



CITY OF MORRO BAY

CITY COUNCIL

REVISED AGENDA

*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, January 24, 2017

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
RECOGNITION
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
PRESENTATIONS

PUBLIC COMMENT PERIOD

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

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 city of residence 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.

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FROM THE JANUARY 10, 2017 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FROM THE JANUARY 10, 2017 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FROM THE JANUARY 11, 2017 SPECIAL CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 ADOPTION OF RESOLUTION NO. 03-17 AUTHORIZING SUBMISSION OF RURAL TRANSIT FUND GRANT APPLICATION AND EXECUTION OF RELATED DOCUMENTS UPON AWARD; (PUBLIC WORKS)

RECOMMENDATION: Council adopt Resolution No. 03-17 authorizing submission of Rural Transit Fund Grant Application and execution of related documents upon award.

A-5 RECEIVE AND APPROVE THE ANNUAL CONTRACT AUTHORIZATION FOR PROGRAM MANAGEMENT SERVICES FOR THE WATER RECLAMATION FACILITY AS CONTEMPLATED BY THE AGREEMENT BETWEEN THE CITY AND MICHAEL K. NUNLEY & ASSOCIATES, INC.; (PUBLIC WORKS)

RECOMMENDATION: Council approve the annual contract authorization for Program Management Services for the Water Reclamation Facility (WRF).

A-6 APPROVE THE PROPOSED PARTNERSHIP AGREEMENT WITH THE COMMUNITY FOUNDATION OF ESTERO BAY; (DEPUTY CITY MANAGER)

RECOMMENDATION: Council approve the partnership agreement with the Community Foundation of Estero Bay (CFEB).

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 SUMMARY AND IMPACT OF VARIOUS RELEVANT NOVEMBER 2016 BALLOT MEASURES PASSED BY VOTERS AND COUNCIL DIRECTION FOR FURTHER ACTION; (CITY ATTORNEY)

RECOMMENDATION: Council review this report and provide direction as to whether the Staff and City Attorney should return to the Council with appropriate ordinances and Morro Bay Municipal Code amendments addressing either or both of the following:

- **Imposition of a fee to cover costs associated with removal and storage of certain firearms required by the new regulations on ammunition purchases**
- **Imposition of civil penalties on persons or entities violating the ban on single-use carryout grocery bags**

C-2 ADOPT THE CENTENNIAL PARKWAY CONCEPT PLAN AND PROVIDE DIRECTION REGARDING THE PREFERRED TRAFFIC PATTERN FOR THE EMBARCADERO SIDEWALK WIDENING DRAFT CONCEPT PLAN; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council review the staff report and associated materials, receive the presentation and adopt the Draft Centennial Parkway Concept Plan.

C-3 SUMMARY OF PROPOSITION 64 AND DIRECTION FROM COUNCIL FOR FURTHER ACTION; (CITY ATTORNEY/DEPUTY CITY MANAGER)

RECOMMENDATION: Council review this report and provide direction as to what type of public outreach process the Council desires for discussing potential City actions regarding marijuana cultivation and dispensing in Morro Bay and input whether the City should:

- 1) regulate the personal cultivation of nonmedical marijuana indoors,
- 2) regulate or ban the personal cultivation of nonmedical marijuana outdoors,
- 3) regulate nonmedical marijuana businesses,
- 4) update current land use regulations for nonmedical and medical marijuana operations,
- 5) impose local taxes on marijuana within the parameters of Proposition 218, and
- 6) revise existing restrictions regarding medical marijuana cultivation and store-front and mobile dispensing.

C-4 COUNCIL MEMBER OUTREACH AND STAFF SUPPORT DISCUSSION AND DIRECTION; (CITY MANAGER/CITY ATTORNEY)

RECOMMENDATION: Council discuss Council Member Makowetski's request for Council input regarding various aspects of Council Member outreach and engagement with the community when accompanied by staff and other possible City resourcing support, and provide staff general or specific direction.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

There will be a Special Closed Session Meeting on **January 25, 2017 at 3:30 p.m.** The next Regular Meeting will be held on **Tuesday, February 14, 2017 at 6:00 p.m.** at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

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 772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

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

This Page Intentionally Left Blank

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – JANUARY 10, 2017
VETERANS MEMORIAL HALL
209 SURF STREET – 3:30 P.M.

AGENDA NO: A-1
MEETING DATE: January 24, 2017

PRESENT:	Jamie Irons Robert Davis John Headding Matt Makowetski Marlys McPherson	Mayor Councilmember Councilmember Councilmember Councilmember
STAFF:	Dave Buckingham Joe Pannone Dana Swanson Ikani Taumoepeau Craig Schmollinger Rob Livick Scot Graham Larry Todd Jody Cox Steve Knuckles	City Manager City Attorney City Clerk Deputy City Manager Finance Director Public Works Director Community Development Director Interim Police Chief Police Commander Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER
Mayor Irons established a quorum and called the meeting to order at 3:32 p.m. with all members present.

PUBLIC COMMENT
<https://youtu.be/ANa8g0WWg1Q?t=1m25s>

Marvin Sosna, Morro Bay, asked the Council to improve streets in north Morro Bay, adding the streets are crumbling, there are no sidewalks, and it cannot be fixed with patches.

The public comment period was closed.

SPECIAL MEETING AGENDA ITEM:

- I. STUDY SESSION TO DISCUSS FISCAL YEAR 17/18 PROGRAM OBJECTIVES ASSOCIATED WITH THE ADOPTED CITY GOALS
<https://youtu.be/ANa8g0WWg1Q?t=5m>

City Manager Buckingham presented the staff report and responded to Council inquiries. (Click [here](#) for PowerPoint presentation).

Following the presentation, each Councilmember provided feedback. There was consensus on the following items:

- Reduce the number of goals and establish priorities
- Reduce the number of objectives
- Provide a short description underneath each goal to clarify intent
- Start with essential tasks then develop a method to prioritize items to be added to the list, rather than including all items and deciding which should be removed
- Conduct a Saturday or evening workshop for increased public participation
- Water Reclamation Facility and General Plan Update remain top priorities
- Revenue enhancement / fiscal sustainability is a goal

- Other areas of infrastructure remain a goal – water and public spaces (including streets)
- Once finalized, community input is needed to prioritize objectives to help drive the budget process.

The Public Comment period was reopened.

<https://youtu.be/ANa8g0WWg1Q?t=1h43m38s>

Carole Truesdale, Morro Bay, complimented Morro Bay Police and Fire Departments and stated public safety is important.

Marvin Sosna, Morro Bay, encouraged the Council to inform the public about the financial situation the City faces.

Cindy Betonte, Morro Bay, was disappointed by the amount of citizen input received so far and suggested residents might appreciate being anonymous. She liked the idea of a Saturday workshop and requested clarification of long-term versus short-term goals.

Tom Harrington, Morro Bay, appreciated reducing the number of goals to six. He suggested public outreach to explain the need for revenue enhancement and cutting wish lists. He also encouraged marketing the goals process a more interesting way.

Erica Crawford, Morro Bay Chamber of Commerce, noted one of the current objectives was to identify commercial spaces available to bring in sales tax revenue generating businesses.

Ric Deschler, Morro Bay, agreed with reducing the number of goals from previous years and supports a ½-cent sales tax ballot measure.

Ed Boyce, Morro Bay, asked what progress has been made on the 10 City goals.

Lynda Merrill, Morro Bay, appreciated the Council review of proposed goals and objectives to determine what is and isn't feasible.

The Public Comment period was closed.

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

Council closing comments affirmed the desire to have a Goals workshop, possibly on a Saturday, to allow the community to prioritize goals and objectives, and begin educating the community about the fiscal challenges ahead.

ADJOURNMENT

The meeting adjourned at 5:35 p.m.

Recorded by:

Dana Swanson
City Clerk

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Councilmember
	John Heading	Councilmember
	Matt Makowetski	Councilmember
	Marlys McPherson	Councilmember
STAFF:	Dave Buckingham	City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Ikani Taumoepeau	Deputy City Manager
	Craig Schmollinger	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Larry Todd	Interim Police Chief
	Jody Cox	Police Commander
	Steve Knuckles	Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 6:02 p.m., with all members present.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION - None

PRESENTATIONS – Bird Festival Proclamation

<https://youtu.be/KQuGxUeNUZw?t=2m>

The Council presented a Proclamation declaring January 2017 Bird Festival Month to Chris Cameron, Co-Chair of the Winter Bird Festival.

CLOSED SESSION REPORT – No Closed Session Meeting was held.

MAYOR AND COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC COMMENT

<https://youtu.be/KQuGxUeNUZw?t=23m28s>

Erica Crawford, Morro Bay Chamber of Commerce, invited the community to attend the Chamber Installation Dinner to be held on Friday, January 20, at the Morro Bay Community Center.

Madeline Moore expressed concern about misinformation surrounding a New Year's Eve event, and other issues related to the operation of her lease site.

Bob Keller, Morro Bay, welcomed reelected Mayor Irons and newly elected Councilmembers McPherson and Davis, and looks forward to working together on important planning goals and the Water Reclamation Facility.

Dan Costley, Morro Bay resident and current President of Morro Bay Rotary Club, thanked the community, City Councilmembers, and City staff for their participation and support of this year's Lighted Boat Parade.

The public comment period was closed.

A. CONSENT AGENDA
<https://youtu.be/KQuGxUeNUZw?t=34m3s>

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

A-1 APPROVAL OF MINUTES FROM THE DECEMBER 12, 2016 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FROM THE DECEMBER 13, 2016 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FROM THE DECEMBER 13, 2016 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPOINTMENT OF MAYOR PRO TEMPORE AND APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (MAYOR)

RECOMMENDATION: Council affirm the appointment of Councilmember John Heading as Mayor Pro Tempore as well as the appointment of Representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2017.

A-5 AUTHORIZATION FOR ATTENDANCE AT THE CALIFORNIA MARINE AFFAIRS AND NAVIGATION CONFERENCE (C-MANC) ANNUAL WASHINGTON D.C., "WASHINGTON WEEK" MEETINGS; (HARBOR)

RECOMMENDATION: Council approve authorization for a three-person delegation (the Mayor, City Manager and Harbor Director) to attend the California Marine Affairs and Navigation Conference (C-MANC) 2017 "Washington Week" meetings in Washington, D.C.

A-6 ADOPTION OF RESOLUTION NO. 01-17 AMENDING THE COUNCIL POLICIES AND PROCEDURES TO ALLOW FOR EXCEPTIONS TO THE AGE REQUIREMENT FOR ADVISORY BOARD MEMBERS, ADOPTION OF RESOLUTION NO. 02-17 AMENDING THE ADVISORY BOARD BY-LAWS REGARDING QUALIFICATION, AND AFFIRMATION OF APPOINTMENT TO THE RECREATION AND PARKS COMMISSION; (ADMINISTRATION)

RECOMMENDATION: Council adopt Resolution No. 01-17 amending the Council Policies and Procedures to allow for exceptions to the age requirement for Advisory Board Members; and, adopt Resolution No. 02-17 amending the Advisory Board By-Laws for the Recreation & Parks Commission regarding qualifications. With the adoption of those policy changes, the Council can affirm its December 13, 2016, appointment of Michelle Morosin, a Morro Bay High School student to the Recreation and Parks Commission.

A-7 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR THE PROJECT NO. MB2016-MA01: HEATING VENTILATION AIR CONDITIONING (HVAC) UPGRADE; (PUBLIC WORKS)

RECOMMENDATION: Council authorize staff to file the Notice of Completion of the project MB2016-MA01: HVAC Upgrade.

A-8 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR THE PROJECT NO. MB2016-MA04: SOLAR PHOTOVOLTAIC INSTALLATION PROJECT; (PUBLIC WORKS)

RECOMMENDATION: Council authorize staff to file the Notice of Completion of the project MB2016-MA04: Solar Photovoltaic Installation.

A-9 PROCLAMATION DECLARING JANUARY 2017 AS MORRO BAY WINTER BIRD FESTIVAL MONTH; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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

Councilmember Makowetski pulled Items A-7 and A-8. Councilmember Davis pulled Item A-6.

MOTION: Councilmember Heading moved the Council approve Items A-1 through A-5 and A-9 on the Consent Agenda. The motion was seconded by Councilmember McPherson and carried unanimously, 5-0.

A-6 ADOPTION OF RESOLUTION NO. 01-17 AMENDING THE COUNCIL POLICIES AND PROCEDURES TO ALLOW FOR EXCEPTIONS TO THE AGE REQUIREMENT FOR ADVISORY BOARD MEMBERS, ADOPTION OF RESOLUTION NO. 02-17 AMENDING THE ADVISORY BOARD BY-LAWS REGARDING QUALIFICATION, AND AFFIRMATION OF APPOINTMENT TO THE RECREATION AND PARKS COMMISSION; (ADMINISTRATION)
<https://youtu.be/KQuGxUeNUZw?t=35m18s>

MOTION: Councilmember Davis supports this item and moved the Council direct staff to make the same amendment for other advisory bodies, allowing one member to be under the age of 18 and not necessarily a Morro Bay resident, to encourage high school student participation on all advisory boards. The motion was seconded by Councilmember Makowetski.

Councilmember Heading was in favor of having a high school student participate on the Recreation & Parks Commission, but generally concerned about having the requisite skills and competence needed for other advisory boards. Councilmember McPherson agreed and suggested further amendments be considered at such time a student expresses interest.

The motion failed 2-3 with Mayor Irons, Councilmember Headding and Councilmember McPherson voting no.

A-7 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR THE PROJECT NO. MB2016-MA01: HEATING VENTILATION AIR CONDITIONING (HVAC) UPGRADE; (PUBLIC WORKS)

A-8 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR THE PROJECT NO. MB2016-MA04: SOLAR PHOTOVOLTAIC INSTALLATION PROJECT; (PUBLIC WORKS)
<https://youtu.be/KQuGxUeNUZw?t=40m5s>

Councilmember Makowetski pulled Items A-7 and A-8 to highlight the energy savings projects recently completed on various City buildings. These projects were funded by a Department of Energy low interest loan to be paid back with energy savings.

MOTION: Councilmember McPherson moved the Council approve Items A-6, A-7 and A-8. The motion was seconded by Councilmember Makowetski and carried unanimously, 5-0.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 DISCUSSION OF SUPPLEMENTAL COMPENSATION INFORMATION TO GO ALONG WITH RESULTS FROM THE SALARY SURVEY CONDUCTED BY KOFF & ASSOCIATES, AND CONSIDERATION OF COMPENSATION POLICY EXAMPLES; (FINANCE)
<https://youtu.be/KQuGxUeNUZw?t=42m47s>

Finance Director Schmollinger presented the staff report and, along with City Manager Buckingham, responded to Council inquiries.

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

The Council expressed concern about developing a policy based on insufficient data and, in the absence of a significant problem regarding turnover or recruitment, there was consensus to not develop a compensation policy at this time. Any future policy would require further external study that includes more cities of similar size and similar ability to pay. There was a desire to have competitive and fair compensation to facilitate recruitment and retention and to consider a philosophical statement on how to compensate, treat and respect City employees.

MOTION: Councilmember Headding moved the Council receive and file this report for information, direct staff to provide Council with an annual report on turnover rate both organizationally and by department, inform Council of difficult recruitment issues, and bring to Council a potential philosophical statement as an example of something that could be adopted that is not prescriptive. The motion was seconded by Councilmember McPherson and carried unanimously, 5-0.

MOTION: Councilmember Headding moved the Council direct staff to bring back discussion of the compensation philosophy in 90 days. The motion was seconded by Councilmember McPherson for discussion.

Staff recommended the Council not discuss compensation philosophy during employee negotiations.

Councilmember Headding withdrew his motion. Councilmember McPherson withdrew the second.

MOTION: Councilmember Headding moved the Council direct staff to bring discussion of a compensation philosophy to Council in no less than 180 days. The motion was seconded by Councilmember McPherson and carried unanimously, 5-0.

The Council took a short recess at 8:20 p.m. The meeting reconvened at 8:27 p.m.

C-2 STREETS FUNDING DISCUSSION; (CITY MANAGER)
<https://youtu.be/KQuGxUeNUZw?t=2h19m17s>

Mr. Buckingham presented the staff report and responded to Council inquiries.

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

Bob Keller, Morro Bay, recommended the City focus on the Water Reclamation Facility project as the top priority and not consider a special election at this time. He urged the Council to consider other alternatives to raise money for streets.

Larry Truesdale, Morro Bay, wants to see streets improved and suggested we not wait for the County to take action.

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

Following discussion, there was Council consensus to not pursue a street funding measure in 2017, but to focus efforts on the Prop 218 process related to the Water Reclamation Facility. Discussion of a sales tax measure with a sunset provision may be considered for the 2018 general election. Mayor Irons suggested mirroring the SLOCOG approach to ensure a detailed spending plan is in place that can be clearly communicated to the public.

Councilmember McPherson noted the Public Works Advisory Board recently voted 6-0 to recommend the Council consider as part of its FY 17/18 goals, a cost/benefit analysis of various ways to set money aside for streets, including establishing parking fees in the downtown area, neighborhood street improvement funds, allocating a portion of transient occupancy taxes to a dedicated street improvement fund, or allocating any excess General Fund Emergency Reserve to streets.

MOTION: Councilmember Headding moved the Council remain focused on fixing streets and direct staff to pursue financing alternatives no earlier than November 2018. The motion was seconded by Mayor Irons and carried unanimously, 5-0.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
<https://youtu.be/KQuGxUeNUZw?t=3h42m36s>

Mayor Irons requested a consent item that would provide an update and review of ballot initiatives passed in 2016. There was full support for this item.

Councilmember Makowetski requested discussion of public outreach effort ("Trolley Town Hall") where one or two Councilmembers would visit different parts of the city in weeks between Council meetings to conduct small neighborhood meetings. Discussion to include Councilmember

participation, appropriate levels of staff and logistical support, use of City facilities and timing. There was full support for this item.

Mayor Irons requested review and further discussion of the City's Strategic Planning Framework. Councilmembers McPherson, Makowetski and Davis supported the item.

E. ADJOURNMENT

The meeting adjourned at 10:01 p.m. The next Regular Meeting will be held on Tuesday, January 24, 2017 at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk

RECONVENE IN OPEN SESSION - The City Council reconvened in Open Session. The Council did not take any reportable action pursuant to the Brown act.

ADJOURNMENT

The meeting adjourned at 5:19 p.m.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-4

MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: January 6, 2017

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Adoption of Resolution No. 03-17 Authorizing Submission of Rural Transit Fund Grant Application and Execution of Related Documents Upon Award

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 03-17 authorizing submission of Rural Transit Fund Grant Application and execution of related documents upon award.

ALTERNATIVES

There is no alternative to not apply for the grant, as this is the City's funding source for replacing transit vehicles once they are beyond the Federal Transit Administration's (FTA) useful life criteria.

FISCAL IMPACT

There is no fiscal impact to the City's General Fund as the total estimated cost for the project is \$210,000 and would be paid for with RTF grant funds, Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) grant funds, and Local Transportation Funds (LTF).

SUMMARY

On December 5, 2002, the San Luis Obispo Council of Governments (SLOCOG) adopted Resolution No. 02-16 to create a RTF program designed to streamline the lengthy federal process of applying for, receiving and using Federal Transportation Administration Section 5311 funds. Those funds are used rural transit agency projects by programming the region's share of Section 5311 funds to the Regional Transit Authority (RTA) for operations and exchanging it with a like amount of State Transportation Development Act (TDA) funds, programmed through SLOCOG.

Program policies and procedures that would govern the RTF program were developed to preserve the intent of the Section 5311 program in terms of whom and what projects would be eligible for funds. The SLOCOG Board adopted the policies and procedures in October 2003.

The City of Morro Bay is an eligible recipient to apply for those funds. Approximately \$438,000 is available for competitive distribution for the FY 2017/2018 cycle. Applications are due February 9.

DISCUSSION

The City intends to submit an application for the RTF FY 2017/2018 cycle for the purchase of a trolley vehicle to replace an existing one that is beyond the Federal Transit Administration useful life criteria. The estimated project cost is \$210,000, of which \$184,800 will be requested from the RTF FY 2017/2018 funding cycle and the remaining \$25,200 for the City's local match will come from a combination of a PTMISEA grant (\$5,737) and Unreserved LTF funds (\$19,463 – of which, \$10,000 was previously allocated in the FY 16/17 budget for this project).

CONCLUSION:

Staff recommends the City Council adopt Resolution No. 03-17.

Prepared By: J Burlingame

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

RESOLUTION NO. 03-17

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING SUBMISSION OF APPLICATION TO THE RURAL TRANSIT FUND GRANT
PROGRAM AND EXECUTION OF RELATED DOCUMENTS UPON AWARD**

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

WHEREAS, the San Luis Obispo Council of Governments (SLOCOG) annually adopts the Federal Transit Administration (FTA) Section 5311 formula funds Program of Projects (POP); and

WHEREAS, SLOCOG began the Rural Transit Fund (RTF) program with Resolution 02-16 on December 5, 2002 by programming FTA Section 5311 funds to the San Luis Obispo Regional Transit Authority (RTA); and

WHEREAS, RTA has agreed to use these Federal funds for operating support and SLOCOG has agreed to exchange a similar amount of Transportation Development Act (TDA) funds for use in the RTF program; and

WHEREAS, SLOCOG, RTA, and other rural transit operators worked together to develop a process to exchange FTA Section 5311 formula funds with TDA funds to create the RTF, including Policies and Procedures to govern the RTF program; and

WHEREAS, the Policies and Procedures developed ensure that all funds will be used solely for rural transit projects consistent with the original intent of the FTA Section 5311 program; and

WHEREAS, there is \$438,000 available for competitive distribution with project applications for the 2017/2018 RTF cycle due February 9, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the City Manager, or his duly appointed representative, is authorized to submit an application to the Rural Transit Fund for the purchase of a trolley vehicle and execute all related documents upon award for the purchase of the vehicle.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 24th day of January, 2017 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jamie L Irons, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: A-5

MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: January 19, 2017

FROM: Rob Livick, PE – Public Works Director

SUBJECT: Receive and Approve the Annual Contract Authorization for Program Management Services for the Water Reclamation Facility as Contemplated by the Agreement between the City and Michael K. Nunley & Associates, Inc.

RECOMMENDATION

Staff recommends City Council receive and approve the annual contract authorization for Program Management Services for the Water Reclamation Facility (WRF).

ALTERNATIVES

No alternatives are recommended.

FISCAL IMPACT

If approved by City Council, this annual contract authorization, or task order, in the additional amount of \$1,262,794, will be authorized and is within the City’s fiscal year budget for the WRF. This proposed work is funded through the Wastewater Revenue Fund and the costs were included in the 2015 Wastewater rate adjustment. Additionally, the City recently secured \$10.5 Million Planning Loan from the California Department of Water Resources State Revolving Fund Loan program to address any cash flow issues between when rate funds are received and expenditures need to take place during the project development stage of this large capital project.

At the August 11, 2016, City Council meeting, the multi-year Program Management contract between the City and Michael K. Nunley & Associates, Inc. (MKN) was approved. It was estimated that the fees over the term of the contract, for the program development and construction management, could range between \$8 -12 million for the then estimated \$102 million project. The term of the contract extends through December 31, 2023, and the agreement states the following in Paragraph 5c:

It is anticipated this Agreement may be amended with the approval of the City Manager on an annual basis, as needed, and the amount of compensation may be increased for Consultant to perform Task Groups 100-300, Task Groups 400-1100, or any portion thereof, by the amount authorized through the City’s budgeting process.

As of December 31, 2016 approximately \$309,531.81 has been invoiced from MKN for Program Management since July 1, 2016. That leaves \$890,468.19 remaining in the Program Management and Bridging/Procurement Documents budget through the end of the fiscal year, with the additional funding from the amended budget to be incorporated into the FY 17/18 budget. The fees for the next tasks will be expended through the end of fiscal year 16/17 and through the end of calendar

Prepared By: <u> MN </u>	Dept Review: <u> RL </u>
City Manager Review: _____	City Attorney Review: <u> JWP </u>

year 2017 (December 31, 2017), although program tasks may require modification to address unforeseen challenges.

DISCUSSION

On June 1, 2015, the City of Morro Bay released a Request for Proposal (RFP) for a Program Management firm for the new Water Reclamation Facility. In general, the RFP requested the potential Program Management teams address the following:

Program Management services are required to ensure the successful completion of the new WRF on time and on budget. The Consultant will be accountable to the Public Works Director for overall program schedule, budget, and quality. It will be important the project proceeds in a smooth and integrated fashion, in accordance with all provisions listed in this RFP.

It is anticipated that the services furnished by the Program Manager to the City will be performed under a series of task orders defining the specific services to be performed and the estimated cost for each phase of services.

