULTANT's subcontractors, including persons either directly or indirectly employed by subcontractors, in the event CONSULTANT subcontracts any of the work to be performed under this contract. CONSULTANT's responsibility under this paragraph shall be identical to CONSULTANT's liability for acts and omissions of CONSULTANT and employees of the CONSULTANT. Nothing contained in this Agreement shall create any contractual relationship between CITY and any subcontractor of CONSULTANT, but CONSULTANT shall bind every subcontractor and every subcontractor of a subcontractor by the terms of this contract applicable to CONSULTANT's work, unless such change, omission, or addition is approved in advance in writing by the City Manager.

13. **Agreement Contains All Understandings**

This document (including all exhibits referred to above and attached hereto) represents the entire and integrated Agreement between the CITY and CONSULTANT, and supersedes all prior negotiations, representations, or Agreements, either written or oral. This document may be amended only by written instrument, signed by both the CITY and CONSULTANT. The body of this Agreement shall supersede any discrepancy that may exist with respect to any attached exhibits or documents incorporated by reference.

No oral agreement or representation by any officer, agent, or employee of either party made during or after the execution of this Agreement shall become a part of this Agreement, except to the extent such oral agreement or representation is expressly reflected in this written Agreement or a written amendment to this Agreement.

14. **Disputes**

If a dispute should arise regarding the performance of this Agreement or compensation for work performed under this Agreement, the parties hereby agree to make good faith and reasonable attempts to settle the dispute through subsequent agreement between CONSULTANTS's principal and the CITY. In the event that a dispute continues, the CONSULTANT is required to continue performing under this Agreement, pending resolution of the dispute. Nothing in this procedure shall prohibit the parties from seeking remedies available to them at law after they have made a good faith and reasonable attempt to resolve the dispute pursuant to the provisions of this section. In the event of litigation arising out of the performance of the obligations of this contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other litigation expenses.

15. **Notices**

All notices shall be in writing and given either by personal service or delivery by the United States Postal Service, or its successor, postage prepaid to the specifically named person(s) or the holder(s) of a designated position. Notices shall become effective insofar as service is concerned on the date of personal service and five days following postmark from the United States Postal Service. Notices/communications between the parties to this Agreement may be sent to the following addresses:

CITY: CITY OF MORRO BAY
595 Harbor Street
Morro Bay, CA 93442

CONSULTANT: BARNETT COX & ASSOCIATES
711 Tank Farm Road, Suite 210
San Luis Obispo, CA 93401

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

CITY OF MORRO BAY

CONSULTANT

By: _____

By: _____

APPROVED AS TO FORM:

By _____
Robert W. Schultz, City Attorney



AGENDA NO: A-3

MEETING DATE: May 24, 2011

Staff Report

TO: Honorable Mayor and Council **DATE:** May 6, 2011
FROM: Susan Slayton, Administrative Services Director
SUBJECT: Resolution No. 35-11 Authorizing San Luis Obispo County Assessor to Assess Amounts Due on Delinquent Solid Waste Collection Accounts as Tax Liens Against the Properties

RECOMMENDATION

Adopt Resolution No. 35-11.

FISCAL IMPACT

The City will receive the 10% franchise fee on all liens paid in addition to a 2% administrative fee for costs associated with the processing of the liens with the San Luis Obispo County Assessor. Total revenue to be received will be \$368.39.

SUMMARY

Morro Bay Municipal Code §8.16 addresses delinquent solid waste accounts held by the City's franchisee, and the methodology related to collecting those debts. Morro Bay Garbage has followed the appropriate steps, and staff is requesting permission to file tax liens on the remaining delinquent debtors.

DISCUSSION

Morro Bay Municipal Code §8.16.170 and 8.16.375 establish that all places and premises in the City in or on which solid waste is created, accumulated or produced must use the solid waste collection and disposal service provided by the City's franchisee and that the franchisee is responsible for collecting fees for the service.

Municipal Code §8.16.170 also states that for the purposes of establishing responsibility for the payment of fees and charges, the person who has applied for water service to each place or premises within the City is responsible for paying for the service. The owner of the property which is furnished service and the customer, who applies for service, if different from the property owner, shall jointly be responsible for the payment of all rates, charges and fees including penalties, and that unpaid obligations shall run with the land and lead to delinquency for the property involved.

Prepared By: J Burlingame

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Municipal Code §8.16.385 provides a method by which the franchisee may take actions to collect fees from the owners of developed properties involved in delinquent solid waste collection and disposal accounts. Morro Bay Garbage Services has taken the actions prescribed within the Municipal Code to collect delinquent solid waste collection and disposal accounts, which are:

- 1) Present to the City a list of property owners whose accounts are more than 120 days past due,
- 2) Send certified letters to these property owners requesting payment, and
- 3) Present to the City a list of property owners that have failed to make the requested payment.

The City is now authorized to process liens with the County against those delinquent debtors. Staff is presenting Resolution No. 35-11 to accomplish the task.

RESOLUTION NO. 35-11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA AUTHORIZING THE SAN LUIS OBISPO COUNTY
ASSESSOR TO ASSESS AMOUNTS DUE ON DELINQUENT
SOLID WASTE COLLECTION AND DISPOSAL ACCOUNTS AS
TAX LIENS AGAINST THE PROPERTIES**

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

WHEREAS, Sections 8.16.170 and 8.16.375 of the Morro Bay Municipal Code establish that all places and premises in the City in or on which solid waste is created, accumulated or produced must use the solid waste collection and disposal service provided by the City's franchisee and that the franchisee is responsible for collecting fees for the service; and

WHEREAS, Section 8.16.170 of the Municipal Code also states that for the purposes of establishing responsibility for the payment of fees and charges, the person who has applied for water service to each place or premises within the City is responsible for paying for the service, and that the owner of the property which is furnished service, and the customer who applies for service, if different from the property owner, shall jointly be responsible for the payment of all rates, charges and fees including penalties and that unpaid obligations shall run with the land and shall lead to delinquency for the property involved; and

WHEREAS, Section 8.16.385 of the Municipal Code further provides a method by which the franchisee may take actions to collect fees from the owners of properties involved in delinquent solid waste collection and disposal accounts which includes requesting the City to file a tax lien; and

WHEREAS, the franchisee, Morro Bay Garbage Service, has taken the actions required within the Municipal Code to collect fees from delinquent accounts as certified by franchisee and incorporated herein, and has provided the required list of debtors whose account is still delinquent.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the San Luis Obispo County Assessor is hereby authorized to assess the amounts due on delinquent accounts as established and certified by the franchisee Morro Bay Garbage Service as liens against the properties listed below:

Parcel Number	Total Amount
068-217-007	\$ 121.32
066-204-021	\$ 98.82
068-291-009	\$ 239.32
065-118-001	\$ 99.69
068-271-017	\$ 82.58
065-046-014	\$ 321.88
066-023-012	\$ 500.43
066-092-009	\$ 530.45
068-246-005	\$ 358.86
065-061-009	\$ 121.32
066-201-070	\$ 233.20
065-053-027	\$ 423.42

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of May 2011 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-4

MEETING DATE: May 24, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 17, 2011

FROM: Rob Livick, PE/PLS - Public Services Director/City Engineer
Damaris Hanson, CPESC - Engineering Technician III

SUBJECT: Adoption of Ordinance No. 567 Repealing, Amending and Reenacting Chapter 14.48 of the City of Morro Bay Municipal Code, Entitled Illicit Discharge and Stormwater Management Control.

RECOMMENDATION:

Staff recommends the City Council adopt Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control.

FISCAL IMPACT:

There are no known direct costs to the City associated with the ordinance, but staff time will be needed to administer and enforce the ordinance.

SUMMARY/BACKGROUND:

Ordinance No. 567 was brought before the City Council for introduction and first reading on May 10, 2011. Councilmember Johnson moved the City Council approve Ordinance No. 567 for first reading with the minimum requirement changes made to the Engineering Standards. The motion was seconded by Councilmember Smuckler. The motion carried 3-2 with Mayor Yates and Councilmember Leage opposed. Staff will review the Engineering Standards and make any necessary modifications to reflect the direction to require the minimum required hydromodification and Low Impact Development Control measures allowed under the City's stormwater permit requirements.

CONCLUSION:

Staff recommends the City Council adopt Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control.

Attachments:

Attachment A –Illicit Discharge and Stormwater Management Control Ordinance No. 567

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

ORDINANCE NO. 567

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY;
REPEALING, AMENDING, AND REENACTING
CHAPTER 14.48 OF THE MORRO BAY MUNICIPAL CODE
(STORM WATER CONTROL)**

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

WHEREAS, the City is obligated under the federal Clean Water Act and the State Porter-Cologne Act to protect and enhance the water quality of watercourses and water bodies; and

WHEREAS, the City is part of a group of agencies identified by the Clean Water Act required to implement a Storm Water Management Plan; and

WHEREAS, the City has prepared a Storm Water Management Plan for approval which includes a commitment to prepare a storm water ordinance to regulate stormwater discharge, animal waste, construction related erosion and sediment control, and post construction devices; and

WHEREAS, the Regional Water Quality Control Board has required implementation of Low Impact Development principals and features as part of the Joint Effort Program; and

WHEREAS, the Storm Water Quality Ordinance is statutorily exempt from CEQA under Discharge Requirements, Section 15263 of the CEQA Regulations; and

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1: Chapter 14.48 of the City's Municipal Code entitled Stormwater Management is hereby repealed in its entirety.

SECTION 2: A new Chapter 14.48, entitled Illicit Discharge and Stormwater Management Control hereby added to the San Luis Obispo Municipal Code to read as follows:

Chapter 14.48

BUILDING REGULATIONS – ILLICIT DISCHARGE AND STORMWATER MANAGEMENT CONTROL

Sections:

- 14.48.010 Purpose and intent
- 14.48.020 Definitions
- 14.48.030 Applicability
- 14.48.040 Responsibility for administration
- 14.48.050 Regulatory Consistency
- 14.48.060 Severability
- 14.48.070 Ultimate responsibility of discharger
- 14.48.080 Prohibition of illegal discharges
- 14.48.090 Exceptions to discharge
- 14.48.100 Prohibition of illicit connections
- 14.48.110 Notification
- 14.48.120 Requirement to eliminate illegal discharges and remediate
- 14.48.130 Animals
- 14.48.140 Requirement to prevent, control and reduce stormwater and pollutants
- 14.48.150 Maintenance
- 14.48.160 Requirement to monitor and analyze
- 14.48.170 Remediating discharges
- 14.48.180 Notice of violation
- 14.48.190 Appeal
- 14.48.200 Urgency abatement
- 14.48.210 Charging cost of abatement/liens
- 14.48.220 Acts potentially resulting in a violation of the Clean Water Act and/or the Porter-Cologne Act

14.48.010 Purpose and intent

The purpose of this ordinance is to ensure the health, safety and general welfare of citizens, and to protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges to the stormwater conveyance system.