The City considers a Program Manager and a Project Manager different in that a Program Manager will spend significant time and effort integrating the various complex activities and sub-projects associated with the new WRF, communicating to stakeholders, and negotiating plan changes related to the work. There may be a project manager (or managers) who will be assigned to various tasks required by the project, who will report to the Program Manager. Fundamentally, the Program Manager will be involved with all aspects of the new WRF project from the Facilities Master Planning to project close out and ensure all of these efforts are integrated.

Consultant shall furnish Program Management personnel, including a dedicated person or persons to provide full-time Program Manager Services as required for the new WRF project. The Program Manager shall be responsible for all matters related to this project and shall complete liaison activities among the City, the Contractor, Construction Management Consultants, and Citizens, such that the impact of the project on regular City operations is minimized.

The new WRF will be a long term project that has the major phases as follows:

- *Facility Master Planning*
- *Permitting and Environmental Review (Including Annexation)*
- *Development of Bridging Documents*
- *Design/Build*
- *Construction Management*
- *Project Close-out*

Additionally, the program manager will maximize efforts to bring on the reclaimed water delivery phase of the program either concurrently with construction of the WRF or as a follow-on project.

The Program Manager shall be required to have significant experience in large project oversight and implementation with alternative delivery methods, which includes that of a Water Reclamation Facility (WRF) or similar facility. Additionally, while it is desired that the

Program Manager be a licensed Civil Engineer, registered in the State of California, appropriate professionals in other closely related disciplines will be seriously considered. The Program Manager shall possess clear and effective verbal and written communication skills and have the interest and ability to work in a team-oriented, collaborative work environment. They should expect to work closely with and must demonstrate proficiency in communicating effectively with Council, Advisory Bodies, City staff and the public.

A review committee consisting of WRF Citizens Advisory Committee (WRFCAC) members and City staff reviewed the proposal from Michael K. Nunley and Associates (MKN), interviewed the proposed team and recommended awarding the contract for Program Management for duration of the WRF Project to MKN.

The City signed a contract with MKN on August 12, 2015, and the agreement is attached (Attachment 2). All work has proceeded within the scope and budget of this agreement, as overseen by City staff.

In September, 2016, MKN and the City agreed to Contract Amendment 1, which reallocated the budget among the various Task Groups in consideration of additional work required for siting studies and public outreach and the resulting schedule delays for program activities. That amendment allowed the Program Management activities to continue through completion of the draft Facility Master Plan and other concurrent planning activities and resulted in no changes to the initial budget authorization of \$920,808.

The work proposed in the scope and budget for the annual contract authorization, Contract Amendment 2, includes Program Management support for the following major program tasks:

- Completion and certification of the Draft Environmental Impact Report;
- Continuation of outreach activities related to the Environmental Impact Report, Master Reclamation Plan, and rate study update;
- Management of the City's program consultants including the Facility Master Plan, EIR, biology, cultural resources, grant/funding, rate study, and salinity control teams;
- Selection, evaluation, procurement, and management of an engineering firm for design of the WRF Lift Station and pipelines;
- Selection, evaluation, and procurement of a design-build team for design/construction of the WRF onsite improvements;
- Development of preliminary design, specifications, engineering requirements, and performance criteria for the Request for Proposals from design-build teams;
- Ongoing WRFCAC and City Council communication;
- Management of the WRF program budget and schedule;
- Engagement in City fiscal year budgeting activities;
- Regular outreach to City residents and the public through mailers, website maintenance, and e-blasts; and
- Development of detailed quarterly budget reports for WRFCAC and City Council.

This Amendment No. 2 is intended to include work that will begin with calendar year 2017. Some of those tasks will continue beyond calendar year 2017. While it may be preferred to align the Program Management budget cycle with the City's fiscal year process, but this is a multi-year capital project and City Budget Policy anticipates the span of multiple budget years for capital projects. The additional siting studies last year resulted in delays in the completion of the Facility Master Plan and some of the project float was absorbed to stay on the five-year completion

schedule. Since planning Program Management activities required input from the Facility Master Plan and other ongoing planning activities, an accurate forecast of activities required for the next 12 months could not be developed until after November 2016. Authorizing an amendment only through end of FY 16/17 would cause an inconvenient split in the design-build procurement activities, resulting in scheduling challenges.

The following table summarizes the current budget authorization for each Task Group (as of Contract Amendment 1) and the proposed budget amendment for this next phase of Program Management activities.

Task groups are as follows:

- Task Group 100 – Program Administration
- Task Group 200 – Preliminary Planning
- Task Group 300 – Preliminary Engineering and Procurement
- Task Group 400 – Project Design
- Task Group 500 – Project Construction (Future)
- Task Group 600 – Facility Start Up, Testing, Commissioning (Future)
- Task Group 700 – Facility Operation and Project Close Out (Future)

As envisioned in the initial agreement, it is assumed future authorizations will address the remainder of the program.

Task Group	Initial Authorization (August 12, 2015)	Contract Amendment 2	Total Requested Authorization
100 – Program Administration	\$447,055	\$351,571	\$798,626
200 – Preliminary Planning	\$429,751	\$204,873	\$634,624
300 – Preliminary Engineering and Procurement	\$44,002	\$627,102	\$671,104
400 – Project Design	N/A	\$79,249	\$79,249
Total	\$920,808	\$1,262,795	\$2,183,603

Response to WRFAC Comments

At the WRFAC regular meeting on January 3, 2017, and in writing through January 13, 2017, MKN received comments from Committee members. Comments and staff responses are summarized below:

1. Consideration should be given for closing out the first MKN contract on the end date (December 2016) after the December invoices are received and processed.

Staff Response: City policy recognizes that Capital Projects may span multiple years and allows for multi-year professional services contracts to extend past the fiscal year.

2. Amendment 2 should have a specific period of performance and should include costs authorized but not spent from the Agreement.

Staff Response: The period of performance is defined by the Agreement and is driven by the project schedule. Some work efforts will extend through December 2017, and others may extend into 2018 as discussed in the Amendment.

3. All budget amounts need to be broken down by the City's fiscal year.

Staff Response: The quarterly budget report includes the fiscal year budget for all professional services and other project costs. This Amendment No. 2 will extend past the end of this fiscal year due to the nature of the tasks and their duration. It may be more meaningful to track expenditures by Task Group and Percent complete as it relates to schedule to insure that the project is completed within the Council directed schedule.

4. Consider the use of incentive bonus fees for meeting schedule and budget goals, and consider offering other incentives for prompt submittal of invoices.

Staff Response: Incentive fees will be explored for the design-build contractor to encourage ideas that could result in cost and schedule savings.

The Program Management contract is a professional services agreement and includes measures for addressing any performance issues. MKN has typically submitted all invoices within 30 days after completing the applicable billing cycle. Cashflow is critical to professional services firms, so they are motivated to submit timely invoices.

5. Updated hourly rates need to be documented.

Staff Response: Updated hourly rates for 2017 were not included in the draft submitted to WRFAC but are provided herein. MKN has not increased rates for this project since the contract was awarded; and hourly rates cannot be increased without an amendment to the contract approved by the Council.

6. Payment Section 5(c) of the original contract should be clarified as to what additional amounts can be approved through the City's budget process and if there is a limit on such additional amounts. This may conflict with language authorizing the City Manager to approve additional work up to 10% of the Agreement amount.

Staff Response: The contract budget will be amended on an annual basis and will be coordinated with the City's budgeting process to ensure Program Management does not exceed the City's fiscal year budget for the WRF Project. The budget for this multi-year agreement will be reviewed annually since the scope of work will be developed as the work proceeds, as the WRF Project is scoped and implemented, and as the schedule is refined. The 10% allowance only applies to the initial authorization of \$920,808 in the original agreement and not to any additional amounts that may be approved by contract amendments, as authorized through the annual budget.

7. Payment Section 5(d) does not specify level of detail expected in invoices and does not specify a deadline for submitting invoices.

Staff Response: The MKN invoices include a status report and hours, dates, staff, and staff

classification for each task and subtask, as well as summary tables that define amounts spent and contract amount remaining by task and task group. In addition, MKN submits all invoices within 30 days after completing work and receiving invoices from sub consultants.

The annual contract amendment process, as authorized through the budget process, was not intended to require the parties to reopen discussions regarding other aspects of the signed agreement. Such amendments would be subject to the agreement of both parties. Some of the sample contract language presented by one of the WRFCAC members will be shared with the City Attorney and considered for the City's future professional services agreements.

CONCLUSION

Staff has been pleased with the assistance and expertise provided by MKN's personnel and representatives. As contemplated by Section 5(c) of the agreement between the City and MKN, it is appropriate for the City Council to exercise its authority to receive and approve the annual contract authorization for Program Management Services for the WRF project.

ATTACHMENTS

1. Draft Scope and Budget for Contract Amendment 2
2. Contract with MKN for Program Management

PROJECT UNDERSTANDING

PROJECT OVERVIEW

Morro Bay's new Water Reclamation Facility (WRF) project is proposed to be constructed on an approximately 10 to 15-acre portion of a 401-acre property just outside the Morro Bay City limits, near the intersection of Highway 1 and South Bay Boulevard, known as the South Bay Boulevard site (formerly referred to as the Tri-W site). The project will require collection system modifications and a new force main to convey the raw wastewater to the site. The new WRF is proposed to be owned and operated by the City of Morro Bay, and will serve residents of the City as well as any customers under contract with the City.

The ultimate goal for the WRF is to produce the maximum amount of reclaimed water feasible to supplement the City of Morro Bay's water supply. The ultimate use of the reclaimed water is unknown at this time, but potentially includes groundwater recharge, agricultural offsets, and/or indirect or direct potable use to augment existing City water supplies.

PROJECT COMPONENTS

The Morro Bay Water Reclamation Facility was initially envisioned as a two-phase program for a complete reclaimed water processing and transmission system. Phase I of the program included the following components, which are described in the Facility Master Plan:

- Development of the new WRF at the South Bay Boulevard site
- Lift station and pipelines needed to connect the facility with existing wastewater infrastructure within the area it will serve
- Support facilities required for the operation of the New WRF; i.e., water main extension along with miscellaneous dry utilities
- Actions needed to transfer wastewater treatment service from the current WWTP to the new facility
- Decommissioning of the existing WWTP

The project will replace the existing wastewater treatment plant (WWTP), and will be sized to accommodate future buildout under the General Plan/Local Coastal Plan in the City, including potential customers. At this time, no other facilities (such as Consolidated Maintenance facilities or solar power generation) are included in the project but will be analyzed as part of the Environmental Impact Report since they could be considered in the future.

The new WRF will also be designed to disinfected tertiary treatment standards in order to facilitate water reclamation, and Phase II of the program will include the infrastructure necessary to distribute this reclaimed water offsite. It is not yet known what facilities will be needed to achieve this, but it can be assumed there will likely be a pipeline network and on- or off-site storage and delivery facilities, which may include surface or subsurface systems. These concepts have been considered in developing the treatment recommendations in the draft Facility Master Plan, and will be further refined in the Master Reclamation Plan for the project.

For the purpose of this contract amendment, it is assumed both phases will be combined into one project.

The CEQA/NEPA analysis is underway based on the draft Facility Master Plan and will be further informed after development of the draft Master Reclamation Plan.

The City is pursuing planning, design, and construction funds from various sources including the Clean Water State Revolving Fund (SRF), among others.

DETAILED WORK PROGRAM – AMENDMENT 2 (CALENDAR YEAR 2017)

Program management tasks are grouped by task type. While the program administration task group will occur for the entire duration of the project, the subsequent tasks have defined start and end times within the overall timeline of the project. The original contract included budget authorization for the first twelve months of the anticipated program management work, with the contract start date of August 12, 2015. Due to schedule delays and the need for additional work to investigate alternative sites, the initial authorization was reallocated in Amendment 1 to allow the Program Management team to continue work through December 2016.

This Amendment is intended to include work that will begin with calendar year 2017. Some of these tasks will continue beyond this calendar year. Additionally, the Program Management team may want to begin other tasks, originally planned to occur in later phases, earlier in the project process which may not be reflected in the current budget or proposed amendment. *It is assumed future authorizations will address the remainder of the program*

Task groups are as follows:

- Task Group 100 – Program Administration
- Task Group 200 – Preliminary Planning
- Task Group 300 – Preliminary Engineering and Procurement
- Task Group 400 – Project Design
- Task Group 500 – Project Construction
- Task Group 600 – Facility Start Up, Testing, Commissioning
- Task Group 700 – Facility Operation And Project Close Out

TASK GROUP 100: PROGRAM ADMINISTRATION

Program administration tasks will extend throughout the entirety of the new WRF project. However, budget authorization for Task Group 100 within *calendar year 2017* is requested at this time. Budgeting for the program administration tasks is based on experience over the previous 16 months and estimated level of effort for the coming year.

Some of these tasks will continue beyond this calendar year. Additionally, the Program Management team may want to begin other tasks, originally planned to occur in later phases, earlier in the project process which may not be reflected in the preliminary budget. *It is assumed future authorizations will address the remainder of the program.*

TASK 101 - SCHEDULE TRACKING AND PROGRESS REPORTING. MKN will continue expanding and updating the existing program schedule as the project proceeds. This schedule will encompass and coordinate all phases of the project (identified above as Task Groups 100 through 1100), including:

- Planning
- Permitting

- Preliminary Design
- Design/Build Construction
- Construction
- Startup
- Commissioning

Both a detailed version and a presentation version of the schedule will be maintained. We will provide monthly written progress reports to the City. Monthly reports will include the status of the Program Management budget, work completed during the previous period, identification of any items that require attention from the City, and work planned for the upcoming period. Ten (10) hours per month is the assumed level of effort for this task.

TASK 102 – PROGRAM DOCUMENTATION. Not used for Calendar Year 2017. This task was scoped as part of the original contract to include maintenance of decision logs for the major program efforts. However, major decisions to date have been documented in meeting notes and in staff reports, in addition to documentation within the Procore Project Management system. For this reason, MKN proposes no additional budget for this task.

TASK 103 – MEETINGS AND COORDINATION. MKN will attend biweekly Program Management Team meetings with City staff, twelve (12) WRFCAC meetings per year, twelve (12) City Council meetings per year, and as-needed meetings with other Project consultants (assumed for this budget to be twenty (20)).

TASK 104 - PUBLIC OUTREACH. The program manager will oversee and coordinate all outreach efforts by the Program Management Team. Under the program manager's oversight, JFR will lead the public outreach effort for the entire program, in coordination with RRM Design Group. In general, the outreach effort is related to coordinating the following interrelated efforts and educational workshops to the general public:

- Public Agency outreach
- WRFCAC coordination
- City Council presentations (JFR and RRM budget)
- Coordination with the GP/LCP Update

Task 104A: Outreach Kickoff/Scoping Meeting – Work Completed

Task 104B: Project Website Maintenance

The MKN team and Konig Media developed the Morro Bay WRF website last year. We will continue maintaining the website and updating content for dissemination of public information and outreach to the community.

Task 104C: Outreach Program

The MKN team will continue to refine the existing public outreach program, most recently updated in August 2016. As appropriate, JFR will refine and update the program with feedback from RRM, via memoranda as needed. Such memos will outline the outreach program and will include elements such as:

- Key stakeholder interviews and neighborhood workshops

- Community workshops
- Technical presentations
- Water Reclamation Facility Citizens Advisory Committee (WRFCAC) meetings
- City Council study sessions and hearings
- Formal Environmental Review process
- Coordination with outside permitting agencies
- WRF Program website and promotional materials

This outreach process will continue to be transparent and inclusive. The outreach strategy memo updates will outline this process and confirm that the City project team agrees on the approach and strategy as the process moves forward.

Task 104D: Stakeholder Outreach

JFR and RRM will meet with project stakeholders (including neighbors, possible recycled water customers, and others) during the preliminary engineering and design phases of the program. The goal of this outreach effort is to obtain and document a clear understanding of the needs/desires of all project stakeholders in regards to project design.

We anticipate the primary upcoming focus of this effort will include meetings and outreach on the following topics:

- Master Reclamation Plan (workshops and possible stakeholder interviews)
- Coordination with the City's ongoing General Plan/LCP Update
- CEQA/NEPA Process
- Resource Agency meetings and outreach

This task will build off of the stakeholder feedback received during the process that has transpired from 2013-16.

JFR will summarize meeting feedback and RRM will review and edit the summary.

Task 104E: Citizen Advisory Committee (WRFCAC) Coordination and Meetings
- Future efforts included in Task 103 (Meetings)

Task 104F: Reclamation Planning Workshops and Coordination

Our Program Management Team will work closely with the City, regulatory agencies, growers, and general public to address complex issues related to the potential development and use of reclaimed water within the framework of the Master Reclamation Plan. JFR and RRM will lead a robust outreach process to develop consensus on the best course of action. Specific tasks include two workshops focused on reclamation-related issues to address these key questions. We anticipate the workshops would address the following broad topics:

- Workshop #1 – Direct or Indirect Water Supply for the City:
 - Identify state and local requirements regarding reclaimed water use, focused on the customer or recipient of recycled water;
 - Present information we have learned about hydrogeological issues, including the potential for groundwater recharge, streambed recharge in Morro Creek, percolation, and subsurface injection;

- Describe possible ownership and governance options for delivery and storage of reclaimed water, assuming the City will construct a transmission main but storage and distribution will be handled by the users to reduce the City's costs
- Workshop #2 – Agricultural Reclamation:
 - Identify and recap possible uses of reclaimed water related to agricultural use
 - Engage the growers and community in general about their willingness to participate in the reclamation process, given potential costs and logistics

The MKN team will plan, coordinate and lead these workshops, the results of which will inform our Master Reclamation Plan.

This task was included in the original 2015 Program Management authorization. However, the budget was reallocated toward siting studies and community workshops necessary to identify a preferred site for the project. The work described herein was not performed.

Task 104G: City Council Outreach and Updates - Work Included in Task 103

104H: Outreach Coordination and Meetings – Work Completed

104I: General Plan/LCP Coordination

JFR will work with City staff and General Plan/Local Coastal Plan (GP/LCP) consultant team to most efficiently coordinate the outreach programs for this project and for the GP/LCP update process. The two efforts are highly related, since the new WRF must be sized to accommodate the future growth of the City, and the GP/LCP must be mindful of various constraints that development of the new WRF may pose. This task assumes JFR's attendance and potential presentations at this workshops. The Program Management Team will provide set up materials for the workshop (e.g., workshop flyer, nametags, sign-in sheets, and agendas) and the GP/LCP consultant would provide workshop materials and presentation.

104J: Vendor/Industry Outreach - Work Included in Task Group 302

104K: E-Blasts, Newsletters, and/or Surveys

The project team will provide e-blasts, newsletters and/or survey to keep the community informed or poll the community as the project progresses. The team will work with staff to draft articles and information for the e-blasts, newsletters and/or questions for the surveys (using survey monkey or similar program), and will format and brand with the project logo. City will provide emails and addresses. The budget is based on production of four quarterly postcards or mailers, one survey, and six (6) e-blasts.

TASK 105 - BUDGET TRACKING AND REPORTING. MKN will continue maintaining the Procore system for all consultant and contractor efforts throughout the program. City will provide account ledgers monthly and all team members will provide a copy of invoices or payment requests to MKN for review and recommendation for payment.

MKN worked with WRFCAC members and City staff to develop a format for use in reporting project expenditures and revenues. Consultant invoices and City ledgers will be used to update the budget report. MKN will continue to provide a formal program-level budget report on a quarterly basis. Ten

(10) hours per month is the assumed level of effort for monitoring the program budget and preparing quarterly reports.

TASK 106 – GRANT AND LOAN PURSUIT AND MANAGEMENT. Many issues will affect the City's ability to secure outside funding for the project. Our team, working closely with Kestrel Consulting, will perform the due diligence on the most promising funding leads identified through our team's research to date, so as to better position the City to be competitive for such funding when the time is right to make a formal application for grants and loans.

Based on our experience on the project to date, and on similar efforts, we anticipate the following grants and loans will be the most promising for the City of Morro Bay.

- Proposition 1 / CWSRF Planning and Construction Loans – *The City has been approved for the planning loan. The SRF application for construction cannot be completed until after EIR certification.*
- Proposition 1 / SWRCB Recycled Water Feasibility Study Grant - *\$75,000 Grant was awarded to the City in FY 15/16.*
- WaterSmart Title XVI Bureau of Reclamation Recycled Water Grants
- Pacific Gas & Electric Energy Efficiency Grants (various)

MKN will receive regular updates from Kestrel Consulting through completion of the draft Environmental Impact Report, then will prepare an update for WRFCAC and City Council on the most promising grant and loan opportunities at that time. It is assumed Kestrel Consulting will work collaboratively with MKN to prepare presentations, staff reports, and capture plan for loans and grants.

TASK 107 –TECHNICAL SUPPORT FOR GRANT AND LOAN APPLICATIONS. MKN will provide engineering support for completion of grant and loan applications by Kestrel Consulting. This work is anticipated to include technical, engineering, environmental, and financial submittals for the State Revolving Loan Fund and others. A budget of 200 hours is recommended for this task.

TASK 108 –MAINTAIN PROJECT MANAGEMENT SYSTEM. MKN evaluated alternatives for an electronic project management file-sharing and document management system and Procore was selected for the project. The project management system has been established and is in use for sharing project documents among project team members and tracking contracts, invoices, and payments. MKN will continue maintaining the project management system.

It is assumed the City will pay any software or license costs for each copy of the system recommended by MKN. As team members are added to the program, MKN will conduct a brief training session with each firm on proper use of the document management system.

A monthly estimate of 8 hours per month is assumed for this task.

TASK GROUP 200: PRELIMINARY PLANNING

TASK 201 – MASTER RECLAMATION PLAN - Work Included in FY 15/16 Budget

TASK 202 – CEQA/NEPA COORDINATION PROCESS. All project-related activities must be considered in the CEQA/NEPA document for this project. This would include steps ranging from property acquisition, property design, grading, construction and operation. The Facility Master Plan must be sufficiently

complete so a meaningful project description can be developed in adequate detail for thorough environmental impact analyses. The tasks below describe our team's approach to managing the CEQA/NEPA process, including the technical studies to support the process and permitting that will be needed (described in Task 203).

Task 202A. CEQA/NEPA Program Coordination. In coordination with the program manager, JFR will continue to manage a third-party consultant (ESA) who will prepare the CEQA/NEPA documentation for the proposed project. This task involves the entire process from working with various responsible agencies (including but not limited to the California Department of Fish and Wildlife, Regional Water Quality Control Board, Caltrans, and SLO Air Pollution Control District) developing a scope of work and working with the consultant as they prepare the CEQA/NEPA document. We will work with the City's planning staff on these tasks, and coordinate closely throughout the entire CEQA/NEPA process. The specific steps involved in this task include:

- a. Review Administrative Draft CEQA/NEPA Document
- b. Coordinate with City Staff to Release Draft CEQA/NEPA Document
- c. Coordinate with Staff and CEQA/NEPA Consultant to Respond to Public Input on Draft Document
- d. Review and Coordinate Final CEQA/NEPA Document
- e. Prepare Findings, Evidence and Project Conditions
- f. Prepare Staff Report with City Staff Review
- g. Present Project at Public Hearings (assume 4)
- h. Ongoing Meetings with City Staff (cost assumed as part of Task 103)

Task 202B. Technical Studies Coordination. Several site surveys, studies, and other activities will be needed in support of the various permit applications and CEQA/NEPA process. Some of these, including those related to biological and cultural resources, are already underway. The needed studies include, but may not be limited to:

- Jurisdictional Determination (Waters of the United States and State of California)
- Focused Special-Status Species Surveys
- Biological Assessment
- Prepare Habitat Mitigation and Monitoring Plan (if any)
- Hydrologic and Hydraulic Analysis
- Phase I Archeological Survey (Section 106)
- Phase I / II Site Assessment
- Site Remediation (if necessary as a result of the Phase I/II Site Assessment)
- Air Quality Tech Report
- CDP/CUP Permit Application Review

The Program Manager will coordinate these technical studies with ESA and provide technical support as necessary. Technical support is anticipated to include development of alternative layouts for the WRF and associated facilities; meetings and discussions about equipment and facilities; and other as-needed support. An allowance of 160 hours is recommended for CEQA/NEPA technical support.

TASK 203 – PERMITTING. This phase of the project includes all resource regulatory agency permitting, as well as any land use permitting that may be needed to support the project. In coordination with the Program Manager, JFR will coordinate these efforts, and work with City staff, others on the Program

Management Team, or outside consultants (including ESA, Kevin Merk and Associates, and FarWestern Consulting) to prepare or complete these processes or permits. The following permitting subtasks are included in this effort:

Task 203A. Resource Regulatory Agency Permitting. The project will require a variety of permits from state and federal resource regulatory agencies. It is not yet known whether the project design can locate the new WRF outside Waters of the United States, Waters of the State of California, and other resources under federal or state regulatory protection. Depending on the nature of the activity, it may also require a Streambed Alteration Agreement from the State Department of Fish and Wildlife, a Section 404 permit pursuant to the Clean Water Act from the U.S. Army Corps of Engineers, and Section 401 certification from the RWQCB.