14.48.020 Definitions

The terms used in this chapter shall have the following meanings:

A. **Animal Waste** - Includes domestic animal fecal material from any property, residence, yard, kennel, pen, park, animal show, or any activity involving an animal, including keeping, riding, exercising, showing, recreating, walking, or transporting. Does not include waste from non-domestic “wild” animals.

B. **Authorized representative** - that person designated in writing to the director by the property owner to act on behalf of the property owner.

C. **Automotive Repair Shop** - Automotive Repair Shop means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

D. **Best Management Practices (BMPs)** - Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices and procedures and other such provisions as the City determines appropriate for the control of pollutants.

E. **City** - the City of Morro Bay in the County of San Luis Obispo, State of California.

F. **Clean Water Act (Act)** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

G. **Commercial activity** – any public or private activity not defined as an industrial activity in 40 CFR 122.25 (b) (14) involving in the storage, transportation, distribution, exchange or sale of goods providing professional or non-professional services.

H. **Construction activity** - any of the following activities: including but not limited to clearing and grubbing, grading, excavating, demolition and construction.

I. **Director** - The Public Services Director and his or her designees.

J. **Discharge** –any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid semi-solid or solid substance.

K. **Illegal discharge** - any direct or indirect non-stormwater discharge to the storm drain system, except as exempted by this chapter.

L. **Illicit connection** - any of the following:

1. Any conveyance system, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system.

2. Any connections to the storm drain system from indoor drains and sinks not currently exempted or permitted, regardless of whether the drain or connection has been previously allowed, permitted, or approved by a government agency.

3. Any drain or conveyance connected from any land use to the storm drain system which has not been documented and approved by the City.

4. Any unpermitted connection of a stormwater system to the publicly owned treatment works as defined in this chapter.

M. **Industrial activity**- any activity subject to a NPDES industrial permit as defined in 40 CFR Section 122.26(b)(14).

N. **Maximum Extent Practicable (MEP)** – a standard for implementation of stormwater management programs to reduce pollutants in stormwater; while taking into account equitable consideration and competing facts, including but not limited to; the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility. MEP allows for maximum flexibility on the part of MS4 operators as they develop and implement their programs to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of pollutants.

O. **Municipal Storm Sewer System (MS4)** - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. designed or used for collecting or conveying stormwater;
2. which is not a combined sewer; and
3. which is not part of a Publicly Owned Treatment Works (POTW). [See Title 40, Code of Federal Regulations (40 CFR) §122.26(b)(8).]

P. **National Pollutant Discharge Elimination System (NPDES) Permit** - NPDES Permit shall mean a permit issued by either the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Chapter 5.5 (commencing with § 13370) of Division 7 of the Water Code to control discharges from point sources to waters of the United States.

Q. **Development** - Development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision. Development includes redevelopment which means, on an already developed site, the creation, addition or replacement of impervious area. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition of a structure; structural development including an increase in gross floor area and/ or exterior construction or remodeling; land disturbing activities related with structural or impervious surfaces.

R. **Non-stormwater discharge** - any discharge to the storm drain system that is not composed entirely of stormwater.

S. **Pollutant** - anything which causes or contributes to pollution including, but not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a building or structure, including but not limited to soil, sediment, slurry, and concrete residuals; and noxious or offensive matter of any kind.

T. **Pollution** – discharge of a pollutant.

U. **Porter-Cologne Act** - means the Porter-Cologne Water Quality Control Act and as amended (California Water Code §13000 et seq.). The Porter Cologne Act is commonly referred to as the California Water Code.

V. **Premises** - means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

W. **Prohibited Discharge** - Any non-stormwater discharge to the City storm drain system or directly to natural creeks and small streams, which is not otherwise specifically authorized by this Chapter, the Regional Board, State or federal Law, or an NPDES permit.

X. **Publicly Owned Treatment Works (POTW)** - as defined at 40 CFR Section 122.2.

Y. **Receiving Waters** - Surface bodies of water, as defined by the Municipal Stormwater Permit, including, but not limited to, creeks rivers, and bay which serve as discharge points for the City storm drain system.

Z. **Storm drain system** - means any public or private facilities by which stormwater is collected and/or conveyed, including but not limited to roads, sidewalks, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels and swales, reservoirs, lakes, creeks, waters of the United States and other drainage structures which are within the City and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.

1. Public facilities are those owned, maintained and operated by the City and other public agencies including the enclosed system of pipelines, catch basins, manholes and junction structures.

2. Private facilities are those on private property or under the control of persons other than the City or other public agencies.

AA. **Stormwater**- Surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation.

BB. **Structural BMP** - any structural facility designed and constructed to mitigate the adverse impacts of stormwater and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

CC. **Stormwater pollution prevention plan or SWPPP** - a plan required by the State Water Board Construction General permit for stormwater discharges associated with construction activities.

DD. **Treatment Control BMP** - any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

EE. **Waters of the United States** - Surface watercourses and water bodies as defined in 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

14.48.030 Applicability

This chapter shall apply to all discharges entering the storm drain system (MS4) within the City.

14.48.040 Responsibility for administration

The Director shall administer, implement, and enforce the provisions of this chapter.

14.48.050 Regulatory Consistency

This Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and acts amended thereto or supplementary thereto, or any applicable implementing regulations.

14.48.060 Severability

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

14.48.070 Ultimate responsibility of discharger

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that a person's compliance will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the United States. This chapter shall not create liability on the part of the City, or any of its employees or agents, for any damages that result from any person's reliance on this chapter or any administrative decision lawfully made thereunder.

14.48.080 Prohibition of illegal discharges

No person shall discharge or cause to be discharged into the storm drain system any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater, to the maximum extent practicable.

An illegal discharge is assumed to have occurred if a pollutant is placed, blown, washed, tracked or in any way allowed to accumulate in any part of the MS4 so that it can be conveyed by stormwater.

14.48.090 Exceptions to discharge

No person shall commence, conduct, or continue any illegal discharge to the storm drain system except as follows. Discharges from the following will not be considered a source of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this chapter:

A. The following non-storm water discharges or flows: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR §35.2005(20) to separate storm sewers; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensation; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; and discharges or flows from fire fighting activities.

B. Any non-stormwater discharge permitted or approved under a National Pollutant Discharge Elimination System permit, waiver, or waste discharge order issued to the discharger and administration by the State of California under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and provided that written approval has been granted by the City for any discharge to the storm drain system.

C. With written concurrence of the Central Coast Regional Water Quality Control Board, the City may exempt in writing other non-stormwater dischargers which are not a source of pollutants to the storm drain system or Water of the U.S.

D. Agricultural discharges regulated by the State Water Resources Control Board and/or Regional Board pursuant to waiver and/or formal policy, provided compliance with all relevant permit, waiver or policy conditions established by the State Water Resources Control Board and/or Regional Board.

14.48.100 Prohibition of illicit connections

The construction, use, maintenance or continued existence of illicit connections to the storm drain system or to a POTW is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

14.48.110 Notification

A. Notification of any confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-stormwater discharges entering the City storm drain system shall be made immediately by any person in charge of a facility or responsible for emergency response for a facility as follows:

1. The release of a hazardous material or hazardous waste shall be reported to emergency services immediately by emergency dispatch services (911). A written notification of the release shall also be made to the Director within five business days of the release. A copy of the written notice shall be retained for at least three (3) years.

2. The inadvertent release, and clean-up, of a non-hazardous waste shall be reported to the Director by phone no later than 5:00 P.M. of the same business day. If the release occurs on a weekend or Holiday, notification shall be made on the next business day. A written notification of the release shall also be made to the Director within five business days of the release. A copy of the written notice shall be retained for at least three (3) years.

B. Release of any hazardous substances, sewage, oil, or petroleum to any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall be reported to the State Office of Emergency Services, as required by Sections 13271 and 13272 of California Water Code.

C. Commercial/Industrial Properties. If the reported discharge emanates from a commercial or industrial property, the owner or operator of the property shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be

retained for at least three years from the date of the occurrence and be available for inspection by the director.

14.48.120 Requirement to eliminate illegal discharges and remediate

Whenever the director determines that a discharge of pollutants is occurring, or has occurred, and the discharge has caused, or will cause, pollution of stormwater or the storm drain system, or determines an illegal discharge is occurring or has occurred, the director will require by written notice to the property owner and/or their authorized representative (A) remediation of the pollution and restoration of the affected property within a specified time/date, and (B) discontinuance of the discharge and, if necessary, implementation of measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

14.48.130 Animals

A. Property Maintenance. Where it is determined by the City or by the Central Coast Regional Water Quality Control Board that an area used by animals is affecting water quality, the City will require the property owner or authorized representative to implement measures, which may include installation of preclusionary devices, to eliminate the pollution and prevent the migration of waste components to the storm drain system. Installation of devices or measures may require permits from the City or other regulatory agency. Installation, maintenance and permitting are the responsibility of the property owner.

B. Feeding Near Water Bodies. No person shall feed feral or wild animals or deposit or leave any foodstuff of any kind or nature, except in a trash receptacle provided for that purpose, within one hundred feet of a water body including but not limited to, creek dry or otherwise, ocean and bay.

C. Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

14.48.140 Requirement to prevent, control and reduce stormwater and pollutants

A. All improved areas of new and redevelopment development resulting in the creation, addition, or replacement of two thousand five hundred (2,500) square feet of impervious surface shall be governed by the Stormwater Control section of the Engineering Standards.

B. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance, in a form acceptable to the director, shall be provided:

1. Prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan;
2. Upon inspection of the facility;
3. During any enforcement proceeding or action; or
4. For any other reasonable cause.

14.48.150 Maintenance

General. Property owners are responsible to maintain their premises in such a way as to comply with this chapter and prevent migration of pollutants into the storm drain system.

A. Construction Stormwater Devices. BMPs installed during construction or as measures for post-construction stormwater shall be maintained as required to ensure proper

operation. Failure to maintain construction BMPs will result in a stop work order being issued until the site is in conformance with the requirements of this chapter.

B. Post-construction Stormwater Devices. Property owners of development or redevelopment projects which require installation of post-construction stormwater devices shall submit a maintenance plan or manufacturer's maintenance guide for those devices as part of the project submittal. The plan or guide provided shall be considered the minimum maintenance required, with additional maintenance performed as needed to comply with this chapter. All property owners with post-construction stormwater devices on their property shall submit to the director annual inspection/maintenance reports to confirm continued compliance with this chapter. Reports shall be signed and certified by the property owner or the authorized representative.

14.48.160 Requirement to monitor and analyze

The director may require any person engaged in any activity, and/or owning or operating any facility, which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drain system, to undertake, at the person's expense, a monitoring, analysis, and reporting program, as approved by the director, to determine compliance with this chapter.

14.48.170 Remediating discharges

Notwithstanding other requirements of law, as soon as any property owner, authorized person, or any other person responsible for property, a facility or an operation, or the person responsible for emergency response for a facility or operation, has information of any known or suspected release of pollutants which may result or have resulted in illegal discharges or pollutants discharging into stormwater or the storm drain system from the property, facility or operation, the person shall take all necessary steps to ensure the containment, and remediation of such release.