Key resource regulatory permitting agencies for this project include:

- U.S. Army Corps of Engineers (pursuant to Section 404 of the Clean Water Act)
- Regional Water Quality Control Board (NPDES permit; meeting Porter-Cologne Act requirements; Section 401 certification)
- California Department of Fish and Wildlife (Streambed Alteration Agreement)
- California Environmental Protection Agency, Department of Toxic Substances Control (Site Assessment / Remedial Action Plan)
- San Luis Obispo County Air Pollution Control District (SLOCAPCD)

These agencies will use the final CEQA document to assist in their permitting processes. The 5-year schedule assumes that regulatory permits can be obtained with 6 months from the end of the CEQA process, which depends on the permit process being initiated during the CEQA evaluation, and assumes that resource agencies engage in a timely review within their permitting processes. *Although the permit process for these actions may be initiated during the CEQA process, their completion will depend to a large extent on agency evaluation and acceptance of the final environmental document.* If there are disagreements between permitting agencies and the City, it may require additional supplemental CEQA studies to satisfy resource permitting agency concerns.

Task 203B. Land Use Permitting. The project will require a variety of permits from state and federal land use permitting agencies, notably the California Coastal Commission among others. Annexation of the project site will also require coordination with San Luis Obispo Local Agency Formation Commission (LAFCo). Coordination with San Luis Obispo County will also be required, because while the facility is allowed at that location under its LCP, a specific alternatives analysis will be required to support that finding. In addition, a Caltrans encroachment permit would be needed if pipelines will be located within the Caltrans right-of-way.

With respect to annexation, JFR, in coordination with the Program Manager, will coordinate with LAFCo staff, putting together the application for annexation, describing the project's service needs relative to LAFCo requirements, and evaluating the project's consistency with LAFCo policies, including those associated with the conversion of agricultural land and the provision of water supply. We understand that the ultimate determination of consistency with LAFCo policies must be made by LAFCo, but in our experience, it is useful to coordinate closely with LAFCo staff throughout the entire process to ensure that the project is on the right track, and that the application process will go in a more timely fashion. In this way, if there are issues to be resolved, then they can be addressed early in the process.

Key land use permitting agencies for this project could include:

- California Coastal Commission / San Luis Obispo County Department of Planning & Building (Local Coastal Plan Amendment)
- LAFCo (annexation to the City)
- City of Morro Bay (consistency with GP/LCP and local land use permits)
- San Luis Obispo County (coordination on LCP consistency)
- California Department of Transportation (Caltrans Encroachment Permit)

As with the resource regulatory permitting, these land use agencies will use the final CEQA document to assist in their permitting processes.

TASK 204 – FACILITY MASTER PLAN AND SALINITY CONTROL PLAN COORDINATION. MKN and JFR will receive and compile comments on the Draft Facility Master Plan, input from the EIR, and attend two (2) meetings with Black & Veatch to coordinate completion of an administrative draft final Facility Master Plan. MKN and JFR will review the document, facilitate review by City staff, and provide final comments for completion of the Final Facility Master Plan. This work effort will be completed after the EIR is certified.

In addition, MKN will continue work on the draft ordinance and Salinity Control Plan including review of the draft ordinance prepared by Larry Walker Associates, coordination of the final Salinity Control Plan, review of outreach materials, and coordination with industrial dischargers.

TASK 205 – DEVELOP PROJECT DELIVERY TECHNICAL MEMORANDUM. Work Included in FY 15/16 Budget

TASK 206 – RATE STUDY COORDINATION.

MKN will coordinate the activities of the City's rate study, including review of scope, budget, and deliverables (including one draft and one final rate study). In addition, MKN will provide technical and project management support for the study. It is assumed that budgets for meetings and workshops associated with this work are included in Tasks 103 and 104.

The Program Management Team will develop cost opinions for project alternatives and will run the model to determine impacts of the following on projected customer rates:

- Up to four (4) alternative projects (ex. different WRF treatment technologies or different reclamation facilities)
- Up to two (2) alternatives identified through the EIR process

It is assumed up to 12 model runs will be performed for public workshops and meetings and results will be summarized in those presentations.

TASK 207 – CALTRANS COORDINATION AND ENCROACHMENT PERMIT APPLICATIONS. MKN will coordinate with Caltrans to identify constraints associated with the various pipeline crossings. This work will also incorporate the findings of the Facility Master Plan team related to the force main and discharge pipelines.

It is assumed that encroachment permits will be required for the following project components:

- Access road at/near Teresa Drive
- Pipeline crossings near South Bay Boulevard site, including those for raw wastewater, brine/wet weather flows, recycled water, and City water

Encroachment permit applications will include plan and profile sheets for each pipeline, as well as design details for the access road in the vicinity of Teresa Drive. Survey will be provided by others.

It is assumed that five (5) pipeline crossings will be required for both phases of the WRF Project. MKN will coordinate with Caltrans staff for review and approval of the proposed crossings.

MKN will prepare a preliminary design of the access road in the immediate vicinity of Teresa Drive, for use in the Caltrans encroachment permit process and also for negotiation for access easements. It is assumed the preliminary design will include a plan sheet with typical section and a profile.

TASK 208 – DATA COLLECTION AND ENGINEERING SUPPORT FOR PRELIMINARY PLANNING ACTIVITIES. -
Work Completed

TASK GROUP 300: PRELIMINARY ENGINEERING AND PROCUREMENT

TASK 301 – OUTFALL EVALUATION AND MANAGEMENT STRATEGY. MKN proposes performing the following work under this task:

- Hydraulic modeling of the outfall to evaluate performance under various flow regimes (wet weather flow, wet weather and brine, and brine only if groundwater recharge is pursued to reduce wet weather flows)
- Preliminary layout of connection to the outfall
- Review of legal or permitting constraints associated with continuing use of the outfall under different management strategies. It is assumed City legal counsel will provide an analysis of ownership and other legal constraints.
- Review of 2011 outfall condition assessment and development of management strategy to assess and repair sections of the outfall as necessary.
- Development of a technical memorandum summarizing the work described herein.

A budget of 120 hours is recommended for this task.

TASK 302 – PHASE I WRF DESIGN/BUILD PROCUREMENT. It is assumed, for budgeting purposes, that the City will follow a design-build process. It is anticipated the procurement process will generally follow the steps identified below. The assumed level of effort for each step is also provided. MKN will prepare all deliverables in draft and final form for City review. The following sub-tasks summarize activities for managing the procurement process and for developing the performance criteria for the proposers.

Sub-Task 302A – Prepare and Manage Procurement Process

- Request Expression of Interest (EOI) from potential design-build proposers (8 hours assumed)
- Prepare and facilitate a 4-hour workshop for respondents to the EOI (8 hours assumed)
- Prepare Request for Qualifications for design-build procurement (24 hours assumed)
- Review Statements of Qualifications from design-build proposers (24 hours assumed)
- Coordinate a review workshop with the City selection committee and prepare a draft response to short-listed teams (16 hours assumed)

- Prepare DB Procurement Documents, including coordination with contract documents. Coordinate with City attorney and/or special legal counsel for preparation of contract documents. It is assumed documents will be based on standard agreements available from Design Build Industry Association (DBIA) and other professional organizations but will be modified as directed by City legal counsel. (100 hours assumed)
- Meet with potential proposers and coordinate regular communication and outreach protocols documented in the Program Management Plan (40 hours assumed)
- Prepare Request for Proposals for Design-Build Procurement (40 hours assumed)
- Review proposals from proposers (80 hours assumed)
- Coordinate and attend proprietary workshops with proposers to discuss design concepts (40 hours assumed)
- Coordinate a review workshop with the City selection committee and prepare a recommendation for City Council (12 hours assumed)
- Coordinate review by City legal counsel (8 hours assumed)
- Lead final negotiations with the selected proposer (40 hours assumed)

Sub-Task 302B – Development of Performance Criteria for DB Procurement Documents:

- Coordinate two (2) design workshops with City staff
- Develop technical specifications for the procurement process, including performance requirements, geotechnical baseline report, topographic and boundary survey, allowing the design-build teams to develop a bid while maximizing opportunities for innovation. Include the following information:
 - Design flows and loading
 - Summary of water quality and flow records
 - Landscape design standards
 - Geotechnical baseline report (by Yeh & Associates, Inc.)
 - Process flow diagram (2 alternatives)
 - Architectural design standards
 - Site utility design standards (fire protection, electrical, communications, potable water, nonpotable water, sewer, and others)
 - Operational requirements, access standards, and performance criteria
 - SCADA and instrumentation performance criteria
 - Electrical and HVAC performance criteria
 - Structural and foundation design standards
- Develop conceptual plans and layouts for critical infrastructure:
 - Preliminary site constraints plans
 - 30% Design plans for entrance road (incorporating input from Caltrans and EIR)
 - Highway 1/South Bay Boulevard access improvements
 - Offsite pipeline coordination exhibits

TASK 303 – PROCUREMENT OF INFLUENT LIFT STATION AND TRANSMISSION PIPELINE DESIGN TEAM. It is assumed the brine/wet weather disposal, and raw wastewater pipelines will be constructed using a conventional design-bid-build process. It is assumed the recycled water delivery pipelines will be addressed in a future contract authorization after the Master Reclamation Plan is completed. MKN will perform the following services for procurement of a design team:

- Develop Request for Proposals and present to WRFCAC and Council for review and approval (12 hours assumed)
- Coordinate and attend pre-proposal meeting (8 hours assumed)
- Respond to Requests for Information and issue addenda as needed (12 hours assumed)
- Review proposals (12 hours assumed)
- Coordinate City review and interview process (12 hours assumed)
- Negotiate scope and budget with preferred consultant (8 hours assumed)
- Prepare staff report and recommendation for WRFCAC and City Council review (4 hours assumed)
- Meet with potential proposers and coordinate regular communication and outreach protocols documented in the Program Management Plan (24 hours assumed)

TASK 304 – DATA COLLECTION AND ENGINEERING SUPPORT FOR PRELIMINARY ENGINEERING AND PROCUREMENT ACTIVITIES. A budget of 300 hours is requested for support activities that may be required by the Program Management Team during execution of this phase of the WRF development.

TASK GROUP 400: PROJECT DESIGN

TASK 401 - COORDINATION OF WRF OFFSITE (INFLUENT LIFT STATION AND TRANSMISSION PIPELINES) DESIGN DEVELOPMENT - MKN will organize weekly coordination meetings and lead responses to issues that develop during design development. MKN will serve as the main point of contact for the Design Team while also maintaining communications between the City and the Design Team.

MKN will review draft deliverables including up to four (4) Technical Memoranda, the Concept Design Report; 30% Design Plans and Estimates; 60% Design Plans; Draft Final Plans and Specifications; and Final Plans, Specifications, and Estimates.

Morro Bay WRF Program Management Services - Amendment 2 (2017)

mkn	Program Manager	Principal Engineer	Project Engineer	Assistant Engineer	Drafter	Administrative Assistant	Total Hours (MKN)	Subtotal Labor (MKN)	ODCs (MKN)	JFR	RRM	MNS	Laquidara (TAT)	IRJ	SSG	Yeh & Associates	Konig Media	Total Subconsultant Cost	Total Cost
	Task Group 100 Program Administration																		
Task 101-Schedule tracking and progress reporting	60		30	30			120	\$ 18,600	\$ 558	\$ 1,890								\$ 1,890	\$ 21,048
Task 102-Program Documentation - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 103-Meetings and Coordination	320		300	30			650	\$ 103,250	\$ 3,098	\$ 36,540	\$ 5,775							\$ 42,315	\$ 148,663
Task 104-Public outreach	80		16				96	\$ 16,320	\$ 490	\$ 36,225	\$ 50,000						\$ 2,100	\$ 88,325	\$ 105,135
Task 105-Budget tracking and reporting	60		60				120	\$ 19,200	\$ 576	\$ 1,260								\$ 1,260	\$ 21,036
Task 106-Grant and loan pursuit and management	20		20				40	\$ 6,400	\$ 192	\$ 1,260								\$ 1,260	\$ 7,852
Task 107-Grant and loan support	100		50	25	25		200	\$ 30,175	\$ 905									\$ -	\$ 31,080
Task 108-Maintain project management system	12			84			96	\$ 12,600	\$ 378	\$ 3,780								\$ 3,780	\$ 16,758
Subtotal	652	0	476	169	25	0	1322	\$ 206,545	\$ 6,196	\$ 80,955	\$ 55,775	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,100	\$ 138,830	\$ 351,571
Task Group 200 Preliminary Planning																			
Task 201-Master Reclamation Plan - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 202-CEQA	100		30	30			160	\$ 25,600	\$ 768	\$ 69,930								\$ 69,930	\$ 96,298
Task 203-Permitting	40		20	20			80	\$ 12,400	\$ 372	\$ 31,500								\$ 31,500	\$ 44,272
Task 204-FMP and Salinity Control Plan Coordination	40		40				80	\$ 12,800	\$ 384									\$ -	\$ 13,184
Task 205-Project Delivery Technical Memorandum - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 206-Rate Study Coordination and Alternative Evaluation	80		30	60			170	\$ 25,850	\$ 776									\$ -	\$ 26,626
Task 207-Coordination with Caltrans and Encroachment permit application(s)	20		80	40	40		180	\$ 23,780	\$ 713									\$ -	\$ 24,493
Task 208 -Data Collection and As-needed services - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Subtotal	280	0	200	150	40	0	670	\$ 100,430	\$ 3,013	\$ 101,430	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 101,430	\$ 204,873
Task Group 300 Phase I Preliminary Engineering and Procurement																			
Task 301-Outfall Evaluation and Management Strategy	24	24	40	24		8	120	\$ 17,640	\$ 529									\$ -	\$ 18,169
Task 302-Phase 1 WRF Design-Build Procurement																		\$ -	\$ -
302A - Procurement Process	40		100	80		20	240	\$ 32,600	\$ 978			\$ 21,000						\$ 21,000	\$ 54,578
302B - Performance Criteria	200	300	280	300	200	80	1360	\$ 188,400	\$ 5,652	\$ 64,565		\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545			\$ 285,112	\$ 479,164
Task 303-Procurement of Influent Lift Station & Transmission Pipeline Design Team	20		52	10	10		92	\$ 13,210	\$ 396									\$ -	\$ 13,606
Task 304 -Data Collection and "As-Needed" Services	100		100	100			300	\$ 44,500	\$ 1,335	\$ 15,750								\$ 15,750	\$ 61,585
Subtotal	384	324	572	514	210	108	2112	\$ 296,350	\$ 8,891	\$ 15,750	\$ 64,565	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ -	\$ 321,862	\$ 627,102
Task Group 400 Project Design																			
Task 401-Coordination of WRF Offsite Design Development	200		200	100		8	508	\$ 76,940	\$ 2,308									\$ -	\$ 79,248
Subtotal	200	0	200	100	0	8	508	\$ 76,940	\$ 2,308	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 79,248
TOTAL BUDGET	1516	324	1448	933	275	116	4612	\$ 680,265	\$ 20,408	\$ 198,135	\$ 120,340	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ 2,100	\$ 562,122	\$ 1,262,795



MKN & Associates, Inc.
PO Box 1604
Arroyo Grande, CA 93421
805 904 6530

2017 FEE SCHEDULE FOR PROFESSIONAL SERVICES

ENGINEERS AND TECHNICAL SUPPORT STAFF

Principal Engineer	\$175/HR
Senior Project Engineer	\$165/HR
Project Engineer	\$145/HR
Water Resources Planner	\$135/HR
Assistant Engineer	\$125/HR
GIS Specialist	\$125/HR
GIS Technician	\$105/HR
Senior Design Technician	\$92/HR
Administrative Assistant	\$55/HR

Routine office expenses such as computer usage, telephone charges, office equipment and supplies, incidental postage, copying, faxes, etc., are included in the hourly rates.

DIRECT PROJECT EXPENSES

Outside Reproduction	Cost + 10%
Subcontracted or Subconsultant Services	Cost + 10%
Travel & Subsistence (other than mileage)	Cost
Auto Mileage	Current IRS Rate - \$.54/mi.

CITY OF MORRO BAY

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made, by and between, the City of Morro Bay, a municipal corporation (“City”) and MICHAEL K. NUNLEY & ASSOCIATES, INC., a California S-corporation, dba *MKN & Associates* (“Consultant”). In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

1. TERM

This Agreement shall commence on August 12, 2015, and shall remain and continue in effect until tasks described herein are completed, but in no event later than December 31, 2023, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A; provided, that the parties understand and agree one or more amendments to this Agreement will be required after the reviews described in Subsection 3.(b), below, and before Consultant is authorized to proceed with additional services under Task Groups 100-300 or any portions of Task Groups 400 - 1100.

3. PERFORMANCE

- (a) Consultant shall at all times faithfully, competently and to the best of their ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.
- (b) During the term of this Agreement, staff will conduct a review once every twelve months, with the first review being conducted six to eight months after commencement of this Agreement. For each review the Public Works Director and his designee(s) shall determine any changes or additions needed to the scope of work and provide budgetary estimates to be included with the City’s budgeting process on an annual basis.

4. CITY MANAGEMENT

City’s Public Works Director shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation

due to Consultant. City's Public Works Director shall also be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. PAYMENT

(a) City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full, and based upon actual time spent on the above tasks. That amount shall not exceed Nine Hundred Twenty Thousand, Eight Hundred Eight Dollars and No Cents (\$920,808.00) for the total term of the Agreement for the services related to Task Groups 100, 200 and 300, as described on pages 2-16 of Exhibit A, unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Public Works Director. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by Public Works Director and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall such sum exceed Ninety Two Thousand, Eighty Dollars and Eighty Cents (\$92,080.80). Any additional work in excess of this amount shall be approved by the City Council.

(c) It is anticipated this Agreement may be amended with the approval of the City Manager on an annual basis, as needed, and the amount of compensation may be increased for Consultant to perform additional services under Task Groups 100-300, Task Groups 400 - 1100 , or any portion thereof, by the amount authorized through the City's budgeting process .

(d) Consultant will submit invoices monthly for actual services performed in sufficient detail so City can determine the personnel used on the project and the status of each task. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days after receipt of each invoice as to all non-disputed fees. If City disputes any of Consultant's fees, then it shall give written notice to Consultant within fifteen (15) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon Consultant at least ten-days' (10-days') prior written notice. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, then such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, City shall pay to Consultant the actual value of the work performed up to the time of termination. Upon termination of the Agreement pursuant to this Section, Consultant will submit an invoice to City pursuant to Section 3.

7. DEFAULT OF CONSULTANT

(a) Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date Consultant is notified of default and can terminate this Agreement immediately by written notice to Consultant. If such failure by Consultant to make progress in the performance for work hereunder arises out of causes beyond Consultant's control, and without fault or negligence of Consultant, then it shall not be considered a default.

(b) If the City Manager of his/her delegate determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, then he/she shall cause to be served upon Consultant a written notice of the default. Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, and full payment by City for services performed pursuant to, this Agreement, all final work product such as documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused, or otherwise disposed of by City without the permission of Consultant. With respect to computer files, Consultant shall make available to City, as a service in addition to those set forth herein, at Consultant's office and upon reasonable written request by City, the

necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including reasonable attorney's fees and costs to the extent same are caused by any negligent act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement. City agrees to hold harmless and indemnify Consultant from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse or reuse by others of the computer files or any other document provided by Consultant under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

10. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and part of this agreement.

11. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant shall at all times observe and comply with applicable legal requirements in effect at the time the drawings and specifications are prepared. City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or inequity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City if Consultant, or any of its officers, employees, agents, or subconsultants are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within City. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate with City by providing the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

16. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: Rob Livick, Public Works Director
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

To Consultant: Michael Nunley
Program Manager
P.O. Box 1604
Arroyo Grande, CA 93421

17. ASSIGNMENT

Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over City.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. CONTENTS OF PROPOSAL

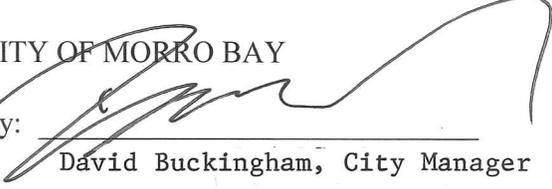
Consultant is bound by the contents of the proposal submitted by Consultant, Exhibit A hereto.

22. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

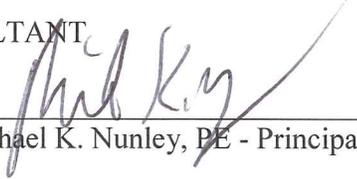
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF MORRO BAY

By: 

David Buckingham, City Manager

CONSULTANT

By: 

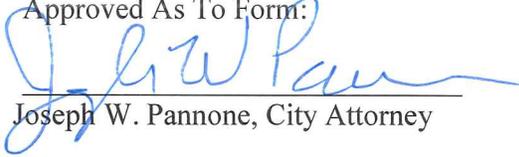
Michael K. Nunley, PE - Principal

Attest:



Dana Swanson, City Clerk

Approved As To Form:



Joseph W. Pannone, City Attorney



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

PROJECT UNDERSTANDING

PROJECT OVERVIEW

Morro Bay's new Water Reclamation Facility (WRF) project is proposed to be constructed on an approximately 10 to 15-acre portion of a 187-acre property approximately one mile east of the Morro Bay City limits, on the north side of Highway 41, known as the Rancho Colina site. The project will require collection system modifications and a new force main to convey the raw wastewater to the site. The new WRF is proposed to be owned and operated by the City of Morro Bay, and will serve residents of the City as well as any customers under contract with the City.

The ultimate goal for the WRF is to produce the maximum amount of reclaimed water feasible to supplement the City of Morro Bay's water supply. The ultimate use of the reclaimed water is unknown at this time, but potentially includes groundwater recharge, agricultural offsets, and/or indirect or direct potable use to augment existing City water supplies.

A few key components of the project description and history are addressed here in further detail.

PROJECT COMPONENTS

The Morro Bay Water Reclamation Facility is part of a two-phase program for a complete reclaimed water processing and transmission system. Phase I of the program includes the following components:

- Development of the new WRF at the Rancho Colina site
- Lift station and pipelines needed to connect the facility with existing wastewater infrastructure within the area it will serve
- Pipelines and/or other facilities needed to reclaim and distribute treated wastewater for reuse in accordance with the Facility Master Plan and reclamation planning efforts currently underway
- Support facilities required for the operation of the New WRF; i.e., water main extension along with miscellaneous dry utilities
- Possible co-location of other City facilities at Rancho Colina, including a City corporation yard, community park, education center, or other facilities
- Actions needed to transfer wastewater treatment service from the current WWTP to the new facility.
- Decommissioning of the existing WWTP

The specific project components will be further refined in the Facility Master Plan, but conceptually, the project will replace the existing wastewater treatment plant (WWTP), and will be sized to accommodate future buildout under the General Plan/Local Coastal Plan in the City, including potential customers.

The new WRF will also be designed to disinfect tertiary treatment standards in order to facilitate water reclamation, and Phase II of the program will include the infrastructure necessary to distribute this reclaimed water offsite. It is not yet known what facilities will be needed to achieve this, but it can be assumed there will likely be a pipeline network and on- or off-site storage facilities, which may include surface or subsurface systems. These concepts will be further refined in both the Facility Master Plan and Master Reclamation Plan for the project. It is expected that the CEQA/NEPA analysis will

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

commence once the Facility Master Plan has been completed to a sufficient level of detail, in order to more fully understand the nature of the likely project components.

The City anticipates pursuing planning, design, and construction funds from various sources including the Clean Water State Revolving Fund (SRF), among others.

DETAILED WORK PROGRAM

Program management tasks are grouped by task type. While the program administration task group will occur for the entire duration of the project, the subsequent tasks have defined start and end times within the overall timeline of the project. Task groups are as follows:

- Task Group 100 – Program Administration
- Task Group 200 – Preliminary Planning
- Task Group 300 – Phase I Preliminary Engineering and Procurement
- Task Group 400 – Phase I Project Design
- Task Group 500 – Phase I Project Construction
- Task Group 600 – Phase I Facility Start Up, Testing, Commissioning
- Task Group 700 – Phase I Facility Operation And Project Close Out
- Task Group 800 – Phase II Project Design
- Task Group 900 – Phase II Project Construction
- Task Group 1000 – Phase II Facility Start Up, Testing, and Commissioning
- Task Group 1100 – Phase II Facility Operation and Project Closeout

TASK GROUP 100: PROGRAM ADMINISTRATION

Program administration tasks will extend throughout the entirety of the new WRF project. However, budget authorization for the *first 12 months* is requested at this time. The first 12 months is an approximate duration of the initial program phases detailed in our budget.