14.48.180 Notice of violation

A. Violation Conditions. Whenever the director finds that a person has violated this chapter, the director may issue to the person a notice of violation and order compliance. Such notice may require without limitation:

1. Monitoring, providing analyses, and reporting;
2. Eliminating illicit connections or discharges;
3. Cease and desist of discharges, practices, or operations;
4. Abating or remediating stormwater pollution or contamination hazards, and restoring the affected property;
5. Implementing source control or treatment BMPs; and
6. Paying a fine and administrative and remediation costs.

B. Abatement. If abatement of a condition and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed. The notice shall further provide that if there is not compliance with the notice within the established deadline, the City may abate the condition and/or restore the property, and

the expenses thereof shall be charged to the property owner and/or the person responsible for the violation.

14.48.190 Appeal

Except as provided in Section 14.48.200, Urgency abatement, any person receiving a notice of violation may appeal following the procedures in Chapter 1.03.

14.48.200 Urgency abatement

A. Immediate Abatement. The director may require immediate abatement of any violation of this chapter that constitutes an immediate and significant threat to the health, safety or well-being of the public.

B. Failure to Abate. If a violation as described in subsection A of this section is not immediately abated, the City is authorized to enter the premises and take any and all measures required to abate the violation. Any expenses incurred by the City related to such abatement shall be charged to the property owner. These expenses shall be based on the City's fully loaded rates for labor and equipment. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this chapter.

C. Construction Sites. The director may give verbal notice and shall issue a stop work order to persons owning or controlling construction sites with inadequate erosion and sediment controls and such controls must be put in place immediately, and the City shall not allow any other site work until the controls are in place.

14.48.210 Charging cost of abatement/liens

A. Notice of Cost. If the City has incurred costs to abate a violation, the director shall notify the property owner within thirty days of the cost, including administrative costs.

B. Appeal. Within ten calendar days of the director's notice, the property owner may file with the City clerk a written appeal objecting to the amount of the costs. The City clerk shall set the matter for hearing by the City council. The decision of the City council shall be final.

C. Payment Due Date—Failure to Pay. If no appeal has been filed or if an appeal has been filed and the City council has made a decision on the appeal, any cost due shall be paid in full within ten days. If the costs are not paid in full within thirty calendar days, the costs shall become a special assessment against the property and shall constitute a lien on the property. The information shall be provided to the county auditor so that the auditor may enter the amount of the assessment against the property, as it appears on the current assessment roll, and the tax collector include the amount of the assessment on the bill for taxes levied against the property.

14.48.220 Acts potentially resulting in a violation of the Clean Water Act and/or the Porter-Cologne Act

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the provisions of those acts including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 10th day of May, 2011 by motion of Councilmember Johnson, seconded by Councilmember Smukler.

PASSED AND ADOPTED on the 24th day of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, Mayor

ATTEST:

APPROVED AS TO FORM:

BRIDGETT KESSLING, City Clerk

ROBERT SCHULTZ, City Attorney



AGENDA NO: A-5

MEETING DATE: 5/24//2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 16, 2011
FROM: Susan Lichtenbaum, Harbor Business Manager
SUBJECT: Resolution Authorizing Monthly Payment Option for Embarcadero Leaseholders

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 37-11 authorizing the Harbor Business Manager to implement a monthly payment option for Embarcadero Leaseholders to assist with cash flow and to retain Embarcadero businesses.

FISCAL IMPACT:

Unknown but relatively small loss of interest from receiving 6 months of rent in one payment as opposed to spreading that out over a six month period.

SUMMARY:

City Council was presented with an Annual Review of Harbor Lease Site Businesses at the April 26, 2011 meeting. The review covered past action that the Council has taken in recent years to maintain businesses on the Embarcadero and discussed the current status of Embarcadero businesses. The City Council unanimously moved to direct the Harbor Business Manager to bring back a resolution implementing a monthly rental payment option to the City for Harbor Lease Sites with a 10% penalty after ten (10) days late with provision for default.

BACKGROUND:

The City Council Embarcadero Leaseholders have been struggling economically over the last 2 years as a result of the recession affecting the entire country. The City Council adopted two resolutions in the past few years aimed at retaining Embarcadero Tidelands businesses. Resolution No. 47-09 enacted a one-time exemption from raising the minimum rent based on CPI and Resolution and allowed tenants to make quarterly rather than semi-annual rent payments. Resolution No. 21-10 provided a rental credit (expiring in June 2011) to businesses paying percentage of gross sales that filled vacancies on their Lease Sites with new businesses.

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

Over the last year while restaurants and hotels have seen some increase in sales from the last 2-3 years; the retail sector is still struggling. Almost all of the Embarcadero Tidelands Leases are required to pay their minimum rent in six months in advance due semi-annually in July and January.

Resolution No. 37-11 provides authorization to the Harbor Business Manager, to implement a monthly payment to the City for Harbor Lease Sites with a 10% penalty after ten (10) days late with provisions for default. This option will only be approved in cases where the tenants are in compliance with their lease agreements and will not apply to County Leases. A 10% penalty will be assessed if the monthly payment is not received within 10 days of the due date. Written notice of the specific payment deadlines and terms of the monthly payment option will be provided to each Leaseholder so they are aware of the monthly payment option and of the associated penalty for late payment and of the potential for default for late payment. Approval of this Resolution will not reduce the minimum rent, but it does allow the leaseholder to spread the payment out over a six month period rather than paying six months in advance thereby enhancing cash flow.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 37-11 authorizing the Harbor Business Manager to implement a monthly rental payment option to the City for Embarcadero Leaseholders to assist with cash flow and to retain Embarcadero businesses. The monthly rental payment option requires payment by the first day of each month with a penalty assessed if the rental payment is not paid by the 10th of each month and notice of default of the Lease Agreement for non-compliance with the monthly payment option terms.

RESOLUTION NO. 37-11

AUTHORIZING THE HARBOR BUSINESS MANAGER TO IMPLEMENT A MONTHLY PAYMENT OPTION FOR EMBARCADERO LEASEHOLDERS TO ASSIST WITH CASH FLOW AND TO RETAIN EMBARCADERO BUSINESSES

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

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

WHEREAS, the local, California and national economies continue to feel the effects of one of the worst economic recessions in the last 30 years, which has impacted many local businesses and resulted in vacancies on the City Tidelands lease properties; and,

WHEREAS, vacancies on Tidelands lease properties harm the City wide business environment and reduce direct rents received by the City in the form of percentage of gross sales rent collections; and

WHEREAS, the City Council of the City of Morro Bay desires to implement a monthly payment option to Embarcadero Leaseholders that are in compliance with their lease agreements in an effort to assist with cash flow and retain Embarcadero businesses.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the Harbor Business Manager is hereby authorized to implement a monthly payment option for Embarcadero Tidelands Leaseholders. The monthly payment option will be available only to Leaseholders that are in compliance with their Lease Agreement, and will not be made available to Leaseholders operating under a County Lease Agreement. The monthly payment option will require that payment be due the first of each month and that a ten percent penalty will be charged if payment is not received by the 10th of each month. Leaseholders who do not remain in compliance with the monthly payment deadline may be subject to a notice of default of the Lease Agreement. Leaseholders will receive written notification detailing the conditions and payment deadlines of the monthly payment option.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of May, 2011 on the following vote.

AYES:

NOES:

ABSENT:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: A-6
MEETING DATE: 5/24/2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 16, 2011
FROM: Susan Lichtenbaum, Harbor Business Manager
SUBJECT: Resolution Authorizing Execution of the "Designation of Applicant's Agent Resolution for Non-State Agencies" for the City's Application for California Disaster Assistance Act Program

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 38-11 authorizing execution of the "Designation of Applicant's Agent Resolution for Non-State Agencies for the City's Application for the California Disaster Assistance Act Program.

FISCAL IMPACT:

Execution of the Designation of Applicant's Agent allows the City to apply for Disaster Assistance related to the March 11, 2011 Tsunami and could result in reimbursement of close to \$30,000 for the City's costs associated with the Tsunami response and with related repairs.

SUMMARY:

On March 11, 2011 a strong earthquake struck Japan. By approximately 2 a.m. a Tsunami warning was issued in California. The City initiated its Emergency Operations Center (EOC). The City's waterfront areas were evacuated starting at 4 a.m. and several vessels left the harbor for deeper water during the event. On March 15, 2011 the City held a special meeting to adopt Resolution No. 21-11 declaring the existence of a local emergency. Federal Emergency Management Act (FEMA) and California Emergency Management Act (Cal EMA) representatives met with City staff on March 18, 2011 to document the damages and costs sustained by the City in response to the Tsunami event. Eventually the March 11, 2011 Tsunami was declared both a State and Federal Emergency.

BACKGROUND:

The City of Morro Bay sustained approximately \$40,000 in damages from the March 11, 2011 Tsunami. This includes personnel overtime costs, costs associated with running the EOC and repair costs. The level of damages did not reach a level to qualify the City for Federal Emergency Management Act (FEMA) funding, but it does qualify the City to apply for disaster relief through the California Emergency Management Agency (Cal EMA).

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

The City was informed late on Friday May13, 2011 that an application form for Cal EMA's Disaster Relief would need to be received by the Cal EMA by Monday May 16, 2011. The application process also includes a "Designation of Applicant's Agent Resolution for Non-State Agencies" and a "List of Project" form that need to be turned in to be considered for Disaster Relief. Staff contacted personnel at Cal EMA and was informed that as long as the "Project Application California Disaster Assistance Act Program" form was completed and turned in on May 16, 2011 the other two documents could be turned in once the City adopted the Resolution authorizing "Designation of Applicant's Agent Resolution for Non-State Agencies" was executed. The "Designation of Applicants Agent Resolution" names by title City staff that can act on the City's behalf for Disaster Relief for either federal assistance under P.L. 93-288 and/or state assistance under the California Disaster Assistance Act. Following precedence based on past disaster relief applications the City Manager, or the City Finance Director, or the City Attorney will be designated as Authorized Agents for the Tsunami disaster relief application. Under the Cal EMA Disaster Relief program it is possible for agencies to receive up to 75% reimbursement of emergency related costs. Based on the City's costs this could result in approximately \$30,000 of reimbursement for costs related to the March 11, 2011 Tsunami.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 38-11 Authorizing Execution of the "Designation of Applicant's Agent Resolution for Non-State Agencies for the City's Application for the California Disaster Assistance Act Program, designating the City Manager, or the City Finance Director, or the City Attorney as the City's Authorized Agents.