Some of these tasks included in the preliminary budget will continue beyond the initial 12 months of program management. Additionally, the Program Management team may want to begin other tasks, originally planned to occur in later phases, earlier in the project process which may not be reflected in the preliminary budget. *It is assumed future authorizations by task order will address the remainder of the program.*

TASK 101 - SCHEDULE TRACKING AND PROGRESS REPORTING. MKN will continue expanding and updating the existing program schedule as the project proceeds. This schedule will encompass and coordinate all phases of the project (identified above as Task Groups 100 through 1100), including:

- Planning
- Permitting
- Preliminary Design
- Design/Build Construction
- Construction
- Startup
- Commissioning



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

Both a detailed version and a presentation version of the schedule will be maintained. We will provide monthly written progress reports to the City. Monthly reports will include the status of the Program Management budget, work completed during the previous period, identification of any items that require attention from the City, and work planned for the upcoming period. Ten (10) hours per month is the assumed level of effort for this task.

TASK 102 – PROGRAM DOCUMENTATION. MKN will develop and maintain decision logs for all the major program efforts, including the following:

- Facility Master Plan
- Master Reclamation Plan
- Program Funding and Financing
- Public Outreach
- Phase I WRF Procurement
- Influent Lift Station Design
- Transmission Pipeline Design
- CEQA/NEPA Compliance
- Resource and Land Use Agency Permitting

Twelve (12) hours per month is the assumed level of effort for this task.

TASK 103 - MEETINGS. MKN will attend weekly project meetings with City staff, six (6) Public Works Advisory Board meetings per year, twelve (12) WRFCAC meetings per year, and twelve (12) City Council meetings per year.

It is assumed this task will be amended in the future to extend from Phase I of the program through implementation of the Master Reclamation Plan and Phase II Recycled Water Delivery System. The budget includes only the first year (+/-) of meetings.

TASK 104 - PUBLIC OUTREACH.

The program manager will oversee and coordinate all outreach efforts by the Program Management Team. Under the program manager's oversight, JFR will lead the public outreach effort for the entire program, in coordination with RRM Design Group. In general, the outreach effort is related to coordinating the following interrelated efforts and educational workshops to the general public:

- Reclamation Planning (outreach to growers)
- Public Agency outreach
- WRFCAC Coordination
- City Council presentations (JFR and RRM budget)
- Coordination with the GP/LCP Update

Task 104A: Outreach Kickoff/Scoping Meeting

This meeting will occur as soon as possible after the program management contract is in place with the intent of determining the overall project planning process, outreach strategies, and internal timeline of milestones. The Program Management Team will also use this meeting to obtain planning/design guidance from City staff, including initial comments for co-locating of City facilities; and to review

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

options and initial concepts for education center and park with City staff. This meeting would also include discussion of water reclamation planning and outreach strategies and would result in a list of stakeholders, subsequent workshop topics, workshop logistics (timing, location, advertisement), and any outreach concerns and ideas.

Task 104B: Project Website Development

The MKN team and Konig Media will develop a project-specific website. We will coordinate the design and content of the website with City staff through a series of meetings and provide draft content/outlines for review and approval.

Task 104C: Outreach Program

The MKN team will design and outline the outreach program. JFR will write outreach program memorandum with feedback from RRM. This will be a memo outlining the outreach program and will include elements such as:

- Outreach program master schedule, and detailed schedules for upcoming 12 months
- Strategy for transparency and develop project branding
- Defined outreach focus area topics
- Outline of workshops, workshop exercises, and topics
- List of public education program opportunities

This outreach process will need to be transparent and inclusive. The outreach strategy memo will outline this process and confirm that the City project team agrees on the approach and strategy before the outreach begins.

Task 104D: Stakeholder Outreach

Initial outreach to stakeholders will provide input to the master planning effort and inform the initial water reclamation planning process. The goal of this outreach effort is to obtain and document a clear understanding of the needs/desires of all project stakeholders in regards to project design of both facilities and water reclamation program. This task will build off of the stakeholder feedback received during the WRF Options Report process. The MKN team will conduct one (1) day of 30- to 60-minute interviews with property owners, growers, decision makers, and others with an interest in the project. City staff will be responsible for meeting notification, facility, and logistics. JFR will summarize meeting feedback and RRM will review and edit the summary.

Task 104E: Citizen Advisory Committee (WRFCAC) Coordination and Meetings

Following the kickoff meeting, a coordination schedule will be developed to ensure close working communication between the Program Management Team and the WRFCAC. The program manager will work with the WRFCAC to agendaize current issues for discussion at their regular meetings.

Task 104F (1): Community Outreach Workshops

The MKN team will plan, coordinate and lead two (2) formal community workshops related to the Facilities Master Plan process, which will stem from the public education program developed following the outreach kickoff. These will be led by JFR and RRM. Detailed workshop topics will be developed as the project progresses, but it is anticipated that the initial workshop will include a general overview of the current project status, review of site location selected, and discussion of next steps through the environmental review, permitting requirements, and design processes, as well as providing a forum for



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

input on the Facility Master Plan. The workshops will be designed to be interactive and informative. Exercises may involve forms of polling participants through the use of tape dots, report cards, handheld remotes or similar methods. The Program Management Team will provide graphics and materials for each workshop (e.g., workshop flyer, nametags, sign-in sheets, agendas, and exhibits).

Prior to these formal workshops, there will be three (3) less formal educational workshops at the outset of the program, focused on the long-term program overview, with anticipated followups focusing on possible delivery systems and the appropriate timing and application of technologies in the process, the latter aimed at industry outreach. These will be led by MKN and JFR, and are in addition to the City Council and Planning Commission meetings and WRFCAC meetings (which are shown as separate tasks). The first workshop is anticipated to be a City Council work session focused on the full work plan and major decision points for the WRF Program.

Task 104F (2): Reclamation Planning Workshops

Our Program Management Team will work closely with the City, regulatory agencies, growers, and general public to address complex issues related to the potential development and use of reclaimed water within the framework of the Master Reclamation Plan. JFR and RRM will lead a robust outreach process to develop consensus on the best course of action. Specific tasks include two workshops focused on reclamation-related issues to address these key questions. We anticipate the workshops would address the following broad topics:

- Workshop #1 – Direct or Indirect Water Supply for the City:
 - Identify state and local requirements regarding reclaimed water use, focused on the customer or recipient of recycled water;
 - Present information we have learned about hydrogeological issues, including the potential for groundwater recharge, streambed recharge in Morro Creek, percolation, and subsurface injection;
 - Describe possible ownership and governance options for delivery and storage of reclaimed water, assuming the City will construct a transmission main but storage and distribution will be handled by the users to reduce the City's costs
- Workshop #2 – Agricultural Reclamation:
 - Identify and recap possible uses of reclaimed water related to agricultural use
 - Engage the growers and community in general about their willingness to participate in the reclamation process, given potential costs and logistics

The MKN team will plan, coordinate and lead these workshops, the results of which will inform our Master Reclamation Plan.

Task 104G: City Council Outreach and Updates

The MKN team will meet with Council on an ongoing basis throughout the duration of the project to discuss key aspects and issues. The first study sessions following the program manager contract execution and initial scoping meeting will review the overall design build process and appropriate timing of milestones and actions to be taken by Council members. The program manager will also provide ongoing monthly project updates to the Council.

104H: Outreach Coordination and Meetings

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

This task includes the ongoing coordination and meetings with City staff, stakeholders, and team members. Other outreach services, as identified in the initial scoping meeting or during the course of the project, will be executed under staff direction.

104I: General Plan/LCP Coordination

JFR will work with City staff and General Plan/Local Coastal Plan (GP/LCP) consultant team to most efficiently coordinate the outreach programs for this project and for the GP/LCP update process. The two efforts are highly related, since the new WRF must be sized to accommodate the future growth of the City, and the GP/LCP must be mindful of various constraints that development of the new WRF may pose. This task assumes up to three (3) workshops in support of this combined effort, and JFR's attendance and potential presentations at these workshops. The Program Management Team will provide set up materials for the workshop (e.g., workshop flyer, nametags, sign-in sheets, and agendas) and the GP/LCP consultant would provide workshop materials and presentation.

104J: Vendor/Industry Outreach

Members of the City Council have expressed interest in a workshop focused on the interested industry vendors who might have products or technologies that could be used in the new WRF. Although this forum could take many forms, we recommend an approach based on the following outline:

- Educate Council and Public about the FMP and DB processes
- Discuss when and how technology and project components will be selected
- Update schedule and efforts underway
- Invite industry representatives (potential vendors) to listen
- Allow any member of the public to provide input (not just industry)
- Approach is consistent with Council goals and outreach concept

This effort must be managed carefully, because an unfocused effort carries the following risks:

- Could undermine City goals and sidetrack FMP process
- Could derail the alternative delivery process for the new WRF
- Would lead to longer timeframe and likely higher costs

We believe that in order to have a successful outcome to this forum (and to minimize risks), several preparatory steps are needed, particularly with regard to educating the City Council and WRFCAC. These steps could include:

- Meeting one-on-one with Council members and WRFCAC reps
- Educate them on how the FMP and Design Build process work
- Explain how technologies are selected, and how contractors are selected

104K: Logo Design and Graphics

The project team will work closely with the City to develop provide a logo design to brand the project and use on documents, website, and exhibits. The team will also prepare graphics and exhibits throughout the process to put on the website, e-blasts, newsletters, and use during meetings.

104L: E-Blasts, Newsletters, and/or Surveys

The project team will provide e-blasts, newsletters and/or survey to keep the community informed or poll the community as the project progresses. The team will work with staff to draft articles and



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

information for the e-blasts, newsletters and/or questions for the surveys (using survey monkey or similar program), and will format and brand with the project logo. City will provide emails and addresses. **The budget is based on production of one newsletter, one survey, and six (6) e-blasts.**

104M: Visual Preference Survey **(Optional – Budget included under Task 208)**

A picture is worth a thousand words. Using photographs, the Visual Preference Survey allows participants to express their preferences on different architectural styles and elements that could be incorporated into the WRF architecture. The Visual Preference Survey can also poll participants on what community-focused elements they prefer to be considered as part of the WRF Site Plan's public realm. Each participant will be given a remote control device and will be asked to vote on projected architectural character images and public realm site features, similar to a PowerPoint presentation. Participants will vote on each image and the results will appear instantaneously. This is an exciting and interactive exercise that will give the team direction for the architecture and Facility Master Plan.

The Visual Preference Survey can be conducted at a community workshop or directed towards a smaller group, such as the WRFAC or a Council study session.

RRM would prepare the survey from images collected in their image library. This task includes a round of edits to the survey to fine tune it for presentation, conducting the survey, and a summary of results.

TASK 105 - BUDGET TRACKING AND REPORTING. MKN will develop and maintain a budget tracking spreadsheet and s-curve for reporting project status of all team members' efforts throughout the program. A detailed version and a presentation version will be maintained. City will provide account ledgers monthly and all team members will provide a copy of invoices or payment requests to MKN for review and recommendation for payment. Their invoices and City ledgers will be used to update the budget spreadsheets.

MKN will provide a formal program-level budget report and cashflow projection on a quarterly basis. Six (6) hours per month is the assumed level of effort for this task.

TASK 106 – GRANT AND LOAN PURSUIT AND MANAGEMENT. Many issues will affect the City's ability to secure outside funding for the project. Our team, working closely with Kestrel Consulting, will perform the due diligence on the most promising funding leads identified through our team's research to date, so as to better position the City to be competitive for such funding when the time is right to make a formal application for grants and loans.

Based on our experience on the project to date, and on similar efforts, we anticipate the following grants and loans will be the most promising for the City of Morro Bay:

- Proposition 1 / CWSRF Planning and Construction Loans
- Proposition 1 / SWRCB Recycled Water Feasibility Study Grant
- WaterSmart Title XVI Bureau of Reclamation Recycled Water Grants
- Pacific Gas & Electric Energy Efficiency Grants (various)

TASK 107 – TECHNICAL SUPPORT FOR GRANT AND LOAN APPLICATIONS. MKN will provide engineering support for completion of grant and loan applications by Kestrel Consulting. This work is anticipated to

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

include technical, engineering, environmental, and financial submittals for the State Revolving Loan Fund; application materials for the SWRCB Recycled Water Planning Facilities Grant, and others. A budget allowance of 100 hours is recommended for this task but level of effort will depend on availability of information in the Facility Master Plan and reports by others.

TASK 108 – DEVELOP AND MAINTAIN PROJECT MANAGEMENT SYSTEM. MKN will evaluate alternatives and develop and manage an electronic project management file-sharing and document management system (ex. Procore and Bentley Projectwise). The systems that will be explored are readily-available, industry standard systems that are routinely used for project design and construction management. It is assumed the system will have scheduling, tracking, document control, and communication capabilities. By selecting the software, the City can identify the features that are appropriate for the program and can control the budget for the licenses or fees.

It is assumed the City will pay any software or license costs for each copy of the system recommended by MKN. As team members are added to the program, MKN will conduct a brief training session with each firm on proper use of the document management system.

An initial estimate of 40 hours to establish the system and monthly estimate of 8 hours per month is assumed for this task.

TASK 109 – ASSIST IN PLANNING AND DEVELOPMENT OF PROGRAM OFFICE. If desired, MKN can develop a scope and budget to assist the City in developing a program management office for co-location of program team members. This could occur during initial planning activities, during design-build execution, or during construction activities.

MKN will assist the City with space planning and coordination of furniture, utilities, signage, and development of protocol for use and security of the space. All costs would be paid by the City for the facilities, including furniture, lease (if required), utilities, and signage.

TASK 110 – DEVELOPMENT AND MAINTENANCE OF PROGRAM MANAGEMENT PLAN. MKN will prepare a Program Management Plan providing detailed planning steps for the upcoming 18 months. The Program Management Plan will include budget, schedule, cashflow projections, roles and responsibilities of program team members, risk registry, confirmation of major decisions or milestones, outreach strategy, and updates or reconfirmation of City Council goals and objective. It will be updated every six months with input from City staff.

Program Management Plan efforts will include tracking project alignment with city goals. On an ongoing basis during Program Management Plan updates, MKN will review the City's goals versus project process, decisions, and activity and confirm that those actions continue to support the City's goals and objectives for compliance, capacity, efficiency, operational flexibility, innovation, community outreach, and sustainability.

An initial effort of 80 hours and two updates at 40 hours each are assumed for this task.

TASK GROUP 200: PRELIMINARY PLANNING

TASK 201 – MASTER RECLAMATION PLAN. This promises to be a complex effort that involves prioritizing the various reclamation opportunities identified in our previous efforts. This Task will involve drilling down on several key questions:



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- What are the State and local requirements that end users must follow for recycled water use?
- What approach maximizes the benefit to the City's water supply, either directly or indirectly?
- Is a combination of groundwater recharge along with directly providing access to reclaimed water for growers a good approach?
- If so, what will the growers be willing to pay to help offset costs of providing reclaimed water? Is a subsidy to growers fair to City ratepayers?
- How can reclamation costs be minimized? Should growers be responsible for extending their own reclamation infrastructure? Will onsite storage help?
- Can growers indirectly benefit through groundwater recharge that benefits the City's wellfield?
Among the challenges: 1) What distance would be required between groundwater recharge locations and City wells, based on local hydrogeology? 2) How will increased groundwater pumping by the growers affect the City's wells? 3) Can a framework among the City and growers be established that protects water rights and water supply benefits for all users? 4) How will possible future regulations that relate to direct potable reuse affect this equation? 5) Are there opportunities to use state and federal funding to add a phased, direct potable reuse (DPR) strategy to the reclamation program?

Our management team will work closely with the City, regulatory agencies, growers, and general public to address these complex issues. We believe it will require a robust outreach process to develop consensus on the best course of action, which may take some time to complete.

The format will follow the draft outline provided in the grant application requirements for the SWRCB Recycled Water Feasibility Study Planning Grant Program in order to meet requirements. *If awarded, the grant will pay up to \$75,000 of this effort as long as the state guidelines are followed. MKN has experience performing these studies and will ensure the Master Reclamation Plan meets state requirements.*

Specific tasks include:

- Identify state and local requirements regarding reclaimed water use, focused on the customer or recipient of recycled water (ex. cross-connection requirements and setbacks from potable water facilities)
- Manage the next phases of work by the City's project hydrogeologist, Fugro Consultants, as they assess the potential for groundwater recharge, including streambed recharge in Morro Creek, percolation, and subsurface injection
- Manage work by Larry Walker & Associates (LWA), a consultant to the City, to identify sources of salinity and develop a source control strategy
- Provide schematic layouts, capital cost opinions, and operation/maintenance cost opinions for the recharge alternatives explored by the hydrogeologist (including up to four scenarios)
- Guide evaluation of ownership and governance options for delivery and storage of reclaimed water, assuming the City will construct a transmission main but storage and distribution will be handled by the users to reduce the City's costs
- Conduct outreach to the growers and community in general about their willingness to participate in the reclamation process, given costs and logistics

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- Identify and critically evaluate various reclamation strategies, especially with regard to timing, water rights, logistics
- Coordinate with Kestrel Consulting to identify funding opportunities
- Identify the strategy that best benefits the City's potential water supply while protecting property owner water rights
- Develop a phasing strategy for implementation of the recycled water distribution and/or groundwater recharge system
- Prepare a draft and final report summarizing the work described above.

TASK 202 – CEQA/NEPA COORDINATION PROCESS. All project-related activities must be considered in the CEQA/NEPA document for this project. This would include steps ranging from property acquisition, property design, grading, construction and operation. The Facility Master Plan must be sufficiently complete so a meaningful project description can be developed in adequate detail for thorough environmental impact analyses. The tasks below describe our team's approach to managing the CEQA/NEPA process, including the technical studies to support the process and permitting that will be needed (described in Task 203).

Task 202A. CEQA/NEPA Program Coordination. In coordination with the program manager, JFR will take the lead in developing the steps needed to hire and manage a third-party consultant who will prepare the CEQA/NEPA documentation for the proposed project. This task involves the entire process from working with various responsible agencies (including but not limited to the California Department of Fish and Wildlife, Regional Water Quality Control Board, Caltrans, and SLO Air Pollution Control District) developing a scope of work, evaluating consultant proposals, interviewing and providing a recommendation to the City for a selected consultant, and working with the consultant as they prepare the CEQA/NEPA document. We will work with the City's planning staff on these tasks, and coordinate closely throughout the entire CEQA/NEPA process. The specific steps involved in this task include:

- a. Prepare Initial Study
- b. Coordinate with Responsible Agencies to Develop the CEQA/NEPA Work Scope
- c. Evaluate Consultant Proposals/Assist in Consultant Selection
- d. Review Administrative Draft CEQA/NEPA Document
- e. Coordinate with City Staff to Release Draft CEQA/NEPA Document
- f. Coordinate with Staff and CEQA/NEPA Consultant to Respond to Public Input on Draft Document
- g. Review and Coordinate Final CEQA/NEPA Document
- h. Prepare Findings, Evidence and Project Conditions
- i. Prepare Staff Report with City Staff Review
- j. Present Project at Public Hearings (assume 2)
- k. Ongoing Meetings with City Staff (cost assumed as part of Task 103)

Task 202B. Technical Studies Coordination. Several site surveys, studies, and other activities will be needed in support of the various permit applications and CEQA/NEPA process. Some of these, including those related to biological and cultural resources, are already underway. The needed studies include, but may not be limited to:

- Jurisdictional Determination (Waters of the United States and State of California)
- Focused Special-Status Species Surveys



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- Biological Assessment
- Prepare Habitat Mitigation and Monitoring Plan (if any)
- Hydrologic and Hydraulic Analysis
- Phase I Archeological Survey (Section 106)
- Phase I / II Site Assessment
- Site Remediation (if necessary as a result of the Phase I/II Site Assessment)
- Air Quality Tech Report
- CDP/CUP Permit Application Review

The Program Manager will coordinate these technical studies with the selected CEQA/NEPA consultant and provide technical support as necessary.

TASK 203 – PERMITTING. This phase of the project includes all resource regulatory agency permitting, as well as any land use permitting that may be needed to support the project. In coordination with the Program Manager, JFR will coordinate these efforts, and work with City staff, others on the Program Management Team, or outside consultants to prepare or complete these processes or permits. Note that during the first 12-month phase of the process, the permitting process will be underway but not completed, so costs should be considered preliminary. The following permitting subtasks are included in this effort:

Task 203A. Resource Regulatory Agency Permitting. The project will require a variety of permits from state and federal resource regulatory agencies. It is not yet known whether the project design can locate the new WRF outside Waters of the United States, Waters of the State of California, and other resources under federal or state regulatory protection. However, if there is any discharge into Morro Creek as part of the reclamation effort, the project will be required to comply with RWQCB Waste Discharge regulations. Depending on the nature of the activity, it may also require a Streambed Alteration Agreement from the State Department of Fish and Wildlife, a Section 404 permit pursuant to the Clean Water Act from the U.S. Army Corps of Engineers, and Section 401 certification from the RWQCB.

Key resource regulatory permitting agencies for this project include:

- U.S. Army Corps of Engineers (pursuant to Section 404 of the Clean Water Act)
- Regional Water Quality Control Board (NPDES permit; meeting Porter-Cologne Act requirements; Section 401 certification)
- California Department of Fish and Wildlife (Streambed Alteration Agreement)
- California Environmental Protection Agency, Department of Toxic Substances Control (Site Assessment / Remedial Action Plan)
- San Luis Obispo County Air Pollution Control District (SLOCAPCD)

These agencies will use the final CEQA document to assist in their permitting processes. The 5-year schedule assumes that regulatory permits can be obtained with 6 months from the end of the CEQA process, which depends on the permit process being initiated during the CEQA evaluation, and assumes that resource agencies engage in a timely review within their permitting processes. *Although the permit process for these actions may be initiated during the CEQA process, their completion will depend to a large extent on agency evaluation and acceptance of the final environmental document.* If there are

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

disagreements between permitting agencies and the City, it may require additional supplemental CEQA studies to satisfy resource permitting agency concerns.

Task 203B. Land Use Permitting. The project will require a variety of permits from state and federal land use permitting agencies, notably the California Coastal Commission among others. Annexation of the project site will also require coordination with San Luis Obispo Local Agency Formation Commission (LAFCo). Coordination with San Luis Obispo County will also be required, because while the facility is allowed at that location under its LCP, a specific alternatives analysis will be required to support that finding. In addition, a Caltrans encroachment permit would be needed if pipelines will be located within the Caltrans right-of-way.

With respect to annexation, JFR, in coordination with the Program Manager, will coordinate with LAFCo staff, putting together the application for annexation, describing the project's service needs relative to LAFCo requirements, and evaluating the project's consistency with LAFCo policies, including those associated with the conversion of agricultural land and the provision of water supply. We understand that the ultimate determination of consistency with LAFCo policies must be made by LAFCo, but in our experience, it is useful to coordinate closely with LAFCo staff throughout the entire process to ensure that the project is on the right track, and that the application process will go in a more timely fashion. In this way, if there are issues to be resolved, then they can be addressed early in the process.

Key land use permitting agencies for this project could include:

- California Coastal Commission / San Luis Obispo County Department of Planning & Building (Local Coastal Plan Amendment)
- LAFCo (annexation to the City)
- City of Morro Bay (consistency with GP/LCP and local land use permits)
- San Luis Obispo County (coordination on LCP consistency)
- California Department of Transportation (Caltrans Encroachment Permit)

As with the resource regulatory permitting, these land use agencies will use the final CEQA document to assist in their permitting processes.

TASK 204 – FACILITY MASTER PLAN COORDINATION. MKN will organize weekly coordination meetings or calls and lead responses to issues that develop during the project. MKN will serve as the main point of contact for the Facility Master Plan team while also maintaining communications between the City and the Facility Master Plan team. MKN will review monthly progress reports submitted by Facility Master Plan team and coordinate formal progress meetings between the Facility Master Plan team and the City.

The Facility Master Plan team also anticipates public workshops. MKN will coordinate and attend all Facility Master Plan workshops. It is assumed the workshops would include the following:

- Initial Public Workshop for Public and City Council Input on Concepts
- Site Plan and Visual Simulation Presentation Workshop
- Treatment Alternatives Workshop



MKN will coordinate City reviews of deliverables and compile comments to provide to the Facility Master Plan consultant. It is assumed that approximately nine (9) draft and final Technical Memoranda and the 33%, 66%, 90%, and final Master Plans will be reviewed.

TASK 205 – DEVELOP PROJECT DELIVERY TECHNICAL MEMORANDUM. MKN will develop a memorandum and presentation for City Council and WRFCAC summarizing the potential project delivery methods for the Phase I project; advantages and disadvantages; recommended approach; and steps required for implementation.