RESOLUTION NO. 38-11

RESOLUTION AUTHORIZING EXECUTION OF THE "DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES" FOR THE CITY'S APPLICATION FOR CALIFORNIA DISASTER ASSISTANCE ACT PROGRAM

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

WHEREAS, the City of Morro Bay sustained damages from the March 11, 2011 Tsunami; and

WHEREAS, on March 15, 2011 the City Council adopted Resolution No. 21-11 declaring the existence of a local emergency; and

WHEREAS, on March 18, 2011 City staff met with FEMA and Cal EMA representatives to provide initial costs estimates and documentation of damages sustained within the City of Morro Bay as a result of the March 11, 2011 Tsunami; and

WHEREAS, Cal EMA notified agencies that disaster relief funding applications for the March 11, 2011 Tsunami would be accepted until May 16, 2011; and

WHEREAS, the Cal EMA application includes OES Form 130 "Designation of Applicant's Agent Resolution for Non-State Agencies". This form designates by title City staff that can act as the City's Authorized Agent on behalf of the City of Morro Bay to apply for the disaster relief financial assistance and to complete any necessary forms and paperwork required relating to the disaster relief request; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City Clerk is hereby authorized to execute the attached "Designation of Applicant's Agent Resolution for Non-State Agencies" (OES Form 130) Designating the City Manager or, The City Finance Director, or the City Attorney as the Applicant's authorized agents.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of May, 2011 on the following vote:

AYES:

NOES:

ABSENT:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



AGENDA NO: B-1

MEETING DATE: May 24, 2011

Staff Report

To: Honorable Mayor and City Council
From: Rob Schultz, City Attorney
Date: May 17, 2011
Subject: Review of Draft Sign Ordinance and Consideration of Adoption of Interim Urgency Ordinance Establishing Rules Regulating the Approval Process and Construction of Projecting Signs Pending Completion of Studies and the Preparation of an Update to the City's Zoning Code.

RECOMMENDATION

The City Council should review and discuss the draft Sign Ordinance, open the public hearing, and then adopt Interim Urgency Ordinance No. 568 which would establish interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's zoning code.

FISCAL IMPACT

The processing of this text amendment will require additional staff time associated with processing the amendment through the California Coastal Commission and the adoption of Interim Urgency Ordinance No. 568 will require more staff time to process projecting signs.

BACKGROUND

On April 12, 2010, City Council directed staff to bring forward a Sign Ordinance Amendment incorporating the Sign Ordinance drafted for the 2004 Zoning Ordinance and new A-frame sign regulations.

On December 13, 2010, City Council directed staff to place the Sign Ordinance as a high priority.

On April 26, 2011 City Council directed Staff to enforce the Sign Ordinance prohibiting A-frame signs.

Prepared By: R. Schultz

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

On May 10, 2011, the City Council was presented with the draft Sign Ordinances. No discussion occurred on that date and this item was continued to tonight's meeting. The Staff Report and draft Ordinance is not attached hereto, therefore Council and the public will need to refer back to Item D-1 of the previous Council agenda and packet which is also available on the City website at <http://www.morro-bay.ca.us/archives/37/05-10-11%20agenda%20and%20staff%20reports.pdf>

DISCUSSION

The Draft Sign Ordinance is fundamentally the same ordinance approved within the Comprehensive Zoning Ordinance Update 2004. There have been no substantive changes to the document including those recommended by the Planning Commission. Planning Commission recommendations are present in Attachment 11 to the previous Staff Report.

With Staff beginning to enforce the A-Frame Sign regulations, there have been discussions regarding allowing “Projecting Signs” (commonly referred to as “Pub” signs) to replace A-frame signs. Projecting signs are defined as “Signs under canopies or covers in conjunction with pedestrian walkways, or signs projecting from the building wall.” Under the City's current regulations, many of the businesses currently utilizing A-frame type signs may not be able to utilize projecting signs, since most commercial sites use the formula that allows one square foot of signage for every one foot of linear building frontage.

In order to elevate this issue, Staff recommends that you adopt Interim Urgency Ordinance No. 568 which would establish interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's zoning code.

The following are the highlights of the Urgency Ordinance:

The purpose of this ordinance is to allow for the issuance of sign permits for projecting signs. A projecting sign is a double-sided sign that projects perpendicular to the building facade and hangs from a mounted wall brace or from a ceiling of a balcony, arcade, or colonnade. They may also hang from a pole located in the front of the business. Projecting signs are primarily oriented towards pedestrians. The following standards shall apply to projecting signs:

1. The maximum area of a single projecting sign shall not exceed 4 square feet.
2. Projecting signs must maintain a minimum clearance of 8 feet above the public right-of-way or private sidewalk area.
3. Only one projecting sign is allowed per tenant space pursuant to the property owner's consent.
4. Multiple projecting signs shall not be installed within 10 feet of each other and shall be separated from projecting signs on adjacent properties by 10 feet to insure proper visibility.
5. The minimum horizontal clearance between a sign and the curb line shall be 2 feet.
6. No projecting sign shall extend above the roofline or parapet of the building or structure to which it is attached.

Government Code Section 65858 authorized a city to adopt, as an urgency measure, an interim ordinance that may be in conflict with a general plan, specific plan, or zoning proposal that a city is considering, without following the procedures otherwise required for the adoption of a zoning ordinance. Such an interim urgency measure requires a 4/5 vote of the city council for adoption. No notice or hearing is required for the initial adoption and the urgency ordinance is effective for a forty-five (45) day period. However, after notice and hearing, a council may extend such an interim urgency ordinance for ten (10) months and fifteen (15) days and, subsequently, it may further extend the interim urgency ordinance for an additional one-year period. All extensions require 4/5 vote for adoption.

CONCLUSION:

Please make certain you bring your agenda packet from the last meeting to the Council meeting. Staff has provided a full packet of information that went before the Planning Commission and the changes proposed by the Planning Commission for your review. In addition, Staff has provided some additional information on both A-frame signs and Projecting signs as proposed within the Draft Sign Ordinance as both of these have been highlighted in recent discussions.

Because both the current and the proposed ordinances limit the amount of signage each building and/or business can permanently affix to a building, a determination should be made if further changes need to be addressed to achieve the Council's goal as they pertain to Projecting signs. In anticipation that Council may want to increase limits on the amount of signage and allow projecting signs, Staff recommends that you adopt Interim Urgency Ordinance No. 568 which would establish interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's zoning code.

ORDINANCE NO. 568

**AN INTERIM URGENCY ORDINANCE
OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA
ESTABLISHING INTERIM RULES REGULATING
THE APPROVAL PROCESS AND CONSTRUCTION
OF PROJECTING SIGNS PENDING COMPLETION OF STUDIES
AND THE PREPARATION OF AN UPDATE TO THE
CITY'S ZONING CODE**

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

WHEREAS, the City of Morro Bay ("City") has adopted a Local Coastal Plan, Land Use Element and the Housing Element of the General Plan; and

WHEREAS, one of the primary goals in the City's Local Coastal Plan is to maintain "an aesthetically pleasing community that maintains the 'small town fishing village' image with new development that compliments existing development and does not detract from the natural environment; and

WHEREAS, the City's Sign Regulations are intended to protect and enhance the character of the community and its various neighborhoods and districts against visual blight; and

WHEREAS, on April 26, 2011, the City Council determined that a proliferation of A-frame signs in the City of Morro Bay have seriously detracted from the pleasure of observing the natural scenic beauty of Morro Bay and the human environment, and directed City Staff to enforce the sign regulations prohibiting A-frame signs, and temporary flags and banners; and

WHEREAS, the City Council finds and determines that the enforcement of the sign regulations prohibiting A-frame signs and temporary signs and banners may result in a hardship to businesses. In order to help businesses in tough times and allow businesses some relief during these hard economic times, the City Council finds and determines that it is necessary to implement interim regulations for projecting signs; and

WHEREAS, the City Council finds and determines that it is necessary to regulate the size, type and location of projecting signs to encourage the effective use of projecting signs as a means of communication and to provide equality and equity among sign owners and those who wish to use projecting signs; and

WHEREAS, in an effort to develop comprehensive, consistent and appropriate revisions to the City's zoning ordinance relating to signs, the City Council has already directed Staff to proceed with a comprehensive study (1) of the City's current zoning ordinance, and (2) as necessary, to prepare new standards and review process for signs; and

WHEREAS, pursuant to section 65858 of the California Government Code, the City Council may, in order to protect the public safety, health and welfare, adopt as an urgency measure an interim ordinance for contemplated modified development standards that the City Staff is studying. Therefore, it is necessary to establish on an interim basis the following:

NOW THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1. The purpose of this ordinance is to allow for the issuance of sign permits for projecting signs. A projecting sign is a double-sided sign that projects perpendicular to the building facade and hangs from a mounted wall brace or from the ceiling of a balcony, arcade, or colonnade. They may also hang from a pole located in the front of the business. Projecting signs are primarily oriented towards pedestrians. The following standards shall apply to projecting signs:

1. The maximum area of a single projecting sign shall not exceed 4 square feet.
2. Projecting signs must maintain a minimum clearance of 8 feet above the public right-of-way or private sidewalk area.
3. Only one projecting sign is allowed per tenant space pursuant to the property owner's consent.
4. Multiple projecting signs shall not be installed within 10 feet of each other and shall be separated from projecting signs on adjacent properties by 10 feet to insure proper visibility.
5. The minimum horizontal clearance between a sign and the curb line shall be 2 feet.
6. No projecting sign shall extend above the roofline or parapet of the building or structure to which it is attached.

SECTION 2. Notwithstanding any provision of the Morro Bay Municipal Code to the contrary, limits on the amount of signage each building and/or business can permanently affix to a building shall not apply to projection signs.

SECTION 3. Notwithstanding any provision of the Morro Bay Municipal Code to the contrary, no projecting sign shall be installed or constructed until a sign permit is obtained and issued by the City of Morro Bay.

SECTION 4. This Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Morro Bay by Government Code Sections 65858, 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council as if and to the same extent that such Ordinance had been adopted pursuant to each of the individual sections set forth herein.

SECTION 5. In adopting this Interim Urgency Ordinance, the City Council finds and determines that each of the recitals contained in this Ordinance are true and correct, and that the adoption of this Interim Urgency Ordinance is necessary to protect the public safety, health and welfare, as those terms are defined in Government Code Section 65858(a).

SECTION 6. This ordinance shall be of no further force and effect forty-five (45) days from the date of its adoption, unless prior to that date, after a public hearing, the City Council by 4/5 majority vote extends this interim ordinance.

SECTION 7. Any provision of the Morro Bay Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

SECTION 8. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

INTRODUCED at the regular meeting of the City Council held on the 24th day of May 2011, by motion of Councilmember _____ and seconded by Councilmember _____.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay on the 24th day of May, 2011 by the following vote to wit:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

ROBERT SCHULTZ, City Attorney



AGENDA NO: B-2

MEETING DATE: 5/24/2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** 5/24/2011
FROM: Joe Woods, Recreation and Parks Department
SUBJECT: Review and Adoption of a Revised Teen Center Master Plan

RECOMMENDATION:

Staff recommends the City Council review and discuss the proposed options for the Teen Center Master Plan and adopts either Option 5 or 6 based on public input and consensus.