It is assumed the City attorney and/or special legal counsel will provide a legal opinion on the different alternative delivery options. At this time, the methods are anticipated to include design-build, progressive design-build, design-build-operate, design-build-operate-finance, and construction management at risk (CMAR).

TASK 206 – COORDINATION OF SPREADSHEET MODEL DEVELOPMENT AND MODEL RUNS FOR CUSTOMER RATE IMPACTS. MKN will provide guidance to the City's rate consultant in developing a spreadsheet model (by rate consultant). The Program Management Team will run the model to determine impacts of the following on projected customer rates:

- Project financing rate and period
- Grants
- Alternative projects for both the Phase I and Phase II programs (ex. different WRF treatment technologies for the Phase I project or different reclamation facilities for the Phase II program)

It is assumed up to 12 model runs will be performed for public workshops and meetings and results will be summarized in those presentations.

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

TASK 207 – ALIGNMENT STUDY AND CALTRANS COORDINATION. MKN will identify the likely number and alignment of pipelines to and from the site (ex. recycled water main, City water supply, force main, and/or brine discharge line). We will coordinate with Caltrans to identify constraints associated with the various pipeline crossings. This work will also incorporate the findings of the Facility Master Plan team related to the force main and discharge pipelines.

Regulatory requirements for pipeline separation will have a significant impact on location and alignment of the City waterline and other utilities that are required for Phases I and II of the program, but will not be explored in detail in the Facility Master Plan. Division of Drinking Water will be contacted to discuss installation methods or pipeline design features that may be required if minimum separations cannot be cost effectively maintained.

A Technical Memorandum and preliminary alignment map will be prepared that identifies the number and possible alignments of the various pipelines, taking into account the surveyed base map (by others), environmental constraints, utility conflicts, regulatory requirements, and installation techniques.

TASK 208 – DATA COLLECTION AND ENGINEERING SUPPORT FOR PRELIMINARY PLANNING ACTIVITIES. A budget of 200 hours is recommended for the following activities:

- Market survey of available organic waste for Facility Master Plan
- Collection, organization, and summarization of influent water quality data from the City/CSD WWTP for use during design activities
- Coordination of sampling activities for salinity identification and source control of contaminants
- Other activities as needed

TASK GROUP 300: PHASE I PRELIMINARY ENGINEERING AND PROCUREMENT

TASK 301 – OUTFALL EVALUATION AND MANAGEMENT STRATEGY. MKN proposes performing the following work under this task:

- Hydraulic modeling of the outfall to evaluate performance under various flow regimes (wet weather flow, wet weather and brine, and brine only if groundwater recharge is pursued to reduce wet weather flows)
- Preliminary layout of connection to the outfall
- Review of legal or permitting constraints associated with continuing use of the outfall under different management strategies. It is assumed City legal counsel will provide an analysis of ownership and other legal constraints.
- Development of a technical memorandum summarizing the work described herein.

TASK 302 – PHASE I WRF DESIGN/BUILD PROCUREMENT. It is assumed, for budgeting purposes, that the City will follow a “best-value” design-build process. The City Council will select a delivery method and based on their selection, the budget and scope for this task may require revision. It is anticipated the procurement process will generally follow the steps identified below. The assumed level of effort for each step is also provided. MKN will prepare all deliverables in draft and final form for City review.

- Request Expression of Interest (EOI) from potential design-build proposers (8 hours assumed)
- Prepare and facilitate a 4-hour workshop for respondents to the EOI (8 hours assumed)
- Prepare Request for Qualifications for design-build procurement (24 hours assumed)
- Review Statements of Qualifications from design-build proposers (24 hours assumed)



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- Coordinate a review workshop with the City selection committee and prepare a draft response to short-listed teams (16 hours assumed)
- Prepare DB Procurement Documents, including coordination with contract documents and development of bridging documents. Coordinate with City attorney and/or special legal counsel for preparation of contract documents. It is assumed documents will be based on standard agreements available from Design Build Industry Association (DBIA) and other professional organizations but will be modified as directed by City legal counsel. (100 hours assumed)
- Meet with potential proposers and coordinate regular communication and outreach protocols documented in the Program Management Plan (40 hours assumed)
- Develop bridging documents including performance requirements, available geotechnical studies, topographic and boundary survey, and the following preliminary plans for two (2) conceptual treatment alternatives to allow the design-build teams to develop a bid while maximizing opportunities for innovation. At this time a budget cannot be developed for the bridging documents since the level of effort will depend on the treatment process and other site uses identified during the Facility Master Plan. (Level of effort TBD and not included in the budget, depending on the recommendations from the Facility Master Plan.)
 1. 20% Preliminary site plan
 2. Preliminary grading plans
 3. Detailed layouts of site amenities such as community park or corporation yard (if desired by City) to prevent conflicts with the WRF
 4. Process flow diagram
 5. Two (2) site elevation views
 6. Process and instrumentation diagrams
 7. Electrical single-line diagrams
 8. Architectural design standards
 9. Highway 41 access improvements
- Prepare Request for Proposals for Design-Build Procurement (40 hours assumed)
- Review proposals from proposers (60 hours assumed)
- Coordinate a review workshop with the City selection committee and prepare a recommendation for City Council (12 hours assumed)
- Coordinate review by City legal counsel (8 hours assumed)
- Lead final negotiations with the selected proposer (40 hours assumed)

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

TASK 303 – PROCUREMENT OF INFLUENT LIFT STATION AND TRANSMISSION PIPELINE DESIGN TEAM.

MKN will perform the following services for procurement of a design team:

- Develop Request for Proposals and present to WRFCAC and Council for review and approval (12 hours assumed)
- Coordinate and attend pre-proposal meeting (8 hours assumed)
- Respond to Requests for Information and issue addenda as needed (12 hours assumed)
- Review proposals (12 hours assumed)
- Coordinate City review and interview process (12 hours assumed)
- Negotiate scope and budget with preferred consultant (8 hours assumed)
- Prepare staff report and recommendation for WRFCAC and City Council review (4 hours assumed)
- Meet with potential proposers and coordinate regular communication and outreach protocols documented in the Program Management Plan (24 hours assumed)

TASK 304 – DATA COLLECTION AND ENGINEERING SUPPORT FOR PRELIMINARY ENGINEERING AND PROCUREMENT ACTIVITIES. A budget of 200 hours is requested for support activities that may be required by the Program Management Team during execution of this phase of the WRF development.

TASK GROUP 400: PHASE I PROJECT DESIGN

TASK 401 - COORDINATION OF PHASE I WRF DESIGN DEVELOPMENT - MKN will organize weekly coordination meetings and lead responses to issues that develop during design development. MKN will serve as the main point of contact for the Design-Build Contractor (DBC) while also maintaining communications between the City and the DBC.

MKN will review the Concept Design Report and coordinate response from City. It is assumed that MKN will also coordinate up to six (6) design workshops with City staff to review progress of design development.

TASK 402 - COORDINATION OF INFLUENT LIFT STATION AND TRANSMISSION PIPELINES DESIGN DEVELOPMENT - MKN will organize weekly coordination meetings and lead responses to issues that develop during design development. MKN will serve as the main point of contact for the Design Team while also maintaining communications between the City and the Design Team.

MKN will review draft deliverables including up to four (4) Technical Memoranda, the Concept Design Report; 30% Design Plans and Estimates; 60% Design Plans; Draft Final Plans and Specifications; and Final Plans, Specifications, and Estimates.

TASK 403 – VALUE ENGINEERING REVIEWS – Based on the process and design alternatives selected for the WRF and lift station, MKN will assemble a value engineering team consisting of a qualified Value Engineering facilitator (per SRF requirements) and technical experts.

Our subconsultant, Value Management Strategies, Inc, will serve as the facilitator. It is assumed value engineering will be performed at the following milestones:

- Phase I WRF –30% Value Engineering Review
- Influent Lift Station and Transmission Pipelines - 30% Value Engineering Review
- Influent Lift Station and Transmission Pipelines – 60% Value Engineering Review



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

In our experience, the procurement process for engineering services is a good way to identify experts in various disciplines who can serve as members of the Value Engineering team. The technical experts will be identified after technologies are selected for the Phase I WRF.

TASK 404 - REPORT OF WASTE DISCHARGE – MKN will prepare a Report of Waste Discharge (ROWD) for the Phase I WRF to request Waste Discharge Requirement Orders and a National Pollutant Discharge Elimination System (NPDES) permit and submit the ROWD to Regional Water Quality Control Board (RWQCB).

It is assumed an administrative draft, draft and final ROWD will be prepared. Draft documents will be reviewed by the Design-Build team and City prior to submittal to RWQCB. The ROWD will include a summary of water supply (quality and source), wastewater flows and characteristics, treatment process components, monitoring and alarms, reliability features, solids handling, and the treated effluent reuse strategy.

TASK 405 - TITLE 22 REPORT FOR DDW – MKN will prepare a Title 22 Report for Division of Drinking Water review. It is assumed the Title 22 Report will include the Phase I WRF and initial reclamation opportunities that are identified in the Master Reclamation Plan. The report will include recycled water project design criteria; responsible parties for production, delivery, and use; Phase I WRF description, reliability features, monitoring program, transmission system components, use area and type, setbacks, signage, training, and a contingency plan.

TASK GROUP 500: PHASE I PROJECT CONSTRUCTION

MKN will mobilize the field staff to the project site as soon as MKN receives authorization to proceed and construction is ready to begin. The Resident Engineer (RE) and the field staff will maintain field offices (for both the Phase I WRF and influent lift station and transmission pipelines) provided by the Phase I WRF contractors (see task 3000). The Project Management Team will implement the record-keeping documentation, and contract administration systems. MKN will be the City's focal point (agent) for correspondence related to the construction phase of the project.

TASK 501 – CONSTRUCTION ADMINISTRATION PROCEDURES MANUAL. Compile a Construction Administration Procedures Manual for each of the two projects. The manual will define project administration team responsibilities and assignments and to what degree and frequency the tasks will be executed. Emergency contacts and action plans will be compiled. The primary purpose of this manual is to define the appropriate level of project administration, coordination, and communication. As part of this task, MKN will work closely with City staff to develop a plan for how resident and business inquiries will be handled during construction activities. The plan, which will be approved by the City, will be incorporated into the manual as an Appendix.

TASK 502 – PRE-CONSTRUCTION CONFERENCE. Conduct a pre-construction conference with the City, City's consultants, involved agencies, utilities, and the Contractor's team as they prepare to mobilize for each project. The RE will review plans and specifications with the Contractor in an effort to facilitate the Contractor's understanding of the project. The RE will review the Contractor's construction schedule for the project, including equipment, labor, and supervision planning. The RE will review appropriate protocols and procedures detailed in the Construction Administration Procedures Manual. The RE will

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

apprise the Contractor of contract requirements regarding security matters such as fences, lighting, and posting of signs. MKN will prepare meeting minutes for the pre-construction meeting.

TASK 503 – WEEKLY PROGRESS MEETINGS. Conduct weekly progress meetings at the City’s wastewater treatment plant with the Contractors, permit agencies (if applicable), and the City’s design representatives. The principal purpose of the project coordination meetings will be to:

- Review progress and quality and work planned for the next week
- Progress of critical path schedule items and task critical to project success (e.g., status of long lead time items)
- Review submittal and RFI logs.
- Notify the attendees of any construction deficiencies.
- Discuss labor, material, and equipment related to upcoming work.
- Address team coordination matters.
- Review maintenance of “as-built” drawings throughout construction.

MKN will prepare for these meetings (i.e., review the most current schedule ahead of the meeting), chair these meetings, and conduct each meeting according to a published agenda and have meeting summaries prepared and promptly distributed. Meeting summaries will detail action items, the discussions that ensued, and announce the time and date of the next meeting.

TASK 504 –WEB BASED CENTRALIZED DOCUMENT AND CHANGE MANAGEMENT SYSTEM. MKN will provide administrative support and management of the Web Based Centralized Document and Change Management System (ex. Primavera) to include regular updates of:

- Correspondence (letters and e-mail)
- Submittals/Shop Drawings
- Requests for Information (RFI)
- Change orders and change order requests
- Meeting Agendas and Minutes
- Daily Reports
- Inspection Reports
- Project Schedules

TASK 505 – RFIS. Review, coordinate (with City and design engineer), and respond to (up to 200) Contractor’s Requests for Information (RFI). When appropriate, recommendations, suggestions and alternatives shall be provided to the Contractor, and/or the City.

TASK 506 – SCHEDULING. Review the Contractor’s schedule on a monthly basis to verify that the project is being executed in general accordance with the requirements of the contract documents. Monitor the Contractor’s compliance with the agreed-upon scheduling requirements.

- MKN’s major task associated with the overall schedule requirements will be to:
- Review the Contractor’s schedule to determine that it is properly prepared, that the milestones dates meet the overall schedule, and that no major conflicts exist.



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- Review progress attained against the approved schedule to adequately record work-in-place, detect any potential delays, and review the Contractor's plan for implementation of remedial measures when appropriate, to recover or maintain progress.
- If changes are made to the critical path items review changes in assumptions and logic.
- In conjunction with the City, negotiate schedule adjustments with the Contractor, which may be required due to weather, change orders, or other impacts requiring schedule adjustments

TASK 507 – COMPLIANCE. Review Contractor's safety program for compliance with the contract documents. MKN shall not be responsible for Contractor's implementation of or compliance with its safety program or for initiating, maintaining, monitoring or supervising the implementation of such programs or the procedures and precautions associated therewith, or for the coordination of any of the above with the Contractor.

TASK 508 – CONSTRUCTION ADMINISTRATION. Maintain a set of contract files per the procedures identified in the Construction Administration Procedures Manual. If resident/business inquiries are received MKN will log them and work with the City staff to implement a response based on the procedures outlined in the Construction Administration Procedures Manual.

TASK 509 – MONTHLY PROGRESS PAYMENTS. Review Contractor's monthly progress payment requests, and construction contract records and reports specified to be submitted, for compliance with contract documents. Compile recommendations and forward to the City.

TASK 510 – CHANGE ORDERS. Investigate proposed change orders and RFIs submitted by the Contractor or requested by the City. Change order submittals will include supporting records. MKN's investigation will include the impacts on the project schedule and budget, and will include a recommendation for approval or disapproval. MKN will:

- Assemble documentation to include such items as inspection reports, test reports, drawings, sketches, photographs, and other materials as required.
- Review change order estimates compiled by the City's Design Consultants consisting of a cost estimate conforming to the City's procedures and forms; assess the impacts of the proposed change on the Contractor's schedule and operations; and prepare a written report summarizing the impact of the proposed change in terms of extra cost, cost savings, schedule, and effect on Contractor's obligations.
- Evaluate the Contractor's price proposals for reasonableness and accuracy of construction quantities, rates and unit prices, and time and schedule impacts.
- Maintain a change order log as a means to tracking change order proposals through the review and approval process. MKN will establish files for potential change orders or claims such as to accumulate documentation should the issues result in a change order or claim.

TASK 511 – SUBMITTALS. Receive from Contractor specified submittals and O & M manuals. Transmit these to design engineer for review, if appropriate (Influent Lift Station and Transmission Pipelines only). Maintain a log (Web Based) and manage shop drawings and sample/submittal review process to determine the following:

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- All short-term look-ahead schedules contain critical submittal dates, and the logs reflect the same.
- Submittals are reviewed in a timely fashion and returned to the Contractor to minimize lost production time.
- Logs are updated on a regular basis.
- Shop drawings have been reviewed and returned before associated work has begun.
- A copy of all submittals is maintained in the file.
- Subsequent to the review, return submittal to the Contractor and forward a copy to the City.

MKN shall conduct an administrative review of worker safety protection/excavation plans and dewatering plans prepared by the Contractor's registered civil or structural engineer to assist the City with the acceptance of detailed plans developed by the Contractor for the design of excavation, bracing, sloping or other provisions necessary for the protection of existing facilities and for the protection of workers from the hazard of caving ground during the excavation of any trench 5 feet or more in depth (hereinafter referred to as "Excavation Plan").

MKN's review does not include an independent review of the Contractor's calculations or of the materials used by the Contractor. Nothing contained in the Scope of Work shall be construed as relieving the Contractor of the full responsibility for providing an Excavation Plan(s) that is adequate for worker protection, nor for the liability resulting from the failure to do so.

TASK 512 – PERMIT COORDINATION. Act as liaison (for communications) between the City and representatives of permitting agencies. Assist the City with finalizing permit coordination. All permit fees are to be paid by Contractor and/or City.

TASK 513 – FIELD OBSERVATION. Implement observation guidelines for monitoring the quality of the Contractor's work. Conduct field observation and prepare documentation (daily reports) of construction tasks including but not limited to construction staging, utility coordination, process, mechanical, electrical, instrumentation, traffic access, pedestrian access, drainage, NPDES requirements, concrete, grading, pipeline, building construction, base and surfacing, lighting, landscaping, and erosion control.

Upon witnessing (and discussing with City) materials, erection or installation process, or levels of quality that do not meet the requirements of the construction contract documents, issue a Non-Conformance Report notifying the Contractor of such deviation and inquire about the Contractor's proposed corrective action. Copies will be forwarded to the City.

The Contractor has sole responsibility for compliance with safety requirements on the construction contract. MKN's staff will monitor the Contractor's general compliance with its safety program and advise the City of observed deficiencies.

Maintain a photographic log of construction activities and provide the City copies of significant photographs.

TASK 514 – PUNCH LIST. Punch lists shall be developed to permit City acceptance of each segment of work to occur after the Contractor attains substantial completion. Conduct a final project review with the City. Submit a recommendation for project acceptance.



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

TASK 515 – RECORD DRAWING. Collect construction record drawings from Contractor and transmit to design engineer for processing.

TASK 516 – TECHNICAL SUPPORT. MKN will provide technical support with the following disciplines:

- Civil Engineering
- Structural Engineering
- Wastewater Processes
- Instrumentation and Controls
- Electrical

TASK 517 – LABOR COMPLIANCE. MKN and its state-certified subconsultant, Golden State Labor Compliance, will provide a Labor Compliance Program to monitor the Contractor's labor compliance, which includes the following:

- Pre-Job Conference. Conduct a pre-job conference with the Contractor and subcontractors listed in the bid before commencement of the work. Labor compliance requirements will be discussed and copies of the suggested reporting forms furnished. Records of the conferences will be kept on file.
- Monthly Audit of Contractor Certified Payroll. Review certified payrolls submitted by the Contractor and his subcontractors to verify compliance with the requirements of prevailing wage. Monitor that Apprenticeship requirements are being met.
- Monthly On-Site Interview. Conduct random on-site Contractor employee interviews on a monthly basis as required by the Labor Compliance Program.
- Violation Enforcement and Recommendations. Communicate potential violations to City and provide recommended action.
- Annual Reporting to the Department of Industrial Relations (DIR). Compile and submit a summary report to the DIR. The report will be submitted annually during construction and at the conclusion of the project.

TASK GROUP 600: PHASE I FACILITY START UP, TESTING, AND COMMISSIONING

TASK 601 – STARTUP AND COMMISSIONING COORDINATION. MKN will serve as the start-up and commissioning liaison coordinating the services of the design consultant and contractor for the Influent Lift Station and Transmission Pipelines; and contractor for the Phase I WRF (as well as the contractor's subconsultants and suppliers) to develop and implement both start-up and commissioning plans. .

It is assumed the contract documents will require the Design-Build Contractor for the Phase I WRF and the contractor for the Influent Lift Station to provide startup services, such as demonstrations of proper system operation, adjustments to the equipment as needed to meet requirements in the contract documents, warranty support and service, vendor training, operations & maintenance manual(s), and required guarantees. These requirements will be evaluated during constructability review of the contract documents for each project component. It is further assumed that the respective design engineers will provide technical assistance and overall system review.

It is assumed the contract documents will also require the Contractor to submit an acceptance test plan and protocol that defines the following:

EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

- Specific measurements that will be made, including identification of permanent and temporary measurement devices
- Calibration procedures for measuring devices
- Redundancy of any measuring device to demonstrate accuracy
- Organization of the testing team, including responsibilities
- Testing schedule
- Operations and maintenance schedule during the testing period (if not in the Operations Plan discussed below)
- Specific detailed sampling protocols to be used in conducting the acceptance test

It is also assumed the Design-Build Contractor will provide an Operations Plan for the Phase I WRF, and the Plan will identify the schedule and steps for startup and commissioning of each system component.

MKN will perform the following tasks:

- Coordinate Contractors' startup and commissioning activities and compare to contract document requirements, Operations Plan and Acceptance Plan. Advise City of nonconformance issues. MKN will coordinate with City staff, Contractor(s), design team(s), systems integrator, and Construction Management team startup specialists.
- Review Operations Plan and Acceptance Plan and advise the City as to status of the scheduled tasks
- Coordinate Contractor/Client meetings to review startup status
- Coordinate vendor training sessions for attendance by appropriate City staff, design team, and Contractors. Provide input during training sessions regarding design and operation of equipment based on startup team's experience

TASK 602 –TRAINING. MKN will prepare and deliver supplemental on-site and classroom instructional training sessions on equipment and process systems. The training will be relative to the process operation of the facility. The content of the session shall be mutually agreed upon by both MKN and the City. Instruction will be performed at a location approved by City. Prior to training, equipment and systems preparation and checkout will be completed and demonstrated to the satisfaction of an MKN representative.

Training instruction sessions for the Client's personnel will include maintenance and operation personnel.

TASK GROUP 700: PHASE I FACILITY OPERATION AND PROJECT CLOSE OUT

TASK 701 – FINAL PROJECT REVIEW. For each of the construction projects, conduct final project review with the City and Design Engineers and submit a recommendation for project acceptance.

TASK 702 – FINAL REPORT. For each of the construction projects, prepare final report, with testing records, and submit to City.

TASK 703 – FINAL SUBMITTAL PACKAGE. For each of the construction projects, compile a final submittal package (field records) and submit to City.



EXHIBIT A
Proposal for Program Management Services for
A New WRF Serving the City of Morro Bay

TASK 704 – TECHNICAL SUPPORT DURING OPTIMIZATION. MKN will provide engineering and process support on an as-needed basis during commissioning and optimization of the WRF, Influent Lift Station, and conveyance pipelines.

Task Groups 800 through 1100 address the planning and design of the Phase II Reclamation System. A detailed scope and budget for these task groups will be provided as the Master Reclamation Plan is developed and implemented. The MKN team is committed to provide the same high level of program management throughout the development, implementation, and startup of all phases of the City's Water Reclamation Program.

TASK GROUP 800: PHASE II PROJECT PRELIMINARY AND FINAL DESIGN

TASK GROUP 900: PHASE II PROJECT CONSTRUCTION

TASK GROUP 1000: PHASE II FACILITY START UP, TESTING, AND COMMISSIONING

TASK GROUP 1100: PHASE II FACILITY OPERATION AND PROJECT CLOSE OUT

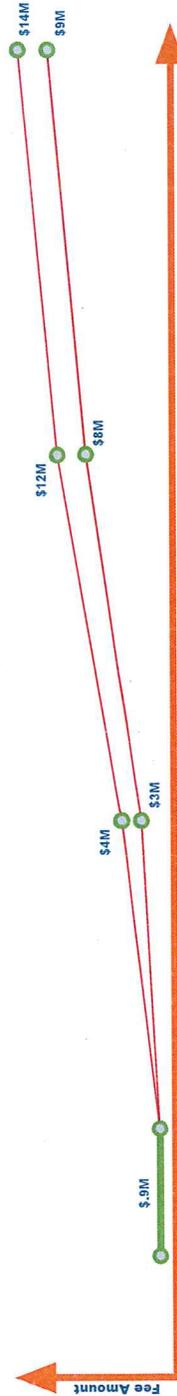
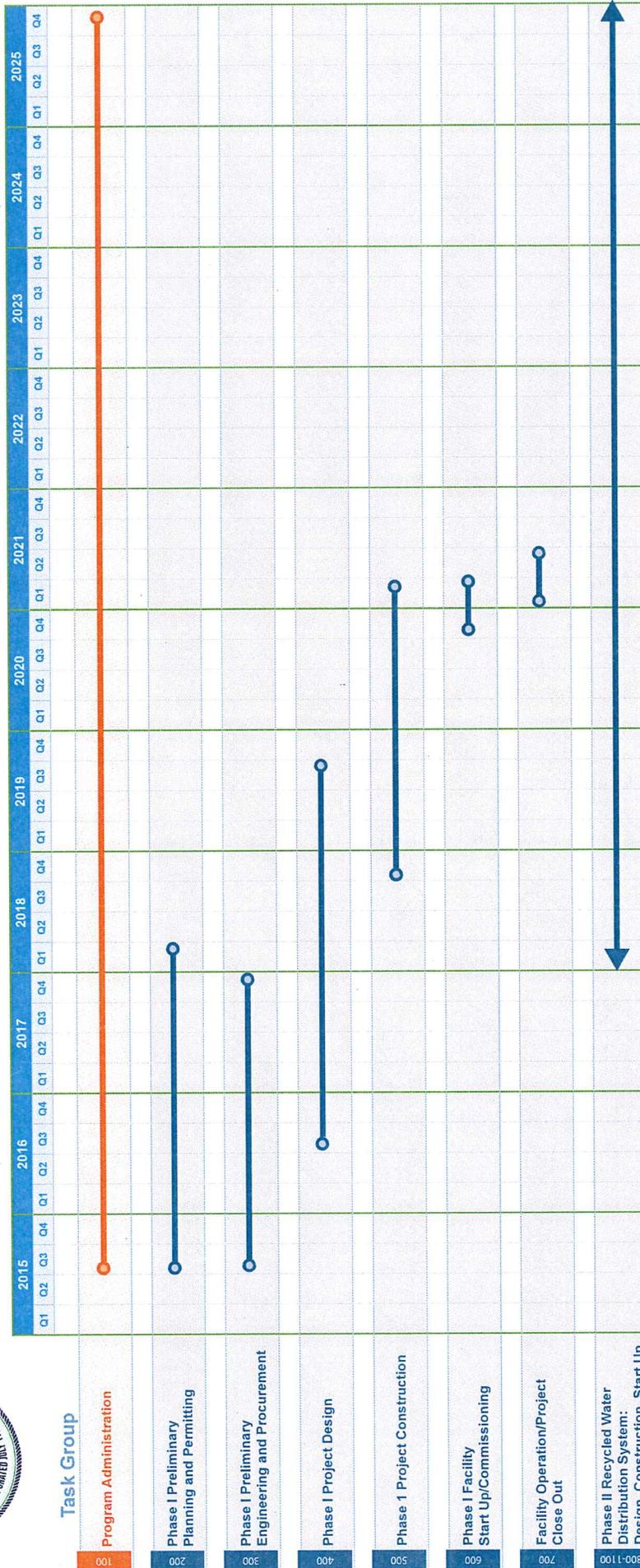
EXHIBIT A

Morro Bay WRF Program Management Services

mkn	Project Manager	Senior Project Engineer	Project Engineer	Assistant Engineer	Administrative Assistant	Total Hours (MKN)	Subtotal Labor (MKN)	ODCs (MKN)	JFR	RRM	MNS	Laquidara (TAT)	Konig Media	Total Subconsultant Cost	Total Cost
	Task Group 100 Program Administration														
Task 101-Schedule tracking and progress reporting	48		48			96	\$ 14,400	\$ 432	\$ 3,780					\$ 3,780	\$ 18,612
Task 102-Program Documentation	40		80			120	\$ 17,400	\$ 522	\$ 3,780					\$ 3,780	\$ 21,702
Task 103-Meetings	300		104			404	\$ 63,540	\$ 1,906	\$ 50,400					\$ 50,400	\$ 115,846
Task 104-Public outreach	104		16			120	\$ 19,320	\$ 580	\$ 31,605	\$ 68,250		\$ 5,000		\$ 104,855	\$ 124,755
Task 105-Budget tracking and reporting	48					48	\$ 7,920	\$ 238	\$ 3,780					\$ 3,780	\$ 11,938
Task 106-Grant and loan pursuit and management	40		0	0		40	\$ 6,600	\$ 198						\$ -	\$ 6,798
Task 107-Grant and loan support	50		25	25		100	\$ 14,500	\$ 435						\$ -	\$ 14,935
Task 108-Develop and maintain project management system	12		24	50	12	98	\$ 11,510	\$ 345	\$ 2,520					\$ 2,520	\$ 14,375
Task 109-Assist in planning and development of Program Office	12		16		16	44	\$ 4,860	\$ 146	\$ 630					\$ 630	\$ 5,636
Task 110-Development and Maintenance of Program Management Plan	80		40			120	\$ 18,600	\$ 558	\$ 6,300					\$ 6,300	\$ 25,458
Subtotal	734	0	353	75	28	1190	\$ 178,650	\$ 5,360	\$ 102,795	\$ 68,250	\$ -	\$ -	\$ 5,000	\$ 176,045	\$ 360,055
Task Group 200 Preliminary Planning															
Task 201-Master Reclamation Plan	100	160	240	240	40	780	\$ 103,100	\$ 3,093	\$ 18,270		\$ 10,500	\$ 5,250		\$ 34,020	\$ 140,213
Task 202-CEQA	40		40			80	\$ 12,000	\$ 360	\$ 68,670					\$ 68,670	\$ 81,030
Task 203-Permitting	40		40			80	\$ 12,000	\$ 360	\$ 58,800					\$ 58,800	\$ 71,160
Task 204-Facility Master Plan coordination	240	40	24			304	\$ 49,040	\$ 1,471				\$ 5,250		\$ 5,250	\$ 55,761
Task 205-Develop Project Delivery Technical Memorandum	40		24	24		88	\$ 12,600	\$ 378						\$ -	\$ 12,978
Task 206-Coordination of Model Development and Model Runs	16		60	60		136	\$ 17,640	\$ 529						\$ -	\$ 18,169
Task 207-Alignment Study and Coordination with Caltrans	8		60	12		80	\$ 10,800	\$ 324						\$ -	\$ 11,124
Task 208 - Data Collection and "As-Needed" Services	40	20	70	70		200	\$ 27,200	\$ 816	\$ 5,050	\$ 5,250				\$ 10,300	\$ 38,316
Subtotal	524	220	558	406	40	1748	\$ 244,380	\$ 7,331	\$ 150,790	\$ 5,250	\$ 10,500	\$ 10,500		\$ 177,040	\$ 428,751
Task Group 300 Phase I Preliminary Engineering and Procurement															
Task 301-Outfall Evaluation and Management Strategy	24	24	40	24	8	120	\$ 16,200	\$ 486						\$ -	\$ 16,686
Task 302-Design-Build Procurement (Bridging Documents/Concept Design TBD)	300		80			380	\$ 60,300	\$ 1,809		\$ 5,000				\$ 5,000	\$ 67,109
Task 303-influent Lift Station and Transmission Pipeline Design Procurement	76		16			92	\$ 14,700	\$ 441						\$ -	\$ 15,141
Task 304 - Data Collection and "As-Needed" Services	40	20	70	70		200	\$ 27,200	\$ 816	\$ 5,050					\$ 5,050	\$ 33,066
Subtotal	440	44	206	94	8	792	\$ 118,400	\$ 3,552	\$ 5,050	\$ -	\$ 5,000	\$ -		\$ 10,050	\$ 132,002
TOTAL BUDGET	1698	264	1117	575	76	3730	\$ 541,430	\$ 16,243	\$ 258,635	\$ 73,500	\$ 15,500	\$ 10,500	\$ 5,000	\$ 358,135	\$ 920,808
													Contingenc	10%	\$ 92,080.79
															\$ 1,012,889

EXHIBIT A

Morro Bay WRF Program Schedule



Program Management
Possible Range of Fees

EXHIBIT B

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Agreement, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City..

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy from CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way to perform the Scope of Services, then Consultant shall provide evidence of personal auto liability coverage for each such person.

Property Damage Insurance in an amount of not less than \$1,000,000 for damage to the property of each person on account of any one occurrence.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by

primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subContractors or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$2,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

Exhibit B

Page 2 of 6

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City of Morro Bay and its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all Consultants, and subContractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Consultants and subContractors to do likewise.
3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium.

Exhibit B

Page 3 of 6

Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City's option.

8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subContractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self-insurance available to City.
9. Consultant agrees to ensure that subcontractors, and any other party involved with the Scope of Services who is brought onto or involved in the Scope of Services by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Scope of Services will be submitted to City for review.
10. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subContractor, Architect, Engineer or other entity or person in any way involved in the performance of the Scope of Services to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At the time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
11. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increase benefit to City.
12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
13. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

Exhibit B

Page 4 of 6

14. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
15. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
16. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
18. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
19. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
20. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the Scope of Services reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

Exhibit B

Page 5 of 6

21. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

Exhibit B

Page 6 of 6

This Page Intentionally Left Blank



AGENDA NO: A-6
MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 17, 2017
FROM: Ikani Taumoepeau, Deputy City Manager
SUBJECT: Approve the Proposed Partnership Agreement with the Community Foundation of Estero Bay

RECOMMENDATION

Staff recommends the City Council approve the partnership agreement with the Community Foundation of Estero Bay (CFEB).

FISCAL IMPACT

Typically, the CFEB uses City facilities for their annual gala – *Morro Bay Sings*. In 2016, CFEB paid \$649 to the City for the *Direct Cost* rate to use the Community Center (the full *Non-Profit* rate for the event was ~\$1,500, which was reduced to *Direct Cost* rate). Future facility rental fees would not be realized by the City.

For the Trolley Advertisement Program (TAP), there is no fiscal impact to the City’s General Fund, as the revenue generated from advertising sales on the trolleys goes towards offsetting trolley operating expenditures. The City and CFEB will split generated advertising revenue 50%/50%.

BACKGROUND

The City is formalizing a partnership agreement with the CFEB, which the main aspect and service being the TAP and the use of City facilities.

The CFEB is an organization whose mission is to assist financially challenged families to participate in recreation programs offered by the Recreation Department and other programs in the Estero Bay.

On February 16, 2011, the City approved the CFEB to sell trolley advertising. Before 2011, the trolley advertising program was managed by a combination of City, Chamber of Commerce and MV Transportation staff. Before 2011, other work related commitments limited the effectiveness of being able to sell all advertising spaces available on the trolleys and management of the advertising program eventually came back to City staff, which also had other commitments that limited the ability to sell all spaces. The result was the loss of potential revenue to TAP that could be used to offset General Fund expenditures for operations.

The CFEB currently manages the TAP, sells the advertising spaces, arranges to have ad signs created, and coordinates with City staff to have signs placed on the trolleys. Revenue generated from advertising sales are split evenly between the City and the CFEB, after signage expenses.

Prepared By: IT Dept Review: _____
City Manager Review: DWB City Attorney Review: JWP

	Trolley Ad Program	
	Trolley Ad Rev	50% Rev Share
2016	\$ 13,321.47	\$ 6,660.74
2015	\$ 11,739.42	\$ 5,869.71
2014	\$ 11,829.32	\$ 5,914.66
2013	\$ 11,854.28	\$ 5,927.14
2012	\$ 10,091.53	\$ 5,045.77
2011	\$ 11,420.42	\$ 6,000.00
* 2011: Min. guarantee to City was \$6,000 before it changed to 50/50 split in 2012		

DISCUSSION

The City wanted to establish a more formal partnership agreement that covered all of the various areas in which City resources may be wanted to further the CFEB's aims. The CFEB drafted a proposal to the City on September 23, 2016. City Staff reviewed that proposal with the legal team, made modifications and provided a response proposal to CFEB on November 16, 2016.

The CFEB Board reviewed the City's proposal and sent back the following concerns on November 22, 2016, "Perhaps the City of Morro Bay does not understand the nature of small philanthropic non-profit 501(c)(3) organizations, and does not clearly understand their capabilities, and to what they are able to agree." – CFEB.

The CFEB is requesting the following sections be omitted from the partnership agreement:

- 18 - Indemnification
- 19 - Insurance Coverage
- 19a - Commercial General Liability Insurance
- 19b - Worker's Compensation Insurance
- 19c - Automotive Insurance
- 20 - General Insurance Requirements

The CFEB shared the following concerns against the City's indemnification and insurance policy requirements.

- Indemnification section:
 - "A broadly sweeping indemnification clause such as found in the draft is contrary to the Foundation's governance policies, and so one-sided as to be impractical." - CFEB
- Insurance section:
 - Commercial general liability: "The Foundation does not currently have, nor given its operation does it need commercial general liability insurance...The Foundation has been advised by its insurance agent that such coverage...would be cost prohibitive." - CFEB
 - Worker's compensation and automotive insurance:
 - "The Foundation has no employees, and has no vehicles. Therefore, Workman's Compensation insurance coverage, and automobile insurance coverage, are unnecessary, and make no sense." - CFEB

From the City's perspective, the possible consequences to the City for omitting the agreement sections above, although rare, may be the following in the worst-case scenario:

- Indemnification:
 - If CFEB did something that caused someone to sue, then the plaintiff could possibly sue both CFEB and the City. The City would then have to pay legal fees to defend that lawsuit. The City would have the option to file a cross-complaint against the CFEB if CFEB caused that damages.

- Insurance coverage:
 - In a potential lawsuit, if CFEB didn't have insurance and was liable for the damages and if the City were held jointly liable for those damages, then the City may not be able to recover the damages awarded due to limited funding of the CFEB.

The City Council has the legal right to omit the indemnification and insurance policy section from the partnership agreement, as it is a business decision.

Staff also suggests Council approve the other modifications to the proposal from CFEB. Those changes provide for limitations on the types of CFEB events that are guaranteed a facility fee waiver and clarification use of the City's facilities are not unlimited.

CONCLUSION

Staff recommends the City Council approve a partnership agreement with the Community Foundation of Estero Bay, substantially conforming to the attached proposal from CFEB.

ATTACHMENTS

1. Partnership Agreement between the City and CFEB
2. Omitted agreement sections

**CFEB Proposed Partnership Agreement
Between
The Community Foundation of Estero Bay, Inc. and the City of Morro Bay**

Consistent with the City of Morro Bay Partnership Policy, the Community Foundation of Estero Bay, Inc. ("Foundation"), a 501(c)3 non-profit, proposes the following partnership agreement with the City of Morro Bay ("City"). The Foundation has for decades supported the City of Morro Bay Recreation Division's youth sports and recreation programs, and the City has for decades given the Foundation consideration in the use of City facilities, for their mutual benefit.

1. TERM

This Agreement shall be deemed to have commenced as of January 1, 2017 and shall remain and continue in effect until tasks described herein are completed, but in no event later than December 31, 2019, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

- a. Foundation shall sell advertising spaces on the Morro Bay Trolley for the calendar year of 2017, January 1st – December 31st (the "Trolley") and be responsible for soliciting local businesses for that advertising. Foundation will ensure Trolley advertisers solicited by Foundation for this designated time follow City's sign ordinance, as they relate to advertising on City trolleys. Foundation will be responsible for collecting advertising proceeds from the advertisers which the Foundation solicits. Foundation will make arrangements to procure any Trolley advertising signs that might be needed for the performance of the Services, and Foundation will coordinate with City in placing the signs on the trolleys while Foundation assumes primary responsibility for placement of the signs. Foundation will use City's Master Fee schedule as a guide to determine the trolley advertising rates.
- b. Subject to the provisions of Section 6, below, from time to time, and with City staff written approval, Foundation can utilize other City facilities for purposes of Foundation fund raising activities. These facilities may include, but not be restricted to: the Morro Bay Community Center; and the Morro Bay Veteran's Memorial Building.
- c. Foundation agrees to file any City required permits through the normal application process with the City.
- d. Foundation will financially support various City Recreation Division youth sports and recreation programs.

3. PERFORMANCE

Foundation shall at all times faithfully, competently and to the best of their ability, experience, and talent, perform all tasks described herein. Foundation covenants that it shall follow the highest professional standards in performing the work and services

required hereunder and that all materials will be both of good quality as well as fit for the purpose intended.

4. CITY MANAGEMENT

City Manager of City shall represent City in all matters pertaining to the administration of this Agreement, including review and approval of all products submitted by Foundation. The City Manager's authority does not include independently enlarging the scope of the Tasks to Be Performed. However, in the event the City properly enlarges the scope of the Tasks to Be Performed, the City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the scope of the Tasks to Be Performed-

5. REVENUE SHARING

For Trolley advertising, City and Foundation will equally split the net revenue (gross sales less cost of the signs) from the Trolley advertising sales solicited and collected by Foundation (the "Advertising Revenue"). In support of payment to the City for its share of Trolley advertising, the Foundation will submit a report twice a year to the City, first one being on or about May 30, 2017, and the second one being on or about November 30, 2017, each report listing actual Advertising Revenue received. Payments to the City shall be made on or before July 1, 2017 and on or before January 1, 2018, unless that date is altered by mutual agreement of the parties in writing.

6. USE OF CITY FACILITIES

To the extent Foundation makes infrequent application to use City facilities for purposes of Foundation fund-raising, City agrees to waive costs for facility rental fees, facility kitchen use, and facility utility and maintenance fees. For other Foundation events, City may also waive facility some or all of those fees if the City Manager or City Council determines that waiver is in the best interests of City.

City costs resulting from staff time, contracted hours, insurance, event/stage set-up and breakdown will not be included in the waiver of fees provided herein and shall be payable by Foundation.

7. DEFAULT OF FOUNDATION

(a) Foundation's failure to comply with the provisions of this Agreement shall constitute a default. City can terminate this Agreement by written notice to Foundation, as provided in subsection (b) below, in the event Foundation is in default. If such failure by Foundation to make progress in the performance for work hereunder arises out of causes beyond Foundation's control, and without fault or negligence of Foundation, then it shall not be considered a default.

(b) If the City Manager or his/her delegate determines Foundation is in default in the performance of any of the terms or conditions of this Agreement, then he/she shall cause to be served upon Foundation a written notice of the default. Foundation shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event Foundation fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or

under this Agreement.

8. DEFAULT OF CITY

- (a) City's failure to comply with the provisions of this Agreement shall constitute a default. Foundation can terminate this Agreement by written notice to City. as provided in subsection (b) below, in the event City is in default. If such failure by City to make progress in the performance for agreements or work hereunder arises out of causes beyond City's control, and without fault or negligence of City, then it shall not be considered a default.
- (b) If the Foundation determines City is in default in the performance of any of the terms or conditions of this Agreement, then it shall cause to be served upon the City Manager a written notice of the default. City shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event City fails to cure its default within such period of time, Foundation shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

9. RECORD KEEPING

Foundation shall maintain complete and accurate records with respect to sales, costs, expenses, and receipts that relate to the performance of services under this Agreement (the "Records"). The Records shall be maintained in accordance with generally accepted accounting principles, shall be complete and detailed, and shall be maintained in a format that enables the City's City Manager to evaluate the performance of the services. The Records shall be made available to City for review and copying, as reasonably requested by City's City Manager. If City requires an auditing of the Records due to another governmental agency's request, then Foundation shall make the Records available for that audit. The Records shall be maintained for a period of three (3) years following completion of the services hereunder.

10. INDEPENDENT FOUNDATION

- (a) Foundation is and shall at all times remain as to City wholly independent. The personnel performing the services under this Agreement on behalf of Foundation shall at all times be under Foundation's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Foundation or any of Foundation's officers, employees, or agents, except as set forth in this Agreement. Foundation shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of City. Foundation shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.
- (b) No City employee benefits shall be available to Foundation in connection with the performance of this Agreement. Except for the fees paid to Foundation as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Foundation for performing services hereunder for City. City shall not be liable for compensation or indemnification to Foundation for injury or sickness arising out of performing services

hereunder.

11. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

For City of Morro Bay:

David Buckingham
City Manager
595 Harbor Street
Morro Bay, CA 93442

For Community Foundation of Estero Bay, Inc.

Ron Reisner
President
P.O. Box 131
Morro Bay, CA 93443

12. ASSIGNMENT

Foundation shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City.

13. LICENSES

At all times during the term of this Agreement, Foundation shall have in full force and effect, all licenses and tax certificates required of it by law for the performance of the services described in this Agreement.

14. GOVERNING LAW

City and Foundation understand and agree the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over City.

15. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

16. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Foundation warrants and represents he/she has the authority to execute this Agreement on behalf of Foundation and has the authority to bind Foundation to the performance of its obligations hereunder.

17. INTERPRETATION

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

18. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

19. SEVERABILITY

In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

20. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES.

No officer or employee of the City shall be personally liable to the Foundation, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Foundation or to its successor, or for breach of any obligation of the terms of this Agreement.

INDEMNIFICATION

To the full extent permitted by law, Foundation agrees to indemnify, defend and hold harmless the City, its officers, employees and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Foundation, its officers, employees, agents, subcontractors, invitees, or any individual or entity for which Foundation is legally liable (“indemnitors”), or arising from Foundation’s or indemnitors’ reckless or willful misconduct, or arising from Foundation’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, except claims or liabilities occurring as a result of City’s sole negligence or willful acts or omissions. The indemnity obligation shall be binding on successors and assigns of Foundation and shall survive termination of this Agreement.

INSURANCE COVERAGE

The Foundation shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance, which shall cover all elected and appointed officers, employees and agents of City (through naming the City as additional insured):

a) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

b) Worker’s Compensation Insurance. A policy of worker’s compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Foundation against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Foundation in the course of carrying out the work or services contemplated in this Agreement.

c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of \$100,000 per person and \$300,000 per occurrence and property damage liability limits of \$150,000 per occurrence or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars, and any other automobile.

GENERAL INSURANCE REQUIREMENTS

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Foundation's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Foundation shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Agreement to the City.



AGENDA NO: C-1

MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: January 17, 2017

FROM: Joseph W. Pannone, City Attorney

SUBJECT: Summary and Impact of Various Relevant November 2016 Ballot Measures Passed by Voters and Council Direction for Further Action

RECOMMENDATION

Staff recommends Council review this report and provide direction as to whether the Staff and City Attorney should return to the Council with appropriate ordinances and Morro Bay Municipal Code amendments addressing either or both of the following.

- Imposition of a fee to cover costs associated with removal and storage of certain firearms required by the new regulations on ammunition purchases
- Imposition of civil penalties on persons or entities violating the ban on single-use carryout grocery bags

[We know Proposition 64 (allowing recreational marijuana use, cultivation and dispensing) is also a recently adopted measure. Providing for a robust community discussion regarding marijuana in Morro Bay is one of the Council's goals for 2017. That proposition is not discussed in this memo because there is a separate item on the same agenda dealing with that.]

FISCAL IMPACT

The fiscal impact on the City as a result of the new laws is unclear at this time. If Council directs staff to return with ordinances related to some of the measures, then staff and City Attorney time will be a cost to the City.

BACKGROUND/DISCUSSION

In our continuing efforts to keep the Council and staff apprised of new laws that may affect the City, the following is a summary of relevant ballot measures approved by California voters in November 2016 and their potential impact on the City:

I. Proposition 54: Conditions Under Which Legislative Bills Can Be Passed

Proposition 54 changes the rules and duties of the State Legislature as follows: (i) prohibits the Legislature from passing any bill unless it has been in print and published on the Internet for at least 72 hours before the vote, except in cases of public emergency, (ii) effective January 1, 2018, requires the Legislature to make audiovisual recordings of all its proceedings, except closed session proceedings, and post them on the Internet within 24 hours following the end of the meeting, downloadable for at

01181.0001/330874.3

Prepared By: JWP

Dept Review: JWP

City Manager Review: DWB

City Attorney Review: _____

least 20 years, (iii) authorizes any person to record legislative proceedings by audio or video means, except closed session proceedings and (iv) allows recordings of legislative proceedings to be used for any legitimate purpose, without payment of any fee to the State.

Proposition 54 applies to the two houses of the California Legislature: the Senate and the Assembly, by changing the procedural rules and the duties of the Legislature. There is no direct impact on local government agencies. The measure is estimated to have an initial cost to the state of \$1 million to \$2 million and ongoing annual costs of \$1 Million which may potentially lead to an increase in state-imposed taxes.

II. Proposition 55: Tax Extension to Fund Education and Healthcare

Proposition 55 (i) extends for 12 years, to 2030, the temporary personal income tax rates on earnings over \$250,000 (for single filers), \$500,000 (for joint filers) and \$340,000 (for heads of household), as established by Proposition 30 which was approved by voters in November 2012 and was set to be phased out starting in 2018, (ii) allocates those tax revenues 89% to K–12 schools and 11% to California Community Colleges, (iii) allocates up to \$2 Billion per year in certain years for healthcare programs geared towards low-income persons and (iv) bars use of education revenues for administrative costs, but provides local school boards discretion to decide, in open meetings and subject to annual audit, how revenues are to be spent. Proposition 55 does NOT extend Proposition 30's one-quarter cent increase in the sales tax rate, which expired December 2016. There is no direct impact on local agencies. The measure is expected to increase state revenues by \$4 Billion to \$9 Billion per year depending on economic and stock market conditions.

III. Proposition 56: Increase of Cigarette Tax

Effective April 1, 2017, Proposition 56 (i) increases the state excise tax on a pack of cigarettes by \$2.00/pack, to \$2.87/pack, with an equivalent \$2 increase, to \$3.37/pack, on other tobacco products and includes electronic cigarettes containing nicotine in the definition of "other tobacco products," (ii) allocates revenues to increase funding for existing healthcare programs, tobacco use prevention/control programs, tobacco-related disease research/law enforcement, University of California physician training, dental disease prevention programs, and administration, and excludes these revenues from Proposition 98's education funding calculation requirements, (iii) if tax causes decreased tobacco consumption, transfers tax revenues to offset decreases to existing tobacco-funded programs and sales tax revenues and (iv) requires biennial audit of agencies receiving funds from the new taxes.