FISCAL IMPACT:

The costs of the project, including design, will be included in the Prop 84 Grant application; however operation and maintenance cost will be an annual General Fund consideration.

SUMMARY:

The Master Planning process was started in 2004 with public workshops and concluded in 2006 with a City Council approved Concept Plan (Option 1). Recent workshops have been held to not only update the Master Plan, but also to fulfill Proposition 84 requirements for public input. Staff held three workshops at the Teen Center in late February 2011. The Recreation & Parks Commission (RPC) reviewed four resulting options and requested staff to develop additional options which combined two of the proposed. As a result, Options 5 and 6 are presented to City Council for consideration. At the conclusion of this process, staff will be submitting a grant application to the State Parks Department with the intent to obtain Proposition 84 funding.

Prepared By: _____

Dept Review: JMW

City Manager Review: _____

City Attorney Review: _____

BACKGROUND:

Recent public workshops were held in February 2011, to update the existing Master Plan and to fulfill the Grant requirements for Prop 84 funding. Summary results from those workshops are included for your review. The workshops began with the approved Master Plan of 2006 as a starting point. The first three workshops yielded four options which were presented to the Recreation and Parks Commission. Those four options are included for your review (Attachment A). The RPC held a special workshop on April 28, 2011 to discuss the four options and receive public input in order to form a consensus for Council's consideration. The results of workshop warranted the development of Options 5 and 6 and those are also attached for your review and consideration (Attachment B).

DISCUSSION:

The Teen Center Master Plan Options 5 and 6 both share similar components. Both options retain the existing Teen Center and parking lot. New elements which are included in both options are the Classroom, Skate Park, and Modular Skate Park. Option 5 has an amphitheater in the center of the site, and the multi-use court on the perimeter. Option 6 has combined the amphitheater and multi use court into an "amphi-court". The seating around the "amphi-court is tiered seating and double sided for viewing both the skate park and multi use court. Option 6 allows for an active play area with climbing rocks and interactive structures. This element will be designed for use by all ages.

CONCLUSION:

The Teen Center Master Plan has been in development and approved by City Council. Staff has held four public workshops to invite the community for input in updating the Master Plan. The workshops have been dynamic and worthwhile and have allowed for new ideas to surface and be discussed. Options 5 and 6 represent a collaborative effort within the community to draw a consensus of ideas on the development of our Morro Bay Teen Center.

TABLE 1 SUMMARY OF FEBRUARY 2011 WORKSHOP RESPONSES DESIRED FACILITIES/RECREATION - DOT EXERCISE							
ACTIVITY/USE	# OF DOTS WORKSHOP			ACTIVITY/USE	# OF DOTS WORKSHOP		
	#1*	#2*	#3*		#1*	#2*	#3*
Indoor gym for multi-use sports (not mentioned at 1st workshop)	0	31	3	Workshop (~400 s.f.) to build/repair surfboards, boats, skateboards (not mentioned at 1 st or 2 nd workshops)	0	0	3
Classroom/meeting room with kitchen	8	24	4	Bowling lanes	13	0	0
Skate Park	31	22	6	Turf Area	7	14	0
Keep & potentially expand Teen Center	20	22	4	Outside Picnic Area with Tables (not mentioned at 1st workshop) **	0	12	0
Amphitheater	23	15	4	Covered outdoor activity area	0	8	0
Modular Skate Park with BMX	28	14	5	Multi-use Court for basketball, tennis, roller hockey, etc. (outdoor)	10	0	0
Basketball court only (not multi-use courts)	6	0	0	Climbing wall	12	0	0
Playground oriented to teens***	19	0	3	Playground for tots	1	0	0
Outdoor kitchen with BBQ, Fire Pit, pizza oven, etc. (not mentioned at 1st workshop)	0	14	1	Outdoor Gym****	0	4	0
				Modular skate park without BMX	0	0	0

Notes: *At Workshops 1 & 2 each participant was given 10 dots to vote for their preferences. The 10 dots could be used on a single item or multiple items. At Workshop 3 each participant was given 5 dots to vote for a single item or multiple items.

** The outside picnic area would likely be combined with the outdoor kitchen and BBQ area.

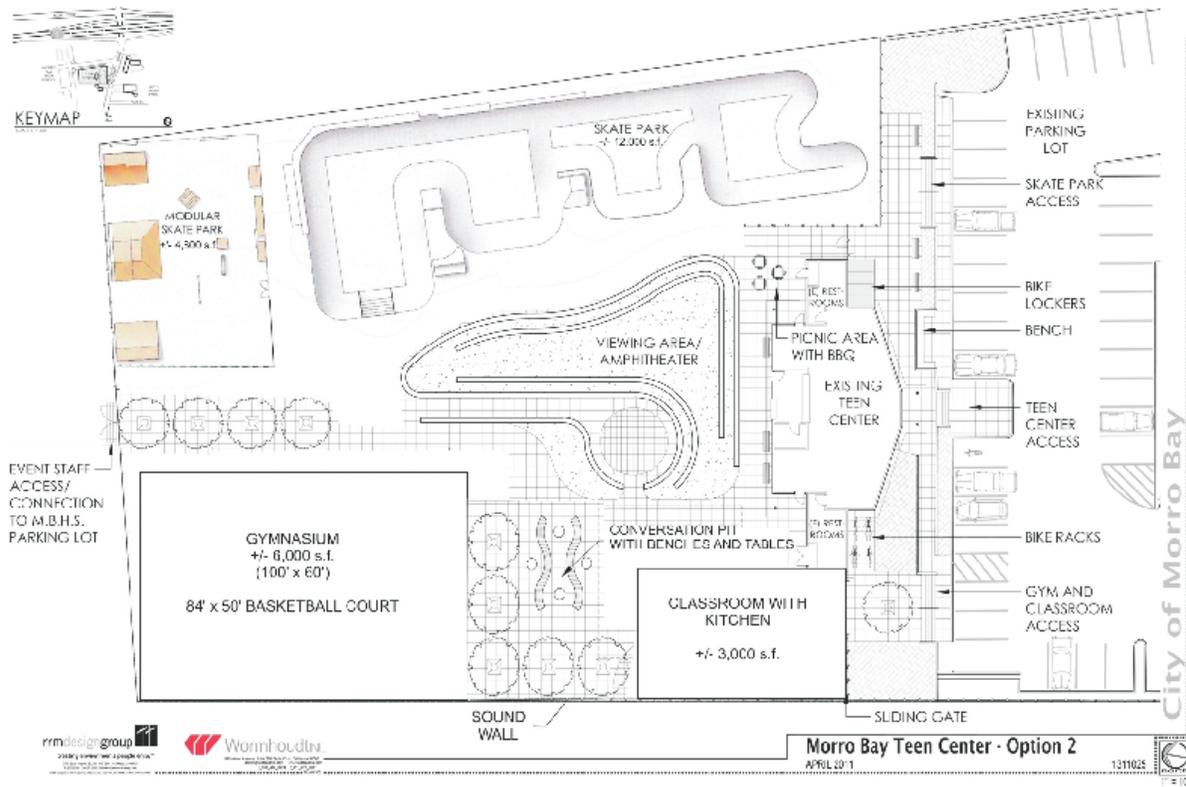
*** At the third meeting, suggestions for this playground included a climbing wall, a zip line, etc.

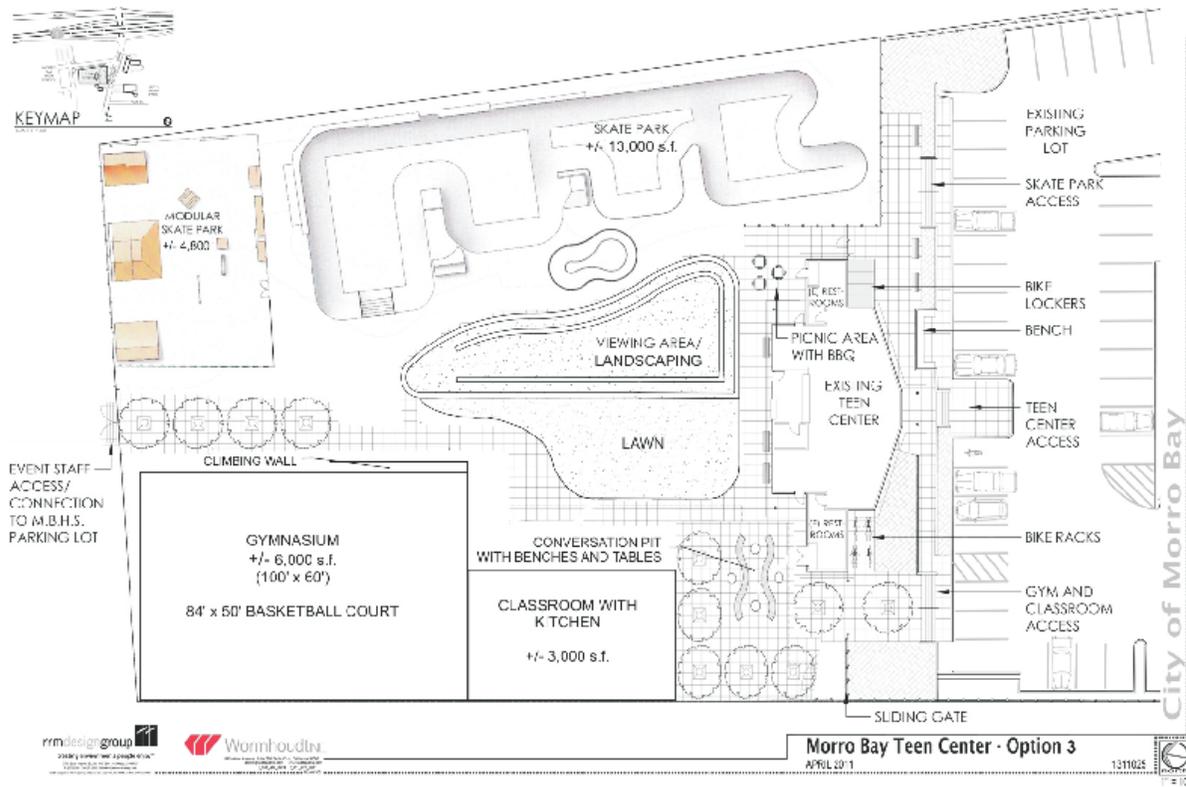
**** An outdoor gym would likely be the same as an outdoor multi-use court.