The net long-term fiscal impact on the state and local government agencies' sales tax revenues is unclear. The purpose of Proposition 56 is to reduce consumption of tobacco products. Consequently, the fiscal impact could be positive, negative or unchanged, depending on consumers' change in purchasing behavior as a result of this measure, such as purchasing products online to avoid the new taxes.

IV. Proposition 57: Felons Convicted of Non-Violent Crimes and Juvenile Trials

Proposition 57 (i) allows parole consideration for persons convicted of nonviolent felonies, upon completion of prison term for their primary offense as defined, (ii) authorizes Department of Corrections and Rehabilitation to award sentence credits for rehabilitation, good behavior, or educational achievements, (iii) requires Department of Corrections and Rehabilitation to adopt regulations to implement new parole and sentence credit provisions and certify they enhance public safety and (iv) provides juvenile court judges shall make determination, upon prosecutor motion, whether juveniles

age 14 and older should be prosecuted and sentenced as adults for specified offenses.

Fiscal impact is unclear and is dependent on how certain provisions in the measure are interpreted and implemented. This measure will likely result in an increase in the size of the probation population due to the shortened prison term of eligible offenders, thus potentially increasing crime rates in local communities and cost of law enforcement.

V. Proposition 63: Background Checks For Ammunition Purchases

Proposition 63, commencing January 1, 2018, (i) requires individuals to pass a background check and obtain Department of Justice authorization to purchase ammunition, (ii) prohibits possession of large-capacity ammunition magazines, and requires their relinquishment and disposal, as specified, (iii) requires most ammunition sales be made through licensed ammunition vendors and reported to Department of Justice, (iv) establishes new procedures for enforcing laws prohibiting firearm possession; (v) prohibits persons convicted of stealing a firearm from possessing firearms; and commencing July 1, 2017, (vi) requires lost or stolen firearms and ammunition be reported to law enforcement within a specified time frame and (vii) requires Department of Justice to provide information about prohibited persons to federal National Instant Criminal Background Check System.

The new court process for removing firearms from prohibited persons after they are convicted will likely result in an increase in annual local law enforcement costs. Further, the changes in firearm and ammunition penalties will likely cause an increase in local correctional costs. Local government agencies are authorized under this measure to charge a fee to cover certain costs associated with implementing the measure, such as those related to the removal or storage of firearms.

VI. Proposition 67: Prohibition on Single-Use Carryout Grocery Bags

Proposition 67 upholds SB 270, which was passed in 2014, and expands its application to all cities and counties, not just those that do not already have local rules regarding single-use carryout bags. Proposition 67 (i) prohibits certain grocery and other retail stores from providing single-use plastic or paper carryout bags to customers at point of sale and (ii) permits sale of recycled paper bags and reusable bags to customers, at a minimum price of 10 cents per bag. Stores retain the revenue from the sale of the bags.

The measure preempts any local ordinances or resolutions adopted on or after September 1, 2014, or amendments adopted on or after January 1, 2015, relating to grocery bags. The measure allows state and local government agencies to impose civil penalties on a person or entity that knowingly violates this law. Penalties are limited to \$1,000 per day for the first violation, \$2,000 per day for the second violation and \$5,000 per day for the third and subsequent violations. Penalties collected must be paid to the office that brought the action, i.e., office of the city attorney, city prosecutor, district attorney, or Attorney General.

CONCLUSION

Staff recommends Council reviews the foregoing and provide further direction to staff as it deems appropriate.

This Page Intentionally Left Blank



AGENDA NO: C-2
MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor & City Council **DATE:** January 17, 2017

FROM: Scot Graham, Community Development Director

SUBJECT: Adopt the Centennial Parkway Concept Plan and Provide Direction regarding the Preferred Traffic Pattern for the Embarcadero Sidewalk Widening Draft Concept Plan.

RECOMMENDATION

Staff recommends the City Council, review the staff report and associated materials, receive the presentation by staff and adopt the Draft Centennial Parkway Concept Plan.

The Council may also adopt the preferred alternative for widening the Embarcadero sidewalk utilizing either a one-way or two-traffic design.

FISCAL IMPACT

None. The intent for funding construction of the Centennial Parkway and Embarcadero sidewalk widening improvements is through public/private partnerships associated with development of adjoining properties and/or lease sites.

BACKGROUND

As part of the Fiscal Year 2015/2016 Goal setting process, the City Council identified one of the objectives as the need for preparation of a plan that would both widen the Embarcadero sidewalk along the water side of the street and provide a new vision for the Centennial Stair area. The Centennial Stair redesign has been termed the Centennial Parkway Project.

In August of 2015, Staff hired RRM Design Group to prepare the plans for the Centennial Parkway Project. The overall planning effort kicked off in late September of 2015, when meetings were held between RRM and City Staff, followed by stakeholder interviews in March of 2016. The stakeholder input helped set the direction of the May 25th public workshop.

RRM led the May 25th public workshop when existing conditions were presented along with multiple sidewalk widening alternatives and options for items that could be included in a design of the Centennial Parkway Project.

Workshop input led to a refining of the Centennial Parkway Project goals to include items to “Enhance the attractiveness of the Embarcadero for locals and visitors,” “Enhance the Embarcadero with family oriented activities,” “Ensure truck deliveries are timely and efficient and delivery zones are provided to minimize traffic impacts along the Embarcadero” and “Enhance the Embarcadero with a pedestrian friendly and bicycle friendly environment.”

01181.0003/272189.1	
Prepared By: <u>SG</u>	Dept Review: <u>SG</u>
City Manager Review: _____	City Attorney Review: <u>JWP</u>

On September 27, 2016, the Council held a joint meeting with the Harbor Advisory Board (HAB) and Planning Commission to review and discuss the two design options for the Centennial Parkway Project and an Embarcadero design that included both one-way and two-way traffic options, bicycle accommodation as well as the desired sidewalk widening. Comments from the joint study session included the following:

Centennial Parkway Concept A.

- Elevator
- Keep chessboard
- Fire place concept is good, but not on pier
- Enhanced intersection paving at Market and Morro Bay Blvd.
- Photo Spot...Prom Picture example
- Possible use of heavy timbers, but not piers/pilings wrapped with rope...must be authentic. Maybe benches.

Centennial Parkway Concept B...items to be incorporated into concept A.

- Wider area crossing Embarcadero
- Rock feature

Embarcadero Sidewalk widening.

- Wider sidewalks on the Embarcadero...seems to suggest make the sidewalks as wide as possible
- Careful with the roll out of one way...perhaps implement temporarily through a demonstration project

Other items:

1. No tall "Morro Bay" feature at the top of the stairs. However, want a connection that does draw folks up the stairs to downtown.
2. Incorporate green or sustainability features into the development. Low Impact Development (LID) or stormwater catchment/rain barrels like at the bathroom. This can be more a statement than something shown.
3. Lower level lighting or shielded lighting.

A link to the September 27, 2016, special joint meeting staff report can be found at the following link: <http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2945>

The YouTube video of the September 27, 2016, joint meeting can be found at the following link: https://www.youtube.com/channel/UCBvqPAbGDi4ZxxJMLRWEE7Q/videos?view=0&shelf_id=0&sort=dd

The City Council again discussed the Centennial Parkway Project at the regularly scheduled September 27, 2016, Council meeting, directly following the joint meeting. The Council directed staff and RRM Design Group revise the drawings based on the direction provided above and then run the revised drawings back through at least the Harbor Advisory Board and Planning Commission.

DISCUSSION

RRM Design Group has revised the plans into a Final Draft taking into consideration the input provided by the City Council, Harbor Advisory Board and the Planning Commission. It should be noted the plans include concept level detail and not construction level detail. Final Draft Concept Plans are provided as Attachment 1 to this staff report.

City staff public engagement efforts have continued to seek input on the Final Draft Concept Plans. Recent outreach efforts include the preparation of an online survey, input from the City's various advisory boards and input from Morro Bay High School Leadership students. Each outreach method is discussed in greater detail below.

Outreach Effort on Final Draft Concept Plans

City Survey

After receiving the Final Draft Concept Plans, Staff prepared a simple Survey Monkey survey where we asked the following three questions:

1. Do you want the City to move forward with a Plaza concept for the Centennial Parkway?
 - a. Yes, move forward with the plaza concept
 - b. No, keep the area as is
2. Do you have any comments on the Plaza Concept? Please provide them below.
3. What is your preferred traffic option?
 - a. One-Way
 - b. Two-way.

In conjunction with the survey, staff had large poster board prints of the Final Draft Concept Plans of the Centennial Parkway Project and Embarcadero Sidewalk widening plans prepared and placed at the following locations: City Hall front counter, Public Services building front counter, Library, Community Center and Morro Bay High School office. The poster boards contained both a QR code and URL link to the survey questions noted above.

Survey Results Through January 16, 2017:

Question #1

	Do you want the City to move forward with the Plaza Concept
Yes	256 (76%)
No	81 (24%)

Question #2

Following are some of the concerns of those who voted "no" on Question 1 on the survey.

Plaza concept comments	
Homeless issue	4

Wheelchair/Handicap access	4
More modest, small-town design- do not compromise Morro Bay/embarcadero feel	19
Where will parking go	18
Displacement of shop owners/gentrification	3
Use money to improve roads/other needed projects	15

Question #3

What is your preferred traffic option?

One-way	119 (40%)
Two-way	178 (60%)

Traffic option comments

Have complete closed street
Confusing to residents and visitors

Other comments

Do not move forward with parking garage	2
---	---

In answer to the two main questions posed; 76% of respondents are supportive of the Plaza concept moving forward and 60% of respondents would prefer a sidewalk widening approach that includes two-way traffic on the Embarcadero.

Advisory Board Input

Staff has presented the Final Draft Concept Plans of the Centennial Parkway and Embarcadero Sidewalk widening plans to the Planning Commission, Citizens Finance Committee, Harbor Advisory Board, Public Works Advisory Board, and Tourism Business Improvement District Advisory Board. Staff will be obtaining input from the Recreation and Parks Commission on Thursday January 19, 2017 and that input will be provided verbally to the Council on January 24th. All boards recommended the Council move forward with the concept, several with comments. Input provided by the City's Advisory Boards can be found in Attachment 2.

Morro Bay High School Student Input

The Council voiced interest not only in advisory board input, but in the possibility of obtaining input from younger Morro Bay residents. To that end, staff has engaged Morro Bay High School students in review of the Final Draft Concept Plans of the Centennial Parkway and Embarcadero Sidewalk widening plans. Staff provided separate project presentations to both of the Morro Bay High School Leadership classes. In addition to presenting the project to two Leadership classes, staff also placed poster board copies of the those plans in the High School office. The posters contain both a QR (Quick Response) code and URL to the City survey. The High School student leadership recommended the Council adopt the Centennial Parkway concept.

Morro Bay Chamber of Commerce Input

The Chamber Board voted to recommend the Council adopt the Centennial Parkway concept. The Board would like to better understand the big picture for vehicle, pedestrian, and cycling circulation along the Embarcadero through Tideland Park before making a recommendation on Embarcadero 1-way vs. 2-way.

How to Use the Input Gathered

The Final Draft Concept Plans of the Centennial Parkway and Embarcadero Sidewalk widening plans are really “Final Plans” in terms of the City’s contract with RRM Design Group, which is now considered complete. Any additional changes to those plans at this stage in the process would require a contract amendment and expenditure of additional funds. Therefore, it would be Staff’s preference to compile all of the input gathered to date and any additional input provided by the Council on January 24th and provide that to future development partners that would be designing and building the final improvements. Also, see “Funding Centennial Parkway Improvements” discussion below.

The current plans are prepared at a concept level and it should be expected when final construction documents are prepared the plan details may be somewhat different than those currently shown. Design changes should be predicated on how the adjacent properties/lease sites redevelop and in what manner they interact with the plaza areas. Future discretionary approvals associated with the Centennial Parkway Project and Embarcadero sidewalk widening project will require Planning Commission and/or City Council review and approval.

FUNDING CENTENNIAL PARKWAY PROJECT IMPROVEMENTS

Given City budgetary constraints, the improvements identified in the Final Draft Concept Plans for the Centennial Parkway Project and Embarcadero Sidewalk widening plans are unlikely to be funded through General Fund monies. Instead, City Staff envisions looking at opportunities associated with public/private partnerships. Construction of the improvements along the water side of the Embarcadero could be negotiated as part of future lease site improvements in the project area. The lease sites that include Rose’s Landing, Libertine and Off the Hook will all soon be moving forward with redevelopment projects.

The Centennial Plaza area on the east side of the Embarcadero could also be part of a public/private partnership endeavor involving redevelopment of the following City-owned properties: DiStasio’s, portions of Market Street, the City Parking lot below DiStasio’s and the parking lot at the northeast corner of Market and Pacific. That potential future redevelopment project has been referred to in various City meetings as the Market Plaza project. City staff will likely be bringing the Market Plaza conversation forward for Council discussion in February of 2017.

Various components of the Centennial Parkway Project could also be supported through grant funding opportunities.

CONCLUSION

The Council met in joint session with the HAB and Planning Commission back in September of 2016. Input from the joint meeting and subsequent regularly scheduled Council meeting resulted in direction from the Council to revise the subject plans and to review the revised plans with both the HAB and Planning Commission.

Staff has expanded public outreach efforts in relation to the Final Draft Concept plans for the Centennial Parkway Project and Embarcadero widening to include an online survey, input from several City advisory boards and Morro Bay High School students.

The City's advisory boards generally support the Centennial Parkway Project Final Concept Plans as do those individuals who took part in the online survey. Advisory board members had some interest in testing a one-way alternative traffic pattern on the Embarcadero; however, public online survey results clearly favor the two-way traffic pattern.

Staff is requesting the Council adopt the Final Draft Concept Plans for the Centennial Parkway Project and also provide direction on the preferred traffic pattern alternative.

ATTACHMENTS

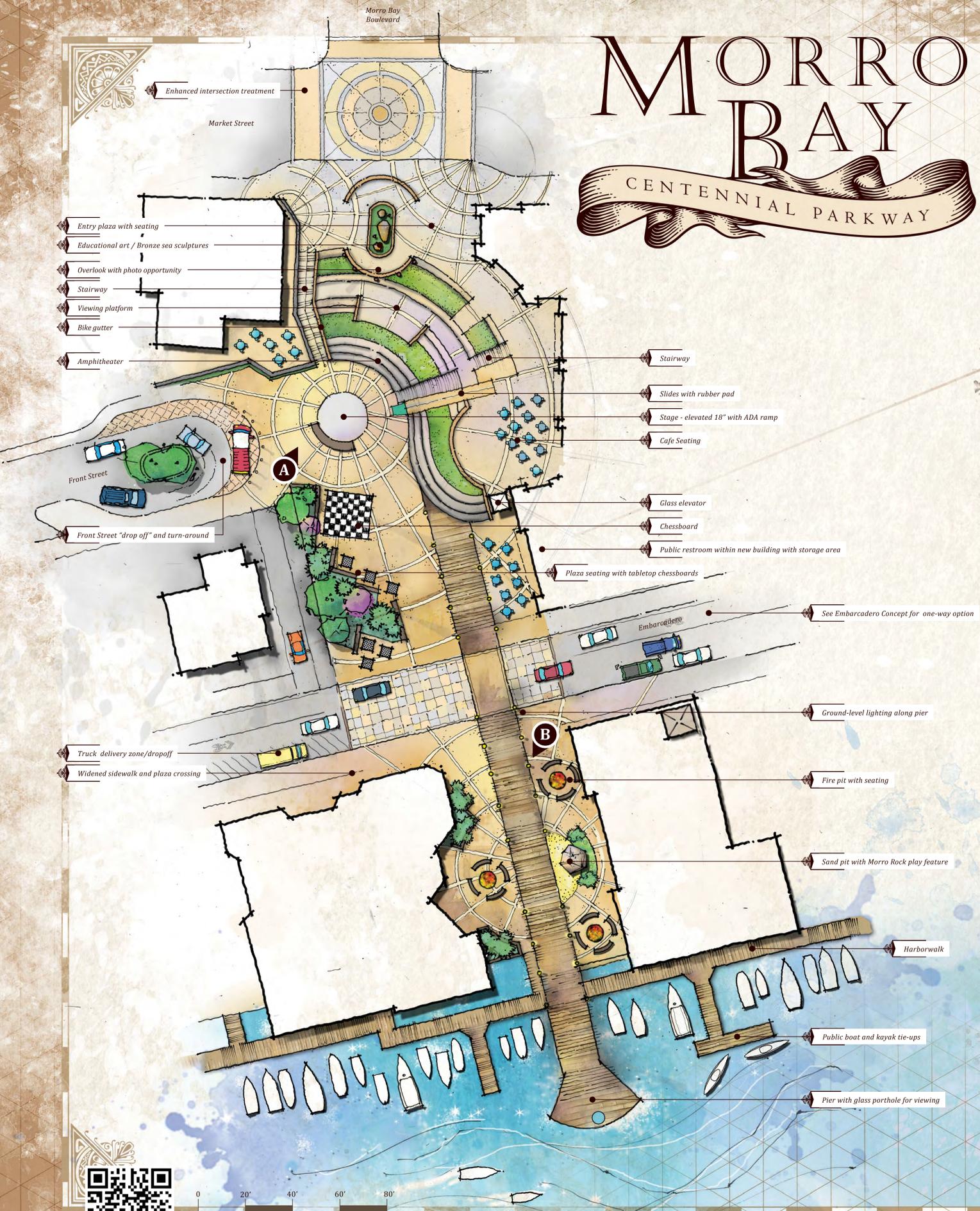
1. Final Draft Plans
2. Advisory Board Input



MORRO BAY CENTENNIAL PARKWAY

A VISION FOR THE MORRO BAY CENTENNIAL PARKWAY

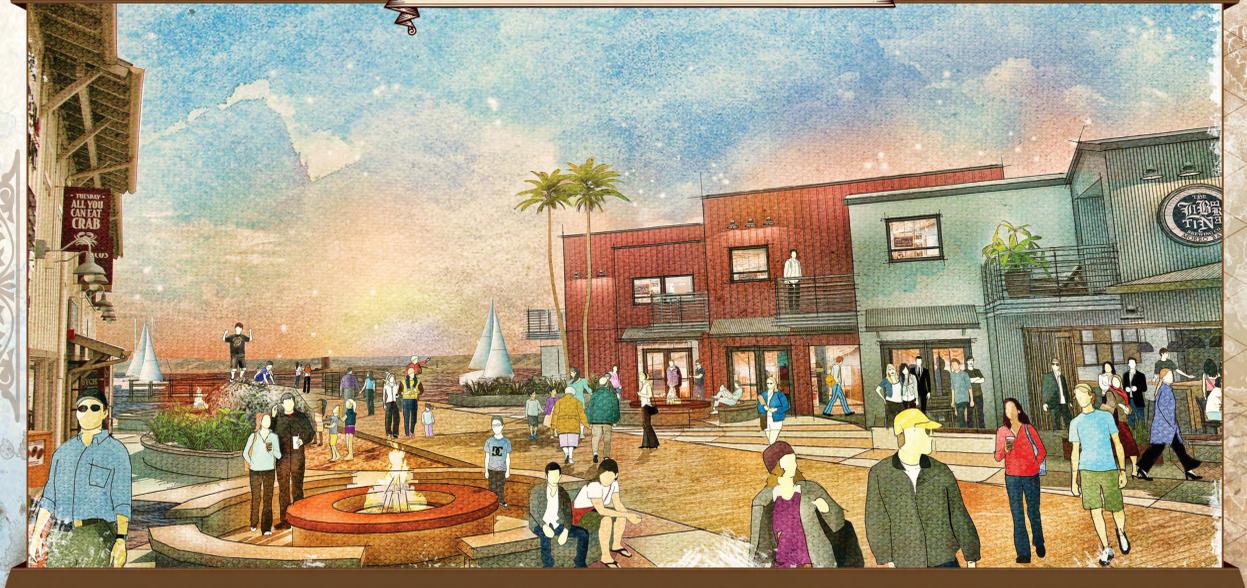
The Morro Bay Centennial Parkway project aims to connect the Embarcadero activities to Morro Bay Blvd/Downtown by utilizing an interconnected system of open spaces, gathering areas, plazas, public amenities, and accessible access. By capitalizing on Morro Bay's rich history and identity as a fishing village, this vision creates unique and pedestrian-friendly spaces that are attractive to both locals and visitors alike.



PERSPECTIVE A: LOOKING EAST



PERSPECTIVE B: LOOKING WEST



Take the CENTENNIAL PARKWAY Survey

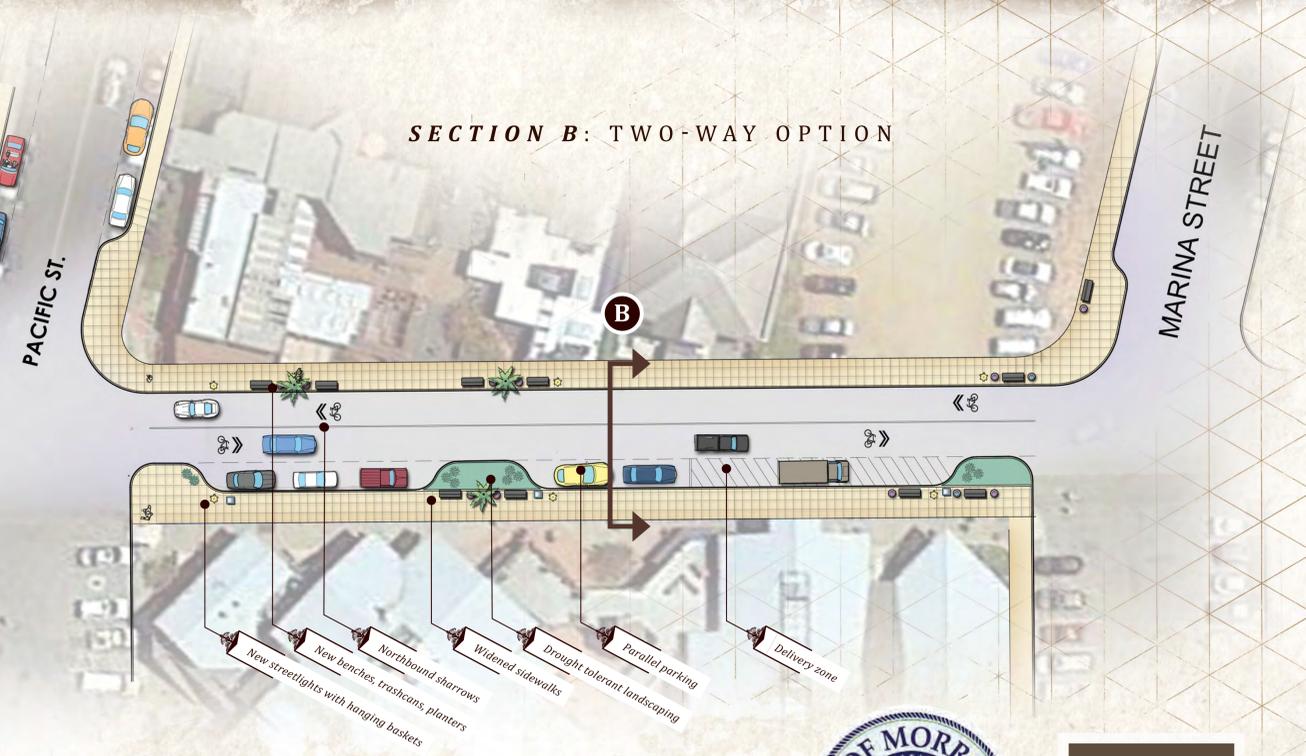
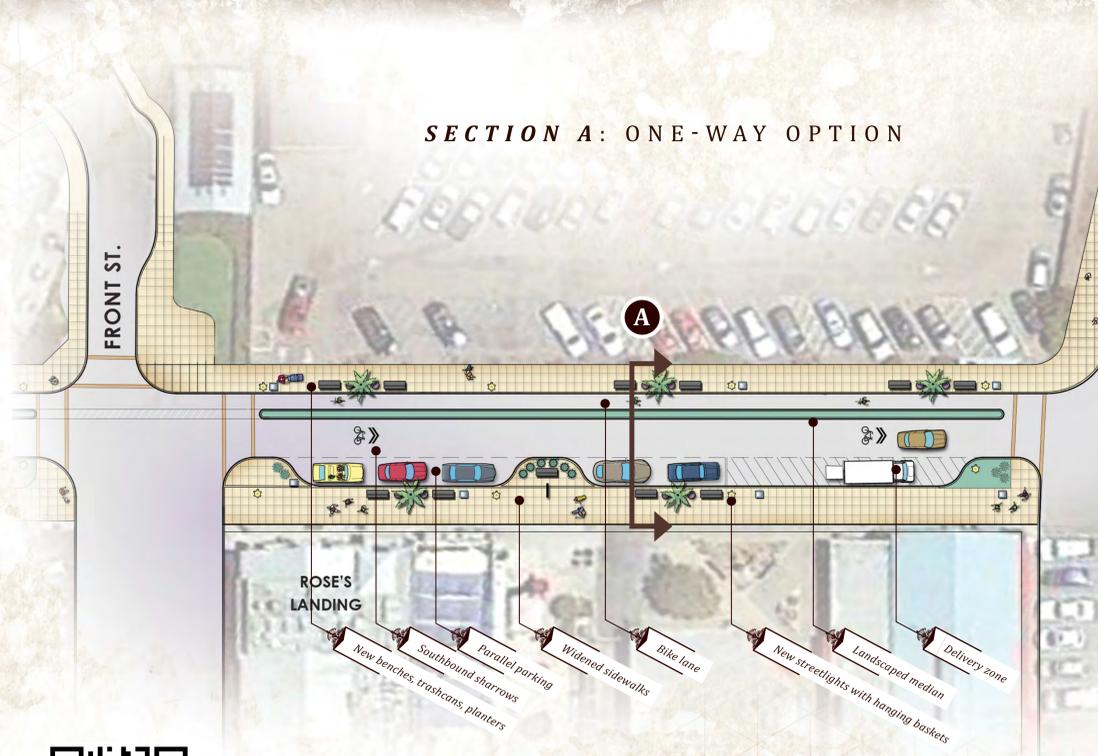
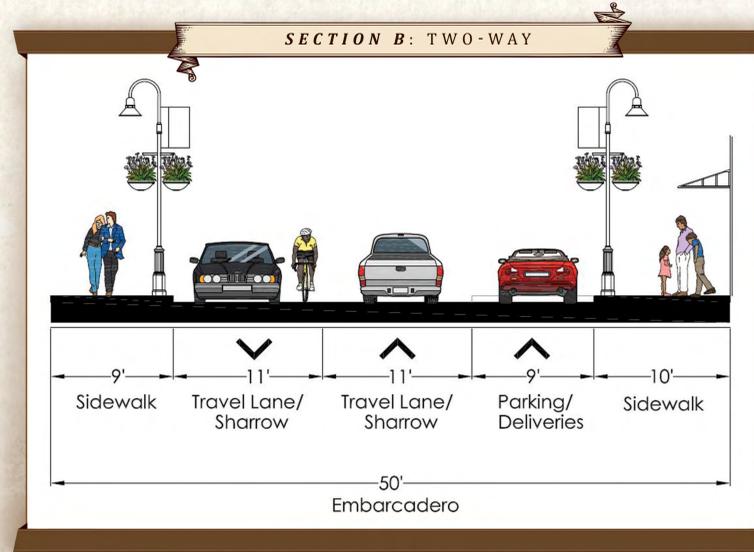
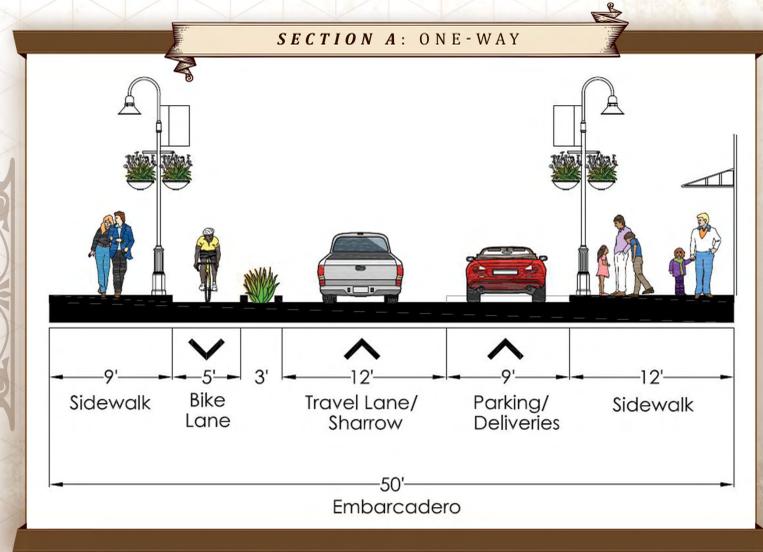
<https://www.surveymonkey.com/r/N2VY6BH>

Morro Bay CENTENNIAL PARKWAY
November 16, 2016



MORRO BAY

EMBARCADERO



Take the EMBARCADERO Survey

<https://www.surveymonkey.com/r/N2VY6BH>

Morro Bay
EMBARCADERO
November 16, 2016



Attachment 2. Advisory Board Input

Staff	Group	Accept Centennial Parkway Concept?	Embarcadero Traffic	Comments
PW				PWAB recommends approval of Parkway but not yet ready to go for 1-way traffic. Supports pilot of 1-way traffic. Changes: more plants, less concrete, dark sky friendly lighting, low level lighting, elevator will block views from top of stair, Front Street turnaround is too tight, on way traffic not safe for bicycles,.
CD	Public Works Advisory Board	Yes	2-way	Does not look like Morro Bay. Make wider sidewalks the priority along with the pedestrian. Too much concrete; use more natural materials: stone or wood. Seems out of scale with the area. More plantings. More like Mission Plaza, less like Avila. Board walk paving seems fake and should not be used. Concerned about use of sharrows. Don't put benches in the 10' to 12' sidewalk area, plaza should be programmed through recreation. Buildings both at the top of the stair and along north side of the bayside plaza area do not fit. Buildings should be low scale; no flat roofs on the water side of the Embarcadero. More emphasis on the plaza/gathering spaces. Art wall areas are too large,
DCM	Planning Commission Rec and Parks Commission Tourism Advisory Board	Yes, with changes	1 way pilot project	
DCM	Board	Yes, with changes	1 way	move the project forward, don't want Avila Beach. Concerns: cost, parking, need for more bathrooms,
FIN				
HD	Citizens Finance Committee	Yes, with caveat	Defer to experts/citizens/business community	Yes vote was with caveat that this vote was not based on having any financial information that would pay for future construction. Also made it clear that they would not support the concept if it would divert funds away from other deemed public services/improvements, such as streets, parks, and other essential services (4-0 vote).
				HAB recommends approval of plaza concept, with changes. It is too open, stark, and with too much concrete. Needs to be more intimate and touchy-feely with wood/timber and other features to capture the charm of Morro Bay and create interest and gathering, for example, gazebos, pergolas, historical features, structures, landscaping etc. As currently configured, looks like something that belongs in Pismo Beach, not Morro Bay. Finally, needs to have better connectivity to uptown. On the west half across the street, the general concept was approved, including the window or porthole through the pier deck if it could be made scratch/scuff/damage-proof and not be a slip-and-fall hazard that it currently would be when damp or wet. Benches should be included on the pier. Be sure the current provision for transient 3-hour tie-up of vessels is not lost. As to traffic, be sure the opinion of the Embarcadero businesses is most taken into account as they will be the most affected. Need to consider the upland street traffic and parking impacts, as well as be sure to include allowance for truck delivery and hotel and other loading/unloading zones. If a 1-way pattern was adopted, which is not recommended at this time, would definitely do a pilot trial run with bollards or other media first, and would consider a pilot for the 2-way pattern as well to test the modified sidewalks and other features.
	Harbor Board	Yes, with changes	2-way	
	Chamber Morro Bay High School	Yes	Undecided	Before giving an answer, the Board would just need to understand what the big picture looks like for vehicle, pedestrian, and cycling circulation along the Embarcadero through Tideland Park.
		Yes	No Clear Preference	Students were interested in the following: more activities for young people, more and better shopping opportunities for young people. Students were interested in miniature golf, and bowling alley.

This Page Intentionally Left Blank



AGENDA NO: C-3
MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 12, 2017
FROM: Joseph W. Pannone, City Attorney
Ikani Taumoepeau, Deputy City Manager
SUBJECT: Summary of Proposition 64 and Direction from Council for Further Action

RECOMMENDATION

Staff recommends Council review this report and provide direction as to what type of public outreach process the Council desires for discussing potential City actions regarding marijuana cultivation and dispensing in Morro Bay and input whether the City should:

- 1) regulate the personal cultivation of nonmedical marijuana indoors,
- 2) regulate or ban the personal cultivation of nonmedical marijuana outdoors,
- 3) regulate nonmedical marijuana businesses,
- 4) update current land use regulations for nonmedical and medical marijuana operations,
- 5) impose local taxes on marijuana within the parameters of Proposition 218, and
- 6) revise existing restrictions regarding medical marijuana cultivation and store-front and mobile dispensing.

FISCAL IMPACT

The fiscal impact on the City as a result of Proposition 64 is unclear at this time. Some tax revenue may be received from the State taxes imposed by Proposition 64. Additional revenue would be available if the City's voters approved a tax measure if the City allowed cultivation and commercial dispensing of marijuana. Depending on the direction from Council there would be staff and legal costs expended to conduct public outreach and prepare the necessary amendments to the Morro Bay Municipal Code, and to conduct an election regarding taxation of certain activities related to marijuana.

BACKGROUND

One of the City Council's goals for 2017 is to provide for a robust community discussion regarding marijuana use and operations in Morro Bay. That discussion was to occur after the November, 2016, election, which included Proposition 64, a measure legalizing certain recreational uses of marijuana.

Pre-Proposition 64 Medical Marijuana Regulations

In 1996, California voters adopted the Compassionate Use Act (CUA) as a ballot initiative, codified at Health & Safety Code section 11362.5. The CUA provided a limited defense from prosecution for cultivation and possession of marijuana. (City of Claremont v. Kruse (2009) 177 Cal.App.4th 1153).

In 2004, California Senate Bill (SB) 420 was enacted to clarify the scope of the CUA and to allow

01181.0001/331843.1	
Prepared By: <u>JWP</u>	Dept Review: _____
City Manager Review: <u>DWB</u>	City Attorney Review: <u>JWP</u>

California cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the CUA. Those regulations and rules became known as the Medical Marijuana Program (MMP), which among other things enhanced the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

In 2009, the City Council prohibited medical marijuana dispensaries City-wide by adopting Ordinance No. 547. That regulation remains in effect.

In 2013, the California Supreme Court confirmed a city's ability to prohibit medical marijuana dispensaries within its boundaries. (City of Riverside, supra, 56 Cal.4th 729 [affirmed authority of cities to prohibit the operation of medical marijuana dispensaries within their jurisdiction through land use laws]; see also, Maral supra, 221 Cal.App.4th 975, 978 [state law does "not preempt a city's police power to prohibit the cultivation of all marijuana within that city"].)

In September 2015, the state legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis.

In January 2016, the City Council adopted Ordinance No. 599 amending Morro Bay Municipal Code (MBMC) Chapter 9.06 to reflect MMRSA and prohibiting the establishment of medical marijuana dispensaries and marijuana cultivation citywide. At that time, the Council also adopted Resolution No. 04-16 reaffirming and confirming the City's Zoning Code, established as Title 17 of the MBMC, is a permissive Zoning Code such that uses not specifically enumerated in the Zoning Code are prohibited. That Resolution affirmed medical marijuana was a prohibited use in all zones throughout Morro Bay, except of course as otherwise may be preempted by the above state laws.

Post-Proposition 64 Recreational Marijuana Regulations

Summary –

At the general election of November 8, 2016, the voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. As of November 9, 2016, California adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal nonmedical use.

Expanded Description –

The AMUA (i) legalizes marijuana under state law, for use by adults 21 or older, (ii) designates state agencies to license and regulate marijuana industry, (iii) imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves; (iv) exempts medical marijuana from some taxation, (v) establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products, (vi) prohibits marketing and advertising marijuana directly to minors, (vii) allows local regulation and taxation of marijuana and (viii) authorizes resentencing and destruction of records for prior marijuana convictions.

Licensing authorities are required to begin issuing licenses for commercial nonmedical marijuana activity by January 1, 2018. However, effective November 9, 2016, private individuals 21 years and older, may cultivate up to six living marijuana plants indoors or outdoors, at home, subject to reasonable local regulations.

Local government agencies are authorized to adopt business regulations and land use regulations for nonmedical marijuana activities within their jurisdictional boundaries. It is highly recommended copies of local ordinances regulating nonmedical marijuana be mailed to the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. State licensing authorities may not issue a license to a commercial nonmedical marijuana business if such operation violates a local ordinance.

Noncommercial personal cultivation

Agencies may not adopt or enforce bans on private indoor cultivation of up to six living nonmedical marijuana plants, but may impose prerequisites to doing so in the form of a reasonable regulatory scheme. "Indoors" includes greenhouses located on the property of the residence, but not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space. Local governments may regulate or ban all outdoor personal cultivation, so long as nonmedical use of marijuana is unlawful under federal law.

Possession, transportation, purchase or giving away of nonmedical marijuana

Agencies may not prohibit possession, processing, transportation, purchasing or giving away by a person 21 years of age or older, to another person 21 years of age or older, without any compensation, of up to 28.5 grams of marijuana in non-concentrated form and not more than eight grams of marijuana in a concentrated form, including marijuana products.

Commercial nonmedical Marijuana Businesses

As mentioned earlier, the State licensing authorities may not issue a license to a commercial nonmedical marijuana business if such operation violates a local ordinance. Therefore, local agencies that wish to ban or regulate marijuana businesses within their jurisdiction must update or adopt an ordinance to that effect prior to the date the state begins issuing licenses, which is anticipated to begin in late 2017. Absent a local ordinance, a licensed nonmedical marijuana business may operate in the jurisdiction without local permission or permitting.

Permissive zoning code not sufficient

Proposition 64 does not contain the same protective language as the Medical Marijuana Regulation and Safety Act (MMRSA) with respect to permissive zoning. For example, Proposition 64 designates nonmedical marijuana as an agricultural product, therefore, if a city's permissive zoning code authorizes agricultural uses, the city may be precluded from arguing that marijuana is prohibited. Therefore, cities that wish to regulate or ban nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code. Absent a local ordinance, a licensed nonmedical marijuana business may operate in the jurisdiction without local permission or permitting.

Deliveries from outside the jurisdiction

Local agencies may ban or regulate deliveries within their territories, but may not prevent the use of public roads by a licensed delivery company from passing through its jurisdiction to deliver marijuana outside their boundaries.

Taxation

Proposition 64 does not pre-empt local taxation. However, medical marijuana and marijuana cultivated for personal use are exempt from state and local taxes. All new taxes on marijuana must comply with Proposition 218. Local governmental agencies may be eligible to receive a portion of taxes and licenses fees collected by the state, to fund local programs that reduce DUI and negative health impacts related to marijuana legalization.

Current City Regulations re Medical Marijuana

Purpose

The purpose of this MBMC Chapter 9.06 is to prohibit the establishment of marijuana and medical marijuana dispensaries and the cultivation and processing of marijuana and medical marijuana, as defined herein, within the City of Morro Bay. Also, nothing prohibited by federal or state law could be deemed approved by Chapter 9.06.

Dispensaries

Dispensaries of medical marijuana, with certain exceptions, are prohibited. NOTE: Chapter 9.06 only focuses on medical marijuana, because, at that time, recreational marijuana was illegal under state law.

Cultivation

Cultivation of marijuana, with exceptions for medical marijuana cultivated by individuals for personal use or legally valid caregivers and collectives for qualified patients, are prohibited.

DISCUSSION

Based on the foregoing, staff is seeking direction from the Council on what steps, if any, staff should take regarding use, cultivation and dispensing of medical and recreational within Morro Bay.

First, staff is seeking direction from the Council as to what methods and the extent of public outreach and participation this subject should involve, prior to being brought back to the Council for discussion and action.

Second, staff would appreciate input from the Council, on which of the below topics should be part of that public discussion and returned for possible action by the Council:

- 1) personal cultivation of nonmedical marijuana indoors,
- 2) personal cultivation of nonmedical marijuana outdoors,
- 3) nonmedical marijuana businesses,
- 4) current land use regulations for nonmedical and medical marijuana operations,
- 5) local taxes on marijuana within the parameters of Proposition 218, and
- 6) existing restrictions regarding medical marijuana cultivation and store-front and mobile dispensing.

Third, staff would appreciate the Council's input regarding the timing of the foregoing, understanding, at this time: (i) indoor and outdoor cultivation, by persons at least the age of 21, of up to 6 plants of recreational marijuana is allowed by Proposition 64 and (ii) dispensaries of recreational marijuana are allowed by Proposition 64, if they receive a State issued license, which may occur later this year or early next year.

CONCLUSION

Staff recommends Council review the foregoing and provide further direction to staff as it deems appropriate.

This Page Intentionally Left Blank



AGENDA NO: C-4
MEETING DATE: January 24, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** January 17, 2017
FROM: David Buckingham, City Manger
Joseph W, Pannone, City Attorney
SUBJECT: Council Member Outreach and Staff Support Discussion and Direction

RECOMMENDATION

Staff recommends Council discuss Council Member Makowetski’s request for Council input regarding various aspects of Council Member outreach and engagement with the community when accompanied by staff and other possible City resourcing support, and provide staff general or specific direction.

ALTERNATIVES

Council may choose to provide no direction, may choose to provide broad general direction, may choose to provide very specific / limiting direction, or may choose to continue this item for further discussion.

FISCAL IMPACT

There is no fiscal impact to discussing this item and likely low staff and fiscal impact to providing staff general direction.

BACKGROUND

From time to time, City Council members may choose to organize apolitical events in the community to encourage civic participation in the public process. Such events may be “town hall style” question and answer events either in a particular neighborhood or with a particular stakeholder group.

Such events may include one or two Council members. The Brown Act precludes more than two Council Members from participating, personally or in seriatim, in such an event outside of a formally noticed and scheduled public meeting.

While individual Council Members are not precluded from holding such an event, at the January 10, 2017, Council meeting, Council Member Makowetski asked for the Council to discuss whether staff could participate from time to time, and might provide some low level City-funded logistical support for such events.

Staff sees a benefit to providing staff time and some resources to facilitate such Council outreach for civic engagement. For example, if two Council Members wanted to hold a town hall meeting in a neighborhood to communicate what items are important to them in the months ahead, and to solicit public input, it may be helpful for a limited number of staff to participate. There may also be

01181.0001/332301.1
Prepared By: JWP Dept Review: _____
City Manager Review: DWB City Attorney Review: _____

times at which some relatively inexpensive logistical support is appropriate. For example, if one or two Council members wanted to have a monthly “Trolley Town Hall”, in which a City Trolley was used as a mobile town hall “room”, then staff believes the cost (under \$30/hour to operate the Trolley) would be well worth the public benefit of facilitating civic engagement and City/community conversation.

Similarly, there are times when staff plans and organizes meetings or events at which it may be appropriate to have one or more Council Members present. That may be due to Council Member expertise in a particular subject, a Council Member’s board liaison role, or simply the expressed interest of a Council Member in learning more about a particular subject.

While both staff and Council should be careful about involving Council Members too deeply in administrative meetings in a way that may result in one or more Council Members taking on an administrative/executive role, instead of a policy-making role, there are certainly occasions when individual Council Member participation in a staff-organized event may be appropriate.

For example, if staff has organized, as is routinely done, a “listening meeting” with a stakeholder group such as hoteliers, or tidelands trust lease holders, then inviting the TBID liaison, or the HAB liaison and perhaps a second interested Council Member may be beneficial to all involved.

Staff’s intent is to be supportive and encourage Council Member outreach in the community, within the confines of the Brown Act, to promote civic engagement, and staff recognizes such activities may from time to time benefit from staff participation (or require some very limited resources). Staff also believes the new Council would benefit from discussing this and perhaps providing the staff some direction as to what the Council’s policy thoughts are on this subject, as it deems appropriate.

DISCUSSION

Councilmember Outreach. Council might consider discussing staff and logistical support to Council Member apolitical community outreach.

- Is the Council comfortable with 2-3 staff members accompanying 1-2 Council Members on such outreach activities depending on availability and workload?
- Is the Council comfortable with staff providing limited logistical support to facilitate such outreach events?
- Unless the Council wants to provide very explicit instructions, is the Council comfortable with staff ensuring similar staff and logistical support is made available, as appropriate, to all Council Members?

Staff-planned Events. Council might consider discussing Council Member participation in select staff-organized meetings.

- Is the Council comfortable with 1-2 Council Members participating in certain staff-organized meetings that are primarily policy focused, or, are simply “listening sessions?”
- Is the Council comfortable with staff engaging 1-2 Council Members in certain meetings at which that/those Council Member(s) may have special expertise?
- If a staff member has been invited to address a particular community service organization, then is the Council comfortable with staff inviting 1-2 Council Members to attend and perhaps participate in order to demonstrate strong Council-staff teamwork and interaction?
- Unless the Council wants to provide very explicit instructions, is the Council comfortable

with staff ensuring all Council Members are provided similar opportunities on an equitable basis?

Other Community Outreach. In placing this item on the agenda, Council also noted an interest in discussing staff community outreach in general. The following is provided to help foster that discussion. Staff uses a variety of methods to gather community input on various topics. Some are noted below, which are typically intended to be non-Brown Act public meetings not attended by the quorum of the Council or advisory board members.

- **Community Workshops / Forums.** These are public meetings in which staff and experts often present information, engage in community discussion and receive community input on particular subjects. Examples from the last year include:
 - NOAA-facilitated workshop relating to the proposed marine sanctuary.
 - Trident Winds-facilitated workshop relating to the Trident Winds proposal.
 - Staff / consultant led public workshop to design the Centennial Parkway Concept.
 - Multiple staff / consultant workshops on the General Plan.
 - Multiple staff / consultant workshops on various aspects of the WRF.
- **Staff Organized Town Halls.** These are staff implemented Townhall-like discussions with stakeholder groups that staff schedules to “listen” and get broad input on stakeholder issues and concerns. Recent examples include stakeholder town halls with: hoteliers; Tidelands Trust master lease holders; and business required to provide public bathrooms on the waterfront.
- **Staff Participation in community group meetings.** Staff regularly attends and often participates in the meetings of various community groups. These are sometimes just “listening” and sometimes “presenting” on a particular subject. Some examples include:
 - Regular attendance at Chamber of Commerce board meetings and events.
 - A presentation to the Morro Bay High School leadership classes.
 - Participation and presentations to Rotary, Lions, etc.
 - Regular attendance at meetings of the Estero Bay Alliance for Care
 - Regular participation in meetings of the Cloisters Assessment District
- **Surveys.** Staff routinely uses various surveys to collect community input on specific topics. Examples include: Code Enforcement survey, Styrofoam Ban survey, and Centennial Parkway Concept survey.

Type of Guidance.

- Council may choose to give no guidance at all, in which case staff will not provide support to any Council Member initiated activities outside of a formal public meeting, nor will staff encourage Council participation in any staff-organized outreach events.
- Council may choose to give very proscriptive/specific guidance that would likely require staff to bring many formal decision items to a City Council meeting to get Council approval for any staff support to, or facilitation of, council-attended activities.
- Council may choose to discuss this item and provide some broad guidance to the staff to provide appropriate occasional support on an equitable basis to certain apolitical, civic-engagement events proposed by 1-2 Council Members, and provide broad guidance to staff to, as appropriate, request 1-2 Council Members participate in certain staff-organized

outreach events.

Complete Dissemination of Information. If the Council chooses to provide some leeway for the types of Council/staff/public interactions noted above, then it would be incumbent on staff to provide each Council Member an appropriate update on items discussed to ensure all Council Members have equal access to information generated in a staff facilitated/supported activity. That too would be done within the confines of the Brown Act.

CONCLUSION

Good communication, between citizens, Council and staff is essential to good government. The purpose of this item is to provide the Council Members an opportunity for good communication amongst themselves in a noticed public meeting to discuss the parameters for that community communication.

It is important to note all the foregoing discussion relates to communication outside of direct or indirect campaign activities. Therefore, staff suggests any policy that provides for staff or staff resources being utilized for community communications, as discussed above, expressly state no such activities will occur for the sixth-month period before any municipal election.

If the Council wishes to provide the staff broadly applicable, and not severely limiting, guidance toward the end of promoting good civic engagement between individual Council Members, citizens and staff, the following motion might be considered.

Sample Motion:

Staff is directed to add language to the Council Policies and Procedures that will, from time-to-time and except during the six months prior to a municipal election, allow individual Council Members and advisory board members, within the confines of the Brown Act, to participate in community outreach events that utilize minimal City staff or resources, outside of duly noticed meetings.