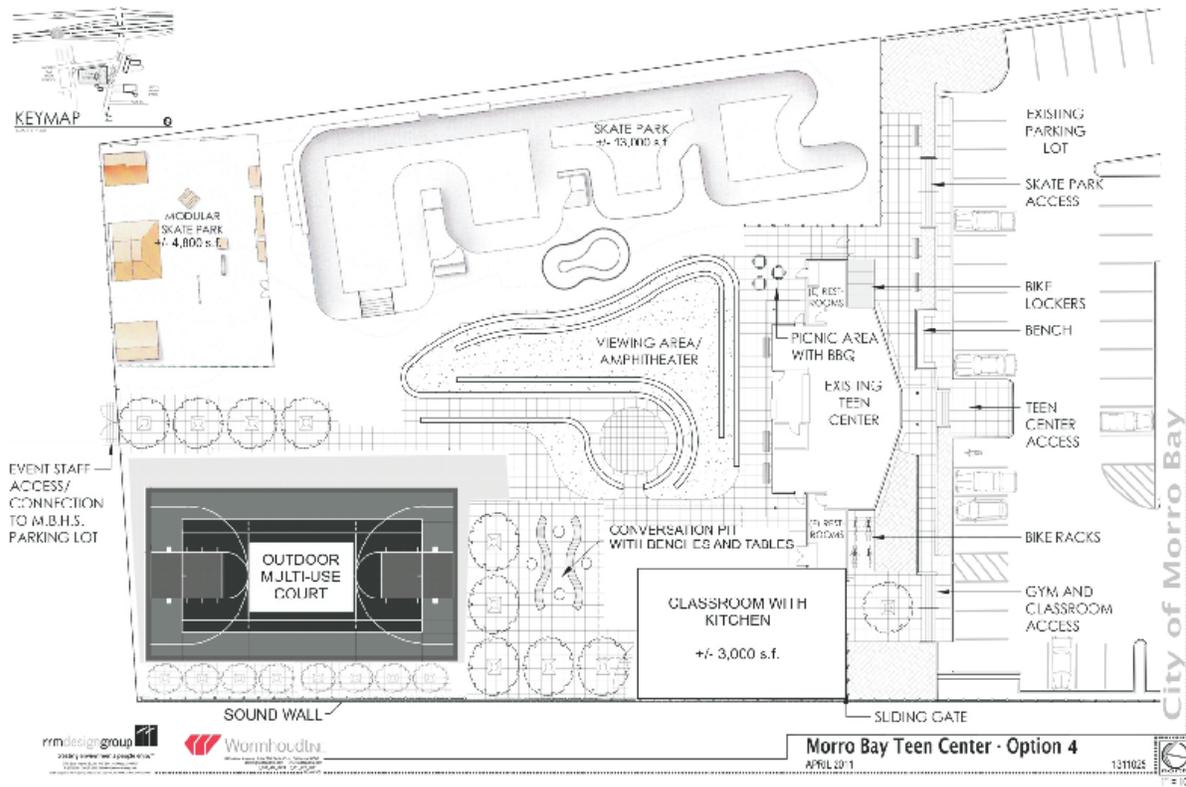
Table 2 Teen Center Master Plan Comparison of Options (Approximate Size)				
Components	Option 1	Option 2	Option 3	Option 4
Skate Park – Concrete	14,000 s.f.	12,000 s.f.	13,000 s.f.	13,000 s.f.
Skate Park – Modular (with BMX)	4,800 s.f.	4,800	4,800 s.f.	4,800
Basketball Court (only)	4,200 s.f.	No	No	No
Multi-Use Court (basketball, volleyball, etc.) (outdoor)	No	No	No	5,000 s.f.
Gymnasium	No	8,000 s.f.	8,000 s.f.	No
Classroom with Kitchen	No	3,000 s.f.	3,000 s.f.	3,000 s.f.
Classroom without Kitchen	2,000 s.f.	No	No	No
Amphitheater/Viewing Area	4,000 s.f.	5,000 s.f.	N/A	5,000 s.f.
Viewing and Landscaped Area (only)	No	No	5,000 s.f.	No
Picnic & BBQ Area	Yes	Yes	Yes	Yes
Landscape & Benches/Tables	No	Yes	Yes	Yes
Climbing Wall	No	No	Yes	No
Teen Center	Yes	Yes	Yes	Yes
Storage Area	recommended	recommended	recommended	recommended
Restrooms (additional and/or changes)	recommended	recommended	recommended	recommended

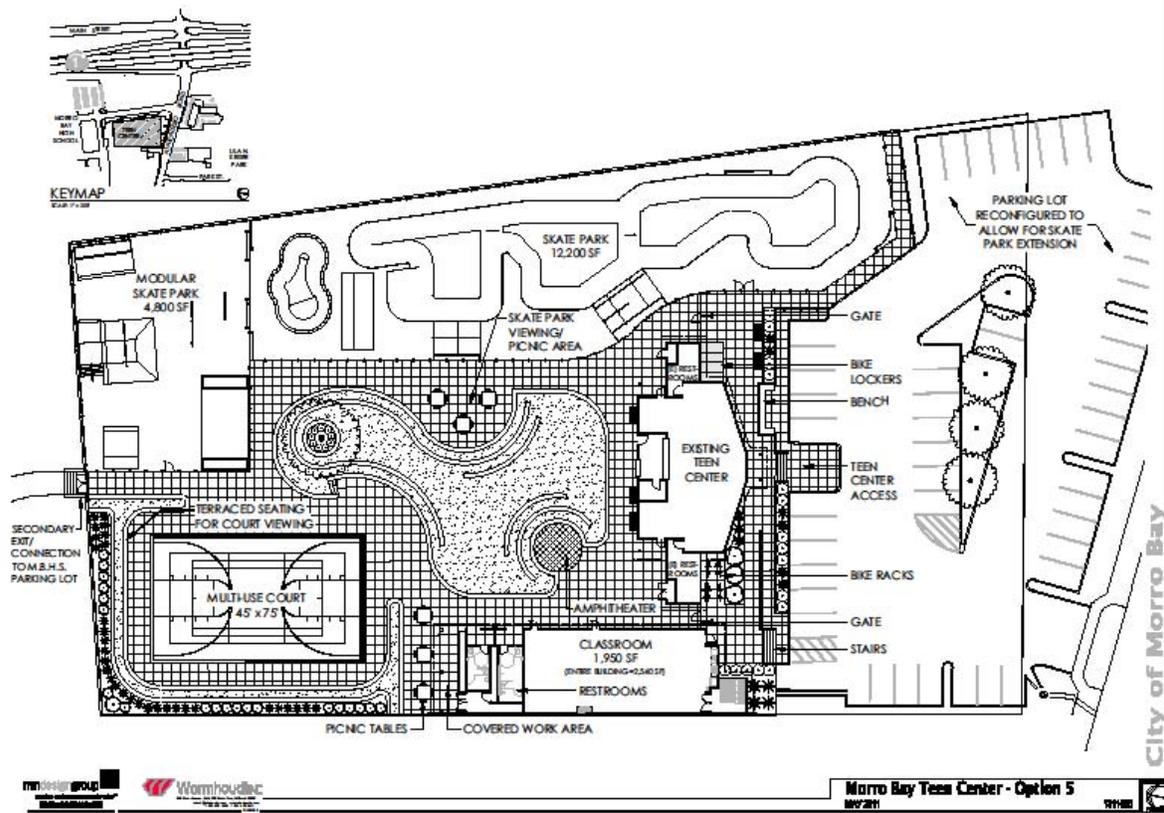
Attachment A

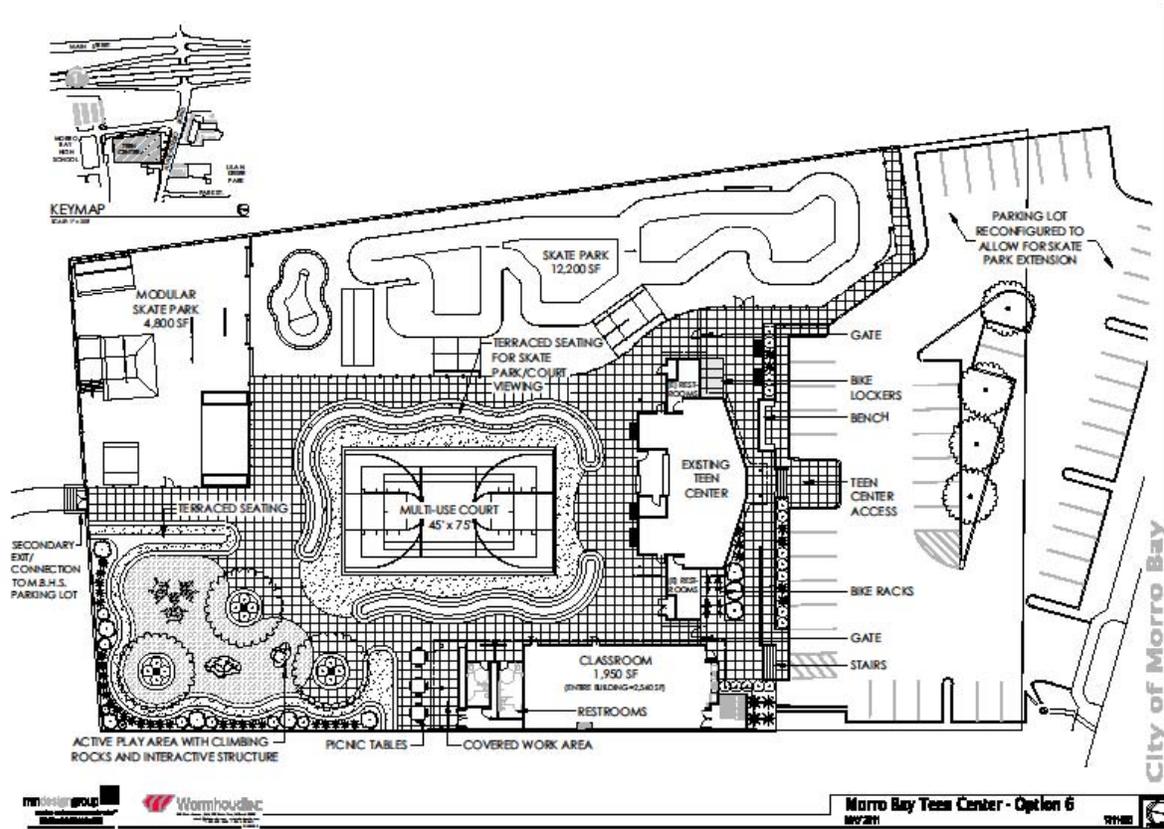














AGENDA NO: D-1

MEETING DATE: 05-24-11

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 17, 2011

FROM: Andrea K. Lueker, City Manager

SUBJECT: Resolution No. 36-11 Approving a Cooperation Agreement between the County of San Luis Obispo and the City of Morro Bay for Joint Participation in the Community Development Block Grant Program, the Emergency Solutions Grant Program, and the Housing Opportunities for Persons with Aids Program for Fiscal Years 2012-2014

RECOMMENDATION:

It is recommended the City Council approve Resolution No. 36-11.

FISCAL IMPACT:

Not applicable

DISCUSSION:

The City of Morro Bay has the opportunity to participate with other cities and the County of San Luis Obispo in qualifying as an "Urban County" for fiscal years ending 2012-2014. In order to proceed, the City prepared a letter of intent (attachment 1) and submitted that to the County prior to April 15, 2011. That letter of intent is then followed by the County preparing a Cooperation Agreement (attachment 2) which must then be approved by adoption of Resolution No. 36-11 in order for the City of Morro Bay to participate.

An Urban County receives annual, formal-based grants from the federal Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG), Home Investment Partnership Act (HOME) and Emergency Solutions Grants (ESG) programs. San Luis Obispo has been an Urban County since 1994 with current participating cities of Arroyo Grande, Atascadero, Grover Beach, Paso Robles and San Luis Obispo. Pismo Beach and Morro Bay did not participate as part of the Urban County program in the last 3-year cycle and applied for grant monies as independent cities.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

For the next 3-year cycle, staff's recommendation is that the City of Morro Bay join the Urban County rather than apply for funds as an individual city. This is recommended due to staff reallocations and budget reductions over the past few years. Staff believes this move will provide more funding overall to the City and its residents, than the City attempting to apply for funds as a individual City. If the City decides to become part of the Urban County, we will receive our CDBG allocation through the county. The estimated amount of the CDGB funding is \$87,000 - 100,000. Should the City of Morro Bay decide to end their participation in the Urban County program that could only occur at the end of a 3-year cycle.

Should the City participate in the 2012-2014 cycle, the County of San Luis Obispo will be lead agency for the Urban County. The County will perform most of the work in preparing the five-year consolidated plan, annual plans and the various federally required reports, conducting citizen participation efforts and providing training to City staff on federal CDBG requirements. City staff will still be responsible for some administration activities in order to comply with federal requirements, but the city will be able to use up to 20% of its CDBG allocation for those staff costs.

Staff has attached Resolution No. 36-11 which approves the Cooperation Agreement between the County of San Luis Obispo and the City of Morro Bay for participation. If the Resolution is adopted this evening, the Cooperation Agreement is tentatively scheduled to be presented to the County Board of Supervisors for their approval at their June 21, 2011 meeting.

RESOLUTION NO. 36-11

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA APPROVING A COOPERATION AGREEMENT BETWEEN
THE COUNTY OF SAN LUIS OBISPO AND THE CITY OF MORRO BAY
FOR JOINT PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM, THE EMERGENCY SOLUTIONS GRANT PROGRAM, AND THE HOUSING
OPPORTUNITIES FOR PERSONS
WITH AIDS (HOPWA) PROGRAM FOR FISCAL YEARS 2012-2014**

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

WHEREAS,; and the County of San Luis Obispo (“County”), a political subdivision of the State of California, and the City of Morro Bay (“City”) a municipal corporation, desire to participate in the Community Development Block Grant (CDBG) program administered by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, said program will promote the public health, safety and welfare by providing grant funds to be used by the City and County to improve housing opportunities for low and moderate-income households, to encourage economic reinvestment, to improve community facilities and public services, and to provide other housing-related facilities, or services; and

WHEREAS, the City desires to participate jointly with the County in said program; and

WHEREAS, HUD requires that the parties enter into a cooperation agreement to define their rights and obligations as a prerequisite of participation in the CDBG program; and

WHEREAS, the proposed cooperation agreement is consistent with the General Plan and with City and County policies encouraging cooperation between agencies on issues of regional significance such as affordable housing; and

WHEREAS, the proposed cooperation agreement will promote the public health, safety and welfare by enabling the City and County to participate in the U.S. Department of Housing and Urban Development’s CDBG program under an “urban county” entitlement; thus making available funds for a variety of housing, economic development, and public services programs not otherwise available; and

WHEREAS, the City and County enter into yearly subrecipient agreements which establish administrative policies and procedures, performance standards, and guidelines for funding specific CDBG programs and projects; and

WHEREAS, the proposed cooperation agreement is not a “project” for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the City’s CEQA Guidelines.

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

1. The City Council hereby approves and authorizes the Mayor to enter into a cooperation agreement with the County to enable joint participation in HUD’s CDBG program.
2. The City Manager or her designee is hereby authorized to act on behalf of the City in connection with the implementation of the agreement, ongoing operation of the CDBG program, and other activities necessary to carry out the intent of the cooperation agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of May, 2011 on the following vote:

AYES:

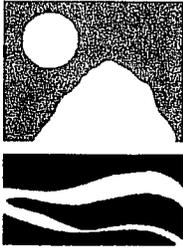
NOES:

ABSENT:

WILLIAM YATES, Mayor

ATTEST:

BRIDGETT KESSLING, City Clerk



City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

www.morro-bay.ca.us

April 14, 2011

Tony Navarro, Planner III
Department of Planning and Building
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Dear Mr. Navarro:

The City of Morro Bay thanks you for the opportunity to participate with other cities and the county in qualifying as an "Urban County" for fiscal years 2012-2014.

At this time the City of Morro Bay is submitting our intent to participate in the Urban County. However, this is contingent on our City Council approving the Cooperation Agreement that will be prepared and presented at a future Morro Bay City Council meeting.

As we discussed last week, I look forward to meeting with you prior to the Morro Bay City Council receiving and approving the agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea K. Lueker".

Andrea K. Lueker
City Manager

cc: Mayor and City Council
Public Services Director

u.w.letters.urban county accepts 5 2011

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPT.
715 Harbor Street

PUBLIC SERVICES
955 Shasta Avenue

HARBOR DEPT.
1275 Embarcadero Road

CITY ATTORNEY
955 Shasta Avenue

POLICE DEPT.
850 Morro Bay Boulevard

RECREATION & PARKS
1001 Kennedy Way

“Attachment 2”

A COOPERATION AGREEMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO AND THE CITY OF MORRO BAY FOR JOINT PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, THE HOME INVESTMENT PARTNERSHIPS PROGRAM, THE EMERGENCY SOLUTIONS GRANT PROGRAM, AND THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM FOR FISCAL YEARS 2012 THROUGH 2014

THIS AGREEMENT is made and entered into this _____ day of _____, 2011, by and between the County of San Luis Obispo, a political subdivision of the State of California, hereinafter called “County”; and the City of Morro Bay, a municipal corporation of the State of California, located in the County of San Luis Obispo, hereinafter called “City”; jointly referred to as “Parties.”

WITNESSETH

WHEREAS, in 1974, the U.S. Congress enacted and the President signed a law entitled, The Housing and Community Development Act of 1974, herein called the “Act”. Said Act is omnibus legislation relating to federal involvement in a wide range of housing and community development activities and contains eight separate titles; and

WHEREAS, Title I of the Act is entitled “Community Development” and governs programs for housing and community development within metropolitan cities and urban counties or communities by providing financial assistance annually for area-wide plans and for housing, public services and public works programs; and

WHEREAS, the Community Development Block Grant (CDBG) Program, the HOME Investment Partnerships (HOME) Program, the Emergency Solutions Grant (ESG) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program are consolidated under Title I of the Act; and

WHEREAS, the County of San Luis Obispo has requested of the federal Department of Housing and Urban Development, hereinafter referred to as “HUD”, that the County be designated as an “urban county”, and

WHEREAS, the County needs to requalify as an urban county and will be eligible to receive CDBG funds provided that the County’s entitled cities defer their entitlement to the County to enable both the County and the entitlement cities to jointly participate in the program; and

WHEREAS, the City desires to participate jointly with the County in said program; and

WHEREAS, if HUD redesignates the County as an urban county, the County may also be eligible to receive funds from the Home Investment Partnership Program (hereinafter referred to as “HOME”), the Emergency Solutions Program (hereinafter referred to as “ESG”), and the Housing Opportunities for Persons with Aids Program (hereinafter referred to as “HOPWA”); and

WHEREAS, the Community Development Block Grant Regulations issued pursuant to the Act provide that qualified urban counties must submit an application to the Department of Housing and Urban Development for funds, and that cities and smaller communities within the metropolitan area not qualifying as metropolitan cities may join the County in said application and thereby become a part of a more comprehensive county effort; and

WHEREAS, as the urban county applicant, the County must take responsibility and assume all obligations of an applicant under federal statues, including: the analysis of needs, the setting of objectives, the development of community development and housing assistance plans, the consolidated plan, and the assurances of certifications; and

WHEREAS, by executing this Agreement, the Parties hereby give notice of their intention to participate in the urban county CDBG, HOME, ESG, and HOPWA programs.

NOW THEREFORE, in consideration of the mutual promises, recitals and other provisions hereof, the Parties agree as follows:

SECTION I. General.

- A. **Responsible Officers.** The Director of the County of San Luis Obispo Department of Planning and Building (hereinafter referred to as “Director”) is hereby authorized to act as applicant for the CDBG, HOME, ESG, and HOPWA programs and to administer funding and activities under the programs. The City Manager is hereby authorized to act as the responsible officer of the City under the programs.
- B. **Full Cooperation.** Parties agree to fully cooperate and to assist each other in undertaking eligible grant programs or projects, including but not limited to community renewal and lower income housing assistance activities, specifically urban renewal and publicly-assisted housing; public services; and economic development.
- C. **Term of Agreement – Automatic Renewal Provision.** The term of this Agreement shall be for a period of three (3) years commencing July 1, 2012 through June 30, 2014. In addition, this Agreement provides for automatic renewal for participation in successive three-year qualification periods, unless the City provides written notice at least 60 days prior to the end of the term that it elects not to participate in a new qualification period. Before the end of the first

three-year term, the County will notify the City in writing of its right not to participate in the urban county for a successive three-year term.

The Parties agree to adopt amendments to this Agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice by HUD for a subsequent three-year urban county qualification period, prior to the subsequent three-year extension of the term. Any amendment to this Agreement shall be submitted to HUD as required by the regulations and any failure to adopt required amendments will void the automatic renewal of the Agreement for the relevant qualification period.

The Agreement remains in effect until the CDBG, HOME, ESG, and HOPWA program funds and income received with respect to the three-year qualification period, and the subsequent three-year renewals are expended and the funded activities are completed. The Parties may not terminate or withdraw from the Agreement while the Agreement remains in effect.

- D. **Scope of Agreement.** This Agreement covers the following formula funding programs administered by HUD where the County is awarded and accepts funding directly from HUD: the CDBG Entitlement Program, the HOME Program, the Emergency Solutions Grant (ESG) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program.

SECTION II. Preparation and Submittal of CDBG Funding Applications.

- A. **Inclusion of City as Applicant.** Parties agree that City shall be included in the application the County shall submit to the Department of Housing and Urban Development for Title I Housing and Community Development Block funds under the above recited Act.
- B. **Consolidated Plan.** City shall assist the County by preparing a community development plan, for the period of this Agreement, which identifies community development and housing needs, projects and programs for the City; and specifies both short and long-term City objectives, consistent with requirements of the Act. County agrees to: (1) include the City plan in the program application, and (2) include City's desired housing and community development objectives, policies, programs, projects and plans as submitted by City in the County's consolidated plan.
- C. **Application Submittal.** County agrees to commit sufficient resources to completing and submitting the Consolidated Plan and supporting documents to HUD in time for the Parties to be eligible to receive funding beginning July 1, 2012, and to hold public hearings as required to meet HUD requirements.
- D. **County Responsibility.** Parties agree that the County shall, as applicant, be responsible for holding public hearings and preparing and submitting the CDBG funding application and supporting materials in a timely and thorough

manner, as required by the Act and the federal regulations established by HUD to secure entitlement grant funding beginning July 1, 2012.

- E. **Grant Eligibility.** In executing this Agreement, the Parties understand that they shall not be eligible to apply for grants under the Small Cities or State CDBG Programs for appropriations for fiscal years during the period in which the Parties are participating in the urban county CDBG entitlement program; and further, the City shall not be eligible to participate in the HOME, ESG, or HOPWA programs except through the urban county.

SECTION III. Program Administration.

- A. **Program Authorization.** County Administrator is hereby authorized to carry out activities that will be funded from the annual CDBG, HOME, ESG, and HOPWA programs from fiscal years 2012, 2013, and 2014 appropriations and from any program income generated from the expenditure of such funds.
- B. **Responsibilities of Parties.** Parties agree that the County shall be the governmental entity required to execute any grant agreement received pursuant to the CDBG, HOME, ESG, and HOPWA applications, and the County shall thereby become legally liable and responsible thereunder for the proper performance of the plan and CDBG, HOME, ESG, and HOPWA under county programs. City agrees to act in good faith and with due diligence in performance of City obligations and responsibilities under this Agreement and under all subrecipient agreements. City further agrees that it shall fully cooperate with the County in all things required and appropriate to comply with the provisions of any Grant Agreement received by the County pursuant to the Act and its Regulations.
- C. **City Assistance.** City agrees to undertake, conduct, perform or assist the County in performing the essential community development and housing assistance activities identified in the City's community development plan. Pursuant to the Act and pursuant to 24 CFR 570.501(b), the City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement with the County as set forth in 24 CFR 570.503.

SECTION IV. Use of Program Funds.

- A. **Allocation of CDBG funds.** All funds received by County pursuant to this Agreement shall be identified and allocated, as described below, to the specific projects or activities set out in the application, and such allocated amounts shall be expended exclusively for such projects or activities; provided, however, that a different distribution may be made when required by HUD to comply with Title I of the Housing and Community Development Act of 1974, as amended.
 - 1) **Metropolitan Cities' Allocation.** Parties agree that County shall make available to City a total amount of CDBG funds equal to that which City

would have been entitled had it applied separately as a “metropolitan city”, using HUD allocation formulas as applied by County. No “administrative” fee or other fees will be deducted by the County to meet its obligations under the terms of this Agreement. Further, with respect to the availability of the funds, County agrees to fully cooperate and assist City in expending such funds.

- 2) **Non-Metropolitan Cities’ Allocation.** County agrees to allocate a portion of CDBG program funds to the non-Metropolitan, incorporated cities participating in the program. The amount of allocation per city shall be equal to that which the urban county formula award from HUD increases as a result of the HUD allocation formulas as applied by County.
- 3) **Special Urban Project Fund.** It is further agreed that County shall set aside a portion of CDBG funds as a Special Urban Projects Fund, available to all participating incorporated cities and the County on a competitive basis. Amount of the Fund shall equal fifteen (15) percent of the urban county formula CDBG funding after deducting the allocation for cities as described in paragraph 1 and 2 above. The Special Urban Projects Fund shall be awarded annually by the County Board of Supervisors, following criteria developed jointly by County and the cities participating in the program.
- 4) **County allocation.** City agrees that urban county formula CDBG funds remaining after deducting allocations for cities and the Special Urban Projects Fund comprise the County allocation.

- B. **Availability of Funds.** County agrees to make CDBG funds available to all participating incorporated cities when HUD makes the CDBG funds available to it. The County shall immediately notify the participating incorporated cities of the availability of the funds.

It is understood by the Parties hereto that the CDBG funds being used for the purposes of this Agreement are funds furnished to the County, through HUD pursuant to the provisions of the Act. Notwithstanding any other provision of this Contract, the liability of the County shall be limited to CDBG funds available for the Project. The City understands that the County must wait for release of CDBG funds from HUD before CDBG funds may be advanced or reimbursed. The County shall incur no liability to the City, its officers, agents, employees, suppliers, or contractors for any delay in making any such payments.

- C. **Administrative and Public Services Costs.** County hereby acknowledges that City, as subrecipient, incurs certain administrative costs in preparing housing and economic development plans, program planning, management and accounting, professional support services, and other reasonable and

necessary expenses to carry out City's plan; and further, County agrees that after the availability of CDBG program funds to City, County shall not use its remaining balance of funds in any way that would limit City's ability to use its CDBG funds to the maximum extent allowed by HUD for administrative, public service, or program purposes.

- D. **Income Generated.** City shall notify the County of any income generated by the expenditure of CDBG funds received by the City. Such program income may be retained by City subject to the provisions of this Agreement, the Act and its Regulations. Any program income retained must only be used for eligible activities in accordance with all CDBG requirements as they apply.
- E. **Use of Program Income.** County shall monitor the use of any program income, requiring appropriate record-keeping and reporting by the City as may be needed for this purpose, and shall report the use of such program income to HUD. In the event of close-out or change of status of the City, all program income on hand or received by the City subsequent to the close-out or change of status shall be paid to the County. In the event that the City withdraws from the urban county to become an entitlement grantee, as provided under 24 CFR 570.504, all program income on hand or received by the City from urban county activities shall be retained by the City to be used as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.
- F. **Change in Use of Property.** City shall notify the County of any modification or change in the use of real property acquired or improved in whole or in part using CDBG funds that is within the control of the City, from that use planned at the time of acquisition or improvement including disposition. Such notification shall be made within thirty (30) days of such change of use and comply with the provisions of 24 CFR 570.505.
- G. **Fair Housing Implementation.** Parties agree that no urban county funding shall be allocated or expended for activities in or in support of any cooperation unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certification.
- H. **Conflict Resolution.** In the event of disagreement between the County and the City as to the allocations, disbursement, use, or reimbursement of CDBG funds, the Parties agree to accept HUD's written determination as to the appropriate resolution or disposition of funds to the extent HUD is willing to resolve such disagreement.

SECTION V. Amendment or Extension of Agreement.

- A. **Subrecipient Agreement.** For each fiscal year during the term of this Agreement, County and City shall enter into a Subrecipient Agreement,

prepared jointly by County and City, which will list the project(s) City will undertake with its CDBG entitlement funds during that program year. Said Subrecipient Agreement will set forth the project changes, time schedule for completion of the project(s), and additional funding sources, if any. If substantial compliance with the completion schedule cannot be met by the City due to unforeseen or uncontrollable circumstances, the County may extend the schedule for project completion, as allowed by federal regulations.

- B. **Amendments.** Any amendments to the Agreement shall be in writing. Parties agree that any such fully executed amendment or amendments to this Agreement may be entered into at any time if required or necessary to implement the plans contemplated hereunder, or to comply with any grant agreement or the regulations issued pursuant to the Act.

SECTION VI. Compliance with Federal Regulations.

- A. **General.** Parties agree to take all actions necessary to comply with the urban county's certifications required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974; the National Environmental Policy Act of 1969; the Uniform Relocation Assistance and Real Property Acquisition Act of 1970; and other applicable laws.
- B. **Citizen Participation.** Parties agree to comply with federal citizen participation requirements of 24 CFR Part 91, and provide citizens with:
- 1) An estimate of the amount of CDBG funds proposed to be used for activities that will benefit persons of low and moderate income; and
 - 2) A plan for minimizing displacement of persons as a result of CDBG-assisted activities and programs, and to provide assistance to such persons.
- C. **Citizen Participation Plan.** Parties agree to follow a citizen participation plan which:
- 1) Provide for and encourages citizen participation, particularly those of low or moderate income who reside in slum or blighted areas where CDBG funds are proposed to be used;
 - 2) Provide citizens with reasonable and timely access to local meetings, staff reports, and other information relating to grantee's proposed use of funds, as required by HUD regulations related to the actual use of funds under the Act;
 - 3) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development

program, including at least: 1) formulation of needs; 2) review of proposed grant activities; and 3) review of program performance; for which public hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation of handicapped persons;

- 4) Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;
- 5) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
- 6) Identifies the use of non-traditional methods of community outreach, including the provision of CDBG documents in a user-friendly format, including but not limited to Braille, large print, oral format, and delivering copies to homebound individuals.

D. Parties hereby certify, to the best of their knowledge and belief, that:

- 1) **Conflict of Interest.** No federal grant monies have been paid or will be paid, by or on behalf of the Parties, to any officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.
- 2) **Influence.** If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) **Certifications Disclosure.** Parties agree to include this certification in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), and that all grant subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into.

E. Certification Regarding Policies Prohibiting Use of Excessive Force and Regarding Enforcement of State and Local Laws Barring Entrances.

In accordance with Section 519 Public Law 101-144 (the 1990 HUD Appropriations Act), the City certifies that it has adopted and is enforcing.

- 1) A policy prohibiting the use of excessive force by law enforcement agencies within their respective jurisdictions against any individuals engaged in non-violent civil rights demonstrations; and
- 2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within their jurisdictions.

SECTION VII. Execution of Agreement and Recordkeeping.

- A. **HUD Certification.** The Director is hereby authorized to execute and submit to the County the HUD Certification Form with respect to the community development activities carried out within the boundaries of the City. It is further understood that the County will rely upon the certification executed by the Director for purposes of executing a certification form for submission to HUD.
- B. **Maintenance of Records.** City shall maintain records of activities for any projects undertaken pursuant to the program, and said records shall be open and available for inspection by auditors assigned by HUD and /or County on reasonable notice during the normal business hours of the City.

NOW, THEREFORE, the Parties hereto have caused this Cooperation Agreement to be executed and attested by their proper officer thereunder duly authorized, and their official seals to be hereunto affixed, all as of the day first above written.

County Counsel Certification

The Office of the County Counsel hereby certifies that the terms and provisions of this Agreement are fully authorized under State and local laws, and that the Agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing.

By: _____
Whitney McDonald, Deputy County Counsel

Date: _____

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

Date: _____

ATTEST:

Julie Rodewald, County Clerk

Date: _____

NOW, THEREFORE, the Parties hereto have caused this Cooperation Agreement to be executed and attested by their proper officer therunder duly authorized, and their official seals to be hereunto affixed, all as of the day first above written.

CITY OF MORRO BAY

WILLIAM YATES, MAYOR

Date: _____

ATTEST:

BRIDGETT KESSLING, CITY CLERK

Date: _____
APPROVED AS TO CONTENT:

ANDREA K. LUEKER, CITY MANAGER

Date: _____

APPROVED AS TO FORM:

ROBERT SCHULTZ, CITY ATTORNEY

Date: _____